

RECORD OF DECISION

for

Proposed Issuance of an Endangered Species Act

Section 10(a)(1)(B) Incidental Take Permit

to

Kaheawa Wind Power II, LLC

for the

Kaheawa Wind Power II Project

U.S. Fish and Wildlife Service

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Introduction

This Record of Decision (ROD) was prepared by the U.S. Fish and Wildlife Service (Service) in accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. § 4321 *et seq.*), as amended. The purpose of this ROD is to document the decision of the Service in response to an application submitted by Kaheawa Wind Power II, LLC (Applicant) to amend their Incidental Take Permit (ITP) addressing species listed under the Endangered Species Act of 1973 (ESA) (16 U.S.C. § 1531 *et seq.*), as amended. The information contained in this ROD is based on the ITP application, the existing Habitat Conservation Plan (HCP) (SWCA 2011), the submission of a supporting HCP Amendment (SWCA 2019), the Final Programmatic Environmental Impact Statement (FPEIS) addressing this action (USFWS 2019a), and other information in the administrative record. The Service's decision to issue the amended ITP follows a determination that the ITP issuance criteria under section 10(a)(2)(B) of the ESA have been met. The ITP Amendment allows for the operation of the Kaheawa Wind Power II (KWP II, Project) on the island of Maui, Hawai'i to occur in compliance with the ESA. The amended ITP and its associated existing HCP and HCP Amendment provide protection for, and promote the conservation of, the Hawaiian hoary bat and Hawaiian goose (Covered Species) while enabling the Applicant to conduct otherwise lawful activities associated with the operation of the Project and other activities covered by the existing HCP and HCP amendment.

This ROD presents the Service's permit decision and the rationale supporting the decision, identifies the reasonable range of alternatives considered in the FPEIS, and discusses whether all means to avoid or minimize environmental harm from implementation of the selected alternative have been adopted (40 C.F.R. § 1505.2).

Proposed Federal Action

The Service proposes to issue an ITP Amendment to Kaheawa Wind Power II, LLC, under the authority of section 10(a)(1)(B) of the ESA for a period of 20 years from the initial date of permit issuance (January 3, 2012; TE27260A-0) and expiring January 2, 2032. Should the Applicant discontinue the operation of KWP II during or after this 20-year period, the land lease terms require that the turbines and other structures be removed and the site remediated and stabilized. No coverage for these activities is included beyond the term of the permit. Documents used in the preparation of this ROD include the following:

- Kaheawa Wind Power II Habitat Conservation Plan (SWCA 2011)
- Kaheawa Wind Power II Final Habitat Conservation Plan (Amended) (SWCA 2019);
- Final Programmatic Environmental Impact Statement Addressing the Issuance of Incidental Take Permits for Four Wind Energy Projects in Hawai'i (USFWS 2019a)
- The Service's Biological Opinion on the HCP for Kaheawa Wind Power II (USFWS 2019b);
- Service Findings and Recommendations for the Proposed Issuance of an ESA Section 10(a)(1)(B) ITP for the Kaheawa Wind Power HCP Amendment (Service 2019c)

Purpose and Need

The purpose of the Service's proposed ITP action is to fulfill our legal and conservation obligations under section 10(a)(1)(B) of the ESA in response to the Applicant's HCP Amendment and request for an amended ITP addressing the Project. The need for the proposed Federal action is due to the likelihood that otherwise lawful activities proposed by the Applicant on the Applicant's project site will result in take of the Covered Species. Any amended permit issued by the Service must meet all applicable issuance criteria and implementation should be technically and economically feasible. *See* 16 U.S.C. § 1539(a)(2)(B); 43 C.F.R. § 46.420(b). Issuance criteria includes, without limitation, requirements that the Applicant will minimize and mitigate the impacts of the taking to the maximum extent practicable and the taking will not appreciably reduce the likelihood of survival and recovery of the species in the wild.

Project Description

No major changes have occurred to the Project description since the issuance of the ITP (TE27260A-0) January 3, 2012. The Final KWP II HCP completed in 2011 contains a detailed technical description of the infrastructure for the Project (SWCA 2011). The Applicant operates and maintains the Kaheawa Wind Power II Project on State land at Kaheawa Pastures above the town of Mā'alaea on the southwestern portion of the island of Maui, Hawai'i. KWP II consists of a 21-megawatt (MW) wind power generating facility and related facilities. KWP II received an ITP (Permit Number TE27260A-0) January 3, 2012 and began commercial operations in July 2012. The wind facility consists of 14 General Electric 1.5-MW wind turbine generators (WTGs). Each WTG has a height of 328 feet (ft), measured from the ground to the tip of the blade. The project area is located on approximately 143 acres of State land southeast of the existing KWP I facility at Kaheawa Pastures along an existing access road. The Project includes internal service roads, turbine pads, an underground electrical collection network connecting all of the turbines, an electrical substation and underground electrical power lines connecting the turbines with the substation, an electrical interconnection to the MECO power transmission system, a 1,258 ft long overhead collection line mounted on poles approximately 70 ft above ground level crossing Manawainui Gulch, a battery energy storage system, and maintenance building. A water tank near the highway for accessing County water used at the project site. Water is hauled up hill in a 150-gallon tank as needed and is used for non-potable bathroom plumbing, dust control, irrigating re-introduced native plants and emergency firefighting. The project uses bottled water and portable pumped toilets similar to the KWP I facility. Potable water is purchased and trucked up to the project area. A communications tower is attached to the operations building to support data gathering and control. The total "developed" area of the site, or the total area that contains structures, hardened surfaces or roads is 39.2 acres.

Covered Activities discussed in the Kaheawa Wind Power II HCP (SWCA 2011) and Amended Kaheawa Wind Power II HCP (SWCA 2019) are those operational activities within the Permit Area that could result in an incidental take of one or more Covered Species and for which KWP II seeks amended incidental take authorization.

The HCP and Amended HCP include a variety of measures to minimize effects and likelihood of take on the Covered Species. One such measure is the implementation of year-round low wind speed curtailment from one hour before civil sunset to one hour after civil sunrise. Turbines shut down and the blades are feathered if the 10-minute average wind speed is 5.5 m (16 feet) per

second or less. Other measures to minimize the amount of take of Covered Species include but are not limited to: equipping lighting with full, downward facing shielding, only using outdoor nighttime lighting in an emergency, only scheduling nighttime work in the case of an emergency, observing a speed limit of 15 mph (25km), avoiding the creation of standing water that may attract Covered Species, trash management, and avoiding the use of barbed wire.

The mitigation associated with the HCP Amendment for the Hawaiian hoary bat includes two tiers of mitigation (designated Tiers 3 and 4). Tier 3 mitigation requires funding a Service-approved Hawaiian hoary bat research project described in Appendix 30 of the KWP II Amended HCP. KWP II will provide funding to the USGS in the amount of \$950,000 to complete the tasks and activities to accomplish the research goals and objectives of the approved Hawaiian hoary bat research proposal titled “Hawaiian hoary bat conservation biology: Movements, roosting behavior, and diet” conducted by USGS (USGS 2016). KWP II will fund the following parts of the research plan:

1. Capture and release of Hawaiian hoary bats
2. Radio-tagging bats caught
3. Banding bats caught
4. Radio-tracking tagged bats
5. Reporting

If the research project described in KWP II HCP Appendix 30 does not proceed as expected according to quarterly and annual reviews the principal investigator of the research project and the agencies would determine what steps would be required to accomplish the goals as expected. Additional cost could be required and would be paid by the Project to fulfill the stated goals.

Should the tier 4 take level for Hawaiian hoary bat be reached, the purchase of a 480 to 640 acre parcel of land that will be protected for Hawaiian hoary bat conservation in perpetuity will be funded by the Project. A preferred land parcel will have been proven to have bats occupying the land (through bat detector deployment), is not previously designated as “conservation zoned”, and is at risk of deterioration by development or invasive species encroachment. The chosen parcel must be approved by the Service to be considered as fulfillment of the Tier 4 mitigation requirement. The holder of the land conservation easement must be approved by the Service, prior to the mitigation being credited to the Project.

The HCP Amendment also includes predator control and fence maintenance to protect the Hawaiian goose at either the Pi‘iholo Ranch pen or at the Haleakalā Ranch pen on Maui. As an adaptive management provision, if annual review of the results of ongoing mitigation indicates take offset is not accruing in advance of take, then the wildlife agencies may require additional predator control measures at established sites or implement predator control measures at additional popular nesting and foraging sites on Maui.

Plan Area

The Plan area covers the Kaheawa Wind Power II Project site and the Project’s mitigation areas as described in the existing HCP (SWCA 2011) and HCP Amendment (SWCA 2019). The Project site is unchanged since the issuance of the existing ITP (TE27260-A).

Covered Species

The Project has an existing ITP (TE27260-A) authorizing incidental take of four species (Hawaiian hoary bat, Hawaiian goose, Hawaiian petrel, and Newell’s shearwater). The ITP Amendment would authorize additional incidental take of two of those species, the Hawaiian hoary bat and Hawaiian goose (Table 1). No changes are requested for the other two species covered under the original ITP. The KWP II HCP Amendment includes measures to minimize and mitigate the impacts of the additional taking on the Covered Species, to the maximum extent practicable, and otherwise comply with the permitting criteria of 16 U.S.C. § 1539(a).

Table 1. Covered Species under the Kaheawa Wind Power II Habitat Conservation Plan Amendment.

Common Name	Scientific Name	Status ¹
Hawaiian hoary bat	<i>Lasiurus cinereus semotus</i>	FE, SE
Hawaiian goose	<i>Branta sandvicensis</i>	FE, SE

¹Federal Endangered = FE, State Endangered = SE

Covered Activities

The Applicant seeks take authorization for increased take of Hawaiian hoary bat and Hawaiian goose associated with WTG operation and maintenance activities occurring within the Project site, and those activities necessary to carry out all mitigation and other conservation measures identified in the HCP, HCP Amendment, and/or the ITP Amendment. The Covered Activities are described in greater detail in the HCP and HCP Amendment and include activities associated with operation and maintenance of the WTGs, access roads, search plots, collector lines, implementation of mitigation, and other conservation measures. All Covered Activities will be implemented in accordance with the terms of the HCP, HCP Amendment, and ITP Amendment.

Protection Measures and Conservation Strategies

The amended ITP is conditioned on implementation of the KWP II HCP and HCP Amendment. The Applicant developed its HCP Amendment with technical assistance from the Service, the Hawaii Department of Land and Natural Resources/Division of Forestry and Wildlife, and the Hawaii State Board of Land and Natural Resources’ advisory Endangered Species Recovery Committee. Impact avoidance and minimization measures associated with the operation and maintenance of the KWP II Project are described in Chapter 2 of the FPEIS and in Chapters 4 and 6 of the KWP II HCP Amendment. The termination date of the amended ITP will remain the same as the existing Permit, January 3, 2037. The conservation strategy of the HCP Amendment is intended to provide a conservation benefit to the Covered Species through a combination of on-site and off-site measures including, without limitation, (1) funding an identified Hawaiian hoary bat research proposal, (2) funding land acquisition of suitable Hawaiian hoary bat habitat with conservation protection for perpetuity, and (3) funding predator control and fence maintenance for the protection of the Hawaiian goose at locations approved by the Service.

Monitoring and Adaptive Management

Section 6.4.4.3 of the KWP II HCP Amendment describes specific adaptive management triggers to ensure the requested take of Hawaiian hoary bat is not exceeded. Sections 7.3 of the KWP II HCP Amendment addresses the overall adaptive management for the HCP Amendment.

Adaptive management will be used to evaluate and respond to potential new information and changed circumstances within the plan area, and thereby ensure that the conservation measures identified in the HCP and HCP Amendment are being implemented adequately and meeting the goals and objectives outlined in the HCP. Section 7.2 of the KWP II HCP and HCP Amendment describes the monitoring and reporting requirements to be implemented as part of the proposed action.

Alternatives

The Service evaluated a range of alternatives to the proposed action. Three alternatives were analyzed in the PEIS, including a no-action alternative (Alternative 1), the Applicants proposed Alternative (Alternative 2 or Preferred Alternative), and an Increased Curtailment Alternative (Alternative 3). Additional alternatives were also evaluated by the Service in the preparation of the FPEIS and consideration of the HCP Amendment, but were eliminated from detailed study. The alternatives eliminated from detailed study included: (1) a reduced permit term; (2) a delayed permit issuance; (3) additional covered species; (4) alternative low wind speed curtailment regimes; (5) a variation of the no action alternative; and (6) nighttime shutdown from June 1 through September 15 (a variation of Alternative 3). Descriptions of these alternatives and why they were not considered for detailed study are provided in the FPEIS. The following provides brief summaries of the no-action alternative as well as the two action alternatives.

Alternative 1 (No Action)

Inclusion of the No Action Alternative in the EIS is prescribed by the Federal Council on Environmental Quality regulations (40 C.F.R. § 1502.14(d)). Under the No Action Alternative, the Service would not issue an amendment to KWP's 2012 ITP to authorize additional incidental take of the Covered Species and the Applicant would not implement the HCP Amendment for these species. The Applicant would continue to conduct wind energy facility operations in accordance with existing State and Federal regulations. The Service expects the Applicant would act in a reasonable manner to avoid unauthorized take of the Covered Species. To achieve this, the Service assumes that the Applicant would shut-off wind turbine operations at night to avoid unauthorized take of Hawaiian hoary bat. Full nighttime shutdown would be expected to result in a 50% reduction in energy production relative to operating 24 hours per day.

If take of Hawaiian geese were to reach the currently authorized take level, KWP II would be expected to suspend operation of turbines during daylight hours to avoid unauthorized take of Hawaiian goose or apply for an amendment for additional Hawaiian geese take. The constructed Project would exist but remain non-operational. No renewable energy would be produced. Take of federally listed species occurring incidental to operation of the project would not be authorized and the Applicant would assume the risk of enforcement under the ESA should take occur. Under Alternative 1, no take would be authorized and the HCP Amendment would not be implemented. Conservation and beneficial activities resulting from the HCP Amendment and

ITP Amendment would not occur, including funding of the Hawaiian hoary bat research project, habitat protection, predator control and fence maintenance for the Covered Species.

Alternative 2 (Proposed Action/Habitat Conservation Plan)

Under Alternative 2, the Service would issue an ITP Amendment authorizing incidental take of the Covered Species at levels described in Section 2.2.3 of the FPEIS as requested by the Applicant. Terms and conditions of the amended ITP would require the Applicant to implement the operational avoidance and minimization and the conservation measures described in the Project HCP and HCP Amendment. These measures were summarized in the FPEIS.

Under Alternative 2, the Applicant would implement low wind speed curtailment at night from February 15 through December 15 annually by raising the cut-in speed of the project's wind turbines to 5.5 m/s between sunset and sunrise. Curtailment would be extended if Hawaiian hoary bat fatalities are found outside the initial proposed curtailment period with approval of the Service. Curtailment may also be modified with the approval of the Service if site-specific data demonstrate a lack of bat activity during certain periods, or if experimental trials are conducted that demonstrate that curtailment is not reducing collision risk at the project during the entire curtailment period.

Other conservation measures related to site management would be implemented under this action alternative, including without limitation, using shielded lighting, limiting vehicle speeds in the project area, limiting outdoor lighting and work at night to emergency use only, avoiding the creation of open water sources that may attract Covered Species, trash management, and avoiding use of barbed wire. Alternative 2 requires off-site mitigation measures on Maui as described in Section 2.2.3 of the FPEIS and includes (1) funding a Service approved research project on the Hawaiian hoary bat for Tier 3 take; (2) funding acquisition of a land parcel of 480-640 acres, approved by the Service that will be placed in conservation for Hawaiian hoary bats in perpetuity; and (3) funding predator control and fence maintenance at either the Pi'iholo Ranch pen or at the Haleakalā Ranch pen on Maui for the protection and enhancement of the Hawaiian goose population.

Alternative 3 – Increased curtailment

Under Alternative 3, the increased low wind speed curtailment alternative, the Service would issue an ITP Amendment authorizing a lower level of take of the Hawaiian hoary bat than what is requested by the Applicant. Requested take of Hawaiian goose would be the same as Alternative 2. Under Alternative 3, WTGs would be completely shut down and the blades feathered from one hour before sunset to one hour after sunrise (complete nighttime curtailment) from April 15 through September 15, when Hawaiian hoary bat females are pregnant or rearing dependent young and bats are most active. The cessation of operations during this timeframe would result in a minimization of the take of adult Hawaiian hoary bats and eliminate indirect take of juvenile bats. Low wind speed curtailment activities, described in Alternative 2 would be implemented during the remainder of the year (September 16 – April 14). The estimated relative energy production for Alternatives 1, 2, and 3 are approximately 50%, 80%, and 68% of the maximum energy production, respectively. Although energy production in Alternative 3 would be lower than Alternative 2, the estimated take of Hawaiian hoary bats would be approximately 28% less for the Project. Although energy production levels would generally be lower for this

alternative, it is expected that maintenance operations would be the same as for all three alternatives.

Because of the lower level of estimated take of Hawaiian hoary bat, mitigation actions would be as described in Section 2.3.3 of the FPEIS. Mitigation for Hawaiian goose would not change. Off-site mitigation measures on Maui would include (1) funding a Hawaiian hoary bat research project approved by the Service; and (2) funding predator control and fence maintenance at either the Pi'iholo Ranch pen or at the Haleakalā Ranch pen on Maui for the protection and enhancement of the Hawaiian goose population.

Decision and Rationale

The Service's decision is to select the Proposed Action (Alternative 2, described above), issue an ITP Amendment that is consistent with the take minimization mitigation, and monitoring measures described both above and in more detail in the HCP and HCP Amendment, and to include terms and conditions in the ITP that the Service deems necessary to ensure that HCP and HCP Amendment monitoring, mitigation, financial assurance, and other Applicant' commitments are met. Issuance of the ITP Amendment authorizes the additional incidental take of the Hawaii hoary bat and Hawaiian goose, subject to incidental take limits and other requirements of the HCP and HCP Amendment during the remaining term of the amended ITP ending January 2, 2032. The Service's No Surprises Rule (50 C.F.R. § 17.22 and 17.32) would apply to the amended ITP.

Based on the findings in the FPEIS (USFWS 2019a), our Biological Opinion (USFWS 2019b), our ESA section 10 Findings and Recommendations (USFWS 2019c), this ROD, and other information in the administrative record, the Proposed Action is not likely to appreciably reduce the likelihood of the survival and recovery of the Covered Species in the wild, and the HCP complies with the permitting standards of 16 U.S.C. § 1539(a)(1)(B). Full implementation of the Applicant's proposed HCP Amendment would meet the statutory criteria for issuance of an amended ITP under section 10 of the ESA. Implementation of the existing HCP, HCP Amendment and issuance of the amended ITP best fulfills the Service's statutory mission and responsibilities while meeting the agency purpose and need to conserve listed species.

Conditions

As required by section 10(a)(1)(B) of the ESA, the amended ITP requires implementation of the 2011 KWP II HCP and HCP Amendment to insure that the impacts of take of the Covered Species caused by Covered Activities will be minimized and mitigated to the maximum extent practicable. These conditions for implementation of the HCP Amendment are also considered in the findings of the Service's Biological Opinion and ESA section 10 Findings and Recommendations for the Proposed Action. Any changes to the HCP or HCP Amendment shall be subject to the provisions described in Section 7 of the HCP and HCP Amendment. The Service will include terms and conditions necessary to ensure that 1) funding assurances are in place before the take in a tier is authorized; 2) compliance monitoring and modeling of take estimations and projections are conducted using Service approved methods; 3) downed wildlife is handled based on the interagency guidance, and 4) reports meet the Service's requirements for content and due dates.

Environmentally Preferable Alternative

The NEPA implementing regulations at 40 C.F.R. § 1505.2(b) require that the ROD identify the alternative or alternatives that is/are considered to be “environmentally preferable,” i.e., the alternative that causes the least damage to the biological and physical environment and best protects, preserves, and enhances historical, cultural, and natural resources, as expressed in Section 101(b) of NEPA (43 C.F.R. § 46.30). This is not necessarily the agency-preferred alternative, which the FPEIS identifies as Alternative 2 due to that action meeting the statutory requirements for permit issuance under 16 U.S.C. § 1539(a)(1)(B). The Service identifies Alternative 3 (Increased curtailment) as the environmentally preferable alternative.

The Project is built and producing renewable energy. Under Alternative 3, compliance monitoring for downed wildlife would occur and take, including take that has occurred during the permitting process and that may occur over the remainder of the permit term, would be mitigated. Alternative 3 would provide for renewable energy production during the day year-round and during the night from September 16 through April 14.

Alternative 1 (No Action) would not authorize take and assumes the project would cease operation. Under this alternative, the Project would produce no renewable energy, and therefore would not contribute to reductions in greenhouse gas emissions or to meeting the State’s Renewable Portfolio Standards (HRS 269-92) goals. The Applicant would be legally responsible for project-associated fatalities of federally protected species if the project continued to operate and exceeded the authorized take provided by their existing ITP. The No Action alternative would not provide compliance monitoring or mitigation for the take of federally protected species beyond that authorized in the existing ITP should the Applicant continue to operate the existing Project after permitted take has been exceeded. The No Action Alternative would not result in the implementation of conservation measures that would benefit the Covered Species addressed in the HCP in Alternative 2.

The Service did not select Alternative 3 as the agency-preferred alternative because under section 10(a)(1)(B) of the ESA and associated FWS regulations, the Service must approve the Applicant’s proposed alternative, Alternative 2, if it meets our criteria for issuance of an ITP. The Service determined the Proposed Action, Alternative 2 is not likely to appreciably reduce the likelihood of the survival and recovery of the Covered Species in the wild, and the HCP Amendment complies with the permitting standards of 16 U.S.C. § 1539(a)(1)(B).

Public Involvement

Scoping

The Service published a Notice of Intent on June 1, 2018, to announce preparation of the PEIS and to solicit public comments on the scope of the PEIS. The official public comment period began June 1, 2018 and ended on July 2, 2018. Three public scoping meetings on the islands of Hawai‘i, Maui, and O‘ahu (i.e., one meeting per island) were held on June 18, June 20 and June 21, 2018, respectively. Twelve comment letters were received from stakeholders and non-profit or community organizations. A scoping report was prepared and is included as Appendix A of the FPEIS.

Based on the scoping process and internal coordination, the Service identified three major concerns, largely focused on the potential impacts to Covered Species. Concerns were raised about increased risk of local extirpation of Hawaiian hoary bat populations due to collisions with WTGs. Concerns were raised about cumulative impacts, that when added to the proposed action, would negatively affect the statewide populations for three endangered species (the Hawaiian hoary bat, Hawaiian petrel, and the Hawaiian goose). Concerns were also raised about potential harm to the threatened Newell's shearwater ('a'o; *Puffinus auricularis newelli*) and the endangered band-rumped storm-petrel ('akē'akē; *Oceanodroma castro*) may not be fully addressed by the proposed action. The scoping process also identified issues or concerns, described in Section 1.7 of the FPEIS that were beyond the Service's decision-making authority for this project

Draft PEIS

A Notice of Availability of the Draft PEIS (NOA 84 FR 17875-17897) was published in the Federal Register for public review on April 26, 2019 in accordance with requirements set forth in the NEPA (42 U.S.C. § 4321 et seq.) and its implementing regulations (40 C.F.R. §§ 1500–1508). Public comments on the PEIS and the Draft HCP were accepted during the 45-day Federal public comment period which ended June 10, 2019. Three public open-house meetings were held during the comment period on the islands of O'ahu, Maui, and Hawai'i (one on each island) on May 21, 2019, May 22, 2019, and May 23, 2019, respectively. Each public meeting included a 40 minute presentation summarizing the Draft PEIS, including an overview of issues identified during the scoping period, alternatives carried forward for further analysis, and a summary of affected resources. During the comment period, comments were accepted on the Draft PEIS and the Draft HCP. The Service received 45 comment letters, emails, or faxes including two from Federal agencies (Department of the Army, U.S. Army Garrison Hawaii; and U.S. Environmental Protection Agency, Region 9), two from State of Hawai'i Senators (Senator Gil Riviere, District 23; Senator Glenn Wakai, District 15), three from environmental organizations (Sierra Club of Maui, Center for Biological Diversity, and American Bird Conservancy), one from a business (Ka'u Realty), and 37 from the general public. Comments received during the public comment period include the concerns relating to:

- Hawaiian hoary bat take levels
- Hawaiian hoary bat population
- Hawaiian hoary home range/core use area
- Hawaiian cultural resources
- Hawaiian hoary bat deterrent systems
- Low wind speed curtailment
- Nighttime shutdown
- Minimizing and mitigating to the maximum extent practicable
- The Project's proposed minimization and mitigation measures
- The Project's post construction monitoring protocols for downed wildlife
- Adaptive management
- Renewable energy projects, in general
- Utility power agreements
- The Applicants proposed mitigation site for Hawaiian hoary bat
- The Applicant should fund research rather than land restoration

- Uncertainty
- Increase in take authorization of Hawaiian hoary bats may restrict military training flexibility

The Services responses to comments received were incorporated into the FPEIS and resulted in some minor modifications and clarifications in the FPEIS. A minor change was made to the HCP to remove the use of rodenticides in the mitigation actions. A summary of substantive comments received, Service responses, and changes made to the Draft PEIS is included in Appendix K of the FPEIS and is attached to this document (Responses to Public Comments).

Final Programmatic EIS

The FPEIS was noticed in the Federal Register on August 2, 2019 (84 FR 37909-37912). During the 30-day wait period on the FPEIS, the following comment letters were received:

- An email received on August 7, 2019, advised us that the comment emails and letters received during the Draft PEIS public comment period were not attached to Appendix K. The Service corrected this oversight on August 7, 2019, by uploading the comments to the Service's FPEIS public access website.
- An email and letter were received from the U.S. Environmental Protection Agency on August 28, 2019 following up on their comments on the draft PEIS. The EPA continued to recommend that the Service consider permitting Alternative 3 (Increased Curtailment) to further minimize take of the Hawaiian hoary bat. In the ROD, the Service noted that Alternative 3 was the environmentally preferable alternative, but also noted that because Alternative 2 (Proposed Action) met Section 10(a)(1)(B) permit issuance criteria, we are required to issue the permit based on the proposed HCP action. The EPA also requested clarification between the use of "authorized take" in the draft PEIS and "anticipated take" in the final PEIS. This inconsistency was due to a lack of clarity in the draft PEIS where both existing permitted take and requested/anticipated take was referred to as "authorized take." In the final PEIS we more clearly used "authorized take" to refer to the take that was previously authorized in an existing ITP. We used "anticipated take" to refer to take that was likely to occur as a result of the implementation of an alternative being evaluated for future permit issuance.

Recommendation on Permit Issuance

Based on the foregoing findings with respect to the proposed action, I recommend approval of the issuance of Permit Number TE27260A-1 in accordance with the HCP and HCP Amendment.



Mary Abrams
Deputy Regional Director,
Interior Region 12, U.S. Fish and Wildlife Service



Date

References

- [SWCA] SWCA Environmental Consultants (SWCA). 2011. Kaheawa Wind Power II Habitat Conservation Plan. Prepared for First Wind.
- [SWCA] SWCA Environmental Consultants. 2019. Kaheawa Wind Power II Habitat Conservation Plan (Amended).
- [USFWS] U.S. Fish and Wildlife Service. 2019a. Final Programmatic Environmental Impact Statement Addressing the Issuance of Incidental take Permits for Four Wind Energy Projects in Hawai‘i. U.S. Fish and Wildlife Service Pacific Islands Fish and Wildlife Office.
- [USFWS] U.S. Fish and Wildlife Service. 2019b. Biological Opinion on the Kaheawa Wind Power II Conservation Plan Amendment and Incidental Take Permit Application. U.S. Fish and Wildlife Service Pacific Islands Fish and Wildlife Office.
- [USFWS] U.S. Fish and Wildlife Service. 2019c. Findings and Recommendations for the Proposed Issuance of an Endangered Species Act Section 10(a)(1)(B) Incidental Take Permit for the Kaheawa Wind Power II Habitat Conservation Plan Amendment for the Operation of the Kaheawa Wind Power II, Ukumehame, Maui, Hawai‘i. U.S. Fish and Wildlife Service Pacific Islands Fish and Wildlife Office.
- [USGS-PIERC] U.S. Geological Survey-Pacific Islands Ecosystems Research Center. 2016. Hawaiian hoary bat conservation biology: Movements, roosting behavior, and diet. Proposal submitted to Endangered Species Recovery Committee for Hawaiian hoary bat request for proposals, 2016. 18pp.