

Billing Code 4333-15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R1-ES-2019-N119; FXES11140100000-190-FF01E00000]

**Records of Decision for the Final Programmatic Environmental Impact Statement
for Four Wind Energy Project Habitat Conservation Plans in Hawaii**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of records of decision and habitat conservation plans.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of four separate records of decision (RODs) under the Endangered Species Act – three RODs for the proposed issuance of three permit amendments and one ROD for the proposed issuance of one new permit. We also make available each project’s respective habitat conservation plan (HCP) amendment or HCP. The RODs document the Service’s decision to issue incidental take permit (ITP) amendments to three applicants – Kawailoa Wind, LLC; Auwahi Wind, LLC; and Kaheawa Wind Power II, LLC – and a new ITP to Tawhiri Power, LLC.

ADDRESSES: Electronic copies of the RODs and other documents associated with each of the four separate permit decisions are available using the following methods:

- *Internet:* Documents may be viewed and downloaded on the Internet at <https://www.fws.gov/pacificislands>.
- *U.S. Mail:* You may obtain a CD with electronic copies of these documents if you make a request within 30 days after the date of publication of this notice by writing to Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office, 300 Ala Moana Boulevard, Room 3-122, Honolulu, HI 96850.
- *Telephone:* Call 808-792-9400 during regular business hours.

FOR FURTHER INFORMATION CONTACT: Michelle Bogardus, by phone at 808-792-9473, or Darren LeBlanc, by phone at 808-792-9403. Persons who use a telecommunications device for the deaf may call the Federal Relay Service at 800-877-8339 for assistance.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), announce the availability of four separate records of decision (RODs) for the proposed issuance of an Endangered Species Act (ESA) section 10(a)(1)(B) incidental take permit (ITP) or ITP amendments to four wind energy companies for implementation of their respective projects and final habitat conservation plans (HCPs) or HCP amendments. Each ROD documents the Service's decision to issue an ITP to the respective applicant. As summarized in each ROD, the Service has selected Alternative

2, the proposed action, which includes implementation of the HCP and issuance of the ITP authorizing incidental take of one or more of the following covered species that may occur as a result of project operations during the permit period: the Hawaiian hoary bat ('ōpe'ape'a in Hawaiian; *Lasiurus cinereus semotus*), Hawaiian goose (nēnē; *Branta sandvicensis*), and the Hawaiian petrel ('ua'u; *Pterodroma sandwichensis*).

We are advising the public of the availability of the RODs, developed in compliance with the agency decision-making requirements of the National Environmental Policy Act of 1969, as amended (NEPA), as well as the final HCP and HCP amendments as submitted by the applicants. All alternatives have been described in detail, evaluated, and analyzed in our final programmatic environmental impact statement (FPEIS). Our notice of availability of the FPEIS and four HCPs was published in the *Federal Register* on August 2, 2019 (84 FR 37909).

Background

All four wind projects are currently constructed and operating. Three of the projects (Auwahi Wind, KWP II, and Kawailoa Wind) have existing ITPs and are requesting amendments due to the addition of a new covered species or the exceedance of previously authorized incidental take of the Hawaiian hoary bat. One project, the Pakini Nui Wind Farm, was constructed and operating without a permit because they did not anticipate take of any listed species. Once an unauthorized take was identified, they developed an HCP and applied for an ITP. None of the projects' proposed actions includes additional development of the respective wind facility. The new or amended

ITPs would authorize incidental take associated with the continued operation of existing wind turbines at each project.

The PEIS was developed in accordance with the requirements of NEPA (42 U.S.C. 4321 *et seq.*) in response to four ITP applications. The Service determined that a programmatic NEPA analysis of the four similar wind energy project-related permit decisions would provide the following benefits: a comprehensive analysis of cumulative impacts across all projects; creation of a single document that the public would be more likely to understand; a reduction in duplicative information that would otherwise appear in four separate EISs; improved consistency in the NEPA analysis; and a more efficient and comprehensive solicitation of public input.

Each HCP or HCP amendment describes how impacts to covered species would be minimized and mitigated. The HCPs also describe the covered species' life history and ecology, the HCP biological goals and objectives, the estimated take and its potential impact on covered species' populations, adaptive management and monitoring procedures, and mitigation measures for each project. Tawhiri Power, LLC, is requesting incidental take authorization for an estimated 26 Hawaiian hoary bats, 3 Hawaiian petrels, and 3 Hawaiian geese over a 10-year permit term. Auwahi Wind Energy, LLC, is requesting a permit amendment and incidental take coverage for an additional 119 Hawaiian hoary bats (for a total of 140 bats) over the 25-year permit term, which expires in 2037. KWP II, LLC, is requesting a permit amendment and incidental take authorization for an additional estimated 27 Hawaiian hoary bats (for a total of 38 bats) and an additional estimated 14 Hawaiian geese (for a total of 44 geese) over the 20-year permit term, which expires in 2032. Kawailoa Wind Power, LLC, is requesting a permit

amendment and incidental take coverage for an additional estimated 160 Hawaiian hoary bats (for a total of 220 bats) and take of 24 Hawaiian petrels over the 20-year permit term, which expires in 2031. Additional information on each specific project is described in the PEIS and RODs.

Purpose and Need

The Service's purpose and need for the proposed permit actions is to respond to ITP applications submitted by the applicants, and to approve, approve with conditions, or deny the ITP applications. The Service's assessment of the ITP applications is complete, and was prepared pursuant to the requirements of section 10 of the ESA and its implementing regulations. Any ITP issued by the Service must meet all applicable requirements of the ESA.

Alternatives

Our FPEIS analyzed the environmental impacts of no action and two alternatives related to the issuance of the ITPs and implementation of the HCPs. While the three alternatives are similar for the four projects, the results of implementing a particular alternative would be different for each project. The three alternatives are described below.

Alternative 1 – No Action: The no action alternative evaluates conditions as they would occur over the foreseeable future if the Service denied issuance of an ITP to the applicants and if the applicants did not implement their respective HCPs for the covered species. Under this alternative, the applicants would continue to conduct wind energy

facility operations in accordance with existing State and Federal regulations. The applicants would remain subject to the prohibition on unauthorized taking of State and federally listed species. The Service expects that each applicant would act in a reasonable manner to avoid unauthorized take of the covered species over and above their existing permit authorizations (as applicable). To achieve this, the Service assumes that all applicants would implement other measures to limit the potential for take of listed species to occur. Any take that occurs over and above existing permit limits would not be authorized and would remain unmitigated.

Alternative 2 – Proposed Action: Under the proposed action, the Service would issue a separate ITP (amendment or a new ITP) to each of the four applicants, authorizing incidental take of the covered species. The new or amended ITP/HCP would be implemented as proposed by each applicant, including mitigation and minimization actions to address the effects of the incidental take. The applicants' operations and activities would be subject to the terms and conditions of the ITP/HCP, as well as existing regulatory standards. Under the proposed action alternative, the three applicants with HCPs/ITPs currently in effect would continue to conduct their previously authorized mitigation activities as outlined in the no action alternative, in addition to the mitigation described in their HCP amendment.

Alternative 3 – Increased Curtailment: This alternative was developed to analyze the most practicable minimization measure for the actions proposed in the applicants' HCPs (Alternative 2) that would result in a reduction of take of the Hawaiian hoary bat at each of the facilities but also allow the applicants to meet their minimum required power production. Under Alternative 3, the Service would issue the ITPs authorizing a lower

level of Hawaiian hoary bat take than what is anticipated by the applicants in their new or amended HCPs. Under this alternative, wind facility operations and maintenance activities would be shut down at all applicant wind turbines during nighttime hours from April 15 through September 15, and low wind speed curtailment activities would be implemented during the remainder of the year. These measures would result in a minimization of the take of adult Hawaiian hoary bats and eliminate indirect take of juvenile bats. Mitigation actions and corresponding monitoring activities would be reduced commensurate with take levels for each applicant.

The environmental consequences of each alternative were analyzed in the FPEIS. The types of effects on covered species were similar across action alternatives, with take resulting from project operations being mitigated through land acquisition, species and habitat management, and research. Increasing the use of avoidance and minimization measures through different turbine curtailment regimes can reduce the amount of take of the covered species and the amount of renewable electricity produced; a commensurate reduction in the amount of incidental take of the covered species is expected with alternatives that include turbine curtailment.

Public comments received in response to the draft PEIS were considered, and the FPEIS reflects clarifications of the existing analysis to address public comments.

The FPEIS does not identify an environmentally preferred alternative. Pursuant to NEPA implementing regulations found at 40 C.F.R. 15.2(b), the Service identified Alternative 3 – Increased Curtailment as the environmentally preferred alternative in the RODs.

Decision and Rational for Decision

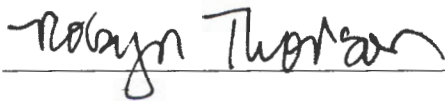
Based on our review of the alternatives and their environmental consequences as described in our FPEIS, we have selected the proposed action alternative (Alternative 2) for all four projects. The proposed action includes each applicant's implementation of their final HCP or HCP amendment, and the Service's issuance of an ITP authorizing take of the covered species that may occur incidental to the continued operation of each project.

In order to issue each ITP under the ESA, we must determine that each of the HCPs meets the issuance criteria set forth in 16 U.S.C. 1539(a)(2)(A) and (B). We have made that determination for each HCP, as described further in their respective RODs.

Authority

We provide this notice in accordance with the requirements of section 10(c) of the ESA (16 U.S.C. 1539(c)) and its implementing regulations (50 CFR 17.22 and 17.32), and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6; 43 CFR part 46).

Dated: _____.



Robyn Thorson,
*Regional Director,
Interior Region 12, U.S. Fish and Wildlife Service
Portland, Oregon.*