



Billing Code 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2018–N160; FXES11140100000–189–FF01E00000]

Draft Safe Harbor Agreement for Nene at Haleakala Ranch, Maui

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from the Haleakala Ranch Company (the Ranch) for an enhancement of survival permit (permit) pursuant to the Endangered Species Act of 1973, as amended (ESA). The permit application includes a draft Safe Harbor Agreement (SHA) between the Ranch, the State of Hawaii Department of Land and Natural Resources (DLNR), and the Service. Implementation of the proposed SHA is intended to benefit the recovery of the nene (Hawaiian goose, *Branta sandvicensis*) on 3,056 acres of privately-owned Ranch land on the island of Maui. The proposed SHA conservation measures on the Ranch include nene habitat improvement and maintenance, establishment and

maintenance of a nene release pen, and control of predators. The activities implemented under this SHA will aid in increasing the current range of the covered species, restoring this species to part of its historic range, and increasing the total population of the species, thus contributing to its overall recovery. The Service is making the permit application, including the proposed SHA, and the NEPA environmental action statement for categorical exclusion available for public review and invites comments, including the submission of written data.

DATES: All comments from interested parties must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: To request further information, obtain copies of documents, or submit written comments, please use one of the following methods. Please include your name and return address in your comments and refer to the “Safe Harbor Agreement for Nene at Haleakala Ranch”:

- *Internet:* Documents may be viewed on the Internet at <http://www.fws.gov/pacificislands>.
- *Email:* pifwo_admin@fws.gov. Include “Safe Harbor Agreement for Nene at Haleakala Ranch” in the subject line of the message.
- *U.S. Mail:* Field Supervisor, Pacific Islands Fish and Wildlife Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, Room #3-122, Honolulu, HI 96822.
- *In-Person Drop-off, Viewing, or Pickup:* Documents will be available for public inspection, by appointment, during normal business hours between 8 a.m. and 5

p.m. at the U.S. Fish and Wildlife Service's Pacific Islands Fish and Wildlife Office.

- *Fax:* Pacific Islands Fish and Wildlife Office, 808-792-9580, Attn: Safe Harbor Agreement for Nene at Haleakala Ranch.

FOR FURTHER INFORMATION CONTACT: Jodi Charrier, Pacific Islands Fish and Wildlife Office (see **ADDRESSES**), telephone 808-792-9400, or email pifwo_admin@fws.gov. If you use a telecommunications device for the deaf, please call the Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION: The Service has received an application from the Haleakala Ranch Company (the Ranch) for an enhancement of survival permit (permit) pursuant to the ESA (16 U.S.C. 1531 *et seq.*). The permit application includes a draft SHA between the Ranch, the State of Hawaii DLNR, and the Service.

Implementation of the proposed SHA is intended to benefit the recovery of the nene on 3,056 acres of privately-owned Ranch land on the island of Maui. The proposed SHA conservation measures on the Ranch include nene habitat improvement and maintenance, establishment and maintenance of a nene release pen, and control of predators. The activities implemented under this SHA will aid in increasing the current range of the nene, restoring this species to part of its historic range, and increasing the total population of this species, thus contributing to the overall recovery of the nene. The Service is making the permit application, including the proposed SHA, and the NEPA environmental action statement for categorical exclusion available for public review and comment.

Background

Under a SHA, participating landowners voluntarily undertake management activities on their property to enhance, restore, or maintain habitat benefiting species listed under the ESA. SHAs, and the subsequent permit issued to participating landowners pursuant to section 10(a)(1)(A) of the ESA, encourage private and other non-Federal property owners to implement conservation actions for federally listed species by assuring the landowners that they will not be subjected to increased property use restrictions as a result of their efforts to either attract listed species to their property, or to

increase the numbers or distribution of listed species already on their property. Enrolled landowners may make lawful use of the enrolled property during the permit term and may incidentally take the listed species named on the permit. Application requirements and issuance criteria for permits associated with SHAs are found in the Code of Federal Regulations (CFR) at 50 CFR 17.22(c).

Draft Safe Harbor Agreement

Nene were probably extirpated from Maui by the end of the 19th century. Today nene are found on Maui primarily within the boundaries of Haleakala National Park, where reintroduction efforts on Maui began in 1962. In addition, populations of the nene have been established through reintroduction programs at Piiholo Ranch on Maui, which has been successfully implementing a SHA for the reintroduction of nene since 2004. In 2011, the estimated population of nene on Maui was approximately 350 to 375 birds.

The private lands subject to the proposed SHA and permit consist of 3,056 acres on the Ranch, and current land use practices include cattle ranching operations. Habitat on the Ranch varies and includes nonnative-plant-dominated grasslands, native and nonnative forests, and gulches. Land elevation ranges from sea level to approximately 3,000 feet. The baseline nene population for this SHA is zero (0) nene.

The expected net conservation benefit to the nene as a result of the proposed SHA is the establishment of a breeding population of 200 nene on the Ranch. This benefit will be achieved by providing high-quality, predator-controlled nene habitat on Ranch property. Conservation measures proposed by the Ranch to encourage the establishment and survival of nene on the enrolled lands include allowing DLNR to: (1) Construct or

expand a nene release pen; (2) make road improvements as needed to implement the agreement; (3) maintain the release pen and associated water source, and to monitor nene throughout the term of the agreement; (4) allow DLNR to release nene into the release pen; and (5) allow DLNR to conduct predator control in and around the release pen.

The proposed duration of the conservation measures contained in the SHA is for 10 years; however, the landowner may terminate the SHA after 5 years for reasons beyond their control and return to baseline. The proposed duration of the permit is for 50 years. The permit would authorize the incidental take of nene on the enrolled lands as a result of lawful activities at the Ranch, from the time the SHA is executed. The Ranch may continue current land use practices, undertake new ones, or make any other lawful use of the property, even if such use incidentally results in the loss of nene or their habitat covered under this SHA. Once the SHA has ended, the Ranch can return the enrolled lands to baseline conditions. The authority for incidental take of the nene associated with the return to baseline conditions is provided by the permit.

During the nonbreeding season, the birds may disperse and have seasonal movement throughout Maui, but due to their site fidelity, they are expected to return to the protected pen for breeding. It is expected that some of the nene released under the SHA, and their progeny, will still utilize the site upon expiration or termination of the SHA and that a percentage of nene will remain on the Ranch property for the permit term and beyond. Based on experience from similar sites, the Service and DLNR anticipate this SHA will result in an increase in the number of nene on Maui and an increase in the total area of suitable habitat on private lands utilized by nene. Without this cooperative government/private landowner effort, these lands would not otherwise be utilized by nene

in the foreseeable future. For these reasons, this SHA and the activities it covers, which are facilitated by the allowable incidental take, would provide a net conservation benefit to the nene.

When this 10-year SHA expires, the parties have the option to extend the term of the SHA, or return to baseline numbers. By establishing the term of the permit at 50 years, the Ranch may defer returning the property to baseline conditions when the 10-year SHA expires. Nene would, in this case, continue to benefit from any ongoing or residual conservation actions on the Ranch for an additional period of time. Providing for a 50-year term of the permit also offers flexibility to the Ranch landowner; if there is no immediate need to return to baseline conditions, the Ranch landowner may therefore be interested in having nene on the Ranch for a longer period of time. The Ranch will notify DLNR and the Service in advance of conducting any activities that it anticipates will adversely affect the nene and also report any dead, injured, or diseased nene during the term of the permit, as well as provide a report on the status of the reintroduced nene population every 5 years after the SHA expires for the 50-year term of the permit.

If at the end of 10 years the Ranch plans to return to baseline conditions, they will notify DLNR and the Service to provide time to relocate nene from the property. At the end of the term of the SHA, the Ranch may also remove any nene habitat and return the property to the baseline conditions existing prior to the SHA. Additionally, the Ranch will provide 1-year notice to DLNR and the Service prior to a potential return to baseline conditions to allow DLNR to develop a suitable alternate site and move birds. The SHA may be renewed upon approval by the Service and DLNR.

National Environmental Policy Act Compliance

The development of the draft SHA and the proposed issuance of a permit is a Federal action that triggers the need for compliance with the National Environmental Policy Act of 1969, as amended (NEPA; 42 U.S.C. 4321 *et seq.*). The Service has made a preliminary determination that the proposed SHA and permit application are eligible for a categorical exclusion under NEPA, based on the following criteria: (1) Implementation of the SHA would result in minor or negligible adverse effects on federally listed, proposed, and candidate species and their habitats; (2) implementation of the SHA would result in minor or negligible adverse effects on other environmental values or resources; and (3) impacts of the SHA, considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not result, over time, in cumulative adverse effects to environmental values or resources which would be considered significant. We explain the basis for this determination in more detail in an Environmental Action Statement (EAS) that is also available for public review.

Based on the EAS, we have preliminarily determined that the issuance of the associated permit would have minor or negligible adverse effects on the species covered in the SHA. Therefore, we determined that the SHA qualifies for categorical exclusion under NEPA, as provided by the Department of the Interior NEPA regulations (43 CFR part 46).

Public Availability of Comments

All comments and materials we receive become part of the public record associated with this action. Before including your address, phone number, email address,

or other personal identifying information in your comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Comments and materials we receive, as well as supporting documentation we use in preparing the EAS, will be available for public inspection by appointment, during normal business hours, at our Pacific Islands Fish and Wildlife Office (see **ADDRESSES**).

Authority

We provide this notice in accordance with the requirements of section 10(c) of the ESA and its implementing regulations (50 CFR 17.22 and 17.32) and NEPA and its implementing regulations (40 CFR 1506.6).

Katherine B. Hollar,

*Acting Deputy Regional Director,
Pacific Region, U.S. Fish and Wildlife Service.*

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