



**Billing Code 4333–15**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS–R1–ES–2019–N032; FXES11140100000–190–FF01E00000]**

**Draft Programmatic Environmental Impact Statement and Draft Habitat Conservation Plan and Amendments; Receipt of Applications for Incidental Take Permits for Four Wind Energy Projects in Hawai‘i**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the availability of a habitat conservation plan (HCP) and three amendments to existing HCPs in support of requests for new or amended incidental take permits (ITPs) under the Endangered Species Act authorizing the take of endangered species from four similar wind energy projects. The proposed permit actions involve a new HCP for the Pakini Nui Wind Farm on the Island of Hawai‘i and major amendments to three existing HCPs—for the Auwahi Wind and Kaheawa Wind Power II projects, both located on

Maui, and the Kawaihoa Wind project on O‘ahu. All four wind energy facilities are already constructed and in operation. The proposed new ITP and ITP amendments would address take of one or more of the following three endangered species: the Hawaiian hoary bat, Hawaiian goose, and the Hawaiian petrel. Also available for review is the Service’s draft programmatic environmental impact statement (PEIS), which was prepared in response to these four applications. We are seeking public comments on the draft HCP and draft HCP amendments, and the draft PEIS.

**DATES:** To ensure consideration, please send your written comments by [**INSERT DATE 45 DAYS AFTER THE DATE OF PUBLICATION IN THE *FEDERAL REGISTER***]. The Service will consider all written or verbal comments on the scope of the analysis that are received or postmarked by this date.

*Public Meetings:* The Service will host the following public meetings during the public comment and review period:

- O‘ahu: Tuesday, May 21, 2019, from 6 to 8 p.m.
- Maui: Wednesday, May 22, 2019, from 6 to 8 p.m.
- Hawai‘i: Thursday, May 23, 2019, from 6 to 8 p.m.

**ADDRESSES:** To view the pertinent documents for this proposal, request further information, or submit written comments, please use one of the following methods. Please include “Wind Energy HCPs and PEIS” and reference FWS–R1–ES–2019–N032 in the subject line of your request, message, or comment.

- *U.S. Mail:* Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office, 300 Ala Moana Boulevard, Room 3–122, Honolulu, HI 96850.
- *Email:* HIwindPEIS@fws.gov.
- *Fax:* 808–792–9580, Attn: Field Supervisor.
- *Internet:* You may obtain copies of this notice from the Service’s Pacific Islands Fish and Wildlife Office in Honolulu, Hawai‘i, or on the Internet at <https://www.fws.gov/pacificislands/>.
- *Public meetings:* You may also submit written comments during public meetings. The meetings will be held at the following locations:
  - O‘ahu O: Waialua Elementary School, 67-020 Waialua Beach Road, Waialua, HI 96791.
  - Maui: Kula Elementary School, 5000 Kula Highway, Kula, HI 96790.
  - Hawaii: Na'alehu Community Center, 95-5635 Mamalahoa Highway, Na'alehu, HI 96722.
- *Reviewing U.S. Environmental Protection Agency (EPA) comments on the draft HCP, HCP amendments, and PEIS:* See **EPA’s Role in the EIS Process** under **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** Darren LeBlanc at 808–792–9403, or Michelle Bogardus at 808–792–9473. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 during normal business hours. The FRS is also available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The Service received incidental take permit (ITP) applications from four wind energy companies (applicants) in accordance with the requirements of the Endangered Species Act, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The proposed ITP and ITP amendments would authorize take of one or more of the following species: the endangered Hawaiian hoary bat (‘ōpe‘ape‘a in Hawaiian; *Lasiurus cinereus semotus*), the endangered Hawaiian goose (nēnē; *Branta sandvicensis*), and the endangered Hawaiian petrel (‘ua‘u; *Pterodroma sandwichensis*), hereafter collectively referred to as the “covered species.”

The ITPs, if issued, would authorize the incidental take of covered species caused by the operation of existing land-based wind energy facilities. The applicants are not seeking ITP coverage for construction of the four projects, which are currently constructed and operational. The draft HCP and HCP amendments describe how impacts to covered species would be minimized and mitigated. The draft 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. If the proposed HCP and HCP amendments meet permit issuance criteria, the Service will issue separate ITPs to each of the four permit applicants.

The Service has developed the draft PEIS in response to these ITP applications in accordance with the requirements of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). Two action alternatives and a no-action alternative are analyzed for each project. A programmatic NEPA analysis of similar wind energy project-related permit decisions provides the following benefits: a comprehensive analysis of cumulative

impacts across all projects; creation of a single document that the public is more likely to understand; a reduction in duplicative information that would otherwise appear in four EISs; improved consistency in the NEPA analysis; and a more efficient and comprehensive solicitation of public input. The Service provides this notice to (1) advise other Federal and State agencies, local governments, and the public of the availability of the draft HCP, draft HCP amendments, and draft PEIS; (2) announce the initiation of a 45-day comment period; and (3) request comments on the documents.

### **Endangered Species Act**

Section 9 of the ESA and its implementing regulations prohibit “take” of fish and wildlife species listed as endangered. The ESA implementing regulations extend, under certain circumstances, the prohibition of take to threatened species (50 CFR 17.31). Under section 3 of the ESA, the term “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct (16 U.S.C. 1532(19)). The term “harm,” as defined in our regulations, includes significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3).

Pursuant to section 10(a)(1)(B) of the ESA, the Service may authorize take of federally listed species, if such take occurs incidental to otherwise legal activities and a habitat conservation plan (HCP) has been developed under section 10(a)(2)(A) that describes: (1) the impact that will likely result from such taking; (2) the steps an applicant will take to minimize and mitigate that take to the maximum extent practicable and the

funding that will be available to implement such steps; (3) alternative actions to such taking that an applicant considered and the reasons why such alternatives are not being used; and (4) other measures the Service may require as being necessary or appropriate for the purposes of the plan.

Section 10(a)(1)(B) of the ESA contains provisions for issuing ITPs to non-Federal entities for the take of endangered and threatened species, provided the following criteria are met: (1) the taking will be incidental to otherwise lawful activities; (2) an applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking; (3) an applicant has ensured that adequate funding for the plan will be provided; (4) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and (5) the applicant will carry out any other measures we require as necessary or appropriate for the purposes of the plan.

Regulations governing permits for endangered and threatened species are at 50 CFR 17.22 and 17.32, respectively. The Service's general permitting regulations, found at 50 CFR 13.1–13.29, also apply to these actions.

### **National Environmental Policy Act**

In compliance with NEPA (42 U.S.C. 4321 *et seq.*), the Service has prepared a draft PEIS to evaluate the project-specific alternatives and cumulative impacts of four ITP decisions addressing a newly proposed HCP for the Pakini Nui Wind Farm and major amendments for three existing HCPs for the Auwahi Wind, Kawaihoa Wind Power, and Kaheawa Wind Power II wind energy projects. Three alternatives (No Action, Proposed Action, and Increased Curtailment alternatives) are analyzed for each of the

four projects. Each alternative, as well as the existing projects, the amount of take authorized in the original ITPs, and the estimated levels of take in the proposed new or amended HCPs (See Tables 1–3) are briefly described below.

***Alternative 1: No Action Alternative***

Under the No Action Alternative, the Service would not issue the requested project ITP or ITP amendments and the respective HCP or amendments would not be implemented. The Service expects that the applicants would act in a reasonable manner in order not to be legally liable for unauthorized take of the Hawaiian hoary bat, Hawaiian petrel, and the Hawaiian goose. The Service assumes that (a) all applicants would shut off wind turbine operations at night to fully avoid take of Hawaiian hoary bat, (b) that the three applicants seeking to amend their existing permits would continue operating turbines during the day as long as they continued to be in compliance with their existing ITPs, and (c) that Pakini Nui would implement other reasonable measures to avoid take of listed species. Any take that may occur outside of an existing permit would not be authorized and would remain unmitigated.

***Alternative 2: Proposed Action***

***Auwahi Wind***

The Auwahi Wind project began commercial operation on December 28, 2012, and is located on ‘Ulupalakua Ranch in east Maui, Hawai‘i. Auwahi Wind Energy, LLC, was originally issued an ITP from the Service and an incidental take license (ITL) from the Hawai‘i Department of Land and Natural Resources Division of Forestry and Wildlife

on February 24, 2012 and February 9, 2012, respectively. The Auwahi Wind project consists of eight Siemens 3.0-megawatt (MW) wind turbines, augmented with an 11-MW battery storage system. Ancillary facilities include an underground electrical collection system, an operation and maintenance facility, an approximately 9-mile 34.5-kilovolt (kV) above-ground generator-tie line, and an interconnection substation.

The original ITP and ITL, with 2014 amendments, authorized the following amounts of incidental take over the 25-year permit term: 21 Hawaiian hoary bats; 87 Hawaiian petrels; 5 Hawaiian geese; and all Blackburn's sphinx moths (*Manduca blackburni*) larvae and eggs within the footprint of the facility. The above levels of take were anticipated to result from project construction and operations, including collision with vehicles, generator tie-lines, substations, wind turbines and other project structures.

Auwahi Wind Energy, LLC, is requesting a permit amendment to address a higher than anticipated amount of take of the Hawaiian hoary bat that has occurred during the first 5 years of operation. Auwahi Wind Energy, LLC, is requesting incidental take coverage for an additional 119 Hawaiian hoary bats over the 25-year permit term, which expires in 2037. In addition, Auwahi Wind would implement nighttime low wind speed curtailment (LWSC) year-round at 5.0 m/s cut-in speed and increase the LWSC to 6.9 m/s from August to October, when higher rates of take have occurred. They will also mitigate the take through reforestation and the creation of water features on up to 2,929 acres of ranchland.

**Tables 1-3.** Estimated change in authorized take requested for Hawaiian hoary bat, Hawaiian petrel, and Hawaiian goose per project applicant.

<b>Table 1: Hawaiian hoary bat</b>				
	<b>Project</b>	<b>Take Currently Authorized<sup>1, 2</sup></b>	<b>Change</b>	<b>Total<sup>3</sup></b>
	Auwahi	21	+119	140
	Kawailoa	60	+205	265
	KWPPII	11	+27	38
	Pakini Nui	NA	+26	26
	<i>Total</i>	92	+377	469
<b>Table 2: Hawaiian petrel<sup>4</sup></b>				
	<b>Project</b>	<b>Take Currently Authorized</b>	<b>Change</b>	<b>Total</b>
	Auwahi	87	0	87
	Kawailoa	0	+24	24
	KWPPII	43	0	43
	Pakini Nui	NA	+3	3
	<i>Total</i>	130	+27	157
<b>Table 3: Hawaiian goose<sup>4</sup></b>				
	<b>Project</b>	<b>Take Currently Authorized</b>	<b>Change</b>	<b>Total</b>
	Auwahi	5	0	5
	Kawailoa	0	0	0
	KWPPII	30	+14	44
	Pakini Nui	NA	+3	3
	<i>Total</i>	35	+17	52

<sup>1</sup>Take for the Hawaiian hoary bat was originally authorized for adults and juveniles separately.

<sup>2</sup>A clarification issued in 2014 simplified the way in which indirect take (e.g., loss of dependent juveniles) associated with the mortality of a breeding adult was accounted for and tracked.

Juveniles were converted to adult equivalencies using calculations based on life-history information included in the respective original HCPs, resulting in authorized take represented as a whole number as opposed to listing adults and juveniles separately.

<sup>3</sup>Represents the currently authorized take plus the new requested take.

<sup>4</sup>Take amounts for these species are summed or combined for adults, subadults, nestlings, or eggs.

### *Kawailoa Wind Power*

The Kawailoa Wind Power project is located approximately 4 miles from Haleiwa town on the north shore of the island of O‘ahu, Hawai‘i, and began commercial operations in November of 2012. Kawailoa Wind Power, LLC, was issued an ITP and an ITL on December 8, 2011, and January 6, 2012, respectively. The Kawailoa Wind Power project consists of 30 2.3-MW wind turbine generators. Ancillary facilities include an

underground electrical collection system, an operation and maintenance facility, and an approximately 4-mile above-ground transmission line.

The original ITP and ITL authorized the following amounts of incidental take over a 20-year permit term: 60 Hawaiian hoary bats; 12 Hawaiian ducks (koloa maoli; *Anas wyvilliana*); 18 Hawaiian moorhen (‘alae ‘ula; *Gallinula galeata sandvicensis*, also known as the Hawaiian gallinule); 18 Hawaiian coot (‘alae kea; *Fulica americana alai*); 24 Hawaiian stilt (ae‘o; *Himantopus mexicanus knudseni*); and 15 Newell’s shearwater (‘a‘o; *Puffinus auricularis newelli*). The above levels of take were anticipated to result from project construction and operations, including collision with vehicles, generator tie-lines, substations, wind turbines, and other project structures.

Kawailoa Wind Power, LLC, is requesting a permit amendment to address a higher than anticipated amount of take of the Hawaiian hoary bat that has occurred during the first 5 years of operation. Kawailoa Wind Power, LLC, is requesting incidental take coverage for an additional estimated 205 Hawaiian hoary bats (for a total of 265 bats) over the 20-year permit term, which expires in 2031. Additionally, Kawailoa Wind Power has documented the take of two Hawaiian petrels at the site. Incidental take of this species was not authorized in their existing ITP or ITL; therefore, Kawailoa Wind Power, LLC, is requesting incidental take authorization for 24 Hawaiian petrels in their permit amendment. In addition, Kawailoa Wind will extend nighttime LWSC to year-round at 5.2 m/s, and test a bat deterrent in collaboration with NRG Systems. They will also provide a portion of the funding for the protection of 2,882 acres in the Ko‘olau Mountains of O‘ahu, and protect/preserve or restore an additional 3,044 acres for mitigation of bat take impacts. To mitigate Hawaiian Petrel take impacts, Kawailoa

Wind will fund the Hawai'i Division of Forestry and Wildlife (DOFAW) to conduct predator control activities within a petrel breeding colony at Hanakāpā'ai, Kaua'i.

### *Kaheawa Wind Power II*

The Kaheawa Wind Power II (KWP II) project is located at Kaheawa Pastures above Ma'alaea town in the southwestern portion of the island of Maui, Hawai'i, and began commercial operations in July 2012. KWP II, LLC, was issued an ITP and an ITL in January 2012. The KWP II project consists of 14, 1.5-MW wind turbine generators. Ancillary facilities include an underground electrical collection and communication system, an operation and maintenance facility, a battery energy storage system, and an overhead electrical transmission line connecting the facility substation to the County's electrical grid.

The original ITP and ITL authorized the following levels of incidental take over the 20-year permit term, which expires in 2032: 11 Hawaiian hoary bats, 30 Hawaiian geese, 8 Newell's shearwaters, and 43 Hawaiian petrels. The above levels of take were anticipated to result from project construction and operations, including bat and bird collisions with vehicles, generator tie-lines, substations, wind turbines and other project structures.

Kaheawa Wind Power II, LLC, is requesting a permit amendment to address a higher than anticipated amount of take of the Hawaiian hoary bat and the Hawaiian goose that has occurred during the first 6 years of operation. Kaheawa Wind Power II, LLC, is requesting incidental take authorization for an additional estimated 27 Hawaiian hoary bats (for a total of 38 bats) over the 20-year permit term. Additionally, KWP II, LLC, is also requesting incidental take authorization for an additional estimated 14 Hawaiian

geese (for a total of 44 geese) over the 20-year permit term. KWP II will implement nighttime LWSC at 5.0 m/s year-round and increase LWSC to 5.5 m/s from February 15 to December 15. Mitigation activities for Hawaiian Goose include funding DOFAW to conduct predator control activities at a breeding pen on Maui, at either Pi'iholo Ranch or Haleakalā Ranch. For Hawaiian hoary bat mitigation, KWP II is funding a research project conducted by the U.S. Geological Society to examine home range size, habitat use, diet, and breeding demography at roosting sites on Hawai'i island.

#### *Pakini Nui Wind Farm*

The Pakini Nui Wind Farm is operated by Tawhiri Power, LLC, and is located on Ka Lae or South Point on the island of Hawai'i, Hawai'i. The Pakini Nui Wind Farm is currently not covered by a valid ITP or ITL, and Tawhiri Power, LLC, has not previously applied for an ITP or ITL. Tawhiri Power, LLC, has submitted a draft HCP to support their requests for an ITP and an ITL. The Pakini Nui Wind Farm began operations in April 2007 and consists of 14, 1.5-MW wind turbine generators. Ancillary facilities include one mile of underground connector lines, an operation and maintenance building, a substation, and an overhead electrical transmission line connecting the facility substation to the County's electrical grid. The entire project facility footprint is 79.42 acres. Tawhiri Power, LLC, is requesting incidental take authorization for an estimated 26 Hawaiian hoary bats, 3 Hawaiian petrels, and 3 Hawaiian geese over an 8-year permit term.

Pakini Nui will implement nighttime LWSC at 5.0 m/s year-round to minimize take of Hawaiian hoary bats. To mitigate for bats, they will fund the restoration of 1,200 acres at Hawai'i Volcanoes National Park. Pakini Nui will also fund an increase in

predator control and commit funds for maintenance of a 5-mile cat barrier fence encompassing 600 acres of breeding habitat for Hawaiian Petrel on Mauna Loa. For Hawaiian Goose mitigation, they will provide funds for the construction of a new 1.25-acre fenced enclosure by DOFAW at Pi'ihonua on Hawai'i island.

### ***Alternative 3: Increased Curtailment***

Under Alternative 3, the Service would issue the ITPs with a condition that the applicant will shut down turbines at night, between April 15 and September 15, when Hawaiian hoary bats are observed to be rearing young and are most active. Mitigation activities would be reduced commensurate with take levels. Low wind speed curtailment activities listed under Alternative 2 would occur during the remainder of the year (September 16 – April 14).

Under this alternative, the Service would issue an ITP amendment to Auwahi Wind Power for up to 84 additional Hawaiian hoary bats through the end of its permit term in 2037. Kawailoa Wind would be issued a permit amendment for up to 83 additional Hawaiian hoary bats and 24 Hawaiian petrels through the permit term ending in 2031. KWP II would be issued an ITP amendment for take of an additional 16 Hawaiian hoary bats and 14 Hawaiian geese under alternative 3 for a permit term ending in 2032. Finally, Pakini Nui Wind Farm would be issued a new ITP allowing take of 16 Hawaiian hoary bats, 3 Hawaiian petrels, and 3 Hawaiian geese through the permit term ending in 2029.

### **Covered Species**

In total, the applicants are requesting incidental take authorization for one or more of the following species: the endangered Hawaiian hoary bat, the endangered Hawaiian goose, and the endangered Hawaiian petrel. Three of the applicants were authorized to take other listed species in their original ITPs; such take authorization would remain unchanged by the currently proposed amendments.

The Hawaiian hoary bat is the only fully terrestrial native mammal in the Hawaiian Islands and was federally listed as endangered under the ESA on October 13, 1970 (35 FR 16047). The Hawaiian hoary bat is small, nocturnal, and solitary, roosts in trees, and is known to collide with wind turbine structures. Take of Hawaiian hoary bats at the three currently permitted wind projects (Auwahi Wind, Kawailoa Wind Power, and KWP II) has been higher than anticipated under their original HCPs. The Service believes that recent project-specific bat fatality data and use of new statistical tools for estimating and predicting take of bats provide confidence that their revised estimates of total project-related take of bats are conservative and are unlikely to be exceeded over the term of these projects.

The Hawaiian goose was listed as endangered under the ESA on March 11, 1967 (32 FR 4001). The Hawaiian goose is found in a variety of habitats, including scrubland, grassland, golf courses, sparsely vegetated slopes, and open lowland country. This species is also known to collide with wind turbine structures. Pakini Nui Wind Farm has requested take of Hawaiian goose in a new ITP, while KWP II has requested an amendment due to slightly higher than anticipated take at the facility.

The Hawaiian petrel was listed as endangered under the ESA on March 11, 1967 (32 FR 4001). The Hawaiian petrel is a seabird that breeds in high-elevation volcanic

terrain or in montane mesic and wet forests. When Hawaiian petrels fly over land areas, they are vulnerable to collision with man-made structures, including wind turbines. The Pakini Nui Wind Farm has requested take of the Hawaiian petrel in a new ITP, while Kawaihoa Wind Power has requested an amendment to their HCP due to the unanticipated take of a Hawaiian petrel at the facility site.

### **EPA's Role in the EIS Process**

The EPA is charged with reviewing all Federal agencies' EISs and commenting on the adequacy and acceptability of the environmental impacts of proposed actions in EISs. Therefore, EPA is publishing a notice in the *Federal Register* announcing this EIS, as required under section 309 of the Clean Air Act. The publication date of EPA's notice of availability is the official beginning of the public comment period. EPA's notices are published on Fridays.

EPA serves as the repository (EIS database) for EISs prepared by Federal agencies. All EISs must be filed with EPA. You may search for EPA comments on EISs, along with EISs themselves, at <https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search>.

### **Public Comments**

You may submit your comments and materials by one of the methods listed in **ADDRESSES**. Before including your address, phone number, email address, or other personal identifying information in your comment, 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 PEIS, will be available for public inspection by appointment, during normal business hours, at the Service's Pacific Islands Fish and Wildlife Office.

### **Reasonable Accommodation**

Persons needing reasonable accommodations to attend and participate in the public meetings should contact Darren LeBlanc or Michelle Bogardus at the Service's Pacific Islands Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** above). To allow sufficient time to process requests, please call no later than 14 days in advance of the meeting dates.

### **Authority**

We provide this notice in accordance with the requirements of section 10 of the ESA (16 U.S.C. 1531 *et seq.*; 50 CFR 17.22), and per NEPA and its implementing regulations (40 CFR 1506.6).

---

**Robyn Thorson,**  
***Regional Director, Pacific Region,***  
***U.S. Fish and Wildlife Service.***

[FR Doc. 2019-08356 Filed: 4/25/2019 8:45 am; Publication Date: 4/26/2019]