

State of Hawai'i
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, Hawai'i 96813

Chairperson and Members
Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

Board members:

**SUBJECT: REQUEST FOR APPROVAL OF A MEMORANDUM OF
AGREEMENT BETWEEN THE BOARD OF LAND AND NATURAL
RESOURCES, THE KAUAI ISLAND UTILITY COOPERATIVE, AND
THE KAUAI HUMANE SOCIETY**

SUMMARY:

This Board Submittal requests approval of a Memorandum of Agreement (MOA) between the Board of Land and Natural Resources (Board), the Kauai Island Utility Cooperative (KIUC), and the Kauai Humane Society (KHS) to establish certain commitments binding upon the Board, KIUC, and KHS regarding the operation of the Save Our Shearwaters (SOS) program on the island of Kauai.

BACKGROUND:

The Board through the Department of Land and Natural Resources is charged with the management of wildlife resources in the State of Hawaii, (Sections 183D-2(1), 183D-2(6), 183D-2(7) HRS). The Department of Land and Natural Resources is the duly authorized agency within the State of Hawaii with the statutory (HRS Title 12, chapters and sections therein) and constitutional (Article XI) responsibility for the management and conservation of wildlife. The actions by the Department are authorized under HRS Chapter 183D, Wildlife, Section 183D-2, Powers and Duties of Department, HRS Chapter 195D, Conservation of Aquatic Life, Wildlife, and Land Plants, Section 195D-1, General Provisions, and Section 195D-5(b2), Conservation Programs.

The Save Our Shearwaters program was initiated by the Department of Land and Natural Resources' Division of Forestry and Wildlife (DOFAW) in the 1970's to assist the public in retrieving Newell's Shearwaters and other downed seabirds. To date, the SOS program has retrieved more than 30,000 fledgling seabirds on the island of Kauai. In 2003 and 2004, KIUC provided substantial financial and logistical support for the SOS program. In 2005, 2006, and 2007, KIUC fully funded and implemented the SOS program under DOFAW oversight.

The MOA recognizes that this cooperative public-private partnership arrangement will ensure the continuation and enhancement of an important endangered species program that will benefit three seabird species: the federally listed Hawaiian Petrel (*Pterodroma sandwichensis*), the federally listed threatened Newell's Shearwater (*Puffinus auricularis newelli*) and the federal candidate for listing Band-rumped Storm-Petrel (*Oceanodroma castro*). All three species are on the State of Hawaii list of threatened and endangered species.

DISCUSSION:

The goals of the MOA include: (a) provision of continued funding of SOS by KIUC; (b) implementation of SOS by KHS acting as KIUC's agent (c) and continued oversight by the Board through DOFAW of the SOS program.

KIUC and KHS will at all times conduct the SOS program in accordance with the laws and rules of the State of Hawaii and with Federal laws and regulations. The SOS program shall at all times be consistent with sound management practices and with due regard for the protection of the threatened and endangered species.

Signature of this Memorandum of Agreement does not constitute admittance by KIUC that KIUC facilities cause or have caused illegal take of protected species.

The Memorandum of Agreement may be amended at any time by mutual agreement of the parties in writing. It may also be terminated by the Board upon sixty (60) days written notice to the other parties prior to the date of termination. KIUC and/or KHS may terminate the Agreement by providing written notice to each other and to the Board and the U.S. Fish and Wildlife Service (USFWS). The Agreement will terminate 60 days following the receipt of such written notice by the Board and USFWS; provided, however, that KIUC and KHS may only issue such a written notice between January 1 and May 31 of any calendar year in which the Agreement remains in effect and only after completing and submitting to the Board all reports on the preceding SOS season as required by the SOS Operations Manual.

RECOMMENDATION:

That the Board:

1. Authorize the Chairperson to execute a Memorandum of Agreement with the Kauai Island Utility Cooperative and the Kauai Humane Society subject to the approval as to form of the Memorandum of Agreement by the Attorney General's office.
2. Designate DLNR Division of Forestry and Wildlife, or the Kauai Wildlife Manager, currently Thomas Kaiakapu, as the authorized representative of DOFAW and the Board who shall be responsible for collaboratively administering the activities conducted in this MOA.

Respectfully submitted,

Paul J. Conry, Administrator
Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL:

LAURA H. THIELEN, Chairperson