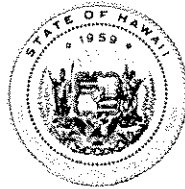


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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

August 28, 2009

Chairperson and Members
Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Land Board Members:

SUBJECT: Request for Approval to Release the Draft "Short-Term Seabird Habitat Conservation Plan: Kaua'i Island Utility Cooperative (KIUC)," Island of Kaua'i, for Public Review.

SUMMARY:

Submitted for your approval to release for public review is the draft "Short-Term Seabird Habitat Conservation Plan: Kaua'i Island Utility Cooperative (KIUC)" (Attachment I). The purpose of this draft Habitat Conservation Plan (HCP) is to mitigate for potential injury and death to three listed threatened and endangered species: a'o (Newell's shearwater), ua'u (Hawaiian petrel), and 'akē'akē on Kaua'i, caused by project construction and operation. The draft HCP outlines provisions to provide short-term recovery efforts that are critical for survival of these populations, actions would not otherwise occur. This short-term HCP and the associated take authorizations would be valid for up to 5 years from the time of issuance. At the end of 3 years, the Parties will assess newly developed information, and the status of DOFAW's proposed island-wide Kaua'i Seabird Habitat Conservation Plan (KSHCP), to determine whether KIUC should then join the KSHCP, or develop its own separate long-term HCP.

BACKGROUND:

Seabirds on Kaua'i: The largest seabirds colonies on the main Hawaiian Islands reside on Kaua'i, including 'akē'akē, ua'u, and especially large numbers of a'o. Kaua'i seabirds are threatened by non-native predation; loss of appropriate nesting habitat at the colony sites primarily because of invasive species; by loss of fledglings through light attraction; and by collision with overhead utility lines and other structures.

Long-Term Planning: Protection of seabirds requires both recovery efforts, as well as replacing lost birds and providing benefit through the HCP-ITL process. DOFAW, in collaboration with the Pacific Cooperative Studies Unit, is providing research and recovery efforts on Kaua'i through the Kaua'i Endangered Seabirds Recovery Project and other programs. In addition, with funding from federal Endangered Species Section 6 grants, the Kaua'i Seabird Habitat Conservation Plan (KSHCP) project is a joint effort to provide entities on Kaua'i with a streamlined, cost-effective way to provide net conservation benefits for Kaua'i's endangered and threatened seabirds. The KSHCP allows for combined mitigation and monitoring efforts which in turn allow for much larger, more meaningful protection and restoration projects. The KSHCP has produced an agency draft, and plans a public release draft in November this year. Final approval is anticipated in 2011.

The County of Kaua'i, KIUC, the Department of Education, the Department of Transportation, and Princeville Resorts are some of the current entities working with KSHCP for long-term coverage and recovery efforts. The combined efforts of these entities, KHS/SOS, KSHCP, KESRP, and restoration partners will provide long-term, most effective recovery effort, led by DOFAW and funded by participants, supplemented by grants and partnerships, while also minimizing costs spent on non-recovery tasks (administration, review, duplicate monitoring, etc.) The combined long-term cooperative efforts of these entities will provide meaningful protection and recovery efforts for seabirds on Kaua'i.

Current Problem: The situation with incidental seabird take on Kaua'i is unique in quantity and effect, if not in type, in the level of unauthorized take as a result of pre-existing facilities, in an area with a very high seabird population. Both light attraction and collision contribute significantly to a decline of seabirds to approximately 20% of its 1994 population. KIUC (then Kaua'i Electric) began discussions concerning its incidental take in 2001, and entered into an Memorandum of Agreement with the USFWS in 2002 for commitments to certain measures for seabirds. They submitted a draft HCP in October 2008; however, the draft HCP had a number of shortcomings in information requirements, as well as mitigation and monitoring, which precluded approval and implementation; e.g., insufficient take monitoring, and insufficient data to determine the long-term effect of requested take levels on the current population. KIUC actions (as well as other entities') continue to result in unmitigated, unauthorized take of seabirds due to pre-existing facilities.

Short-Term Planning: *Until the KSHCP is approved and implemented, unauthorized incidental take due to existing facilities will continue unmitigated, unless some means of providing interim recovery efforts is provided. Seabird populations on Kaua'i are estimated to be 25% of the 1983 population. Short of removing all electricity from the Island of Kaua'i, a short-term solution must be found to provide on-the-ground recovery for these species, so that their populations are not decimated to the point of non-recovery before agreement can be made for the long-term. We can not wait until we have gathered additional information, nor wait until additional recovery efforts are found, planned, and implemented. Recovery efforts are needed now, to the greatest extent feasible, in order not to chance extirpation of these species from Kaua'i.*

DOFAW and USFWS have been working with KIUC, KESRP, and the KSHCP staff, as well as other entities, to determine both the information needs for determining the terms of any long-term take authorization, as well as what recovery efforts are needed and feasible for Kaua'i seabirds. In Fall 2008, these entities made a list of currently possible and feasible recovery efforts needed in the short term, as well as actions needed to obtain information needed to document levels of take, and to obtain additional information sorely needed for any long-term authorization and mitigation actions. This list of activities was presented to KIUC as current needs that could be feasibly implemented in the next few years; it represents the best effort possible for information and mitigation, given the current infrastructure and knowledge of resources we have at present; e.g. partnerships for habitat restoration, updating of population estimates, identification of additional sites where recovery efforts can be undertaken, and methods to determine the success rate of returned birds. The list does not address a long-term, permanent solution to seabird recovery or authorization on Kaua'i, but rather a short-term solution to obtaining needed information for management, and best feasible recovery efforts implementable now on Kaua'i. DOFAW and USFWS recommended that KIUC fund the implementation of the full list of currently feasible actions through a short-term HCP.

Term of Plan and License: This short-term HCP and the associated take authorizations would be valid for up to 5 years from the time of issuance. At the end of 3 years, the Parties will assess newly developed information, and the status of DOFAW's proposed island-wide Kaua'i Seabird Habitat Conservation Plan (KSHCP). Depending upon the outcome of that assessment, KIUC will then promptly determine whether to obtain long-term federal and state take authorizations through the KSHCP (if it has been or soon will be completed and approved) or through its own long-term HCP, to determine the feasibility whether KIUC should then join the KSHCP, or develop its own separate long-term HCP, as well as the terms and take limits required for long-term authorization.

Project Area: The HCP covers all of KIUC's facilities and activities on the Island of Kaua'i. Because KIUC operates an island-wide system, this means that the HCP covers virtually the full geographic extent of the island, with the exception of part of the central and north central (the unserved) portions of the island.

Covered Activities: All existing KIUC facilities and activities, and those limited future facilities that KIUC anticipates needing within the term of the ITP/ITL. KIUC owns and operates a variety of electric utility installations on the Island. These include fossil-fuel-fired generating stations at Port Allen and Līhu'e, the upper and lower Waiahi hydroelectric stations in the Wailua watershed, seven electrical substations and five switchyards located throughout the island, over 160 miles of electrical transmission lines, approximately 560 miles of 12.5 kV electrical distribution lines, and approximately 425 miles of secondary lines (120/240 volts) that carry power from step-down transformers that are part of the distribution network to individual homes and businesses.

KIUC also owns and operates approximately 3,100 streetlights on behalf of the County of Kaua'i, the State of Hawai'i, and private entities. While these represent most of the streetlights on the island, a number of public facilities and private developments also own and operate streetlights that are not under KIUC's control.

Potential Impacts: The purpose of this draft Habitat Conservation Plan (HCP) is to mitigate for potential injury and death to three listed threatened and endangered species: a'o (Newell's shearwater, *Puffinus auricularis newelli*), ua'u (Hawaiian petrel, *Pterodroma sandwichensis*), and 'akē'akē (band-rumped storm-petrel, *Oceanodroma castro*) caused by project construction and operation. The draft HCP outlines provisions for net benefit to the species and environment, and contributes to the recovery of each of these species.

The amount of take sought under this HCP was developed in coordination with the agencies, and consists of 125 a'o (lethal take), 55 a'o (non-lethal take), 2 ua'u, and 2 'akē'akē per year. On the basis of the information that is available to it and as discussed later in this report, KIUC expects that actual take will be far below these amounts.

HCP Measures: Avoidance, minimization, mitigation, monitoring and funding measures, and measures to provide information needed for a long-term HCP, are summarized in Table 1.

Endangered Species Recovery Committee (ESRC) Recommendations: The ESRC has reviewed the draft "Kahuku Wind Power Draft Habitat Conservation Plan" during its meeting on July 16, 2009. The ESRC has provided its recommendation for release for public review (attached). The ESRC has no objections to the substance of the HCP and agree that the HCP will provide a net conservation benefit to the covered species.

Outcome: With Board approval, a notice of the availability of the draft HCP would be published in the OEQC Bulletin. The Department would solicit public input and hold a public hearing on the Island of Kaua'i during the next 60 days. Following the public review process, the applicant, DOFAW, US Fish and Wildlife Service, and ESRC would discuss and make any changes necessary before submission to the Endangered Species Recovery Committee for their final review. The ESRC will then provide a recommendation to the Board to accept, amend, or reject the proposal. The HCP will then be resubmitted to the Board for final consideration.

Table 1. Summary of avoidance, minimization, monitoring and funding measures, and measures to provide information needed for a long-term HCP, proposed in the draft KIUC Short-Term HCP.

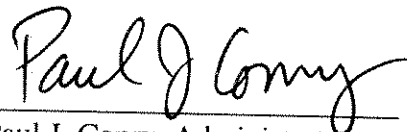
<i>Biological Goals</i>	<i>Conservation Measures</i>
<p><u>Goal 1:</u> Minimize the impact of existing and future KIUC facilities on the Covered Species so as to assist in their recovery.</p>	1.A: Continue to minimize KIUC's contribution to light attraction by using only full-cutoff light fixtures on existing and future facilities.
	1.B: Minimize the impact of existing KIUC power lines by avoiding the construction of new lines that would increase take above present levels and continuing to look for opportunities to reconstruct existing lines such as to reduce the potential for take.
	1.C: Insure that minimization measures at power plants, substations and other facilities are institutionalized (i.e., made part of each facility/department's standard operating procedures).
	1.D: Provide downed seabird and monitoring training to KIUC personnel.
	1.E: Provide sufficient support for SOS to ensure its continued operation for the duration of the incidental take permits. (Also listed as 2.A.)
<p><u>Goal 2:</u> Mitigate for unavoidable adverse impacts of KIUC facilities on Covered Species so as to assist in their recovery.</p>	2.A. Provide sufficient support for SOS to ensure its continued operation for the duration of the incidental take permits.
	2.B: Provide sufficient support for habitat restoration, predator control, and/or other appropriate conservation strategies contributing to the recovery of Covered Species as approved by the agencies, commensurate with the level of take to provide net benefit to the species and environment
	2.C. Seek NTB Conservation Easement or equivalent in Upper Limahuli Valley.
<p><u>Goal 3:</u> Monitor impact to species, report, and provide for adaptive management so as to ensure that conservation resources provide the greatest possible contribution toward recovery.</p>	3.A: Insure that monitoring measures at power plants, substations and other facilities are implemented per approved monitoring plan to track performance with respect to the Covered Species.
	3.B: Continue to explore and consider alternative alternative avoidance, minimization, monitoring and mitigation options for improvement, and implement as agreed and appropriate.
	3.C. Fund two-year at-sea capture study to determine return rates for SOS birds, adult return and survival rates, also adding to population estimate information (Same as 5.B.)
	3.D: Provide sufficient support for compliance monitoring, including but not limited to underline take monitoring, and review of HCP activities
	3.E. Fund development and implementation of underline monitoring program
<p><u>Goal 4:</u> Assure funding for activities under the HCP so that conservation measures are certain to be implemented.</p>	4.A: Provide funding assurances per HRS 195-D.

<u>Goal 5:</u> Provide information that will inform long-term take authorization following the end of the short-term permit.	5.A: Assist efforts to develop an island-wide HCP on Kaua'i.
	5.B. Fund two-year at-sea capture study to determine return rates for SOS birds, adult return and survival rates, also adding to population estimate information
	5.C. Fund update of Spear et al' (1995) at-sea seabird population estimates.
	5.D. Fund two-year auditory survey to locate additional seabird breeding colony/habitat opportunities for future mitigation

RECOMMENDATION:


That the Board approve for public release the Draft "Short-Term Seabird Habitat Conservation Plan: Kaua'i Island Utility Cooperative (KIUC)."

Respectfully submitted,



Paul J. Conry, Administrator
Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson
Board of Land and Natural Resources

Attachment I. Draft Short-Term Seabird Habitat Conservation Plan: Kaua'i Island Utility Cooperative (KIUC).

Attachment II. Draft Incidental Take License.

Attachment III. ESRC recommendation.