

ATTACHMENT II

State of Hawaii  
 Department of Land & Natural Resources  
 Division of Forestry and Wildlife  
 1151 Punchbowl Street, Room 325  
 Honolulu, Hawaii 96813

Incidental Take License No. ITL-XX  
 Date of Issue: XX  
 Valid Until: XX

**INCIDENTAL TAKE LICENSE**

**to accompany:**

**Kahuku Wind Power Habitat Conservation Plan**

The Board of Land and Natural Resources hereby grants permission under the authority of §195D-4(g) Hawaii Revised Statutes and all other applicable laws, to:

Kahuku Wind Power LLC  
 c/o First Wind  
 33 Lono Avenue, Suite 380  
 Kahului, Hawai‘i 96732

**To:** take of (if such taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity);

**The following species:**

Common Name	Scientific Name	Mitigation Tier	Annual Take Limit	Five (5) Year Take Limit	Twenty (20) Year Take Limit
‘Ua‘u (Hawaiian petrel)	<i>Pterodroma sandwichensis</i>	Baseline	4	8	20
		Higher	8	16	32
‘A‘o (Newell's shearwater)	<i>Puffinus auricularis newelli</i>	Baseline	3	9	18
		Higher	14	15	27
Koloa maol (Hawaiian duck)	<i>Anas wyvilliana</i>	Baseline	4	8	16
		Higher	8	16	24
Ae‘o (Hawaiian stilt)	<i>Himantopus mexicanus knudseni</i>	Baseline	3	6	12
		Higher	6	12	18
‘Alae ke‘oke‘o (Hawaiian coot)	<i>Fulica alai</i>	Baseline	3	6	12
		Higher	6	12	18
‘Alae ‘ula	<i>Gallinula</i>	Baseline	4	7	14

Common Name	Scientific Name	Mitigation Tier	Annual Take Limit	Five (5) Year Take Limit	Twenty (20) Year Take Limit
(Hawaiian moorhen)	<i>chloropus sandvicensis</i>	Higher	10	14	20
‘Ōpe‘ape‘a (Hawaiian hoary bat)	<i>Lasiurus cinereus semotus</i>	Baseline	8	16	32
		Higher	24	32	48
Pueo (Hawaiian owl)	<i>Asio flammeus sandwichensis</i>	Baseline	4	8	16
		Higher	8	16	24

**Subject to the following conditions:**

**I. GENERAL CONDITIONS**

1. This license only authorizes the permittee to conduct incidental take of the covered species on the lands owned or otherwise controlled by Kahuku Wind Power LLC on the island of O‘ahu, Hawaii at the time this license is issued pursuant to the “*Kahuku Wind Power Habitat Conservation Plan*” dated XX (hereafter “HCP”).
2. This license is valid only if Kahuku Wind Power LLC abides by the terms and conditions of the HCP, ITL and Implementing Agreement for the duration of the license.
3. This license is valid for species protected by federal law only if accompanied by proper federal permits. Permit number for the required permit must be provided:  

USFWS 10(a)(1)(B) permit no. XX.
4. This license shall become valid upon completion of the following:
  - i. A legal representative of Kahuku Wind Power LLC has acknowledged understanding and agreement to abide by its conditions by signing two copies of Attachment 1, which is attached hereto and made a part of this license.
  - ii. Both copies of the signed license must be returned to the Division of Forestry and Wildlife. Upon approval by the Chairperson of the Board of Land and Natural Resources, a copy of the license will be returned to the applicant.
5. The Board may suspend or revoke this license if the HCP is suspended or revoked. The Board may also suspend or revoke this license in accordance with applicable laws and regulations in force during the term of the license.
6. Persons in violation of the terms and conditions of this license and/or related or appropriate laws may be subject to criminal and or administrative penalty under §§183D-5, 183D-21, 195D-9, and 195D-27, Hawaii Revised Statutes, and §124-8, Hawaii Administrative Rules, or as otherwise provided by law, and/or revocation of this permit.

## II. SPECIAL CONDITIONS

1. The allowable incidental take authorized by this license for the covered species includes both observed, unobserved, direct and indirect take as defined in the HCP.
2. The estimation of incidental take for the covered species will be calculated according to adjustments made to the observed direct take according to methods detailed in the HCP, including but not limited to adjustments to include unobserved and indirect take.
3. The incidental take authorized by this license for the covered species are defined by two tiered levels, each of which is identified in the HCP. In the event that the take level for a covered species is reached, incidental take at the tier 2 level is authorized, provided that Kahuku Wind Power LLC abides by the terms and conditions of the HCP for the tier 2 level for the duration of the HCP.
4. DLNR will be notified within 3 days of any mortalities, injuries, or disease observed on the property. Injured individuals or carcasses will be handled according to guidelines in the HCP.

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LAURA H. THIELEN, Chairperson and  
Member  
Board of Land and Natural Resources

C: DOFAW O'ahu Branch  
DOCARE  
USFWS Pacific Islands Office, Honolulu  
Senior Resident Agent, USFWS-Law Enforcement, Honolulu

Attachment No. 1 to INCIDENTAL TAKE LICENSE No. ITL-XX

The undersigned has read, understands and hereby agrees to abide by General Conditions 1 - 5 and Special Conditions 1 - 5 stipulated on pages 1 through 3 in INCIDENTAL TAKE LICENSE No. ITL-XX.

By: \_\_\_\_\_

Date: \_\_\_\_\_

DRAFT