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-08
Date of Issue: JAN 30 2006
Valid Until: 20 years from date of issue

INCIDENTAL TAKE LICENSE

to accompany:

Kaheawa Pastures Wind Energy Generation Facility 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:

Kaheawa Wind Power, LLC
100 Wells Avenue, Suite 201
Newton, MA 02459

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	No. of Specimens over 20-year Term*	Location
`Ua`u, or "Hawaiian Petrel"	*Pterodroma sandwichensis*	40	Lands leased or otherwise controlled by Kaheawa Wind Power, LLC on the Island of Maui (TMK# 4-8-001-001 and 3-6-001-014)
`A`o or "Newell's (Townsend's) Shearwater"	*Puffinus auricularis newelli*	40	
Nene or "Hawaiian Goose"	*Branta sandvicensis*	60	
`Ope`ape`a or "Hawaiian Hoary Bat"	*Lasiurus cinereus semotus*	20	

*** - See Special Conditions #1-7.**

Subject to the following conditions:

I. GENERAL CONDITIONS

1. This license only authorizes the permittee to conduct incidental take of *Pterodroma sandwichensis*, *Puffinus auricularis newelli*, *Branta sandvicensis* and *Lasiurus cinereus semotus* on the lands leased or otherwise controlled by Kaheawa Wind Power (TMK# 4-8-001-001 and 3-6-001-014) at the time this license is issued pursuant to the "Kaheawa Pastures Wind Energy Generation Facility Habitat Conservation Plan" dated 1/13/06 (hereafter "HCP") and the "Implementing Agreement for the Kaheawa Pastures Wind Energy Generation Facility for Kaheawa Wind Power, LLC" (hereafter "IA").
2. This license is valid only if Kaheawa Wind Power abides by the terms and conditions of the HCP and IA for the duration of the HCP.

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. TE 118901-0

4. This license shall become valid upon completion of the following:

   i. A legal representative of Kaheawa Wind Power 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.

II. SPECIAL CONDITIONS

1. The allowable incidental take authorized by this license for *Pterodroma sandwichensis*, *Puffinus auricularis newelli* and *Branta sandvicensis* includes both direct and indirect take as defined in the HCP.

2. The estimation of incidental take will be conducted according to adjustments made to the observed direct take according to estimates of unobserved direct take, indirect take and loss of productivity, as detailed in the HCP.

3. The incidental take authorized by this license can be increased provided that mitigation has been implemented such that benefits to the species outweigh the losses as detailed in the HCP as determined by Department of Land and Natural Resources (DNLR) and U.S. Fish and Wildlife Service (USFWS) and reviewed by the Endangered Species Recovery Committee (ESRC).

4. Incidental take of *Pterodroma sandwichensis* authorized under this license exceeding a running average of two per fiscal year, or greater than five at any time during one fiscal year, requires the development and implementation of adaptive management strategies approved by the DLNR and the USFWS and reviewed by the ESRC in accordance with the HCP.

5. Incidental take of *Puffinus auricularis* authorized under this license exceeding a running average of two per fiscal year, or greater than five at any time during one fiscal year, requires the development and implementation of adaptive management strategies approved by DLNR and USFWS and reviewed by the ESRC in accordance with the HCP.

6. Incidental take of *Branta sandvicensis* authorized under this license exceeding a running average of three per fiscal year, or greater than eight at any time during one fiscal year, requires the development and implementation of adaptive management strategies approved by DLNR and USFWS and reviewed by the ESRC in accordance with the HCP.

7. Incidental take of *Lasiurus cinereus semotus* authorized under this license exceeding a running average of one per fiscal year, or greater than two at any time during one fiscal year, requires the development and implementation of adaptive management strategies approved by DLNR and USFWS and reviewed by the ESRC in accordance with the HCP.

8. DLNR will be notified within 30 days in advance of any planned land management activity (e.g., construction or maintenance), which Kaheawa Wind Power reasonably anticipates will result in the incidental take of covered species on the enrolled property. Kaheawa Wind Power will also provide DLNR, possibly with the assistance of the USFWS, the opportunity to capture and/or relocate any potentially affected individuals of the covered species before the activity takes place.

9. 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 Appendix 9 of the HCP.

PETER T. YOUNG, Chairperson and Member
Board of Land and Natural Resources

cc: / / DOFAW Maui Branch
/ / DOCARE
/ / USFWS Pacific Islands Office, Honolulu
/ / Senior Resident Agent, USFWS-Law Enforcement, Honolulu

Attachment No. 1 to INCIDENTAL TAKE LICENSE No. ITL-08

The undersigned has read, understands and hereby agrees to abide by General Conditions 1 - 5 and Special Conditions 1 - 9 stipulated on pages 1 through 3 in INCIDENTAL TAKE LICENSE No. ITL-08.

By: _____

Date: _____