

**U. S. FISH AND WILDLIFE SERVICE
ENVIRONMENTAL ACTION STATEMENT FOR
CATEGORICAL EXCLUSION**

Within the spirit and intent of the Council on Environmental Quality's regulations for implementing the National Environmental Policy Act (NEPA), and other statutes, orders, and policies that protect fish and wildlife resources, I have established the following administrative record and determined that the following proposed action is categorically excluded from NEPA documentation requirements consistent with 40 CFR 1508.4, 516 DM 2.3A, 516 DM 2 Appendix 1, and 516 DM 8 Appendix 1.4.

I. Proposed Action and Alternatives. *Describe the proposed action and any alternatives explored. Discuss briefly why proposed action was selected over other alternatives.*

- A. Project name:** Kaheawa Wind Power I, LLC (KWPI), Amendment to reduce the level of seabird take covered under incidental take permit (ITP) number [TE72434A-0, originally issued as TE118901-0].
- B. Affected species:** Endangered Hawaiian petrel (*Pterodroma sandwichensis*) and the threatened Newell's shearwater (*Puffinus auricularis newelli*).
- C. Project size (in acres):** The project is within a 345-acre project footprint.
- D. Brief project description, including minimization and mitigation plans:** The KWPI 20-wind turbine, 30-megawatt, wind farm on the Island of Maui, Hawaii, is currently operated by First Wind energy company under permit number TE118901-0. The existing permit authorizes the applicant to take 40 Hawaiian petrels, 40 Newell's shearwaters, 60 Hawaiian geese, and 20 Hawaiian hoary bats, incidental to the March 2006, through January 2026, (20-year) operation of the KWPI wind farm. First Wind now seeks an amendment to the existing permit. The amendment would reduce the permitted level of take to 38 Hawaiian petrels and 8 Newell's shearwaters, with no change to the permitted level of take for the Hawaiian goose and Hawaiian hoary bat. The requested amendment to reduce take levels is based on the results of monitoring over the first six years of operation of the KWPI wind farm. To date, three Hawaiian petrels and no Newell's shearwater carcasses were detected at the wind farm site. First Wind was approved to mitigate for the take of the covered species by implementing predator control to conserve Hawaiian petrel, Newell's shearwater, and Hawaiian goose populations on Maui and by contributing to Hawaiian hoary bat habitat restoration and research. The KWPI Hawaiian petrel and Newell's shearwater mitigation plans are summarized in the October 2011, Draft Seabird Mitigation Plan for KWPI and KWPII. This amendment does not include any changes to the project footprint, number of turbines or any other aspect of the design and operation of the wind farm.

II. Categorical Exclusion(s). *Quote and provide the Departmental Manual citation(s) for the specific Categorical Exclusions you are using; if it appears necessary, discuss why you believe the action fits as this Categorical Exclusion; mention that the action does not trigger an Exception to the Categorical Exclusions at 516 DM 2 Appendix 2; and/or if it does trigger an Exception, discuss why it does not apply for this action.*

Would implementation of the HCP Amendment:

- A. Have significant adverse effects on public health or safety?** Effects to public health and safety resulting from implementation of the KWPI HCP were addressed in the January 30, 2006, KWPI Environmental Assessment (EA). The amendments to the KWPI Habitat Conservation Plan (HCP) and incidental take permit do not require revision of the EA because there are no changes to the location and operation of the existing wind farm, there is no new information relating to the public health and safety impacts of this action, no additional impacts are expected beyond those originally assessed.
- B. Have adverse effects on such unique geographic characteristics as historic or cultural resources, park, recreation or refuge lands, wilderness areas, wild or scenic rivers, sole or principal drinking water aquifers, prime farmlands, wetlands, floodplains, or ecologically significant or critical areas, including those listed on the Department's National Register of Natural Landmarks?** Effects to these resources resulting from implementation of the KWPI HCP were addressed in the January 30, 2006, KWPI EA. The amendments to the KWPI HCP and incidental take permit do not require revision of the EA because there are no changes to the location and operation of the existing wind farm, there is no new information relating to the impacts of this action on these resources, no additional impacts are expected beyond those originally assessed, and the required mitigation actions will be implemented pursuant to the existing HCP.
- C. Have highly controversial environmental effects?** Effects to the environment resulting from implementation of the KWPI HCP were addressed in the January 30, 2006, KWPI EA. The amendments to the KWPI HCP and incidental take permit do not require revision of the EA because no new environmental effects are anticipated and effects to Hawaiian Petrels and Newell's shearwaters are less than originally anticipated. This amendment to reduce the authorized take levels of these 2 species is not expected to be controversial. The required mitigation actions will be implemented pursuant to the existing HCP.
- D. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks?** No because effects to the environment resulting from implementation of the KWPI HCP were thoroughly addressed in the January 30, 2006, KWPI EA and included conservative estimates of take levels for listed species. The amendment addresses a reduction of incidental take pursuant to observations of downed seabirds after six years of operation. No highly uncertain, unique or unknown environmental effects are anticipated as a result of this amendment because of the monitoring that has and will continue to occur and because the required mitigation actions will be implemented pursuant to the existing HCP.

- E. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects?** No because this amendment is for KWP I only. Reducing the authorized take levels on this project does not set a precedent for other projects which must be evaluated on their own.
- F. Be directly related to other actions with individually insignificant but cumulatively significant environmental effects?** Any cumulative effects to the environment resulting from implementation of the KWPI HCP were addressed in the January 30, 2006, KWPI EA. The amendments to the KWPI HCP and incidental take permit do not require revision of the EA because there is no new information relating to the impacts of this action, no additional impacts expected beyond those originally assessed, and the required mitigation actions will be implemented pursuant to the existing HCP.
- G. Have adverse effects on properties listed or eligible for listing on the National Register of Historic Places?** Effects of implementation of the KWPI HCP to properties listed or eligible for listing on the National Register of Historic Places were addressed in the January 30, 2006, KWPI EA. The amendments to the KWPI HCP and incidental take permit have no potential to impact historic properties because they do not include on-the-ground changes to the project.
- H. Have adverse effects on listed or proposed species, or have adverse effects on designated Critical Habitat for these species?** Effects of implementation of the KWPI HCP to four listed species were addressed in the January 30, 2006, KWPI EA. No other listed or proposed species or Critical Habitat are anticipated to be adversely impacted by the project. The amendment addresses a reduction of incidental take for two of the four listed species pursuant to observations of downed seabirds after six years of operation. There are no additional impacts expected beyond those originally assessed and the required mitigation actions for all four listed species will be implemented pursuant to the existing HCP.
- I. Have adverse effects on wetlands, floodplains or be considered a water development project thus requiring compliance with either Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act?** No. The 2006 KWPI HCP provided information stating the U.S. Army Corps of Engineers (Corps) concluded that the project site is located entirely within an upland area and does not contain or convey waters of the United States subject to authorization by Corps permit. There are no perennial streams in the project area. Malalowaiaole Gulch and Manawainui Gulch in the project area may contain intermittent flows during rainy periods, however, there are no 100-year flood zones identified on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps at or near the mouths of either of these gulches. There are no tsunami inundation zones in the project area, nor are there any reservoirs or irrigation ditches. Additionally, Hawaii Department of Land and Natural Resources Commission on Water Resource Management found that the West Maui Manawainui Watercourse does not have sufficient water to support instream uses, therefore it is not considered to be a stream, and

a stream channel alteration permit (Hawaii Revised Statutes Section 174C-71) will not be required for project related road crossing construction activities.

J. Threaten to violate a Federal, State, local or tribal law or requirement imposed for the protection of the environment? The KWP I HCP was found to be consistent with Federal, State, local laws. Reducing the authorized take levels as described in the amendment does not threaten to violate any laws due to the nature of the action.

III. Permits/Approvals. *Discuss any additional permits/approvals needed before the proposed action can be implemented, such as a Clean Water Act section 404 permit, Endangered Species Act section 7 consultation, and/or National Historic Preservation Act section 106 clearance.* All necessary permits and approvals have been secured for this project; the State of Hawaii issued a Conservation District Use Permit on February 7, 2003 (as amended June 24, 2005) and an Incidental Take License on January 30, 2006. In addition, the State Department of Health filed a Notice of General Permit Coverage on July 14, 2005. The Federal Aviation issued a Determination of No Hazard to Air Navigation on March 21, 2005.

IV. Public Involvement/Interagency Coordination. *Discuss the opportunities provided to the public, other agencies, and/or Tribes to get involved with the proposed action, any significant comments they may have made, and our responses.* A 30-day public comment period was announced in the Federal Register from November 31 to December 31, 2011. No substantive comments were received.

V. Supporting Documents. Supporting documents for this determination include relevant office file material and the following key references: KWPI HCP, KWPI EA, and the October 2011 Draft Seabird Mitigation Plan for KWPI and KWPII.

Signature Approval:



Project Leader
Pacific Islands Fish and Wildlife Office
U.S. Fish and Wildlife Service

Date: 4/23/2012