



FEDERAL FISH AND WILDLIFE PERMIT

1. PERMITTEE

KAHEAWA WIND POWER, LLC
100 WELLS AVENUE, SUITE 201
NEWTON, MA 02459-3210
U.S.A.

2. AUTHORITY-STATUTES

16 USC 1539(a)
16 USC 1533(d)

REGULATIONS (Attached)

50 CFR 17.22
50 CFR 17.32

50 CFR 13

3. NUMBER

TE118901-0

4. RENEWABLE

YES
 NO

5. MAY COPY

YES
 NO

6. EFFECTIVE

03/20/06

7. EXPIRES

01/29/26

8. NAME AND TITLE OF PRINCIPAL OFFICER (If #1 is a business)

PAUL GAYNOR
PRESIDENT

9. TYPE OF PERMIT

THREATENED AND ENDANGERED SPECIES

10. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED

Kaheawa Pastures Wind Generation Facility, Ukumehame, Maui, HI.

11. CONDITIONS AND AUTHORIZATIONS:

- A. GENERAL CONDITIONS SET OUT IN SUBPART D OF 50 CFR 13, AND SPECIFIC CONDITIONS CONTAINED IN FEDERAL REGULATIONS CITED IN BLOCK #2 ABOVE, ARE HEREBY MADE A PART OF THIS PERMIT. ALL ACTIVITIES AUTHORIZED HEREIN MUST BE CARRIED OUT IN ACCORD WITH AND FOR THE PURPOSES DESCRIBED IN THE APPLICATION SUBMITTED. CONTINUED VALIDITY, OR RENEWAL, OF THIS PERMIT IS SUBJECT TO COMPLETE AND TIMELY COMPLIANCE WITH ALL APPLICABLE CONDITIONS, INCLUDING THE FILING OF ALL REQUIRED INFORMATION AND REPORTS.
- B. THE VALIDITY OF THIS PERMIT IS ALSO CONDITIONED UPON STRICT OBSERVANCE OF ALL APPLICABLE FOREIGN, STATE, LOCAL OR OTHER FEDERAL LAW.
- C. VALID FOR USE BY PERMITTEE NAMED ABOVE.
- D. Further conditions of authorization are contained in the attached Special Terms and Conditions.

ADDITIONAL CONDITIONS AND AUTHORIZATIONS ALSO APPLY

12. REPORTING REQUIREMENTS

ISSUED BY

TITLE

DEPUTY REGIONAL DIRECTOR

DATE

1/30/06

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- E. All sections and provisions of Title 50 Code of Federal Regulations, Parts 13, 17.22 and 17.32, are conditions of this permit.
- F. The authorization granted by this permit is subject to compliance with, and implementation of the Kaheawa Pastures Wind Energy Facility Habitat Conservation Plan (HCP) and the Implementing Agreement (IA), which are hereby incorporated by reference. This permit, the HCP, and IA are binding upon the Permittee, and any authorized officer, employee, contractor, or agent conducting covered activities.
- G. The take authorization contained in this permit is not effective until:
- i. The IA is signed by all Parties.
 - ii. The Permittee provides to the Service executed copies of the Mitigation Bond, Contingency Bond and Guaranty Agreement containing terms acceptable to the Service.
- H. The Permittee, and their authorized officers, employees, contractors, and agents are authorized under the Endangered Species Act of 1973, as amended (Act), to incidentally take the federally endangered Hawaiian goose, Nēnē (*Branta sandvicensis*); Hawaiian petrel, ‘Ua‘u (*Pterodroma sandwichensis*); and Hawaiian hoary bat, ‘Ōpe‘ape‘a (*Lasiurus cinereus semotus*); and the threatened Newell’s shearwater, ‘A‘o (*Puffinus auricularis newelli*) during implementation of Covered Activities on Covered Lands as described in the HCP and Implementing Agreement. Incidental take will be determined by adjusting the observed take according to estimates of unobserved direct take, indirect take, and loss of productivity, as detailed in the HCP. The U.S. Fish and Wildlife Service (Service) anticipates that the following levels of incidental take as defined in 50 CFR 17.3 may occur:
- i. Up to two (2) Hawaiian petrels (adults, subadults, fledglings, nestlings, eggs) annually or a total of forty (40) over the 20-year permit term, may be incidentally taken in the form of harm (injury or mortality) as a result of collision with cranes, meteorological towers, construction cranes, or wind turbines (tower, nacelle, rotor blades).
 - ii. Up to two (2) Newell’s shearwater (adults, subadults, fledglings, nestlings, eggs) annually or a total of forty (40) over the 20-year permit term, may be incidentally taken in the form of harm (injury or mortality) as a result of collision with cranes, meteorological towers, construction cranes, or wind turbines (tower, nacelle, rotor blades).
 - iii. Up to three (3) Nēnē (adults, subadults, fledglings, goslings, eggs) annually or a total of sixty (60) over the 20-year permit term, may be incidentally taken in the form of harm (injury or mortality) as a result of collision with vehicles, cranes, meteorological towers, construction cranes, or wind turbines (tower, nacelle, rotor blades).

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- iv. Up to one (1) Hawaiian hoary bat adult or juvenile annually or twenty (20) over the 20-year permit term, may be incidentally taken in the form of harm (injury or mortality) as a result of collision with cranes, meteorological towers, construction cranes, or wind turbines (tower, nacelle, rotor blades).
- I. The incidental take authorized by this permit can be increased up to the Notably Higher Take scenario for any covered species as specified in Appendix 11 of the HCP, provided that the Service and the State of Hawaii Department of Land and Natural Resources (DLNR) determine that mitigation has been implemented such that benefits to the species outweigh the losses. Notwithstanding provisions of the HCP and Special Condition #3 of the DLNR Incidental Take License, the incidental take authorized by this permit cannot be increased beyond the Notably Higher Take scenario for any covered species except as provided by section 12 of the Implementing Agreement and applicable law.
 - J. The Permittee must notify the Service's Pacific Islands Fish and Wildlife Office (300 Ala Moana Boulevard, Room 3-122, Honolulu, Hawaii 96850, (808) 792-9400) when locating any dead, injured, or sick individuals. Initial notification must be made within 1 working day by telephone and within 5 calendar days in writing of its finding to the Pacific Islands Fish and Wildlife Office. The report must include the date, time, and location of the carcass, and photographs of the animal in place (including close-ups for species identification and relative location within the project area), cause of death, if known, and any other pertinent information such as that which is included on the Downed Wildlife Monitoring Form - Incidence Report.
 - K. Disposition of Downed Wildlife. Personnel conducting fatality searches shall have available appropriate containers (*e.g.* pet carriers) for transport and standard bird stabilization equipment. Should any downed wildlife be found:
 - i. Contact John Medeiros, Maui Division of Forestry and Wildlife (DLNR Kahului Baseyard, 685 Old Haleakala Highway, Kahului, Hawaii 96732, (808) 873-3510.
 - ii. Transport the downed individual in an appropriate container to either a qualified veterinarian or to the DOFAW facility described above, as soon as possible and appropriate (*e.g.* if the individual is alive, it shall be transported immediately). Care must be taken in handling injured animals to prevent additional injury. Injured animals may be released to the wild after receipt of concurrence from the Service.
 - iii. Care must be taken in handling dead specimens to preserve biological material in the best possible state for later analysis.
 - L. Reporting Requirements. The Permittee must provide annual monitoring and reporting on project activities as described in Section VI of the HCP. In addition, reporting must contain a summary and discussion of incidental take, including adjusted take calculations pursuant to Section V of the HCP; results of searcher efficiency and carcass removal trials; results and

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discussion of seabird colony searches and management activities; results of Nēnē nest surveys and protocols; vegetation monitoring of affected plant critical habitat areas; an overall summary of management activities; circumstances that triggered adaptive management and how the adaptive management was implemented; description of all occurrences of changed circumstances and how they were addressed; description of any unforeseen circumstances; progress made in achieving biological goals and objectives; any problems that occurred and how they were handled; description of cost expenditures and other information related to funding assurances; an annual work plan including an implementation schedule and entities responsible for implementation; and any other pertinent information such as actions taken by any State or Federal agencies related to implementation of the HCP.

- M. The Permittee must refer to permit number TE-118901-0 in all correspondence and reports concerning permit activities. Any questions about this permit should be directed to the Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office.
- N. A copy of this permit must be on the premises of the Permittee, or in the possession of the Permittee, their designated agents, or Service-approved biologists while conducting activities that may result in incidental take.