



LAND USE COMMISSION  
United States Department of the Interior



FISH AND WILDLIFE SERVICE  
Pacific Islands Fish and Wildlife Office  
300 Ala Moana Boulevard, Room 3-122  
Honolulu, Hawaii 96850

2017 DEC 29 A 9:08

In Reply Refer To:  
01EPIF00-2018-TA-0105

DEC 27 2017

Ms. Moana Palama  
Hawaii Management Services LLC  
P.O. Box 1630  
Koloa, Hawaii 96756

Subject: Environmental Impact Statement Preparation Notice for Kealia Mauka  
Homesites, Kawaihau District, Island of Kauai

Dear Ms. Palama:

The U.S. Fish and Wildlife Service (Service) received your letter on November 24, 2017, informing us of the availability of the Environmental Impact Statement Preparation Notice (EISPN) for Kealia Properties, LLC's proposal to develop a residential subdivision in the Kawaihau District on the island of Kauai [TMK: (4) 4-7-004: 001 portion]. We understand that HHF Planners prepared the EISPN and will be preparing the Draft EIS on behalf of Kealia Properties, LLC in accordance with Hawaii Revised Statutes Chapter 343 and the EIS rules (Chapter 11-200 Hawaii Administrative Rules). In addition, a petition for a State Land Use District Boundary amendment has been filed with the State Land Use Commission to reclassify the site from the Agricultural District to the Urban District. Kealia Properties, LLC proposes to develop a residential subdivision at Kealia, Kauai, consisting of approximately 235 lots ranging in area from about 5,600 square feet (sq. ft.) to 7,300 sq. ft. The Petition Area (also referred to in this EISPN as "Project Area") is comprised of approximately 53.4 acres of land and located adjacent to and north of an existing residential community in Kealia. The project includes installation of utility infrastructure (e.g., potable water, drainage, wastewater, electrical power, and telecommunications systems) and transportation improvements to serve the new community.

We offer the following comments for your consideration. Our comments are provided under the authorities of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), as amended (ESA); National Environmental Policy Act of 1969 [42 U.S.C. 4321 *et seq.*; 83 Stat. 401], as amended (NEPA); Fish and Wildlife Coordination Act of 1934 (16 U.S.C. 661 *et seq.*; 48 Stat. 401); and Migratory Bird Treaty Act of 1918 (MBTA) (16 U.S.C. 703-712), among others.

We have reviewed the information you provided and pertinent information in our files, including data compiled by the Hawaii Biodiversity and Mapping Program as it pertains to listed species and designated critical habitat in accordance with section 7 of the ESA. There is no federally designated critical habitat within the immediate vicinity of the proposed project. Our data

indicate that the following federally listed species may occur or transit through the vicinity of the proposed project area: the endangered Hawaiian stilt (*Himantopus mexicanus knudseni*), endangered Hawaiian coot (*Fulica alai*), endangered Hawaiian gallinule (*Gallinula galeata sandvicensis*) and endangered Hawaiian duck (*Anas wyvilliana*) (collectively referred to as Hawaiian waterbirds); the endangered Hawaiian goose (*Branta sandvicensis*); the endangered Hawaiian petrel (*Pterodroma sandwichensis*), threatened Newell's shearwater (*Puffinus auricularis newelli*), and endangered band-rumped storm-petrel (*Oceanodroma castro*) (collectively referred to as Hawaiian seabirds); and the endangered Hawaiian hoary bat (*Lasiurus cinereus semotus*). The Service recommends the following measures to avoid and minimize project impacts to the above listed species.

#### *Hawaiian waterbirds*

Listed Hawaiian waterbirds are found in fresh and brackish-water marshes and natural or man-made ponds. Hawaiian stilts may also be found wherever ephemeral or persistent standing water may occur. Threats to these species include non-native predators, habitat loss, and habitat degradation. Hawaiian ducks are also subject to threats from hybridization with introduced mallards.

Hawaiian waterbirds, in particular, the Hawaiian stilt, is known to nest in sub-optimal locations (e.g., any ponding water) if present. Hawaiian waterbirds attracted to sub-optimal habitat may suffer adverse impacts, such as predation, reduced reproductive success due to disturbance within the vicinity of a nest, injury or death from being hit by a vehicle and thus the project may create an attractive nuisance. Therefore, we recommend you design the proposed project in a manner that minimizes the amount of time standing water is present (during construction and/or project implementation), thereby, reducing the potential to attract waterbirds.

To avoid and minimize potential project impacts to Hawaiian waterbirds we recommend you consider incorporating the following applicable measures into your project description:

- In areas where waterbirds are known to be present, post and implement reduced speed limits, and inform project personnel and contractors about the presence of endangered species on-site.
- If water resources are located within or adjacent to the project site, incorporate applicable best management practices regarding work in aquatic environments into the project design.
- Have a biological monitor that is familiar with the species' biology conduct Hawaiian waterbird nest surveys where appropriate habitat occurs within the vicinity of the proposed project site prior to project initiation. Repeat surveys again within three days of project initiation and after any subsequent delay of work of three or more days (during which the birds may attempt to nest). If a nest or active brood is found:
  - Contact the Service within 48 hours for further guidance.
  - Establish and maintain a 100-foot buffer around all active nests and/or broods until the chicks/ducklings have fledged. Do not conduct potentially disruptive activities or habitat alteration within this buffer.

- Have a biological monitor that is familiar with the species' biology present on the project site during all construction or earth moving activities until the chicks/ducklings fledge to ensure that Hawaiian waterbirds and nests are not adversely impacted.

### *Hawaiian goose*

Hawaiian geese are known to occur in the northeast portion of Kauai. They are observed in a variety of habitats, but prefer open areas, such as natural grasslands and shrublands, pastures, wetlands, golf courses, and lava flows. Threats to the species include introduced mammalian and avian predators, wind facilities, and vehicle strikes.

We recommend you consider incorporating the following applicable measures into your project description to avoid and minimize impacts to the Hawaiian goose:

- Do not approach, feed, or otherwise disturb Hawaiian geese.
- If Hawaiian geese are observed loafing or foraging within the project area during the Hawaiian goose breeding season (September through April), have a biologist familiar with the nesting behavior of Hawaiian geese survey for nests in and around the project area prior to the resumption of any work. Repeat surveys after any subsequent delay of work of three or more days (during which the birds may attempt to nest).
  - Cease all work immediately and contact the Service for further guidance if a nest is discovered within a radius of 150 feet of proposed work, or a previously undiscovered nest is found within said radius after work begins.
- In areas where Hawaiian geese are known to be present, post and implement reduced speed limits, and inform project personnel and contractors about the presence of endangered species on-site.

### *Hawaiian seabirds*

Hawaiian seabirds may traverse the project area at night during the breeding season (March 1 to December 15). Outdoor lighting could result in seabird disorientation, fallout, and injury or mortality. Seabirds are attracted to lights and after circling the lights they may become exhausted and collide with nearby wires, buildings, or other structures or they may land on the ground. Downed seabirds are subject to increased mortality due to collision with automobiles, starvation, and predation by dogs, cats, and other predators. Young birds (fledglings) traversing the project area between September 15 and December 15, in their first flights from their mountain nests to the sea, are particularly vulnerable.

To avoid and minimize potential project impacts to seabirds we recommend you consider incorporating the following applicable measures into your project description:

- Fully shield all outdoor lights so the bulb can only be seen from below bulb height and only use when necessary.
- Install automatic motion sensor switches and controls on all outdoor lights or turn off lights when human activity is not occurring in the lighted area.
- Avoid nighttime construction during the seabird fledging period, September 15 through December 15.

*Hawaiian hoary bat*

The Hawaiian hoary bat roosts in both exotic and native woody vegetation across all islands and will leave young unattended in trees and shrubs when they forage. If trees or shrubs 15 feet or taller are cleared during the pupping season, there is a risk that young bats could inadvertently be harmed or killed since they are too young to fly or may not move away. Additionally, Hawaiian hoary bats forage for insects from as low as three feet to higher than 500 feet above the ground and can become entangled in barbed wire used for fencing.

To avoid and minimize impacts to the endangered Hawaiian hoary bat we recommend you consider incorporating the following applicable measures into your project description:

- Do not disturb, remove, or trim woody plants greater than 15 feet tall during the bat birthing and pup rearing season (June 1 through September 15).
- Do not use barbed wire for fencing.

If it is determined that the proposed project may affect federally listed species, we recommend you contact our office early in the planning process so that we may further assist you with ESA compliance. We look forward to reviewing the Draft EIS. If you have questions regarding these comments, please contact Michelle Clark, Fish and Wildlife Biologist (phone: 808-822-4315, email: michelle\_clark@fws.gov). When referring to this project, please include this reference number: 01EPIF00-2018-TA-0105.

Sincerely,

*Leile Nagatani*

*for* Aaron Nadig  
Island Team Manager  
Oahu, Kauai, North Western Hawaiian  
Islands and American Samoa

cc: Ms. Leslie Kurisaki, HHF Planners  
Mr. Daniel Orodener, State Land Use Commission