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

In Reply Refer To:
01EPIF00-2018-TA-0308

May 23, 2018

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

Subject: Draft Environmental Impact Statement (DEIS) for a proposed residential subdivision at Kealia, Kauai

Dear Ms. Palama:

Thank you for your recent correspondence requesting technical assistance on species biology, habitat, or life requisite requirements. The Pacific Islands Fish and Wildlife Office (PIFWO) of the U.S. Fish and Wildlife Service (Service) appreciates your efforts to avoid or minimize effects to protected species associated with your proposed actions. We provide the following information for your consideration under the authorities of the Endangered Species Act (ESA) of 1973 (16 U.S.C. 1531 *et seq*.), as amended and Migratory Bird Treaty Act of 1918 (16 U.S.C. 703-712).

Due to significant workload constraints, PIFWO is currently unable to specifically address your information request. The table below lists the protected species most likely to be encountered by projects implemented within the Hawaiian Islands. Based on your project location and description, we have noted the species most likely to occur within the vicinity of the project area, in the '**Occurs In or Near Project Area'** column. Please note, this list is not comprehensive and should only be used for general guidance.

If you are representing a federal action agency, please use the official species list on our web-site for your section 7 consultation. You can find out if your project occurs in or near designated critical habitat here: https://ecos.fws.gov/ipac/.

Under section 7 of the ESA, it is the Federal agency's (or their non-Federal designee) responsibility to make the determination of whether or not the proposed project "may affect" federally listed species or designated critical habitat. A "may affect, not likely to adversely affect" determination is appropriate when effects to federally listed species are expected to be discountable (*i.e*., unlikely to occur), insignificant (minimal in size), or completely beneficial. This conclusion requires written concurrence from the Service. If a "may affect, likely to adversely affect" determination is made, then the Federal agency must initiate formal

consultation with the Service. Projects that are determined to have “no effect” on federally listed species and/or critical habitat do not require additional coordination or consultation.

Implementing the avoidance, minimization, or conservation measures for the species that may occur in your project area will normally enable you to make a “may affect, not likely to adversely affect” determination for your project. 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 assist you with the ESA compliance. If the proposed project is funded, authorized, or permitted by a Federal agency, then that agency should consult with us pursuant to section 7(a)(2) of the ESA. If no Federal agency is involved with the proposed project, the applicant should apply for an incidental take permit under section 10(a)(1)(B) of the ESA. A section 10 permit application must include a habitat conservation plan that identifies the effects of the action on listed species and their habitats, and defines measures to minimize and mitigate those adverse effects.

We appreciate your efforts to conserve endangered species. We regret that we cannot provide you with more specific protected species information for your project site. If you have questions that are not answered by the information on our website, you can contact PIFWO at (808) 792-9400 and ask to speak to the lead biologist for the island where your project is located.

Sincerely,

AARON NADIG

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Date: 2018.05.23 15:15:27 -10'00'

Island Team Manager
Pacific islands Fish and Wildlife Office

The table below lists the protected species most likely to be encountered by projects implemented within the Hawaiian Islands. For your guidance, we‘ve marked species that may occur in the vicinity of your project

Scientific Name	**Common Name / Hawaiian Name**	**Federal Status**	**Occurs In or Near Project Area**
Mammals			
Lasiurus cinereus semotus	Hawaiian hoary bat/ `ōpe`ape`a	E	☒
Reptiles			
Chelonia mydas	Green sea turtle/honu - Central North Pacific DPS	T	☐
Erectmochelys imbricate	Hawksbill sea turtle/ honu`ea	E	☐
Birds			
Anas wyvilliana	Hawaiian duck/ koloa	E	☒
Branta sandvicensis	Hawaiian goose/ nēnē	E	☒
Fulica alai	Hawaiian coot/ `alae kea	E	☒
Gallinula galeata sandvicensis	Hawaiian gallinule/ `alae `ula	E	☒
Himantopus mexicanus knudseni	Hawaiian stilt/ ae`o	E	☒
Oceanodroma castro	Band-rumped storm-petrel/ `akē`akē	E	☒
Pterodroma sandwichensis	Hawaiian petrel/ `ua`u	E	☒
Puffinus auricularis newelli	Newell’s shearwater/ `a`o	T	☒
Ardenna pacificus	Wedge-tailed Shearwater/ `ua`u kani	MBTA	☐
Gygis alba	White Tern/ manu-o-kū	MBTA	☐
Buteo solitarius	Hawaiian hawk/ ‘io	E	☐
Insects			
Manduca blackburni	Blackburn’s sphinx moth	E	☐
Megalagrion pacificum	Damselfly, Pacific Hawaiian	E	☐
M. xanthomelas	Damselfly, Orangeblack	E	☐

Below are our general conservation measures to avoid and minimize potential impacts to federally listed species that may occur in your project area:

Endangered Hawaiian hoary bat (*Lasiurus cinereus semotus*): 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 3 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 incorporate 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.

Endangered Hawaiian petrel (*Pterodroma sandwichensis*), Threatened Newell's shearwater (*Puffinus auricularis newelli*), and Endangered Band-rumped storm-petrel (*Oceanodroma castro*): Newell's shearwaters are found in the highest densities on Kauai with lower densities on all of the other islands, except Lanai. Hawaiian Petrel populations are greatest on Maui, Lanai, and Kauai with lower densities on Hawaii and Molokai. Band-rumped storm-petrels are found in low densities throughout the islands. All islands may experience overflight at night.

For all projects, Hawaiian seabirds may traverse the project area at night during the breeding, nesting and fledging seasons (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 incorporate 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.

Endangered nene (Hawaiian goose, *Branta (=Nesochen) sandvicensis*): Nene are found on the islands of Hawaii, Maui, Molokai, and Kauai predominately, with a small population on Oahu. They are observed in a variety of habitats, but prefer open areas, such as pastures, golf courses, wetlands, natural grasslands and shrublands, and lava flows. Threats to the species include introduced mammalian and avian predators, wind facilities, and vehicle strikes.

To avoid and minimize potential project impacts to nene we recommend you incorporate the following applicable measures into your project description:

- Do not approach, feed, or disturb nene.
- If nene are observed loafing or foraging within the project area during the breeding season (September through April), have a biologist familiar with the nesting behavior of nene 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 3 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 nene 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.

Endangered Hawaiian waterbirds (Hawaiian stilt, *Himantopus mexicanus knudseni*; Hawaiian coot, *Fulica alai*; Hawaiian common gallinule, *Gallinula galeata sandvicensis*; Hawaiian duck, *Anas wyvilliana*): 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. While the Hawaiian stilt, Hawaiian coot, and Hawaiian duck may be found on all islands, the Hawaiian common gallinule is restricted to Kauai and Oahu.

If your project may create, either purposefully or inadvertently, any kind of standing water as part of the project activities, including excavation or grading for construction or roadwork, then it may attract Hawaiian waterbirds to the site. In particular, the Hawaiian stilt is known to nest in sub-optimal locations (e.g. any ponding water), if water is present. Hawaiian waterbirds attracted to sub-optimal habitat may suffer adverse impacts, such as predation and reduced reproductive success, and thus the project may create an attractive nuisance. Therefore, we recommend you work with our office during project planning so that we may assist you in developing measures to avoid impacts to listed species (e.g., fencing, vegetation control, predator management).

To avoid and minimize potential project impacts to Hawaiian waterbirds we recommend you incorporate 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 the 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 3 days of project initiation and after any subsequent delay of

work of 3 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.