DRAFT

**DAVID Y. IGE**
GOVERNOR OF HAWAII

**STATE OF HAWAII**
**DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**SUZANNE D. CASE**
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

**KEKOA KALUHIWA**
FIRST DEPUTY

**W. ROY HARDY**
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

# ENDANGERED SPECIES RECOVERY COMMITTEE SITE VISIT MINUTES

DATE: March 30, 2015
TIME: 9:00 A.M.
PLACE: Kahuku Community Center, 56-576 Kamehameha Highway, Kahuku, HI 96731

MEMBERS: Dr. Scott Fretz (DLNR), Dr. Patrick Hart (At-Large), Dr. John Harrison (At-Large), Kristi Young (USFWS)

ABSENT: Dr. James Jacobi (USGS), Dr. Kimberly Burnett (UH Environmental Center)

STAFF: Jim Cogswell, Afsheen Siddiqi, Angela Amlin, John Vetter, Greg Mansker, Dr. Maggie Sporck-Koehler

COUNSEL: None

PARTICIPANTS: USFWS: Diane Sether, Michelle Bogardus, Jon Sprague, Jodi Charrier
Tetra Tech: Alicia Oller, Tom Snetsinger, Leilani Pulmano, Laura Nagy
Na Pua Makani: Michael Cutbirth, Scott Bradshaw
Public: Mitch Craig (SunEdison), Kent Fonoimoana, Elizabeth Rago, Junior Primacio, Joshua Primacio, Margaret Primacio, Thomas Navaez, Buddy Ako

AGENDA: Call to order

Chairperson Dr. Scott Fretz welcomed everyone and reminded everyone that the purpose of todays' meeting is for the ESRC to do a site visit of this project, the proposed Na Pua Makani windfarm. There will be no deliberations about the project at this site visit. The committee, which is advisory to the Board of Land and Natural Resources (BLNR or Board) on the approval of the HCP, will have a chance to discuss and deliberate at the next day's meeting. The committee's purpose in the site visit is to see what the site looks like on the ground, review the materials in the HCP, and provide comments to the applicant on the HCP.

Committee members, staff, and participants introduced themselves, along with members of the public. Fretz polled those present to see who wanted to go along on the site visit, and asked who would like to provide official comment, which could be provided both this day or at the public meeting the next day.

Snetsinger then described the project's two areas, one on DLNR land and the other on privately owned land, each with an access site for viewing at the visit. It was clarified that participants would shuttle to each site in a group of vehicles, starting with turbine #1 and temporary meteorological tower on DLNR land, then over to view the area around turbine #9 on the Laʻie side of the Malaekahana parcel, along the access road, ending at turbine #10 looking towards the agricultural area. All site visit participants were asked to fill out the waiver form.

Amlin described the sign-in process and informed the public where to locate and submit comment sheets to provide written testimony.

Fretz opened up to floor for a preliminary question/answer session.

Fonoimoana expressed concern about a rumor that BLNR had met the previous Friday to discuss allowing the project to slip by the HRS 343 processes, specifically the Environmental Impact Statement (EIS). He cited communication from DOFAW to the BLNR requesting to bypass the HRS 343 process.

Siddiqi clarified that the exemption requested in the BLNR submittal was for the action of holding a public hearing. A public hearing does not trigger HRS 343.

Fretz added that it is his understanding and the committee's understanding that HRS 343 compliance is needed, and that an Environmental Assessment (EA) would be needed in order for the BLNR to ultimately approve the HCP.

Fonoimoana stated that the community's position is also that an EA would be needed, and they have tried to make comments at the Public Utilities Commission (PUC) level and were summarily dismissed. They have also been discouraged from participating and dismissed every step of the way. Because the PUC has already approved the project prior to the release of the EIS, it seems that they are doing things backwards. It has been a trend since this applicant has entered our community. There will be pushback from the community on this process.

Fretz said those comments would be passed on to staff, Board, and Chair. There will be an EA/EIS and the community is welcome to engage in that process. The Board will not approve this HCP without HRS 343 compliance.

Rago expressed concern that this meeting is on a Monday at 9am, when working members of the community are not able to attend. She encouraged more accessibility to the community and asked for another meeting that the public could more easily attend.

Fretz stated that another public hearing will be held, as that is standard practice, which will be at night or weekend when the public could attend. He clarified that the site visit and the next day's meeting, while both open to the public, are scheduled around the working hours of the ESRC members. These meetings are technical meetings to allow the ESRC to provide feedback on the specific biological information in the HCP.

Rago also asked if there was a cultural anthropologist in the group. Fretz replied that the cultural aspect is specifically addressed through the HRS 343 process, while the HCP is only for endangered species. Culturally significant species may include many that are not endangered and do not fall under the authority of this committee. An additional member with expertise in traditional and cultural practices has been appointed to the ESRC to start July 1.

Fonoimoana asked about data from the other wind facilities regarding how many animals and what species have been struck. He mentioned ʻIwa birds, which cruise the foothills and were not included in the EA for the existing First Wind [SunEdison] project. He said the birds are of great significance and should be mentioned even though they are not an endangered species.

Fretz thanked him and said the concern would be addressed by the applicants.

A member of the public asked what had triggered the ESRC's involvement, was it because a long-term lease had already been entered into with the state?

Fretz said that the lease is separate from what this group does. This group is focused on endangered species. The state has a law similar to the Endangered Species Act (ESA) which prohibits the take of endangered species. There is a provision called Incidental Take License that allows for limited take. The permit requires an HCP, which documents how the take occurs and provides information on the habitat conservation measures that will result in a net gain for the species. The law also created the ESRC to be advisory to the Board in review of HCPs.

A member of the public asked if the ESRC would be evaluating the cumulative effects to endangered species of this project along with the First Wind projects.

Fretz affirmed that cumulative effects would be discussed as this is a requirement of all HCPs.

Fonoimoana stated that with regard to net impacts, we missed the ball on the First Wind project. They are required to make contributions to conservation efforts to yield a net benefit. Is there a vehicle in your department that can enforce applicants to contribute funds to, for example, put special lights on Kamehameha Highway to reduce downed birds. We are losing birds. The wind farms should be forced to contribute to put some real conservation measures in place.

Fretz agreed that shielded lights are a great way to reduce take of seabirds.

Fonoimoana asked why then don't we have any on this island?

Harrison stated that a lot of the technical information before the Committee is focused on offsite mitigation. We understand how important it is to achieve net conservation benefit, and we spend a lot of time both soliciting and critiquing proposals to ensure that they are sound and effective. The ESRC also does follow-up to evaluate what works.

A member of the public asked if anyone was looking to offset the effects of electromagnetic field issues of having turbines so close to people? Members of other communities have reported sleep disturbances, and she asked if there is technology available to offset those disturbances.

Fretz replied no one on the committee has that kind of expertise, since the committee is made of biologist here to comment only on endangered species concerns. It would be best for her to ask the applicants present. Also the comment in now on record, it should be addressed in the HRS 343/EA process.

She replied that the EMF could also affect the listed species that the committee is concerned with. Fretz said he is not aware of any data to indicate an effect on wildlife. She asked if she could submit some information on other community's reports of effects to livestock and lifestyle. Fretz said all information was welcome.

Fretz then opened up the floor for comments.

Rago noted that the killing (take) of these birds and bats is not acceptable, given their deep cultural significance. Each individual matters and cannot simply be replace with another.

Fretz thanked her for comment and voiced respect for her views. This committee is tasked with following the law on this issue. As there were no additional comments or questions, the Committee and participants then departed for the site.

SITE VISIT TO DLNR PARCEL:

Snetsinger stated that the turbines will be a maximum height off the ground of 512 feet to the top of the blade at its highest point. Not all turbines will be the same height. Heights may be determined by required setbacks, so those closer to the edge of the project may be smaller.

A question was asked about the longevity of the manufacturer; given that Clipper America has "gone south" there is a worry about the maintenance of the turbines. Who will manufacture these turbines?

Cutbirth said they have yet to finalize that determination, but it will be one of the major manufacturers, all of which are Fortune 500 companies and expected to be around for the life of the project.

Young asked for information about the specific height of each individual proposed turbine. Snetsinger responded that has yet to be determined, although all will be within the maximum limit allowed.

A member of the public inquired about the height of the meteorological tower and the guy wires. Amlin responded that she did not know the height, and acknowledged that the tower is guyed, but

that this tower is temporary and would be removed. A member of the public estimated the tower to be about 200 feet tall.

Fonoimoana stated that it should be noted that this project will impact local farmers as well.

Rago asked about bird flight heights. Amlin stated that it depends on the species, and staff considers the flight height of each threatened or endangered species that may occur in the project area.

A member of the public inquired about DOFAW's role as protector of threatened or endangered species and potential conflicts of interest between DOFAW and the city or any other organizations that want this pushed through so they get money. Amlin stated that DOFAW has a mandate to protect threatened and endangered species, and that the project has to demonstrate that they can offset their impacts. There is no outside influence from political, private, or other entities.

SITE VISIT TO MALAEKAHANA PARCEL:

The group passed turbine #9 and stopped at an area overlooking turbines #8 and 12; 300 meters from turbine #8, and 800 meters from turbine #12. There had been previous issues with loose aggressive dogs along the access road, so it was decided the group would not walk down there. The group drove to turbine #10, location of the staging area.

A concern was raised about the visual impact of the project to the community. Cutbirth replied that a visual analysis had been done and would be included in the EIS.

Fretz inquired about easements. Oller replied that there are farmers that are leasing the agricultural land. Cutbirth stated that Malaekahana Road belongs to the private landowners and Na Pua Makani would receive a non-exclusive access agreement to that road.

Bogardus asked if the agricultural land, where it overlaps with the searchable area of the permit, would be considered unsearchable, or would there be an agreement with the lessee of that land. Oller responded that the ultimate goal would be to work with the growers to allow searches of those areas, but it would depend on what was being grown in each parcel. The search area for each turbine was yet to be determined.

Another participant offered that the presence of loose dogs would likely have an effect of carcass persistence times.

Fretz and Young commented on the proposed mitigation site and that it contains relatively intact forest.

In the vicinity of turbine #9, Fonoimoana asked about the distance between turbine #10 and the high school. Snetsinger said that analysis is in the EIS.

Next location was near turbine #10, which Snetsinger stated is located on a large uplifted reef shelf not very good for agriculture with a lot of haole koa.

Fretz asked if road improvements would be needed in order to get the long turbines around the turns. Snetsinger said that would be discussed in the EIS.

Regarding the presence of multiple aggressive dogs, Young expressed concern about safe access for compliance monitoring, and Fretz expressed concern about carcass removal. Sporck-Koehler stated that there are a lot of mongoose in the area that could remove carcasses.

A member of the public asked where the map could be viewed. Fretz stated that the HCP and all maps and figures are available online.

Fonoimoana asked where turbines #6 and #7 are. Snetsinger stated that while they are in the EIS, they are not included in this HCP because they are not planned for some time due to the need for improvement of a transmission line that won't happen for many years. If they do get built, the applicant will request an amendment to the HCP.

Fonoimoana stated that this in the first of three proposed phases, and asked if this HCP is covering Phase I or Phase I and part of II. Cutbirth state that this is Phase I, and there is a Phase II discussed in the EIS, but the second phase would require significant upgrades to transmission lines. If built there would be a new HCP developed or an amendment requested. Fonimoana asked who would pay for the upgrades. Cutbirth said in the past it's been independent producers, but recently HECO put in a plan for significant transmission upgrades, so it could potentially be covered by HECO, but it's not known at this time.

Visit adjourned.