

State of Hawai‘i
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, Hawaii 96813

October 18, 2018

**SUBJECT: DOFAW HCP STAFF COMMENTS ON THE KAWAILOA WIND
POWER SEPTEMBER 28, 2018 DRAFT HABITAT CONSERVATION
PLAN AMENDMENT**

DOFAW Staff provided Kawaiiloa Wind comments on their September 28, 2018 draft HCP Amendment subsequent to the submission of this draft to the Endangered Species Recovery Committee (ESRC) and Kawaiiloa Wind has agreed to address the following subset of those comments in the next revised version of the HCP amendment. Other comments for which Kawaiiloa Wind has requested additional information or discussion are included in a separate set of comments to the ESRC.

Section 3.4 Hydrology, Drainage and Water Resources. Per HRS 195D-21(a)(2) a plan must include “The ecosystems, natural communities, or habitat types within the plan area that are the focus of the plan”. Given that HHB likely use ponds in the plan area as foraging habitat and possibly for drinking, additional information is needed about these features. This should include details about surface waters in the vicinity, especially the pond approximately ¼ mile west of turbines 18 and 19 (turbines where 4 bat fatalities have been observed). In addition, the ditch system in this same area needs clarification as to where surface water is present in open vegetation areas in the plan area. Some aerial imagery and hydrology data seems to indicate that the ditch system extends north of the pond mentioned above.

Section 3.8.4.4 Hawaiian Hoary Bat: Population, Biology, and Distribution of the Hawaiian Hoary Bat. Preliminary data from the WEST research on O‘ahu that was presented at the November 2017 ESRC meeting should be summarized in this section.

Section 3.8.4.4 Hawaiian Hoary Bat: Occurrence of the Hawaiian Hoary Bat in the Project Area and Off-site Communication Towers. Information used to determine bat occurrence includes the following bulleted item: “Post-construction mortality monitoring within the Project area”. There is no complete up-to-date analysis of spatial and temporal patterns of the post-construction fatality data provided in the document and there should be.

Section 3.8.4.4 Hawaiian Hoary Bat: Occurrence of the Hawaiian Hoary Bat in the Project Area and Off-site Communication Towers. The document references the following studies: H.T. Harvey & Associates (2014 and 2015). It is not clear what these studies are and what is in them. They should be provided and may need to be in an

appendix if not in other publicly available documentation. If the 2014 reference referred to is what is in the 2014 annual report, there doesn't appear to be a discussion of correlation with weather as stated here. All data and previous analyses should be described here (and re-evaluated as appropriate). Some of the other summary information from these referenced studies does not provide enough detail. Although some analysis may have been done previously in other documents/formats (which should be cited), a complete analysis in this HCP amendment would help justify and provide the rationale for the minimization actions proposed to DOFAW as well as the ESRC, BLNR, and the public.

Section 3.8.4.4 Hawaiian Hoary Bat: Occurrence of the Hawaiian Hoary Bat in the Project Area and Off-site Communication Towers. The description here acknowledges the issue of bats feeding on insects associated with cattle and acknowledges cattle grazing occurs in the project area but provides no site-specific data or observations. Information should be provided on the cattle grazing. If site-specific data is not available, then at a minimum general observations of presence/absence in project areas should be provided. In addition, documentation for the approved solar facility to be constructed in the project area, which will be very close to the turbines, indicates that ungulates may be allowed to graze there; the plans for this facility should be described.

Section 6.3.7.4 Calculating Total Adjusted Take for Tier 4, Tier 5, and Tier 6: Potential Population-level Impacts. The statement about adequacy of mitigation is out of place in this section and should be deleted.

Section 6.3.7.4 Calculating Total Adjusted Take for Tier 4, Tier 5, and Tier 6: Potential Population-level Impacts. The discussion on population impacts that is now in section 6.4.4 should be moved here or a reference provided to that section since this is currently where your primary analysis for population impact is made.

Section 6.4.4 Cumulative Impacts to Listed Species: Hawaiian Hoary Bat. The following statement "On Oahu, the Hawaiian hoary bat continues to be found in locations not previously recorded" should be clarified because "found" is too broad and potentially misleading. The research being cited should be explained as from acoustic recordings which are most likely recording foraging behavior and bats are known to forage over thousands of acres. A single bat could be recorded at numerous locations.

Section 6.4.4 Cumulative Impacts to Listed Species: Hawaiian Hoary Bat. The document states "cumulative impacts would not have a significant negative impact on the species. Hawai'i HCPs do not evaluate "significant" impacts under HRS 195D as the term is typically used in EA/EISs, and instead requires minimization and mitigation of impacts and net recovery and environmental benefit. It is also our understanding that the term "significant impact" is not used in the federal ESA. Therefore the quoted statement should be deleted.

Section 6B.1 Operational Minimization Measures Adaptive Management Recently Implemented for the Hawaiian Hoary Bat. Not reaching statistical significance is not a

reason to dismiss results of low wind speed curtailment (LWSC) studies because including enough turbines to obtain statistical significance in a study such as this is challenging. The results not statistically significant should be shown but the challenges with sample numbers in this type of study can be explained.

Section 7.6.2.2 Additional Bat Mitigation Measures for Tier 2 and Tier 3. The ongoing research projects are important to understand the impacts, especially for the O‘ahu population, and mitigation strategy for this amendment and so the proposals should be included as an appendix.

Section 7.6.3.3 Take Offset and Net Benefit. The discussion in this subsection regarding the Helemano Wilderness Area (HWA) acquisition as mitigation is confusing and somewhat incoherent. This subsection should explain the rationale for the 55 bats further and how it was planned and proposed in previous drafts of the HCP but delete the confusing and somewhat conflicting rationale about the acres and funding and how the credit is apportioned.

Section 7.6.4 Mitigation for Tier 5 and Tier 6 Take. More detail is needed on schedule for all aspects of each of the mitigation options. Explanation of the proposed detailed mitigation implementation plan is needed. Also, it should state that a notice would be provided to the agencies that planning for the next tier of mitigation is being initiated.

Section 7.6.4.1 Mitigation Options and Prioritization [Tiers 5 and 6]: Protection and Preservation of Habitat (Land Acquisition). This option should have the requirement that the parcel or parcels selected be approved by the agencies.

Section 7.6.4.1 Mitigation Options and Prioritization [Tiers 5 and 6]: Protection and Preservation of Habitat (Land Acquisition). More specific information is needed on timing. It seems unlikely a parcel or parcels can be found and a plan written within 6 months after a tier is triggered.

Section 7.6.4.1 Mitigation Options and Prioritization [Tiers 5 and 6]: Protection and Preservation of Habitat (Land Acquisition). The following statement is made: “At the time that Tier 5 or Tier 6 mitigation is triggered, and protection/preservation is the selected mitigation option, Kawaiiloa Wind will consider current agency guidance...”. This should say “will follow,” not “will consider.”

Section 7.6.4.1 Mitigation Options and Prioritization [Tiers 5 and 6]: Habitat Restoration/Land Management, Mitigation Approach and Selection Criteria. The description of approach needs to include the requirement that it be approved by the agencies.

Section 7.6.4.1 Mitigation Options and Prioritization [Tiers 5 and 6]: Habitat Restoration/Land Management, Mitigation Approach and Selection Criteria. The following mitigation acreage is proposed: “To mitigate for 85 bats in Tier 5, Kawaiiloa Wind would target a minimum of 1,725-acre area within HWA to fund management

activities (See Section 7.6.3.3). A minimum 1,319-acre area within HWA would be targeted for Tier 6.” These acreages total more than the entire size of the HWA and needs explanation/costs.

Section 7.6.4.1 Mitigation Options and Prioritization [Tiers 5 and 6]: Habitat Restoration/Land Management, Mitigation Approach and Selection Criteria. The proposed acreages for the tier 5 and tier 6 mitigation should include the word “minimum” before those acreages.

Section 7.6.4.1 Mitigation Options and Prioritization [Tiers 5 and 6]: Habitat Restoration/Land Management, Measures of Success and Monitoring. Information on schedule for the measures of success and monitoring are needed.

Section 7.6.4.1 Mitigation Options and Prioritization [Tiers 5 and 6]: Habitat Restoration/Land Management, Adaptive Management. Adaptive management needs triggers to be set for mitigation success and what will occur when the triggers are exceeded.

Section 7.6.4.2 Contingency Mitigation Options [Tiers 5 and 6]. Selection of these options should specify approval by the agencies.

Section 8.3.2 Reversion Trigger. The criteria for relaxation of a specific type of minimization should not simply be lower than projected take rate but data or studies indicating a minimization is not effective, is effective at a lower level, or that a different type of minimization is achieving better results. Approval of DOFAW would be needed and should be added.