

LAND COURT SYSTEM		REGULAR SYSTEM	
Return by	Mail ( )	Pickup ( )	To:

Tax Map Key Nos. (1) 5-6-008:006 and  
(1) 5-6-006:018

Na Pua Makani Power Partners, LLC,  
a Delaware limited liability company  
as Applicant or Permittee

## INCIDENTAL TAKE LICENSE

State of Hawaii  
Department of Land & Natural Resources  
Division of Forestry and Wildlife  
1151 Punchbowl Street  
Honolulu, Hawaii 96813

No. ITL-21  
Date of Issue: \_\_\_\_\_  
Effective Date: Start Date of Concrete  
Pour for Turbines with Prior Written  
Notification to DLNR  
Valid Until: 21 years from effective date

## INCIDENTAL TAKE LICENSE

To accompany:

### "Na Pua Makani Wind Energy Project Habitat Conservation Plan"

The Board of Land and Natural Resources hereby grants permission under the authority of Hawaii Revised Statutes §195D-4(g) and §195D-21 and all other applicable laws to:

#### Na Pua Makani Power Partners, LLC ("Applicant")

For take, if such taking is incidental to and not the purpose of the carrying out of an otherwise lawful activity, of the following species:

Common Name	Scientific Name	Tier	Requested Authorization 21 -year limit	TMK
‘ōpe‘ape‘a (Hawaiian hoary bat)	<i>Lasiurus cinereus semotus</i>	Tier 1	34 bats	TMK (1) 5-6-008:006 and TMK (1) 5-6-006:018
		Tier 2	51 bats	
‘a‘o (Newell’s Shearwater)	<i>Puffinus newelli</i>	Length of permit	4 adults/immatures and fledglings and 2 chicks/eggs	
nēnē (Hawaiian goose)	<i>Branta sandvicensis</i>	Length of permit	6 birds	
koloa maoli (Hawaiian duck)	<i>Anas wyvilliana</i>	Length of permit	4 birds	
ae‘o (Hawaiian Stilt)	<i>Himantopus mexicanus knudseni</i>	Length of permit	4 birds	
‘alae ke‘oke‘o (Hawaiian Coot)	<i>Fulica alai</i>	Length of permit	8 birds	
‘alae ‘ula (Hawaiian Moorhen)	<i>Gallinula chloropus sandvicensis</i>	Length of permit	8 birds	
pueo (Hawaiian short-eared owl)	<i>Asio flammeus sandwichensis</i>	Length of permit	4 adults/fledged young and 4 chicks/eggs	

Subject to the following conditions:

#### I. GENERAL CONDITIONS

1. This license only authorizes incidental take of the covered species by the licensee on the lands owned or otherwise controlled by Applicant, on the island of Oahu, Hawai'i, at the time this license is issued pursuant to the "Na Pua Makani Wind Energy Project Habitat Conservation Plan" dated March 2016 (hereafter "HCP").
2. This license is valid only if Applicant abides by the terms and conditions of the HCP and ITL for the duration of the permit.
3. This license is valid for species protected by federal law only if accompanied by valid federal Incidental Take Permit or Biological Opinion.
4. This license shall become valid upon completion of the following:
  - i. A legal representative of Applicant has acknowledged understanding and agreement to abide by its conditions by signing two copies of this license.
  - ii. Both copies of the signed license are returned to the Division of Forestry and Wildlife ("DOFAW"). Upon approval by the Chairperson, a copy of the license will be returned to the applicant.
5. The HCP shall include an additional \$100,000 in research funding, as set forth in Special Condition 8, which funding shall be assured through a letter of credit (or other approved financial tool) in the manner set forth in HCP section 9.4.
6. The Board may suspend or revoke this license if the HCP is suspended or revoked. The Board may also suspend or revoke this license in accordance with applicable laws and regulations in force during the term of the license.
7. Persons in violation of the terms and conditions of this license or other applicable laws may be subject to criminal or administrative penalties, or both, under §183D-5, §183D-21, and §195D-9, Hawaii Revised Statutes, and §124-8, Hawaii Administrative Rules, or as otherwise provided by law, and/or revocation of this license.
8. Applicant shall submit an annual report to DLNR by August 1 for each fiscal year ending June 30, that includes a description of activities and accomplishments, analysis of the problems and issues encountered in meeting or failing to meet the objectives set forth in the HCP, areas needing technical advice, status of funding, and plans and management objectives for the next fiscal year, including any proposed modifications thereto.
9. All General and Special Conditions of the Decision and Order in the Board of Land and Natural Resource's Findings of Fact, Conclusions of Law, and Decision and Order filed May 16, 2018 (Case No. BLNR-CC-17-001) are incorporated by reference into this license.

## II. SPECIAL CONDITIONS

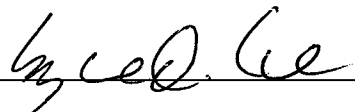
1. The allowable incidental take authorized by this license for the covered species includes observed, unobserved, direct and indirect take as defined in the HCP.
2. The estimation of incidental take for the covered species will be calculated according to adjustments made to the observed direct take according to methods detailed in the HCP, including but not limited to adjustments to include unobserved and indirect take.
3. The incidental take authorized by this license for the Hawaiian hoary bat is defined by two tiered levels, each of which is identified in the HCP. In the event that the take level for the Hawaiian hoary bat for Tier 1 is reached, incidental take at the Tier 2 level is authorized, provided that Applicant abides by the terms and conditions of the HCP.
4. DLNR will be notified within 24 hours, and a written incidental report filed within three business days, of any mortalities, injuries, or disease related to the covered species observed on the property. Injured individuals or carcasses will be handled according to guidelines in the HCP.
5. The mitigation measures set forth in the HCP shall be incorporated into this license and implemented by Applicant.
6. If, during the term of the license, additional minimization, avoidance, or mitigation measures are required, as supported by the best available scientific research and other reliable data available at the time, then Applicant shall work with DOFAW to implement, through Adaptive Management efforts, any such reasonable additional measures that will improve the survivability and recovery of the Covered Species. DOFAW shall not require the Applicant to implement any measures without prior consultation with the Applicant. In the event of disagreement between DOFAW and the Applicant, the matter will be brought to the Board for final decision after review and recommendation by the ESRC. Any new mandatory measures are subject to the limitations in HRS §195D-23, except as stated in Special Conditions 7, 8, and 9, below, which are conditions for approval of the HCP and shall be considered to be part of the HCP. Implementation of Adaptive Management measures to reduce the risk of take shall not require an amendment to the HCP so long as there are no proposed major amendments to existing take limits.
7. If the rate of take of ‘ōpe‘ape‘a exceeds the Applicant's projected rate of take, or as otherwise provided in the HCP, DOFAW, through Adaptive Management, in consultation with the Applicant and the ESRC, may require low wind speed curtailment (“LWSC”) at higher cut-in speeds for some or all of the evening hours and seasonal period(s) when LWSC is employed. If take occurs outside of the seasonal period when LWSC is required under this HCP, DOFAW, through Adaptive Management, in consultation with the Applicant and the ESRC, may require LWSC for longer or different periods. In case of a disagreement between DOFAW and the Applicant over the implementation of this condition, the matter shall be brought to the Board for final decision.
8. In addition to the funding commitments set forth in the HCP, Applicant shall contribute an additional \$100,000 toward research on deterring bats as part of its Tier 1 mitigation. The resulting research may also utilize other funding sources. The research project or projects shall be approved by DOFAW and results shall be made publicly available. The research shall be focused on deterrence measures with the goal of reducing the take of ‘ōpe‘ape‘a by wind turbines. The research shall be done in compliance with HCP section 6.1.2.1.

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9. If, during the permit term, USFWS and DOFAW determine that reliable scientific evidence shows that a commercially-available bat deterrent technology will be effective in reducing the take of 'Ope'ape'a, at a reasonable cost considering the expected reduction in take, DOFAW shall require Applicant to implement the technology, after consultation with the Applicant and the ESRC. Without limitation on other means of determining whether the cost is reasonable, it shall presumptively be considered reasonable if the cost per bat expected to be saved does not exceed the per-bat mitigation cost. In case of a disagreement between Applicant and DOFAW over the implementation of this condition, the matter shall be brought to the ESRC for its review and recommendation, then to the Board for final decision.
10. Special conditions 8 and 9 shall be deemed severable, so that if one or both are determined to be invalid, that shall not affect the remaining conditions or the validity of the HCP or ITL.
11. Based on the representations by Applicant, the Project shall include not more than eight wind turbines, with a maximum height of 173 meters above pad elevation.

By:  DES Date 11/26/18

Suzanne D. Case, Chairperson and Member  
Board of Land and Natural Resources

The undersigned has read, understands, and hereby agrees to abide by the General Conditions and the Special Conditions stipulated in this license.

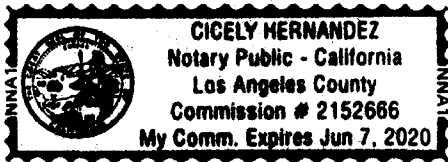
Na Pua Makani Power Partners, LLC

By:  Date 11/1/2018  
Eric Pendergraft  
President

NOTARY ON NEXT PAGE

STATE OF CALIFORNIA )  
 ) SS.  
CITY AND COUNTY OF LOS ANGELES )

On this 1<sup>st</sup> day of November, 2018, before me personally  
appeared Eric Pendergraft, to me personally known, who, being by me duly sworn or  
affirmed, did say that such person executed the foregoing instrument as the free act and deed of  
such person, and if applicable in the capacity shown, having been duly authorized to execute  
such instrument in such capacity.



[Signature]  
Notary Public, State of California  
Print Name Cicely Hernandez  
My commission expires: June 7, 2020

Notary Seal Affixed:

Date of the Notarized Document: undated

Number of Pages: 5

Identification or Description of the Document being Notarized:  
Incidental Take License- Na Pua Makani

Printed Name of Notary: Cicely Hernandez

Notary's Signature and Notary's Official Stamp or Seal

Circuit  
11/1/18  
Date