



March 11, 2022

VIA E-MAIL (dofaw.hcp@hawaii.gov)

David G. Smith
Administrator
Division of Forestry and Wildlife
Department of Land and Natural Resources
1150 Punchbowl Street, Room 325
Honolulu, HI 96813

Re: **March 14, 2022 Endangered Species Recovery Committee Meeting,
Kauai Seabird Habitat Conservation Plan Annual Review
Agenda Item 3 (Searcher Efficacy Validation Project)
Agenda Item 4 (Presentation of Annual Report for Sonesta Royal
Kauai Resort (Formerly Kauai Marriott Resort))**

Dear Mr. Smith and Committee Members,

I submit this testimony on behalf of my client, Sonesta Royal Kauai Resort, a property formerly known as the “Kaua’i Marriott Resort, Lihue.”¹ Sonesta Royal Kauai Resort was one of the properties subject to the searcher efficiency validation project which is your Agenda Item 3 for your March 14, 2022 meeting. As the Department of Land and Natural Resources, Division of Forestry and Wildlife (“DOFAW”) shared results of the ongoing project with Sonesta Royal Kauai Resort last fall, immediate and urgent steps were taken to address this information, and Sonesta Royal Kona Resort continues to take the outcome of the validation project very seriously. This written testimony describes the steps taken in response to the validation project.

The KSHCP describes what must happen following the searcher efficacy validation work,

Results of the validation will be provided to the participant within 1 week of implementation. The validation program will

¹ Incidental Take License ITL-24 and Incidental Take Permit TE74393D-0 cover the Sonesta Royal Kauai Resort property and are held by Essex House Condominium Corporation dba Kauai Marriott Resort, Lihue. A transfer application is pending before the agencies, and if effectuated, would transfer the license and permit to Association of Apartment Owners of Marriott’s Kauai Resort and Beach Club on behalf of itself and its members, including without limitation HPTMI Hawaii, Inc., HPT TRS MRP, Inc., Marriott Kauai Ownership Resorts, Inc., and Marriott Ownership Resorts, Inc., or its successor.

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be used to inform adaptive management as described in Section 6.9.1. If the results from the validation program indicate a Participant's discovery rate is lower than the discovery rate identified in their approved PIP, the agencies will recommend measures that could be undertaken to raise the discovery rate to the approved level (i.e., updated search protocols, staff training, predator control actions). Following implementation of adaptive management measures, a follow-up validation trial will be conducted to determine whether the measures were effective in raising the discovery rate to the approved level.

Each of the actions required by the KSHCP has been met. Sonesta Royal Kona Resort is appreciative that DOFAW shared the results of the validation testing while the searcher validation project was ongoing last fall. As intended by the KSHCP, DOFAW's results were, and will continue to be, used to inform adaptive management at the resort. The adaptive management activities taken last fall are described in Exhibit A attached to this testimony. In addition, on March 4, 2022 the United States Fish and Wildlife Service and the DOFASW held a meeting with representatives of the resort and provided the agencies' recommended measures to raise the rate at which downed birds are discovered. Sonesta Royal Kona Resort will implement these recommendations and looks forward to further improving its downed bird discovery rate.

Very truly yours,

GOODSILL ANDERSON QUINN & STIFEL



Lisa A. Bail

LAB

Enclosure

cc w/encl.: Donald ("Moki") Okami
Reginald David



ROYAL SONESTA

KAUA'I RESORT

Attachment A: Sonesta's Response to the Discovery Rate Validation Trials

Between September 15th, 2021, to December 15th 2021, the Royal Sonesta Kauai and its associates participated in the search and recovery of seabirds (Newell's Shearwater, Hawaiian Petrel, Band-rump Storm-Petrel and Wedge-tailed Shearwaters) on its property.

During the 2021 seabird fledging season, the Agencies developed and implemented a program for validation of discovery rate in accordance with KSHCP §6.2.2.1.b.3. On November 1, 2021 the contractor responsible for the validation program informed Sonesta management that their personnel were not finding or reporting decoy seabirds placed on property. Sonesta management immediately intensified its searching efforts, including: seeking additional guidance from the Resort Biologist, conducting additional education and awareness for all Sonesta employees, and dedicating additional personnel to search efforts. Below is a summary of these efforts.

Consultation:

- The Director of Security was in constant contact with the Resort Biologist and his team before, during, and after the 2021 Shearwater Fledgling Season for 2021. The biologist team was a constant source of information, education, and expertise on the subject matter.

Education and Awareness: Steps taken to educate, train, and bring awareness to the personnel on Royal Sonesta Kauai Resort property are as follows.

- All resort associates, vendors, construction personnel, and management conducted the annual Seabird Awareness training prior to the start of the seabird season or within one day of employment for new employees.
- The Director of Security trained searchers on the downed seabird search and recovery measures. Searcher training was completed prior to the beginning of the fallout season (September 15).
- Seabird information was published daily in Sonesta's online newsletter "Sonesta Savvy" to all associates.
- Conducted daily morning briefings with all Sonesta management who were reminded of the importance and Sonesta's priority, for the safe recovery of downed seabirds. Staff were educated daily on the protocols and procedures for the recovery and handling of downed birds.
- Management also conducted awareness and training discussions in their "Managers Stand-up" meetings conducted daily during the Seabird season.
- The Director and Assistant Director of Security personally attended every department briefing (multiple times daily) reiterating and advising them to search for and find the decoys.

- All pre-shift meetings for all department conducted multiple times daily had Seabird Awareness discussions.
- Security held briefings with all shifts three times a day.
- Topic covered in these meetings and briefing included:
 - Importance and purpose of seabird discovery and recovery.
 - Positive identification of endangered and threatened seabird species.
 - Search intervals and probable downed bird locations based on previous years.
 - Search methods.
 - Seabird discovery and recovery protocols and procedures.
 - Downed seabird protocol.

Searching Intensity and Methods: Steps taken to intensify search efforts on the Royal Sonesta Kauai Resort property are as follows.

- Sonesta's searches are more frequent than as required by the KSHCP. Searches for downed birds are continuous.
- All of Sonesta's 350 staff members were directed daily to search their respective workstations throughout their shifts.
- A dedicated patrol team was responsible for making two rounds of the property in an eight-hour period (shift). The patrol team was expanded and Sonesta dedicated personnel away from their regular duties to focus primarily on searching for decoys.
- In addition to the dedicated patrol team, the Director and Assistant Director of Security spent approximately 6 hours daily searching the Sonesta property.
- Search personnel conduct pedestrian surveys (on foot) with flashlights and in golf carts. Searchers look under and around objects and within vegetation for downed birds and evidence of predators.