



United States Department of the Interior
FISH AND WILDLIFE SERVICE
Pacific Islands Fish and Wildlife Office
300 Ala Moana Boulevard, Room 3-122
Honolulu, Hawai'i 96850



State of Hawai'i
DEPARTMENT OF LAND AND
NATURAL RESOURCES
Division of Forestry and Wildlife
1151 Punchbowl Street, Room 325
Honolulu, Hawai'i 96813

In Reply Refer To:
2022-0064406

August 8, 2022

Mr. Patrick Porter
Director, Dept. of Parks and Recreation
County of Kaua'i
4444 Rice Street, Suite 105
Līhu'e, Hawai'i 96766

Subject: Comments on the County of Kaua'i's Implementation of the Kaua'i Seabird
Habitat Conservation Plan (Incidental Take Permit TE-074391D-0/Incidental
Take License ITL-29)

Dear Mr. Porter:

This letter serves for the Hawai'i Department of Land and Natural Resources, Division of Forestry and Wildlife (DOFAW) and the U.S. Fish and Wildlife Service (Service), collectively referred to herein as the "Resource Agencies", to provide comments and recommendations on the County of Kaua'i's (County) implementation of the Kaua'i Seabird Habitat Conservation Plan (KSHCP) (Incidental Take Permit TE-074391D-0/Incidental Take License ITL-29).

Our feedback is compiled from agency review of your 2021 annual report, your March 1, 2022 annual participant meeting, and the March 14, 2022 review by the Hawai'i Endangered Species Recovery Committee. Our comments have been organized by category pursuant to the biological goals and objectives of the KSHCP and are stated below.

Facility Lighting: KSHCP Biological Objective 1.A.

Avoid and minimize the impacts of the taking of Covered Seabirds due to light attraction by removing or turning off lighting and altering light structure and function by the end of Year 1, as specified in Participant Inclusion Plans (PIPs).

You have stated that the County has over 182 covered facilities that are categorized into 5 categories depending on the light impacts: category 1 includes 47 unlit facilities; category 2 includes 75 facilities with minimal lighting; category 3 includes 37 facilities with limited external lighting; category 4 includes 11 with substantial exterior lighting; and category 5 includes 12 high intensity stadium and field lighting. Your annual report states that no substantial

lighting or facility changes were conducted in 2021. You reported that you would reassess the facility lighting to see if lighting can be further minimized based on staff and facility needs.

Your minimization efforts (i.e. seabird searching and predator control) are focused on the category 3 facilities. Your category 4 and 5 facilities do not have nighttime lights during the seabird fledgling season. And there were no nighttime football games conducted in 2020 and 2021.

Agency Comments or Recommendations:

The resource agencies acknowledge your efforts to continue to reduce lighting impacts in compliance with the KSHCP lighting guidelines. The DOFAW contractor conducting the Searcher Efficacy Trial noted some areas of concern and recommendations for lighting improvements: Wailua Golf Course putting greens are brightly lit, Kāpa‘a New Baseyard lighting could be minimized further or shielded, all the bus depot lights are reflecting off the white roofs of all the busses, the Police Headquarters seem to be well lit by necessity (are there ways to minimize while still ensuring necessary lighting requirements?), the Pi‘ikoi/Civic buildings area parking lots are especially lit, and the Waimea theater large decorative tower light was not always turned off during the seabird season.

While we acknowledge that you made efforts to focus your minimization efforts at your category 3 facilities, your efforts do not sufficiently provide minimization implementation measures (i.e. seabird searching and predator control; KSHCP biological objectives 1.B and 1.F) as identified in the KSHCP. Because these efforts are not being implemented at all the category facilities that have nighttime lighting it is difficult to assess if the adjustments should be made to facility lights. We recommend that a lighting assessment be conducted yearly prior to the seabird season to ensure that changes are not needed. We also encourage you to work on changing the lighting at your category 3 facilities so they can be re-categorized into an unlit facility or a facility with minimal lighting. Alternatively, if it is possible, we encourage you to keep the lights off during the seabird fledgling season.

Predator Control: KSHCP Biological Objective 1.B.

Minimize mortality of Covered Seabirds downed due to light attraction by implementing actions to reduce presence of free-roaming seabird predators such as cats and dogs at Participant facilities, as specified in PIPs.

The County Council has passed a bill to prohibit the abandonment of cats and dogs at County facilities. In addition, the County is actively working with agencies, advocacy groups and the general community to provide alternatives to humanely dispatch predators.

For your predator control contract, you discussed that you had problems with getting the contract awarded in 2020 and the beginning of 2021; however, you now have a multi-term 3-year contract with the contractor through the 2025 calendar year.

You reported that in 2021, of the thirty-seven category 3 properties, 32 had lights on and thus were subject to predator control. Predator control was conducted at sites based on previous predator sightings and known public feeding of nearby colonies. Your contractor rotated the predator control efforts among the sites and surveyed the target areas. Predator control was conducted at the following 9 properties: Bryan J. Baptiste Sports Complex (aka Kāpa‘a New Town Park), Hanapēpē Transfer Station, Kukui Heiau, Lima Ola Housing Development, Līhu‘e Police Station, Vidinha Stadium, Līhu‘e Transfer Station, Lydgate Park, Spouting Horn Park and Hanapēpē Veterans Cemetery. In February of 2021, predator control efforts were initiated, in combination with predator monitoring using game cameras and spotlight surveys. All cats were captured using cage traps with bait and/or lure. Pigs were captured using the Pig Brig trap at properties where pig presence was the most regular and problematic. In total, you reported that 35 pigs (4 trapping nights) and 165 cats (1,528 trapping nights) were removed from County properties. Additionally, if downed seabirds were documented, your contractor would conduct supplementary predator control at the site.

The contractor developed behavior assessment standards for cat intake in order to safely discern between adoptable and unadoptable feral cats. The goal of this assessment protocol was to ensure that animals brought to the Kaua‘i Humane Society (KHS) would not cause harm to their staff or other animals. Chipped pet cats were brought to KHS to be reunited with their owners.

Your annual report states that after three months of spotlight surveys, staff concluded that such surveys were an inadequate measure of predator detection probability at County properties due to the infrequency of surveys (as a result of staff limitations) and small sample size when compared to camera data. Game cameras were the primary method of predator monitoring throughout the entire performance period to great success. Sites where there is known or observed predator feeding occurred had higher hourly detection probability when compared to other County sites.

You discussed that in 2021, theft, vandalism, harassment by members of the public (primarily people feeding cats at colonies) were challenges in 2021 at some sites. You stated that this resulted in loss of equipment and time. Subsequently, all traps and cameras were locked with large padlocks and cables, and clearly labeled with “Property of County of Kaua‘i.” Overall, trapping and monitoring operations at most sites experienced little to no theft or vandalism.

Your annual report summarizes your predator control efforts made at each property (Figure 1). You also identify any recommended changes based on the KSHCP guidelines and generally accepted predator control practices.

Figure 1. Summary of predator control effort and results by property

Participant	Location	Conducted predator control?	# nights	Predator/trap night	Changes needed?
County Kaua'i	Bryan J. Baptiste Sports Complex	Yes	87	0.103	No
County of Kaua'i	Hanapepe Transfer Station	Yes	222	0.185	No
County of Kaua'i	Kukui Heiau	Yes	5	0.000	Increase # nights
County of Kaua'i	Lima Ola Housing Development	Yes	192	0.125	No
County Kaua'i	Lihue Police Department/Vidinha Stadium	Yes	235	0.077	No
County of Kaua'i	Lihue Transfer Station	Yes	160	0.106	No
County of Kaua'i	Lydgate Park	Yes	249	0.008	No
County of Kaua'i	Spouting Horn Park	Yes	242	0.186	No
County of Kaua'i	Hanapepe Veterans Cemetery	Yes	83	0.108	No

Agency Comments or Recommendations:

We appreciate and commend your efforts to pass County Bill No. 2842. We believe this is an important step in reducing feral cats at your County properties.

You stated that predator control is conducted year-round at these 9 sites and will continue through 2025. We recognize the value in conducting year-round predator control as we expect it will decrease the overall seabird predators on your properties that are receiving predator control. We recommend also doing intensified regular predator control in the month prior to the seabird season, unless results can demonstrate an appropriate predator decline, ensuring that the level of predators has already been effectively managed. Predator surveys and trapping must be active and consistent throughout the seabird season. This will then ensure that any seabirds that are downed can persist on the landscape for searchers to find and retrieve birds. In the absence of a highly effective predator control program, not all birds that fallout will be able to be recovered and taken to a rehabilitation facility. Instead, it is likely that predators will have taken some birds and therefore, birds may not be observed. Thus, a highly effective predator control program will result in better implementation of the Biological Objectives of the KSHCP.

In 2020, you conducted predator control at 4 sites and in 2021, it was conducted at 9 sites. While you increased predator control at additional sites in 2021, according to the provisions of the KSHCP and your PIP you should be implementing predator control during the seabird fallout season at all facilities where minimization measures are not likely to result in the avoidance of seabird take. (i.e. category 3 facilities). As discussed above, we recommend you find ways to either turn off nighttime lighting during the seabird fledgling season or decrease the amount of

lighting such that there are less facilities that are classified by the category 3 descriptions, so that your predator control can be implemented at all sites with lights.

We acknowledge that your contractor has conducted predator monitoring using game camera data and recognize this gives the County to capture an extensive data set in order to assess the success of the predator control program at the 9 sites. We understand that surveillance using spotlight surveys was ineffective because of the reasons you described above. We recommend that at other sites, where there is no predator control, you implement daily predator monitoring to collect an accurate record of the level of predators at all of your facilities with knighting lighting during the seabird fallout season. This monitoring data should be collected prior to the start and through the end of the seabird fledgling season. While we recognize the value of assessing your predator control efforts (Figure 1), this data will more accurately describe if there should be any adaptive management changes to the predator control as well as provide the necessary information to assess the efficacy of your predator control program. This data should reflect a decrease of predators from the start of predator control implementation to the beginning of the fallout season to demonstrate effective control or reduction of predators prior to fallout with birds on the ground. Therefore, please amend your report, or have your predator contractor submit a supplemental report, to include predator observations and captures by date which can be evaluated along with capture data to determine efficacy of your predator control program at the 9 sites.

In addition, the ESRC requested clarification about the outcome of cat captures. You indicated that some cats with microchips are taken to the humane society to be reunited with their owners. The KHS typically releases chipped cats even if those cats do not have homes. Pursuant to the KSHCP, please confirm that cats captured at county facilities are not returned to the landscape.

We have not yet received your predator control and downed seabird search implementation plan for your facility, including effort and efficacy monitoring in fulfillment of ITP Special Terms and Conditions §L and ITL Special Conditions §G of your ITP/ITL. Please provide this to us as soon as possible for our review and comments.

Staff Training: Biological Objective 1.C.

Minimize mortality of Covered Seabirds downed due to light attraction by conducting annual Worker Seabird Awareness and Response Training (WSART), as specified in PIPs.

Your annual report states that in 2021, 387 County staff and volunteers completed training on the KSHCP. The online training is mandatory for all newly hired staff (completed 10 days of their hire). In addition, monitors complete the training annually prior to fall out season. For 2022, the County intends to update the training to better prepare monitors and staff for their roles and responsibilities.

Agency Comments or Recommendations:

We recommend you have actual photos representative of what trained searchers might encounter (e.g. photos of birds that are under vegetation, crevices, supplies, valet carts, etc.). This should help to quickly replicate a search image for seabird searchers to identify.

You state that training was provided for staff and for monitors. Please clarify if this training was provided to search for seabirds, honu nesting evidence, or predators. Additionally, we recommend you provide the honu training immediately prior to the honu nesting season (prior to May 1) and your downed seabird training prior to the seabird fallout season (prior to September 15) to keep personnel reminded of when each season begins. We recommend that it is targeted so personnel do not become complacent in their efforts.

We also recommend having in person training with on the ground training for all personnel responsible for conducting monitoring for honu and for downed seabirds to implement the monitoring and reporting procedures as required more effectively by the terms and conditions of the ITP/ITL. The results of the searcher efficiency trials indicate that your current training program is insufficient. Searchers should be reminded to check under edges and into and under vegetation. We advise keeping potentially concealing vegetation and groundcover trimmed as much as possible through the seabird season to reduce the amount of available cover and help searchers detect more birds. We request you coordinate with the agencies for on-site training to demonstrate seabird searchers where birds are likely to hide and how to best detect them. We also recommend that you periodically test your personnel who are conducting seabird monitoring to ensure they are effectively implementing the protocols as outlined in your training program.

Finally, we request you provide your updated training for our review.

Outreach: Biological Objective 1.D.

Minimize mortality of Covered Seabirds downed due to light attraction by implementing seabird awareness outreach to the public, guests, and customers at Participant facilities as specified in PIPs.

You reported that there was no seabird awareness outreach conducted for the public, guests, and customers at County facilities in 2021. However, you discussed that as a result of Bill No. 2842 you are currently reviewing your signs that will be put up at your properties; and your Parks and Recreation Permits provides a notice of the KSHCP responsibilities and also the County will implement seabird awareness outreach in 2022 for the public.

Agency Comments or Recommendations:

We recognize that the majority of the County properties will be utilized in the morning by the public after County staff are on-site prior to facilities being available for the public; however, some of your facilities are used at night. While we recognize that the County cannot expect the public to comply with the search conditions of the ITP/ITL under the KSHCP, the results of the Searcher Efficiency Trial reported that only 1 of 23 decoys were reported. We understand that

the County has a history of outreach and education for the residents, and we would have anticipated a higher decoy reporting result. We also anticipated that the public would have approached any decoys who would then see the decoy tags, which then may have prompted reporting. However, no decoys were recognized to be reported by the public. We anticipate that there may be challenges in regard to public perception downed seabirds, however, we encourage you to continue your efforts in outreach, education, and public responsibility for these species.

Minimization and Avoidance of Light Attraction for Turtles:

Biological Objective 1.E.

Avoid and minimize honu hatchling disorientation due to lighting at beachfront facilities by implementing best lighting practices as specified in PIPs and protecting any nests at facilities via shielding as needed.

As stated in the Section 9.2 of the KSHCP, “It is anticipated that Participants with beach front properties can completely avoid future incidental take of honu. Currently there is no provision for requested incidental take of honu in proposed Participant PIPs, and the minimization and mitigation measures outlined in Section 9.4 will be implemented as described to ensure that there is zero take of the species.” Unlike the Covered Seabirds, which are attracted to lighting that is visible from above, honu are attracted to lighting that is visible from below. Because of this, lighting that is visible from the ground can unintentionally attract honu from their nesting beaches.

You stated that no reports were received of turtle activity. You also stated that staff checks the lights at facilities such as Salt Ponds.

Agency Comments or Recommendations:

Please provide additional information regarding lighting checks for honu, monitoring, and public outreach at beachfront facilities. Should you need training materials, please contact us.

We note that the honu nesting is typically May 15 through December 15 each year. This is not the same as the seabird fledgling season, which is September 15 through December 15. Please confirm that honu monitoring is occurring during the appropriate time period for the species. To report all honu activity, please immediately call to the Kaua’i Hotline, staffed by DLNR and NOAA 24/7: 808-651-7668. Also send an email with the pertinent information to:

Jamie Thomson, NOAA: jamie.thomton@noaa.gov

Mimi Olry, DLNR: mimi.olry@hawaii.gov

Heather Ylitalo-Ward, DLNR: heather.a.ylitalo-ward@hawaii.gov

Once the response staff have been notified via hotline and email, send a detailed report to the following:

DOFAW downed wildlife email: dofaw.hcp@hawaii.gov

Kate Cullison, DOFAW: Katherine.cullison@hawaii.gov

Jiny Kim, Service: Jiny_kim@fws.gov

Lindsay Young, Prime Contractor: lindsay@pacifcrimconservation.org

Recovery of Downed Seabirds / Searcher Efficiency Trials:

Biological Objective 1.F.

Minimize mortality by implementing recovery and release of Covered Seabirds downed due to light attraction through the Save Our Shearwaters (SOS) program or other certified rehabilitation facility.

You stated that searches were conducted once daily at all facilities by on-site staff at approximately 6:30am following the monitoring plan in the County’s PIP. You also stated that the predator control contractor utilizes the predator control game cameras also for monitoring downed seabirds at the 9 facilities that are implementing predator control; there were no detections of downed seabirds at any of your facilities. You also acknowledged that the County has a lot to improve on regarding seabird monitoring and are planning on identifying ideal staff to conduct monitoring efforts in addition to their regularly work duties.

Table 1. Summary of Total and Annual Permitted Take of Covered Species.

	NESH		HAPE		BANP	
	Lethal	Non-lethal	Lethal	Non-lethal	Lethal	Non-lethal
30-Year Permit Term	276	217	17	4	4	0
2020	0	0	0	0	0	0
2021	0	0	0	0	0	0
Total Take	0	0	0	0	0	0

Searcher Efficiency Trials:

Pursuant to KSHCP 6.2.2.1(3), a discovery rate validation program was developed and implemented October 27–December 15, within the 2021 seabird fallout season. The Searcher Efficiency Trials were meant to demonstrate the appropriateness of each Participant’s stated Discovery Rate. Discovery Rates are based on two participant-controlled variables; searcher efficiency at finding downed birds, and effective predator control to ensure that birds remain alive to be found.

Table 2. Results of the Searcher Efficiency Trial at County of Kaua‘i Facilities.

	Deployed		Discovery rate Before 7:30 am		Discovery rate	
	Total Number	Total Number	Percent	Total Number	Percent	
All evaluated county properties combined						
Open	11	5	45	1	9	
Partial Cover	8	0	0	0	0	
Full Cover	4	0	0	0	0	
Total	23	5	22	1	4	

Agency Comments or Recommendations:

The County PIP table 8 indicates that searches are only conducted if a report about a downed seabird received from a member of the public. In your ESRC review, you stated that nighttime monitoring is only done by the predator control contractor at the rotated sites, but also indicated that county staff do a “look around” at the start of their shift. Please amend the annual report to add information about any reports received and clarify the search timing, intensity, and frequency at all categories of site. We encourage you to examine the category 3 facilities for which you lack the capacity to search 2 times per night as described in the KSHCP and see if you can instead implement additional modifications to shift them to category 2 or category 1 or turn nighttime lighting off during the seabird fledgling season.

The results of the Searcher Efficacy Trial were only 4 percent and as discussed in your meeting with the agencies and by the ESRC, the actual discovery rate for any permit is dependent on both effective seabird searching and effective predator control. An effective predator control program ensures that any seabirds that are downed can persist on the landscape for searchers to find and retrieve birds for rehabilitation. In the absence of a highly effective predator control program, it is more likely that birds will be depredated rather than recovered. It is also ineffective for seabird searches to only be conducted in the morning after sunrise because of the difficulty in finding birds that have hidden under cover. Without systematic monitoring, it is not possible to determine actual take and, therefore, it is misleading to indicate that zero take has occurred to date. Lastly, a staff member that has other duties is not as likely to prioritize searching for downed seabirds under cover, or as evidenced by the results of the Searcher Efficacy Trial, appropriately report found seabirds. We recommend having dedicated searcher efforts rather than efforts conducted at one time prior to worker shifts by staff that are performing other work duties. We also recommend you implement your own searcher evaluation to assess the effectiveness of your searcher efforts. Therefore, together, adaptive management for all of these factors will result in better implementation of the Biological Objectives of the KSHCP.

Finally, we do appreciate your coordination in regard to high intensity, category 5 stadium nighttime lighting. We look forward to working with you this year in anticipation of nighttime football games for the community of Kaua‘i.

As noted by the ESRC, the use of detector dogs would greatly improve the resort's searcher efficiency and provide a higher level of confidence that downed seabirds are being recovered for rehabilitation. While dogs are significantly more likely to find hidden birds than humans, there is nevertheless variation in skill, therefore, if a dog program is utilized, we request you ask for a validation result for each dog and handler team.

We appreciate your continued efforts to ensure the success of the KSHCP. If you have concerns being unable to fully implement the terms and conditions of your ITP/ITL please reach out to us to schedule a meeting to discuss the next steps. Please feel free to contact us should you have any questions regarding this letter.

Sincerely,

AARON
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AARON NADIG
Date: 2022.08.08
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Island Team Manager
O'ahu, Kaua'i, Northwestern Hawaiian
Islands, and American Samoa

Wildlife Program Manager