



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:
2023-0006604

November 10, 2022

Mr. Daniel Farkas
Executive Vice President & Assistant General Counsel
NCL (Bahamas) Ltd.
7665 Corporate Center Drive
Miami, FL 33126

Subject: Comments on NCL's Implementation of the Kaua'i Seabird Habitat Conservation Plan (Incidental Take Permit TE74390D-0/Incidental Take License ITL-27)

Dear Mr. Farkas:

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 NCL (Bahamas) Ltd.'s (NCL) implementation of the Kaua'i Seabird Habitat Conservation Plan (KSHCP) (Incidental Take Permit TE74390D-0/Incidental Take License ITL-27). Our comments are outlined below.

Facility Lighting: KSHCP Biological Objective 1.A.

On October 2, 2022, we received a letter from you confirming that the Pride of America Hawai'i sailing has resumed and that two additional NCL vessels, the Norwegian Spirit and the Oceania Regatta, are in operation in Hawai'i this year. Your October letter states that a lighting audit was conducted on the Norwegian Spirit in June and that recommendations in Table 1 (recommended permanent modifications which include capping/shielding all upward facing lights, etc.) would be implemented, and those in Table 2 (minimization measures to be applied during seabird season, such as dimming or turning off specific lights, etc.) would be implemented while the vessel is in Hawaiian waters. The Resource Agencies request that you describe specific color temperature and light intensity before and after on the game court and aft mooring deck. Please also describe the total estimated effect of the combined minimization measures. For lights that are "turned off," define the duration that lights will be off (e.g. completely off for the seabird season, off for certain hours, etc.). Please also describe how you "maintain low lighting in the pool." Your letter also states that white bulbs are replaced with blue lighting, which contradicts

current advice for seabirds; the agencies do not recommend blue light (Rodríguez et al. 2017, pp. 68–72). We request further discussion about recommended color spectrum for lights.

The Oceania Regatta was already underway in the state of Hawai‘i prior to receipt of your letter requesting consultation. Per your PIP, a lighting review will be conducted prior to the start of the seabird season to determine if additional changes need to be made to the seabird lighting protocols. Because of a recent schedule change, you state there was insufficient time to conduct a lighting audit, thus, no minimization measures were implemented on this ship. Please provide a lighting audit for the Oceania Regatta with recommended minimization completed prior to future operations in Hawai‘i.

Your letter also states the Oceania Regatta would be in Nāwiliwili harbor on October 5 and depart by 5:00pm so that it would not be in the harbor in darkness. Please be aware that minimization measures should be implemented when in Hawaiian waters regardless of whether the ships are in port or at sea.

In future years, we request that if any ships are planned to be in operation in Hawaiian waters any time of the calendar year, that you notify us with ample time to review the operation, timing of cruises, and lighting that will be in operation.

Staff Training: Biological Objective 1.C.

So far this year, the grounding of several birds on NCL ships have highlighted deficiencies in staff training and preparedness. Several birds were not reported to the agencies, the ship lacked sufficient resources to contain downed birds until they could be transferred to appropriate rehabber, birds were handled more than recommended or authorized, and staff did not have current contact information for seabird-care on all visited islands.

The Resource Agencies have reviewed the latest version of the PowerPoint slides (provided in your 2020 PIP, Appendix D) that were used in your training program. We recommend your training materials provide photos representative of what trained searchers might encounter (e.g. photos of birds that are under or in structures, crevices, supplies, carts, etc.). This should help to quickly replicate a search image for seabird searchers to identify. We also recommend training emphasize the importance of finding and reporting birds as quickly as possible.

Please provide the training materials, dates of training, and method of delivery provided. You state that the training module is revised each year prior to the start of the seabird season incorporating any needed changes to the program identified during the previous season’s activities. We request you provide it to us prior to conducting future annual training so that we may review and provide any recommendations.

The Resource Agencies were made aware that the NCL staff does not have updated contact information for the authorized biologists and rehabilitation facilities that are located on each island. Please see below for the various facilities for the islands listed below (Table 1). If dropping off a downed seabird always call ahead.

Table 1. Contact information for authorized biologists and rehabilitation facilities.

Island	Organization	Contact Information
Kaua'i	Kaua'i DOFAW	Phone: (808) 274-3433 Website: https://dlnr.hawaii.gov/wildlife/seabird-fallout-season/
Kaua'i	Save Our Shearwaters	Phone: (808) 635-5117 Website: https://saveourshearwaters.org/
O'ahu	O'ahu DOFAW	Phone: (808) 973-9786
O'ahu	Feather & Fur Animal Hospital (open 24 hours)	Phone: (808) 254-1548 Website: https://www.featherandfur.com/
O'ahu	Hawaiian Humane Society	Phone: (808) 356-2200 Website: https://www.hawaiianhumane.org/
Moloka'i	Moloka'i DOFAW	Phone: (808) 553-1745
Lāna'i	Lāna'i DOFAW	Phone: (808) 565-7916
Maui	Maui DOFAW	Phone: (808) 984-8100
Maui	Maui Nui Seabird Recovery Project	Phone: (808) 573-2473 Website: https://mauinuiseabirds.org/
Hawai'i	Hawai'i DOFAW	Phone: (808) 339-4619 (Ray McGuire) Phone: (808) 937-7924 (Alex Wang) Phone: (808) 974-4221 (East Hawai'i) Phone: (808) 887-6063 (West Hawai'i)
Hawai'i	Hawai'i Wildlife Center	Phone: (808) 884-5000 Phone: (808) 443-1641 https://www.hawaiiwildlifecenter.org/rescue-injured-bird.html

The Resource Agencies recommend having in person training with on the ground training for all personnel responsible for conducting monitoring for downed seabirds to implement the monitoring and reporting procedures as required to more effectively implement the terms and conditions of your ITP/ITL. We also recommend that you periodically test your personnel who are conducting seabird monitoring to ensure they are effectively implementing the protocols.

The Resource Agencies request you contact the Dilek Sahin, Kaua'i Endangered Seabird Recovery Project Coordinator (phone: 808-639-3644, email: dsahin@hawaii.edu). She is an additional resource for seabird training to assist your staff to search for, handle, and report downed birds.

Outreach: Biological Objective 1.D.

On July 20, 2022, we received an email from Hawai'i Wildlife Center reporting a Facebook post from a cruise passenger showing a guest on your ship holding an adult Newell's shearwater (see Figure 1). On August 10, 2022, we emailed your biological consultant and attorney to notify you that we had received the report from the Hawai'i Wildlife Center. On September 9, 2022, your attorney responded back to us stating that at the time of the event you were not made aware that this event occurred, until receiving our email. You additionally were unable to locate security footage of the event. It is unclear if the guest knew to report the bird to NCL; it was not reported

to the agencies. Lacking any record of vet assessment, rehabilitation or release, the agencies assume this bird, as well as any egg or chick that it may have been incubating or feeding, did not survive.

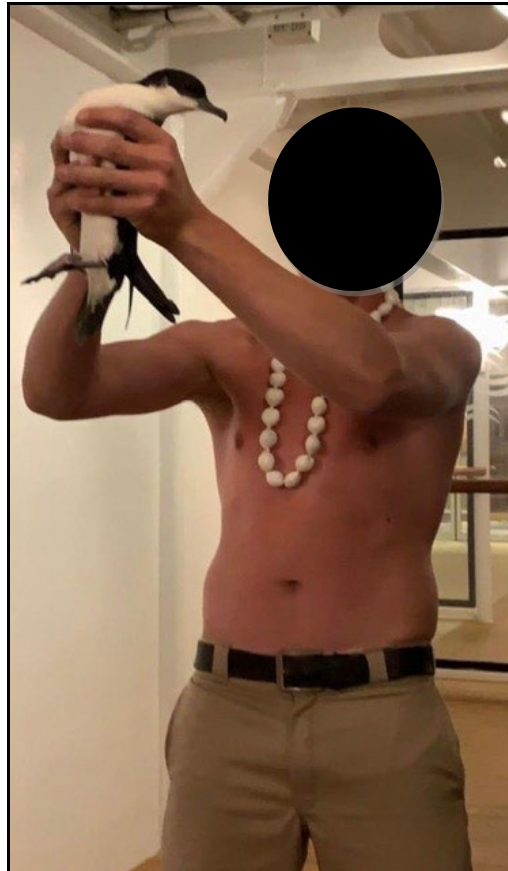


Figure 1: passenger holding adult shearwater

We also request that because the bird was an adult that had been attracted to the ship's lights, that you implement minimization measures (e.g. staff training, guest outreach, and proper searching and documentation) for the entirety of the seabird season (March 1 to December 15). This time period accounts for when adults are breeding in addition to the time when fledglings are making their first flights to sea.

While we recognize that NCL cannot require your guests to assist with the reporting requirements of your ITP/ITL under the KSHCP, we encourage you to continue your efforts in outreach, education, and public responsibility for these species.

Recovery of Downed Seabirds:

Biological Objective 1.F.

We have not received notification and reports for all birds downed by NCL. Thus far in the 2022 seabird season, NCL ships have grounded at least 10 seabirds. The Resource Agencies have received reports for only two of those birds. Initial notification to the agencies must occur within

24 hours of discovering a bird, with full report submitted within three days to the Resource Agencies. You state that the onboard environmental officer is responsible for overseeing the seabird protocols, bird searches and recovery, record keeping, and reporting. We recommend the onboard environmental officer also be responsible for the initial notification to the Resource Agencies, so that notification occurs promptly. Additionally, we remind you that you must follow the same recovery and reporting procedure for all downed birds regardless of species.

The reports received are missing important required information. Photos of the downed bird should be “up close, with its immediate surroundings, and nearest structures in the background.” If necessary, location photos may be taken after the bird is collected. A map with location of where the bird was found must also be provided in the reporting form. Please amend your two submitted reports (dated October 15th) to reflect all information that is required in these reports.



Figure 2: Inappropriate examination/handling

The seabird protocol states all birds that are located are not to be over handled except to be placed in a clean pet carrier which can be stored in dark quiet location until it can be transferred to appropriate entity. Photographs provided in the two reports received show unnecessary handling of the birds in a manner that is not authorized in your ITP/ITL (Figure 2). We remind you that an employee should never conduct physical examinations of listed species on their own without proper training or authorization from the Resource Agencies or an authorized veterinarian.

As of October 15th, the Norwegian Spirit was still sailing without sufficient carriers for downed birds, having ordered the carriers yet to receive them. At least four birds were grounded on the Norwegian Spirit that weekend. Two were assessed and released by Maui Seabird Recovery Project staff. Two additional storm-petrels were on board by the time the ship docked in Hilo on Sunday. When ship staff were unable to reach state wildlife biologists, they were told by the NCL consulting biologist to release the birds off an upper deck. After reporting that the birds were too weak to fly, ship staff were told to keep them until arrival in Kaua‘i for admission to SOS. Under no circumstances should NCL staff release birds. The correct instructions would

have been to call the Hawai'i Wildlife Center, which is based on Hawai'i island and rehabilitates birds sent from throughout the state. Storm-petrels need feeding several times a day, and while in Hilo one of the birds was already visibly weak and shaking. The delay of care most likely contributed to the subsequent death of that bird. NCL should immediately ensure that the environmental officer on each ship has the updated contacts we have provided in Table 1 for each island.

We appreciate your continued efforts to ensure the success of the KSHCP. We look forward to receiving the downed seabird search implementation plan for your ships, 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. If you have concerns or an inability to fully implement the terms and conditions of your ITP/ITL please reach out to the Resource Agencies to schedule a meeting to discuss the next steps. Feel free to contact us should you have any questions regarding this letter.

Sincerely,

Island Team Manager
O'ahu, Kaua'i, Northwestern Hawaiian
Islands, and American Samoa

Wildlife Program Manager

Literature Cited:

Rodríguez, A., Danna, P., Chiaradia, A. 2017. Reducing light-induced mortality of seabirds: High pressure sodium lights decrease the fatal attraction of shearwaters. *Journal for Nature Conservation* (39) 68-72. <http://dx.doi.org/10.1016/j.jnc.2017.07.001>.