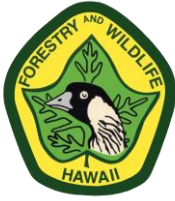
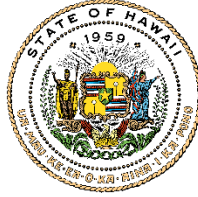


JOSH GREEN, M.D.  
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
KA 'OIHANA KUMUWAIWAI 'ĀINA

DIVISION OF FORESTRY AND WILDLIFE  
1151 PUNCHBOWL STREET, ROOM 325  
HONOLULU, HAWAII 96813

DAWN N.S. CHANG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT  
RYAN K.P. KANAKA'OLE  
FIRST DEPUTY  
DEAN D. UYENO  
ACTING DEPUTY DIRECTOR - WATER  
AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES  
ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

January 25, 2024

Endangered Species Recovery Committee  
State of Hawai'i  
Honolulu, Hawai'i

**SUBJECT:** Division of Forestry and Wildlife Evaluation of the Hōkūala Habitat  
Conservation Plan Implementation During Fiscal Year 2023 + Quarters 1  
and 2 of Fiscal Year 2024

Dear Committee Members,

The Department of Land and Natural Resources, Division of Forestry and Wildlife (DOFAW) is respectfully requesting the Endangered Species Recovery Committee (ESRC) to review the status of Hōkūala Habitat Conservation Plan Implementation During Fiscal Year 2023 + Quarters 1 and 2 of Fiscal Year 2024, on the island of Kaua'i. DOFAW HCP has yet to receive the FY 2023 annual report required by the Hōkūala Habitat Conservation Plan (HCP; Rana Biological Consulting 2012) and State Incidental Take License (ITL; ITL-16).

**BACKGROUND**

ITL Licensee: Hōkūala Community Association

Project: Oceanfront resort encompassing approximately 600 acres

ITL Duration: April 11, 2012- April 11, 2042 (as of end of FY 2023, 11 years (37%) through the permit term)

Take Authorization:

Table 1. Take Authorization for Hōkūala HCP

Common Name	Scientific Name	Type of Take	Total Authorized Over ITL Duration
'A'o or Newell's Shearwater	<i>Puffinus auricularis newelli</i>	Life of permit	29 <sup>a</sup>
Koloa Maoli or Hawaiian Duck	<i>Anas wyvilliana</i>	Mortality or Non-Lethal	36
Ae'o or Hawaiian Stilt	<i>Himantopus mexicanus knudseni</i>	Mortality or Non-Lethal	38
'Alae Ke'oke'o or Hawaiian Coot	<i>Fulica alai</i>	Mortality	110
		Non-Lethal	180
'Alae 'Ula or Hawaiian Moorhen	<i>Gallinula chloropus sandvicensis</i>	Mortality	40
		Non-Lethal	30
Nēnē or Hawaiian Goose	<i>Branta sandvicensis</i>	Mortality or Non-Lethal	17
'Ua'u or Hawaiian Petrel	<i>Pterodroma sandwichensis</i>	Life of Permit	1
'Akē'akē or Band-rumped Storm Petrel	<i>Oceanodroma castro</i>	Life of Permit	1

Status of ITL:

Table 2. Total observed incidental take since ITL issuance under the Hōkūala ITL as of December 2023.

Common Name	Total Observed Take
Hawaiian Moorhen	32
Hawaiian Coot	35
Nēnē	5
Newell's Shearwater	11
Hawaiian Duck	7
Hawaiian Stilt	0

Table 1, Total Observed Take, provides tentative observed mortalities that have occurred since Hōkūala ITL issuance. At the close of FY 2022, DOFAW found disparities in the licensee-reported observed take for Hawaiian Moorhen and Hawaiian Coot, which had not been rectified before this reporting. Additionally, after an internal review, there have been disparities in reporting over the permit's life. The licensee has yet to address the concern of the disparities in take. Of additional concern in Table 2 is the rate of Hawaiian Moorhen take. Although only 33% of the license term is complete, well over

75% of the permitted Hawaiian Moorhen lethal take has been reached as of the end of FY 2022 (a value that may be greater still after the above-mentioned reporting disparity for the species are rectified). Due to the disparities in take reporting, Table 1 does not reflect the Type of Take, as described in the ITL.

Mitigation Status:

*Nēnē*, Ae‘o , ‘Alae Ke‘oke‘o, ‘Alae ‘Ula, & Koloa Maoli. Baseline mitigation for waterbirds consists of providing and maintaining approximately 35 acres of lagoons on the property that are an important habitat for endangered waterbird species, including predator control trapping and wildlife monitoring. The FY 2023 Annual report has not been received as of 9/5/2023.

‘A‘o , ‘Ua‘u ,& ‘Akē‘akē. The minor amendment in 2013 increasing Newell’s Shearwater take specified contribution of mitigation funding for seabird take in the amount of \$10,000 annually to the National Fish and Wildlife Foundation (NFWF) account, to be held until a Kaua‘i island-wide seabird HCP was finalized and approved. On September 15, 2023, \$10,000 will be provided to NFWF to cover the FY 2024 season. In FY 2020, the Kaua‘i Seabird HCP was approved.

On April 28<sup>th</sup>, 2023, during the FY 2022 Hōkūala HCP annual review, the following recommendations were provided to the licensee, with approval and input from the ESRC, which the licensee has not addressed in FY 2023:

- Ensure the trapping program is adequate to meet the changing needs of the populations of covered species.
- Provide/include logs of personnel training. Include more information indicating the extent to which personnel reports situations of concern to the on-site construction and biological monitors.
- Identify who is responsible for the daily morning briefings to inform golf course staff of the covered species’ presence.
- Provide a more detailed description of the nature tours provided (e.g., identify areas visited and how often tours are done) and identification of the protocols followed (e.g., distance maintained from listed waterbirds).
- We recommend that Hōkūala coordinates with the agencies to evaluate and improve their current outreach program targeted to golfers.
- Improve and customize the use of Pace Technology (fleet management and golf cart GPS system).
- Identify the location of the new entrance and provide more information regarding the timing of the new proposed entrance and the “Wildlife Conservation Area.”
- Increase the number of warning and precautionary signs deployed and incorporate pictures of the other covered waterbird species, including the Hawaiian Coot, Hawaiian Gallinule, Hawaiian Stilt, and Hawaiian Duck.
- Traffic management
- Removal of attractants on locations with frequent vehicle strikes.

- Potentially low fencing installation alongside roads.
- From now on, the on-site biologists will notify the DOFAW-HCP of any incidents of take.
- Requested to update past incident reports.

## **ISSUES & CONCERNS**

### **1) Agencies have not received a FY 2023 annual report**

As stated above, DOFAW HCP has not received a draft of the FY 2023 annual report, which is part of the licensee's obligations under the Hōkūala HCP. The draft annual report is expected in August each year to allow time for agency review and comment in advance of the final annual report, which, per the terms of the HCP and HRS 195D-21(f), is due September 30. Despite repeated written and verbal requests, the consultant has not responded or provided the final FY 2022 report nor a draft of the FY 2023 report.

### **2) Kaua'i DOFAW-related concerns: vegetation management and lack of communication**

Kaua'i DOFAW has also raised concerns about the lack of vegetation management as a means of minimization on the resort islands. Kaua'i DOFAW has stated the licensee does not complete vegetation suppression of the surrounding islands because of a lack of funding and easy access to those areas. The areas in question provide suitable habitat for nesting nēnē, which directly contradicts the hazing efforts by the USDA and other vegetation management occurring on the resort. Kaua'i DOFAW also stated that when branch personnel have been on the property to band nēnē, better communication is needed, and we recommend standardized policy be implemented by the resort that will prevent limitation or interference with DOFAW Kaua'i's work to support the species on the property.

### **3) Potential take reporting discrepancies and potential need for an amendment of the ITL**

Finally, as stated above, after an internal review, going through data from Kaua'i DOFAW, and finalized Save Our Shearwaters program (SOS) reports, additional reporting disparities were discovered throughout the life of the permit, which included the take of additional covered species. DOFAW HCP awaits the finalized SOS intake data for calendar year 2023 to compare downed wildlife reports received from Hōkūala. As of December 2023, seven reports were received from Hōkūala for 2023. There is a high likelihood that Hōkūala has exceeded its take limit for more than one covered species. DOFAW is working with the U.S. Fish and Wildlife Service (USFWS) to compare downed wildlife reports and actions moving forward.

## **AGENCY RECOMMENDATIONS**

After internal review and discussion, DOFAW HCP considers Hōkūala to be out of compliance with the obligations of the HCP and ITL. The agencies will send a letter detailing the failure to comply with the permit terms related to accurate and timely annual and downed wildlife reporting. The agencies request that Hōkūala rectify the communication issues by providing a point of contact who will be responsible for submitting reports and responding to agency inquiries, providing a final draft of the FY 2023 annual report, ensuring future reports are submitted on time, and open to conversations to determine where the disparities in reporting downed wildlife are occurring; in addition, DOFAW HCP requests a meeting to discuss the status of the recommendations provided to the licensee from the FY 2022 annual review. DOFAW has given the licensee a deadline of 30 days to comply with the agency's requirements/recommendations. When we receive the outstanding 2022 and 2023 annual reports and have rectified the reports of take, we will schedule an ESRC meeting to review those documents, provide feedback, and make recommendations for improvements. DOFAW also requests that the agencies and permit holder review the take associated with the facility, both reported and unreported, to determine whether an amendment is recommended.

If you have any questions, please email Kathrine Cullison, Programmatic Habitat Conservation Plan Coordinator, at [kathrine.cullison@hawaii.gov](mailto:kathrine.cullison@hawaii.gov).

Respectfully submitted,



DAVID G. SMITH  
Administrator