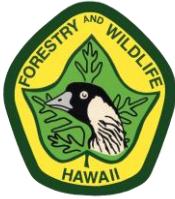
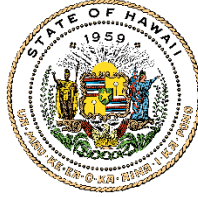


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

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
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FIRST DEPUTY
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DEPUTY DIRECTOR - WATER
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

February 21, 2025

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

SUBJECT: Division of Forestry and Wildlife Evaluation of the Kaheawa Wind I Project
Habitat Conservation Plan Implementation During Fiscal Year 2024 +
Quarters 1 and 2 of Fiscal Year 2025

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) review the Kaheawa Wind Energy I Project (KWP I) annual report in accordance with the requirements outlined in Section 195D-25, Hawaii Revised Statutes. The annual report was prepared by Tetra Tech on behalf of Kaheawa Wind Farm (licensee) as part of the obligations of the Kaheawa Wind Power Habitat Conservation Plan (HCP; 2006) and State Incidental Take License (ITL; ITL-08).

This submittal is a summary of the FY 2024 annual report and Q1 and Q2 FY 2025 reports and includes comments from DOFAW.

BACKGROUND

ITL Licensee: Kaheawa Wind Power, LLC

(Note that Terraform Power/ Brookfield owns KWP I; in 2020 Brookfield Renewables merged with Terraform Power)

Project: Twenty wind turbine generators (WTGs) with a total 30-megawatt (MW) energy generating capacity

ITL Duration: January 30, 2006 – January 30, 2026 (18 years (90%) through the permit term)

Status of ITL: There was take of three nēnē in FY 2024. No observed fatalities at the wind farm site were reported for other HCP covered species during FY 2024.

Table 1. Total observed fatalities and estimated total take since ITL issuance under the KWP I ITL as of Q2 FY 2025, December 2024.

Common Name	Total Direct (Observed + Unobserved) Take ¹	Indirect Take using HCP multipliers	Total Estimated Take
‘ua ‘u	18	5	23
Nēnē	54	2	56
‘Ōpe‘ape‘a	28	4	32

¹ Based on the 80% credible maximum using the following model: Dalthorp, D., M. M. P. Huso, and D. Dail. 2017. Evidence of absence (v 2.0) software user guide: U.S. Geological Survey Data Series 1055.

Total Projected Take at the end of the permit term:

EoA projected a median estimate of 20 years of project operation without a direct take estimate exceeding 30 Hawaiian petrels. Therefore, the project anticipates remaining below the permitted take limit of 38 ‘ua‘u for the permit term.

EoA projected a median estimate of 20 years of project operation without a direct take estimate exceeding 58 nēnē. Current estimated take remains within Tier 1.

EoA projected a median estimate of 20 years of project operation without a direct take estimate exceeding 44 bats. Therefore, based on these projections the project is likely to remain below the permitted take limit of 50 ‘ōpe‘ape‘a for the permit term.

Avoidance and Minimization:

Hawaiian hoary bats:

Low Wind Speed curtailment at 5.5 m/s is in effect from sunset to sunrise, annually, from February 15 through December 15. The project continues site-wide bat activity assessment via acoustic monitoring after the initial HCP-required 12-month monitoring period.

Nēnē: Scavenger trapping efforts implemented at the project to improve persistence of carcasses during fatality monitoring have contributed to reducing the risk of predation of the nēnē. In response to the current projections of potential take of the nēnē at the Project, KWP I have taken practicable actions to minimize the threats to the

nēnē. In FY 2023, KWP I implemented a vegetation management plan developed with concurrence from the agencies, reducing the amount of woody vegetation on site.

Mitigation Status:

Hawaiian Petrel and Newell's Shearwater:

In the FY 2023 annual review DOFAW brought to the attention of the ESRC the state of the Makamaka'ole Seabird Restoration / Mitigation Site and that KWP had vacated the site in this condition. In the following months, after DLNR Deputy AG issued a letter and initiated consultation with KWP's attorneys, KWP agreed to issue a check to DOFAW to cover the substantial outstanding fences repairs needed at the mitigation site. KWP I and KWP II signed a Memorandum of Agreement (MOA) with DOFAW in September 2024, and in October 2024 issued a \$750,000 check to DOFAW to cover the cost of the fence repairs. DOFAW is in the process of hiring a contractor to use the funds to repair and replace the fence with steel materials and aquamesh.

Furthermore, reflecting guidance from the Deputy AG, the MOA conveyed that continued management at Makamaka'ole through the current ITL terms was a requirement per the KWP I and II HCP. Resultingly, KWP contracted Maui Nui Seabird Recovery Project to continue predator control and monitoring at Makamaka'ole from November 2024 through December 2025.

Mitigation for Newell's Shearwater entailed management of two constructed (approximately four acres) predator-free fenced enclosures (one for each species), provisioned with artificial burrows and social attraction, at the Makamaka'ole site in West Maui. In December 2022, both agencies concurred that KWP I and KWP II had met their projects' mitigation obligations for Newell's Shearwater via official correspondence to the licensee/permittee. DOFAW's and USFWS' credit letter allocated 8.530 NESH credits to KWP I and II based on observations of 148 adults observed and 2 fledglings produced from 2016 to 2022, and calculated survival rates at the colony. KWP I and II needed a combined credit of 6.418 NESH to receive mitigation credit for NESH.

Hawaiian Petrel nesting colony management and predator control was conducted by Pūlama Lāna'i on Lāna'i Island, during FY 2020, from which 36 fledglings were produced. On March 28, 2023, USFWS issued a decision letter pertaining to the credit accrued by TerraForm, for the mitigation of Hawaiian Petrels to date. In concurrence with this letter, DOFAW issues a total combined mitigation credit of 89.72 adult Hawaiian Petrels for Makamaka'ole and Lāna'ihale from 2015 to 2022, and DOFAW is in the process of submitting a final credit letter to TerraForm indicating they have met their mitigation obligations for Hawaiian Petrel.

Nēnē: The mitigation continued through concurrent management with the KWP II Wind Project at the Haleakalā Ranch open release pen in FY 2024. Management at the pen included: monitoring; vegetation management; fence, pond, and infrastructure

maintenance; road improvements; and predator control. KWP I received 3.63 credits for their work at the ranch in FY 2024. DOFAW is working on the translocation of nēnē to the island of Moloka'i in March or April of 2025. After translocation, TerraForm on behalf of KWP I and II Wind Farms, will take over management of the nēnē at the ranch as part of their continued mitigation for the species. KWP provided a draft scope of work and MOU in February 2025 regarding the management actions they will be funding and or conducting.

Nēnē mitigation credits for KWP I continue to lag. Per the ITL, KWP I needs 60 adult nēnē credits plus any accrued lost productivity, which is currently estimated at 5.04 adult equivalents. In September 2023, DOFAW issued a proposal applying Terraform's unspent mitigation funds totaling \$215,028.26 (KWPI \$107,712 plus KWP II \$107,316) towards nēnē conservation actions for additional nēnē credit of 7.54 adult equivalents at Haleakalā and Pi'iholo Ranch for the years 2021, 2022, and 2023 in which KWP helped manage the pen. Furthermore, starting in April of 2024, KWP worked closely with DOFAW and USFWS to devise additional mitigation options for agency review and approval. In September 2024, TerraForm made a \$228,585 payment to the Hawai'i Department of Transportation to cover the nēnē management in full at Haleakalā Ranch for the years 2012-2018. This provided KWP I with an additional 13.05 credits for nēnē mitigation. KWP I is currently working on pen habitat and infrastructure improvements at the Haleakalā Ranch release pen for the FY 2025 breeding season in an attempt to increase productivity. Credits achieved through FY 2024 have been awarded and updated in a credit letter issued on December 12th, 2024. Currently KWP I has **45.68 nēnē credits**.

Hawaiian hoary bat: Baseline mitigation for 20 bats was funded in 2006 and is complete. KWP I also partially funding another Hawaiian Hoary Bat ecological research project focusing on genetic diversity in bats on Hawai'i Island which was contracted to the U.S. Geological Survey Hawaiian Hoary Bat Research Group. The funding obligation was completed in FY 2022, with research published in 2023 (<https://peerj.com/articles/14365/>).

The ESRC made the following recommendations at the **FY 2023 annual review** meeting that ***KWP I incorporated*** in the **FY 2024 actions**:

- ESRC recommends that licensee continues to work with agencies on mitigation since there is a shortage in nēnē mitigation.
- ESRC recommends that for all covered species: please start planning for the end of the permit term so there is no gap between this HCP and the amendment request.

ISSUES & CONCERNS

Nēnē:

KWP I is still behind in their mitigation credits for nēnē. Currently KWP I has **45.68 nēnē credits**. They must mitigate for the 60 credits from the ITL plus 5.04 adult lost productivity credits from delayed mitigation. Furthermore, incidental take of the species exceeding a running average of two per fiscal year, or greater than five in any one fiscal year, requires the development and implementation of adaptive management strategies approved by DLNR and USFWS and reviewed by the Endangered Species Recovery Committee in accordance with the HCP. KWP I's baseline take rate, assessed at the 80 percent UCL (less than or equal to 3.05 nēnē fatalities/year when calculated as less than or equal to 55 nēnē over 18 years of operations), has triggered the adaptive management threshold as set forth in the HCP (3 nēnē fatalities/year).

KWP's ITL expires on January 30th of 2026, and KWP is currently working to seek a new license without having a gap in take coverage. They have been working closely with DOFAW scheduling meetings and asking for comments on a draft new HCP concept document starting in Q1 of FY 2025. They brought their draft new HCP concept document before the ESRC in a presentation and discussion in September 2024. In December 2024 they shared a draft new HCP document with the agencies, and DOFAW provided comments on this draft in February 2025.

AGENCY RECOMMENDATIONS

Nēnē:

KWP will need to use best available science and investigate creative avoidance and minimization of take of nēnē at KWP I as part of the implementation of adaptive management strategies. Perhaps through the research of species informed smart curtailment measures to manage turbine speed, they can reduce risk of strikes based on the biology of the nēnē. KWP had previously brought up GPS tracking some of the nēnē on sight to monitor their activity in relation to the turbine. KWP could look at the birds that visit and or inhabit the wind farm site. DOFAW recommends continuing to gain insight into the ways in which nēnē may become at risk for collision with the turbines.

DOFAW is currently being advised by the Department of Land and Natural Resources Attorney General's office on the path for a new incidental take license for KWP I with their nēnē mitigation deficit from the current ITL that expires in January of 2026. DOFAW recommends the licensee present to DOFAW and the ESRC a new proposal of nēnē mitigation options to pursue in addition to management at Haleakalā and Pu'u o Hōkū Ranches in order to expedite the completion of the mitigation for their current ITL.

Furthermore, KWP needs to come up with appropriate mitigation projects for their new license 20-year ITL for all of the corresponding covered species. Finally, DOFAW is recommending that KWP add 'akē'akē as a covered species to the HCP/ITL because of the risk assessment based on acoustic findings in proximity to the wind farm as well as the mortality of a previous band-rumped storm petrel by another wind farm on Maui Island.

If you have any questions, please contact Habitat Conservation Planning Program Associate, Kinsley McEachern, at laurinda.k.mceachern.researcher@hawaii.gov

Respectfully submitted,

for DGS *Robert Hauff*
DAVID G. SMITH
Administrator