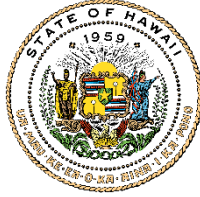


**JOSH GREEN, M.D.**  
GOVERNOR | KE KIA'ĀINA

**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**

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CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES  
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ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**ENDANGERED SPECIES RECOVERY COMMITTEE (ESRC) PUBLIC MEETING**

**DATE:** February 1<sup>st</sup>, 2024  
**TIME:** 9:00 AM HST  
**LOCATION:** DLNR – DOFAW Main Conference, Kalanimoku Building 1151  
Punchbowl St, Room #325., Honolulu, Hawai'i  
Online via Zoom; and Livestream via YouTube recorded at  
<https://www.youtube.com/watch?v=OhGmLOXLolc&t=183s>

**DRAFT MEETING MINUTES**

**MEMBERS**

Kathryn Stanaway  
Melissa Price  
Michelle Bogardus

Kawika Winter  
Karen Courtot

**STAFF**

Kate Cullison—DOFAW  
Kinsley McEachern—DOFAW  
Amanda Macias— DOFAW

Danica Swenson—AG  
Scott Fretz—DOFAW

**OTHERS**

Wendy Green—Invenergy  
George Akau—Invenergy  
Jenny Taylor—TetraTech

Jason Collins—Invenergy  
Molly Stephenson—Brookfield  
Tom Snetsinger—TetraTech

**02.01.2024 09:00/00:00:25**

**ITEM 1. CALL TO ORDER AND ANNOUNCEMENTS**

Kathryn Stanaway called the meeting to order and made the following announcements:

- Myrna Giraldo-Perez is no longer with DOFAW. Kate Cullison will be acting coordinator for the HCP program.
- Asked the ESRC members if they had recommendations for managing meetings. And to email the HCP staff separately to share their recommendations.
- The next ESRC meeting will be February 16<sup>th</sup>, 2024; topics to be determined.

**02.01.2024 09:05/00:04:48**

**ITEM 2. APPROVAL OF DRAFT SUMMARY MEETING MINUTES FROM THE FOLLOWING ESRC PUBLIC MEETINGS:**

Two-Day Meeting: February 28<sup>th</sup>, 2023 & March 1<sup>st</sup>, 2023

- Kathryn made a motion to approve.
- Melissa seconded the motion.
- Kawika voted yes.
- Karen voted yes.

March 29<sup>th</sup>, 2023

- Kathryn made a motion to approve.
- Melissa seconded the motion.
- Karen voted yes.
- Kawika voted yes.

March 31<sup>st</sup>, 2023

- Kathryn made a motion to approve.
- Kawika seconded the motion.
- Karen voted yes.
- Melissa voted yes.

May 17<sup>th</sup>, 2023

- Kathryn made a motion to approve.
- Melissa seconded the motion.
- Karen voted yes.
- Melissa voted yes.

**02.01.24 09:12/00:12:04**

**ITEM 3. STATUS OF THE AUWAHI WIND ENERGY HABITAT CONSERVATION PLAN, MAUI**

George Akau presented, on behalf of Auwahi Wind Energy, a status update on the Habitat Conservation Plan.

02.01.2024 09:33/00:33:20

### Questions and Comments from the ESRC Members

Melissa: On the website, the link to the annual report is just to the comment matrix, is this an error and do we need to get the full report?

- Amanda: Apologies, that was a mistake on staff end, and we will rectify the issue after the meeting.
- Melissa: Can the report be emailed?
- Amanda: Yes, we can do that.

Melissa: Regarding the searcher efficiency numbers, how did you arrive at the 100%?

- George: We've been at that level for the past couple of years, and the dogs have helped to bring those numbers up.

Melissa: Regarding the carcass persistence tests, those help to determine the searcher efficiency, those numbers don't match up. How do we get to searcher efficiency of 100%? How do you know you got 100%?

- Jason: the searcher efficiency is the test of the individual search teams, and the carcass retention is the scavenger removal. When we say 100% of searcher efficiency, the search teams found all the trial carcasses that were placed. There is a separate scavenger removal trial.

Melissa: Are the areas that are searched during the regular, weekly searches, the exact areas you search during the searcher efficiency and carcass retention trials?

- George: Yes, the searcher efficiency carcasses used during the trials are placed within the search areas and are the same for carcass retention trials.
- Melissa: Are those the places you search all of the time?
- George: Yes.

Kawika: How many times are the trials done?

- George: They are done quarterly.

Melissa: In the question response matrix there were goats present in the fence; can you speak to that regarding your statement that no ungulates were in the fence?

- George: I think you're getting the mitigation area confused. The Hawaiian petrel area does have goats, that is DOFAW managed. Within the area the goal is total removal of goats. The tier 1 area is ungulate free.
- Melissa: Are the assumptions being met within the area that has goats if it is not being maintained as a goat free area? And who's responsibility is it to ensure it is goat free?
- George: You're asking about the Hawaiian petrel mitigation area. We have achieved net benefit from the Service and DOFAW. The goats are not impacting it in that way. The burrows do get trampled, but chicks still fledge. From the results of the National Parks and the bordering areas that are ungulate free, petrel fledgling success does seem higher and can be contributed to it being ungulate free, mainly of these goats. DOFAW's goal was to get ungulate free, and they might have a better update on the status.

- Melissa: Does DOFAW want to speak to that?
- Scott: I am here as a resource person and was a resource person for the Tier 5 mitigation, but I can speak to the question that was just asked about Kahikinui. The host land is owned by DHHL and are not directly under DOFAW's management, but we do have a cooperative working relationship with DHHL to do ungulate control and restoration/reforestation in the area. It's been challenging to reach the goal of being ungulate free for natural reforestation. A lot of progress has been made over the past year. The fence is now closed, we did begin the ungulate removal. We have a contractor that's been removing cattle. We also did goat control and removed hundreds of goats. There's been a break in that implementation for a few months. We've reached out to DHHL to figure out why we have a break and what we can do to keep this moving. This happened a couple of weeks ago. Hopefully in the next couple of months we can get back out there and get to our goal of zero ungulates and keep the project going. The fence is closed.

Melissa: In the matrix it describes troughs under the turbines. This is typically written into mitigation plans to boost bat presence. I am curious why those are present under turbines where they might attract bats and increase take in the area. What can be done, I realize there is shared land use going on, but it seems like a potential conflict of interest going on.

- George: We have been looking at that. We are operating on a cattle ranch and we must work with the landowner. The cattle troughs were investigated. USGS even put up some detectors along water troughs and tanks during their study. It didn't show indication that the troughs were being used at a high level like the pond we constructed. For working with the ranch, we try to limit the take associated with cattle operations. We have asked the ranch to keep the cattle away from our turbines during high take bat season, the August to November time frame. Right now, they have been out of the area, and they plan to bring them down next week. We've looked at the troughs and we have proposed it as one of our minimization measures where we would try to work with the ranch and work with the cattle operations to potentially lower the risk to bats. The water troughs aren't filled when the cattle are around.
- Melissa: From a committee member standpoint, I want to note that participants can't have it both ways. It can't be that cattle troughs are implemented as a mitigation measure to boost bat presence in an area, and in another case say, "oh they aren't a problem because they aren't attracting bats." When that is said warning bells go off.
- Jason: Melissa that is a good point. We are exploring all options including having conversations with the landowner. It is difficult because we are not the direct landowner and don't have complete control over that aspect of the project. We are looking into all aspects and what can be done, including working with the landowner.
- Melissa: Even the cattle themselves, there are some people that say cattle dung increases the presence of bats. If it increases the presence of bats, we need to be cautious of putting windfarms on cattle ranches.

Kawika: I have concerns that we are deep into plan five without a plan in place, but I want to check in with the agencies, DOFAW and US Fish and Wildlife Services. Do you have any concerns that we need to discuss?

- Kinsley: Aloha Kawika, I will be bringing up concerns during the staff presentation that follows. Maybe you can ask questions then.

Kawika: I'll just focus my concerns on Tier 5. They showed a timeline of it being in review and

they are ready to implement once approved. These things are supposed to be run by ESRC. When are we going to be able to look at this? My understanding is that the ball is in the agency court. We've had conversations before that the role of the ESRC is not to rubber stamp a decision made between the agencies and the licensee. We are supposed to be involved in making sure these are realistic solutions to the problems we are facing. So when are we going to be able to see this and comment on it.

- Kinsley: We have ESRC comments from March of 2023, that I am not sure the new owners are aware of. We have incorporated these comments into our continuous comments to the licensee over the past year, but we have not seen them all be met and incorporated in the revised drafts. So, we would have to consult internally about next steps getting this to you all, but I imagine we can get this to you soon.
- Kawika: Thank you, our job is not to reiterate it is not to rubber stamp things that you all decided internally.

Kawika: We are fast approaching tier 6, so where are we at, licensee and agencies, putting a plan together for that?

- Wendy: We are aware and have started preliminary planning activities associated with Tier 6. We are fully aware of the situation, I can't say that everything is full blown, but we are considering all sorts of activities. We have started preliminary activities associated with Tier 6. We are still getting used to the project and getting to understand the history, but we are prioritizing.
- Kawika: I understand. I think you can sense our deep concern about approaching Tier 6 without a Tier 5 plan in place. I appreciate you taking this seriously.
- Wendy: Yes, we are prioritizing that. As soon as we came into control we jumped on the issue. So, your concerns are noted.

**02.01.2024 09:51/00:51:49**

Kinsley McEachern presented, on behalf of DOFAW, a staff update on the Auwahi Habitat Conservation Plan.

**02.01.2024 09:58/00:59:23**

### **Questions and Comments from the ESRC Members**

Kawika: To clarify, thank you for bringing up the concerns that we brought up a year ago. Sounds like our concerns weren't addressed in the first draft that was submitted in the later part of 2023. Have the concerns since been addressed? Or is staff still reviewing to see if they have been addressed?

- Kinsley: We are still reviewing to see if they have been addressed. We just received the most recent draft a couple of weeks ago.

Kawika: I am deeply concerned by the graph regarding the actual take vs. average permitted rate of take for the Hawaiian hoary bat. That orange line is very concerning. We are deep into Tier 5, approaching Tier 6. I am concerned that the permittee is in non-compliance with their HCP, so let's get through this and figure it out soon, please.

- Kinsley: Thank you, Kawika, for making that comment. To reiterate, Auwahi is rapidly approaching the trigger for Tier 6 planning, which is 106 bats. That is really concerning when considering it has taken this long from the trigger for Tier 5 planning, which occurred in August of 2021, and it is now February 2024. Our agency recommendation

is that they need to start planning, and we have been saying that for the past year, for Tier 6.

Kawika: I would like to say that if we get to Tier 6 without having a tier 5 plan in place that is clear non-compliance. I want that reflected in the minutes.

Karen: So, there has been no work on Tier 6 plan yet, since Tier 5 plan has not been complete?

- Jason: We have taken some steps internally towards that end.
- Wendy: We have begun Tier 6 planning, and we have been looking at all different strategies. Again, we are a new owner for the project, and it has been my understanding that we have addressed all comments to date. So, if there are outstanding questions and comments that haven't been forwarded to us, we will prioritize managing those and could schedule a call with all parties to ensure we have addressed all comments on the Tier 5 plan. Because it needs to be accepted by all parties.

Karen: Can you speak about the deterrents that are currently being used at Auwahi?

- Jason: Yes, they are the NRG deterrents, they are mounted at the nacelle. There is one controller and six emitters on the nacelle.
- Karen: There hasn't been evidence of decreased bat take since those were installed.
- Jason: Correct, we've been in conversation with NRG and GE, trying to wrap our heads around the newest science around deterrent systems. After conversations with NRG, it seems like there is a theory that potentially the deterrents are attenuating before they reach the bottom of the rotor swept zone. We are exploring the potential of adding deterrents to the bottom of the rotor swept zone. There are some technical challenges with that. To my knowledge that hasn't been tested before, it is a newer theory, but that is one of the avenues we are investigating.

Michelle: Kinsley, can you clarify that at 106 bats they trigger the planning for Tier 6, but they don't actually enter into tier 6 until later? The intention there is that planning is initiated at 106 bats with the intent that the plan would then be approved and in place prior to Tier 6 being triggered.

- Kinsley: You are correct, the trigger for planning for Tier 6 is 106 bats. The concern here is that Tier 5 mitigation plan has taken so long and that was established when the trigger was met and it is an issue that we don't have a plan in place now.
- Michelle: I want to note that as we move towards planning for Tier 6 that I do think it is incredibly important that the planning group looks at the research that has been published by USGS. That work was funded by previous mitigation and was specifically intended to help inform what additional mitigation could look like for Hawaiian hoary bats and I am very concerned and will be looking for the Tier 6 planning to take that information into account.
- Jason: Noted, thank you.

Kawika: The permittee's presentation mentioned a USGS study that found that the troughs under the turbines were not a significant attractant. Could USGS clarify that that is their opinion based on their research?

- Karen: I have to go back and check on that study. I don't have an answer to that

currently.

- Jason: Just to address that once again if it's an option with the landowner we will move those troughs. We are exploring all our options and that is high on our priority list, but we don't have control over that situation.
- Kawika: Just a creative solution, could you put bat deterrents around the troughs?
- Jason: That is a wonderful idea, I will think about that.

Kinsley: In summary of these ESRC recommendations that we included in our comments to the licensee from March 2023, as we review this new draft we will check to see if they have been added. And to reiterate the ESRC would like to see more reliance on the literature including the more recent studies. Thank you for bringing that up Michelle.

Kinsley: Regarding the recommendation for adding the band-rumped storm petrel to the ITL, as a reminder it was unauthorized take of an 'ake'ake in 2020. It is up to the licensee to add the species as a covered species to the ITL, and there won't be coverage for future take until it is added.

- Wendy: Thank you for that. We did get those mitigation options last night, I really appreciate that and thank you for sharing your information with us.
- Kinsley: Thank you, Wendy. Paul Radley, previous coordinator, had been communicating with George over the past couple of years and had provided some options on Maui, but detections didn't show close proximity to band-rumped storm petrel breeding aggregation. There were individuals that might be prospecting the area and that is why we wanted to clarify and provide more options.
- Wendy: Thank you, I'm looking over the information.

**02.01.2024 10:10/01:11:40**

### **Questions and Comments from the Public**

Corinna Pinzari: My question is about the recent fatalities at Auwahi and if they have been genetically sexed?

- George: Not genetically, we did identify one as a male, but we haven't sent them off to your lab Corinna.
- Corinna: The last bat we sexed for Auwahi was in May in 2022. We are no longer doing that. My question is will that continue and when will the results be returned? Will Bishop Museum do that or another entity? Is there going to be tracking the sex of the fatalities? I'm just curious because there could be a response change in the sex ratio because of the deterrents or other information. I am just assuming that having an accurate sex on those will help with the take estimate as well.
- Jason: We will take that into consideration for future mortality monitoring.
- Kinsley: An agency comment, we are going to go back and review the HCP because if it is a requirement of the HCP it is another concern to raise that genetic sexing hasn't been done in a year. The HCP team will check in on that.

**02.01.2024 10:13/01:14:20**

### **ESRC Members Provided the Following Additional Recommendations**

Kawika: Does Fish and Wildlife have any concerns that weren't discussed yet?

- Michelle: There are some comments on the Tier 5 mitigation plan that have previously

been provided and haven't been addressed yet. The HCP team is looking forward to the updated Tier 5 mitigation plan. They share similar concern to what the DOFAW staff has described. We will be looking forward to that for relative approval of the plan as well.

Kawika: For the permittee, do you folks have any questions on what hasn't been addressed that you would like to get clarification on?

- Wendy: the main question I have, in order to facilitate getting this Tier 5 SSMIP plan to a place where the agencies, the committee, and the permittee are satisfied with the measures and think they are realistic and doable, I'd like to ask how to best facilitate comments? I understand that comments are coming in from different locations and at different times. Would it be beneficial to identify one person to serve as lead for comments? Once the permittee thinks we have addressed all the comments, it might be beneficial to set up a meeting with the larger group. Can we set up a call to review everything?
- Michelle: Thank you for that. We understand that this is a challenging process. I want to note that you have comments from DOFAW, USFWS, and the ESRC. When I was briefed by my staff they assured me that they would be working with DOFAW staff to ensure there is a single set of agency comments to avoid any duplication and mis-messaging. You are dealing with multiple approval processes. Though you are going to get one set of comments from the agencies the plan still needs to be approved by USFWS and the ESRC, which involves DOFAW. I want you to be aware that there are multiple different approval processes in play.
- Wendy: Understood and thank you. We are happy to work out how that process is going to go. I appreciate that each agency has their own process.
- Kinsley: To add on, procedurally I just want to clarify that in order to work with the ESRC it would need to be brought to a subsequent meeting. As we compile our responses the intention would be to have this heard in a subsequent meeting really soon.

Kathryn: Are there any more ESRC discussion points or does the ESRC have any more points they want to add to the agency recommendation list?

- Kawika: I would like to add before we move onto the next discussion item, I'd like to make a motion to move into executive session, but I'll wait to do that after all discussion items are done.

**02.01.2024 10:21/[01:21:57](#)**  
**MOTION**

Kathryn: I make a motion to approve the recommendations from staff, does anyone second?

- Melissa seconded

Kathryn: Sorry we are pulling up the recommendations for the ESRC to read through the recommendation.

- Michelle: thank you Kathryn I'd like to see what we are voting on.
- Karen: While we are waiting, I want to circle back to the study from USGS for those troughs. We don't have activity data from those troughs, specifically.
- Kawika: Can the permittee please clarify what they meant when they said the USGS

study said the troughs did not show any significant attraction?

- George: We went out to put some detectors at the water tanks and open water features ranching operation type of cattle operation and water tanks. Water troughs will be found in the Tier 4 monitoring, but the USGS study did look at the water tanks. There were two different studies.
- Kawika: To clarify the water troughs that were of concern and are in close proximity to the turbines have not been studied? Is that correct?
- Karen: Not by USGS.
- George: Kawika that would be found in the Tetra Tech Early Baseline study. We had the detectors at turbines 1 and 6 early on. There were acoustic detectors that were placed in the vicinity of those water troughs. The results can be found in FY 2014 annual report.
- Kathryn: George, are you saying the water troughs are only at two turbines?
- George: The grazing operations start by going down from turbine one to the coastline. There are water troughs throughout the grazing area. The troughs closer to the pads are between turbine 1 and 2 and towards the east of turbine 6, outside the search areas.
- Kathryn: and there are other water tanks scattered throughout.
- George: Yes, water for the cattle. They only turn them on when the cattle are present. No water in the troughs when no cattle are present.

Kinsley shared her screen of DOFAW recommendations and the ESRC provided feedback for the recommendations

Melissa: Sorry did the recommendation not also include the removal of the water troughs? Or because it's an ongoing effort it does not need to be stated here?

- Kinsley: I can add that.
- Michelle: To be clear though, this is a working ranch, and we can't dictate what the landowner does. Our recommendation would be that the permittee work with the landowner to see what could be done related to the troughs whether it be removal or dewatering. This gets complicated because they don't own the land and can't dictate what the ranch does. What I would say is that we very much recommend that you work with the landowner to address the potential risk that the troughs play in attracting bats.
- Kawika: And explore creative solutions like putting bat deterrents around the troughs.
- Michelle: Agreed or moving the troughs to other areas of the land.

Melissa: It doesn't need to be written here but my broader concern was just that we need to have consistency here. Either they attract bats, are beneficial to bats and can be included as mitigation, or they don't attract bats, they don't benefit bats, and they are not a problem to have on the property.

Michelle: I would add a recommendation here for the permittee to start looking at the recent research on the Hawaiian hoary bat to help inform the preplanning effort around Tier 6 mitigation.

- Kawika: As a friendly reminder HCPs are supposed to use best available science.

Michelle: I would continue to encourage Auwahi to look at additional options for minimization as we move towards Tier 6, which is the last permitted level of take for this project. At the current rate it seems as though it is likely that they will reach the end of Tier 6 prior to the end

of the permit which would mean that Auwahi would need to amend the permit. To avoid getting there, there needs to be additional effort on minimization.

- Jason: thank you for that, we are aware of that fact, and we have started having conversations with everyone we can think of, NRG, WEST. We are working in the background for different operational avenues and looking top to bottom for extra ideas.

Kathryn: We will have Auwahi's Tier 5 mitigation plan as another agenda item so has the ESRC had a chance to review the recommendations posted from staff? Let me know when you have, and I will call a motion to vote.

Kathryn: For the fourth bullet are we recommending that Auwahi amend their ITL in addition to the HCP?

- Kinsley: Yes, I can add that in.

**02.01.2024 10:34/01:35:08**  
**MOTION**

Kathryn: I motion to approve these recommendations, is there a second?

- Kawika: Seconded
- Karen: Yes
- Melissa: Yes
- Michelle: Yes

**02.01.2024 10:35/01:36:18**  
**EXECUTIVE SESSION**

Kawika: Motion to move into executive session to address the email sent by the Deputy AG.

- Kathryn: Seconded
- Karen: Yes
- Melissa: Yes
- Michelle: Yes

**02.01.2024 10:46/01:47:18**  
**ITEM 4. STATUS OF THE KAHUKU WIND POWER HABITAT CONSERVATION PLAN, O'AHU**

Molly Stephenson presented, on behalf of Kahuku Wind Power, a status update on the Habitat Conservation Plan.

**02.01.2024 10:59/01:59:52**  
**Questions and Comments from the ESRC Members**

Melissa: I was hoping for clarification. You used the word reduced risk for barbed wire. The item that we voted on last meeting was to remove 100% of the barbed wire. It is an area being set aside for protection and we don't really have great data showing that bat lanes actually grow new bats instead of attracting them. The discussion was that we need to have is removing the known sources of mortality from the sites. Sources have identified that even the bottom barbed wire they have found dead bats on before. They do use trees to roost in so

just having a tree covering barbed wire is not enough to reduce risk. I believe the vote was taken based off 100% removal of barbed wire at the site. It's a pretty cheap fix for a pretty big benefit too.

- Molly: We are working with DOFAW O'ahu and the landowner. They do need the fences there for the cattle. Thank you for clarifying that, we will take it into consideration.
- Melissa: We understand that you've got to work with the landowner, but again it was an ESRC vote, we need to see 100% removal of barbed wire. I want to be clear about that. There is little proof of anything growing new bats, and we need to remove known sources of mortality, at a minimum.
- Michelle: What I would add to that Melissa is that if it does, after your conversations with DOFAW O'ahu and the landowner, prove to not be possible, please talk to the agencies, but it will need to come back to the ESRC.
- Molly: Absolutely, thank you Michelle.

Kawika: You talked about changing the blades and that would increase the efficacy of deterrents. Can you go into detail about that as it seems like we should all know about it.

- Molly: I'm sorry if I misspoke, it does not increase the efficacy of deterrents. It would make our turbines compatible with the deterrents. Right now, the NRG deterrents don't work with Clipper Turbines. We would switch to GE or Vestas nacelle and turbine and the SCADA system. Right now, we can't plug them into our system and NRG wouldn't be able to monitor them and make sure they work. We could switch out parts of our turbines to make them compatible with the NRG system. I only brought this up because the ESRC and DOFAW have requested deterrents on all turbines and right now we just can't do that. The technology isn't there for us to do that.
- Kawika: That is good to know. Will it be changing the size of the rotor swept area or anything we need to be aware of?  
Molly: We don't know that at this time. We will definitely keep the agencies and the ESRC apprised of that. We don't have details on the timeline right now.
- Kawika: To be reflected in the minutes any increase in rotor swept area and the highest point and lowest point in the rotor swept area would be a concern for us.
- Molly: We have had some discussions with the agencies that if the turbines size changes we will change the search plot to ensure we are searching the same amount of carcass distribution.

**02.01.2024 11:04/02:05:17**

Kinsley McEachern presented, on behalf of DOFAW, a staff update on the Kahuku Habitat Conservation Plan.

**02.01.2024 11:08/02:09:14**

### **Questions and Comments from the ESRC Members**

Kinsley: Regarding the barbed wire in the Tier 2 mitigation plan concerning removal of barbed wire we would like to take this time for the ESRC to vote/clarify the last amendment made on October 30, 2023 regarding the Helemano Plan.

- Melissa: Yes, I can provide a clarification.

Melissa: I'm making a motion to clarify the previously approved vote that the intention is for the removal of 100% of barbed wire in the Helemano Mitigation Area for the Kahuku Tier 2 mitigation plan.

Kinsley: Is that 100% of all exposed barbed wire?

- Melissa: All barbed wire. From the last meeting there were people who expressed concern about bats flying into vegetation and still getting snagged on the barbed wire. Just because a bush is covering something doesn't mean it's protected. So, 100% of all barbed wire removed.

Karen: Can I ask, I know the bat guidance document is still in the draft form. I believe it includes guidance that the mitigation area does not include threats. Is there a way to have the bat guidance document completed, to have it finalized.

- Kinsley: I am unaware if in the bat white paper if they put in about the barbed wire. I think that is a good point. If you would all like to, you can make a motion to bring the bat white paper to come to the ESRC to be heard again.
- Kawika: Was that not approved?
- Kinsley: It was just a draft, I believe that it could be a separate vote to bring it back to the ESRC, but I will leave that up to you all.
- Melissa: I don't know if we need a motion and approval for agenda items for future meetings, I think we can just ask to bring it back.
- Kinsley: You are right Melissa, my apologies.
- Melissa: So maybe if the wording on the first one is acceptable, we can go ahead, to move to vote.

**02.01.2024 11:13/02:13:50**

## **MOTION**

Kawika made a motion to vote.

Michelle: So, I agree that was the intent of the previous vote, my caveat here is if that is not possible from landowner's perspective or from DOFAW O'ahu we can't force this.

- Kawika: They have already said yes.
- Kinsley: We can let them speak; I believe Ryan Peralta from DOFAW O'ahu is on the call.
- Michelle: Is it possible to remove all the barbed wire from that portion of Helemano?
- Ryan Peralta: I'll take the question at face value, the question is, is it possible to remove all the barbed wire? My answer is yes, it is not impossible to remove it, it's flat ground.
- Michelle: Is it acceptable to DOFAW O'ahu to do so?
- Ryan: I have no objections to that. I do have concerns regarding the cattle. We don't want the cows to not be hemmed in.
- Melissa: Is electric wire helpful in that regard?
- Ryan: That's a good question. It would be better answered by Dustin the current license holder. He said it wouldn't be ideal because it's rainy and things will hit the wire. It wouldn't be the best solution in our scenario.
- Melissa: As a generic comment. It is a second time that potential conflicts that have come up with using cattle grazing areas for mitigation and wind farms, so just for the

sake of ESRC I want to make a note that it brings up issues. I know we want multi use lands, but there seems little that we can do to make up for the take of bats. This is one very clear thing, remove barbed wire. I am going to stand by my motion. I understand they got to work with the landowner and figure stuff out. If it is more of a preference, this is just the only clear way to reduce mortality for bats in mitigation areas that I've seen.

- Kathryn: Ryan are there alternatives to barbed wire that we can add to talk of the fences?
- Ryan: We've talked about hog wire, which is barbless, and four feet high. Traditionally when using hog wire with cattle I put a single strand of barbed wire on top, but I guess we don't have to put that. We would normally put a single strand of barbed wire on the bottom to prevent pigs from uprooting it, but we don't have to do that. So that would be hog wire and that would be a stretched fence. Which means you need brace pulls and all the other stuff. It's basically a barbed wire fence, but hog wire. Another option is hog panels, which is a rigid fence. The labor is cheaper, but the material is more expensive. We talked about potentially using a physical barrier to keep the cows hemmed in, so we talked about stacking logs. There are a whole bunch of albizia trees that we had to remove and are clearing for reforestation efforts. If we get a backhoe and stack those and use those as a fence. But the license holder was not enthusiastic about that. It would not be a long-lasting solution.
- Melissa: I want to remind folks that this is a very small area we are talking about. It has been a few months since we had that meeting. But it is a small area that the fence encompasses. Thinking about how much time and lawyers' fees this is, the difference in cost might not be that much compared to the time spent debating this. I understand that folks need more time to weigh all options, but our job as the ESRC is to look at the persistence of the species and how it will impact the species. I stand by the motion here, understanding that we might need to see this again after evaluating the options and not being able to stand by this exact plan. I think we need to stand by the recommendation.
- Michelle: On that note Melissa, I know you are about to head out and in the interest of time. We were in the middle of a vote, and I derailed us. I will vote aye for the fact that ESRC recommendation as written on the screen was what was intended by the previous vote.

Kinsley: Just to clarify DOFAW's interpretation from the last meeting was that it was 100% of exposed barbed wire in the Helemano mitigation area. That would be levels 1-5 of Kahuku's risk assessment corresponding to exposed barbed wire, but I just want to clarify if this would include 100% of exposed barbed wire or 100% of all barbed wire including encased barbed wire.

- Melissa: I thought I was really clear here. 100% of all barbed wire at the site.

Jenny Taylor: I did want to note that the majority of the barbed wire is encased in vegetation, I believe it is 80% encased and not exposed. Our understanding from the October 30<sup>th</sup> meeting is that the vote was on the removal of exposed areas. To remove all of it we are needing to remove vegetation creating more exposure. Which was why we were addressing portions that were of the highest risk to bats. I wanted to offer that clarification for our options, and it was our understanding from the minutes of that meeting, and rewatching that meeting, that the language that was approved was to take away the barbed wire in the exposed areas.

Thanks.

- Melissa: Thank you. I stand by my motion.
- Kawika: Second.
- Michelle: Without going back to actual meeting and reading verbatim, I agree with my personal notes and the motion as written.
- Karen: Like Michelle I'd have to go back to the minutes to remember exactly, but I think I am okay with approving the motion as it is.
- Melissa: Just noting this is a pretty small area. I am hard pressed to be convinced that this is going to grow bats, and this is the one thing I am asking for: remove barbed wire. It's a pretty cheap fix. Can we move to a vote?

Kathryn: One clarification to add in: after removal of 100% barbed wire then replace with appropriate alternative to barbed wire.

**02.01.2024 11:24/02:25:17**

### **MOTION**

Kathryn moved to vote

- Melissa: Seconded
- Kawika: Yes
- Karen: Yes
- Michelle: Yes
- Melissa: Yes

Kinsley continued presenting on behalf of DOFAW.

**02.01.2024 11:29/02:30:10**

### **Questions and Comments from the Public**

Molly: Kinsley can I just say one thing really quickly? I just want to say the modifications of the turbine blades, we don't have an exact model at this point. The 46% increase is what we discussed back in September and when that got delayed, I just want to point out that those numbers might change, and we aren't sure what the blade length would look like.

- Kinsley: To add on to that, we did consult with our attorney general regarding the replacement and the need for this to be included in a formal amendment before actually doing the replacement. I want to make this clear that we communicated that with the licensee, and our attorney general did provide feedback to Brookfield/Terraform that right now take outside of the ITL would be unauthorized. Any take out of the scope of the project with the original blades would be unauthorized take.

**02.01.2024 11:31/02:31:44**

### **Questions and Comments from the ESRC**

Melissa: I just wanted to comment the one concern I had. Corinna had presented on the genetics state last time, showing a really low number of bats on O'ahu and I want to comment that the increase in take really begs the need for approvable mitigation that actually makes up for these numbers. I just want to go on record for that.

Molly: Kinsley, you presented on genetic results that we haven't seen yet; did you have genetic results on the first two fatalities?

- Karen: I was going to ask how the bats were sexed.
- Molly: All four carcasses were transferred to the Bishop Museum to my knowledge, but we have not seen any of those results yet.
- Kinsley: I have to go back to our records and check, I thought that we received notification that those were female in either an annual report or quarterly report, but I can go back and confirm.
- Molly: I will note that all four of the fatalities occurred outside of the breeding season, so none of them were breeding individuals.
- Kawika: Can someone remind me if there is a different calculation for males and females in incidental take?
- Molly: There is for the indirect take that occurs depending on when the time period occurs. Between April 15 and September 15, indirect take is calculated differently for females.
- Kawika: Okay, thank you.

Kinsley: I am going to share my screen for the recommendations. Circling back to the bat white paper, Karen, is this a formal recommendation to bring it back to the ESRC for review?

- Michelle: The bat white paper is not related to this project, it might be an ESRC action, but I don't think we can put it as a recommendation to Kahuku.
- Kinsley: Noted, we can add it to general recommendations.

Michelle: I want to note here that FWS has separately provided a recommendation to go ahead and pursue a Habitat Conservation Plan under Section 10 of Federal Authorities. As Molly noted earlier in the presentation Kahuku is currently operating under a Biological Opinion of the Fish and Wildlife Service which is coming to a close and for that reason we have recommended that they pursue the development of an HCP and that would coincide with a future action to amend the HCP and ITL on the State side.

Kinsley: Are there any other ESRC recommendations for the licensee Kahuku? Okay, thank you Kathryn.

**02.01.2024 11:36/[02:37:00](#)  
MOTION**

Kathryn: I motion to vote to approve the recommendation to Kahuku Wind Facility.

- Kawika: Seconded
- Michelle: Yes
- Karen: Yes
- Kawika: Yes
- Melissa: Yes

**02.01.2024 11:37/[02:37:57](#)  
LUNCH BREAK**

**02.01.2024 12:15/[03:12:03](#)  
ITEM 5. STATUS OF THE KAHEAWA WIND POWER I HABITAT CONSERVATION PLAN,  
O'AHU**

Molly Stephenson presented, on behalf of Kaheawa I Wind Power, a status update on the Habitat Conservation Plan.

**02.01.2024 12:30/03:27:05**

**Questions and Comments from the ESRC Members**

Michelle: I just wanted to say Molly thank you for your presentation.

Kinsley McEachern presented, on behalf of DOFAW, a staff update on the Habitat Conservation Plan.

- **State of predator proof fence (02.01.2024 12:40/03:37:45)**

**02.01.2024 12:46/03:42:06**

**Questions and Comments from the ESRC Members**

Melissa: Regarding how it was originally built it doesn't look like the fences I'm used to seeing like at James Campbell. It looks like a plywood fence. I was wondering if it was built to spec to begin with or if it was an early iteration. Definitely the disrepair is not what we expect to see for a functioning fence.

- Michelle: This fence predated some of the other fences and was made with a different model. It is not the same as some of the other fences we have in the ground. There were significant maintenance issues from the start. It needed to be replaced or almost entirely replaced within a year or two after construction and was an ongoing maintenance challenge from that point forward. Part of it was the site and part of it was the construction. I would ask the permittee to jump in on additional information on it.
- Molly: Obviously this predates my time here, but this project was permitted in 2006, and I believe the fence was built shortly thereafter. It is old. We did have annual maintenance of it done. We had photos of it that did not look like this. During the years we were monitoring the fence we didn't have any documented mongoose in the fence or any documented shearwater fatalities in the fence. My understanding is that we committed to maintaining the fence through the 2022 breeding season and DOFAW would take over in 2023. In 2022 our report from the contractor there stated that the fence had been prepped for the installation of new mesh, but we stopped our management actions in December, and I am unclear what actions occurred after December when we relinquished control, and March when the DOFAW Maui site visit occurred.
- Karen: Was there an inspection of the fence in December 2022 or near that time?
- Molly: We did not inspect the fence, no, our reporting would have just been what we received from the management.
- Karen: When was the last time the fence was inspected?
- Molly: I believe they were doing monthly inspections of the fence and doing maintenance as they needed to, but again this predates my time. I don't know if Jenny can speak more to it, but I believe they were visiting either monthly or every two weeks.
- Karen: Did predator control continue through that time as well?
- Molly: I believe so, through December 2022.

Karen: It's clear that the deterioration clearly happened over a period of time. It seems that there would have been evidence of deterioration for quite a while to reach its current state.

- Molly: Yeah, it seems like there was a plan to replace the mesh. That would have occurred after we were no longer managing the site.
- Michelle: I want to note that because it has been a challenging fence from the beginning. Ultimately it is up DOFAW. We always expect a predator proof fence to need to be repaired, maintained and occasionally replaced. That is a given. This fence has had an unusually high set of challenges with maintenance and repair, in relation to other predator proof fences we have on the island. I am not a predator proof fence specialist, but I think that long term if this fence in any way is intended to be kept and maintained it may need a structural shift in order to be successful. Not just new mesh.

Karen: Are there still decoys and other social attraction things in this area that would still be luring birds in? It looks like there are nesting tubes, so are we still bringing birds into this area? It seems like we should be in a situation in which we are not doing more harm at this point. I am wondering if we are still doing social attraction here.

- Kinsley: DOFAW Maui is still doing predator control at the site because there have been birds drawn to this area, through social attraction, and nesting season will be coming up in the fall. As you know these birds have site fidelity, so the colony that has been established there will come back. DOFAW Maui is doing predator control to help protect, but I'm not sure about the social attraction. I will have to check in on that.

Melissa: One comment I wanted to make, I understand, Molly, it sounds like there was a transition. There are all kinds of transitions that can happen with new owners and things like that. The contractor not keeping up with maintenance, we don't want to get into the boat of you folks need a contractor, or you weren't able to go out and check it. DOFAW Maui was unable to check it. It transitioned without verification that it was good repair upon transition. I think that responsibility does lay with the permit holder to ensure it is in good repair when it is handed over. It sounds like no one was able to verify that, so I guess I don't want that to get lost in the shuffle of conversation.

- Molly: I can circle back to that and see what we have from December of 2022. Again I will reiterate that through the breeding season of 2022 we did not have any mongoose in the fence and no shearwater fatalities and that is how we confirmed that the fence was in a good state.
- Karen: Was there even monitoring happening?
- Melissa: Yes, that's my question. This level of repair states that that level of monitoring wasn't happening to be able to make that claim.
- Molly: I might have Jenny speak up here. We got an annual report that they were visiting the site, I think it was every two weeks, and that was submitted in our annual report to DOFAW, on an annual basis.
- Jenny Taylor: Just a couple of clarifications, the regular visits to the site in 2022 were I believe every other month, and sometimes that frequency was a little higher. With each visit, part of the work that was to be done was fence line inspections. So, we understood from the contractor, and the contractor was contracted to do fence repair. So, the condition of the fence from the time that Brookfield was managing it, our understanding was there were issues that Michelle identified, because of the fence that it was. The contractor was working on the most problematic areas. During Covid there were some materials that were challenging to get, and from our understanding

that was worked through. I think that one of the things that we believe happened in these photos, there was a storm after Brookfield's intended handoff to DOFAW in that time. Some of the damage that the photos captured was from the storm. To answer your original question there was fence repair and inspection as part of management of the site.

Kawika: I'm a little bit confused about a transfer. Was that articulated in the HCP? I don't remember.

- Molly: My understanding was that it was discussed for a couple of years when we were hitting our baseline mitigation.
- Jenny: As far as language in the HCP, Kawika, I have to go back and look at that specifically. We had been talking about this and naming it with DOFAW for the last two breeding seasons that Brookfield would be ready to hand it off once mitigation credit was achieved. There was communication around that in several different formats in the annual report and annual meeting minutes and discussions through meetings.
- Tom Snetsinger: This is for the KWP I project which this mitigation plan was developed and presented as part of the KWP II HCP. So, it wasn't fully developed as a program until that HCP. So, there wasn't really a prescribed exit strategy for this. There was a recognition that this was a long-term site and we had been engaging with DOFAW for the last few years to ensure that this mitigation site did continue to be protected and carry its functioning as a seabird breeding area.
- Kawika: That is helpful. If I am understanding this correctly the permittee believed they would have met the criteria and in their minds were ready to hand over the responsibility. Is DOFAW not agreeing that they met the criteria?
- Kinsley: Thank you, Kawika. I wanted to circle back before I answer. This was a previous question you asked regarding the transition. I don't believe there was anything specific about the transition in the HCP. DOFAW received an email in February of 2023 regarding completion, this is from Brookfield, that they respectfully hand over responsibilities, but there was no formal letter given back in return. So shortly after that we managed a site visit to the site, and that is when we encountered the non-functioning fence. That is when we emailed Brookfield in April of 2023 notifying them about the conditions of the fence and we sent photos as well. We entered into further discussions with the licensee.
- Kawika: Thank you, second question. So, this is obviously bad for the birds, it doesn't seem like we are achieving net benefit. One question was if this was in the HCP, the second question was if DOFAW agrees that the criteria have been met, because it seems like it is not a net benefit.
- Kinsley: As I mentioned earlier, DOFAW did issue a credit letter that credit letter took into account a proposal and data that proposed the long-term production of newells shearwater to establish a colony. That speaks to long-term protection. At the time we were transitioning we found the site with a non-functioning predator proof fence and that would not allow for a colony to grow and produce the anticipated proposed numbers that the licensee proposed to us that we responded to in our credit letter.
- Kawika: It sounds like there is disagreement. The permittee thinks they achieved something and DOFAW doesn't think they've achieved it. So, what do you need from the ESRC on this?
- Kinsley: We want to ensure that a full review of the Newell's shearwater's mitigation credit for Brookfield as well as the predator proof fence issue does return to the

committee for a focused agenda item and a full discussion.

- Kawika: I would make that motion.
- Karen: So, the ESRC would be responding to DOFAW's recommendations for how to address that if this came back as a focused item?
- Kathryn: I want to add that as a DOFAW representation, at the time we were in discussion with transfer of the fence, we were in discussions of transfer because we had the assumption the fence was maintained, and we did not know the state it was in at the time. We were only able to determine that at the March site visit.
- Michelle: I was hesitating on speaking up on this one because it is a little different on Fish and Wildlife's side than it is on DOFAW's side. I want to make sure the committee knows we did look at the language of the HCP. On the FWS side, while the condition of the fence is regrettable and not great, we are concerned about the site becoming a sink and we are concerned about the state of the birds, it is not a compliance issue, it is an issue of what needs to happen next. So, I have shared this with the DOFAW team, they have additional ownership because they are the site owner. FWS is deferring to DOFAW to when it comes to the long-term management.
- Kawika: Michelle, I want to clarify, how is it possible that this is not a compliance issue?
- Michelle: They had met their success criteria as defined by the production of individuals and that is how their success criteria is defined under the HCP. We issued a letter letting them know they met the success criteria under the FWS permit.
- Kawika: I thought I heard the opposite from DOFAW, so does that mean they met FWS and not DOFAW's?
- Michelle: Again, DOFAW has additional responsibilities for the site as the landowner and that is why we are deferring to DOFAW on that piece.
- Kawika: Okay, got it.
- Karen: I think DOFAW though, my understanding is that they were getting credits for long term production. Beyond the chicks produced in 2020, was that part of FWS crediting for long-term production?
- Michelle: The way it is again, when talking about compliance, there certainly is from a biological perspective what we want to see happen, but the success criteria was determined by the production of fledgling chicks.
- Kawika: So, Michelle, does the success criteria not include an intact fence? I am just wondering if they produce numbers, but the fence is broken, was it really the right call for FWS to say they met something if there is a broken fence?
- Michelle: That is a good question, and it is certainly something that I am thinking pretty hard about for future fences that we would have as part of future mitigation sites. Because I do want to see for those projects that the actual condition of the fence is a success criterion, and that for the handoff at the end of a mitigation project that there are standards for what that site might look like prior to and during a handoff.
- Kawika: So, a functioning fence is not a criterion from FWS perspective?
- Michelle: It is not written in the HCP that way Kawika. So it is one those things of yes we would love to see a fully functional fence. And fence maintenance is a requirement of the HCP, but it was not part of the success criteria on the FWS side to determine if they had met their mitigation obligations for NESH.
- Kawika: Got it. So, can DOFAW clarify whether or not a functioning fence is one of the success criteria?
- Kinsley: Sorry Kawika, was that directed to DOFAW?

- Kawika: Yes, so, Michelle just said that the federal success criteria has been met, but there were perhaps additional ones because the State is the landowner and so I am wondering if one of the State's success criteria was a functioning fence?
- Kinsley: Yes, so, I looked back at USFWS letter, and it did say 115 potentially breeding birds, so I think it would be best to go back to our letters. I could be wrong in this interpretation, but I think it could be aligned with DOFAW's interpretation of projecting the birds with a couple of fledglings documented. But regarding the language in the HCP, the success criteria in our credit letter we said we look forward to continuing working the mitigation transition process. In the HCP it establishes that they need to do management and monitoring of the fence. I am not sure if is explicitly written as a success criterion. But there is in the HCP language, regarding ongoing maintenance and management of the fence. But I am not sure about it being a success criterion.

**02.01.2024 13:07/04:07:27**

## **MOTION**

Kathryn: I'd like to make a motion for the ESRC to do a full review of the management of Makamaka'ole seabird fence

- Kawika: Seconded
- Michelle: I will say nay because I think it should be DOFAW as a land manager/staff overview. I don't see this as a compliance issue for the ESRC.
- Kawika: I thought Fish and Wildlife member is an Ex Aficio-member and doesn't vote, is that not correct?
- Michelle: On this issue?
- Kawika: I thought Fish and Wildlife is an Ex Aficio to this state.
- Michelle: I do regularly vote on behalf of Fish and Wildlife Services. If Danica as the AG has a different interpretation to that I'd be happy to chat about it offline
- Danica: This is Danica Swenson Deputy Attorney General right now on the face of statue for ESRC I don't see anything about U.S. Fish and Wildlife being Ex Aficio, but I will look into it and get back to you guys.
- Kawika; Thank you.

Kate: I want to say that in the absence of a vote we can still say that DOFAW would like to seek the ESRC's counsel on this issue because in the credit determination that was proposed by the licensee there was an assumption of the seabirds being protected on the site. So the credit was not based on fledglings but was based on "adult survival" which we now know is not supported at the site. So the projections of future fledglings and colony growth at the site were misrepresented. I think we can bring that to the ESRC to ask for biological advice on what level of credit is appropriate.

- Michelle: That is something I would vote yes to because then it is a DOFAW ask of the ESRC to do that review from a biological standpoint.
- Kate: Okay, then we will plan on bringing this back to the ESRC for a full review of the history of the site and the birds that have settled there, the fledglings produced, and the future potential of the colony given that condition of the fence at the end of

Brookfield's stated management.

- Michelle: Understood, and that makes sense.
- Molly: Kate, can I ask one clarifying question for myself?
- Kate: I can try.
- Molly: Just to clarify so your understanding is that the crediting from DOFAW was for future survival beyond the year of 2022?
- Kate: In the letters that I was shown there was a projection forward of benefit based on the birds that had settled there and breeding potential.
- Molly: Thank you.

Kathryn: are there any other comments on this issue? Okay, any public comments on this project? Okay, seeing none, lets move on to the ESRC recommendations. Does the ESRC have any recommendations?

**02.01.2024 13:12/04:12:36**

**ESRC Members Provided the Following Additional Recommendations**

Kawika: Other than fix the fence? No. I think the fence needs to be fixed by whoever oversees it, if it's going to be a successful mitigation site. And another round of predator control until there is 100% eradication.

Michelle: I have a couple of comments for nēnē that would be good to add to. Please continue to work with agencies to address mitigation needs for nēnē since I think there currently is a gap between where we are on nēnē mitigation versus where they need to be. I know that, that conversation is ongoing, but that is an important one and I would like to see that come to a close sooner rather than later, so they know what to do for the end of their permit. And then, for this one, because I know that it is closing towards the end of its currently permitted lifespan, to start thinking about what the next 20-year phase look is like, if it is going to be a 20-year phase, and what does it look like? And start thinking about how to roll over this HCP through an extension and renewal. I think on the FWS it would be a major amendment to extend it and that would need to include what the projection of the project looks like in terms of lifespan and take and associated mitigation. I believe that it is already a conversation, but again I would say that this conversation should happen expeditiously, to avoid a gap. That is in everyone's best interest.

**02.01.2024 13:19/04:19:10**

**MOTION**

Kathryn: I motion to vote to approve the recommendation to KWP I

- Kawika: Seconded
- Michelle: Yes
- Karen: Yes
- Melissa: Yes
- Kawika: Yes
- Kathryn: Yes

**02.01.2024 13:28/04:19:29**

**Break: Five-minute break**

**02.01.2024 13:32/04:25:31**

**ITEM 6. STATUS OF THE KAHEAWA WIND POWER II HABITAT CONSERVATION PLAN, O'AHU**

Molly Stephenson presented, on behalf of Kaheawa II Wind Power, a status update on the Habitat Conservation Plan.

**02.01.2024 13:39/04:34:41**

**Questions and Comments from the ESRC Members**

Michelle: None at this time from me, thank you.

Kinsley McEachern presented, on behalf of DOFAW, a staff update on the Habitat Conservation Plan.

**Questions and Comments from the Public**

No questions or comments from the public.

**02.01.2024 13:43/04:38:29**

**Questions and Comments from the ESRC Members**

Karen: Have specific measures been proposed for the adaptive management of nēnē?

- Kinsley: Thank you, Karen, regarding avoidance and minimization I know that there are concerns for hazing due to the proximity to the turbines. There are concerns of hazing the nēnē into the turbines. There is ongoing vegetative management, and we encourage continued vegetation management to reduce the potential of the site to be used by nēnē for nesting because nēnē do continue to utilize the site for nesting. The agency presented to the licensee of making more suitable habitat elsewhere. There was a former nēnē pen above KWP I and II and the proximity in relation to the turbines. In terms of making the site less suitable for nesting was our other recommendation to the licensee.

Michelle: I mentioned this to the DOFAW team and my team, but I would like to see DOFAW Maui's thoughts, particularly John's thoughts, on whether there are any additional measures that could be taken to reduce risk to nēnē in the area through other landscape management or other means. I know that he probably has other things in his head that we probably don't have in ours, and I am interested if he would have anything else to recommend.

- Kinsley: Thank you, Michelle, I am putting it as a recommendation.

Karen: I assume that DOFAW's and FWS positions are the same for this one regarding whether mitigation credits have been met for Newell's?

- Michelle: Yes.
- Kinsley: As for DOFAW, the Newell's shearwater credits were being allocated to KWP I and II. The concerns brought up for KWP I are similar to KWP II.

**02.01.2024 13:50/04:42:41**

**MOTION**

Kathryn: I motion to vote to approve the recommendation to KWP II.

- Kawika: Seconded
- Michelle: Yes
- Karen: Yes
- Melissa: Yes
- Kathryn: Yes

**02.01.2024 13:51/04:42:51**

**ITEM 7. STATUS OF THE NĀ PUA MAKANI WIND ENERGY PROJECT HABITAT CONSERVATION PLAN, O'AHU**

Tom Snetsinger of Tetra Tech, presented on behalf of Nā Pua Makani Wind Energy Project, a Status Update on the Habitat Conservation Plan.

**02.01.2024 14:17/05:08:11**

**Questions and Comments from the ESRC Members**

Kawika: I have a question. Relating to the search area, I know you said there were a lot of discussions. Did that have an impact on the calculations at all?

- Tom: So the less area that you search it essentially increases the estimate of take in response to that. So if you search half of the area where the fatalities are to occur, that increases the estimate associated. The uncertainty of that, the burden falls on the permittee because we are estimating the take at the 80% upper credible limit. That uncertainty around that is the burden falls on the permittee in terms of amplifying the take estimate more than if they were able to search all of it.
- Kawika: Thank you.

Karen: Regarding the slide that shows the activity at the turbines, you highlighted that turbine 6 is where the bat fatality occurred. Are deterrents on that turbine where the highest activity is at and the bat fatality was found? The deterrents are going for the entire period for this figure?

- Tom: Yes. The deterrents were placed before commercial operations, so there was a little bit of testing prior to the installation but functionally have been operational for the entirety of the period. I would note that these acoustic monitors are ground based, this is not looking at activity at the nacelle. You can't have deterrents and monitors working in tandem at the same time because of the interference.
- Karen: Thank you.

Amanda Macias presented, on behalf of DOFAW, a staff update on the Nā Pua Makani Habitat Conservation Plan.

**Questions and Comments from the Public**

No questions or comments.

**02.01.2024 14:24/05:15:17**

**Questions and Comments from the ESRC Members**

Michelle: I thought the recommendations from staff were good, I agree with those.

Tom: Regarding the recommendation for the PCMM, from our perspective the PCMM plan really is a tying up of that implementation plan that was approved in the HCP. I think we have worked diligently with the agencies to meet the goal which was to really search all the areas that can be practicably searched and provide a continuous feedback loop. From my perspective I am happy to come forward with an informational presentation. I am concerned that coming to the ESRC with a voting item will have a request to expand the search areas in ways that aren't practicable. So, trying to avoid a continuation of the back and forth with what we can really achieve.

- Kawika: Does DOFAW staff have anything they need perspective on in that regard?
- Amanda: This is one of the plans that we are hoping to get a better understanding overall for evidence of absence and the factors that impact it, but that would be an additional/separate topic from what the Nā Pua Makani recommendations would be and our concerns for them.
- Michelle: So, if the question is a modeling one about whether the PCMM is sufficient from a modeling and statistical preference I would be deferential to Mari Reeves. From a modeling component I don't know if the ESRC would be able to add anything. If you get feedback that the PCMM is not sufficient for whatever reason, then that is something that the ESRC might want to weigh in on. However, if from a staff and modeling perspective, the PCMM is appropriate and accurate, the question would be what is the ask of the ESRC under the circumstances.
- Kathryn: If we are going to be asked to review the Evidence of Absence modeling, can I request that we please have a workshop on that?

**02.01.2024 14:37/05:28:06**

**MOTION**

Kathryn: I motion to approve the ESRC recommendation for Nā Pua Makani Wind Facility.

Kawika: Second

Michelle: Yes

Kawika: Yes

Karen: Yes

Kathryn: Yes

**02.01.2024 14:38/05:29:21**

**ITEM 8. STATUS OF THE KAWAIOLOA WIND ENERGY PROJECT HABITAT CONSERVATION PLAN**

Tiffany Agostini of Tetra Tech, presented on behalf of Kawaihoa Wind Energy Project, a Status Update on the Habitat Conservation Plan.

**02.01.2024 15:08/06:01:30**

**Questions and Comments from the ESRC Members**

Kawika: How do you quantify the success of the predator control at Uko'a?

- Tiffany: Have you seen the annual report? There are figures in it that are useful.
- Jacob: We have tracking tunnels, we see rats, mice and mongoose. We look at the percent of tunnels that have activity. There has been a drop since predator management has commenced. We do not have a predator fence at this site. The actual control is done by a separate company that uses Goodnature A-24's and DOC 250's [rodents] and coral and box traps [pigs].
- Kawika: Ok, thank you.

Karen: Can I ask you questions on the rho value change? From what I am seeing the argument for the update is requested due to data showing that the risks to bats are reduced which is attributed to the deterrents and shown by lower carcass recoveries? Is there any testing of the effectiveness of the deterrence on bat activity?

- Tom: There was preliminary work, thermal imaging work, to test the initial concept before the deterrents were added. What we are using to measure the effectiveness now is the evidence of absence, and we have seen a significant reduction in take from pre to post deterrent. And we see continued activity at the site based on acoustic monitoring at the ground level.
- Tiffany: Increased activity is only seen in certain years. Go ahead Jacob.
- Jacob: Like other sites we are seeing a significant increase in the trend of bat activity at the wind farm.
- Karen: When you guys presented for Nā Pua Makani, there was a turbine that had deterrents but had mortalities and had a higher rate of activity. How do you reconcile these differences? It sounded like Nā Pua Makani was funding a study to look at the effectiveness of these deterrents.
- Tom: I would say that we are seeing a measurable reduction in risk at Kawailoa. The fact that we had deterrents on four turbines at the start at Nā Pua Makani it's challenging to have a realistic expectation that we will be able to measure effectiveness there because we have a very low fatality rate in comparison to what Kawailoa did pre deterrent. We do recognize that deterrents are not avoidance measures, so Kawailoa had a couple of observation of fatalities in FY 2022, Nā Pua Makani had a fatality observed in FY 2022 as well. They are not perfect, but at Kawailoa we are highlighting the drop off in mortalities post deterrent.
- Karen: It doesn't show there is direct evidence that deterrents have changed the mortalities. There is no actual data to prove there is reduction. We have to accept this is as an assumption.
- Tom: Yes
- Tiffany: The searching did not change either, just to point that out. Other parameters did not change. Bat activity did not change.
- Tom: Ultimately, I do not think we need to prove that connection to change in fatality rate. We have just seen a significant change in this rate, and that is how we are being assessed for take. EOA is showing we are assessing this incorrectly. We need to reconsider the risk assessment.
- Michelle: Hey Tom, I do not know enough about this, so I am going to connect with Mari. I cannot comment on this today.
- Karen: Thank you for your explanation on how you got these values...This has implications across all projects.
- Tiffany: So this would be assessed on an annual basis.

- Tom: We have developed a methodology, that we think is appropriate, for inputting into Evidence of Absence and adjusting rho based on the fact that we have seen that significant difference in fatality rates pre and post deterrent. We would implement this procedure on an annual basis and adjust take assessments based on that.

Kathryn: Do you have any published literature on the effect of deterrents?

- Tom: There are similar studies on the mainland. I need to review the literature to see if there is a connection between avoidance and deterrence. There is evidence from Hawaii island on a mac nut farm showing that there is avoidance. This has not been done on the windfarm level. This is the most robust information documenting that reduction of risk likely associated with installation of deterrents.
- Karen: There is not a direct carry over from other species to O'peape'a. This has to be applied with caution.
- Tom: There is published work from USGS showing that there is a connection.
- Karen: Yes, there is a study.
- Tiffany: It is not our intention to make this a precedent for all projects.

**02.01.2024 15:34/06:17:42**

**Questions and Comments from the Public:**

Kathryn noted that public comment will be made before the DOFAW presentation.

Corina: I wanted to put it out there, every time there has been talk to deterrence, no one thinks of the local population size or mentions some of the work being conducted on genetic effective population size. When I see a table showing removal of bats, you are removing a lot of bats from a breeding population in a local area year after year. The elephant in the room is that there might not be as many bats there, so there are potentially no fatalities for that reason. So that makes me question the effectiveness of the deterrents. There have been a large number of fatalities in the short amount of time that have impacted the local population. This has not been addressed in any reports or in the bigger picture.

- Michelle: Are you referring to the fact that there are a lot less bats out there because they have already been taken?
- Corina: Yes
- Michelle: Ok. Activity monitoring is a rough metric to use, but are we seeing a decline in activity in these sites too?
- Tiffany: We are not seeing declines in activity rates at the wind farm, where there is monitoring, or at nearby Uko'a wetland where there is monitoring.
- Michelle: Corina is there anything else we should be looking for besides activity rates that indicate a reduction in take is not associated with just take, but a reduction in numbers?
- Corina: It would be great to look at this, but I am not sure how to do it.
- Michelle: The West study helps with annual variability. It does not help with what the population is doing long term?
- Corina: The West study is a good thing to look at. It would be good for O'ahu projects to compare what they are finding annually and then to the West study.
- Michelle: Thank you.

Kawika: Staff used to start with cumulative take compared to island population. It would be

good to do this again.

Michelle: Tiffany, do you need anything from us? I know that the determination for request to reduce take, but what do you need from the ESRC or agencies on that topic?

- Tiffany: Thank you for the help. We have talked with DOFAW and other staff, folks with boots on the ground, if there are any options. There is a problem that stems from federal funding and who is credited, and it is a small wetland. If there are other options, please let us know. If there is an alternative site that makes more sense please let me know.
- Kawika: He 'ia has waterbirds. There is partial federal funding.
- Tiffany: We need a site with coots. If they are not there, they will have to be brought in. If they are brought in there is concern about if there will be reproduction.
- Michelle: Just because there is Federal funding, doesn't mean that mitigation cannot happen there. It just needs to be delineated, and it requires more work. We need to tease out the benefits, and as long as that can happen it can work, and it has worked before in Hawai'i.

**02/01/2024 15:44/06:26:49**

Amanda Macias presented, on behalf of DOFAW, a staff update on the Kawaioloa Habitat Conservation Plan.

**02.01.2024 15:46/06:28:43**

**Questions and Comments from the ESRC**

Amanda: Does the ESRC have anything else to add?

- Kawika: None for me.

Kathryn: Did we receive an official request for the rho value change?

Tiffany: Official requests have been made to DOFAW and USFWS, it is our understanding that DOFAW wants to consult with the ESRC.

**02.01.2024 15:41/06:31:43**

**MOTION**

Kathryn: I motion to approve the ESRC recommendations for Kawaioloa Wind Facility.

- Kawika: Second
- Kawika: Yes
- Karen: Yes
- Michelle: Yes
- Kathryn: Yes
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Kathryn: We will take a five-minute bathroom break.

**02.01.2024 15:45/06:38:09**

**ITEM 9. STATUS UPDATE FOR HAWAI'I ISLAND WIND HABITAT CONSERVATION**

## PLANS IN PROCESS

Amanda Macias presented on behalf of DOFAW, a staff update for Hawai'i Island Wind HCPs.

**02.01.2024 15:50/06:43:45**

### **Questions or Recommendations from the ESRC**

Kawika: I have a question. Are staff's recommendations adhering to the Bat Guidance document?

- Amanda: Since we have not received drafts in recent years, we hope that our recommendations are in line with the document.
- Kawika: I thought we finalized that thing years ago?
- Amanda: No, we only have drafts and we hope to bring it to the ESRC for review. Yes, we are adhering to the document per the drafts we have seen.

Michelle: In general, I would like to see these projects move forward expeditiously in getting into compliance as quickly as possible and submitting updated drafts. This is the guidance we have given them. Additionally, the ESRC should recommend that the agencies send letters to the PUC to not issue Power Purchase Agreements without approved HCPs and ITLs in place.

- Kawika: Can we put a rush on sending letters to the PUC, like ASAP?

Kathryn: These are general recommendations for future meetings and things for agency staff to follow up on and are therefore not voting items.

Michelle: For any projects coming up on a new Tier there is a lot of new research coming out that was funded by bat mitigation monies. The purpose of these studies was to provide new information that should be taken into account when developing mitigation projects, amendments, and HCPs in development.

**02.01.2024 16:01/06:55:10**

### **ITEM 10. ADJOURNMENT**

Kawika: Can I make a motion to adjourn.

- Michelle: Second
- Kathryn: All in favor.
- Michelle: Yes
- Kathryn: Yes
- Kawika: Yes