

management actions necessary to compensate for the impacts of incidental take of the Covered Species and to provide a net environmental benefit. The goals and objectives of the compensatory mitigation program would be based on specific recovery goals for each listed species. The KSHCP compensatory program would likely include weed, ungulate, and predator removal designed to benefit the Covered Species and other listed flora and fauna. Part of the analysis in the KSHCP will be to evaluate the potential effects of covered activities to rare plants, including but not limited to *Acaena exigua*, *Adenophorus periens*, *Alsinidendron lychnoides*, *Cyanea recta*, *Cyrtandra cyaneoides*, *Delissea rivularis*, *Exocarpus luteolus*, *Myrsine linearifolia*, *Nothocestrum peltatum*, *Plantago princeps* var. *anomala*, *Plantago princeps* var. *longibracteata*, *Platanthera holochila*, *Poa sandvicensis*, *Poa siphonoglossa*, *Remya montgomeryi*, *Schiedea membranacea*, *Solanum sandwicense*, and *Xylosma crenatum*. A "Plant Protection Plan" should be included in the KSHCP to ensure protection of all listed plants during seabird mitigation actions. The KSHCP compensatory mitigation program is also expected to support long-term conservation partnerships with land owners and existing efforts by non-profit organizations that provide long-term benefits to listed seabirds, plants, watersheds, and other non-listed plants and animals of Kauai.

Fees for each applicant/participant would be proportionate to the level of incidental take authorized as well as the type of impact: lights or utility lines. Fees submitted under the KSHCP would be used to fund HCP administration, monitoring, compensatory mitigation, and the SOS Program.

As currently envisioned, administration and management related to implementation of the KSHCP would be the responsibility of the DLNR or their designee, with appropriate oversight by the Service. An annual review of actions implemented under the KSHCP would be conducted by the Endangered Species Recovery Committee (ESRC). Based on that review the ESRC may forward recommendations for modifying KSHCP-related actions to the Board of Land and Natural Resources.

#### Environmental Impact Statement

NEPA (42 U.S.C. 4321 *et seq.*) requires that Federal agencies conduct an environmental analysis of their proposed actions to determine if the actions may significantly affect the human environment. Under NEPA, our

action would be the proposed issuance of ITPs based on the KSHCP. The Service and the DLNR are proposing to prepare a joint Federal/State EIS to evaluate the effects of the proposed KSHCP and proposed issuance of Federal and State ITPs on the human environment. The DLNR's preparation of the draft KSHCP and related EIS is based on conditions of an ESA Section 6 HCP Planning and Coordination grant awarded to the DLNR in 2009. The joint Federal/State EIS will be prepared in compliance with NEPA and Hawaii Revised Statutes (HRS) Chapter 343. Although DLNR will have the lead for preparing the EIS the Service will be responsible for the scope and content of the document for NEPA purposes, and the DLNR will be responsible for the scope and content of the document for the purposes of satisfying requirements of HRS Chapter 343.

The EIS will consider the proposed action, (the issuance of Section 10(a)(1)(B) permits under the ESA), no action (*i.e.*, no permit issuance), a reasonable range of other alternatives, and the associated impacts of each alternative. A detailed description of the proposed action and other alternatives (including no action) will be included in the EIS. The range of alternatives developed may vary by the level of impacts caused by the proposed activities, their specific locations, and the conservation measures involved. Potential alternatives may include various methods of minimizing take through modifications of existing power lines, structures, and lights; placing power line segments underground; implementing design standards for new facilities; variations in the scope of covered activities; variations in the location, amount and type of conservation including developing and implementing various approaches for improving seabird survival and breeding success; variations in permit duration; or a combination of these elements. We will consider other reasonable alternatives recommended during this scoping process in order to develop a full range of alternatives.

The EIS will analyze direct, indirect, and cumulative impacts on the ecosystem and other aspects of the human environment including, but not limited to, biological resources, land use, air quality, water quality, mineral resources, water resources, recreation, cultural and archeological resources, visual resources, socioeconomics, and other issues that could occur with implementation of the proposed action and alternatives. For all potentially significant impacts, the EIS will identify avoidance, minimization, and

mitigation measures to reduce those impacts, where feasible, to a level below significance.

Review of the EIS will be conducted in accordance with the requirements of NEPA (42 U.S.C. 4321), the Council on Environmental Quality regulations (40 CFR 1500–1508), the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), other applicable regulations, and the Service's procedures for compliance with those regulations. This notice is being furnished in accordance with 40 CFR 1501.7 to obtain suggestions and information from other agencies and the public on the scope of issues and alternatives to be addressed in the EIS. The primary purpose of the scoping process is to identify important issues and alternatives related to the proposed action.

We request comments, suggestions, and data from all interested parties to ensure that a reasonable range of alternatives is presented and that all potentially significant issues are identified in the EIS. We will fully consider all comments received during the comment period. Comments and materials we receive will become part of the public record and will be available for public inspection, by appointment, during regular business hours. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: October 15, 2010.

**Richard Hannan**,  
Deputy Regional Director.

[FR Doc. 2010–28272 Filed 11–8–10; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS–R1–ES–2010–N219; 10120–1112–0000–F2]

#### Endangered and Threatened Wildlife and Plants; Permit; Construction and Operation of Kaheawa II Wind Energy Generation Facility, Maui, HI; Draft Habitat Conservation Plan and Draft Environmental Assessment

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), have received an application from Kaheawa Wind Power II, LLC (KWP II) (Applicant) for an incidental take permit (permit) under the Endangered Species Act of 1973, as amended (ESA). The Applicant is requesting an incidental take permit under the ESA to authorize take of three Federally endangered and one threatened bird species. The permit application includes a draft Habitat Conservation Plan (HCP) and a draft Implementing Agreement (IA). We also announce the availability of a draft Environmental Assessment (EA) that has been prepared in response to the permit application in accordance with requirements of the National Environmental Policy Act (NEPA). We are making the permit application package and draft EA available for public review and comment.

**DATES:** All comments from interested parties must be received on or before December 9, 2010.

**ADDRESSES:** Please address written comments to Loyal Mehrhoff, Project Leader, Pacific Islands Fish and Wildlife Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, Room #3-122, Honolulu, HI 96850. You may also send comments by facsimile to (808) 792-9580.

**FOR FURTHER INFORMATION CONTACT:** James Kwon, Fish and Wildlife Biologist, U.S. Fish and Wildlife Service (see **ADDRESSES** above), telephone (808) 792-9400.

**SUPPLEMENTARY INFORMATION:** The Applicant is requesting an incidental take permit under the ESA to authorize take of the Federally endangered Hawaiian petrel (*Pterodroma sandwichensis*), endangered Hawaiian goose (nēnē) (*Branta sandvicensis*), endangered Hawaiian hoary bat (*Lasiurus cinereus semotus*), and the threatened Newell's (Townsend's) shearwater (*Puffinus auricularis newelli*) (collectively these four species are hereafter referred to as the "Covered Species"). The permit application includes a draft Habitat Conservation Plan (HCP) that describes the Applicant's actions and the measures the Applicant will implement to minimize, mitigate, and monitor incidental take of the Covered Species, and a draft Implementing Agreement (IA).

#### Availability of Documents

You may request copies of the permit application, which includes the draft

HCP, IA, and EA, by contacting the Service's Pacific Islands Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** above). These documents are also available electronically for review on the U.S. Fish and Wildlife Service Pacific Islands Fish and Wildlife Office Web site at <http://www.fws.gov/pacificislands>. Comments and materials we receive, as well as supporting documentation we use in preparing the NEPA document, will become part of the public record and will be available for public inspection by appointment, during regular business hours. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

We specifically request comments from the public on whether the application meets the statutory and regulatory requirements for issuing a permit, and identification of any aspects of the human environment that should be analyzed in the draft EA. We are also soliciting comments on the: adequacy of the HCP to minimize, mitigate, and monitor the proposed incidental take of the Covered Species; adequacy of the funding being provided to implement the proposed mitigation program and changed circumstances; adequacy of the adaptive management program; and certainty that mitigation will occur. Please evaluate against the permit issuance criteria found in section 10(a) of the ESA, 16 U.S.C.1539(a), and 50 CFR 13.21, 17.22, and 17.32. In compliance with section 10(c) of the ESA (16 U.S.C 1539(c)), we are making the permit application package available for public review and comment for 30 days (see **DATES** section above).

#### Background

Section 9 of the ESA (16 U.S.C. 1538) and Federal regulations prohibit the take of fish and wildlife species listed as endangered or threatened. The term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct (Id.). However, under section 10(a) of the ESA (16 U.S.C.1539(a)), we may issue permits to authorize incidental take of listed fish and wildlife species. Incidental take is defined as take that is incidental to, and not the purpose of, carrying out an

otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species are found at 50 CFR 17.32 and 17.22. If issued, the permittee would receive assurances under the Service's "No Surprises" regulations at 50 CFR 17.32(b)(5) and 50 CFR 17.22(b)(5).

KWP II is a fully owned subsidiary of the Boston-based wind energy company, First Wind, and would supply wind-generated electricity to the Maui Electric Company. KWP II has developed a draft HCP that addresses the incidental take of the four Covered Species caused by the construction and operation of the KWP II wind energy facility over a period of 20 years.

The proposed project is located southeast of the existing 30-megawatt (MW), 21-turbine Kaheawa Wind Power I (KWP I) project. Like KWP II, KWP I is owned by First Wind and is operating under an existing HCP that addresses incidental take of the same four covered species. At KWP I, the Hawaiian petrel, Hawaiian goose, and Hawaiian hoary bat are known to have collided with wind turbine structures.

The Hawaiian petrel and Newell's shearwater breed on Maui and feed in the open ocean. Both covered seabird species spend a large part of the year at sea. Adults generally return to their colonial nesting grounds in the interior mountains of Maui beginning in March and April, and depart beginning in September. Fledglings (*i.e.*, young birds learning how to fly) travel from the nesting colony to the sea in the fall. Both adults and fledglings are known to collide with tall buildings, towers, powerlines, and other structures while flying at night between their nesting colonies and at-sea foraging areas. The nēnē is resident on site and is known to nest in areas adjacent to the proposed wind energy facility. The Hawaii hoary bat has been observed on site by acoustic monitoring; however, no evidence of roosts has been detected.

#### Proposed Plan

The activities proposed to be covered by the permit include the construction and operation of a new 21-megawatt, 14-turbine wind energy generation facility at Kaheawa Pastures above Maalaea, in the southwestern portion of the Island of Maui, Hawai'i. The proposed facility will consist of 14 General Electric wind turbine generators (WTGs), a maintenance building (and renovations to the existing Operations and Maintenance building), an electrical substation, a battery energy storage system, an underground electrical collection system carrying electrical power from individual WTGs to the

electrical substation, an overhead transmission line to connect the substation to the Maui Electric Company Ltd. transmission line, a permanent unguyed meteorological monitoring tower, and short service roads to connect the new WTGs and other facilities to the existing main access road servicing KWP I. The overall project is located within a combined footprint area of approximately 143 acres (58 hectares). The Applicant has also applied for a State of Hawai'i incidental take license under Hawai'i State law. The draft HCP describes the impacts of take associated with those activities on the Covered Species, and proposes a program to minimize and mitigate take on each of the Covered Species.

KWP II is proposing mitigation measures that include: (1) Active management such as predator removal and construction of cat- and mongoose-proof fences at Hawaiian petrel and Newell's shearwater colonies; (2) captive propagation and release of nēnē goslings; (3) habitat management and predator control to increase nēnē breeding success and survival; (4) surveys to document the distribution and abundance of the Hawaiian hoary bat; and (5) habitat management and reforestation to benefit the recovery of the Hawaiian hoary bat. This HCP incorporates adaptive management provisions to allow for modifications to the mitigation and monitoring measures as knowledge is gained during implementation.

We invite comments and suggestions from all interested parties and request that comments be as specific as possible. In particular, we request information and comments regarding the following issues:

(1) The direct, indirect, and cumulative effects that implementation of any reasonable alternatives could have on endangered and threatened species;

(2) Other reasonable alternatives consistent with the purpose of the proposed HCP as described above, and their associated effects;

(3) Measures that would minimize and mitigate potentially adverse effects of the proposed action;

(4) Adaptive management or monitoring provisions that may be incorporated into the alternatives, and their benefits to listed species;

(5) Other plans or projects that might be relevant to this action;

(6) The proposed term of the Incidental Take Permit and whether the proposed conservation program would minimize and mitigate to the maximum extent practicable the incidental take that

would be expected to occur over 20 years; and

(7) Whether the HCP meets other ESA sec. 10(a)(2)(B) (16 U.S.C. (a)(2)(B)), issuance criteria; and

(8) Any other information pertinent to evaluating the effects of the proposed action on the human environment.

The draft EA considers the direct, indirect, and cumulative effects of the proposed action of permit issuance, including the measures that will be implemented to minimize and mitigate such impacts. The EA contains an analysis of three alternatives: (1) Issuance of an incidental take permit to KWP II on the basis of the proposed HCP with the downroad siting location; (2) the issuance of a permit based on the downwind/downstring siting location; and (3) No Action (no permit issuance and no measures by the Applicant to reduce or eliminate the take of Covered Species).

This notice is provided under section 10(c) (16 U.S.C. 1539(c)) of the ESA and NEPA regulations (40 CFR 1506.6). The public process for the proposed Federal action will be completed after the public comment period, at which time we will evaluate the permit application, the HCP and associated documents (including the EA), and comments submitted thereon to determine whether or not the proposed action meets the requirements of section 10(a) (16 U.S.C. 1539(a)) of the ESA and has been adequately evaluated under NEPA.

Dated: October 20, 2010.

**Richard Hannan,**

*Deputy Regional Director.*

[FR Doc. 2010-28197 Filed 11-8-10; 8:45 am]

**BILLING CODE 4310-55-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Indian Gaming

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of Approved Tribal-State Class III Gaming Amendment.

**SUMMARY:** This notice publishes approval of the Amendments to the Class III Gaming Compact (Amendment) between the State of Oregon and the Siletz Indians of Oregon.

**DATES:** *Effective Date:* November 9, 2010.

**FOR FURTHER INFORMATION CONTACT:**

Paula L. Hart, Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240; telephone (202) 219-4066.

**SUPPLEMENTARY INFORMATION:** Under section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA) Public Law 100-497, 25 U.S.C. 2710, the Secretary of the Interior shall publish in the **Federal Register** notice of approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. This Amendment allows for multi-player games on video lottery terminals (VLTs).

Dated: November 1, 2010.

**Larry Echo Hawk,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 2010-28267 Filed 11-8-10; 8:45 am]

**BILLING CODE 4310-4N-P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

[Account No. 3086-SYM]

#### National Capital Memorial Advisory Commission

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice of public meeting.

**SUMMARY:** Notice is hereby given that the National Capital Memorial Advisory Commission (the Commission) plans to meet and discuss currently authorized and proposed memorials in the District of Columbia and its environs.

**DATE:** Wednesday, November 17, 2010.

**ADDRESSES:** National Building Museum, Room 312, 401 F Street, NW., Washington, DC 20001.

**FOR FURTHER INFORMATION CONTACT:** Ms. Nancy Young, Secretary to the Commission, by telephone at (202) 619-7097, by e-mail at

[nancy\\_young@nps.gov](mailto:nancy_young@nps.gov), by telefax at (202) 619-7420, or by mail at the National Capital Memorial Advisory Commission, 1100 Ohio Drive, SW., Room 220, Washington, DC 20242.

**SUPPLEMENTARY INFORMATION:** In addition to discussing general matters and conducting routine business, the Commission will consider one action item: H.R. 3886, a bill to establish a memorial to Benjamin Banneker in the District of Columbia. There will also be two non-action items before the Commission:

(1) Design consultation—Dwight D. Eisenhower Memorial, and

(2) Status report—John Adams Memorial.

The meeting will be open to the public. Persons who wish to file a written statement or testify at the meeting or who want further information concerning the meeting may contact Ms. Nancy Young, Secretary to the