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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2016–N185; FXES11120100000–167–FF01E00000]

Final Habitat Conservation Plan and Supplemental Final Environmental Impact Statement; Na Pua Makani Wind Energy Project, Oahu, Hawaii

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; notice of permit application; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), received an incidental take permit application from Na Pua Makani Power Partners, LLC, pursuant to the Endangered Species Act of 1973, as amended (ESA). The requested permit would authorize the take of one threatened and six endangered species caused by covered activities associated with a wind energy generation project on the island of Oahu, Hawaii. The permit application included the proposed Na Pua Makani Wind Energy Project Habitat Conservation Plan (HCP), which described the activities that may result in the incidental taking of listed species, and the measures the applicant will take to minimize,

mitigate, and monitor for adverse impacts to the covered species. The applicant modified the proposed action in the HCP in response to public comments and the modified HCP is available for public review pursuant to this notice. The Service also announces the availability of a Supplemental Final Environmental Impact Statement (SEIS) addressing the modified proposed action in accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA). If issued, the ITP would authorize incidental take of the covered species that may occur as a result of the construction and operation of the Na Pua Makani Wind Energy Project (Project) over a 21-year period. We are making the permit application package, including the modified HCP and SEIS, available for public review and comment.

DATES: To ensure consideration, written comments must be received from interested parties no later than **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

The Service's decision on issuance of an ITP will occur no sooner than 30 days after the publication of the U.S. Environmental Protection Agency's notice of the SEIS in the **Federal Register** and will be documented in a Record of Decision (ROD). (For information about the EPA notice, see **The Environmental Protection Agency's Role in the EIS Process** under **SUPPLEMENTARY INFORMATION**.)

ADDRESSES: To request further information or submit written comments, please use one of the following methods, and note that your information request or comments are in reference to the Na Pua Makani Wind Energy Project HCP.

- *Internet:* Documents may be viewed and downloaded on the Internet at <http://www.fws.gov/pacificislands/>
- *Email:* NaPuaMakanihcp@fws.gov
- *U.S. Mail:* You may obtain a compact disk with electronic copies of these documents by writing to Mary Abrams, Field Supervisor; U.S. Fish and Wildlife Service; Pacific Islands Fish and Wildlife Office; 300 Ala Moana Boulevard, Room 3-122; Honolulu, HI 96850.
- *Telephone:* Call 808–792–9400 during regular business hours.

FOR FURTHER INFORMATION CONTACT: Ms. Jodi Charrier or Mr. Aaron Nadig, U.S. Fish and Wildlife Service (see **ADDRESSES**); by telephone 808–792–9400; or by email at NaPuaMakanihcp@fws.gov. If you use a telecommunications device for the deaf, please call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: The Na Pua Makani Power Partners, LLC (applicant) a subsidiary of Champlin Hawaii Wind Holdings, LLC, is requesting an ITP for a 21-year permit term to authorize take of the threatened Newell’s shearwater (*Puffinus newelli*), and the endangered Hawaiian stilt (*Himantopus mexicanus knudseni*), Hawaiian coot (*Fulica americana alai*), Hawaiian moorhen, (*Gallinula chloropus sandvicensis*), Hawaiian duck (*Anas wyvilliana*), Hawaiian goose (*Branta sandvicensis*), and Hawaiian hoary bat (*Lasiurus cinereus semotus*) that may occur as a result of the construction and operation of the project. Based on a public comment, the applicant modified its HCP to reduce the maximum number of wind turbines that could be built

from ten to nine. The modified HCP also provides for an increase in the maximum size of those turbines to maintain the same generating capacity. The Service is providing an opportunity for the public to review and comment on this modified HCP. The Service has also prepared the SEIS and is providing an additional opportunity for public review and comment on the modified proposed action option (the refined Project design with fewer but larger wind turbines).

Background

The applicant proposes to construct and operate the wind energy generation project on approximately 707 acres of public and private lands near the town of Kahuku on the island of Oahu, Hawaii. The proposed project, as modified, would have a generating capacity of up to approximately 25 megawatts (MW) and would supply wind-generated electricity to the Hawaii Electric Company. The project would consist of up to nine wind turbine generators (WTG), one permanent un-guyed lattice-frame meteorological tower, up to 4.9 miles of new and existing access roads, an operations and maintenance facility, electrical collection and interconnection infrastructure, an electrical substation, and a temporary laydown area. The applicant is considering a variety of WTG models, each ranging from 427 feet to 656 feet in height, and having up to 3.3 MW of generating capacity. The applicant would select the most appropriate WTG models prior to construction. The SEIS analyzes whether there would be any different impacts to the covered species and other environmental resources from the modified proposed action.

To offset anticipated take associated with construction and operation of the project over a period of 21 years, the applicant is proposing mitigation measures on Oahu that include: (1) funding research to support effective management of Newell's shearwaters; (2) fencing and predator control to conserve the Hawaiian goose at James Campbell National Wildlife Refuge; (3) a combination of bat research and native forest restoration and management to increase Hawaiian hoary bat habitat; (4) acoustic surveys to document occupancy of the affected area by the Hawaiian hoary bat; and (5) fencing and public outreach at Hamakua Marsh to benefit conservation of the Hawaiian stilt, Hawaiian coot, Hawaiian moorhen, and Hawaiian duck.

National Environmental Policy Act Compliance

The development of the HCP and the proposed issuance of an ITP under this plan are Federal actions that trigger the need for compliance with NEPA (42 U.S.C. 4321 *et seq.*). The DEIS included three alternatives: no-action (alternative 1), proposed action (alternative 2), and a larger wind energy generation project alternative (alternative 3). The option of fewer but larger turbines was not considered in the DEIS. In response to a comment suggesting consideration of an alternative with fewer turbines, we included a modified proposed action in the FEIS as alternative 2a.

Under the no-action alternative, the proposed project would not be constructed, the proposed HCP would not be implemented, and no ITP would be issued. The proposed action alternative is construction and operation of the project, consisting of between 8 and 10 wind turbines, implementation of the HCP, and issuance of the ITP. In response to public comments on the draft EIS related to visual impacts and consideration

of fewer turbines with larger generating capacities, a modified proposed action option with a reduced maximum number of turbines consisting of only nine turbines with larger generating capacities and taller dimensions was added to the final EIS. The modified proposed action option also includes implementation of the HCP and issuance of the ITP. The larger wind energy generation project alternative would include the construction and operation of a larger generation facility of up to 42 MW. This alternative would consist of up to 12 WTGs, each with a generating capacity of up to 3.3 MW, implementation of an HCP, and issuance of the ITP.

In accordance with NEPA (40 CFR §1502.14(e)), the Service has identified the proposed action (alternative 2) including the modified proposed action option (alternative 2a) as the preferred alternative. Under NEPA, the “agency’s preferred alternative” is a preliminary indication of the Federal responsible official’s preference of action, which is chosen from among the alternatives analyzed in an EIS. It is the alternative which the agency believes would fulfill its statutory mission and responsibilities, giving consideration to economic, environmental, technical and other factors (43 CFR 46.420(d)). The preferred alternative is not a final agency decision; rather, it is an indication of the agency’s preference. The final agency decision is presented in the Record of Decision.

Based on input from the public, the Service has concluded that providing an additional opportunity for public review of the modified HCP and SEIS would further the purposes of the ESA and NEPA. The SEIS provides the public with an opportunity to review and comment on the effects of the Modified Proposed Action Alternative (the

refined project design with fewer but larger wind turbines). Clarification on the following topics is also included in the SEIS:

- The effect of the modified proposed action option on estimates of incidental take of threatened and endangered species (see SEIS Section 4.11 – Threatened and Endangered Species);
- Traffic and associated impacts along the Kahuku Agricultural Park Interior Roadway, accessing the DLNR portion of the wind farm site (see SEIS Section 4.17 – Traffic); and
- Best available science regarding wind turbines and public health (see SEIS Section 4.18 – Public Health and Safety).

The Environmental Protection Agency’s Role in the EIS Process

The Environmental Protection Agency (EPA) is charged under section 309 of the Clean Air Act to review all Federal agencies’ EISs and to comment on the adequacy and the acceptability of the environmental impacts of proposed actions described in the EISs.

EPA also serves as the repository (EIS database) for EISs prepared by Federal agencies and provides notice of their availability in the **Federal Register**. The EIS database provides information about EISs prepared by Federal agencies, as well as EPA’s comments concerning the EISs. All EISs are filed with EPA, which publishes a notice of availability on Fridays in the **Federal Register**.

For more information, see <http://www.epa.gov/compliance/nepa/eisdata.html>.

You may search for EPA comments on EISs, along with the EISs themselves, at <https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search>.

Public Involvement

The draft EIS began as a joint document between the Service and The State of Hawaii's Department of Land and Natural Resources (DLNR). Due to differences in procedural requirements, the environmental process diverged after the draft EIS was published and the project incorporated the modified proposed action alternative.

In May of 2013, the applicant began holding community meetings, small focus group meetings with stakeholders, and individual meetings with community leaders and legislators to discuss the proposed project and engage the public in the project's planning and design.

On November 5, 2013, the Service published a notice of intent (NOI) to prepare a draft EIS in the **Federal Register** (78 FR 66377). The NOI also announced a public scoping period (November 5 to December 5, 2013), during which we invited interested parties to provide written comments related to the proposal. A public scoping meeting was held in Kahuku, Hawaii, on November 13, 2013, in accordance with NEPA (40 CFR 1501.7).

Utilizing public scoping comments, we prepared a draft EIS to analyze the effects of project alternatives on the human environment. The Service published a notice of availability (NOA) of the draft EIS in the **Federal Register** on June 12, 2015 (80 FR 33535), opening a 60-day public comment period. The Service also posted the **Federal Register** NOA, Notice of Public Scoping Meeting, draft HCP, draft EIS, and a news release on their website at <http://www.fws.gov/pacificislands/>. A public open-house meeting was held on June 23, 2015, in Kahuku, Hawaii, to solicit additional input from

the public on the draft EIS and draft HCP. A total of 90 comment letters and emails were received from the public. The official comment period ended on August 11, 2015. The NOA of the final EIS and final HCP was published in the **Federal Register** by the Service on July 12, 2016 (81 FR 45174-45176), initiating a 30-day waiting period.

The State of Hawaii's environmental impact statement preparation notice (EISPN) was distributed to interested parties for review between December 23, 2013, and January 23, 2014, and again between November 8 and December 8, 2014 (republished to reflect the addition of a second access into the project site). During the initial public scoping period for the EISPN, three public scoping meetings were held at Kahuku Community Center: on November 13, 2013, January 10, 2014, and November 19, 2014. In addition to the public meetings, a media advisory was sent out prior to each meeting. DLNR hosted a public hearing at the Kahuku Community Center on June 4, 2015. The draft EIS was published in the State of Hawaii Office of Environmental Quality Control's *The Environmental Notice* on June 8, 2015, in accordance with requirements set forth under the Hawaii Environmental Policy Act (HRS § 343-3). Public comments were accepted during the 45-day State public comment period. On April 23, 2016, DLNR published a second draft EIS with an additional 45-day State public comment period to address the modified proposed action option. The Board of Land and Natural Resources published acceptance of the final EIS in *The Environmental Notice* on August 8, 2016, which initiated a 60-day legal challenge period that ended on October 8, 2016.

Next Steps

We will evaluate the permit application, associated documents, and public comments in reaching a final decision on whether the application meets the requirements of section 10(a) of the ESA (16 U.S.C. 1531 *et seq.*). We will evaluate whether the proposed permit action would comply with section 7 of the ESA by conducting an intra-Service section 7 consultation on the proposed permit action. We will use the results of this consultation, in combination with the above findings, in our final analysis to determine whether or not to issue an incidental take permit. If the requirements are met, we will issue the permit to the applicant. We will issue a Record of Decision and issue or deny the permit no sooner than 30 days after publication of the U.S. Environmental Protection Agency's notice of availability of the SEIS.

Authority

We provide this notice in accordance with the requirements of section 10(c) of the ESA and its implementing regulations (50 CFR 17.22 and 17.32), and NEPA and its implementing regulations (40 CFR 1506.6).

**Theresa Rabot,
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Pacific Region, U.S. Fish and Wildlife Service,
Portland, Oregon.**

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