BILLING CODE 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2017–N123; FXES11140100000–178–FF01E00000]

Notice of Availability of a Draft Habitat Conservation Plan and Draft Environmental Assessment for the Lalamilo Wind Farm Repowering Project, Island of Hawaii, Hawaii

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 the Lalamilo Wind Company, LLC (applicant), for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA). The applicant is requesting an ITP to authorize take of the endangered Hawaiian hoary bat and the endangered Hawaiian petrel. If issued, the ITP would authorize incidental take of these two species that may occur as a result of the operation of the Lalamilo Wind Farm Repowering Project (project). The ITP application includes a draft habitat conservation plan (HCP) describing the actions and the measures the applicant will implement to avoid, minimize, mitigate, and monitor incidental take of the two species. The Service also announces the availability of a draft environmental assessment (EA) that has been prepared in response to the ITP application in accordance with the requirements of the National Environmental Policy Act (NEPA). We are making the ITP application, including the draft HCP and the draft EA, available for public review and comment.

DATES: To ensure consideration, please send your written comments by **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

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 Lalamilo Wind Farm HCP, draft EA, and the proposed issuance of the ITP:

- *Internet:* Documents may be viewed on the internet at http://www.fws.gov/pacificislands/.
- *Email:* lalamilohcp_ea@fws.gov. Include "Draft Lalamilo HCP and EA" in the subject line of the message.
- *U.S. Mail:* Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office, 300 Ala Moana Boulevard, Room 3-122, Honolulu, HI 96850.
- *Fax:* 808–792–9581, Attn: Field Supervisor. Include "Draft Lalamilo HCP and EA" in the subject line of the message.
- *In-Person Drop-off, Viewing, or Pickup:* Comments and materials received will be available for public inspection, by appointment, during normal business hours at the Pacific Islands Fish and Wildlife Office (address above). Written comments can be dropped off during regular business hours on or before the closing date of the public comment period (see **DATES**).

FOR FURTHER INFORMATION CONTACT: Michelle Bogardus (Maui Nui and Hawaii Geographic Team Manager), U.S. Fish and Wildlife Service by mail at the address in **ADDRESSES**; by telephone at 808–792–9400; or by email at

lalamilohcp_ea@fws.gov. If you use a telecommunications device for the deaf, please call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: The Service has received an ITP application from the Lalamilo Wind Company, LLC in accordance with the requirements of the ESA (16 U.S.C. 1531 et seq.). The applicant is requesting an ITP to authorize take of the endangered Hawaiian hoary bat (*Lasiurus cinereus semotus*) and the endangered Hawaiian Petrel (*Pterodroma sandwichensis*). Collectively, these two species are hereafter referred to as the covered species. If issued, the ITP would authorize incidental take of the covered species that may occur as a result of the operation of the project. The ITP application includes a draft HCP describing the actions and the measures the applicant will implement to avoid, minimize, mitigate, and monitor incidental take of the covered species. The Service also announces the availability of a draft EA that has been prepared in response to the ITP application in accordance with requirements of NEPA. We are making the ITP application, including the draft HCP and the draft EA, available for public review and comment.

Background

Section 9 of the ESA prohibits the take of fish and wildlife species listed as endangered or threatened under section 4 of the ESA. Under the ESA, 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 (16 U.S.C. 1532(19)). The term "harm," as defined in our regulations, includes significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3).

However, under specified circumstances, the Service may issue permits that authorize take of federally listed species, provided the take is incidental to, but not the purpose of, an otherwise lawful activity. Regulations governing permits for endangered and threatened species are at 50 CFR 17.22 and 17.32, respectively. Section 10(a)(1)(B) of the ESA contains provisions for issuing such incidental take permits to non-Federal entities for the take of endangered and threatened species, provided the following criteria are met:

(1) The taking will be incidental;

(2) The applicant will prepare a conservation plan that, to the maximum extent practicable, identifies the steps the applicant will take to minimize and mitigate the impact of such taking;

(3) The applicant will ensure that adequate funding for the plan will be provided;

(4) The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and

(5) The applicant will carry out any other measures that the Service may require as being necessary or appropriate for the purposes of the plan.

Proposed Action

The applicant proposes to operate the project to provide electricity to eight existing water wells in the Lalamilo-Parker well system, which is located near the town of Kamuela, South Kohala District, Island of Hawaii, Hawaii. The Lalamilo Wind Farm was originally constructed in the mid-1980s with 120 wind turbines, with an installed generating capacity of 2.7 megawatts (MW). It was decommissioned in 2010 in anticipation of repowering the site. In 2013, the County of Hawaii Department of Water

Supply (DWS) awarded the applicant a contract to design, build, and operate the wind farm and associated facilities for the project. Construction was completed in 2016, and the applicant is currently curtailing the wind turbine generators so that only two turbines are operational at a time. The wind farm is located on approximately 126 acres of State-owned land leased by the DWS from the State of Hawaii's Department of Land and Natural Resources (DLNR) in South Kohala. The project area is zoned "agriculture" and is surrounded on all sides by agricultural pastoral lands principally used for cattle (*Bos taurus*) grazing. The topography of the project area consists of a relatively flat plateau falling off to the west and north. Elevations range from 1,401 feet to 1,145 feet above mean sea level, with an average slope of 5 percent. Several small, dry gulches occur around the west and north portions of the project site.

The project consists of five Vestas 660-kilowatt V47 wind turbines with a combined generating capacity of up to approximately 3.3 MW and an updated monitoring and control system to optimize the operations of the water well pumping system. Power is provided to Parker Wells 1 through 4 and Lalamilo Wells A through D. The maximum blade tip height of the five turbines is 198.5 feet above ground level. Associated infrastructure includes a 197-foot-tall meteorological guyed tower, two 88-foot-tall free-standing lattice radio towers, 1.3 miles of roads to access the turbines, an electrical collection system, an operations and maintenance building, a new 1.3-mile-long, 13-kilovolt overhead electrical transmission line adjacent to the existing road, and updated switchgear and electrical interconnection equipment.

The project is located on the island of Hawaii, where Hawaiian hoary bats are known to collide with wind turbine structures at the existing Pakini Nui 21-MW wind

energy facility. The Hawaiian petrel and the Hawaiian hoary bat are also known to collide with wind turbine structures at the existing 30-MW Kaheawa Wind Power, the 21-MW Kaheawa Wind Power II, and the 21-MW Auwahi wind energy facilities on Maui. Acoustic monitoring indicates that the Hawaii hoary bat flies in the area occupied by the project's wind turbines. Hawaiian petrels may transgress over the project and may be affected by the applicant's activities associated with operation and maintenance of the project.

The applicant has developed a draft HCP that addresses the incidental take of the two covered species that may occur as a result of the operation of the project over a period of 20 years. The draft HCP includes proposed measures the applicant will implement to avoid, minimize, mitigate, and monitor incidental take of the covered species. It is expected that only up to three of the five turbines will be in operation at any one time. All turbines blades will be curtailed (not rotating or rotating extremely slowly) from sunset to dusk, until wind speeds of 5.5 meters per second (m/s) are sustained for 10 minutes, at which time the blades with be pitched into the wind and begin rotating to generate power when needed for the water pumps. The applicant has also applied for a State of Hawaii incidental take license under Hawaii State law.

To offset anticipated take impacts, the applicant is proposing mitigation measures on the island of Hawaii that include: (1) A combination of native forest restoration and management in the Kahuku section of Hawaii Volcanoes National Park to increase and improve Hawaiian hoary bat habitat; (2) acoustic surveys to document the occupancy of the Hawaiian hoary bat; and (3) funding of fence maintenance and predator control to protect the Hawaiian petrel in a vulnerable area of Hawaii Volcanoes National Park. The

HCP incorporates adaptive management provisions to allow for modifications to the mitigation and monitoring measures as knowledge is gained during implementation of the HCP.

The Service proposes to approve the HCP and to issue an ITP with a term of 20 years to the applicant for incidental take of the covered species caused by activities associated with the operation of the project, if permit issuance criteria are met.

National Environmental Policy Act Compliance

The development of the draft HCP and the proposed issuance of an ITP under this plan is a Federal action that triggers the need for compliance with NEPA (42 U.S.C. 4321 et seq.). We have prepared a draft EA to analyze the environmental impacts of four alternatives related to the issuance of the ITP and implementation of the conservation program under the proposed HCP. The four alternatives include a no-action alternative, the proposed action, a no curtailment alternative, and an increased cut-in speed alternative.

Under the no-action alternative, the Service would not authorize incidental take of the covered species. All facility turbines would be non-operational from sunset to sunrise—i.e., completely curtailed at night. This alternative would result in complete loss of renewable electricity production from approximately one hour before dusk to one hour after dawn. This alternative would reduce the risk of take of the two covered species. Incidental take of the covered species could occur during daytime operations, though the risk is negligible. Under this alternative the applicant would not have the regulatory assurance to avoid a potential violation of the ESA.

The proposed action alternative is operation of the project, implementation of the HCP, and issuance of the ITP, as proposed. Under this alternative, all facility turbines would be non-operational (curtailed) from sunset to sunrise until winds of 5.5 m/s were sustained for 10 minutes, at which time the turbine blades would be pitched into the wind and begin rotating to generate power. It is expected that no more than three turbines would be operating simultaneously. The applicant would provide compensatory mitigation to offset the impacts of the taking on the covered species.

Under the no curtailment alternative, the applicant would not implement curtailment from sunset to sunrise. This alternative would produce the most renewable energy. This alternative would result in an increase in the time during which the turbine blades would be rotational, particularly at lower wind speeds, and would present a greater risk of collision-related mortality to the covered species. The applicant would provide compensatory mitigation to offset the higher take of the covered species.

Under the increased cut-in speed alternative, all facility turbines would be non-operational from sunset to sunrise until winds of 6.5 m/s were sustained for 10 minutes, at which time the turbine blades would be pitched into the wind and begin rotating to generate power. This alternative would produce less renewable energy than the proposed alternative. There is no certainty that incidental take of covered species would be reduced with the higher cut-in speed. The applicant would provide compensatory mitigation to offset the impacts of the taking on the covered species.

Public Comments

You may submit your comments and materials by one of the methods listed in the **ADDRESSES** section. We specifically request information, views, and opinions from

the public on our proposed Federal action, including identification of any other aspects of the human environment not already identified in the draft EA pursuant to NEPA regulations in the Code of Federal Regulations (CFR) at 40 CFR 1506.6. Further, we specifically solicit information regarding the adequacy of the HCP for the project pursuant to the requirements for ITPs at 50 CFR parts 13 and 17.

Public Availability of Comments

All comments and materials we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personally identifiable information in your comments, you should be aware that your entire comment—including your personally identifiable information—may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety. Comments and materials we receive, as well as supporting documentation we use in preparing the EA, will be available for public inspection by appointment, during normal business hours, at our Pacific Islands Field Office (see **ADDRESSES**).

Next Steps

We will evaluate the ITP 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.). The HCP and EA may change in response to public comments. After completion of the EA, we will determine whether the proposed

action warrants a finding of no significant impact or whether an environmental impact statement should be prepared. We will also evaluate whether the proposed ITP action would comply with the requirements of section 7 of the ESA by conducting a formal consultation on the proposed ITP 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 ITP. If the requirements are met, we will issue the ITP to the applicant. We will not make our final decision until after the end of the 45-day public comment period, and we will fully consider all comments and information we receive during the public comment period.

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).

Dated: September 14, 2017.

Theresa E. Rabot,
Deputy Regional Director,
Pacific Region,
U.S. Fish and Wildlife Service,
Portland, Oregon.
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