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GOVERNOR OF HAWAII



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JUL 08 2016

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COMMISSION ON WATER RESOURCE MANAGEMENT

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DEPUTY DIRECTOR - WATER

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LAND  
STATE PARKS

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

June 22, 2016

Mr. Scott Glenn, Interim Director  
Office of Environmental Quality Control  
Department of Health, State of Hawai'i  
235 S. Beretania Street, Room 702  
Honolulu, HI 96813

RECEIVED  
16 JUN 24 P 3:47  
OFC. OF ENVIRONMENTAL  
QUALITY CONTROL

**Subject: Environmental Impact Statement Preparation Notice  
Kaua'i Island Utility Cooperative Long-Term Habitat Conservation Plan  
Island of Kaua'i (islandwide)**

Dear Mr. Glenn:

With this letter, the Department of Land and Natural Resources (DLNR) hereby transmits the Environmental Impact Statement Preparation Notice (EISPN) for the Kaua'i Island Utility Cooperative's (KIUC) Long-Term Habitat Conservation Plan (LTHCP). The facilities and activities covered by the plan will encompass and/or affect virtually all of the island of Kaua'i. We respectfully request that you publish the notice in the next available edition of the Office of Environmental Quality Control (OEQC) Environmental Notice.

The Division of Forestry and Wildlife has determined that the LTHCP will require an EIS. We understand that publication of the EISPN in the Environmental Notice will initiate a 30-day public consultation period for parties to comment on the action and to request to become consulted parties in the preparation of the Draft Environmental Impact Statement (DEIS).

Enclosed is a completed OEQC publication form, two (2) copies of the EISPN, and PDF file of the same, and an electronic copy of the publication form in MS Word. Simultaneous with this letter, we have submitted the summary of the proposed land use in a text file by electronic mail to your office. If there are any questions please contact Katherine Cullison of the Division of Forestry and Wildlife at 808-587-4148.

Sincerely,

DGS

Suzanne Case, Chairperson  
Department of Land and Natural Resources

**APPLICANT  
PUBLICATION FORM**

JUL 08 2016

Project Name:	Kaua'i Island Utility Cooperative System Long-Term Habitat Conservation Plan
Project Short Name:	
HRS §343-5 Trigger(s):	Use of state or county land; use within conservation district
Island(s):	Kauai
Judicial District(s):	Island-wide
TMK(s):	Various, Island-wide
Permit(s)/Approval(s):	State Incidental Take License; State Conservation District Use Permit/Approval; Federal Incidental Take Permit
Approving Agency:	State of Hawai'i Board of Land and Natural Resources/U.S. Fish and Wildlife Service
<i>Contact Name, Email, Telephone, Address</i>	Katherine Cullison (808) 587-4148 Division of Forestry and Wildlife 1151 Punchbowl Street rm#325 Honolulu, HI 96813 Katherine.cullison@hawaii.gov
Applicant:	Kaua'i Island Utility Cooperative
<i>Contact Name, Email, Telephone, Address</i>	Carey Koide 4473 Pahe'e Street, Suite 1 Lihu'e, HI 96766-2032
Consultant:	Planning Solutions, Inc.
<i>Contact Name, Email, Telephone, Address</i>	Jim Hayes (808)-550-4559 210 Ward Avenue, Suite 330 Honolulu, HI 96814 jim@psi-hi.com

**Status (select one)** DEA-AFNSI**Submittal Requirements**

Submit 1) the approving agency notice of determination/transmittal letter on agency letterhead, 2) this completed OEQC publication form as a Word file, 3) a hard copy of the DEA, and 4) a searchable PDF of the DEA; a 30-day comment period follows from the date of publication in the Notice.

 FEA-FONSI

Submit 1) the approving agency notice of determination/transmittal letter on agency letterhead, 2) this completed OEQC publication form as a Word file, 3) a hard copy of the FEA, and 4) a searchable PDF of the FEA; no comment period follows from publication in the Notice.

 FEA-EISPN

Submit 1) the approving agency notice of determination/transmittal letter on agency letterhead, 2) this completed OEQC publication form as a Word file, 3) a hard copy of the FEA, and 4) a searchable PDF of the FEA; a 30-day comment period follows from the date of publication in the Notice.

 Act 172-12 EISPN  
("Direct to EIS")

Submit 1) the approving agency notice of determination letter on agency letterhead and 2) this completed OEQC publication form as a Word file; no EA is required and a 30-day comment period follows from the date of publication in the Notice.

 DEIS

Submit 1) a transmittal letter to the OEQC and to the approving agency, 2) this completed OEQC publication form as a Word file, 3) a hard copy of the DEIS, 4) a searchable PDF of the DEIS, and 5) a searchable PDF of the distribution list; a 45-day comment period follows from the date of publication in the Notice.

 FEIS

Submit 1) a transmittal letter to the OEQC and to the approving agency, 2) this completed OEQC publication form as a Word file, 3) a hard copy of the FEIS, 4) a searchable PDF of the FEIS, and 5) a searchable PDF of the distribution list; no comment period follows from publication in the Notice.

- FEIS Acceptance Determination      The approving agency simultaneously transmits to both the OEQC and the applicant a letter of its determination of acceptance or nonacceptance (pursuant to Section 11-200-23, HAR) of the FEIS; no comment period ensues upon publication in the Notice.
- FEIS Statutory Acceptance      The approving agency simultaneously transmits to both the OEQC and the applicant a notice that it did not make a timely determination on the acceptance or nonacceptance of the applicant's FEIS under Section 343-5(c), HRS, and therefore the applicant's FEIS is deemed accepted as a matter of law.
- Supplemental EIS Determination      The approving agency simultaneously transmits its notice to both the applicant and the OEQC that it has reviewed (pursuant to Section 11-200-27, HAR) the previously accepted FEIS and determines that a supplemental EIS is or is not required; no EA is required and no comment period ensues upon publication in the Notice.
- Withdrawal      Identify the specific document(s) to withdraw and explain in the project summary section.
- Other      Contact the OEQC if your action is not one of the above items.

**Project Summary**

The action to be evaluated by the EIS is the issuance of a state incidental take license under HRS 195D and a federal incidental take permit under the Endangered Species Act (ESA) Section 10 for three species of endangered seabirds. The license/permit would require implementation of a Long-Term Habitat Conservation Plan that addresses actions aimed at avoiding, minimizing, and/or mitigating the effects of Kaua'i Island Utility Cooperative facilities and activities on three species of seabirds that are listed as threatened or endangered by the Federal and/or State governments. An informational public open-house meeting will be held July 20, 5-7p.m., at Kauai Community College, 3-1901 Kaunualii Highway, Lihue, Kauai, HI 96766

**ENVIRONMENTAL IMPACT STATEMENT PREPARATION NOTICE  
FOR THE  
KAUA‘I ISLAND UTILITY COOPERATIVE  
LONG-TERM HABITAT CONSERVATION PLAN  
KAUA‘I, HAWAI‘I**

**Applicant**

Kaua‘i Island Utility Cooperative  
4473 Pāhe‘e Street, Suite 1  
Līhu‘e, HI 96766-2032

**Approving Agency**

State of Hawai‘i  
Board of Land and Natural Resources  
1151 Punchbowl Street, Room 131  
Honolulu, HI 96813

**Dates**

All comments on this notice will be considered if received or postmarked on or before August 8, 2016. All comments received are a part of the public record. All personal identifying information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

**Addresses**

Please submit copies of your comments to both the Department of Land and Natural Resources (DLNR) and the Environmental Impact Statement (EIS) Consultant (Planning Solutions, Inc.). Please send comments with the subject line of Kaua‘i Island Utility Cooperative (KIUC) Long-Term Habitat Conservation Plan (LTHCP) EIS Preparation Notice (EISPN) and include your email address if possible. Transmission of comments may be via email or U.S. Mail. However, attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only:

DLNR Email:            [Katherine.cullison@hawaii.gov](mailto:Katherine.cullison@hawaii.gov) (include “KIUC HCP” in the subject line)

DLNR U.S. Mail:      Attention: KIUC Long-Term HCP EISPN  
                                 Division of Forestry and Wildlife  
                                 1151 Punchbowl St., Room 325  
                                 Honolulu, HI 96813

Consultant Email: julia@psi-hi.com (include “KIUC HCP” in the subject line)  
Consultant U.S. Mail: Attention: KIUC Long-Term HCP EISPN  
Planning Solutions, Inc.  
210 Ward Avenue, Suite 330  
Honolulu, HI 96814

We request that you send comments by only one of the methods described above.

### **For Further Information:**

Additional information will be available at a public open-house to be held:

**July 20, 2016, 5 p.m. to 7 p.m.**

Kauai Community College, 3–1901 Kaunualii Highway, Lihue, Kauai, HI 96766

The scoping meeting will provide the public an opportunity to ask questions, discuss issues with Agency staff regarding the DEIS, and provide written comments.

### **Brief Description of Proposed Action**

#### Overview of the Proposed Action

KIUC, is a not-for-profit, tax-exempt cooperative organization that is the legally franchised public utility responsible for the production, purchase, transmission, distribution, and sale of electricity on the island of Kaua‘i. KIUC owns and operates a variety of electric utility installations on the island. These include over 1,400 miles of electrical transmission and distribution lines, two fossil fuel-fired generating stations, two hydroelectric stations, two 12-megawatt solar energy parks, twelve substations, and approximately 3,500 streetlights. KIUC also purchases power from several independent power producers and transmits the power that is obtained from these sources through its electrical transmission system. KIUC also owns and operates most of the streetlights that illuminate State and County roadways on the island.

Some of KIUC’s facilities have the potential to adversely affect three species of seabirds (“Covered Species”) that are protected by State and Federal laws and regulations. The species are the federally listed endangered Hawaiian Petrel (*Pterodroma sandwichensis*), the federally listed threatened Newell’s Shearwater (*Puffinus auricularis newelli*), and the federal proposed for listing as endangered Band-rumped Storm-Petrel (*Oceanodroma castro*). All three species are on the State list of threatened and endangered species.

The Covered Species primarily breed on the island of Kaua‘i and feed on the open ocean. They spend a large part of the year at sea. Adults generally return to their colonial nesting grounds in the interior mountains of Kaua‘i beginning in late March and April, and depart beginning in October through mid-December. In the interim months, adults are engaged in a number of

breeding activities, including incubation and chick-rearing, which requires the adults to make frequent trips to and from the breeding sites. Fledglings (i.e., young birds learning how to fly) make their first journey from the nesting colony to the sea in the fall; they are thought to start visiting their breeding colonies at about 3 years of age, but likely do not actually breed until 5 or 6 years of age.

Both adults and fledglings are known to collide with power lines and other infrastructure while flying at night between their nesting colonies and at-sea foraging areas. These seabirds, and particularly fledglings, are also attracted to bright nighttime lights. Disoriented birds are commonly observed circling repeatedly around exterior light sources until they fall exhausted to the ground or collide with structures. Once on the ground they are subject to predation by dogs, cats, and other mammals and to injury by vehicles or other human activity.

In 2011, the U.S. Fish and Wildlife Service (USFWS) approved KIUC's Short-Term Habitat Conservation Plan (STHCP) and Incidental Take Permit (ITP) for a period of five years for the Covered Species. The STHCP has been successful in reducing the impacts of KIUC facilities, guiding measures that KIUC has implemented to mitigate the effects of its existing facilities, increasing knowledge related to the impact of KIUC's power line system on seabird populations, providing key biological data concerning the Covered Species, and improving understanding of the effectiveness of conservation measures to more adequately inform a longer term habitat conservation plan and take authorization.

KIUC is in the process of preparing the LTHCP for the three seabird species described above and intends to request an Incidental Take License (ITL) under Hawai'i Revised Statutes (HRS) Chapter 195D from the State of Hawai'i Board of Land and Natural Resources and a section 10(a)(1)(B) ITP from the USFWS. The anticipated term of the LTHCP and incidental take authorizations is 30 years. The LTHCP is intended to: (i) delineate the nature and extent of KIUC's activities (i.e., operation and maintenance of existing facilities, and construction, operation and maintenance of new facilities) to be permitted, and (ii) describe how the effects of the covered activities on the three seabird species are to be minimized and mitigated.

The activities to be covered under KIUC's LTHCP ("Covered Activities") include: construction of certain planned facilities; power line construction, reconfiguration, or undergrounding; installation and operation of streetlight fixtures at the request of State, County, or private entities; the operation and maintenance of all existing and planned KIUC facilities and infrastructure; as well as activities associated with the management of certain lands to mitigate for the take of Covered Species. KIUC anticipates the following new facilities during the term of the LTHCP: 600 new streetlights; approximately 15 miles of new transmission lines (much of it on already constructed poles or underground); approximately 15 miles per year of re-conducted, re-configured, or undergrounded distribution lines; the closure of one substation and the construction of 3 or more new facilities, including Aepo Substation, Hanahanapuni Switching Station, and Kilohana Switching station. Additional substations may also be built for renewable projects that cannot be integrated into the existing facilities due to location, capacity, or operational constraints.

The LTHCP will provide all of the information needed to satisfy both State and Federal ITL/ITP requirements in a single document. The agencies have agreed to a joint NEPA/ HRS Chapter 343 environmental impact process as well. State and Federal review and approval of the LTHCP and associated NEPA and HRS Chapter 343 EIS documents will be handled through separate, but concurrent, processes. In addition to evaluating the measures that KIUC proposes in its HCP, the

EIS will evaluate the potential effects of several alternatives relating to the proposed issuance of an ITL/ITP, including “No Action.”

KIUC’s LTHCP will describe the measures that it agrees to implement to avoid or reduce the potential for adverse effects and, to the extent that the complete elimination of adverse effects on the target seabirds is not possible, discuss the mitigation measures it proposes to implement to compensate for unavoidable impacts. The approach will involve: addressing issues related to its existing facilities, developing appropriate siting and design guidelines for future facilities, and selecting effective compensatory mitigation measures. This approach is aimed at ensuring that project mitigation is directed to those areas most critical to maintenance of ecosystem function and seabird population size.

The LTHCP will cover all areas on Kaua‘i where KIUC facilities (e.g., generating stations, power lines, utility poles, lights, etc.) are located, all areas where KIUC conducts maintenance and repair operations of these and other facilities, and all areas in which KIUC may construct new facilities and conduct maintenance and repair operations during the anticipated 30-year life of the LTHCP and associated take authorizations. Implementation activities that may be covered under the Plan include continued operation and maintenance of existing facilities, and construction, operation and maintenance of new facilities.

#### Purpose of and Need for the Proposed Action

The purpose of the action that KIUC is asking the State of Hawai‘i DLNR to take (i.e., approve a LTHCP/issue an ITL) is to satisfy the requirements of HRS Chapter 195D. KIUC needs this approval in order to comply with State law.

The two primary purposes (goals) of the LTHCP are:

- To reduce the take of endangered and threatened seabirds caused by KIUC facilities and activities to the maximum extent practicable given the physical, operational, and economic circumstances within which it operates.
- Where avoidance of take is not practicable, implement mitigation measures that decrease mortality/increase reproductive success sufficiently to offset the unavoidable take.

#### Provisions Expected to be included in the HCP and Authorized by the ITL

KIUC anticipates that the HCP will include a wide range of measures. The exact mix of these will not be known until the HCP process is completed. However, KIUC anticipates that the following will be among those measures it will include to avoid, minimize, and mitigate for harm to the Covered Species.

- Avoidance and Minimization. One key finding of the comprehensive Underline Monitoring Program implemented under the STHCP to date is that seabird collisions with power lines are largely concentrated in a few areas. As a corollary to that, the risk of seabird collisions with most line segments is non-existent to low. KIUC is working with biologists on the staff of the Kaua‘i Endangered Seabird Recovery Project (KESRP), power line engineers, and consulting biologists and planners to identify,

evaluate, and select a comprehensive set of measures that would drastically reduce Covered Species collisions with its power lines. Such measures include:

- The reconfiguration and re-routing of overhead power lines in ways that will remove them from areas where the Covered Species are most likely to collide with them. This avoidance and minimization program is intended to target the line segments posing the highest collision risk as identified through the work that KESRP has conducted on KIUC's behalf over the past five years in accordance with KIUC's 2011 STHCP.
  - The use of laser illumination to divert birds away from overhead power lines.
  - The removal of static wires (lightning arrestors) from areas where collisions with them are believed to be prevalent and where alternative means are available for providing system protection against lightning strikes.
  - The use of electrical system communication wires that have minimal potential to harm the Covered Species.
  - The use of lighting technologies (at KIUC facilities and for island roadways) that have the lowest potential to disorient the Covered Species.
- Field Mitigation Measures. A significant threat to the Covered Species, in addition to power lines and nighttime lighting, is predation from introduced predators including feral pigs, cats, rats, and barn owls. A few individuals of these introduced predators can decimate a seabird breeding colony in one season, by killing adults and fledglings, destroying eggs, and in the case of feral pigs, collapsing entire burrow structures. Effective seabird conservation mitigation measures focus on maintaining, creating, or enhancing seabird breeding habitat by removing introduced predators and invasive vegetation that limits seabird breeding-burrow habitat. Through its 2011 STHCP, KIUC has funded substantial auditory and other surveys intended to identify Covered Species breeding colonies that may be suitable for predator control and other management actions to improve breeding success. These include areas in Upper Mānoa Valley, Upper Limahuli Valley, and Hono o Nā Pali; these three areas are in the conservation district and Hono o Nā Pali is owned by the state. The management measures that KIUC anticipates (pending the outcome of further effectiveness studies and further consultation with the agencies and landowners) will be included in its LTHCP include installation and maintenance of predator-proof fences, predator eradication and/or control (e.g., by trapping, shooting, baiting, etc.), and social attraction).
  - Other Mitigation Measures. KIUC has for over a decade funded the Save Our Shearwaters (SOS) Program. Currently operated by the Kaua'i Humane Society under contract to KIUC, SOS Program staff recover and rehabilitate downed seabirds that are found all around the island. The SOS Program serves to minimize the number of the Covered Species that die after being grounded (principally as a result of light attraction, but due to collisions with KIUC facilities as well).

## **Determination & Reasons Supporting Determination**

The USFWS has determined that approval of KIUC's LTHCP/Issuance of an ITP is an action that is subject to the National Environmental Policy Act (NEPA), as amended. The USFWS is the lead agency for the purpose of NEPA. Environmental review of the NEPA EIS will be conducted in accordance with the requirements of NEPA (42 U.S.C. 4321 et seq.), its implementing regulations (40 CFR parts 1500-1508), other applicable regulations, and USFWS procedures for compliance with those regulations. It has further determined that it will prepare an EIS for the action under consideration.

The State of Hawai'i DLNR has determined that approval of KIUC's LTHCP/issuance of an ITP would result in KIUC's use of (a) state owned land, and (b) land classified as conservation district by the state under HRS Chapter 205. These uses would occur when KIUC implements field mitigation measures and perhaps minimization measures. Both uses "trigger" HRS Chapter 343 and DLNR has determined that an EIS should be prepared. The DLNR will be the lead agency for the purpose of HRS Chapter 343. Preparation and review of the State EIS will be in accordance with HAR Chapter 11-200.

In accordance with HRS § 343-5(h), because this action is subject to both the NEPA and to HRS Chapter 343, USFWS, DLNR, and KIUC are cooperating to reduce duplication between federal and state requirements by preparing joint EIS documents with concurrent public review.

In 2012, the State Legislature enacted Act 172, allowing the HRS Chapter 343 process to begin with preparation of an EISPN rather than a draft environmental assessment (DEA) in cases where the agency determines that an EIS is likely to be required. This brings the law into alignment with NEPA, which has always allowed for the preparation of an EIS if a Federal agency believes that the action may have a significant impact on the environment.

The authorizations that KIUC is requesting and the minimization and mitigation measures that it is considering have the potential to have significant environmental effects because they would allow the incidental take of substantial numbers of the Covered Species. Therefore, DLNR has decided to move directly to preparation of an EIS without first preparing an EA as provided for in Act 172, Session Laws of Hawai'i 2012. The USFWS expects to initiate the federal EIS scoping process in June 2016 with publication of a Notice of Intent (NOI) in the Federal Register coinciding with publication of the EISPN.

The Joint Federal/State EIS will examine in detail the potential beneficial and adverse effects of granting the requested approvals and the construction/operation of the utility facilities and minimization/mitigation projects and measures contained in the LTHCP. The EIS will assess the potential for direct, indirect, and cumulative effects on the human, natural, and cultural environment and identify mitigation measures for adverse effects. The EIS will also report the effects of a No Action Alternative as prescribed by federal and state regulations to serve as the baseline against which the proposed action and alternatives are analyzed. Under the No Action Alternative, the USFWS/DLNR would not grant the take authorization that KIUC has requested. Finally, in accordance with NEPA and HRS Chapter 343 requirements, the EIS will also discuss whether or not there are additional reasonable alternatives that could meet the purpose of the project and the needs of the USFWS, DLNR, and KIUC. If such alternatives are found to exist through the scoping process, they will be considered in the EIS.

The EIS will evaluate the full range of potential environmental, cultural, and socioeconomic impacts associated with implementing the proposed action and alternatives, including short-term impacts resulting from construction. The following impact categories have been tentatively identified for consideration in the EIS:

- Geology and soils
- Biological resources (including threatened and endangered species, special status species, and related sensitive resources)
- Water resources (including floodplain, wetlands, and stormwater management)
- Cultural and historical resources (including Native Hawaiian resources)
- Air quality (including climate change and greenhouse gas emissions)
- Land use
- Traffic and transportation
- Noise
- Visual resources
- Public health and safety
- Utilities and infrastructure
- Hazardous materials and waste management
- Socioeconomics
- Environmental justice (disproportionately high and adverse impacts to minority and low-income populations)

**Government Agencies Responsible for Approvals:**

The EIS will be jointly approved by the USFWS and the DLNR.