



U.S. Department
of Transportation
**Federal Highway
Administration**

Hawaii Federal-Aid Division

June 30, 2009

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In Reply Refer To:
HDA-HI

Ms. Gina Schultz, Field Supervisor
U.S. Fish and Wildlife Service
300 Ala Moana Blvd, Room 3-122
Honolulu, HI 96813

Attention: Megan Laut

Dear Ms. Schultz:

Subject: Kūhiō Highway Short-Term Improvements; Kuamo‘o Road to Kapa‘a Temporary
Bypass Road Project (FAP No. NH-056-1(50))
Wailua, Island of Kaua‘i
Section 7 Consultation

This letter follows up on earlier correspondence with your office, U.S. Fish & Wildlife Service (USFWS) Log # 2008-1-0018 over consultation under Section 7 of the Endangered Species Act (ESA). We are seeking concurrence from your office that the proposed action will not likely adversely affect any listed avian species currently known from the Island of Kaua‘i.

Section 7 Consultation History

Wilson Okamoto Corporation, on behalf of the State Department of Transportation (DOT), sent the USFWS a letter with attachments detailing the proposed project and requesting the initiation of informal consultation with the service on October 11, 2007. The USFWS responded to that letter on November 5, 2007 (USFWS Log # 2008-1-0018). Following the receipt of the USFWS November 5th letter, a meeting was held at the Services offices on December 18, 2007 that was attended by State DOT, USFWS, Federal Highway Administration (FHWA) and various project consultants. Following that meeting and subsequent discussions with the USFWS, it was agreed that the Section 7 consultation would address potential project impacts to the following three pelagic seabird species; Hawaiian Petrel (*Pterodroma sandwichensis*), Newell’s Shearwater (*Puffinus auricularis newelli*), and Band-rumped Storm-Petrel (*Oceanodroma castro*). The petrel is listed as an endangered species, the shearwater as a threatened species and the storm-petrel is a candidate species under the ESA.



Project Description

The project site is located along the existing Kūhiō Highway between South Leho Drive and an area slightly north of the Temporary Kapa‘a Bypass Road (Figure 1). The project proposes to add a new southbound travel lane along Kūhiō Highway between Kuamo‘o Road and the Temporary Kapa‘a Bypass Road. The highway will be widened from three to four lanes without acquiring additional right-of-way. The existing right-turn storage lane along Kuamo‘o Road will also be extended inland from its intersection with the highway approximately 650-feet inland (Figure 1).

Both private and government entities currently owning, and/or operating overhead utilities within the project area include the Kauai Island Utility Cooperative (KIUC), Hawaiian Telcom (HT), Oceanic Time Warner Cable (OTWC), and the State DOT. KIUC currently operates and maintains three separate electrical systems within the project corridor consisting of a 57 kV transmission system, a 12 kV customer distribution system, and a street lighting system. KIUC’s electrical systems are all located along the primary utility pole alignment. The existing vertical configurations of the overhead utility systems consist of lines from HT, OTWC, and State DOT located between 4.5-meters (15 feet), and 6-meters (20 feet) above ground. Electrical distribution lines are located approximately 7.6 and 10.6-meters (24 and 35 feet) above ground, and the electrical transmission lines are located approximately 14 to 18-meters (46 to 60 feet) above ground level.

As part of the road widening project, all of the existing overhead utility lines located on both the *mauka* and *makai* sides of Kūhiō Highway between South Leho Drive and the area just north of the Temporary Kapa‘a Bypass Road will be relocated into underground duct banks.

Listed Seabird Species Background

Both the endangered Hawaiian Petrel and the threatened endemic sub-species of the Newell’s Shearwater have been recorded over-flying the general project area between April and the end of November each year (Morgan et al., 2003, 2004, Verschuyk, and Dennis 2007, Verschuyk, Colclazier and Dennis 2007, David and Planning Solutions 2008). There are no nesting colonies or suitable nesting habitat for either of these species on, or close to the subject project corridor.

The primary cause of mortality in both Hawaiian Petrels and Newell’s Shearwaters is thought to be predation by alien mammalian species at the nesting colonies (USFWS 1983, Simons and Hodges 1998, Ainley et al. 2001). Collision with man-made structures is considered to be the second most significant cause of mortality of these seabird species in Hawai‘i. Nocturnal flying seabirds, especially fledglings on their way to sea in the summer and fall, can become disoriented by exterior lighting. When disoriented, seabirds often collide with manmade structures, and if they are not killed outright, the dazed or injured birds are easy targets of opportunity for feral mammals (Hadley 1961, Telfer 1979, Sincock 1981, Reed et al. 1985, Telfer et al. 1987, Cooper and Day 1994, Podolsky et al. 1998, Ainley et al. 2001).

Data gathered as part of the Save Our Shearwaters (SOS) Program over the past 30-years documents that Newell’s Shearwaters have been downed along the project corridor on an annual

basis (Morgan et al., 2003, 2004, David and Planning Solutions 2008, DOFAW unpublished data 1979-2008). It is impossible to state with any certainty the exact number of Newell's Shearwaters that have been recovered in the general project corridor over the life of the SOS program since much of the data is not site specific enough to identify the pickup locations of birds recovered to within the confines of this projects limits (Morgan et al., 2003, 2004, David and Planning Solutions 2008).

What can be said is that at least 182 Newell's Shearwaters have been retrieved by the SOS program within the general project area between 1979 and 2007. In addition, the number of birds recovered on an annual basis dropped significantly after the Coco Palms Hotel ceased operations following Hurricane Iniki in September 1992. The SOS data recorded 154 shearwaters recovered within the general project area between 1979 and 1992, an average of 11 birds a year. The SOS data also recorded 28 birds recovered between 1993 and 2007, or an average of slightly less than 2 birds a year, and over the past 10 years a total of 9 birds have been recovered within the general project area, or slightly less than one bird a year. It should also be noted that the SOS program has not recovered any Hawaiian Petrels, or Band-rumped Storm-Petrels within the general project area over the past 30-years.

Potential Impacts to Protected Species

The principal potential threats that currently exists within the general project area to listed seabirds, are those posed by street lights, business lighting and the 17 separate utility wires and associated poles that run the length of the proposed project corridor in various configurations and numbers. The threats posed by these structures and outdoors lighting are associated with birds being downed after becoming disoriented by outdoors lighting and possibly colliding with above ground utility structures, and other man-made structures.

As previously mentioned, as part of the road widening project, all of the utility lines between South Leho Drive and the area north of the Temporary Kapa'a Bypass Road will be undergrounded. This action will significantly reduce the existing threats to these listed seabird species, and represents a significant minimization of existing threats to these species from those currently found within the project right-of-way.

Minimization Measures

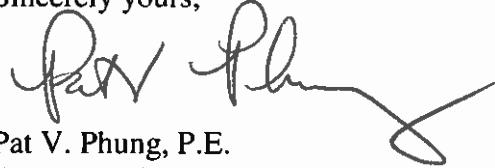
The project proposes to implement the following minimization measures during the course of construction activities to ensure that such activities have a minimal impact on three seabird species discussed above.

- If nighttime work will be required in conjunction with the development of the project, all lights will be shielded to reduce the potential for interactions of nocturnally flying Hawaiian Petrels and Newell's Shearwaters with external lights and man-made structures.
- During the construction phase of the project, any lighting necessary to conduct nighttime activities will be shielded and or directed at the ground.

- No nighttime construction will occur during the peak fallout period, namely between September 15 and December 15 annually.
- All construction personnel will be required to attend a seabird awareness program prior to the initiation of construction activity.
- A pet carrier will be maintained on site at all times, and will be used to temporarily hold any downed seabird recovered in the general project area.
- If a downed seabird is found within the general project area, it will be retrieved and placed in the pet carrier and maintained in a shady location until DOFAW or SOS program personnel retrieve the bird.
- DOFAW and/or the SOS program will be contacted immediately upon recovery of any downed bird.
- The USFWS shall be notified of any downed seabird within 24-hours of the occurrence.

In summation, we are seeking concurrence from your office that the proposed action is not likely adversely affect the three seabird species discussed above. If you have any questions, or would like any additional information please contact me at (808) 541-2305, or our biological consultant, Mr. Reginald David at (808) 329-9141.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Pat V. Phung', with a long, sweeping horizontal stroke extending to the right.

Pat V. Phung, P.E.
Transportation Engineer

cc: Mr. Darell Young, HWY-P
Mr. Ronald Sato, Wilson Okamoto and Associates

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