APPENDIX A

Informal Consultation for Proposed Kūhiō Highway Emergency Shoreline Mitigation Project, Wailuā Beach, Kauaʻi

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Pacific Islands Fish and Wildlife Office
300 Ala Moana Boulevard, Room 3-122
Honolulu, Hawai‘i 96850

In Reply Refer To:
2022-0064915-S7-002

March 10, 2023

Ms. Meesa Otani
Federal Highway Administration
Hawai‘i Federal-Aid Division
300 Ala Moana Blvd., Rm. 3-229
Honolulu, Hawai‘i 96850

Subject: Informal Consultation for the Proposed Kūhiō Highway Emergency Shoreline Mitigation Project, Wailuā Beach, Kaua‘i, Federal-aid Project No. ER-24(004)

Dear Ms. Otani:

This Appendix is in response to your request for our concurrence with your determination that the proposed Kūhiō Highway Emergency Shoreline Mitigation at Wailuā Beach on the island of Kaua‘i, may affect, but is not likely to adversely affect the the endangered ‘ōpe‘ape‘a (Hawaiian hoary bat, *Lasiurus cinereus semotus*); the endangered ae‘o (Hawaiian stilt, *Himantopus mexicanus knudseni*), ‘alae ke‘oke‘o (Hawaiian coot, *Fulica alai*), ‘alae ‘ula (Hawaiian gallinule, *Gallinula galeata sandvicensis*), and koloa (Hawaiian duck, *Anas wyvilliana*) (hereafter collectively referred to as Hawaiian waterbirds); and the endangered ‘ua‘u (Hawaiian petrel, *Pterodroma sandwichensis*), threatened ‘a‘o (Newell’s shearwater, *Puffinus auricularis newelli*), and endangered Hawai‘i Distinct Population Segment (DPS) of the ‘akē‘akē (band-rumped storm-petrel, *Oceanodroma castro*) (hereafter collectively referred to as Hawaiian seabirds). We based our analysis and decisions on the Biological Assessment for this project and other pertinent data. A complete consultation record is on file at our office. Our response is in accordance with section 7 of the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq*.).

Project Description
The project description and action area are the same as described for the formal consultation.

Conservation Measures

Hawaiian Hoary Bat

The Hawaiian hoary bat roosts in woody vegetation across all islands and will leave their young unattended in trees and shrubs when they forage. If trees or shrubs 15 feet (ft) (4.6 meters (m)) or taller are cleared during the pupping season, June 1 through September 15, there is a risk that young bats could inadvertently be harmed or killed, since they are too young to fly or move away from disturbance. Hawaiian hoary bats forage for insects from as low as 3 ft (0.9 m) to higher than 500 ft (152 m) above the ground and can become entangled in barbed wire used for fencing.

To avoid and minimize potential project impacts to the Hawaiian hoary bat, the following measures will be implemented:

- Barbed wire will not be used.
- Woody plants taller than 15 ft (4.6 m) will not be trimmed or removed during the bat pupping season (June 1 through September 15), during their vulnerable life stages where they are unable to fly and may be roosting in trees.

Hawaiian Waterbirds

Listed Hawaiian waterbirds are found in fresh and brackish-water marshes and natural or man-made ponds. Hawaiian stilts may also be found wherever ephemeral or persistent standing water may occur. Threats to these species include non-native predators, habitat loss, and habitat degradation. Hawaiian ducks are also subject to threats from hybridization with introduced mallards. Historically, the most important cause of decline for Hawaiian waterbirds was loss of wetland habitat. Other factors that have contributed to population declines, and which continue to be detrimental, include predation by introduced animals, altered hydrology, alteration of habitat by invasive non-native plants, disease, and possibly environmental contaminants. Currently, predation by introduced animals may be the greatest threat to Hawaiian waterbirds.

To avoid and minimize potential project impacts to Hawaiian waterbirds, the following measures will be implemented:

- All regular on-site construction staff would be trained to identify waterbirds and take appropriate conservation measures when the waterbirds are present, including within equipment staging areas.
- When waterbird nests are found within the construction area, work within 100 ft of nests or active broods would cease until the young have fledged and left the area.
- Waterbird nests, chicks, or broods found before or during construction would be reported to the USFWS within 48 hours of discovery for further guidance.

Hawaiian Goose

Hawaiian geese are found on the islands of Hawai‘i, Maui, Moloka‘i, and Kaua‘i. They are observed in a variety of habitats, but prefer open areas, such as pastures, golf courses, wetlands, natural grasslands and shrublands, and lava flows. Threats to the species include introduced mammalian and avian predators, wind facilities, and vehicle strikes.

To avoid and minimize potential project impacts to the Hawaiian goose, the following measures will be implemented:

- Do not approach, feed, or disturb the Hawaiian goose.
- If Hawaiian goose are loafing, foraging, or otherwise present within the project area during the breeding season, which extends from September through April, have a trained biologist survey the area near the project prior to work each day. Survey biologists should be familiar with the nesting behavior of the Hawaiian goose, nest identification, and identification of young.
    - Surveys should be repeated if there is a delay in work of three days or more (during which the birds may attempt to nest).
    - If nests or vulnerable young are observed within 150 ft (48 m) of the project work, immediately cease all work and contact the USFWS for further guidance.
- If during the biologists' survey, the Hawaiian goose are loafing, foraging, or otherwise present within the project area, the USFWS will be contacted for further guidance to consider implementing reduced speed limits when the work is near the active roadway and inform project personnel and contractors about the presence of this threatened species on-site. Speed limits will be reduced during work in active construction areas.

<u>Hawaiian Seabirds</u>

Hawaiian seabirds may traverse the project area at night during the breeding, nesting, and fledging seasons (March 1 to December 15). Outdoor lighting could result in seabird disorientation, fallout, and injury or mortality. Seabirds are attracted to lights and after circling the lights they may become exhausted and collide with nearby wires, buildings, or other structures or they may land on the ground. Downed seabirds are subject to increased mortality due to collision with automobiles, starvation, and predation by dogs, cats, and other predators. Young birds (fledglings) traversing the project area between September 15 and December 15, in their first flights from their mountain nests to the sea, are particularly vulnerable to light attraction.

To avoid and minimize potential project impacts to Hawaiian seabirds, the following measures will be implemented:

- All construction activity shall be restricted to daylight hours during the seabird peak fallout period (September 15–December 15) to avoid the use of nighttime lighting.
- All outdoor lights shall be fully shielded so bulbs are only visible from below bulb height and only used when necessary.
- Install automatic motion sensor switches and timers on all outdoor lights or turn off lights when no activity is occurring in the lighted area

Analysis of effects

Consequences of the Proposed Action on the Hawaiian Hoary Bat
The Hawaiian hoary bat is known to forage, nest, and/or utilize water features in the vicinity of the proposed project area. By incorporating the above avoidance and minimization measures for Hawaiian hoary bats, young bats being harmed or killed from falling out of trees and adults being entangled in barbed wire is not probable, and therefore, effects are considered discountable.

Consequences of the Proposed Action on Hawaiian Waterbirds
Hawaiian waterbirds are known to forage, nest, and/or utilize water features in the vicinity of the proposed project area. By incorporating the above avoidance and minimization measures for Hawaiian waterbirds, adult waterbirds being disturbed and leaving nests exposed for extended periods of time causing the nest to fail and adults, chicks, or eggs being crushed are not probable, and therefore, effects are considered discountable.

Consequences of the Proposed Action on Hawaiian Goose
The Hawaiian goose is known to forage, nest, and/or utilize water features in the vicinity of the proposed project area. By incorporating the above avoidance and minimization measures for the Hawaiian goose, crushed eggs or chicks, and adults leaving nests for extended periods or nests failing are not probable, and therefore effects are considered discountable.

Consequences of the Proposed Action on Hawaiian Seabirds
Hawaiian seabirds are known to forage, nest, and/or utilize water features in the vicinity of the proposed project area. By incorporating the above avoidance and minimization measures for Hawaiian seabirds, seabirds being attracted to lights and falling out is not probable, and therefore effects are considered discountable.

Conclusion
Based on the project description, implementation of the avoidance and minimization measures, and because effects from the action are discountable, we concur that the proposed action may affect, but is not likely to adversely affect the Hawaiian hoary bat, Hawaiian waterbirds, the Hawaiian goose, and Hawaiian seabirds.

Re-initiation of consultation is required and shall be requested by the Federal agency or by the USFWS, where discretionary Federal involvement or control over the action has been retained or is authorized by law and:

1) If new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered;
2) If the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the written concurrence; or,

3) If a new species is listed or critical habitat designated that may be affected by the identified action.

Sincerely,

Aaron Nadig
Acting Deputy Field Supervisor
Pacific Islands Fish and Wildlife Office