

1 Make the following section a part of the Standard Specifications:

2
3 **“SECTION 671 – PROTECTION OF ENDANGERED SPECIES**

4
5 **671.01 Description.** The endangered Hawaiian Hoary Bat (*Lasiurus cinereus*
6 *semotus*), sea turtles (including the Hawksbill Sea Turtle [or 'Ea *Eretmochelys*
7 *imbricate*] (endangered), and the Central North Pacific distinct population segment
8 (DPS) of the Green Sea Turtle or Honu (*Chelonia mydas*) (threatened), the
9 Hawaiian Goose (*Branta (Nesochen sandvicensis)*; Hawaiian Petrel (*Pterodroma*
10 *sandwichensis*), Band-Rumped Storm-Petrel (*Oceanodroma castro*), and the
11 threatened Newell's Shearwater (*Puffinus newelli*) are in the general vicinity of the
12 proposed project that may transit or visit the proposed project. Also to be
13 considered are the Hawaiian waterbirds, including the Hawaiian Stilt or Ae'o
14 (*Himantopus mexicanus knudseni*), the Hawaiian Coot or 'Alae ke'oke'o (*Fulica alai*),
15 the Hawaiian Gallinule or 'Alae 'ula (*Gallinula chloropus sandvicensis*), and the
16 Hawaiian Duck or Koloa Maoli (*Anas wyvilliana*) (all endangered). In the event that
17 Ohia Trees are found in the project area, Newcomb's tree snail (*Erinna newcombi*)
18 may be present.

19
20 The Contractor shall protect these endangered species throughout the
21 construction duration.

22
23 **671.02 Materials.** None

24
25 **671.03 Construction.**

26
27 **(A) Pre-Construction and Construction Requirements.** Comply with
28 the following conditions and the notes in the Contract Plans:

29
30 **(1) Hawaiian Hoary Bats.** Hawaiian Hoary Bats nest in both
31 exotic and native woody vegetation. There will be no disturbance,
32 removal, or trimming of woody plants greater than 15 feet (4.6 meters)
33 tall during the birthing and pup rearing season (June 1 through
34 September 15).

35
36 Barbed wire will not be used for fencing.

37
38 **(2) Sea Turtles.** Sea turtles may nest on any sandy beach in the
39 Pacific Islands. Nesting occurs on beaches from May through
40 September, peaking in June and July, with hatchlings emerging
41 through November and December. Construction can compact and
42 erode sand and sediments, destroy sea turtle nests, erode beaches,
43 create runoff of contaminants, and create light that disorients
44 hatchlings and deters nesting. Off-road vehicle traffic on beaches,
45 including construction equipment, directly affecting sea turtles and
46 their nests by crushing individuals and degrading habitat with erosion

47 and compacting sand and sediment.

48
49 To avoid and minimize project-related adverse effects to sea
50 turtles and their nests, incorporate these conservation measures:

51
52 (a) No vehicle use or modifying the beach/dune
53 environment during the sea turtle nesting or hatching season,
54 which extends from May through December.

55
56 (b) Employ U.S. Fish and Wildlife Service Recommended
57 Standard Best Management Practices when working in aquatic
58 environments.

59
60 (c) Remove any project-related debris, trash, and
61 equipment from the beach or dune if not actively in use.

62
63 (d) Do not stockpile project-related materials in the intertidal
64 zone, reef flats, stream channels, or river channels.

65
66 Optimal turtle nesting habitat is a dark beach, free of barriers
67 that could restrict sea turtle movement. Lighting and human presence
68 deters nesting turtles from approaching, laying eggs, and successfully
69 nesting. Artificial light disorients sea turtles and they become
70 exhausted, causing them to nest in inappropriate locations, such as at
71 or below the high tide line. Artificial lighting also disorients hatchlings
72 as they emerge from nests. Sea turtles need darkness on beaches so
73 they can successfully navigate back to the ocean. In-water work at
74 night shall be avoided unless emergency maintenance and repair of
75 erosion and sediment controls are necessary to meet permit
76 conditions.

77
78 Contractor shall incorporate these measures to avoid and
79 minimize project-related adverse effects to sea turtles and their young
80 from lighting:

81
82 (a) Avoid nighttime work during the nesting and hatching
83 season, which extends from May through December.

84
85 (b) Minimize the use of lighting and shield all project-related
86 lights to ensure this light is not visible from any beach.

87
88 (c) If full shielding of light is not possible, or if you require
89 the use of headlights, fully enclose the light source using light
90 filtering tape or filters.

91
92 (3) **Hawaiian Goose.** Any Hawaiian Goose in or near the project

93 area will not be approached, fed, or disturbed in any way.

94
95 If Hawaiian Goose are observed loafing, foraging, or otherwise
96 present within the project area during the breeding season
97 (September 1 through April 30), a trained biologist will survey the area
98 near the project prior to work each day. Also, nest surveys will be
99 conducted in and around the project area by a biologist familiar with
100 the nesting behavior of Hawaiian Goose prior to the resumption of any
101 work. Surveys will be repeated after any delay in work of three or
102 more days. If a nest is identified within 150 feet of the work area, all
103 work will cease, and the United States Department of Interior Fish and
104 Wildlife Service (USFWS) will be contacted immediately for further
105 guidance.
106

107 In areas where Hawaiian Goose are known to be present,
108 reduced speed limits will be posted and implemented and project
109 personnel and Contractors will be informed of the presence of
110 endangered species on-site.
111

112 **(4) Hawaiian Seabirds.** Hawaiian Petrel, Newell's Shearwater
113 and Band-Rumped Storm-Petrel may traverse the project area at night
114 during breeding season, which extends from March 1 through
115 December 15. If night time work will be required in conjunction with
116 the development of the project, all lights will be fully shielded so the
117 bulb can only be seen from below bulb height and will only be in use
118 when necessary to reduce the potential for interactions of nocturnally
119 flying seabirds with external lights and man-made structures. All
120 outdoor lights will be turned off when human activity is not occurring in
121 the lighted area.
122

123 No night time construction will occur during the peak seabird
124 fledging period (September 15 through December 15).
125

126 **(5) Hawaiian Waterbirds.** Hawaiian waterbirds occupy fresh and
127 brackish-water marshes and natural or manmade ponds. Hawaiian
128 stilts also occupy areas with ephemeral or persistent standing water.
129 Because this project occurs near water, threats to these species from
130 this project may include disturbance from human activity and injury or
131 mortality from vehicle strikes.
132

133 Contractor shall incorporate these measures to avoid and
134 minimize project-related adverse effects to the Hawaiian waterbirds:
135

136 **(a)** All regular on-site construction staff shall be trained to
137 identify waterbirds and take appropriate conservation
138 measures when the waterbirds are present, including within

equipment staging areas.

(b) In areas where known presence of Hawaiian waterbirds occurs, post and implement reduced speed limits, and inform project personnel and Contractors of the presence of these endangered species.

(c) Because water resources occur in the project site, employ U.S. Fish and Wildlife Service Recommended Standard Best Management Practices when working in aquatic environments.

(d) Survey for Hawaiian waterbirds in or near the project area prior to work using survey biologists. Survey biologists should be trained and capable of identifying adults and juveniles of each species, nesting behaviors, and nests.

i. Surveys for species and nests should be repeated at the initial start of construction and when a delay of work occurs that is three days or more (during which the birds may attempt to nest).

ii. If a nest or brood is found, contact the U.S. Fish and Wildlife Service (USFWS) within 48 hours for further guidance.

iii. Establish and maintain a 100-ft buffer around all active nests and/or broods until the chicks/ducklings have fledged. Do not conduct potentially disruptive activities or habitat alteration within this buffer.

iv. Have a biological monitor that is familiar with the species' biology present on the project site during all construction or earth moving activities until the chicks/ducklings fledge to ensure that Hawaiian waterbirds and nests are not adversely affected.

(6) **Newcomb's Snail.** In the event that Ohia Trees are found in the project area where clearing is required, a trained biologist will survey the area for tree snails using USFWS methodology described in *Interim Guidelines for Conducting Tree Snail Surveys in the Mariana Islands*.

(B) **Compliance Requirements.** The Contractor shall protect all species noted above for the duration of construction. Failure to comply with the construction requirements, harm or a taking of an individual during the

construction duration shall be enforceable by the U.S. Fish and Wildlife Service as set forth by the Endangered Species Act. Resultant penalties and/or fines shall be at the Contractor's expense without cost or liability to the State.

671.04 Measurement. The Engineer will measure the work required for the protection of endangered species on a force account basis in accordance with Subsection 109.06 – Force Account Provisions and Compensation and as ordered by the Engineer.

671.05 Payment. The Engineer will pay for the accepted protection of endangered species on a force account basis in accordance with Subsection 109.06 – Force Account Provisions and Compensation. Payment will be full compensation for the work prescribed in this section, by the Engineer, and in the contract documents.

The Engineer will pay for the following pay item when included in the proposal schedule:

Pay Item	Pay Unit
Protection of Endangered Species _____	Force Account

An estimated amount may be allocated in the proposal schedule under "Protection of Endangered Species", but the actual amount to be paid will be the sum shown on the accepted force account records, whether this sum be more or less than the estimated amount allocated in the proposal schedule."

END OF SECTION 671