

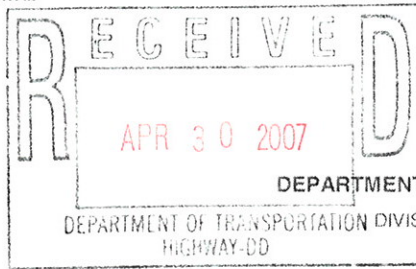
Attachment 5

Endangered Species Act Section 7 Consultation

LINDA LINGLE
GOVERNOR OF HAWAII



PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
ROBERT K. MASUDA
DEPUTY DIRECTOR FOR LAND



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF FORESTRY AND WILDLIFE
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

DEPT OF TRANSPORTATION

2007 APR 26 P 2:28

HIGHWAYS DIVISION

ADJUTANT GENERAL
BOATING AND OCEAN RECREATION
COMMISSION ON WATER RESOURCE
MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE
COMMISSION
LAND MANAGEMENT
STATE PARKS

April 18, 2007

Mr. Brennon T. Morioka, Ph.D., P.E.
Deputy Director-Highways
State Department of Transportation
869 Punchbowl Street
Honolulu, Hawaii 96813-5097

Dear Mr. Morioka:

Subject: Endangered Species Act Section 7 Interagency Consultation Kamehameha Highway,
Kaipapau Stream Bridge Replacement Federal-aid Project No. BR-083-1(48), Hwy-DD
2.4072.

We appreciate the opportunity to comment on your project. DLNR, Division of Forestry and Wildlife have no comments to offer. Since the location of the subject project is away from DOFAW management areas, there will be no impacts to our programs. Your attached vegetation and biological studies show no endangered plants near this replacement bridge over Kaipapau stream along Kamehameha Highway. Thank you for allowing us to review your project.

Sincerely yours,

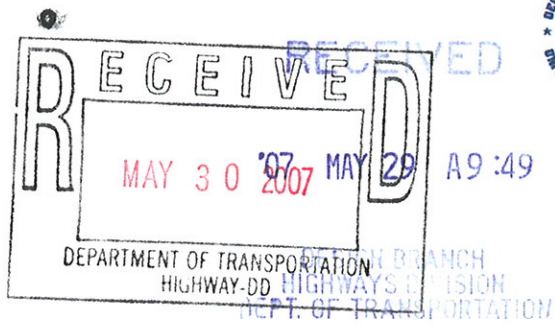
Paul J. Conry
Administrator

DEPT. OF TRANSPORTATION
HIGHWAYS DIVISION

07 APR 27 AM 10:27

RECEIVED

HWY 337



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Pacific Islands Regional Office
1601 Kapiolani Blvd., Suite 1110
Honolulu, Hawaii 96814-4700
(808) 944-2200 • Fax (808) 973-2941



MAY 17 2007

DEPT OF TRANSPORTATION
2007 MAY 23 A 10:48
HIGHWAYS DIVISION

Mr. Brennon T. Morioka, Ph. D., P.E.
Deputy Director-Highways
State of Hawaii
Department of Transportation
869 Punchbowl Street
Honolulu, Hawaii 96813-5097

Dear Mr. Morioka:

This letter responds to your April 11, 2007 letter, received by our office on April 17, 2007, regarding the State of Hawaii Department of Transportation's (HDOT) proposal to replace the Kaipapau Stream Bridge along with improved roadway shoulders, reinforced guardrails, and drainage features. Your letter requested information on listed species and their critical habitats as well as proposed and candidate species and critical habitat for listing that may occur within the potential area of discharge. The National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) Pacific Islands Regional Office Protected Resources Division provides ESA-listed marine protected species information under our statutory authorities under the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. §1531 *et seq.*).

Your letter stated that the purpose of this project is to fulfill HDOT's mandate to maintain the functional and structural integrity of bridges on State roadways. The Kaipapau Stream Bridge, located on Kamehameha Highway, State Route 83 in Hauula, Oahu, was inspected and found to be structurally deficient and thus in need of repairs. On October 1, 2004, a "Water quality and biological reconnaissance surveys of lower Kaipapau Stream near Hauula, Oahu" was prepared and later provided to NMFS staff for review. In early March 2006 you contacted NMFS staff regarding potential impacts to ESA-listed species and NMFS staff responded with comments on March 31, 2006. On May 2, 2006, you contacted Mr. David Schofield, the Marine Mammal Response Coordinator for NMFS Protected Resources Division. As originally stated by Mr. Schofield, Hawaiian monk seals are known to haul out in the general vicinity of the project area, which could include the mouth of Kaipapau Stream; however, it is unlikely that the species will travel 350 feet up the stream to the proposed project site.

To reiterate, based on the maps provided in your most recent correspondence, ESA-listed species under our jurisdiction that may occur in waters or shorelines around the project area include the endangered Hawaiian monk seal (*Monachus schauinslandi*). No additional marine species are proposed nor are candidates for listing at this time, and no critical habitat has been designated or

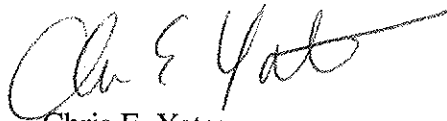


proposed for any marine protected species around Oahu, Hawaii. A complete list of Hawaii's marine protected species under NMFS's jurisdiction is also enclosed for your review.

As you stated in your letter dated May 17, 2006, Mr. Schofield offered to visit the construction site and provide a protected wildlife briefing to the construction crew. As this offer is still valid, NMFS is pleased that you will advise the project contractor to contact our office to coordinate a briefing between Mr. Schofield and the construction crew.

Thank you for working with NMFS to protect our nation's living marine resources. Should you have any other questions regarding this project or the consultation process, please contact Krista Graham on my staff at (808) 944-2238, or at the e-mail address Krista.Graham@noaa.gov. Please refer to consultation #: I-PI-07-592-CY.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris E. Yates", with a long horizontal flourish extending to the right.

Chris E. Yates
Assistant Regional Administrator
For Protected Resources

HAWAII MARINE PROTECTED SPECIES

National Marine Fisheries Service, Pacific Islands Regional Office

MARINE MAMMALS

All marine mammals are protected under the Marine Mammal Protection Act. Those in *ITALICIZED CAPITALS* are also listed as endangered under the Endangered Species Act.

| <u>Common Name</u> | <u>Scientific Name</u> |
|-----------------------------|-----------------------------------|
| HAWAIIAN MONK SEAL | <i>Monachus schauinslandi</i> |
| HUMPBACK WHALE | <i>Megaptera novaeangliae</i> |
| SPERM WHALE | <i>Physeter macrocephalus</i> |
| BLUE WHALE | <i>Balaenoptera musculus</i> |
| FIN WHALE | <i>Balaenoptera physalus</i> |
| SEI WHALE | <i>Balaenoptera borealis</i> |
| NORTH PACIFIC RIGHT WHALE | <i>Eubalaena japonica</i> |
| Common Dolphin | <i>Delphinus delphis</i> |
| Northern Elephant Seal | <i>Mirounga angustirostris</i> |
| Rough-Toothed Dolphin | <i>Steno bredanensis</i> |
| Risso's Dolphin | <i>Grampus griseus</i> |
| Bottlenose Dolphin | <i>Tursiops truncatus</i> |
| Pantropical Spotted Dolphin | <i>Stenella attenuata</i> |
| Spinner Dolphin | <i>Stenella longirostris</i> |
| Striped Dolphin | <i>Stenella coeruleoalba</i> |
| Melon-Headed Whale | <i>Peponocephala electra</i> |
| Pygmy Killer Whale | <i>Feresa attenuata</i> |
| False Killer Whale | <i>Pseudorca crassidens</i> |
| Killer Whale | <i>Orcinus orca</i> |
| Short-Finned Pilot Whale | <i>Globicephala macrorhynchus</i> |
| Blainville's Beaked Whale | <i>Mesoplodon densirostris</i> |
| Cuvier's Beaked Whale | <i>Ziphius cavirostris</i> |
| Pygmy Sperm Whale | <i>Kogia breviceps</i> |
| Dwarf Sperm Whale | <i>Kogia sima</i> |
| Minke Whale | <i>Balaenoptera acutorostrata</i> |
| Bryde's Whale | <i>Balaenoptera edeni</i> |
| Fraser's Dolphin | <i>Lagenodelphis hosei</i> |

SEA TURTLES

All sea turtles are protected under the Endangered Species Act. Those in *italics* are listed as endangered, while those in normal lettering are listed as threatened.

| <u>Common Name</u> | <u>Scientific Name</u> |
|---------------------|-------------------------------|
| LEATHERBACK TURTLE | <i>Dermochelys coriacea</i> |
| HAWKSBILL TURTLE | <i>Eretmochelys imbricata</i> |
| GREEN TURTLE | <i>Chelonia mydas</i> |
| OLIVE RIDLEY TURTLE | <i>Lepidochelys olivacea</i> |
| LOGGERHEAD TURTLE | <i>Caretta caretta</i> |

Last updated February 2007

HWY 336



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Pacific Islands Fish and Wildlife Office
300 Ala Moana Boulevard, Room 3-122, Box 50088
Honolulu, Hawaii 96850

DEPARTMENT OF TRANSPORTATION
HIGHWAY-DD

In Reply Refer To:
2007-SL-0166

Dr. Brennon T. Morioka
Deputy Director- Highways
State of Hawaii
Department of Transportation
869 Punchbowl Street
Honolulu, Hawaii 96813-5097

Subject: Species List Request for Kaipapau Stream Bridge Replacement, Kamehameha Highway on the Island of Oahu; HWY-DD 2.4073

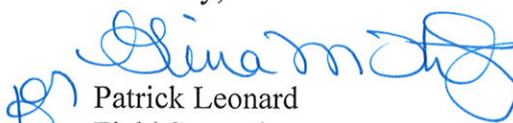
Dear Mr. Morioka:

Thank you for your letter dated April 11, 2007, requesting a list of threatened and endangered species that may occur near the proposed site of a bridge replacement across Kaipapau stream on the island of Oahu. The project is located on Kamehameha Highway, State Route 83; Hauula, Koolauloa District. The scope of work will involve replacing Kaipapau Stream Bridge, improving roadway shoulders, reinforcing guardrails, and improving drainage features.

We have reviewed the information you provided and pertinent information in our files, including data compiled by the Hawai'i Biodiversity and Mapping Program and the Hawaii GAP Program. Land cover information indicates that the proposed project site is low intensity development. To the best of our knowledge, no federally listed or proposed threatened or endangered species or candidate species, or proposed or designated critical habitats occur within the proposed project footprint you identified. The Hawaiian monk seal (*Monachus schauinslandi*) has been observed within 1.5 miles of the proposed project site. We recommend that you contact the National Marine Fisheries Service regarding potential impacts to seals and turtles near the proposed construction project as these species are within their jurisdiction.

We hope this information assists you in determining potential impacts to listed species. If you have questions, please contact Patrice Ashfield, Consultation and Technical Assistance Program Coordinator (phone: 808/792-9400; fax: 808/792-9581).

Sincerely,


Patrick Leonard
Field Supervisor

TAKE PRIDE[®]
IN AMERICA 



RECEIVED
DEPT. OF TRANSPORTATION
MAY 29 A9 2007
MAY 23 A 10:48
DESIGN BRANCH
HIGHWAYS DIVISION
MAY 16 2007
DEPT. OF TRANSPORTATION
HIGHWAY-DD

MAY 17 2006

Ms. Marilyn F. Luipold, NEPA Coordinator
U. S. Department of Commerce
National Oceanic and Atmospheric Administration
National Marine Fisheries Services
Pacific Islands Regional Service
1601 Kapiolani Boulevard, Suite 1110
Honolulu, Hawaii 96814-4700

Dear Ms. Luipold:

Subject: Kamehameha Highway, Kaipapau Stream Bridge Replacement
Federal-Aid Project No. BR-083-1(48), Section 4(f) Consultation Notification

Thank you for your letter of March 31, 2006, responding to our request for your review of the proposed project subject to Section 4(f) of the Department of Transportation Act of 1966 (49 USC 303).

You expressed concern of the project's proximity to the beach area with a known Hawaiian monk seal haul-out zone and the project's potential effects to the beach area and the endangered monk seal.

On May 2, 2006, we contacted Mr. David Schofield, the Marine Mammal Response Coordinator of your Protected Resources Division. In our phone conversation, he clarified that endangered Hawaiian monk seals are known to haul-out in the general vicinity of the project area, including the mouth of Kaipapau Stream. He also stated that it is unlikely that the marine mammals will travel 350 feet up the stream to the proposed project site.

Mr. Schofield offered to visit the construction site and provide a protected wildlife briefing to the construction crew. We will advise the project contractor, upon selection, to contact your office to coordinate a briefing with the construction crew.

The project construction analysis, presently indicates all activities will take place entirely within the highway right-of-way. The proposed bridge replacement is not anticipated to negatively affect the normal activities of the endangered Hawaiian monk seal.

However, in the unlikely event that monk seals are observed in close proximity to the project site during construction, the project contractor will contact the Marine Mammal Response Coordinator to coordinate the appropriate course of action.

Ms. Marilyn F. Luipold

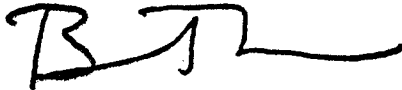
HWY-DD 2.0987

Page 2

MAY 17 2006

We sincerely appreciate your review of this document and if you have any questions, please feel free to contact Li Nah Okita at 692-7581 or Duane Taniguchi at 692-7582 of our Highways Division and reference HWY-DD 2.0987 as noted above.

Very truly yours,

A handwritten signature in black ink, appearing to be 'BT' followed by a long horizontal stroke.

BRENNON T. MORIOKA
Deputy Director-Highways

DT:rva

bc: HWY-DD(LNO)
R. M. Towill Corporation (Mr. Walter Chong)