U.S. Department of Transportation
Federal Highway Administration

Hawaii Federal-Aid Division

300 Ala Moana Blvd, Rm 3-306
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Honolulu, Hawaii 96850
Phone: (808) 541-2700
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May 22, 2020

In Reply Refer To:
HDA-HI

Ms. Katherine Mullett
Field Supervisor, Pacific Islands Fish and Wildlife Office
U.S. Fish and Wildlife Service
300 Ala Moana Boulevard, Room 3-122
Honolulu, HI 96850

Subject: Endangered Species Act Section 7 Consultation
Poipu Road Multi-Modal Improvements
Federal-aid Project No. STP-0520(004)

Dear Ms. Mullett:

The Federal Highway Administration (FHWA), in cooperation with the State of Hawaii Department of Transportation (HDOT) and the County of Kauai (CoK), is planning the Poipu Road Multi-Modal Improvements Project. Pursuant to Section 7 of the Endangered Species Act, the FHWA is requesting concurrence from the U.S. Fish and Wildlife Service (USFWS) that the proposed project may affect, but is not likely to adversely affect the threatened Hawaiian goose (*Branta sandvicensis*), endangered Hawaiian hoary bat (*Lasiurus cinereus semotus*), endangered Hawaiian stilt (*Himantopus mexicanus knudseni*), endangered Hawaiian common gallinule (*Gallinula galeata sandvicensis*), endangered Hawaiian coot (*Fulica alai*), endangered Hawaiian duck (*Anas wyvilliana*), endangered band-rumped storm petrel (*Oceanodroma castro*), threatened Newell's shearwater (*Puffinus auricularis newelli*), and endangered Hawaiian petrel (*Pterodroma sandwichensis*).

Project Description

The proposed project is located in the Koloa District and consists of multi-modal transportation improvements to the existing Poipu Road right-of-way, between Koloa Road and about 275-feet beyond Keleka Road. A project location map is enclosed. The scope of work of the proposed project involves a number of roadway improvements to Poipu Road. Road improvements would primarily occur within existing operational rights-of-way. However, there are some areas where work would occur on parcels adjacent to the right-of-way, including minor grading work and intersection improvements at select locations. Improvements include:

- Replacement of stop-controlled intersections with roundabouts;
- Roadway resurfacing, shoulder widening, construction of sidewalks, Americans with Disabilities Act (ADA) accessible ramps, construction of vehicle stalls, construction of medians, storm drainage improvements, and replacement or upgrades to bus stops;

- Pavement striping including striping of turn lanes, pedestrian crossings, and bike lanes, replacement of roadway signage, and new roadway signage to denote roundabouts and pedestrian crossings;
- Relocation of street lighting and installation of new street lighting;
- Vegetation removal, removal of trees that endanger life or property, and installation of new landscaping; and,
- Construction staging as needed.

Construction is expected to occur beginning in March 2022 and run approximately 660 days (through January 2024). Nighttime construction is not anticipated.

Coordination with USFWS

The CoK requested a species list from the USFWS in an email dated March 23, 2020. In a letter dated March 31, 2020 (Letter No. 01EPIF00-2020-SL-0226), the USFWS indicated that the following species may occur or transit through the vicinity of the proposed project area: the threatened Hawaiian goose (*Branta sandvicensis*), endangered Hawaiian hoary bat (*Lasiurus cinereus semotus*), endangered Hawaiian stilt (*Himantopus mexicanus knudseni*), endangered Hawaiian common gallinule (*Gallinula galeata sandvicensis*), endangered Hawaiian coot (*Fulica alai*), endangered Hawaiian duck (*Anas wyvilliana*), endangered band-rumped storm petrel (*Oceanodroma castro*), threatened Newell's shearwater (*Puffinus auricularis newelli*), and endangered Hawaiian petrel (*Pterodroma sandwichensis*). Additionally, there is no designated critical habitat within the immediate vicinity of the proposed project.

Potential Impacts to ESA Protected Species

Hawaiian goose (Nene)
Nene are found on the islands of Hawaii, Maui, Molokai, and Kauai predominately, with a small population on Oahu. 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. Nene have an extended breeding season with eggs reported from all months except May, June, July, althought the majority of nene in the wild nest during the wet (winter) season from October and March. Nesting peaks in December and most goslings hatch from December to January.

Hawaiian hoary bat
The Hawaiian hoary bat roosts in both exotic and native woody vegetation across all islands and will leave young unattended in trees and shrubs when they forage. If trees or shrubs 15 feet or taller are cleared during the pupping season, there is a risk that young bats could inadvertently be harmed or killed since they are too young to fly or may not move away.

Hawaiian waterbirds.
Hawaiian coot, Hawaiian duck, and Hawaiian stilt (collectively known as Hawaiian waterbirds) may occur in in fresh and brackish water. The Hawaiian waterbirds may use the vicinity of the proposed project for loafing, foraging, and possibly nesting. If a nest is present, potential impacts include parents being flushed from the nest for extended periods of time causing the nest to fail or eggs or chicks being crushed by humans or equipment.

Hawaiian seabirds
The Hawaiian petrel, band-rumped storm petrel, and the Newell's shearwater (collectively known as seabirds) may transit over the project area when flying between the ocean and nesting sites in the mountains during their breeding, nesting, and fledging season (March 1 through December 15). Seabirds fly at night and are attracted to artificially-lighted areas resulting in disorientation and subsequent fallout due to exhaustion. Seabirds are susceptible to collision with objects that protrude above the vegetation layer, such as utility lines, guy-wires, and communication towers. Additionally, once grounded, they are vulnerable to predators and are often struck by vehicles along roadways. Any increase in the use of nighttime lighting, particularly during each year's peak fallout period (September 15 through December 15), could result in additional seabird injury or mortality.

Avoidance and Minimization Measures for ESA-Listed Species

Hawaiian goose (Nene)
- Contractors will be instructed to not approach, feed, or disturb Nene.
- If Nene are observed loafing or foraging within the project area during the Nene breeding season (September through April), a biologist familiar with the nesting behavior of Nene will survey for nests in and around the project area prior to the resumption of any work. Surveys will be repeated after any subsequent delay of work of three or more days (during which the birds may attempt to nest).
- If a nest is discovered within a radius of 150 feet of proposed work, or a previously undiscovered nest is found within said radius after work begins, work will cease and the USFWS will be contacted.
- In areas where Hawaiian geese are known to be present, post and implement reduced speed limits, and inform project personnel and contractors about the presence of endangered species on-site.

Hawaiian hoary bat
- Woody plants greater than 15 feet tall will not be disturbed, removed, or trimmed during the bat birthing and pup rearing season (June 1 through September 15).
- Barbed wire fencing will not be used.

Hawaiian waterbirds
- In areas where waterbirds are known to be present, post and implement reduced speed limits, and inform project personnel and contractors about the presence of endangered species on-site or nearby.
- If water resources are located within or adjacent to the project site, incorporate the applicable best management practices (BMPs) regarding work in aquatic environments into the project design.
- Have a biological monitor that is familiar with the species' biology conduct Hawaiian waterbird nest surveys where appropriate habitat occurs within the vicinity of the proposed project site prior to project initiation. Repeat surveys again within 3 days of project initiation and after any subsequent delay of work of 3 or more days.
- If a nest or brood is found:
    - Contact the USFWS within 24 hours for further guidance.

- Establish and maintain a 100-foot buffer within the project right-of-way, including any non-right-of-way staging areas that the project proponent has control of from all active nests or broods until the chicks or ducklings have fledged. Do not conduct potentially disruptive activities or habitat alteration within this buffer.
- 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 or ducklings fledge to ensure that Hawaiian waterbirds and nests are not adversely impacted.

Hawaiian seabirds

- Although nighttime construction is not anticipated, construction specifications will include a note to avoid nighttime construction during the seabird fledging period, September 15 through December 15.
- Should construction flood lights be required, all outdoor lights will be fully shielded and automatic motion sensor switches and controls will be installed.

Effect Determination

With the implementation of the avoidance and minimization measures described above, the FHWA has determined that the Poipu Road Multi-Modal Improvements Project may affect, but is not likely to adversely affect the threatened Hawaiian goose (*Branta sandvicensis*), endangered Hawaiian hoary bat (*Lasiurus cinereus semotus*), endangered Hawaiian stilt (*Himantopus mexicanus knudseni*), endangered Hawaiian common gallinule (*Gallinula galeata sandvicensis*), endangered Hawaiian coot (*Fulica alai*), endangered Hawaiian duck (*Anas wyvilliana*), endangered band-rumped storm petrel (*Oceanodroma castro*), threatened Newell's shearwater (*Puffinus auricularis newelli*), and endangered Hawaiian petrel (*Pterodroma sandwichensis*).

We request your concurrence with our may affect, but not likely to adversely affect determination. We respectfully request your response within 60 days of receipt of this letter.

If you have any questions or require additional information, please feel free to contact me at (808) 541-2316 or by email at meesa.otani@dot.gov. Thank you for your assistance.

Sincerely yours,

Meesa T. Otani

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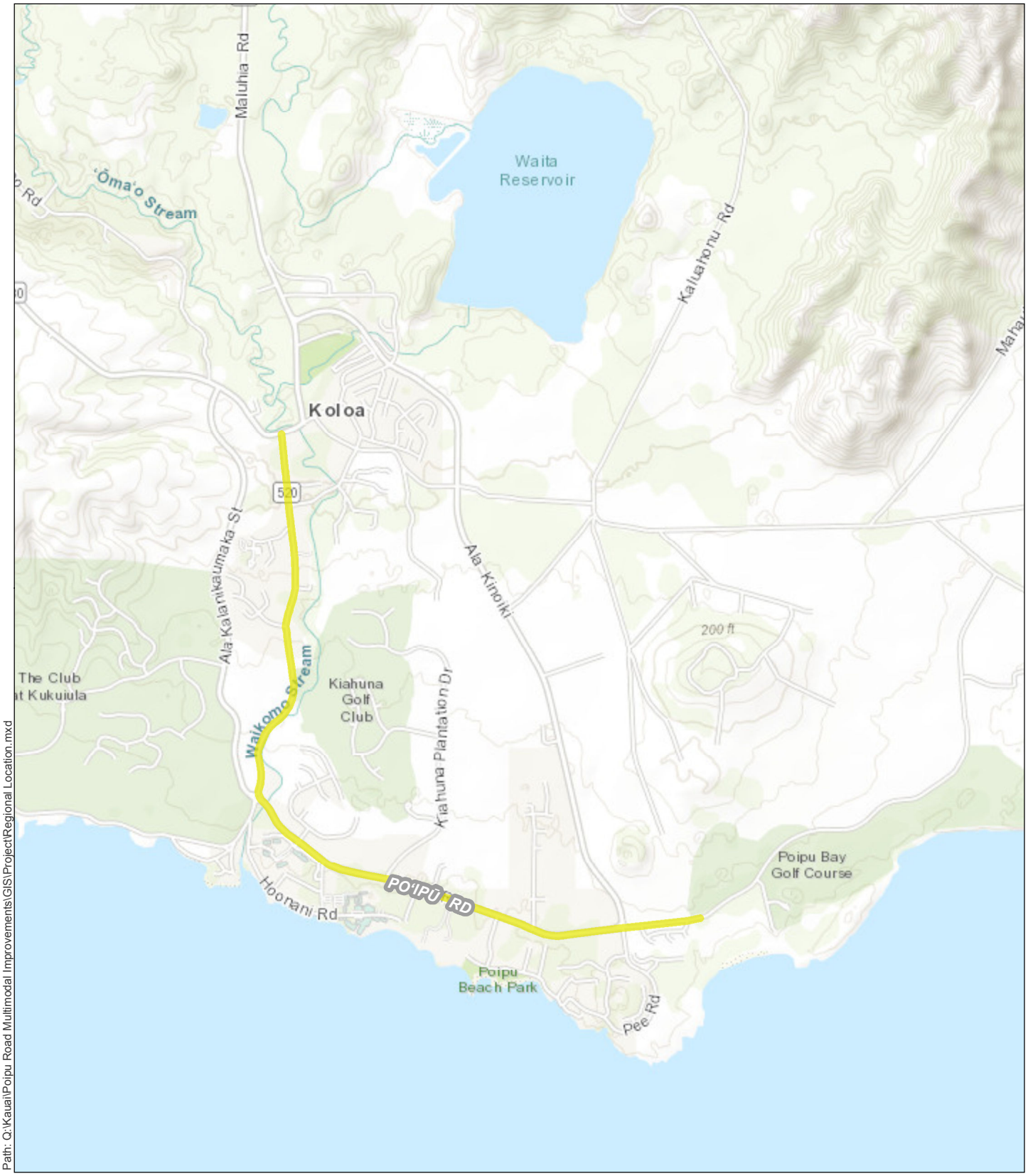
Date: 2020.05.22 14:32:14 -10'00'

Meesa Otani
Environmental Engineer

Enclosures

cc: Justin Rush, HDOT, HWY-DD



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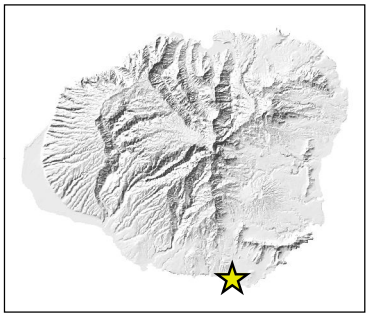
DATE: 3/21/2018

LEGEND

Project Site



Regional Location

PO'IPŪ ROAD MULTIMODAL IMPROVEMENTS

County of Kaua'i
Island of Kaua'i

North

Linear Scale (feet)
0 750 1,500 3,000

PBR HAWAII & ASSOCIATES, INC.

Source: ESRI Online Basemaps, 2016. Tiger Line Files, 2002.

Disclaimer: This graphic has been prepared for general planning purposes only and should not be used for boundary interpretations or other spatial analysis.

United States Department of the Interior

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

In Reply Refer To:
01EPIF00-2020-SL-0226

March 31, 2020

Christie Bagley
Civil Engineer II
County of Kauai
Department of Public Works
4444 Rice Street, Suite 175
Lihue, Hawaii 96766

Subject: Species List for Poipu Road Multi-Modal Improvements, Kauai.

Dear Ms. Bagley:

Thank you for your email received March 23, 2020, requesting a list of threatened or endangered species or critical habitat for the proposed Poipu Road multi-modal improvement, Federal aid project number STP-0520(004). This letter has been prepared under the authority of, and in accordance with, provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), as amended (Act).

We have reviewed the information you provided and pertinent information in our files as it pertains to listed species in accordance with section 7 of the Act. Our data indicate the federally endangered Hawaiian stilt (*Himantopus mexicanus knudseni*), Hawaiian common gallinule (*Gallinula galeata sandvicensis*), Hawaiian coot (*Fulica americana alai*), and Hawaiian duck (*Anas wyvilliana*) commonly referred to as "Hawaiian waterbirds", the threatened Hawaiian goose (*Branta sandvicensis*), the endangered band-rumped storm-petrel (*Oceanodroma castro*), Hawaiian petrel (*Pterodroma sandwichensis*), and threatened Newell's shearwater (*Puffinus auricularis newelli*) commonly referred to as "Hawaiian seabirds", as well as the endangered Hawaiian hoary bat (*Lasiurus cinereus semotus*) may occur in or transit through the vicinity of the proposed project area. There is no designated critical habitat within the project's action area. We offer the following recommendations to avoid and minimize potential project impacts to these species:

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. While the Hawaiian stilt, Hawaiian coot, and Hawaiian duck may be found on all islands, the Hawaiian common gallinule is restricted to Kauai and Oahu.

If your project will create, either purposefully or inadvertently, any kind of temporary or permanent standing water, including excavation or grading for construction or roadwork, then it may attract Hawaiian waterbirds to the site. In particular, the Hawaiian stilt is known to nest in sub-optimal locations (e.g. any ponding water), if water is present. Hawaiian waterbirds attracted to sub-optimal habitat may suffer adverse impacts, such as predation and reduced reproductive success, and thus the project may create an attractive nuisance. To avoid and minimize potential project impacts to Hawaiian waterbirds we recommend you incorporate the following applicable measures into your project plan:

- In areas where waterbirds are known to be present, post and implement reduced speed limits, and inform project personnel and contractors about the presence of endangered species on-site or nearby.
- If water resources are located within or adjacent to the project site, incorporate the applicable best management practices (BMPs) regarding work in aquatic environments into the project design.
- Have a biological monitor that is familiar with the species' biology conduct Hawaiian waterbird nest surveys where appropriate habitat occurs within the vicinity of the proposed project site prior to project initiation. Repeat surveys again within 3 days of project initiation and after any subsequent delay of work of 3 or more days (during which the birds may attempt to nest).

If a nest or active brood is found:

- Contact the Service within 24 hours for further guidance.
- Establish and maintain a 100-foot buffer around all active nests or broods until the chicks or ducklings have fledged. Do not conduct potentially disruptive activities or habitat alteration within this buffer.
- 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 or ducklings fledge to ensure that Hawaiian waterbirds and nests are not adversely impacted.

Hawaiian goose

Hawaiian geese are predominately found on the islands of Hawaii, Maui, Molokai, and Kauai. They may be 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 Hawaiian geese we recommend you incorporate the following applicable measures into your project plan:

- Do not approach, feed, or disturb Hawaiian geese.

- If Hawaiian geese are observed loafing or foraging within the project area during the breeding season (September through April), halt work and have a biologist familiar with the nesting behavior of Hawaiian geese survey for nests in and around the project area prior to the resumption of any work. Repeat surveys after any subsequent delay of work of 3 or more days (during which the birds may attempt to nest).
- Cease all work immediately and contact the Service for further guidance if a nest is discovered within a radius of 150 feet of proposed work, or a previously undiscovered nest is found within said radius after work begins.
- In areas where Hawaiian geese are known to be present, post and implement reduced speed limits, and inform project personnel and contractors about the presence of endangered species on-site.

Hawaiian seabirds

Newell's shearwaters are found in the highest densities on Kauai with lower densities on all of the other islands, except Lanai. Hawaiian Petrel populations are greatest on Maui, Lanai, and Kauai with lower densities on Hawai'i and Molokai. Band-rumped storm-petrels are found in low densities throughout the islands. All islands may experience overflight at night.

For all projects, 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 avoid and minimize potential project impacts to seabirds we recommend you incorporate the following applicable measures into your project plan:

- Fully shield all outdoor lights so the bulb can only be seen from below bulb height and only use when necessary.
- Install automatic motion sensor switches and timer controls on all outdoor lights or turn off lights when human activity is not occurring in the lighted area.
- Avoid nighttime construction during the seabird fledging period, September 15 through December 15.

Hawaiian hoary bat

The Hawaiian hoary bat roosts in both exotic and native woody vegetation across all islands and will leave young unattended in trees and shrubs when they forage. If trees or shrubs 15 feet or taller are cleared during the pupping season, there is a risk that young bats could inadvertently be harmed or killed since they are too young to fly or may not move away. Additionally, Hawaiian hoary bats forage for insects from as low as 3 feet to higher than 500 feet above the ground and can become entangled in barbed wire used for fencing. To avoid and minimize impacts to the endangered Hawaiian hoary bat we recommend you incorporate the following applicable measures into your project description:

- Do not disturb, remove, or trim woody plants greater than 15 feet tall during the bat birthing and pup rearing season, June 1 through September 15.
- Do not use barbed wire for fencing.

We appreciate your efforts to conserve endangered species. If you have questions regarding this response, please contact Johnathon Kraska, Fish and Wildlife Biologist (phone: 808-792-9400, email: johnathon_kraska@fws.gov). When referring to this project, please include this reference number: 01EPIF00-2020-SL-0226.

Sincerely,

DARREN LEBLANC
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Date: 2020.03.31 07:41:36 -10'00'

Darren LeBlanc
Planning and Consultation Team Manager