



# 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:  
01EPIF00-2021-I-0257

January 21, 2022

Mr. Travis Thomason  
Natural Resources Conservation Service  
300 Ala Moana Blvd.  
P.O. Box 50004, Room 4-118  
Honolulu, Hawaii 96850-0050

Subject: Programmatic Informal Consultation with the U.S. Department of Agriculture,  
Natural Resources Conservation Service, Pacific Islands

Dear Mr. Thomason:

In accordance with section 7 of the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C 1531 et seq.), this letter documents the U.S. Fish and Wildlife Service's (Service) assessment of select conservation practices by the U.S. Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) applied in the main Hawaiian Islands, the Commonwealth of the Northern Mariana Islands (CNMI), and Guam. This programmatic informal consultation (PIC) for NRCS' covered actions (Service file 2021-I-0257) is a stand-alone replacement to all previous versions.

## CONSULTATION HISTORY

Our analysis of potential effects from the proposed actions are based on phone calls and electronic mail between Lorena Wada, Jodi Charrier (Service) and Gregory Koob (NRCS), and a meeting between J. Charrier and G. Koob on September 25, 2013, when all project actions and potential effects to listed species were discussed and all conservation measures were agreed upon by both agencies. The most recent meeting was held on October 13, 2021, between Johnathon Kraska (Service) and Jennifer Higashino (NRCS) to update language for conservation measures and change reporting dates.

## DESCRIPTION OF THE PROPOSED ACTION

NRCS provides technical and financial assistance to private landowners and managers across the Pacific Islands. Funding for a project occurs through a Farm Bill program. These Farm Bill programs such as the Environmental Quality Incentives Program, Conservation Stewardship

INTERIOR REGION 9  
COLUMBIA-PACIFIC NORTHWEST

IDAHO, MONTANA\*, OREGON\*, WASHINGTON

\*PARTIAL

INTERIOR REGION 12  
PACIFIC ISLANDS

AMERICAN SAMOA, GUAM, HAWAII, NORTHERN  
MARIANA ISLANDS

Program, Regional Conservation Partnership Program and the Agricultural Conservation Easement Program are used to implement conservation practices that improve habitat, water quality, drainage, erosion control, and vegetation management.

Categories of actions covered by this PIC are earth moving, vegetation manipulation or removal, and pesticide use or nutrient application. Actions within those three categories, also known as conservation practices by the NRCS can be found in Table 1.

Table 1. Categories and associated actions covered by this PIC.

<b>Category</b>	<b>Action</b>
Earth Moving	Construction of Structures, Access Road, Deep Tillage, Fence Installation, Grazing Land Mechanical Treatment, Irrigation Water Conveyance (Underground Plastic), Livestock Pipeline, Pipeline, Structure for Water Control, Sediment Basin, Solid or Liquid Waste Separation Facility, Structure for Water Control, Waste Storage Facility, Pond Sealing or Lining, Pumping Plant, Stream Crossing, Wetland Wildlife Habitat Management
Vegetation Manipulation or Removal	Access Road, Brush Management, Composting Facility, Contour Buffer Strips, Contour Farming, Contour Orchard and Other Perennial Crops, Critical Area Planting, Fence Installation, Field Border, Forest Stand Improvement, Fuel Break, Grade Stabilization Structure, Grassed Waterway, Grazing Land Mechanical Treatment, Heavy Use Area Protection, Hedgerow Planting, Herbaceous Weed Control, Irrigation Pipeline, Irrigation Regulating Reservoir, Irrigation Water Conveyance (above and underground), Lined Waterway or Outlet, Livestock Pipeline, Multi-Story Cropping, Pipeline, Precision Land Forming, Range Planting, Riparian Forest Buffer, Seasonal High Tunnel System for Crops, Silvopasture Establishment, Terrace, Tree or Shrub Establishment, Tree or Shrub Pruning, Tree or Shrub Site Preparation, Vegetative Barrier, Waste Storage Facility, Water and Sediment Control Basin, Watering Facility, Windbreak or Shelterbelt Establishment, Windbreak or Shelterbelt Renovation, Woody Residue Treatment, Restoration and Management of Rare and Declining Habitats, Upland Wildlife Habitat Management
Pesticide Use or Nutrient Application	Apply Controlled Release Nitrogen Fertilizer, Agrichemical Handling Facility, Herbaceous Weed Control, Injecting or Incorporating Manure, Integrated Pest Management, Nutrient Management, Use Drift Reducing Nozzles, Low Pressures, Lower Boom Height and Adjuvants to Reduce Pesticide Drift, Woody Residue Treatment

NRCS has determined these actions may affect, but are not likely to adversely affect the following species: the endangered Hawaiian hoary bat (*Lasiurus cinereus semotus*), endangered Blackburn's sphinx moth (*Manduca blackburni*), threatened Hawaiian goose (*Branta sandvicensis*), Hawaiian waterbirds (endangered Hawaiian coot (*Fulica americana alai*), endangered Hawaiian stilt (*Himantopus mexicanus knudseni*), endangered Hawaiian common gallinule (*Gallinula chloropus sandvicensis*), and endangered Hawaiian duck (*Anas wyvilliana*)), endangered nightingale reed-warbler (*Acrocephalus luscini*a), and the endangered Mariana common moorhen (*Gallinula chloropus guami*). This PIC provides the Service's concurrence with these determinations.

The following actions are not covered in this programmatic consultation: 1) actions that would adversely affect the physical and biological features of any designated critical habitat unit; 2) actions involving hazing or the purposeful dispersing Hawaiian waterbirds, including directive actions to deter the birds from using a site; 3) hazing or purposeful dispersal of nene during any nesting activity (see 4(d) rule published when the nene was downlisted to threatened); and 4) creating attractive nuisances (permanent water resources).

NRCS determines the presence of listed species by; using the Hawaii biodiversity mapping project database, the Service rare species database, the Marianas rare species database, and other various databases; conducting on-site inventories during site visits; using local expert knowledge of the site; and through client interviews. The Service will be contacted for a species list to determine which species may be present in the action area. Each species and the corresponding geographic range covered by this PIC can be found in Table 2. Actions may occur anywhere within islands listed under each species' geographic range.

Table 2. Species and their geographic ranges covered under this PIC

<b>Species</b>	<b>Geographic Range</b>
Hawaiian hoary bat	Hawaii, Kahoolawe, Kauai, Lanai, Maui, Molokai, and Oahu
Blackburn's sphinx moth	Hawaii, Kahoolawe, Lanai, Maui, and Molokai
Hawaiian goose	Hawaii, Kauai, Maui, and Molokai
Hawaiian coot	Hawaii, Kauai, Lanai, Maui, Molokai, and Oahu
Hawaiian stilt	Hawaii, Kauai, Lanai, Maui, Molokai, and Oahu
Hawaiian common gallinule	Kauai and Oahu
Hawaiian duck	Hawaii, Kauai, Lanai, Maui, Molokai, and Oahu
Nightingale reed-warbler	Saipan
Mariana common moorhen	Guam, Saipan, Tinian, and Rota

Under the terms of this PIC, the NRCS will submit an annual report by September 1 of each year. The annual report will include a project description, covered actions implemented (from Table 1), species affected, conservation measures applied, and a map identifying the project location for each project covered under the PIC.

A meeting will occur between NRCS and the Service by September 30 of each year to review the efficacy of this PIC. If either the Service or the NRCS are not satisfied, this PIC will be deemed inactive, and consultations will resume on an individual project basis.

## CONSERVATION MEASURES

The following conservation measures, proposed by NRCS and developed in coordination with the Service, will be part of each project design and will be a condition of contracts with NRCS clients. If any of the following federally listed species may occur in the action area of the proposed project, the associated conservation measures shall be implemented.

### **Hawaiian hoary bat**

The Hawaiian hoary bat roosts in both exotic and native woody vegetation across all of the main Hawaiian 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 three feet to higher than 500 feet above the ground and can become entangled in barbed wire fencing. To avoid or minimize impacts to the Hawaiian hoary bat, the following conservation measures will be implemented:

- Woody plants greater than 15 feet tall will not be disturbed, removed, or trimmed during the bat birthing and pup rearing season (June 1 to September 15).
- NRCS will use the Service provided analysis to determine whether or not the use of barbed wire on a project will be covered by this PIC.

To evaluate the potential for adverse effects to the Hawaiian hoary bat from the use of barbed wire, the Service analyzed data gathered from known Hawaiian hoary bat fatalities on barbed wire fencing. This analysis, based on a limited data set, was shared with NRCS to use as an indicator of the risk of adverse effects to the Hawaiian hoary bat from the use of barbed wire for proposed projects.

By evaluating project specific information based upon the Service's analysis, NRCS determines the potential for adverse effects to the Hawaiian hoary bat due to collision with barbed wire fencing. Proposed projects covered by this PIC were determined to have discountable effects (extremely unlikely to occur) over the lifetime of the project. If the proposed project is determined to result in adverse effects, this PIC is not applicable and a separate consultation will be initiated.

### **Blackburn's sphinx moth**

Blackburn's sphinx moths are found primarily in the drier regions of the islands of Hawaii, Kahoolawe, Lanai, Maui, and Molokai. The moths feed on nectar from native plants, including beach morning glory (*Ipomoea pes-caprae*), iliee (*Plumbago zeylanica*), and maiapilo (*Capparis sandwichiana*). Larvae feed upon non-native tree tobacco (*Nicotiana glauca*) and native aiea (*Nothoecstrum* spp.). To pupate, the larvae burrow into the soil and can remain in a state of torpor for up to a year or more before emerging. Soil disturbance can result in death of the pupae.

To avoid or minimize potential project impacts to the Blackburn's sphinx moth, the following conservation measures will be implemented:

- A biologist familiar with the species will survey areas of proposed activities for Blackburn's sphinx moth and its larval host plants prior to work initiation.
- These surveys will be conducted during the wettest portion of the year (usually November 1 to April 30), and within four to six weeks prior to construction.
- Surveys will include searches for eggs, larvae, and signs of larval feeding.
- If moths or larval host plants are found during the survey they will not be disturbed, and the Service will be contacted for additional guidance.

If no Blackburn's sphinx moths, larvae, eggs, or their larval host plants are found during surveys, measures will be taken to avoid attraction of Blackburn's sphinx moths to the project location and prohibit tree tobacco from becoming established at the site. If there is a seed source in the vicinity, tree tobacco can quickly establish when there is soil disturbance. Tree tobacco can grow greater than three feet tall in approximately six weeks. If it grows over three feet tall, the plants may become a host for the Blackburn's sphinx moth. Therefore, the following conservation measures will be implemented:

- Where feasible, any tree tobacco less than three feet tall will be removed.
- Information will be provided to landowners on the Blackburn's sphinx moth and potential host plants, including how to manage tree tobacco.
- The site will be monitored every four to six weeks for new tree tobacco growth before, during and after the proposed earth moving action.
- Monitoring personnel will be given placards of tree tobacco at different growth stages.

### **Hawaiian Goose**

Hawaiian geese are found on the islands of Hawaii, Kauai, Maui, and Molokai. They are observed in a variety of habitats, but prefer open areas, such as pastures, golf courses, wetlands, natural grasslands, shrublands, and lava flows. Threats to the species include introduced mammalian and avian predators, wind facilities, and vehicle strikes. To avoid or minimize potential project impacts to Hawaiian geese, the following conservation measures will be incorporated into project descriptions:

- Hawaiian geese will not be approached, fed, or disturbed.
- In areas where Hawaiian geese are known to be present, reduced speed limits will be posted and implemented, and all project personnel will be informed about the presence of Hawaiian geese on site.
- If Hawaiian geese are observed loafing or feeding within the project area during the Hawaiian goose breeding season (September 1 to April 30), a biologist familiar with the species and approved by the NRCS Biologist will survey for nests in the action area prior to the resumption of any work. Surveys will be repeated after any subsequent delay of work of 3 or more days (during which the birds may attempt to nest).
- If a nest is discovered within a 150 feet of the proposed action, or a previously undiscovered nest is found within that area after work begins, work will cease immediately and the Service will be contacted within 48 hours for further guidance.

## **Hawaiian waterbirds**

Listed Hawaiian waterbirds are found in fresh and brackish water marshes and natural or manmade 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. To avoid or minimize potential project impacts to the Hawaiian waterbirds, the following conservation measures will be implemented:

- In areas where Hawaiian waterbirds are known to be present, reduced speed limits will be posted and implemented, and all project personnel will be informed about the presence of endangered species on site.
- Where suitable nesting habitat occurs within the action area, a biologist familiar with the species and approved by the NRCS Biologist will conduct nest surveys in the action area immediately prior to project initiation. Surveys will be repeated within three days of project initiation and after any subsequent delay of work of three or more days (during which time the birds may attempt to nest).

If a nest or active brood is found:

- The Service will be contacted within 48 hours for further guidance.
- A 100-foot buffer will be established and maintained around all active nests and/or broods until the chicks or ducklings have fledged. Potentially disruptive activities or habitat alteration will not be conducted within this buffer.
- A biological monitor that is familiar with the species and approved by the NRCS Biologist will be 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 affected.

## **Nightingale reed-warbler**

The current distribution and estimated population of the nightingale reed-warbler includes Alamagan and Saipan. On Saipan, the nightingale reed-warbler is found in areas of dense understory including reed marshes, wetland or edge vegetation, forest edge and openings, mixed tanga-tanga (*Leucaena leucocephala*) grassland habitat, mixed tanga-tanga secondary forest, and tanga-tanga forest. This species is largely absent from mature native forest, beach strand, and swordgrass savannah. Active nests have been observed in all months except November and December. Breeding peaks twice throughout the year. Once between January and March, and another between July and September. There is the potential for noise and disturbance to adversely affect breeding nightingale reed-warblers. To avoid or minimize potential project impacts to the nightingale reed-warbler, the following conservation measures will be implemented:

- If project actions occur during the breeding seasons (January 1 to March 31 and July 1 to September 30), a biologist familiar with the species and approved by the NRCS Biologist will conduct surveys immediately prior to project initiation.
- If nightingale reed-warblers are found in the action area and construction (including use of heavy equipment) or clearing of any brush or trees cannot be avoided during the breeding seasons, this PIC is not applicable and a separate consultation should be initiated.

- NRCS clients must allow the CNMI Division of Fish and Wildlife to inspect the property during vegetation removal to ensure no unauthorized habitat is removed.

### **Mariana common moorhen**

The current distribution of the Mariana common moorhen includes Guam, Saipan, Tinian, and Rota. The Mariana common moorhen prefers wetlands with diverse, non-persistent emergent vegetation containing deep and shallow water areas with equal areas of cover and open water. It avoids wetlands with dense monocultures. Edge and emergent vegetation is used for breeding, nest building, and escape cover. Primary habitats include: Agana marsh; Fena Valley reservoir; and the Naval Station Marsh on Guam; Lake Hagoi on Tinian; and Lake Susupe and Puntan Muchot or Garapan wetlands on Saipan. Little is known about the life cycle of the Mariana common moorhen. Nests have been documented in all months except October, indicating that the species may breed throughout the year. There is the potential for noise and disturbance to adversely affect breeding Mariana common moorhen. To avoid or minimize potential project impacts to the Mariana common moorhen, the following conservation measures will be implemented when projects are proposed in the vicinity of streams or bodies of fresh water on Guam or the CNMI:

- If the Mariana common moorhen is observed within the action area, or flies into the action area while activities are occurring, all activities will halt within 100 feet of the species. Work will not resume until the bird(s) leave the area on their own accord.
- Where suitable nesting habitat occurs within the action area, a biologist familiar with the species and approved by the NRCS Biologist will conduct a nest survey immediately prior to the start of any action.

If a nest or active brood is found:

- The Service will be contacted within 48 hours for further guidance.
- A 100 foot buffer will be established and maintained around all active nests and broods until the chicks or ducklings have fledged. Actions will not be conducted within this buffer.
- A biological monitor that is familiar with the species' biology and approved by the NRCS will be present on the project site during all construction or earth moving activities until the chicks or ducklings fledge to ensure that the Mariana common moorhen and nests are not adversely affected.

### ANALYSIS OF EFFECTS

“May affect, but not likely to adversely affect” means that all effects are beneficial, insignificant, or discountable. Beneficial effects are positive effects without any adverse effects to the species or habitat. Insignificant effects relate to the size of the impact and include those effects that are undetectable, not measurable, or cannot be evaluated. Discountable effects are those extremely unlikely to occur. Implementation of the conservation measures listed for each species in this PIC will ensure that project actions listed in Table 1 have insignificant or discountable effects on listed species.

## Summary

Based on the above, the Service concurs with the NRCS determination that implementation of the actions listed in this PIC may affect, but are not likely to adversely affect the Hawaiian hoary bat, Blackburn's sphinx moth, Hawaiian goose, Hawaiian coot, Hawaiian stilt, Hawaiian gallinule, Hawaiian duck, nightingale reed-warbler, and the Mariana common moorhen.

Reinitiation of consultation is required and shall be requested by the NRCS or by the Service, 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 this PIC; or,
- (3) If a new species is listed or critical habitat designated that may be affected by the identified action.

We appreciate your efforts to conserve endangered species. If you have any questions, please contact me at [emma\\_gosliner@fws.gov](mailto:emma_gosliner@fws.gov) or by telephone at 808-792-9400. When referring to this project, please include this reference number: 01EPIF00-2021-I-0257.

Sincerely,

Gregory Koob  
Assistant Field Supervisor