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Attorneys for Keep the North Shore Country

BOARD OF LAND AND NATURAL RESOURCES  
STATE OF HAWAII

IN THE MATTER OF

A Contested Case Hearing Re Final Habitat  
Conservation Plan and Incidental Take  
License for the Na Pua Makani Wind Energy  
Project by Applicant Na Pua Makani Power  
Partners, LLC; Tax Map Key Nos. (1) 5-6-  
008:006 and (1) 5-6-006:018, Koolauloa  
District, Island of O'ahu, Hawaii'i.

Case No. BLNR-CC-17-001

KEEP THE NORTH SHORE COUNTRY'S  
EXCEPTIONS TO THE HEARING  
OFFICER'S RECOMMENDED FINDINGS  
OF FACT, CONCLUSIONS OF LAW, AND  
DECISION AND ORDER FILED  
NOVEMBER 1, 2017; CERTIFICATE OF  
SERVICE

HEARING OFFICER: YVONNE Y. IZU

**KEEP THE NORTH SHORE COUNTRY'S EXCEPTIONS  
TO THE HEARING OFFICER'S RECOMMENDED FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND DECISION AND ORDER FILED NOVEMBER 1, 2017**

Pursuant to Minute Order No. 12, Keep the North Shore Country submits its exceptions to the Hearing Officer's Recommended Findings of Fact, Conclusions of Law, and Decision and Order filed November 1, 2017. Keep the North Shore Country agrees with the Hearing Officer's determination that Na Pua Makani Power Partners, LLC's (NPM) habitat conservation plan (HCP) must be disapproved as it fails to meet the requirements of HRS chapter 195D and only points out minor corrections that should be made:

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17 DEC -7 P1:15

FORESTRY & WILDLIFE  
STATE OF HAWAII

FOF 194 and COL 5.e: This FOF and COL use the word “may” when all the evidence demonstrates that all the wind farms with HCPs have actually taken more ‘ōpe‘ape‘a, our endangered native Hawaiian hoary bats, than predicted. *See e.g.* FOF 192. Every HCP approved in this state has underestimated the number of ‘ōpe‘ape‘a that would be killed by wind turbine generators. Exhibit A-1 at 56; Exhibit B-12 at 4-20; B-30 at 10; Vol. 1, Tr. 08/07/17 at 40-41 and 84; Exhibit B-5 at 3-78; Exhibit B-12 at 19. FOF 194 and COL 5.e should delete the word “may.”

FOF 239 and COL 20: One phrase in FOF 239 could be misinterpreted to suggest that NPM’s HCP will actually minimize and completely mitigate the take of ‘ōpe‘ape‘a – despite the clear findings in FOFs 194, 205, 207, 208, 216, 227. The emphasis in this FOF is the funding, not the effectiveness of the measures. FOF 239 should read:

The funds will be adequate to ensure monitoring of the Covered Species by the State and to ensure that the Applicant takes all actions ~~necessary~~ **that it has proposed** to minimize and mitigate the impacts of the take.

Similar changes should be made to COLs 20 and 23.

DATED: Honolulu, Hawai‘i, December 7, 2017.



David Kimo Frankel

Maxx E. Phillips

Attorney for Keep the North Shore Country

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CERTIFICATE OF SERVICE

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The undersigned hereby certifies that a copy of Keep The North Shore Country's exceptions to the Hearings Officer's Recommended Findings of Fact, Conclusions of Law, and Decision and Order was duly served upon the following parties, by Hand Delivery, U.S. Mail, postage prepaid, or electronically, on December 7, 2017, at the addresses below:

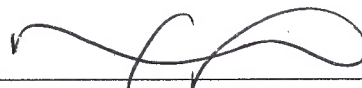
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DATED: Honolulu, Hawai'i, December 7, 2017.



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