

State of Hawai'i
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Aquatic Resources
Honolulu, Hawai'i 96813

June 23, 2017

Board of Land and Natural Resources
Honolulu, Hawai'i

Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Education Permit Ammendment to Ms. Jodie Yim, Director of Maritime Operations, Marimed Foundation, for Access to State Waters to Conduct Activities for the Kailana Maritime Educational Program Voyage to French Frigate Shoals

The Division of Aquatic Resources (DAR) hereby submits a request for your authorization and approval for issuance of a Papahānaumokuākea Marine National Monument Education permit to Ms. Jodie Yim, Director of Maritime Operations, Marimed Foundation, pursuant to § 187A-6, Hawai'i Revised Statutes (HRS), Chapter 13-60.5, Hawai'i Administrative Rules (HAR), and all other applicable laws and regulations.

The Education permit, as described below, would allow entry and activities to occur in Papahānaumokuākea Marine National Monument (Monument), including the Northwest Hawaiian Islands (NWHI) State Marine Refuge and the waters (0-3 nautical miles) surrounding the following sites:

- French Frigate Shoals

The activities covered under this permit would occur between July 1, 2017 and August 31, 2017.

The proposed activities are similar to those that have previously been permitted and conducted in the Monument.

INTENDED ACTIVITIES

The permittee proposes to amend Education permit no. PMNM-2016-024 to include access to French Frigate Shoals to conduct a maritime education program for high school students in the Northwestern Hawaiian Islands (NWHI). The voyage is a component of the Kailana Program, a Native Hawaiian culture based experiential therapy program for high-risk youth adolescents. The program focuses on developing a deep sense of responsibility to community and strengthens cultural ties by weaving together traditional Polynesian wayfinding, Native Hawaiian protocol, environmental stewardship, and maritime seamanship skills aboard sailing school vessel (SSV) MAKANI 'OLU, owned and operated by the Marimed Foundation. Proposed activity dates in the Monument are July 12 – 23, 2017 and August 19 – 30, 2017 with projected dates at French Frigate Shoals of July 16 – 18, 2017 and August 23 – 25, 2017.

The permit, as issued, allows for access for two 12 day voyages, authorized access to the waters around Nihoa and Mokumanamana, as well as providing for anchoring of the vessel on sandy substrates. The requested amendment would allow for an additional location of French Frigate Shoals to conduct their permitted activities of cultural ceremony and protocols (offering oli (chants)), swimming, snorkeling, and fish surveys. Depending on the scope of activity and if deemed necessary by the MMB, an approved Resource Monitor would be identified.

The project directly supports an activity in the Monument Management Plan (MMP), under the Constituency Building and Outreach (CBO) Action Plan, Activity CBO-2.3: "Support other entities' efforts to broaden knowledge of an appreciation for Monument resources and management priorities." Additionally, it would support an activity under the Native Hawaiian Culture and History (NHCH) Action Plan under activity NHCH-2.6: Continue to facilitate Native Hawaiian cultural access (MMP Vol. 1, p. 131-141, 271, 2008).

This activity will help the Monument by educating, preparing, and empowering the next generation of youth to conserve and manage resources, and to appreciate the cultural and environmental significance of PMNM. They will also seek to increase and perpetuate awareness of the Monument by sharing their experiences through the creation of non-commercial education and outreach materials (eg: photography and video recordings).

The activities proposed by the Applicant directly support the Monument Management Plan (MMP), under the Constituency Building and Outreach (CBO) Action Plan, Activity CBO-2.3: "Support other entities' efforts to broaden knowledge of an appreciation for Monument resources and management priorities." Additionally, it would support an activity under the Native Hawaiian Culture and History (NHCH) Action Plan under activity NHCH-2.6: Continue to facilitate Native Hawaiian cultural access (MMP Vol. 1, p. 131-141, 271, 2008).

The activities described above may require the following regulated activities to occur in State waters:

- Anchoring a vessel

REVIEW PROCESS:

The permit application was sent out for review and comment to the following scientific and cultural entities: Hawai'i Division of Aquatic Resources, Hawai'i Division of Forestry and Wildlife, Papahānaumokuākea Marine National Monument (NOAA/NOS), NOAA Pacific Islands Regional Office (NOAA-PIRO), United States Fish and Wildlife Service Pacific Islands NW Refuge Complex Office, the Office of Hawaiian Affairs (OHA), and the PMNM Native Hawaiian Cultural Working Group.

Comments received from the scientific community are summarized as follows:

Scientific reviews support the acceptance of this application.

QUESTIONS:

1. Does the applicant realize that in July and August, when they wish to visit FFS that time aligns with Albatross Fledging Season? FFS is where very large Tiger sharks (12-17 ft) congregate to hunt albatross chicks. It is a very unsafe time to be in the water. The Tiger sharks are known for attacking anything that moves.

Yes, we acknowledge that it is Tiger shark hunting season and proper precautions will be taken. The vessel's crew and Resource Monitor will assess the conditions above and below the water.

COMMENTS:

1. The vessel's crew should review and follow all the protocols found in Boating and Diving Operations established for the PMNM.

Noted. We have received and reviewed BMP 4, Boat Operations and Diving Activities. All applicable BMPs and permit conditions will be strictly followed.

2. When anchoring, the vessel's crew should identify areas of sandy substrate to set the anchor to avoid damage to coral or other sensitive benthic habitats.

Noted. The vessel's crew will identify areas of sandy substrate to set the anchor to avoid damage to coral or other sensitive benthic habitats. All applicable BMPs and permit conditions will be strictly followed.

3. USFWS wants to thank the applicant for withdrawing land access from the amendment request. Tern Island is currently a dangerous environment containing contaminants, sink holes, entrapment hazards, and dangerous structures. It is also a quarantined island which requires added preparation for visitation.

Concurrently with MMB agency review, Marimed and FWS met to discuss the activities in the amendment request. We have since decided to withdraw our request to conduct activities on land due to safety concerns.

4. USFWS requests that the Makani Olu crew have a Resource Monitor with them at all times while in the Monument, especially at FFS where the RM must have local boating knowledge of the atoll.

Makani Olu is willing to have a Resource Monitor present where deemed necessary by the MMB.

5. FWS requests that the Makani Olu sailing vessel does not enter the lagoon at FFS, there are many shallow coral heads in the lagoon (the area is nicknamed the maze). Only very experienced boat captains with prior knowledge of the area should be permitted to navigate this area to insure there are no coral strikes or detrimental impacts to the resources.

Noted. Makani Olu will abide by the recommendations of the Resource Monitor who has the local boating knowledge of the atoll.

6. The Makani Olu should stay well outside of the atoll in deep water with lots of room to navigate. We strongly recommend against anchoring. Unless the anchor is placed in a sandy area devoid of live coral. Breaking of corals due to anchors, boat strikes and human presence creates an entry point for bioeroders, and coral disease.

Noted. Makani Olu will abide by the recommendations of the Resource Monitor who has the local boating knowledge of the atoll. The vessel's crew will identify areas of sandy substrate to set the anchor to avoid damage to coral or other sensitive benthic habitats. All applicable BMPs and permit conditions will be strictly followed.

7. Accessing the northern reef on the outside of the atoll may be acceptable for a snorkel, though this area can have strong currents and possible waves, and the site should be assessed prior to entry.

Noted. The vessel's crew and Resource Monitor will assess the conditions for safe snorkeling prior to entry and during entry activities.

8. Snorkeling around La Perouse is a similar underwater habitat of Nihoa and Mokumanamana.

Noted.

9. The area around East Island isn't very good for snorkeling (not much to see). Also, there are a lot of large Tiger sharks there in the summer when Albatross chicks are fledging.

Noted. The vessel's crew and Resource Monitor will assess the conditions above and below the water for safe snorkeling prior to entry and during entry activities.

10. A boat captain should stay on the small boat and "live boat" while the snorkelers are in the water. No anchoring of small boats while snorkeling should be permitted. The anchoring of small boats will injure and impact corals and if the anchor shifts the boat could drift either away from the reef, endangering the snorkelers, or into the reef damaging corals.

Noted.

11. Recommend as kids are in water, a spotter should be in the boat at all times. Conditions can change quickly and the Monument is known for its large apex predators.

Noted. The vessel's crew and Resource Monitor will assess the conditions for safe snorkeling prior to entry and during entry activities. A spotter above and below water will be maintained during snorkeling.

12. Marine quarantine protocols should be strictly adhered to. All snorkel gear and gear of any kind that enters the water needs to be soaked in a bleach solution for at least 10 min. This needs to happen in-between each island and atoll. Also a coral briefing should be held to ensure snorkelers do not touch, kick or break corals while snorkeling. A shallow water blackout briefing should also be held.

Noted. We have received and reviewed BMP 11, Disease and Introduced Species Prevention Protocol. All applicable BMPs and permit conditions will be strictly followed.

- 13. French Frigate Shoals has a colorful history of containments and sunken boats, anyone snorkeling should proceed cautiously. Also, if anything is discovered underwater, the Monument would like a record of the location and a GPS point if available.

Noted. We have received and reviewed BMP 17, Maritime Heritage Sites. All applicable BMPs and permit conditions will be strictly followed.

- 14. The applicant should be aware of using lights aboard the vessel at night when the vessel is near islands or near atolls, low lights at night interferes with sea bird navigation.

Noted.

Comments received from the Native Hawaiian community are summarized as follows:

Cultural reviews support the acceptance of this application. No concerns were raised.

Comments received from the public are summarized as follows:

No comments were received from the public on this application.

Additional reviews and permit history:

Are there other relevant/necessary permits or environmental reviews that have or will be issued with regard to this project? (e.g. MMPA, ESA, EA) Yes No

If so, please list or explain:

- The proposed activities are in compliance with the National Environmental Policy Act.
- The proposed activities are in compliance with the National Historic Preservation Act.
- NOAA's Office of Marine National Sanctuaries, Papahānaumokuākea Marine National Monument (PMNM) and the NOAA NMFS Pacific Islands Regional Office (PIRO) established an Endangered Species Act (ESA) Section 7 programmatic consultation process on April 13, 2015 that covers regularly occurring activities within the Papahānaumokuākea Marine National Monument (Monument). The activities covered under the programmatic consultation were: 1) Swimming, snorkeling, and SCUBA diving to conduct surveys, deploy/retrieve oceanographic instruments, sample collections and conducting filming and photography; 2) Fishing (trolling via handline or rod-and-reel: and 3) Vessel and small boat operations. On March 10, 2016, NMFS PIRO sent an e-mail to PMNM that concurred with the PMNM's assessment that the proposed activity is within the scope of the PMNM programmatic consultation between NMFS and the PMNM.
- An informal review of all aforementioned activities following section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA; 16 U.S.C. 1855(b)) was completed on June 14, 2016 by NOAA National Marine Fisheries Service (NMFS) Pacific Islands Regional Office (PIRO). NMFS PIRO concluded adequate

PMNM Best Management Practices are in place for the proposed activities, thus project activities would not adversely affect Essential Fish Habitat (EFH).

- The Department has made an exemption determination for this permit in accordance chapter 343, HRS, and Chapter 11-200, HAR. See Attachment (“DECLARATION OF EXEMPTION FROM THE PREPARATION OF AN ENVIRONMENTAL ASSESSMENT UNDER THE AUTHORITY OF CHAPTER 343, HRS AND CHAPTER 11-200 HAR, FOR PAPA HANAUMOKU AKEA MARINE NATIONAL MONUMENT EDUCATION PERMIT TO MS. JODIE YIM, DIRECTOR OF MARITIME OPERATIONS, MARIMED FOUNDATION, FOR ACCESS TO STATE WATERS TO PRACTICE TRADITIONAL WAYFINDING AND SEAMANSHIP ACTIVITIES UNDER PERMIT PMNM-2016-024-A1.”)

Has Applicant been granted a permit from the State in the past? Yes No

If so, please summarize past permits:

Have there been any a) violations: Yes No
 b) late/incomplete post-activity reports: Yes No

Are there any other relevant concerns from previous permits? Yes No

STAFF OPINION

DAR staff is of the opinion that Applicant has properly demonstrated valid justifications for his application and should be allowed to enter the NWHI State waters and to conduct the activities therein as specified in the application with certain special instructions and conditions, which are in addition to the Papahānaumokuākea Marine National Monument Education Permit General Conditions. All suggested special conditions have been vetted through the legal counsel of the Co-Trustee agencies (see Recommendation section).

MONUMENT MANAGEMENT BOARD OPINION

The MMB has not yet provided endorsement for this amendment action. This is a product of process timeframes and not necessary a result of any concern with the proposed amendment itself. A verbal update will be provided at the time of the BLNR hearing.

RECOMMENDATION

That the Board authorize and approve an Education Permit Amendment to Ms. Jodie Yim, Director of Maritime Operations, Marimed Foundation, with the following special conditions:

That the Board declare that the actions which are anticipated to be undertaken under this permit will have little or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.

Upon the finding and adoption of the department's analysis by the Board, that the Board delegate and authorize the Chairperson to sign the declaration of exemption for purposes of recordkeeping requirements of chapter 343, HRS, and chapter 11-200, HAR.

1. This permit is not to be used for nor does it authorize the sale of collected organisms. Under this permit, the authorized research activities must be for noncommercial purposes not involving the use or sale of any organism, by-products, or materials collected within the Monument for obtaining patent or intellectual property rights.
2. The permittee may not convey, transfer, or distribute, in any fashion (including, but not limited to, selling, trading, giving, or loaning) any coral, live rock, or organism collected under this permit without the express written permission of the Co-Trustees.
3. To prevent introduction of disease or the unintended transport of live organisms, the permittee must comply with the disease and transport protocol attached to this permit.
4. Tenders and small vessels must be equipped with engines that meet EPA emissions requirements.

5. Refueling of tenders and all small vessels must be done at the support ships and outside the confines of lagoons or near-shore waters in the State Marine Refuge.
6. No fishing is allowed in State Waters except as authorized under State law for subsistence, traditional and customary practices by Native Hawaiians.
7. That the permittee provide, to the best extent possible, a summary of their Monument access, including, but not limited to, any initial findings to the DLNR for use at educational institutions and outreach events.

Respectfully submitted,



Maria Carnevale
State Co-Manager
Papahānaumokuākea Marine National Monument

APPROVED FOR SUBMITTAL



Suzanne D. Case
Chairperson



Pua Borges-Smith - NOAA Affiliate <pua.borges-smith@noaa.gov>

2017 PMNM Access?

Jodie Yim <jodie.yim@marimed.org>

Fri, Apr 21, 2017 at 11:31 AM

To: Pua Borges-Smith - NOAA Affiliate <pua.borges-smith@noaa.gov>

Pua,

Marimed Foundation would like to request to add FFS to our current permit. Please start me on the process.

We anticipate two voyages- July 11-21 and August 19-29. Three of the eleven days would be around the FFS for each voyage. We would like to anchor, swim, and possibly land on Tern Island.

Jodie Yim

Director of Maritime Operations

Maritime Careers Exploration & Custom Sailing Charters

M: 808-226-6226 F: 808-247-0330

jodie.yim@marimed.org

www.marimed.org



[Quoted text hidden]

The Kailana Program of the Marimed Foundation looks to expand on its ocean education learning modules for at-risk youth by incorporating reef health, community-based scientific monitoring, and seabird identification into their curriculum. In addition to currently permitted activities under permit # PMNM-2016-024, the summer 2017 voyage into Papahānaumokuākea on SSV Makani 'Olu would like to access Lalo (French Frigate Shoals) for a duration of 2-3 days maximum in order to compare and contrast reef health between the atoll and similar reefs within the southeastern Hawaiian islands. Lalo contains shallow water coral reefs that are vastly different from the high-surge rocky reefs of Nihoa and Mokumanamana, the two islands currently permitted for access, making Lalo an ideal area for comparing to the southeastern Hawaiian Islands. In-water activities for the youth include swimming, snorkeling, and simple identification and presence/absence fish surveys. These activities will assist program educators with sharing a pristine reef system unaffected by land-based pollution and fishing pressure to the youth on the voyage. As with every stop of the voyage, proper cultural protocols will be conducted by all participants as a part of the curriculum.

Land access to Tern island is being requested to incorporate seabird identification and education into the curriculum. Program educators would like to discuss with youth within the program about birds useful for traditional navigation and other cultural practices, and land access to Tern gives an opportunity to see various seabirds not easily viewed within the Southeastern Hawaiian Islands. It is understood that a Resource Monitor may be needed for access, and it would be an added benefit to the program if this person were able to accompany the educators and youth to assist in teaching about conservation priorities of the island and the seabirds present. Learning modules can also incorporate curriculum on Hawaiian Monk Seals, given that the HMSRP camp will be on the island during that time, if feasible.

Papahānaumokuākea Marine National Monument Compliance Information Sheet

1. Updated list of personnel to be covered by permit. List all personnel names and their roles here (e.g. John Doe, Diver; Jane Doe, Field Technician, Jerry Doe, Medical Assistant): Kalei Velasco, Captain; Harry Sprague, First Mate/Captain; TBD, Second Mate; TBD 7 Marimed staff members/crew/deckhands, and TBD 15 program participants.

2. Specific Site Location(s): (Attach copies of specific collection locations): Vessel will be located by Nihoa, Mokumanamana and French Frigate Shoals. No one will land on any site and no collections will be conducted.

3. Other permits (list and attach documentation of all other related Federal or State permits): None

3a. For each of the permits listed, identify any permit violations or any permit that was suspended, amended, modified or revoked for cause. Explain the circumstances surrounding the violation or permit suspension, amendment, modification or revocation. N/A

4. Funding sources (Attach copies of your budget, specific to proposed activities under this permit and include funding sources. See instructions for more information): Voyaging is budgeted through Marimed. The vessel, SSV Makani Olu, is owned by Marimed. The applicant has secured the financial resources necessary for the activity and may seek contributions from corporations or partners to alleviate expenses.

5. Time frame:

Activity dates: August 12-22, 2017

Dates actively inside the Monument: August 14-20, 2017

Describe any limiting factors in declaring specific dates of the proposed activity at the time of application: Weather or ship malfunction may alter dates.

Personnel schedule in the Monument:

Day 1 & 2

Depart Kaneohe Bay

Sail to North of Kauai to Nihoa

Day 3

Evening arrival in Monument

Anchor off Nihoa per Monument BMPs

Day 4-9

Sail to FFS to note observations from Monument training

Anchor off FFS per Monument BMPs

Day 10

Sail around Mokumanamana to note observations from Monument training

Anchor off Mokumanamana per Monument BMPs

Day 11

Exit Monument

Sail past Niihau and Kauai

Day 12

Return to Kaneohe Bay

6. Indicate (with attached documentation) what insurance policies, bonding coverage, and/or financial resources are in place to pay for or reimburse the Monument trustees for the necessary search and rescue, evacuation, and/or removal of any or all persons covered by the permit from the Monument:

All participants are covered under insurance of Marimed Foundation

7. Check the appropriate box to indicate how personnel will enter the Monument:

- Vessel
 Aircraft

Provide Vessel and Aircraft information: SSV Makani Olu is owned and operated by Marimed Foundation, a non-profit organization involved with sail training since 1988. The 96-foot, three-masted staysail schooner, was retrofitted for sail training in Hawaiian waters.

8. The certifications/inspections (below) must be completed prior to departure for vessels (and associated tenders) entering the Monument. Fill in scheduled date (attach documentation):

These inspections have been scheduled through Jodie Yim and Justin Rivera of NOAA. VMS was installed on June 1, 2016.

- Rodent free, Date: March 10, 2017
 Tender vessel, Date: March 10, 2017
 Ballast water, Date: March 10, 2017
 Gear/equipment, Date: March 10, 2017
 Hull inspection, Date: March 10, 2017

9. Vessel information (NOTE: if you are traveling aboard a National Oceanic and Atmospheric Administration vessel, skip this question):

Vessel name: SSV Makani Olu

Vessel owner: Marimed Foundation

Captains' name: Kalei Velasco & Harry Sprague

IMO#:366837840

Vessel ID#: 1113517
Flag: USA
Vessel type: SAIL/AUX
Call sign: WDA6945
Embarkation port: Kaneohe Bay
Last port vessel will have been at prior to this embarkation: Kaneohe Bay, Oahu
Length: 96'
Gross tonnage: 68
Total ballast water capacity volume (m3): NONE
Total number of ballast water tanks on ship: NONE
Total fuel capacity: 800GAL
Total number of fuel tanks on ship: 2
Marine Sanitation Device: BLACKTANK 400GAL
Type:

Explain in detail how you will comply with the regulations regarding discharge in the Monument. Describe in detail. If applicable, attach schematics of the vessel's discharge and treatment systems: TANK WILL BE EMPTIED PRIOR TO ENTERING AND AFTER EXITING

Other fuel/hazardous materials to be carried on board and amounts: NONE

Provide proof of a National Oceanic and Atmospheric Administration (NOAA) Office of Law Enforcement-approved Vessel Monitoring System (VMS). Provide the name and contact information of the contractor responsible for installing the VMS system. Also describe VMS unit name and type: Justin Rivera from NOAA coordinated with David Clark from Navtech Marine Electronics for the installation of the Faria Watchdog VMS unit on June 1, 2016.

VMS Email:
Inmarsat ID#:

* Individuals MUST ENSURE that a type-approved VMS unit is installed and that its automatic position reports are being properly received by the NOAA OLE system prior to the issuance of a permit. To make sure your VMS is properly configured for the NOAA OLE system, please contact NOAA OLE at (808) 203-2503 or (808) 203-2500.

* PERMITS WILL NOT BE ISSUED TO INDIVIDUALS ENTERING THE MONUMENT VIA VESSEL UNTIL NOAA OLE HAS CONTACTED THE MONUMENT PERMIT COORDINATOR WITH A 'POSITIVE CHECK' READING.

10. Tender information:

On what workboats (tenders) will personnel, gear and materials be transported within the Monument? List the number of tenders/skiffs aboard and specific types of motors: 2
13FT RIGID INFLATABLES WITH YAMAHA 20HP 4 STROKE ENGINES

Additional Information for Land Based Operations

11. Proposed movement of personnel, gear, materials, and, if applicable, samples:
N/A

12. Room and board requirements on island: N/A

13. Work space needs: N/A

DID YOU INCLUDE THESE?

- Map(s) or GPS point(s) of Project Location(s), if applicable
- Funding Proposal(s)
- Funding and Award Documentation, if already received
- Documentation of Insurance, if already received
- Documentation of Inspections
- Documentation of all required Federal and State Permits or applications for permits

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

June 23, 2017

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

JEFFREY PEARSON
DEPUTY DIRECTOR - WATER

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

TO: Division of Aquatic Resources File

THROUGH: Suzanne D. Case, Chairperson

FROM: Maria Carnevale
Papahānaumokuākea Marine National Monument

DECLARATION OF EXEMPTION FROM THE PREPARATION OF AN ENVIRONMENTAL ASSESSMENT
UNDER THE AUTHORITY OF CHAPTER 343, HRS AND CHAPTER 11-200 HAR, FOR
PAPAHĀNAUMOKUĀKEA MARINE NATIONAL MONUMENT EDUCATION PERMIT AMENDMENT TO
MS. JODIE YIM, DIRECTOR OF MARITIME OPERATIONS, MARIMED FOUNDATION, FOR ACCESS TO
STATE WATERS TO CONDUCT ACTIVITIES FOR THE KAILANA MARITIME EDUCATIONAL PROGRAM
VOYAGE TO FRENCH FRIGATE SHOALS UNDER PERMIT PMNM-2016-024-A1

The following permitted activities are found to be exempted from preparation of an environmental assessment under the authority of Chapter 343, HRS and Chapter 11-200, HAR:

Project Title:

Papahānaumokuākea Marine National Monument Education Permit to Ms. Jodie Yim, Director of Maritime Operations for the Marimed Foundation, for Access to State Waters to Conduct Activities for the Kailana Maritime Educational Program.

Permit Number: PMNM-2016-024-A1

Project Description:

The Education permit application, as described below, would allow entry and activities to occur in Papahānaumokuākea Marine National Monument (Monument), including the Northwest Hawaiian Islands (NWHI) State waters between July 1, 2017 through August 31, 2017.

The Applicant proposes to conduct two 12-day educational voyages. Fifty (50) designated participants (Fifteen (15) students, five (5) instructors, and five (5) vessel crew per access) would voyage to French Frigate Shoals on the SSV MAKANI OLU.

This amendment will add an additional location, French Frigate Shoals, to an already existing valid permit for Nihoa and Mokumanamana. While in Papahānaumokuākea, the applicant proposes the following activities: perform cultural ceremony and protocols (offering oli (chants))

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in the near shore waters of both Nihoa and Mokumanamana in order to strengthen cultural connections to the place; swimming and snorkeling activities to compare the MHI and NWHI marine reef systems; film and photography will be conducted to document participants' experience for non-commercial purposes; and anchoring overnight at Nihoa and Mokumanamana.

All proposed activities are strictly observational. No land will be accessed. Cultural protocols and ceremonies will be conducted from the ship. Anchoring will be done on sandy substrate only. Swimming and snorkeling will be in the vicinity of the ship when anchored at a safe location.

The activities proposed by the Applicant directly support the Monument Management Plan (MMP), under the Constituency Building and Outreach (CBO) Action Plan, Activity CBO-2.3: "Support other entities' efforts to broaden knowledge of an appreciation for Monument resources and management priorities." Additionally, it would support an activity under the Native Hawaiian Culture and History (NHCH) Action Plan under activity NHCH-2.6: Continue to facilitate Native Hawaiian cultural access (MMP Vol. 1, p. 131-141, 271, 2008).

Consulted Parties:

The permit application was sent out for review and comment to the following scientific and cultural entities: Hawai'i Division of Aquatic Resources, Hawai'i Division of Forestry and Wildlife, Papahānaumokuākea Marine National Monument (NOAA/NOS), NOAA Pacific Islands Regional Office (NOAA-PIRO), United States Fish and Wildlife Service Hawaiian and Pacific Islands National Wildlife Refuge Complex Office, the Office of Hawaiian Affairs (OHA), and the PMNM Native Hawaiian Cultural Working Group.

Exemption Determination:

After reviewing HAR § 11-200-8, including the criteria used to determine significance under HAR § 11-200-12, DLNR has concluded that the activities under this permit would have minimal or no significant effect on the environment and that issuance of the permit is categorically exempt from the requirement to prepare an environmental assessment based on the following analysis:

1. All activities associated with this permit; including the practice of traditional wayfinding, voyaging, seamanship skills, swimming; have been evaluated as a single action. As a preliminary matter, multiple or phased actions, such as when a group of actions are part of a larger undertaking, or when an individual project is precedent to or represents a commitment to a larger project, must be grouped together and evaluated as a single action. HAR § 11-200-7. This permit does not involve an activity that is precedent to a later activity.

2. The Exemption Class for Basic Data Collection with no Serious or Major Environmental Disturbance Appears to Apply. Chapter 343, HRS, and § 11-200-8, HAR, provide for a list of classes of actions exempt from environmental assessment requirements. HAR §11-200-8.A.5. exempts the class of actions which involve "basic data collection, research, experimental

management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource.” The proposed activities appear to fall squarely under the exemption class #5, exempt item #2 as described under the Exemption List for the Department of Land and Natural Resources, published on June 5, 2015 as “non-destructive data collection and inventory, including field, aerial, and satellite surveying and mapping”. It has also been interpreted to include various modes of transportation to reach field areas necessary to carry out such activities, such as those to be supported by the proposed activities. As discussed below, no significant disturbance to any environmental resource is anticipated in observing and sampling of Monument resources. Thus, so long as the below considerations are met, an exemption class should include the action now contemplated.

All activities will be performed in a culturally appropriate manner and adhere to Monument Best Management Practices (BMP). To minimize the potential of disease introduction or transfer during swimming and snorkeling activities, the applicant would follow Disease and Introduced Species Prevention (BMP #011). The applicant does not intend to approach or photograph protected species; however, the applicant proposes to conduct activities in areas where Hawaiian monk seals and sea turtles are present. The applicant will adhere to Best Management Practices for Boat Operations and Diving Activities (BMP #004); and Marine Wildlife Viewing Guidelines (BMP #010) to reduce or eliminate adverse effects on protected marine species through interactions with in-water activities.

3. Cumulative Impacts of Actions in the Same Place and Impacts with Respect to the Potentially Particularly Sensitive Environment Will Not Be Significant. Even where a categorical exemption appears to include a proposed action, the action cannot be declared exempt if “the cumulative impact of planned successive actions in the same place, over time, is significant, or when an action that is normally insignificant in its impact on the environment may be significant in a particularly sensitive environment.” HAR § 11-200-8.B. To gauge whether a significant impact or effect is probable, an exempting agency must consider every phase of a proposed action, any expected primary and secondary consequences, the long-term and short-term effects of the action, the overall and cumulative effect of the action, and the sum effects of an action on the quality of the environment. Examples of actions which commonly have a significant effect on the environment are listed under HAR § 11-200-12.

Activities directly under this permit would be purely observational. Similar activities have previously been approved and conducted within the Monument. No measurable impacts from similar activities have been observed in previous years and none would be expected from proposed activities.

With this in mind, significant cumulative impacts are not anticipated as a result of this activity, and numerous safeguards further ensure that the potentially sensitive environment of the project area will not be significantly affected. All activities will be conducted in a manner compatible with the management direction of the Monument Proclamation in that the activities do not diminish monument resources, qualities, and ecological integrity, or have any indirect,

secondary, cultural, or cumulative effects. The joint permit review process did not reveal any anticipated indirect or cumulative impacts that would occur as a result of these activities.

The proposed project would be supported by the SSV MAKANI OLU at French Frigate Shoals. While there would be overlap with the NOAA monk seal and turtle management activities, no concerns with such overlap exists.

There are no anticipated negative impacts from any overlap in activities with the addition of French Frigate Shoals, and therefore no associated cumulative impacts between activities from the SSV MAKANI OLU and from the other vessels. At this time, no other concurrent activities are known.

Since no significant cumulative impacts or significant impacts with respect to any particularly sensitive aspect of the project area are anticipated, the categorical exemptions identified above should remain applicable.

4. Overall Impacts Will Probably be Minimal and Insignificant. Any foreseeable impacts from the proposed activity will probably be minimal, and further mitigated by general and specific conditions attached to the permit. Specifically, all conservation and management activities covered by this permit will be carried out with strict safeguards for the natural, historic, and cultural resources of the Monument as required by Presidential Proclamation 8031, other applicable law and agency policies and standard operating procedures.

Conclusion. Upon consideration of the permit to be approved by the Board of Land and Natural Resources, the potential effects of the above listed project as provided by Chapter 343, HRS and Chapter 11-200 HAR, have been determined to be of probable minimal or no significant effect on the environment and exempt from the preparation of an environmental assessment.

Suzanne D. Case
Chairperson, Board of Land and Natural Resources

Date