

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

August 24, 2018

Board of Land and Natural Resources
Honolulu, Hawai'i

Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Native Hawaiian Practices Permit to Mr. Keola Lindsey, Office of Hawaiian Affairs, for Access to State Waters to Conduct Archaeological Cultural Research Activities

The Division of Aquatic Resources (DAR) hereby submits a request for your authorization and approval for issuance of a Papahānaumokuākea Marine National Monument Native Hawaiian practices permit to Mr. Keola Lindsey, Office of Hawaiian Affairs, 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 Native Hawaiian Practices permit, as described below, would allow entry and activities to occur in the Papahānaumokuākea Marine National Monument, including the NWHI State Marine Refuge and the waters (0-3 nautical miles) surrounding the following sites:

- Mokumanamana (Necker)
- Nīhoa
- French Frigate Shoals
- Gardner Pinnacles
- Maro Reef
- Laysan Island
- Lisianski Island, Neva Shoal
- Pearl and Hermes Atoll
- Kure Atoll

The activities covered under this permit would occur August 25, 2018 through August 24, 2019.

The proposed activities are a continuation of work previously permitted and conducted in the Monument.

INTENDED ACTIVITIES

Mr. Keola Lindsey (applicant) proposes to assess select archaeological sites on Nihoa related to a campsite utilized by field staff. Visual surveys of select sites on Mokumanamana may also occur, pending access opportunities. Other activities requested enable Native Hawaiian cultural practitioners to strengthen ties to the islands within Papahānaumokuākea through fishing practices, feather collections, and environmental place-based observations.

ITEM F-1

Up to twenty (20) personnel would access Nihoa aboard Sailing School Vessel (SSV) MAKANI 'OLU, owned and operated by the Marimed Foundation. The MAKANI 'OLU would be anchored offshore, on sandy substrate only, and utilize one small boat to shuttle personnel to the shoreline. Activities in the application outside of Nihoa, will be conducted on an opportunistic basis, pending access.

While in the Monument, activities would include: archaeological surveying, mapping, and photography; touching archaeological artifacts of deceased corals; salvage of deceased seabird carcasses/feathers for the purpose of traditional practices; offering any of the following ho'okupu(gifts) in accordance with Monument BMPs: sterilized pa'akai (salt), powdered or dried 'awa (*Piper methysticum*), and ua (rain water) collected from participants' home area; overnight camping on Nihoa and Mokumanamana; retrieval of U.S. Fish and Wildlife Service (FWS) sign on behalf of FWS; pending compliance review, the removal and collection of pōpolo (*Solanum nelsonii*) parts and seeds for cultural use and propagation by managing agencies; removal of invasive *Cenchrus* and New Zealand spinach (*Tetragonia teragonioides*) on Nihoa; grasshopper surveys in conjunction with FWS; sustenance (federal waters) and subsistence (state waters) fishing; and anchoring in sandy substrates at the Mokumanamana and Nihoa Special Preservation Areas. All archaeological and biological activities will be done during daylight hours only, in order to minimize any impacts to Monument resources.

Permitted personnel would be escorted at all times by an approved PMNM Resource Monitor, experienced and trained to safely access Nihoa with no adverse impact to native species or cultural sites. Activities of overnight camping will include only five (5) personnel on Nihoa in accordance with the Monument Best Management Practices (BMP). In order to reduce human impacts to the Monument, the applicant would abide by Monument Special Conditions and Rules for Moving Between Islands/Atolls and Packing for Field Camps (BMP #007). In order to reduce human impacts to Nihoa, the applicant would abide by Monument Best Management Practices for Activities on Nihoa (BMP #015) that specifies camping protocols, protocols to reduce impacts to cultural and natural resources, and human presence restrictions (no more than fourteen (14) personnel shall be authorized to be on Nihoa at any one time and overnight camping is restricted to no more than five (5) individuals). Beach access at Nihoa would be prohibited and landing on both islands would only occur in the rocky intertidal zone when no Hawaiian monk seals and sea turtles are present at the landing sites. Furthermore, all personnel would avoid all areas where Hawaiian monk seals and sea turtles haul out.

Fishing activities would be conducted off the vessel while moving in between islands and trolling a lure on a single monofilament handline and/or fishing poles. Shoreline fishing will be conducted using traditional Native Hawaiian fishing equipment (handline and hooks) with a maximum of two lines up to 20feet in length will be used from shore. Fishing efforts would occur in daylight hours only. The lines would be monitored at all times and personnel would abide by – Seabird Protocols Necessary for Conducting Trolling Research and Monitoring (PMNM Best Management Practice #008) to reduce impacts to seabirds. All fishing gear would be removed from the water if any Hawaiian monk seals or sea turtles are observed. All fish caught would be consumed within the Monument.

All activities will be non-intrusive and performed in a culturally appropriate manner while adhering to the following BMPs while conducting the aforementioned activities within the PMNM: Best Management Practices for Boat Operations and Diving Activities (BMP #004); Disease and Introduced Species Prevention (BMP#011); Minimizing Impacts to Land Birds (BMP # 012); and Best Management Practices for Activities on Nihoa (BMP # 015).

The applicant's proposed activities directly support the Monument Management Plan's Native Hawaiian Culture and History (NHCH) Action Plan, Activity NHCH-1.2: *Develop cultural research priorities alongside associated management challenges and opportunities* and Strategy NHCH-2: *Conduct, support, and facilitate Native Hawaiian cultural access and research of the NWHI over the life of the plan.* (PMNM MMP Vol. 1, p. 134-137, 2008).

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

- Removing, moving, taking, harvesting, possessing, injuring, disturbing, or damaging any living or nonliving monument resource
- Anchoring a vessel
- Discharging or depositing any material into the Monument
- Touching coral, living, or dead
- Possessing fishing gear except when stowed and not available for immediate use during passage without interruption through the Monument
- Sustenance fishing (Federal waters only, outside of Special Preservation Areas, Ecological Reserve and Special Management Areas)
- Subsistence Fishing (State waters only)
- Swimming, snorkeling, or closed or open circuit SCUBA diving within any Special Preservation Area or Midway Atoll Special Management Area

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 Hawaiian and Pacific Islands National Wildlife Refuge Complex Office, and the Office of Hawaiian Affairs (OHA). In addition, the permit application has been posted on the Monument Web site since March 8, 2018, giving the public an opportunity to comment. The application was posted within 40 days of its receipt, in accordance with the Monument's Public Notification Policy.

Comments received from the scientific community are summarized as follows:

Scientific reviews support the acceptance of this application. The following questions were posed to the Applicant:

QUESTIONS:

1. Have a Resource Monitor present on the trip who is familiar with Hawaiian cultural resources as well as Native Hawaiian endangered plants and animals of Nihoa.

We will. OHA has two staff approved as Resource Monitors who have been to Nihoa before and are familiar with the island's resources.

OHA is in full support of the Resource Monitor Program and we look forward to continuing working with all co-managing agencies to ensure its long-term success. We recognize that an important component of the program is providing Resource Monitor candidates with an opportunity to access Nihoa with others who have experience. We are open to discussions with our co-management partners regarding the possibility of berth spaces being provided to individuals training in the program. Those interested should be aware that access will be aboard the SSV Makani 'Olu and all trip participants will be sailing school trainees while the ship is at sea.

2. Does the Makani Olu have grounding insurance (shipwreck insurance)? Where will the vessel be anchoring? What steps will be taken to ensure that coral and other benthic organisms will not be impacted while anchoring?

This access with Makani 'Olu will be focused on the island of Nihoa, and as stated within the permit, will anchor on sandy substrate. The captain and crew of the ship have extensive experience within Papahānaumokuākea over the last decade and beyond, including anchoring at Nihoa at least once a year the last five years. Makani 'Olu has hull and machinery insurance as well as insurance for any environmental damage.

3. The scheduled trip in May is not an ideal time biologically or weather wise. There could be significant impact to birds and other species on Nihoa if people move around on the island in the Spring. Late summer/early fall

(August/September) is a much better time to go “on island” and will have less of an impact to terrestrial species, specifically land birds and seabirds. High swell and waves in the winter/spring can also impact the permittees ability to access the islands. Based on prior experience at Nihoa in early June 2015, it was felt that travel to Nihoa at this time of year should be avoided if at all possible. If not, the utmost care should be taken to limit disturbance. Movement around the island should be limited only to work proposed in the permit, and “sightseeing” activities limited. If a large colony of seabirds (particularly terns) is disturbed then people should move out of the area as quickly as possible. Eggs and young chicks can die quickly (within 3 minutes) of exposure to the sun; and young chicks that scatter at the arrival of humans may not be found by their parents or may lose their thermal cover.

We agree that discussion amongst co-managing agencies regarding developing guidance when access to Nihoa should be avoided is warranted. We believe that our requested access will provide an opportunity to gather information that will contribute to the discussions regarding and eventual development of that guidance. All of the resources of the island should be considered in developing that guidance.

We fully recognize that weather conditions and a variety of other factors can affect the ability to access PMNM and every island- even in “calm” conditions- and should command the respect and attention of every participant. All participants will be told that recreational activities such as “sightseeing” should be avoided. Movement on the island will only happen to conduct activities approved in the permit. We will take all actions necessary and possible to minimize disturbance to all of the island’s resources, inclusive of birds.

4. The permit did not specify how many people would be accessing the island each day, or how many hours they will spend on island; therefore it is hard to determine what the effect on seabirds will be. Five people around base camp will be very different than 14 people scattered across the island. The application says 20 people – just a note that no more than 14 people shall be on Nihoa at one time.

We will be adhering to the current BMP for Nihoa- up to fourteen people on island during the day and up to five staying overnight at the designated campsite. Movement on the island will only happen to conduct activities approved in the permit. We will take all actions necessary and possible to minimize disturbance to all of the island’s resources, inclusive of birds.

5. Sooty and gray-backed tern colonies are especially sensitive to disturbance, especially around hatching. A colony is located at camp, and also on the slopes of Miller’s Peak, in Devil’s Slide, and the lower slopes of Tanager. Avoiding these areas (camp can’t be avoided) is recommended as much as possible.

Hiki nō. This guidance is appreciated and noted.

6. Clearing of popolo: could reduce cover for seabird nests; recommend documenting presence of seabird nests before clearing occurs. Clearing of popolo: the areas around sites 20 and 21 are Nihoa millerbird territories. The popolo should be carefully and thoroughly searched for millerbird nests prior to any

clearing, preferably by someone familiar with passerine nests. If a nest is found a buffer should be set up around the nest and no vegetation cleared. Watching the behavior of millerbirds in the area prior to clearing is also recommended – they are very easy to follow to nests when they have them.

The tactical removal of pōpolo will improve visibility of the sites and thus, increase our ability to photograph, map, and observe/document the current condition of the sites. It is emphasized that we are not requesting to clear all pōpolo or other plants from the site, just enough to adequately document the current condition of the site-inclusive of the walls. We are hopeful that removal of pōpolo can be completely avoided, but would like the option if it is necessary.

If we are allowed to land on the island, we will be sure to watch for any ulūlu activity before moving towards sites 20 and 21 as well as identify any nesting birds.

7. Clearing of popolo: 3 keiki ohai were present at Site 21 in October, 2017. Care should be taken to avoid harming these plants as they are endangered and not as common on Nihoa as they once were.

Hiki nō. We appreciate the updated information of the sites.

8. Cenchrus removal: Would recommend that, time available, the team search for cenchrus in the Miller's valley sites that are closest to camp. A map and GPS points can be provided by USFWS Biologist, Rachel Rounds. Especially since Brad is an expert cenchrus finder.

Will do. We are very willing to support any other management need on the island. Please keep in contact with Brad if there are any other requests.

9. Grasshopper survey: Given last year's outbreak, any information on grasshopper presence and density (and vegetation defoliation) would be greatly appreciated. Rachel Rounds can provide a survey protocol – the survey is near camp and probably won't take more than an hour, possibly less.

Hiki nō. We will be in contact for more information. This is the type of coordination we are excited to be a part of.

10. Disturbance of seabirds at sea or on land requires consultation with FWS-MBTA (page 13 says NMFS)

Hiki nō. As stated within the application, observations during fishing activities will take place to avoid interactions with seabirds. We will follow all guidance to assure compliance with the MBTA.

11. If fishing is approved, have a log of fish caught in State waters and one for Monument waters. Identify by scientific name, as common names change and a single species can have multiple common names. Record a minimum amount of info: date caught, location, depth (approximate), total length, weight (if possible), gear type, sex if possible when cleaning (male/female). Would also be good to know which were released back into the ocean (might be undersized, not a desirable food species, etc.) Why? More data on fish community is never a bad

thing. It is rare for fishing to be allowed by applicants, so getting some additional information on non-scientific targeted sampling efforts would be a tradeoff for the take. The data set may be small, but add a few of these trips together and it might provide some insightful information.

Hiki nō. Fisheries data is part of the requirements for the permitting/reporting process, and OHA will be sure to record all relevant data.

12. Fishing

“Sustenance and subsistence fishing within Monument waters is important to establish relationships to ‘āina. Traditional fishing methodologies and gear will also help to test their use in areas most likely similar to how things were centuries ago. The equipment is handcrafted from plant material (lines) and bone (hooks) and will be prepared and quarantined as required by Monument best management practices.”

- a. Will the gear really be made of plant materials and bone? No metal or monofilament will be used?

The fishing gear used from shore will be made of plant materials and bone.

- b. What gear will be used? Handlines? If yes; How long are the hand lines?

As stated in the application, handlines used for nearshore fishing activities will be up to 20ft. Trolling activities while the vessel is underway will utilize monofilament/synthetic rope handlines of various lengths and/or rod and reel with monofilament line.

- c. Nets? If yes what kind? Throw net? Sounds like just handlines and rods from the boat and handlines from shore

No nets. Yes, hand lines and rod/reel from the vessel while underway, handlines from shore.

- d. If fishing gear is made of non-traditional materials: How are the handlines constructed? Are they all mono or do they have rope?

Handlines for trolling activities while the vessel is underway will utilize monofilament line and/or synthetic rope.

- e. Do the handlines have wire leader? This will help if sharks are caught, they cannot bite through the leader and have a hook in their mouth.

Wire leaders are a good idea for other pelagic fish as well, and will be discussed.

- f. Are the hooks traditional or made of metal?

Hooks for nearshore fishing will be made of bone. For trolling activities while the vessel is underway, lures/hooks will be your typical ceramic/rubber skirt lures.

- g. If the hooks are modern and made of metal, are they barbless?

For nearshore waters, any hooks used will be made of bone and will have a barb. The hooks that are used for trolling are made of metal and have a barb.

- h. Will fishing stop if sharks are encountered?

Encountering sharks during any activity requested in this application will result in careful consideration of whether the activity should continue or cease.

- i. While the handlines are in the water (both trolling and from shore) will there be a person dedicated to watching the line to ensure that any fish that are hooked get brought in ASAP as to reduce shark interactions?

All fishing activities will be monitored at all times. The goal will be to bring in any fish that are hooked ASAP.

- j. Is there a de-hooker on the vessel?

Yes. Individuals conducting fishing activities will be prepared to "de-hook" any species should it be necessary or appropriate.

- k. Is there a contingency plan on how to de-hook and release a shark if it is caught on the lure?

We are not fishing to catch sharks, but recognize it is possible. It is highly undesirable to leave any animal hooked. There is also a need to balance the safety of the people involved to determine the best course of action. Every effort will be made to "de-hook" a shark that is caught, and release it.

- l. What species of fish will be targeted? Pelagic species only? Reef species?

Any pelagic species normally fished for, such as, but not limited to: mahimahi, 'ahi, ono, aku, and a'u. uku (closer to islands)

No specific reef fish will be targeted; however, care will be taken to avoid large predator fish and ESA/MMPA animals.

- m. Where and when will fishing occur? While in transit from site to site? While anchored? (Fishing from the anchored boat is not recommended)

As stated within application, trolling activities will occur when the vessel is underway and in between islands, while handlines made of traditional materials will be used from shore.

- n. Along what depth contours?

Fishing will occur opportunistically while the vessel is underway and not along any specific areas/depth contours.

- o. How will they count the four fish caught?

Fishing activities are in place to help feed crew and participants of access trip while also aiding in the understanding of place and 'āina. Fish that are brought in for food will be the numbers caught.

p. Will by catch be counted as part of the four fish?

No. Fishing activities are in place to help feed crew and participants of access trip while also aiding in the understanding of place and 'āina. Fish that are brought in for food will be the numbers caught.

q. If a shark takes a fish that is on a hook does that count as one of the 4 fish caught for the day? (want to avoid “feeding sharks”)

No. Fishing activities are in place to help feed crew and participants of access trip while also aiding in the understanding of place and 'āina. Fish that are brought in for food will be the numbers caught.

r. While fishing from shore what species will be targeted? What will happen to “by catch”?

No specific species is targeted; however, we will follow all State regulations. The line(s) will be closely monitored to limit and hopefully eliminate any “by-catch”. In the unlikely event of “by-catch”, an effort will be made to land the species, de-hook and then release it. The event will be documented.

13. The USFWS supports OHA’s activities in PMNM.

Mahalo nunui, OHA looks forward to continued collaborations on access trips into Papahānaumokuākea Marine National Monument. We appreciate USFWS staff taking the time to carefully assess our application and offering guidance and information to prepare us better.

14. In the instance that the pōpolo plants are completely removed from sites 20 and 21, it is requested that seeds are collected and any parts by taken and utilized for cultural practices by lā‘au lapa‘au practitioners. This particular species of pōpolo may have unique qualities that may be potentially accessible to lā‘au lapa‘au practitioners.

Hiki nō. It is emphasized that we are not requesting to clear all pōpolo or other plants from the site, just enough to adequately document the current condition of the site- inclusive of the walls. We are hopeful that removal of pōpolo can be completely avoided, but would like the option if it is necessary. We will gladly work with the proper practitioners/authorities for the collections of any seeds or parts and distribution as a resource to support appropriate traditional cultural practices.

15. It would be ideal to document the pre- and post-removal of pōpolo to potentially document the succession rate of plant colonization on the sites. If parts of the pōpolo are collected for lā‘au lapa‘au use, processing and preservation methods should be in place, including proper storage on island and refrigeration.

If removal of pōpolo becomes necessary and is appropriate, OHA will be sure to document any removals including individuals affected, and any necessary photographic data. We will work with the proper practitioners/authorities for any collections and distributions of pōpolo seeds/parts. We agree with the point of collecting information (plant colonization on the sites) to better understand the resources of the island.

16. What will you learn and how will your activity contribute to Papahānaumokuākea?

We hope to learn more about the island of Nihoa through the active study of the sites on island, continuing some of the studies done in past years. We also want to contribute a better understanding of place, which can only be achieved by being present at that location. The more we have access to an area, especially one that was frequented by our kupuna, the more we gain their knowledge and understanding through the clues that they left us. For fishing activities, relationship to 'āina or a food source is the foundation for gaining and enhancing our understanding of that place. We hope to contribute to the growing relationship that we have to the resources within Papahānaumokuākea.

COMMENTS:

None.

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.
- National and State Historic Preservation Act Section 106 consultation finalized.
- A request to the National Marine Fisheries Service (NMFS) for a Section 7 informal consultation pursuant to the Endangered Species Act of 1973 is underway to analyze the effects of conducting fishing activities within the Monument on protected species and Hawaiian monk seal critical habitat. A request to the US Fish and Wildlife regarding ESA compliance for endangered plant removals is also underway. The outcome of both consultations may require

the Applicant to adhere to other federal prescribed conditions. Such conditions would be reflected in the PMNM permit, prior to issuance.

- 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 HĀNAUMOKUĀKEA MARINE NATIONAL NATIVE HAWAIIAN PRACTICES PERMIT TO MR. KEOLA LINDSEY, OFFICE OF HAWAIIAN AFFAIRS, FOR ACCESS TO STATE WATERS TO ARCHAEOLOGICAL CULTURAL RESEARCH ACTIVITIES UNDER PERMIT PMNM-2018-21”).

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

If so, please summarize past permits:

- Although not named via an individual PMNM permit, the Office of Hawaiian Affairs has conducted management activities in PMNM under the authority of the Co-Trustee permit since 2006; PMNM-2006-001, PMNM-2007-001, PMNM-2008-001, PMNM-2009-001, PMNM-2010-001, PMNM-2011-001, PMNM-2012-001, PMNM-2013-001, PMNM-2014-001, PMNM-2015-001, PMNM-2016-001, and PMNM-2017-009.

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

PMNM 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 Native Hawaiian Practices Permit General Conditions. The proposed activities align with the Monument Management Plan’s priority management need to understanding and interpreting the NWHI through Native Hawaiian culture and history. All suggested special conditions have been vetted through the legal counsel of the Co-Trustee agencies (see Recommendation section).

MONUMENT MANAGEMENT BOARD OPINION

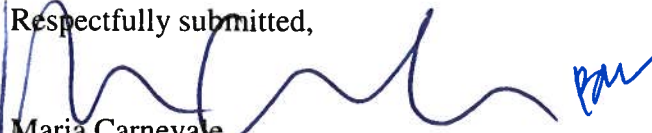
The MMB is of the opinion that the Applicant has met the findings of Presidential Proclamation 8031 and this activity may be conducted subject to completion of all compliance requirements. The MMB concurs with the special conditions recommended by DAR staff.

RECOMMENDATION:


Based on the attached proposed declaration of exemption prepared by the department after consultation with and advice of those having jurisdiction and expertise for the proposed permit actions:

1. 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.
2. 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.
3. That the Board authorize and approve a Native Hawaiian Practices Permit to Mr. Keola Lindsey, Office of Hawaiian Affairs, with the following special conditions:
 - a. This permit is not to be used for nor does it authorize the sale of collected organisms. Under this permit, the authorized 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.
 - b. 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.
 - c. To prevent introduction of disease or the unintended transport of live organisms, the permittee must comply with the disease and transport protocols attached to this permit.
 - d. Tenders and small vessels must be equipped with engines that meet EPA emissions requirements.
 - e. 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

Respectfully submitted,


Maria Carnevale
State Co-Manager
Papahānaumokuākea Marine National Monument

APPROVED FOR SUBMITTAL


Suzanne Case
Chairperson

Papahānaumokuākea Marine National Monument
NATIVE HAWAIIAN PRACTICES Permit Application

NOTE: *This Permit Application (and associated Instructions) are to propose activities to be conducted in the Papahānaumokuākea Marine National Monument. The Co-Trustees are required to determine that issuing the requested permit is compatible with the findings of Presidential Proclamation 8031. Within this Application, provide all information that you believe will assist the Co-Trustees in determining how your proposed activities are compatible with the conservation and management of the natural, historic, and cultural resources of the Papahānaumokuākea Marine National Monument (Monument).*

ADDITIONAL IMPORTANT INFORMATION:

- Any or all of the information within this application may be posted to the Monument website informing the public on projects proposed to occur in the Monument.
- In addition to the permit application, the Applicant must either download the Monument Compliance Information Sheet from the Monument website OR request a hard copy from the Monument Permit Coordinator (contact information below). The Monument Compliance Information Sheet must be submitted to the Monument Permit Coordinator after initial application consultation.
- Issuance of a Monument permit is dependent upon the completion and review of the application and Compliance Information Sheet.

INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED

Send Permit Applications to:

NOAA/Inouye Regional Center

NOS/ONMS/PMNM/Attn: Permit Coordinator

1845 Wasp Blvd, Building 176

Honolulu, HI 96818

nwhipermit@noaa.gov

PHONE: (808) 725-5800 FAX: (808) 455-3093

SUBMITTAL VIA ELECTRONIC MAIL IS PREFERRED BUT NOT REQUIRED. FOR ADDITIONAL SUBMITTAL INSTRUCTIONS, SEE THE LAST PAGE.

Papahānaumokuākea Marine National Monument Permit Application Cover Sheet

This Permit Application Cover Sheet is intended to provide summary information and status to the public on permit applications for activities proposed to be conducted in the Papahānaumokuākea Marine National Monument. While a permit application has been received, it has not been fully reviewed nor approved by the Monument Management Board to date. The Monument permit process also ensures that all environmental reviews are conducted prior to the issuance of a Monument permit.

Summary Information

Applicant Name: Keola Lindsey
Affiliation: Office of Hawaiian Affairs

Permit Category: Native Hawaiian Practices
Proposed Activity Dates: May 14, 2018- May 13, 2019
Proposed Method of Entry (Vessel/Plane): SSV Makani Olu for initial entry. Other vessels may be used for follow up activities
Proposed Locations: Nihoa, Mokumanamana, Lalo, Nā 'Ōnū, Kamokuokamohoali'i, Kamole, Kapou, Manawai, Kuaihelani

Estimated number of individuals (including Applicant) to be covered under this permit:

Up to twenty (20) individuals including the Applicant, Principle Investigator, field technicians and ship crew.

Estimated number of days in the Monument: approximately 12 days for initial trip. Additional days will be required based on opportunities for access.

Description of proposed activities: (complete these sentences):

- a.) The proposed activity would...
 - a. Document, evaluate, assess and observe cultural sites on Nihoa and Mokumanamana (hereinafter referred to as “the islands” in this permit application) to support long term management actions. A specific focus will be placed on the existing landing sites, base camps and footpaths, and potential alternatives. There will be no subsurface archaeological excavations.
 - b. If necessary, protective measures for an iwi kupuna (burial) site identified on Nihoa by an expedition in August 2016 will be implemented. Any actions taken will be carefully recorded. The iwi kupuna site will be further documented, evaluated, assessed and observed to support the drafting of a written agreement as allowed for by the Native American Graves Protection and Repatriation Act (NAGPRA).

- c. Allow for Native Hawaiian practices, inclusive of the collection (salvage) of deceased seabird parts, for distribution to traditional practitioners as allowed for by the Migratory Bird Treaty Act (MBTA) permit issued to the PMNM-Native Hawaiian Cultural Working Group (CWG).
- d. Allow for traditional fishing equipment and techniques to be tested in near-shore waters, if possible, as well as trolling activities between islands/atolls.
- e. Utilize Huli'ia traditional research methodologies at all islands within the Monument. These methodologies document seasonal environmental changes over time and give managers an opportunity to understand relationships of plants and animals in regard to those changes.
- f. At the request of the U.S. Fish and Wildlife Service (FWS), a fallen FWS sign at the existing Nihoa base camp will be removed using hand tools. The pieces will be brought back to O'ahu and returned to the FWS for final disposition.

1. To accomplish this activity, we would

access PMNM for up to twelve (12) days utilizing SSV Makani 'Olu for initial studies on the island of Nihoa and possibly Mokumanamana. Activities including fishing, Huli'ia observations, and feather collections, will also be accomplished on other islands on a case-by-case basis pending access opportunities.

2. This activity would help the Monument by ...

providing information to support the short and long-term management of cultural sites on the islands. Since landing sites, base camps and footpaths are foundational aspects of accessing the islands, a full range of management activities will supported in the short and long term. The Monument will continue to be positively recognized for a management structure that supports the perpetuation of traditional practices and integrates indigenous knowledge. The interpretation and understanding of Monument resources will be improved and offer opportunities for co-managers to develop educational materials and products based on the latest available research. The vision, mission, guiding principles and goals set forth in the 2008 Monument Management Plan will be further implemented. The justifications specific to Native Hawaiian culture expressed in the 2010 nomination of the Monument as a United Nations Educational, Scientific and Cultural Organization World Heritage site will be further witnessed. The activities proposed in this permit application are consistent with the intent of Presidential Proclamations 8031 and 9478.

Other information or background:

none

Section A - Applicant Information

1. Applicant

Name (last, first, middle initial): Lindsey, Benjamin, Keola

Title: Papahānaumokuākea Program Manager, Office of Hawaiian Affairs

1a. Intended field Principal Investigator (See instructions for more information):

Keola Lindsey
Brad Ka'aleleo Wong

2. Mailing address (street/P.O. box, city, state, country, zip):

[Redacted]
[Redacted]
[Redacted]
[Redacted]

For students, major professor's name, telephone and email address: n/a

3. Affiliation (institution/agency/organization directly related to the proposed project):

Office of Hawaiian Affairs

4. Additional persons to be covered by permit. List all personnel roles and names (if known at time of application) here (e.g. John Doe, Diver):

Up to ten (10) additional field technicians and up to eight (8) ship crew.

Section B: Project Information

5a. Project location(s):

- | | | | |
|--|--|---|--|
| <input checked="" type="checkbox"/> Nihoa Island | <input checked="" type="checkbox"/> Land-based | <input checked="" type="checkbox"/> Shallow water | <input checked="" type="checkbox"/> Deep water |
| <input checked="" type="checkbox"/> Necker Island (Mokumanamana) | <input checked="" type="checkbox"/> Land-based | <input checked="" type="checkbox"/> Shallow water | <input checked="" type="checkbox"/> Deep water |
| <input checked="" type="checkbox"/> French Frigate Shoals | <input type="checkbox"/> Land-based | <input checked="" type="checkbox"/> Shallow water | <input checked="" type="checkbox"/> Deep water |
| <input checked="" type="checkbox"/> Gardner Pinnacles | <input type="checkbox"/> Land-based | <input checked="" type="checkbox"/> Shallow water | <input checked="" type="checkbox"/> Deep water |
| <input checked="" type="checkbox"/> Maro Reef | | | |

Ocean Based

- | | | | |
|--|-------------------------------------|---|--|
| <input checked="" type="checkbox"/> Laysan Island | <input type="checkbox"/> Land-based | <input checked="" type="checkbox"/> Shallow water | <input checked="" type="checkbox"/> Deep water |
| <input checked="" type="checkbox"/> Lisianski Island, Neva Shoal | <input type="checkbox"/> Land-based | <input checked="" type="checkbox"/> Shallow water | <input checked="" type="checkbox"/> Deep water |
| <input checked="" type="checkbox"/> Pearl and Hermes Atoll | <input type="checkbox"/> Land-based | <input checked="" type="checkbox"/> Shallow water | <input checked="" type="checkbox"/> Deep water |
| <input checked="" type="checkbox"/> Midway Atoll | <input type="checkbox"/> Land-based | <input checked="" type="checkbox"/> Shallow water | <input checked="" type="checkbox"/> Deep water |
| <input checked="" type="checkbox"/> Kure Atoll | <input type="checkbox"/> Land-based | <input checked="" type="checkbox"/> Shallow water | <input checked="" type="checkbox"/> Deep water |
| <input type="checkbox"/> Other | | | |

Remaining ashore on any island or atoll (with the exception of Midway & Kure Atolls and Field Camp staff on other islands/atolls) between sunset and sunrise.

NOTE: There is a fee schedule for people visiting Midway Atoll National Wildlife Refuge via vessel and aircraft.

Location Description:

Fishing activities, hulu manu collections, and Huli‘ia observations will take place at all locations in PMNM, while archaeological activities will only be on Mokumanamana and Nihoa. Nihoa and Mokumanamana are the two most southerly islands of the NWHI. Nihoa (23° 03' N latitude, 161° 56' W longitude) is located 220 km northwest of Kaua‘i (Fig 2). The island comprises only 0.70 km² of land area, with a length of 1.35 km and a width of 0.45 km (Fig 3). A broad swale extends between Kaouli (Miller’s Peak) (269 masl) in the northwest and Tanager Peak (256 masl) in the northeast. Virtually all faces of the island are characterized by sheer sea cliffs: 110-256 masl in the north, 10-245 m on the east and west, and 15-30 m on the south. The cliff areas are largely devoid of vegetation, while the south slopes are covered with several varieties of grasses, and several valleys are densely carpeted with shrubs including the edible ‘āweoweo (*Chenopodium oahuense*), ‘ilima (*Sida fallax*), ‘ōhai (*Sebania tometosa*), pōpolo (*Solanum nelsonii*) and stands of endemic loulou palms (*Pritchardia remota*) (Evenhui and Eldredge 2004). The island’s surface exhibits a steep southward slope of 23°. Ephemeral streams carved six major south-flowing drainages across the island with three fresh water seeps at the bottom of the stream channels. Groundwater circulates through fissures in the basalt substrate or collects above relatively impervious basalt layers. Minimal sediment is deposited on Nihoa except in the drainages due to steep topography (Bishop 1885 A,B; Clapp and Kridler 1977; Clapp et. al 1977; Emory 1928; Palmer 1927).

Mokumanamana (23° 35' N latitude, 164° 42' W longitude) lies northwest of Nihoa and about 510 km. from Kaua‘i (Figure 4). The island comprises of about 0.19 km² of land that measure about 1370 m. long, by 150 m. wide at its widest point with a maximum elevation of 82 m. Steep sides define the perimeter of Mokumanamana which consists of two parts. Five peaks extend along the east-west island ridge, which extends 1200 m. long and varies in width from 60-80 m. Shallow saddles separate the peaks except for the peak to a gap about 0.5 m. above sea level. The smaller portion of Mokumanamana, the northwest cape, extends about 246 m. northeast from the gap (Clapp and Kridler 1977; Clapp et. al 1977; Emory 1928; Palmer 1927). The island’s surface slopes gently to the north. The slopes are sparsely covered with a variety of

common coastal plants such as 'āweoweo (*Chenopodium oahuense*), and smaller succulents like ihi (*Portulaca lutea*), 'ākulikuli (*Sesuvium portulacastrum*) (Evenhui and Eldredge 2004). There are twenty four bird species that have been documented on the island. There are no well defined stream channels as rainwater either sinks into the rock or runs off through unorganized channels. One of two small seeps of groundwater occurs about 15 m. above sea level a little to the west of Bowl Cave (Site NK). The second seep is about 10 m. above sea level on the north side of the westernmost saddle of the main island (Bishop 1885 A,B; Clapp and Kridler 1977; Clapp et. al 1977; Emory 1928; Palmer 1927).

5b. Check all applicable regulated activities proposed to be conducted in the Monument:

- Removing, moving, taking, harvesting, possessing, injuring, disturbing, or damaging any living or nonliving Monument resource
- Drilling into, dredging, or otherwise altering the submerged lands other than by anchoring a vessel; or constructing, placing, or abandoning any structure, material, or other matter on the submerged lands
- Anchoring a vessel
- Deserting a vessel aground, at anchor, or adrift
- Discharging or depositing any material or matter into the Monument
- Touching coral, living or dead
- Possessing fishing gear except when stowed and not available for immediate use during passage without interruption through the Monument
- Attracting any living Monument resource
- Sustenance fishing (Federal waters only, outside of Special Preservation Areas, Ecological Reserves and Special Management Areas)
- Subsistence fishing (State waters only)
- Swimming, snorkeling, or closed or open circuit SCUBA diving within any Special Preservation Area or Midway Atoll Special Management Area

6. Purpose/Need/Scope *State purpose of proposed activities:*

Activities listed under this permit were authorized during a March 2017 trip to the islands of Nihoa and Mokumanamana. On-island activities were not completed due to environmental conditions near the islands at the time. OHA is requesting to repeat those activities and is welcomed to any additional requests from co-management partners. Fishing activities, hulu manu collections, and Huli'ia observations will take place at all locations in PMNM, while archaeological activities will only be on Mokumanamana and Nihoa.

- a. The National Historic Preservation Act (NHPA) requires federal agencies to consider the effects of their actions on historic properties and if necessary implement measures to mitigate any adverse effects caused by their actions on historic properties. Both islands were listed on the NRHP in 1988 as archaeological districts and are considered historic properties in their entirety by the NHPA. Since the establishment of the Monument in 2006, NHPA compliance for activities on the islands has been on a case by case basis with programmatic guidance (i.e. best management practices) provided in an effort to avoid impacts to specific cultural sites.

The purposes of the proposed activities are to continue monitoring the conditions of cultural sites and collect additional information from them using techniques such as archaeological mapping, photography and recording observations in journals. A specific focus will be placed on the existing landing sites, base camps and footpaths, and potential alternatives. There will be no subsurface archaeological excavations. Our intent is to provide information that will- as a first step- contribute to the development of a technical report that will summarize all available information regarding cultural sites in the vicinity of existing landing sites, base camps and footpaths. This report will in turn support the preparation of an appropriate NHPA agreement document regarding the use of landing sites, base camps and footpaths. This agreement document will assure compliance with federal historic preservation law and serve the larger purpose of institutionalizing the appropriate treatment of significant cultural sites. This treatment will be integrated with the full range of important resource management actions- i.e. habitat restoration- that are conducted on the island.

- b. The proposed activities are a continuation of those conducted during an August 2016 conservation and management expedition to Nihoa that conducted advance activities at the base camp. Team members on this expedition encountered what is currently believed to be a previously undocumented iwi kupuna site. Location information and observations were recorded. Caring for iwi kupuna is an important cultural value and another purpose of the proposed activities is to implement any necessary protective measures for the iwi kupuna site identified in August 2016. Any actions taken will be carefully recorded and reported. Examples of possible actions include: stabilizing the area surrounding the site to prevent further exposure, covering any exposed iwi kupuna with native vegetation or soil and stacking available stones to protect the site. If taking any action, we will assure no disturbance occurs to other sites located in the vicinity of the iwi kupuna.

- c. The collection (salvage) of hulu manu (bird feathers) will allow practitioners to have access to seabird feathers not normally accessible within the main Hawaiian Islands due to low numbers of individuals of each species. Collections allow for the making of lei hulu, kāhili, mōlī for tattooing and other cultural implements. Activities and those possessing the parts will be in full compliance with the MBTA and associated permits.
- d. Sustenance and subsistence fishing within Monument waters is important to establish relationships to ‘āina. Traditional fishing methodologies and gear will also help to test their use in areas most likely similar to how things were centuries ago. The equipment is handcrafted from plant material (lines) and bone (hooks) and will be prepared and quarantined as required by Monument best management practices (BMP). The makers also have interest in their work and how well the equipment works.
- e. Huli‘ia is an observational process documenting seasonal changes and shifts across landscapes. Huli‘ia documents these natural changes over time, identifies cycles within certain species or occurrences (flowering, fruiting, presence/absence of flora/fauna, cloud formations, spawning or recruiting of fish species, etc), and assists in identifying correlations between species and/or occurrences as indicators of the opposite. It allows natural cycles to support and guide our management practices in contrast to months of the year guiding these practices. It also allows a place to inform our decision making in regard to management and conservation activities.
- f. The FWS has requested our assistance in removing their fallen sign near the Nihoa base camp. We are more than happy to help. We will only use hand tools to disassemble the sign. Prior to beginning work we will carefully assess the area for nesting sea and land birds, protected plant species and possible impacts to cultural sites. The pieces of the sign will be loaded on the Makani ‘Olu, brought back to O’ahu and returned to the FWS.

Ceremonial/cultural protocol consisting of oli (chants), pule (prayers), mele (songs) and ha‘i ‘ōlelo (speeches) are important to establishing relationships to place and will be conducted to support all activities proposed in this permit application. If a team member is guided to include a material ho‘okupu (offering) with their protocol, they will be reminded that their ho‘okupu must be quarantined in accordance with Monument BMP and not impact the ecological integrity of the islands. Examples of possible ho‘okupu include pa‘akai (salt), powdered or dried ‘awa (*Piper methysticum*), and ua/wai (rainwater) collected from a team member’s home island.

The Office of Hawaiian Affairs is a Co-Trustee of the Monument and represented on the Monument Management Board since its establishment in 2006. We are willing to conduct any other conservation and management activities on behalf of our managing partners to help conserve and protect the resources of the islands. Any additional conservation and management activities requested by our partners will need to be authorized by this permit, prior to its final issuance.

*Considering the purpose of the proposed activities, do you intend to film / photograph federally protected species? Yes No

For a list of terrestrial species protected under the Endangered Species Act visit:

<http://www.fws.gov/endangered/>

For a list of marine species protected under the Endangered Species Act visit:

<http://www.nmfs.noaa.gov/pr/species/esa/>

For information about species protected under the Marine Mammal Protection Act visit:

<http://www.nmfs.noaa.gov/pr/laws/mmpa/>

7. Answer the Findings below by providing information that you believe will assist the Co-Trustees in determining how your proposed activities are compatible with the conservation and management of the natural, historic, and cultural resources of the Monument:

The Findings are as follows:

a. How can the activity be conducted with adequate safeguards for the cultural, natural and historic resources and ecological integrity of the Monument?

We will follow all Monument BMP that are applicable to our proposed activities. Team members who are moved to offer ho‘okupu will be reminded that their ho‘okupu must be quarantined in accordance with Monument BMPs to not impact the ecological integrity of the islands. We are committed to utilizing proven techniques that are of the lowest impact to resources possible and we will leave no trace of our presence upon departure from the islands. The majority of team members, including the crew of the Makani ‘Olu have previously traveled to the islands and we intend to use that experience to further reduce- and perhaps eliminate- any impacts we may cause.

We will adhere to all of the requirements and conditions of our permit. All of our clothing and “soft” equipment and gear will be purchased new and quarantined for the trip. Team members will attend all required pre-access briefings. We will carefully assess our activity areas at all times for the presence of nesting sea and land birds and eggs and protected species, and employ methods and directives to avoid them if identified.

b. How will the activity be conducted in a manner compatible with the management direction of this proclamation, considering the extent to which the conduct of the activity may diminish or enhance Monument cultural, natural and historic resources, qualities, and ecological integrity, any indirect, secondary, or cumulative effects of the activity, and the duration of such effects?

The intent of the proposed activities is to conserve and protect Monument resources inclusive of cultural and ecological integrity. We had originally offered strong consideration to requesting the ability to conduct controlled subsurface archaeological excavations near the base camps on the islands to gather additional information. After discussion with our managing partners and colleagues, we removed that request. This is not because of concerns regarding compliance with laws such as the NHPA or issues the Hawai‘i State Historic Preservation Office would have with the request. Rather, the removal was more about considering how such a request and the resulting activity- regardless of the valuable archaeological information it could collect- would in the short and long term impact in some way the cultural integrity of the islands.

Our request for approval to tactically remove the native plant species pōpolo to assist in our efforts to collect information about Nihoa Sites 20 and 21 is another example of the careful consideration we have afforded to how our proposed activities impact resources and ecological and cultural integrity. We are acutely aware of the ESA issues associated with our request but we are also aware of the cultural implications of our request and actions if it is approved. Pōpolo is recognized as an important traditional medicinal plant and a kinolau (physical manifestation) of a primary Hawaiian deity, Kāne. Needless to say, the potential implications of clearing the pōpolo as requested from a cultural view and authority of a god far outweigh those of the legal and authority of U.S. government. Even if we receive ESA clearance to conduct the clearing, if there are unfavorable hō‘ailona (signs) after conducting protocol at the site before initiating work, we will not do that activity.

We have carefully considered all of the proposed activities and believe our team members have the knowledge and experience to successfully complete them for the benefit of conserving and protecting Monument resources. We believe that they are compatible with the management direction of Proclamation 8031 and the vision, mission, guiding principles and goals set forth for Papahānaumokuākea in the 2008 Management Plan. They also support the justifications specific to Native Hawaiian culture expressed in the 2010 nomination of PMNM as a United Nations Educational, Scientific and Cultural Organization World Heritage site.

c. Is there a practicable alternative to conducting the activity within the Monument? If not, explain why your activities must be conducted in the Monument.

There is no alternative to contributing to the conservation and protection of Monument resources by accessing the Monument to collect current and accurate information about those specific resources.

Two purposes of the proposed activities are to continue monitoring the conditions of cultural sites and collect additional information from them using techniques such as archaeological mapping, photography and recording observations in journals. A specific focus will be placed on the existing landing sites, base camps and footpaths, and potential alternatives. There will be no subsurface archaeological excavations. Our intent is to provide information that will- as a first step- contribute to the development of a technical report that will summarize all available information regarding cultural sites in the vicinity of existing landing sites, base camps and footpaths. This report will in turn support the preparation of an appropriate NHPA agreement document regarding the use of landing sites, base camps and footpaths. This agreement document will assure compliance with federal historic preservation law and serve the larger purpose of institutionalizing the appropriate treatment of significant cultural sites. This treatment will be integrated with the full range of important resource management actions- i.e. habitat restoration- that are conducted on the island.

d. How does the end value of the activity outweigh its adverse impacts on Monument cultural, natural and historic resources, qualities, and ecological integrity?

We recognize that any human activity in the Monument, no matter how carefully it is conducted and how strictly it follows Monument BMP and permit requirements and restrictions has the potential to impact resources and ecological integrity. Likewise, activities proposed or

conducted without the proper thought and intentions have the potential to impact cultural integrity. That is the great irony with the Monument in that as long as people are allowed to access the area, a careful balance will have to be achieved in managing that access to reduce (and hopefully eliminate) impacts to promote the conservation and protection of resources.

We have every intention to clearly demonstrate in thought and action our ability to conduct the proposed activities using methods and techniques that will result in the lowest possible impact to resources.

e. Explain how the duration of the activity is no longer than necessary to achieve its stated purpose.

It is estimated that most of what we know about the cultural sites of the islands comes from less than two (2) months of actual field research conducted by the 1923-1924 Tanager Expedition (Emory 1928), 1984 Bishop Museum (Cleghorn 1987), Hunt (1992) and Kikiloi. The twelve days in the Monument requested by this permit includes only a maximum of three (3) days on each island. With these factors in mind, this is actually shorter than necessary to achieve our long term goals of effectively managing cultural sites. After careful and thoughtful planning and consideration of all factors related to this trip, we believe 12 days on a vessel, about 6 days on land, is a reasonable request to achieve the short-term goals and products articulated in previous responses.

f. Provide information demonstrating that you are qualified to conduct and complete the activity and mitigate any potential impacts resulting from its conduct.

The Office of Hawaiian Affairs (OHA) is a Co-Trustee of the Monument and represented on the Monument Management Board since its establishment in 2006. The OHA Monument Co-Manager and MMB representative is the permit applicant and will be a team member on this trip and most recently voyaged to both islands in 2015. The OHA Co-Manager is a designated subpermittee of the MBTA permit issued to the CWG and has experience in salvaging deceased seabird parts.

g. Provide information demonstrating that you have adequate financial resources available to conduct and complete the activity and mitigate any potential impacts resulting from its conduct.

The Office of Hawaiian Affairs (OHA) is a Co-Trustee of the Monument and represented on the Monument Management Board since its establishment in 2006. We have previously funded multiple expeditions into the Monument and have provided financial and logistical support for team members on those expeditions to acquire and quarantine their gear and equipment. We will do the same in this instance.

h. Explain how your methods and procedures are appropriate to achieve the proposed activity's goals in relation to their impacts to Monument cultural, natural and historic resources, qualities, and ecological integrity.

We will follow all Monument BMP that are applicable to our proposed activities. Team members who are moved to offer ho'okupu will be reminded that their ho'okupu must be quarantined in accordance with Monument BMP to not impact the ecological integrity of the islands. We are committed to utilizing proven techniques that are of the lowest impact to resources possible and we will leave no trace of our presence upon departure from the islands. The majority of team members, including the crew of the Makani 'Olu have previously traveled to the islands and we intend to use that experience to further reduce- and perhaps eliminate- any impacts we may cause.

We will adhere to all of the requirements and conditions of our permit. All of our clothing and “soft” equipment and gear will be purchased new and quarantined for the trip. Team members will attend all required pre-access briefings. We will carefully assess our activity areas at all times for the presence of nesting sea and land birds and eggs and protected species, and employ methods and directives to avoid them if identified.

i. Has your vessel been outfitted with a mobile transceiver unit approved by OLE and complies with the requirements of Presidential Proclamation 8031?

Makani 'Olu will be outfitted with the mobile transceiver borrowed from NOAA.

j. Demonstrate that there are no other factors that would make the issuance of a permit for the activity inappropriate.

The U.S. federal government, through the Department of the Interior- USFWS asserts management jurisdiction over the islands and Presidential Proclamation 8031 that established the Monument requires a permit to access the islands to conduct regulated activities. Thus, for the purposes of the NHPA, the activities proposed in this permit application are considered an “undertaking”. After applying the criteria of adverse effect found in the NHPA implementing regulations (36 CFR §800.5), we have determined that a finding of no adverse effect is appropriate for this undertaking. None of the activities proposed will alter, directly or indirectly, any of the characteristics that qualify the islands as historic properties and their listing on the NRHP. Furthermore, the integrity of the islands location, design, setting, materials, workmanship, feeling and association will not be diminished by the undertaking. The results of the proposed activities will contribute to the positive long term management of the islands- and the broad range of cultural and bio-cultural resources that exist on them. For the purposes of the NHPA, long term management will require consideration of the indirect and cumulative effects of management actions on the islands as historic properties. As previously discussed, the results of the proposed activities are fully intended to contribute towards the development of agreement documents pursuant to 36 CFR §800.6 to mitigate any adverse effects of management actions on the islands.

We seek concurrence on our NHPA determination from the federal land manager, the FWS and the Hawai'i State Historic Preservation Officer. For the purpose of conducting archaeological activities on lands on which the U.S. federal government asserts management jurisdiction we request further consultation regarding the need for an Archaeological Resources Protection Act (ARPA) permit from the FWS. Because we will not be conducting subsurface

excavations, we do not think an ARPA permit is necessary, but want to confirm that with the FWS.

We request consultation with and review by the FWS in regards to our request for the tactical removal of native plant species on the campsites- i.e. pōpolo- protected by the ESA and our intent to avoid disturbances to nesting sea and land birds. We are acutely aware of the ESA issues associated with our request but we are also aware of the cultural implications of our request and actions if it is approved. Pōpolo is recognized as an important traditional medicinal plant and a kinolau (physical manifestation) of a primary Hawaiian deity Kāne. Needless to say, the potential implications of clearing the pōpolo as requested from a cultural view and authority of a god far outweigh those of the legal and authority of U.S. government. Even if we receive ESA clearance to conduct the clearing, if there are unfavorable hō'ailona (signs) after conducting protocol at the site before initiating work, we will not do that activity.

We request consultation with and review by the U.S. Department of Commerce- National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NMFS) in regards to our intent to avoid interfering or disturbing sea birds, or ESA and MMPA protected species while at sea and engaged in fishing activities.

We understand that the Magnuson-Stevens Fishery Management and Conservation Act requires review of federally permitted actions for potential impacts to Essential Fish Habitat (EFH). While in the Monument, we will only discharge grey water and biodegradable food waste produced by ship galley operations. Untreated sewage will not be released within the Monument.

ADDITIONAL FINDINGS FOR PROPOSED NATIVE HAWAIIAN PRACTICES

k. Explain how the activity is non-commercial and will not involve the sale of any organism or material collected.

Please see the previous responses. All of the activities are non-commercial and will not involve the sale of any organism or material collected. The MBTA permit that allows for the salvage, possession and use of protected resources is specific that use must be only for educational purposes and be non-commercial. Any individual who receives salvaged MBTA resources will be a designated subpermittee of the permit and reminded that the use must be non-commercial.

l. Explain how the purpose and intent of the activity is appropriate and deemed necessary by traditional standards in the Native Hawaiian culture (pono), and demonstrate an understanding of, and background in, the traditional practice and its associated values and protocols.

Since the establishment of the Monument in 2006, OHA has assured that the Native Hawaiian community- primarily through the Cultural Working Group- has the opportunity to review and comment on permit applications and provide input into the overall management of the area. We believe that the activities proposed in this permit application are consistent with the guidance we have received from our people over the last decade and that these activities will contribute to effective management of the cultural and bio-cultural resources in the Monument. The role of the Native Hawaiian community will be further institutionalized in the management of

Monument resources through these specific proposed activities and their intended outcomes and products. The interpretation and understanding of Monument resources- specifically cultural sites- will be increased and can contribute to the development of materials used in outreach and education efforts conducted by the Monument managers.

m. Explain how the activity benefits the resources of the Northwestern Hawaiian Islands and the Native Hawaiian community.

We believe that the activities proposed in this permit application are consistent with the guidance we have received from our people over the last decade and that these activities will contribute to effective management of the cultural and bio-cultural resources in the Monument. The role of the Native Hawaiian community will be further institutionalized in the management of Monument resources through these specific proposed activities and their intended outcomes and products. The interpretation and understanding of Monument resources- specifically cultural sites- will be increased and can contribute to the development of materials used in outreach and education efforts conducted by the Monument managers.

n. Explain how the activity supports or advances the perpetuation of traditional knowledge and ancestral connections of Native Hawaiians to the Northwestern Hawaiian Islands.

Accessing the Monument under the required conditions and with the proper intent and thought to conduct appropriate traditional, ceremonial, and cultural practices perpetuates traditional knowledge and strengthens Kanaka Maoli (Native Hawaiian) connections to this ancestral region.

o. Will all Monument resources harvested in the Monument be consumed in the Monument? If not, explain why not.

As previously stated in the responses, all fish caught in the Monument will be consumed in the Monument. If our request to tactically clear pōpolo at Nihoa Sites 20 and 21 is approved, we are agreeable to collecting seeds or other parts of the plant out of the Monument for appropriate use as a form of mitigation but will need ESA clearance to do that. We will be working with the FWS on that. Any MBTA resource brought out of the Monument will only be distributed to a designated subpermittee for educational, non-commercial use.

8. Procedures/Methods:

Fishing activities, hulu manu collections, and Huli'ia observations will take place at all locations in PMNM, while archaeological activities will only be on Mokumanamana and Nihoa.

- a. We will follow Monument BMPs specific to the number of individuals who can access the islands during the day and stay on-island overnight. We will utilize the existing landing sites and base camps on both islands to stage equipment, gear and personnel for daytime activities. For overnight stays on Nihoa, tents will be used and erected in the designated area within the base camp site following established procedures to minimize impacts and protect resources. On Mokumanamana, bivy sacks and sleeping pads will be

used following established procedures in the designated area within the base camp site for overnight stays.

The existing base camp site on Nihoa has been established at the ocean terminus of “Middle Valley” on the terraces first recorded by Emory as Sites 20 and 21. The existing base camp site on Mokumanamana has been established on “Flagpole Hill” with the sites described by Emory as “Marae 12-15 and 17-19” in immediate surrounding proximity. Both camps have been in use for some time now. It is probable that Nihoa Sites 20 and 21 serve ceremonial purposes and the establishment of the base camp on them raises concerns that are yet to be resolved. It is our intent that the information collected on this trip will contribute to that resolution.

The tactical removal of vegetation- primarily the native plant species pōpolo (*Solanum nelsonii*)- would assist in our efforts to collect information and we request the ability to do so. Pōpolo will be moved off areas being surveyed near sites 20 and 21 with care to keep the plants intact. They will only be removed, if necessary, for proper surveys to take place and will be done so by hand. We are aware that pōpolo is now afforded protection by the Endangered Species Act and will request further consultation with the FWS on this request. In the instance that plants are completely removed from areas being surveyed, it is requested that any parts be taken and utilized for cultural practice by la’au lapa’au practitioners. Participants will also hand broadcast any seeds found on those plants to surrounding areas, as outlined in a similar consultation from 2017.

We will carefully assess our activity areas at all times for the presence of nesting sea and land birds and eggs and employ methods and directives to avoid them if identified. We will follow all other Monument BMP applicable to our proposed activities. All clothing and “soft” equipment/gear will be purchased new and quarantined for the trip. We are committed to utilizing proven techniques that are of the lowest possible impact to resources and we will leave no trace of our presence upon departure from the islands.

- b. Caring for iwi kupuna is an important cultural value and another purpose of the proposed activities is to implement any necessary protective measures for the iwi kupuna site identified in August 2016. Any actions taken will be carefully recorded and reported. Examples of possible actions include: stabilizing the area surrounding the site to prevent further exposure, covering any exposed iwi kupuna with native vegetation or soil and stacking available stones to protect the site. If taking any action, we will assure no disturbance occurs to other sites located in the vicinity of the iwi kupuna.
- c. Collection of any deceased seabirds, whole or parts, will be brought back to Ao and distributed to practitioners involved in the making of lei hulu, kāhili, mōlī for tattooing and other cultural implements. Activities and those possessing the parts will be in full compliance with the MBTA. Those conducting salvage activities will be designated subpermittees of the MBTA permit held by the CWG. The salvaged resources will be opportunistically collected and stored in airtight containers and under the control of designated subpermittees at all times. Salvaged activities will be carefully recorded and

reported. Salvaged seabird parts will only be distributed (transferred) to other designated subpermittees of the CWG permit and any transfers detailed in the annual report required by the permit.

- d. While sustenance and subsistence fishing, careful observations will take place to not interfere with seabirds and/or any Endangered Species Act (ESA) or Marine Mammal Protection Act (MMPA) protected species. Fishing will utilize rods and/or hand lines and will only catch what is needed to feed the crew for the day, up to four (4) fish. The catch will be consumed in the Monument. A maximum of four (4) lines will be deployed from the ship at any given time. The length of the lines will vary as needed to allow for effective trolling and retrieved and stored before nightfall as there will be no night fishing from the ship. Only traditional fishing equipment (hand lines and hooks) will be used from the shorelines of the islands. The equipment is handcrafted from plant material (lines) and bone (hooks) and will be prepared and quarantined as required by Monument best management practices (BMP). A maximum of two (2) lines up to twenty (20) feet in length will be in use at any given time and will be retrieved and stored before nightfall as there will be no night fishing from shore. We will limit our shoreline catch to four (4) fish per day with the catch being consumed in the Monument. While shoreline fishing, we will carefully observe for and immediately cease activities if the presence of any ESA protected species is confirmed as well as follow any State of Hawai‘i fishing regulations that are in place. The makers of the hooks will be asked to mark them in an attempt to avoid confusion as an antiquity if they are lost on our trip and later discovered.
- e. For Huli‘ia observational documentation, environmental observations of plants, animals, and environmental conditions will be taken daily at each location. A qualitative discussion will be done by all participants to identify different elements witnessed by each person and to stimulate an understanding of each island location. Results will be analyzed and documented upon return.
- f. For sign removal, only hand tools will be used. Prior to beginning work we will carefully assess the area for nesting sea and land birds, protected plant species and possible impacts to cultural sites. The pieces of the sign will be loaded on the Makani ‘Olu, brought back to O‘ahu, and returned to the FWS.

Ceremonial/cultural protocol consisting of oli (chants), pule (prayers), mele (songs) and ha‘i ‘ōlelo (speeches) will be conducted to support all activities proposed in this permit application. If a team member is guided to include a material ho‘okupu (offering) with their protocol, they will be reminded that their ho‘okupu must be quarantined in accordance with Monument BMP and not impact the ecological integrity of the islands. Examples of possible ho‘okupu include pa‘akai (salt), powdered or dried ‘awa (*Piper methysticum*) and ua/wai (rainwater) collected from a team member’s home island.

While in the Monument aboard SSV Makani ‘Olu, we will only discharge grey water and biodegradable food waste produced by ship galley operations. Untreated sewage will not be released within the Monument.

Prior to anchoring, the Makani ‘Olu crew will identify sandy bottom habitat on which to deploy the anchor. An anchoring site devoid of corals and other sensitive habitats will be selected. Consideration will be given to the amount of scope that will be deployed and avoid the potential of abrasion to coral colonies from the extent of the chain that will be in the water. The crew will also consider the potential for swing that may occur due to changes in wind and/or currents during the time the anchor is deployed. The crew of the Makani ‘Olu has extensive experience in the Monument and voyages to the islands and we are confident that the above measures and all other guidance provided in Monument BMPs applicable to boating operations can be successfully followed to protect Monument resources.

NOTE: If land or marine archeological activities are involved, contact the Monument Permit Coordinator at the address on the general application form before proceeding.

9a. Collection of specimens - collecting activities (would apply to any activity): organisms or objects (List of species, if applicable, attach additional sheets if necessary):

Common name:
Pōpolo

Scientific name:
Solanum nelsonii

Hawaiian name:
Pōpolo

& size of specimens:
Determined by ESA consultation

Collection location:
Site 20 and 21 of Nihoa

Whole Organism Partial Organism

9b. What will be done with the specimens after the project has ended?

If pōpolo specimens are approved for collection, we will follow the requirements of the ESA/FWS. If traditional practitioners no longer desire any MBTA resources they receive, those specimens will either be returned to their place of collection in the Monument or destroyed by culturally appropriate means determined by that practitioner.

9c. Will the organisms be kept alive after collection? Yes No

• General site/location for collections:

- Is it an open or closed system? Open Closed
- Is there an outfall? Yes No
- Will these organisms be housed with other organisms? If so, what are the other organisms?
- Will organisms be released?

10. If applicable, how will the collected samples or specimens be transported out of the Monument?

If pōpolo specimens are approved for collection, we will follow the requirements of the ESA/FWS to store and transport them out of the Monument aboard the Makani ‘Olu. Any salvaged MBTA resources will be stored in airtight containers and under the control of designated subpermittees at all times will in the Monument and also transported out of the Monument aboard the Makani ‘Olu.

11. Describe any fixed or semi-permanent structures or installations, or cultural offerings you plan to leave in the Monument:

none

12. List all specialized gear and materials to be used in the proposed activities:

Fishing gear includes hand lines and lures, and traditional fishing gear.

Camping Gear: Tents, Bivy Sacks, Sleeping bags, sleeping pads, Safety Bucket (Sat phone, first aid, water desalination unit), Limited Cooking equipment (Portable Fuel Stove, Fuel, Nested Pots, Can foods), (Small , 6 Gal Water Jugs, Portable Bucket Toilet.

Fieldwork Gear: Trimble handheld GPS, Clipboards (Graph paper, Pencils, Excavation Sheets, Photo Log, etc.) Field compasses, Cameras, Long & Short Tape measures.

13. List all Hazardous Materials you propose to take to and use within the Monument:

none

14. Describe collaborative activities to share samples, cultural research and/or knowledge gained in the Monument:

Our intent is to provide information that will- as a first step- contribute to the development of a technical report that will summarize all available information regarding cultural sites in the vicinity of existing landing sites, base camps and footpaths. This report will in turn support the preparation of an appropriate NHPA agreement document regarding the use of landing sites, base camps and footpaths. This agreement document will assure compliance with federal historic preservation law and serve the larger purpose of institutionalizing the appropriate treatment of significant cultural sites. This treatment will be integrated with the full range of important resource management actions- i.e. habitat restoration- that are conducted on the island.

15a. Will you produce any publications, educational materials or other deliverables?

Yes No

15b. Provide a time line for write-up and publication of information or production of materials:

We are committed to having the above mentioned technical report completed within one (1) year of our return from this trip. In regards to the larger NHPA agreement document the report is intended to support, that will be up to the Monument Management Board to collectively decide.

16. If applicable, list all Applicant’s publications directly related to the proposed project:

n/a

With knowledge of the penalties for false or incomplete statements, as provided by 18 U.S.C. 1001, and for perjury, as provided by 18 U.S.C. 1621, I hereby certify to the best of my abilities under penalty of perjury of that the information I have provided on this application form is true and correct. I agree that the Co-Trustees may post this application in its entirety on the Internet. I understand that the Co-Trustees will consider deleting all information that I have identified as “confidential” prior to posting the application.

Signature

Date

**SEND ONE SIGNED APPLICATION VIA MAIL TO THE MONUMENT OFFICE
BELOW:**

NOAA/Inouye Regional Center
NOS/ONMS/PMNM/Attn: Permit Coordinator
1845 Wasp Blvd, Building 176
Honolulu, HI 96818
FAX: (808) 455-3093

DID YOU INCLUDE THESE?

- Applicant CV/Resume/Biography
- Intended field Principal Investigator CV/Resume/Biography
- Electronic and Hard Copy of Application with Signature
- Statement of information you wish to be kept confidential
- Material Safety Data Sheets for Hazardous Materials

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):

Office of Hawaiian Affairs: Brad Kaaleleo Wong

USFWS: Eldridge Naboa

Nohopapa Archaeology: Kepoo Keliipaakaua, Chris Monaghan, 1 TBD

Makani Olu: Harry Sprague, Captain, Matt Claybaugh - CEO, 8 crew TBD

Na Maka o Papahanaumokuakea intertidal monitoring: Pelika Andrade, Kanoe‘ulalani

Morishige, Kanoelani Steward, Kalamaehu Takahashi

Bishop Museum: Hanalei Marzan

NOAA-NMFS: Ilana Nimz

2. Specific Site Location(s): (Attach copies of specific collection locations): Nihoa and waters enroute and surrounding

3. Other permits (list and attach documentation of all other related Federal or State permits):

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): The Office of Hawaiian Affairs (OHA) is a Co-Trustee of the Monument and represented on the Monument Management Board since its establishment in 2006. We have previously funded multiple expeditions into the Monument and have provided financial and logistical support for team members on those expeditions to acquire and quarantine their gear and equipment. We will do the same in this instance.

5. Time frame:

Activity start: 9/3/2018

Activity completion: 9/14/2018

Dates actively inside the Monument:

From: 9/5/2018

To: 9/12/2018

Describe any limiting factors in declaring specific dates of the proposed activity at the time of application: Weather

Personnel schedule in the Monument:

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: The Office of Hawaiian Affairs (OHA) is a Co-Trustee of the Monument and represented on the Monument Management Board since its establishment in 2006.

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

- Vessel
 Aircraft

Provide Vessel and Aircraft information:

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):

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

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

Vessel name: Makani Olu

Vessel owner: Marimed Foundation

Captain's name: Harry Sprague
IMO#:DLZ065030497
Vessel ID#:1113517
Flag: U.S.
Vessel type: Steel hull, three masted staysail schooner
Call sign: WDA6945
Embarkation port: Kaneohe Bay
Last port vessel will have been at prior to this embarkation: Heeia Kea Boat Harbor
Length: 96'
Gross tonnage: 68
Total ballast water capacity volume (m3): N/A
Total number of ballast water tanks on ship: N/A
Total fuel capacity: 421g
Total number of fuel tanks on ship: 2
Marine Sanitation Device: Yes
Type: Holding Tank

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: Makani Olu is outfitted with holding tanks and will only discharge in compliance with Monument regulations

Other fuel/hazardous materials to be carried on board and amounts:

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: 750 Faria Watchdog VMS (On loan from PMNM)

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 - 12FT 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:

12. Room and board requirements on island:

13. Work space needs:

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
DIVISION OF AQUATIC RESOURCES
1151 PUNCHBOWL STREET, ROOM 330
HONOLULU, HAWAII 96813

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

ROBERT MASUDA
INTERIM FIRST DEPUTY

JEFF PEARSON P.E.
INTERIM 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

August 24, 2018

TO: Division of Aquatic Resources File

THROUGH: Suzanne Case, Chairperson

FROM: Maria Carnevale
Papahānaumokuākea Marine National Monument

SUBJECT:

DECLARATION OF EXEMPTION FROM THE PREPARATION OF AN ENVIRONMENTAL ASSESSMENT UNDER THE AUTHORITY OF CHAPTER 343, HRS AND CHAPTER 11-200 HAR, FOR PAPAHA NAUMOKUĀKEA MARINE NATIONAL MONUMENT NATIVE HAWAIIAN PRACTICES PERMIT TO MR. KEOLA LINDSEY, OFFICE OF HAWAIIAN AFFAIRS, FOR ACCESS TO STATE WATERS TO CONDUCT ARCHAEOLOGICAL CULTURAL RESEARCH ACTIVITIES UNDER PERMIT PMNM-2018-021

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 Native Hawaiian Practices Permit to Mr. Keola Lindsey, Office of Hawaiian Affairs, for Access to State Waters to Conduct Archaeological Cultural Research Activities

Permit Number: PMNM-2018-024

Project Description:

The Native Hawaiian practices permit application, as described below, would allow entry and activities to occur in Papahānaumokuākea Marine National Monument, including the NWHI State waters from August 25, 2018 through August 24, 2019.

The Applicant proposes to continue monitoring the conditions of the cultural sites and collect additional information from them using techniques such as archaeological mapping, photography, and recording observations in journals. This work is a continuation of research that has been performed in previous trips in PMNM between 2005-2017. The tactical removal of vegetation (popolo, Cenchrus New Zealand spinach) will aid in site assessment and protect the ecological integrity of the island. Ceremonial/cultural protocol will be conducted in support of all activities as part of this application. Sustenance and subsistence fishing will be conducted with traditional tools. The collection of seabird parts will be conducted opportunistically and in

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August 24, 2018

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accordance with the PMNM Native Hawaiian Working Group's MBTA permit for noncommercial traditional activities. Lastly, the US FWS has requested that the team remove a fallen sign on the island with hand tools.

The research also has secondary goals of allowing access to occur for Native Hawaiians that will be helping with this research to: 1) further develop a framework and management strategies for cultural resources in the Native Hawaiian Plan under the Monument, and 2) further develop a cultural curriculum component to a U.S. Fish and Wildlife Service (FWS) resource monitor training program in collaboration with managers of PMNM, the Office of Hawaiian Affairs (OHA) and U.S. Fish and Wildlife Service (USFWS) and 3) provide detailed contributions to a technical report that will summarize all available information regarding cultural sites in the vicinity of landing sites, footpaths, and base camps. The technical report will support the preparation of an appropriate NHPA agreement that will ensure the long term legal compliance and treatment of significant cultural sites.

Activities would include: archaeological surveying, mapping, photography, touching deceased corals, soil sampling, performing cultural protocol, removal of plants and bird parts, overnight camping, sustenance fishing (federal waters), subsistence fishing (state waters), and anchoring in sandy substrates at Mokumanamana and Nihoa.

To conduct the proposed activities, no more than twelve (12) people on island will enter PMNM to conduct necessary research activities. Each night, five (5) of the twelve will stay on-island to camp.

Fishing activities would be conducted by trolling a lure on a single monofilament handline and fishing poles for 20 meters. The lines would be monitored at all times and personnel would abide by – Seabird Protocols Necessary for Conducting Trolling Research and Monitoring (PMNM Best Management Practice #008) to reduce impacts to seabirds. All fishing gear would be removed from the water if any Hawaiian monk seals or sea turtles are observed. All fish caught would be consumed in the Monument.

The proposed activities are in direct support of the Monument Management Plan's priority management need 3.1 – Understanding and Interpreting the NWHI (through action plan 3.1.2 – Native Hawaiian Culture and History). This action plan calls for the conduct, support, and facilitation of Native Hawaiian cultural access and research of the NWHI. It specifically notes support for cultural research that helps in understanding ancestral connections related to the Monument. Activities to support “enhancing, incorporating, and perpetuating understanding of Native Hawaiian culture and knowledge”, such as those being proposed, are also addressed in the Monument Management Plan Environmental Assessment (December 2008) which resulted in a FONSI (Finding of No Significant Impact). In addition, this EA notes that “identifying research needs, supporting Native Hawaiian cultural access, and incorporating Native Hawaiian traditional knowledge and associated practices into Monument management” could have beneficial effects on Monument resources (PMNM MMP Vol 2, p.192).

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

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Islands Regional Office (NOAA-PIRO), United States Fish and Wildlife Service Hawaiian and Pacific Islands National Wildlife Refuge Complex Office, and the Office of Hawaiian Affairs (OHA) and the State Historic Preservation Office (SHPO) for 106 consultation. In addition, the permit application has been posted on the Monument Web site since March 8, 2018, giving the public an opportunity to comment. The application was posted within 40 days of its receipt, in accordance with the Monument's Public Notification Policy.

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 using Native Hawaiian practices to document archaeological research at Mokumanamana and Nihoa, 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 planned activity.

2. The Exemption Class for Basic Data Collection with no Serious or Major Environmental Disturbance Appears to Apply. Chapter 343, HRS, and section 11-200-8, HAR, provide for a list of classes of actions exempt from environmental assessment requirements. HAR § 11-200-8.A.5. specifically 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." This exemption class has been interpreted to include natural resource observations, such as those being proposed.

The proposed monitoring and surveying activities here appear to fall squarely under the exemption class #5, exempt item # 2. Non-destructive data collection and inventory, including field, aerial and satellite surveying and mapping.#4 as described in the DLNR exemption list published on June 5, 2015. The vegetation removal falls under, Exemption Class 4, Minor alteration in the conditions of land, water, or vegetation, Exempt Item # 8. Removal of invasive vegetation utilizing cutting, mowing, application of federal and state approved herbicides in conformance with label instructions, distribution of biocontrol agents by the State of Hawaii, and other approved methods. And the sign repair activity fits squarely under Exempt Class 1, Exempt item #8. Repair or maintenance of existing signs, buoys, markers, and aids to navigation.

As discussed below, no significant disturbance to any environmental resource is anticipated through these activities and interactions with Monument resources. Thus, so long as the below considerations are met, an exemption class should include the action now contemplated.

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. HAR § 11-200-12. Examples of actions which commonly have a significant effect on the environment are listed under HAR § 11-200-12.

This is the fifth project proposed to date by this Applicant aimed at researching the exploration, colonization, and occupation of Mokumanamana and Nihoa through archaeological surveying and monitoring. The prior permits that have involved these activities have had no deleterious effects on Monument resources. No significant impacts are anticipated as a result of the proposed access and observation techniques especially since the techniques proposed are non invasive and do not involve the handling of resources to complete the activity. 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. Furthermore, this project is necessary in order to achieve long term programmatic compliance for the cultural resources on island. The joint permit review process did not reveal any anticipated indirect or cumulative impacts, nor did it raise any cultural concerns, that would occur as a result of these activities. The knowledge gained is invaluable to the Hawaiian community and the PMNM management community. Studying the history of Mokumanamana and Nihoa provides insight into the relationship that the people had with the environment, especially on remote islands where agricultural food production would have been vital to long-term survival.

The activities would be conducted from the OHA contracted vessel, the MAKANI‘OLU. No other proposed projects would take place from the vessel, nor on these islands. No significant negative 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 research 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.