

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, Hawaii 96813

March 22, 2019

Chairperson and Members
Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Land Board Members:

SUBJECT: REQUEST FOR DELEGATION OF AUTHORITY TO THE
CHAIRPERSON TO ENTER INTO A MEMORANDUM OF
UNDERSTANDING WITH THE HAWAII MARINE MAMMAL
ALLIANCE .

SUMMARY

This Board Submittal requests approval to enter into a Memorandum of Understanding (MOU) to establish a written agreement for educational, outreach and conservation actions between the Department of Land and Natural Resources, Division of Forestry and Wildlife (DOFAW) and the Hawaii Marine Mammal Alliance, dba. Hawaii Marine Animal Response (HMAR), a 501(c)(3) nonprofit. The agreement will help the parties to manage human/Monk Seal interactions in DOFAW controlled State Wildlife Sanctuaries.

BACKGROUND

The Oahu Division of Forestry and Wildlife manages several key State designated Wildlife Sanctuaries that support Monk Seal populations. Some of the Sanctuaries are partially open to the public to provide recreational access. When Monk Seals rest or pup on these beaches, they face many potential negative interactions from recreational users. The management objectives for DOFAW mirror the actions that take place on crowded beaches on Oahu in order to minimize impacts to the seals. HMAR will provide added capacity by assisting DOFAW Biologists with passive management techniques aimed at educating islet visitors and delineating necessary boundaries for recreators. The memorandum will provide the fundamental agreement to allow HMAR to speak and act on our behalf, to ensure beachgoers are aware of the seals' needs.

The agreement will also allow for the appropriate sharing of resources. Transit to and from these islets can create some logistical challenges; a defined agreement can build capacity by allowing HMAR to operate semi-independently.

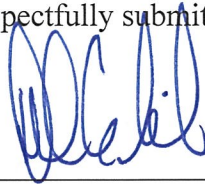
HMAR is currently operating under a grant from the National Oceanic and Atmospheric Association (NOAA), National Marine Fisheries Service (NMFS) to conduct similar operations around Oahu. DOFAW works closely with NMFS on management of Monk Seal populations on our lands. An agreement with HMAR would be consistent with our current management activities.

RECOMMENDATIONS

That the Board:

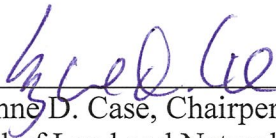
- 1) Authorize the Chairperson to enter and sign the Memorandum of Understanding, providing that the Attorney General review and approve the contents of the Memorandum of Understanding to ensure compliance with all State requirements.

Respectfully submitted,



David G. Smith, Administrator
Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL:



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

MEMORANDUM OF UNDERSTANDING
BETWEEN
HAWAII MARINE MAMMAL ALLIANCE INC. dba HAWAII MARINE
ANIMAL RESPONSE
AND THE
STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF FORESTRY AND WILDLIFE

This Memorandum of Understanding, made and entered into on this _____ day of _____, 2019, by and between Hawaii Marine Animal Response, a 501(c)(3) nonprofit, hereinafter referred to as "HMAR" and the State of Hawaii, Department of Land and Natural Resources (DLNR), Division of Forestry and Wildlife (DOFAW), by its Board of Land and Natural Resources.

WITNESSETH

WHEREAS, DLNR's mission is to manage and conserve State lands and resources, cultural and natural resources, and does so through eight operating divisions; and

WHEREAS, DOFAW is responsible for the management of State-owned forests, natural areas, public hunting areas, and plant and wildlife sanctuaries, and implements programs to protect and enhance forested watersheds, outdoor recreation, unique ecosystems and endangered species of plants and wildlife; and

WHEREAS, DOFAW and HMAR share a common interest in protecting the native wildlife present on the offshore islands; and

WHEREAS, it is the purpose of HMAR to respond to reports of Hawaiian monk seal sightings and work to manage human interaction with Hawaiian monk seals and sea turtles on and around DLNR lands, and to perform stranding response in the form of verification, assessment, identification and other directed agency support of protected species, to provide educational interpretive services to the public and to collect information on reports of protected species; and

WHEREAS, HMAR desires access to certain DOFAW lands to monitor and respond to protected marine species, and manage public activities to support conservation; and

WHEREAS, HMAR has the professional and interpretive expertise to provide educational outreach to the public, while DOFAW has limited staff and funding for such activities; and

WHEREAS, a Memorandum of Understanding that clarifies the relationship between DOFAW and HMAR would greatly benefit both parties and the general public by enabling HMAR to enhance and expand their activities with a commitment of assistance and cooperation by DOFAW; and now, THEREFORE, both parties hereto deem it mutually advantageous and desirable to cooperate and hereby agree as follows:

DOFAW agrees to:

1. Allow HMAR use of state-owned lands, managed by DOFAW, for the purposes of public educational outreach, management of human activities around protected marine species, and species management and stranding support, at such times and places and under such

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conditions as may be as mutually agreed upon, with a permit issued by DOFAW to HMAR for such use;

2. Notify HMAR within two working days upon discovering any hazardous or unsafe conditions on or within DOFAW lands that are permitted for HMAR use;
3. Work with HMAR to manage the lands that HMAR is permitted to use, for the benefit of the public and the operational interests of both parties, on such projects as may be mutually agreed upon and as resources permit;

HMAR Agrees to:

1. Obtain the appropriate permits for use of land under the jurisdiction of DOFAW, and notify and consult with DOFAW regarding general programs of management and maintenance of such lands;
2. Obtain and maintain, in good standing, a NOAA Regional Stranding Agreement to be authorized to take marine mammals when directed by NOAA.
3. Provide educational outreach and interpretive services to raise environmental awareness and manage public behavior around protected marine species, and provide stranding support as authorized by NOAA at various locations, as may be mutually agreed upon;
4. Coordinate and supervise staff and volunteers for all activities conducted. Staff and volunteer activities may include:
 - a. Establishing seal resting areas (SRA);
 - b. Providing educational interpretive services to the public;
 - c. Verification, assessment, identification and stranding support of protected species under NOAA and DLNR direction.
 - d. Transiting to, from and around land under the jurisdiction of DOFAW using HMAR vessels.
5. Assist DOFAW by providing general information regarding human use of the offshore islands and safety;
6. Notify DOFAW within two working days whenever HMAR becomes aware of unsafe conditions, damage to, or disrepair on DLNR/DOFAW lands;
7. Defend, save, indemnify, and hold harmless the State of Hawaii, and their officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorney fees and costs, and all claims, suits, and demands therefore, arising out of or resulting from the acts or omissions of HMAR or HMAR's employees, volunteers, officers, agents, or subcontractors under this Agreement. The provisions of this paragraph will remain in full force and effect notwithstanding the expiration or termination of this Agreement.

THE PARTIES FURTHER AGREE THAT:

1. This Memorandum of Understanding will remain in effect as long as HMAR abides by the conditions stated herein and may be altered only by written agreement of the parties;

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2. This Memorandum of Understanding may be terminated by HMAR or DOFAW upon Thirty (30) Days written notice to the other party;
3. All notices, bills, demands, payments, accounting or other communications that any party desires or is required to give under the provisions of this Memorandum of Understanding shall be given in writing and shall be deemed to have been given if hand delivered, sent by facsimile, or if mailed by United States mail, prepaid to the party or parties at the address noted below or such other address as a party may designate in writing from time to time, provided, however, that any and all notices under Section 19, shall be delivered by Certified Mail:

Hawaii Marine Animal Response:
150 Hamakua Drive
Kailua, Hawaii 96734
(808) 687-7900

Department of Land and Natural Resources:
Division of Forestry and Wildlife
Department of Land and Natural Resources
2135 Makiki Heights Drive
Honolulu, HI 96822

DRAFT

IN WITNESS WHEREOF, the Hawaii Marine Animal Response, and the State of Hawaii, Department of Land and Natural Resources have executed this Memorandum of Understanding as of the date first above written.

FOR HAWAII MARINE ANIMAL RESPONSE

By: _____ Date: _____

Title _____

*Approved by the Board
of Land and Natural Resources
at its meeting on:

_____, 2019

FOR THE STATE OF HAWAII,
DEPARTMENT OF LAND AND
NATURAL RESOURCES

By: _____ Date: _____
Chairperson, Board of Land and Natural
Resources

APPROVED AS TO FORM:

Amanda Weston

Feb 25, 2019

Deputy Attorney General

(Date)