

State of Hawai'i
DEPARTMENT OF LAND AND NATURAL RESOURCES
Papahānaumokuākea Marine National Monument
Honolulu, Hawai'i 96813

July 12, 2019

Board of Land and Natural Resources
Honolulu, Hawai'i

Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Conservation and Management Permit to Commanding Officer Benjamin K. Evans, National Oceanic and Atmospheric Administration (NOAA) Ship RAINIER, for Access to State Waters to Conduct Shipboard Support Activities

The Papahānaumokuākea Marine National Monument program hereby submits a request for your authorization and approval for issuance of a Papahānaumokuākea Marine National Monument conservation and management permit to Benjamin K. Evans Elizabeth I. Kretovic, Commanding Officer, NOAA Ship RAINIER, 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 conservation and management permit, as described below, would allow entry and management activities to occur in Papahānaumokuākea Marine National Monument (Monument), including the NWHI State Marine Refuge and the waters (0-3 nautical miles) surrounding the following sites:

- Nīhoa Island
- Mokumanamana Island
- 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 between July 15, 2019 and July 14, 2020.

Though this vessel would be a new vessel operating in PMNM, the proposed activities are a renewal of work previously permitted and conducted in the Monument.

INTENDED ACTIVITIES

The primary purpose of the project is to provide vessel support for separately permitted activities aboard the NOAA Ship RAINIER. Up to 55 crew members would be authorized to enter the Monument to support separately permitted activities throughout the marine areas of Papahānaumokuākea during two separate cruises in PMNM (cruise dates: July 22 – August 15, 2019 and August 20 – September 7, 2019). As the Commanding Officer of the RAINIER, the applicant (Commanding Officer of the RAINIER) would oversee all activities including operating small boats; swimming, snorkeling, and SCUBA diving as necessary to support proposed activities and separately permitted activities; discharges incidental to vessel use (i.e., dishwasher, shower, laundry, bath and washbasin drains; deckwash incidental to small boat tenders; discharge from approved marine sanitation device effluent, cooling water, and vessel engine exhaust) outside of all Special Preservation Areas and the Midway Atoll Special Management Area; seawater intake as necessary to support vessel operations and separately permitted activities (e.g., ship stabilization and cooling; deck, gear and small boat washdown; desalinization for consumption; support for scientific purposes in the lab spaces and on deck); sustenance fishing (within Midway Atoll Special Management Area only); anchoring on sandy substrate only, and opportunistically collecting free-floating marine-debris. Swimming, snorkeling and SCUBA are not permissible except as necessary for vessel maintenance, emergency operations, and non-recreational support of vessel activities.

The applicant and all authorized individuals involved in the activity will be provided with, and would be required to comply with, a number of Monument Best Management Practices to preserve the resources and ecological integrity of the Monument. These safeguards include, but are not limited to:

- protocols to conduct safe boating and in-water activities;
- protocols for moving between islands and atolls;
- protocols to prevent the introduction of diseased and alien/invasive species;
- protocols to safely view wildlife;
- guidelines to prevent adverse impacts to seabirds; and
- guidelines for rodent prevention and vessel inspection standards.

The support provided by the RAINIER would not diminish Monument resources, qualities, or ecological integrity and is fully compatible with the purposes of the Proclamation including preserving and furthering understanding of Monument resources and qualities. The RAINIER plays an integral role in assuring that research and conservation and management activities, which are critical management elements for the Monument, are properly supported in the field.

The activity would benefit the Monument as the RAINIER would provide support services for a wide range of research and conservation and management activities. Without ship support, these activities would be severely limited or cease completely. The activity would help to support the Monument Management Plan (MMP), Priority Management Need 3.6: Achieving Effective Monument Operations (PMNM MMP Vol. I, p. 293, 2008), by providing an integral role in assuring research and other separately permitted activities are properly supported in the field.

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

- Anchoring a vessel
- Discharging or depositing any material or matter into the Monument
- 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 Reserves and Special Management Areas)
- 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, Papahānaumokuākea Marine National Monument (NOAA/NOS), NOAA Pacific Islands Regional Office (NOAA-PIRO), United States Fish and Wildlife Service 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 May 14, 2019 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:

QUESTIONS:

1. Under what conditions will the Rainier need to set anchor?

We have no plans to anchor the ship during this project. However, it is possible that anchoring would be considered in some locations to save fuel and limit emissions if weather permits and it is advantageous to scientific operations, or to effect emergency repairs. In these cases, the following steps would be taken to minimize the risk of damage to live substrate from Rainier's ground tackle (anchor and chain):

- *in non-emergency situations, Rainier would survey the area prior to anchoring to identify an anchorage free of live substrate*
- *use the minimum scope of anchor chain safe for the conditions*
- *maintain a continuous anchor watch to provide immediate warning of any dragging.*

COMMENTS:

1. If fishing is allowed within PMNM, limit it to trolling with handlines. The Sette and Hi'ialakai crew are familiar with this in areas outside of the Monuments they frequent. Be ready to de-hook and release sharks if they are caught.

Understood.

2. If anchoring is necessary by tender vessels, limit it as much as possible, and only in sandy/rubble areas, though it is preferable that no anchoring occurs at all. Make sure anchor chains and lines are not impacting live substrate.

Understood.

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:

- An informal review of all aforementioned activities following section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA; 16 U.S.C. 1855(b)) is currently underway. The outcome of this review may require the applicant to adhere to other NMFS-prescribed conditions. Such conditions would be reflected in the PMNM permit, prior to issuance.
- A request is currently underway to the National Marine Fisheries Service (NMFS) to cover all proposed activities under PMNM's programmatic ESA Section 7 informal consultation. The outcome of this consultation may require the applicant to adhere to other NMFS-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 PAPAĀNAUMOKUĀKEA MARINE NATIONAL MONUMENT CONSERVATION AND MANAGEMENT PERMIT TO COMMANDING OFFICER BENJAMIN K. EVANS, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA) SHIP RAINIER, FOR ACCESS TO STATE WATERS TO CONDUCT SHIPBOARD SUPPORT ACTIVITIES UNDER PERMIT PMNM-2019-017.")

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

If so, please summarize past permits:

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

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

STAFF OPINION

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 Conservation and Management Permit General Conditions. All suggested special conditions have been vetted through the legal counsel of the Co-Trustee agencies (see Recommendation section).

MONUMENT MANAGEMENT BOARD OPINION

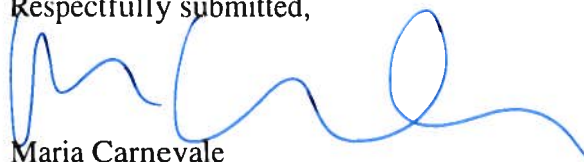
The MMB is of the opinion that the Applicant has met the findings of Presidential Proclamation 8031 and this activity may be conducted subject to completion of all compliance requirements. The MMB concurs with the special conditions recommended by PMNM staff.

RECOMMENDATION

That the Board authorize and approve a Conservation and Management Permit to Commanding Officer Benjamin K. Evans, NOAA Ship RAINIER, with the following special conditions:

1. That the permittee provide, to the best extant possible, a summary of their Monument access, including but not limited to, any initial findings to the DLNR for use at educational institutions and outreach events.
2. 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.
3. 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.
4. To prevent introduction of disease or the unintended transport of live organisms, the permittee must comply with the disease and transport protocol attached to this permit.
5. Tenders and small vessels must be equipped with engines that meet EPA emissions requirements.
6. 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.
7. No fishing is allowed in State Waters except as authorized under State law for subsistence, traditional and customary practices by Native Hawaiians.

Respectfully submitted,



Maria Carnevale
Papahānaumokuākea Marine National Monument

APPROVED FOR SUBMITTAL



Suzanne Case
Chairperson

Papahānaumokuākea Marine National Monument
CONSERVATION AND MANAGEMENT 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: Commander Benjamin K. Evans, Commanding Officer, Rainier
Affiliation: US Department of Commerce/ National Oceanic and Atmospheric Administration (NOAA)/ Office of Marine and Aviation Operations (OMAO)/ NOAA Ship *Rainier*

Permit Category: Conservation and Management
Proposed Activity Dates: 7/22-8/15 & 8/20-9/7, 2019
Proposed Method of Entry (Vessel/Plane): NOAA Ship *Rainier*
Proposed Locations: All Areas

Estimated number of individuals (including Applicant) to be covered under this permit:
up to 55

Estimated number of days in the Monument: 44

Description of proposed activities: (complete these sentences):

a.) The proposed activity would...
allow NOAA Ship *Rainier* to safely support the scientific activities approved through the permit process. *Rainier* provides the platform for research such as small boat, diving, mapping, and other activities approved by the Monument Co-Trustees and the NOAA fleet allocation process. Without ship support, these activities would not be possible.

b.) To accomplish this activity we would
operate the ship in accordance with applicable Monument, Federal, and State regulations. The ship will support approved activities while respecting the cultural significance of the area and making as minimal an impact on the environment as possible.

c.) This activity would help the Monument by ...
supporting permitted science and cultural activities with respect for environmental stewardship. The activities support the understanding and protection of Monument resources as well education of and outreach to the public.

Other information or background:

Section A - Applicant Information

1. Applicant

Name (last, first, middle initial): Evans, Benjamin K.

Title: Commanding Officer, NOAA Ship *Rainier*

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

CDR Benjamin K. Evans

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

[REDACTED]

Phone: [REDACTED]

Fax: [REDACTED]

Email: [REDACTED]

For students, major professor's name, telephone and email address: N/A

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

U.S. Department of Commerce (DOC)
National Oceanic and Atmospheric Administration (NOAA)
Office of Marine and Aviation Operations (OMAO)

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, Research Diver; Jane Doe, Field Technician):

Officers and crew of NOAA Ship *Rainier* (positions below; names will be provided in the Monument Compliance Information Sheet (CIS) and updated throughout the permit period prior to each project):

Commanding Officer
Executive Officer

Operations Officer
Operations Officer-in-Training
Junior Officers (8)
Chief Boatswain
Boatswain Group Leader
Seaman Surveyor (5)
Able Seaman (5)
Ordinary Seaman
General Vessel Assistant

Chief Engineer
First Assistant Engineer
Second Assistant Engineer
Third Assistant Engineer
Junior Engineer (2)
Engine Utilityman
Oiler (2)
General Vessel Assistant

Engineering Electrical Technician

Chief Steward
Chief Cook
Second Cook (2)

Medical Officer
Dive Medical Technician (2)

Electronics Technician

Hydrographic Chief Survey Technician
Hydrographic Senior Survey Technicians (3)
Hydrographic Survey Technicians (4)
Hydrographic Assistant Survey Technician

Hyperbaric Chamber Operator

Section B: Project Information

5a. Project location(s):

- | | | | |
|--|-------------------------------------|---|--|
| <input checked="" type="checkbox"/> Nihoa Island | <input type="checkbox"/> Land-based | <input checked="" type="checkbox"/> Shallow water | <input checked="" type="checkbox"/> Deep water |
| <input checked="" type="checkbox"/> Necker Island (Mokumanamana) | <input 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 | | | |
| <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 checked="" type="checkbox"/> Other | | | |

Ocean Based

NOTE: Shallow water is defined by water less than 100 meters in depth.

- Remaining ashore on any island or atoll (with the exception of Sand Island at Midway Atoll 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:

Ship will operate throughout the Monument in support of the activities approved in various other Monument permits.

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:*

The purpose of the ship's activities is to provide an at-sea research platform to support diver, small boat, multibeam mapping, and educational activities in support of approved Monument permits. All operations are for activities permitted by the co-trustees of the Monument as being compatible with the conservation and management goals of the Monument, NOAA, USFWS, the Office of Hawaiian Affairs, and the State of Hawaii. Activities will be respectful of the natural, historical, and cultural resources of the Monument.

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

If so, please list the species you specifically intend to target.

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/nmpa/>

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?

The activity will be conducted with adequate safeguards for the resources and ecological integrity of the Monument. The NOAA Ship *Rainier* and all respective tender vessels will anchor on sandy substrate only. All sustenance fishing activities conducted aboard *Rainier* will be within the Midway Atoll Special Management Area. *Rainier* will follow guidelines set forth by USFWS Refuge.

Rainier has a Type II Marine Sanitation Device capable of treating black water and a holding tank with a capacity to hold up to 4 days' worth of sewage and graywater. *Rainier* has a waste management plan which meets or exceeds the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78) and U.S. Coast Guard and Monument regulations.

Rainier will be equipped with an Office of Law Enforcement approved Vessel Monitoring System capable of tracking all movement within the Monument, per the requirements of Proclamation 8031, signed by the President on June 15, 2006. *Rainier* will maintain up-to-date on: rat-free inspection and hull and tender inspection and cleaning. (*Rainier* is not equipped with a water ballast system.)

Rainier will invite a member of the Monument staff to brief the crew on the historical and cultural significance of the Monument. The crew also will attend a Cultural Briefing hosted by PMNM. The ship understands Native Hawaiian cultural concerns that natural resources are considered cultural resources and any activity will be conducted with adequate safeguards as described above.

Additionally, *Rainier* intends to have Monument-provided DVDs of the cultural lecture and briefing materials on the natural and cultural resources of the Monument available to crew and scientific personnel at any time.

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?

Rainier is the support vessel to conduct activities authorized in other permits. All support activities will be conducted in accordance with regulations and in a manner to reduce and impact to the environment and with respect to cultural resources.

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.

Rainier has a record of safe mission support. She embraces environmental stewardship and will respect fully the cultural resources of the Monument. With assistance of experienced crew and personnel who have worked in the Monument on *Hi'ialakai* and other vessels, and a long history of small boat operations, she is the support vessel of choice to conduct activities authorized in other permits.

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

Rainier is the support vessel of choice to conduct activities authorized in other permits as beneficial to the management goals of the Monument. The activities cannot occur without a support vessel.

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

Rainier will spend no additional time in the Monument beyond that which is necessary to support operations authorized in individual permits for each project.

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

NOAA Commanding Officers are authorized to operate NOAA vessels in accordance with annual sailing orders and the fleet allocation plan. NOAA ships are public vessels of the United States and conform to regulations for personnel qualifications and operations. *Rainier* has spent several months over the past two years operating without incident in Sanctuary waters that are part of the Channel Island National Marine Sanctuary and Olympic Coast National Marine Sanctuary. *Rainier* will also have aboard several officers and crew members who have sailed extensively aboard the NOAA Ships *Hi'ialakai* or *Oscar Elton Sette* in the Monument. The applicant is well-qualified to conduct and complete the activity and mitigate any potential impacts resulting from this activity.

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.

Rainier is a public vessel operating in the Monument to support activities approved by the Monument co-trustees. As such, the ship is part of the Monument management team and the U.S. Government.

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.

All activities will be conducted to support work permitted in individual research permits for each cruise and with respect to environmental stewardship and the cultural heritage of the Monument. Applicable Monument, federal, and state regulations will be followed.

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

NOAA Ship *Rainier* will be equipped with a Monument type-approved NOAA OLE Vessel Monitoring System obtained from NOAA Ship *Reuben Lasker*. It will be installed prior to arrival in the Monument. We will update and email the information specific to the unit once it has been installed and demonstrated working.

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

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

Rainier has the full support of NOAA, the Pacific Island Fisheries Science Center, and the field and research team of Papahānaumokuākea Marine National Monument for this work in the Monument. The ship and the crew have a strong record of safe operations and mission accomplishment, and, with other crew and officers who have worked in the Monument, have respect for and dedication to the environmental and cultural resources of Papahānaumokuākea Marine National Monument.

8. Procedures/Methods:

Rainier will transit to the Monument from Pearl Harbor, operate within the Monument conducting various research and education operations including small boat operations, diving, snorkeling, multibeam sonar mapping, oceanographic data collection, and support of authorized USFWS or State of Hawaii land-based operations (see scientific activities permits). *Rainier* may conduct limited multibeam mapping operations for reconnaissance and safety of navigation. Additional multibeam data collection is covered under individual scientific permits

Crew activities will include small boat operations, SCUBA, snorkeling, and swimming necessary for vessel maintenance, emergency operations, proficiency, and non-recreational support of vessel and research activities.

Personnel safety, fitness, and health maintenance including but not limited to biking, swimming, and jogging at Midway Atoll Special Management Area, will be conducted only in approved areas which are open to the public, as approved/permitted by the Refuge Manager.

The ship will note other vessel traffic in the vicinity of operations and report movement to the NOAA Office of Law Enforcement.

The ship will typically perform small boat operations during the day and mapping or oceanography at night.

Monument personnel will typically be on board and in charge of the scientific complement.

All methods and procedures will be performed with the safety and welfare of personnel, the protection of Monument natural and cultural resources, and the accomplishment of mission objectives as top priorities.

Ship's personnel will abide by Papahānaumokuākea Marine National Monument Best Management Practices: "Marine Wildlife Viewing Guidelines"; "Disease and Introduced Species Prevention Protocol for Permitted Activities in the Marine Environment of Papahānaumokuākea Marine National Monument" for in-water activities; and "Best Practices for Minimizing Impact of Artificial Light on Sea Turtles."

Rainier, like any other vessel or household, inevitably creates waste. The ship carries up to 64 scientists and crew for up to 30-day missions. The waste generated is relatively small compared to a cruise ship or other larger vessels, but the issue is taken very seriously. The ship has waste management systems and plans, follows or exceeds MARPOL and USCG regulations in all waters, and has a goal to exceed Monument regulations when operating inside the Monument.

Inside the Special Preservation Areas (SPAs) the ship retains everything that flows down a drain. Outside the SPA, the ship legally discharges food scraps, which are not sanitary to store on board, treated sewage (type II MSD effluent) and diluted water from sink and shower drains (gray water) in accordance with regulations and authorizations in the ship's permit.

Discharges such as engine cooling water, deck run-off, and engine exhaust are inevitable to vessel use and are allowed in all areas under the Monument regulations.

The crew of *Rainier* understands and is respectful of the natural and cultural importance of the Monument, and will strive to use best practices to minimize all discharges of any type within the Monument.

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:

Not applicable – collection of specimens is covered under individual scientific permits.

Scientific name:

& size of specimens:

Collection location:

Whole Organism Partial Organism

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

Not applicable – covered under individual scientific permits.

9c. Will the organisms be kept alive after collection? Yes No
Not applicable – covered under individual scientific permits.

• 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?

Not applicable – covered under individual scientific permits.

11. Describe collaborative activities to share samples, reduce duplicative sampling, or duplicative research:

Not applicable – covered under individual scientific permits.

12. List all specialized gear and materials to be used in this activity:

Small boats, multibeam sonar, CTDs.

Ship and launch system specifications: Kongsberg EM710 and EM2040; SeaBird Electronics (SBE) 19plus, AML MicroCTD.

All other specialized gear and materials will be specified in individual permits.

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

Rainier carries small quantities of hazardous materials for essential ship operations. A complete hazardous material inventory is maintained aboard the ship and varies through-out the permit period. All crew are trained in SDS and proper handling of hazardous materials.

Specific hazardous materials may be filed under individual scientific permits.

Hazardous Materials held in significant quantity are fuels and lubricants such as #2 Diesel Fuel, lubrication oil, hydraulic oil, and up to 300 gallons of gasoline.

14. Describe any fixed installations and instrumentation proposed to be set in the Monument:

Not applicable – covered under individual scientific permits.

15. Provide a time line for sample analysis, data analysis, write-up and publication of information:

Not applicable – covered under individual scientific permits.

16. List all Applicant’s publications directly related to the proposed project:

Not applicable – covered under individual scientific permits.

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):

CDR Ben Evans, Commanding Officer
LCDR Justin Keese, Executive Officer
LT Hadley Owen, Operations Officer
ENS Michael Card, Operations Officer-in-Training
ENS Ian Robbins, Junior Officer
ENS Nicholas Azzopardi, Junior Officer
ENS Airlie Pickett, Junior Officer
ENS Samuel Umfress, Junior Officer
ENS Stefanie Coxe, Junior Officer
ENS Gabriella McGann, Junior Officer
ENS Kaitlyn Brogan, Junior Officer
ENS Danielle Koushel, Junior Officer

LCDR Katherine Demers, US Public Health Officer

Chief Marine Engineer Michael Riley
1st Assistant Engineer Ray Victoriano
2nd Assistant Engineer Tyler Talan
2nd Assistant Engineer Sara Ellenberger
Junior Engineer Johnny Brewer
Unlicensed Engineer Michael Pienta
General Vessel Assistant (Engineering) Deb Rose
Engineering Electronics Technician Joe Gallo

Electronics Technician Jeff Martin

Hydrographic Chief Survey Technician James Jacobson
Hydrographic Senior Survey Technician Barry Jackson
Hydrographic Senior Survey Technician Greg Gahlinger
Hydrographic Survey Technician Amanda Finn
Hydrographic Survey Technician Carl Stedman
Hydrographic Survey Technician Audrey Jerauld
Hydrographic Survey Technician Jonathan Witmer
Hydrographic Assistant Survey Technician Melissa Weber
Hydrographic Assistant Survey Technician Christina Brooks

Chief Boatswain Jason Kinyon
Mark O'Connor, Coxswain
Rich Hinostroza, Coxswain
Able-Bodied Seaman James Chambers
Able-Bodied Seaman Tyler Medley
Able-Bodied Seaman Mark Briggs

Able-Bodied Seaman Jennifer Allen
Able-Bodied Seaman Allan Quintana
Able-Bodied Seaman Ren Phoenix
Able-Bodied Seaman Charlene Moxley
General Vessel Assistant (Deck) Shawn Baker

Chief Cook Jimmy Sloan
2nd Cook Christopher Williams
2nd Cook Floyd Pounds

2. Specific Site Location(s): (Attach copies of specific collection locations): French Frigate Shoals, Maro Reef, Laysan Island, Lisianski Island, Pearl & Hermes Atoll, Midway Atoll, Kure Atoll

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

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): All funding is secured on an annual basis through the United States Federal Government. No attachments are included.

5. Time frame:

Activity start: Initial Departure from Honolulu: July 22, 2019
Activity completion: Final Return to Honolulu: September 7, 2019

Dates actively inside the Monument:

From: July 23, 2019
To: August 14, 2019

and

From: August 21, 2019
To: September 6, 2019

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

Tropical storm activity may delay departure and alter dates of operation inside the monument. Updates will be forwarded as soon as possible.

Unforeseen maintenance issues could cause last minute alterations to schedule.

Personnel schedule in the Monument: See answer to Question 1 for the list of ship's crew. The ship will also carry visiting science parties, which are covered under a separate permit application. Any modifications in crewing will be provided once research cruise is underway.

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 Federal Government is self-insured.

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

- Vessel
 Aircraft

Provide Vessel and Aircraft information:

NOAA Ship *Rainier*

Length Overall: 231 feet

Horsepower: 2400 HP

Gross Registered Tons: 1591 tons

Class of Vessel: Motor

Commanding Officer: Commander Benjamin K. Evans, NOAA

IMO No. 6711003

MMSI: 303935000

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: TBD
 Tender vessel, Date: TBD

- Ballast water, Date: TBD
- Gear/equipment, Date: TBD
- Hull inspection, Date: TBD

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

Vessel name:

Vessel owner:

Captain's name:

IMO#:

Vessel ID#:

Flag:

Vessel type:

Call sign:

Embarkation port:

Last port vessel will have been at prior to this embarkation:

Length:

Gross tonnage:

Total ballast water capacity volume (m3):

Total number of ballast water tanks on ship:

Total fuel capacity:

Total number of fuel tanks on ship:

Marine Sanitation Device:

Type:

Explain in detail how you will comply with the regulations regarding discharge in the Monument. Describe in detail. If applicable, attach schematics of the vessel's discharge and treatment systems: Discharges incidental to vessel use such as deck wash, approved sanitation device effluent, cooling water, and engine exhaust will be discharged from the vessel during operations within the Monument. Approved sanitation device effluent will only be discharged outside all Special Preservation Areas, Ecological Reserves, and the Special Management Area. Galley waste will only be discharged within the Monument at a distance set forth by issued permit outside Special Preservation Areas, Ecological Reserves, and the Special Management Area.

Other fuel/hazardous materials to be carried on board and amounts: gasoline, hydraulic oil, lubrication oil, formalin, and 95% ethanol. Amounts will be determined by individual project requirements.

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: CLS Triton Advanced Thorium VMS

The unit was installed by *Rainier's* Electronics Technician.

VMS Email:
Inmarsat ID#: 516556

* 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) 725-6110 or (808) 725-6100.

* 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:

HI-1

29' Metal Shark Marine
Propulsion: Cummins, 6.7 L (Jet drive)

HI-2

26' Ambar
Propulsion: 315 HP Yanmar Diesel (Jet drive)

RA-1 (Fast Rescue Boat)

22' Zodiac
Propulsion: Volvo Penta TAMD-31P diesel (Jet drive)

RA-2

29' North River Liberty
Propulsion: Yanmar 8LV 350C diesel (Jet drive)

RA Hydrographic Survey Launch (Backup Vessel)

28' All American Marine
Propulsion: Cummins QSC 8.3L diesel, 490 HP (single prop)

Additional Information for Land Based Operations

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

N/A

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

13. Work space needs: N/A

DID YOU INCLUDE THESE?

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

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

ROBERT MASUDA
FIRST DEPUTY

KALEO MANUEL
DEPUTY DIRECTOR - WATER

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

July 12, 2019

TO: Papahānaumokuākea Marine National Monument File

THROUGH: Suzanne Case, Chairperson

FROM: Papahānaumokuākea Marine National Monument

**DECLARATION OF EXEMPTION FROM THE PREPARATION OF AN ENVIRONMENTAL ASSESSMENT
UNDER THE AUTHORITY OF CHAPTER 343, HRS AND CHAPTER 11-200 HAR, FOR
PAPAHĀNAUMOKUĀKEA MARINE NATIONAL MONUMENT CONSERVATION AND MANAGEMENT
PERMIT TO COMMANDING OFFICER Benjamin K. Evans, NATIONAL OCEANIC AND ATMOSPHERIC
ADMINISTRATION (NOAA) SHIP RAINIER, FOR ACCESS TO STATE WATERS TO CONDUCT
CONSERVATION AND MANAGEMENT ACTIVITIES UNDER PERMIT PMNM-2019-017**

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 Conservation and Management Permit to Commanding Officer Benjamin K. Evans, National Oceanic and Atmospheric Administration (NOAA) Ship RAINIER, for Access to State Waters to Conduct Conservation and Management Activities

Permit Number: PMNM-2019-017

Project Description:

The conservation and management permit application, as described below, would allow entry and activities to occur in Papahānaumokuākea Marine National Monument (Monument), including the NWHI State waters between July 15, 2019 and July 14, 2020.

The primary purpose of the project is to provide vessel support for separately permitted activities aboard the NOAA Ship RAINIER. Up to 55 crew members would be authorized to enter the Monument to support separately permitted activities throughout the marine areas of Papahānaumokuākea during two separate cruises in PMNM (cruise dates: July 22 – August 15, 2019 and August 20 – September 7, 2019). As the Commanding Officer of the RAINIER, the

applicant (Commanding Officer of the RAINIER) would oversee all activities including operating small boats; swimming, snorkeling, and SCUBA diving as necessary to support proposed activities and separately permitted activities; discharges incidental to vessel use (i.e., dishwasher, shower, laundry, bath and washbasin drains; deckwash incidental to small boat tenders; discharge from approved marine sanitation device effluent, cooling water, and vessel engine exhaust) outside of all Special Preservation Areas and the Midway Atoll Special Management Area; seawater intake as necessary to support vessel operations and separately permitted activities (e.g., ship stabilization and cooling; deck, gear and small boat washdown; desalinization for consumption; support for scientific purposes in the lab spaces and on deck); sustenance fishing (within Midway Atoll Special Management Area only); anchoring on sandy substrate only, and opportunistically collecting free-floating marine-debris. Swimming, snorkeling and SCUBA are not permissible except as necessary for vessel maintenance, emergency operations, and non-recreational support of vessel activities.

The activity would benefit the Monument as the RAINIER would provide support services for a wide range of research and conservation and management activities. Without ship support, these activities would be severely limited or cease completely. The activity would help to support the Monument Management Plan (MMP), Priority Management Need 3.6: Achieving Effective Monument Operations (PMNM MMP Vol. I, p. 293, 2008), by providing an integral role in assuring research and other separately permitted activities are properly supported in the field.

The applicant and all authorized individuals involved in the activity will be provided with, and would be required to comply with, a number of Monument Best Management Practices to preserve the resources and ecological integrity of the Monument. These safeguards include, but are not limited to:

- protocols to conduct safe boating and in-water activities;
- protocols for moving between islands and atolls;
- protocols to prevent the introduction of diseased and alien/invasive species;
- protocols to safely view wildlife;
- guidelines to prevent adverse impacts to seabirds; and
- guidelines for rodent prevention and vessel inspection standards.

The activities proposed by the Applicant directly support the Monument Management Plan's priority management need 3.6 – Achieving Effective Monument Operations through action plan 3.6.3 - Coordinated Field Operations. As the RAINIER would serve as a platform for a variety of other permitted activities, this permit would also support priority management needs 3.1 – Understanding and Interpreting the NWHI; 3.2 – Conserving Wildlife and Habitats; and 3.3 – Reducing Threats to Monument Resources. Activities to support coordinated field operations in the NWHI are addressed in the Monument Management Plan Environmental Assessment (December 2008) which resulted in a FONSI, or a Finding of No Significant Impact. This EA recognizes that field operations rely on ships, and that providing transportation support has a beneficial effect on threatened and endangered species, marine mammals, and other Monument resources. (PMNM MMP Vol 2, p.26, 185, and 187).

Consulted Parties:

The permit application was sent out for review and comment to the following scientific and cultural entities: Hawai'i Division of Aquatic Resources, Hawai'i Division of Forestry and Wildlife, Papahānaumokuākea Marine National Monument (NOAA/NOS), NOAA Pacific Islands Regional Office (NOAA-PIRO), United States Fish and Wildlife Service Hawaiian and Pacific Islands National Wildlife Refuge Complex Office, and the Office of Hawaiian Affairs (OHA). In addition, the permit application has been posted on the Monument Web site since October 12, 2016, 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 ship operations, 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. Since this permit involves an activity that represents a commitment to a larger project, i.e. conducting research and management activities, the categorical exemption determination here will treat all planned activities as a single action, to the extent possible.

2. The Exemption Class for Scientific Research with no Serious or Major Environmental Disturbance Appears to Apply. Chapter 343, HRS, and § 11-200-8, HAR, provide for a list of classes of actions exempt from environmental assessment requirements. HAR §11-200-8.A.5. exempts the class of actions which involve "basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource." The proposed activities appear to fall squarely under the Exemption Class #5, Exempt Item #15 as described under the DLNR Exemption List published on June 5, 2015. This exemption class has been interpreted to include, "Game and non-game wildlife surveys, vegetation and rare plant surveys, aquatic life surveys, inventory studies, new transect lines, photographing, recording, sampling, collection, culture, and captive propagation" such as those to be supported by the proposed activities. It has also been interpreted to include various modes of transportation to reach field areas necessary to carry out such surveys. As discussed below, no significant disturbance to any environmental resource is anticipated in the sampling of 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.

Similar activities of this type, to conduct routine support ship operations, have been permitted and undertaken in the past. The NOAA Ships HI'IALAKAI and OSCAR ELTON SETTE have both been permitted to work in the NWHI each year since 2006. In addition, the NOAA Ship McArthur II was permitted in 2010. It is reasonable to expect future permit requests for similar support work. No deleterious impacts resulted from similar previous activities. With this in mind, significant cumulative impacts are not anticipated as a result of this activity, and numerous safeguards further ensure that the potentially sensitive environment of the project area will not be significantly affected. All activities would be conducted in a manner compatible with the management direction of the Monument Proclamation in that the activities do not diminish monument resources, qualities, and ecological integrity, or have any indirect, secondary, cultural, or cumulative effects. The joint permit review process did not reveal any anticipated indirect or cumulative impacts, nor did it raise any cultural concerns, that would occur as a result of these activities.

The activities of the NOAA Ship RAINIER would provide support for proposed research cruises. All research activities onboard these cruises would be applied for and permitted separately. It is anticipated that activities on these cruises would occur throughout the Monument. At this time, no other concurrent activities are known. However, as in the past, the culmination of this permit, along with those which may be supported by it, occurring throughout the Monument over a several month-long period, is not anticipated to have significant cumulative impacts.

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

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

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