

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Aquatic Resources
Honolulu, Hawaii 96813

February 28, 2020

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

SUBJECT: Request Approval to Add Funding and Extend Through September 30, 2021 an Existing Federally Funded Project Agreement between the Department of Land and Natural Resources (DLNR) and the Research Corporation of the University of Hawaii (RCUH) for the Division of Aquatic Resources (DAR) Research Project Entitled “Statewide Marine Resources Assessment.”

EXECUTIVE SUMMARY

Approval is sought for Amendment No. 2 to Contract No. 67170 to add funding to the existing “Statewide Marine Resources Assessment” Project Agreement to be conducted with RCUH for an extension through September 30, 2021 in the approximate amount of \$605,000. The extension will cover the transition to new grant periods (annually from October 1 through September 30) which is being mandated by our fiscal office for the DLNR to create more efficient accounting practices for U.S. Fish and Wildlife Service funded projects statewide.

Project Objectives

1. Survey the diversity and abundance of marine fish species targeted by recreational fishers in nine (9) managed areas and 14 unprotected control locations around Oahu, Maui, and Kauai; collect and analyze data to determine changes in fish populations.
2. Conduct detailed habitat and environmental monitoring surveys at select coral reef sites on Oahu, Maui and Kauai in order to measure changes in coral reef habitat health and their effects on finfish populations.
3. Survey the diversity and abundance of marine fish species and habitat quality in select areas around Oahu, where lay gillnet restrictions were imposed and at suitable control sites; conduct comprehensive surveys of fish and habitat resources to evaluate fish resources and associated habitat trends statewide in relation to the lay gillnet ban in Maui waters; conduct assessments to evaluate the effectiveness of the lay gillnet ban and Kahekili Herbivore FMA on Maui and the Haena Community-Based Subsistence Fishing Area on the north coast of Kauai.
4. Perform habitat recovery monitoring surveys at Pilaa on the north coast of Kauai.
5. Conduct fishing activity surveys to increase knowledge of factors influencing trends in fish populations, fishing effort, and success at specific fishing sites around Oahu, Maui and Kauai.

Duration

The existing Project Agreement (Contract No. 67170) is scheduled to run through June 30, 2020. This Amendment No. 2 will extend the project for 15 months from July 1, 2020 through September 30, 2021 to accommodate the transition to new grant periods.

Funding Sources

Federal funds for Amendment No. 2 in the total amount of \$605,000 from the U.S. Fish and Wildlife Service, Sport Fish Restoration Program.

HRS Chapter 343 - Compliance with Environmental Law

Contract No. 67170, Amendment No. 2 will continue to involve the use of state lands (submerged lands zoned in the Conservation District, Resource subzone) and use of state funds. The Department has determined that the actions to be conducted under the funding and time extension for this ongoing project will have little or no significant effect on the environment and are exempt from the preparation of an environmental assessment. See the Division's proposed Determination of Exemption from the preparation of an environmental assessment (attached).

REMARKS

The purpose of this research project is to conduct marine fish and habitat surveys to determine the impact of fishing pressure and management actions on finfish and their associated habitat. The focus of the research is to assess and monitor the status and trends of fisheries resources statewide. In addition, the information will be used to evaluate the effectiveness of statewide-managed areas, as well as current fisheries regulations.

Approval to amend and extend the existing Project Agreement (Contract No. 67170) is being requested concurrently from the Governor, through the Department of Budget and Finance. Also, the Project Agreement Amendment No. 2 is being prepared for submission to the Attorney General's Office for preliminary approval as to form and content. DAR is aware implementation of this amended Project Agreement is dependent upon receipt of all required approvals as well as the availability of funds and that funding restrictions may occur at any time.

RECOMMENDATIONS

Based on the above discussion, the Division of Aquatic Resources requests:

1. That the Board, based on the attached proposed declaration of exemption prepared after consultation with and on advice of those having similar expertise in exemption determinations for the proposed actions under the Project Agreement Amendment, declare that the actions which are anticipated to be undertaken under this Project Agreement Amendment will have little or no significant effect on the environment and are therefore exempt from the preparation of an environmental assessment.

2. That the Board authorize the Chairperson to approve and execute the Division of Aquatic Resources Project Agreement Amendment No. 2 (to Contract No. 67170) entitled “Statewide Marine Resources Assessment,” with the Research Corporation of the University of Hawaii subject to approval as to form and content by the Department of the Attorney General.

Respectfully submitted,

BRIAN J. NEILSON
Administrator

APPROVED FOR SUBMITTAL:

SUZANNE D. CASE
Chairperson

Attachment

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
ACTING 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

February 28, 2020

TO: Division of Aquatic Resources File

THROUGH: Suzanne D. Case, Chairperson

FROM: Brian J. Neilson, Administrator
Division of Aquatic Resources

SUBJECT: Declaration of Exemption from the Preparation of an Environmental Assessment under the Authority of Chapter 343, HRS, and Chapter 11-200, HAR, for a Request to Add Funding and Extend Through September 30, 2021 an Existing Federally Funded Project Agreement between the Department of Land and Natural Resources (DLNR) and the Research Corporation of the University of Hawaii (RCUH) for the Division of Aquatic Resources (DAR) Research Project Entitled "Statewide Marine Resources Assessment."

The following Project Agreement activities are found to be exempted from preparation of an environmental assessment under the authority of Chapter 343, Hawaii Revised Statutes (HRS) and Chapter 11-200, Hawaii Administrative Rules (HAR):

Project Title: Statewide Marine Resources Assessment

Project Description: The purpose of this research project is to conduct marine fish and habitat surveys to determine the impact of fishing pressure and management actions on finfish and their associated habitat. The focus of the research is to assess and monitor the status and trends of fisheries resources statewide. In addition, the information will be used to evaluate the effectiveness of statewide-managed areas, as well as current fisheries regulations.

Key project objectives during the grant period include the following:

- 1) Survey the diversity and abundance of marine fish species targeted by recreational fishers in nine (9) managed areas and 14 unprotected control locations around Oahu, Maui and Kauai; collect and analyze data to determine changes in fish populations.
- 2) Conduct detailed habitat and environmental monitoring surveys at select coral reef sites on Oahu, Maui and Kauai to measure changes in coral reef habitat health and their effects on finfish populations.

- 3) Survey the diversity and abundance of marine fish species and habitat quality in select areas around Oahu, where lay gillnet restrictions were imposed and at suitable control sites; conduct comprehensive surveys of fish and habitat resources to evaluate fish resources and associated habitat trends statewide in relation to the lay gillnet ban in Maui waters; conduct assessments to evaluate the effectiveness of the lay gillnet ban and Kahekili Herbivore FMA on Maui and the Haena Community-Based Subsistence Fishing Area on the north coast of Kauai.
- 4) Perform habitat recovery monitoring surveys at Pilaa on the north coast of Kauai.
- 5) Conduct fishing activity surveys to increase knowledge of factors influencing trends in fish populations, fishing effort, and success at specific fishing sites around Oahu, Maui and Kauai.

Consulted parties: Fish & Wildlife Service, SFR Program; NOAA CREP; UH CRAMP

Exemption Determination: After reviewing §11-200-8, HAR, including the criteria used to determine significance under §§11-200-1 and 5, HAR, DLNR has concluded that the activities under this Project Agreement would have no significant effect on the environment and that approval of the Project Agreement is categorically exempt from the requirement to prepare an environmental assessment based on the following analysis:

1. All activities associated with this Project Agreement have been evaluated as a single action. Since this research Project Agreement involves activities that are precedent to a later planned activity, i.e., the monitoring and collection of data and research, the categorical exemption determination here will treat all planned activities as a single action under §11-200-8, HAR.
2. The Exemption Class #5 or Scientific Research with no Serious or Major Environmental Disturbance Appears to Apply. §11-200-8(a)(5), HAR, exempts the class of actions that 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 the data collection, research and resource evaluation activities related to Maui, Oahu and Kauai marine resources, such as those being proposed.

The proposed activities here appear to fall squarely under the exemption class identified under § 11-200-8(a)(5), HAR, and as described under the 2015 DLNR exemption list class #5, items #2 and #15, respectively, which includes “non-destructive data collection and inventory, including field, aerial and satellite surveying and mapping” and “research or experimental management actions that the Department declares are designed specifically to monitor, conserve, or enhance native species or native species' habitat”.¹

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

¹ Exemption list for DLNR, approved on June 5, 2015. See Office of Environmental Quality Control (OEQC) website: http://oeqc2.doh.hawaii.gov/Agency_Exemption_Lists/State-Department-of-Land-and-Natural-Resources-Exemption-List-2015-06-05.pdf

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.” §11-200-8(b), HAR. 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. §11-200-12, HAR.

Significant cumulative impacts are not anticipated as a result of this activity, and numerous safeguards further ensure that the potentially sensitive environment of the project area will not be significantly affected. All activities will be conducted in a manner that does not diminish marine resources, qualities, and ecological integrity, or have any indirect, secondary, cultural, or cumulative effects.

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 have No Significant Effect on the Environment. Any foreseeable impacts from the proposed activity will be further mitigated by general and specific conditions attached to the Project Agreement. Specifically, all research activities covered by this Project Agreement will be carried out with strict safeguards for the natural, historic, and cultural resources, other applicable law and agency policies and standard operating procedures.

Conclusion. Upon consideration of the Project Agreement Amendment No. 2 of Contract No. 67170 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.