

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

April 09, 2020

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

REQUEST FOR APPROVAL TO ENTER INTO A MEMORANDUM OF  
UNDERSTANDING BETWEEN DEPARTMENT OF LAND AND NATURAL  
RESOURCES DIVISION OF AQUATIC RESOURCES AND THE HAWAII MARINE  
ANIMAL RESPONSE REGARDING FACILITATION OF INTERACTIONS TO  
PROTECT AQUATIC RESOURCES

Submitted for your consideration and approval is a request to enter into a Memorandum of Understanding (or "MOU") between the Department of Land and Natural Resources (or "DLNR") Division of Aquatic Resources (or "DAR") and the Hawaii Marine Mammal Alliance dba the Hawaii Marine Animal Response ("HMAR"), regarding HMAR's assistance in activities that will support DAR's mission. This MOU is similar to an MOU that HMAR maintains between itself and DLNR's Division of Forestry and Wildlife.

Background

DLNR's mission is to manage and conserve State lands and resources, cultural and natural resources. DAR's mission is to work with the people of Hawaii to manage, conserve and restore the state's unique aquatic resources and ecosystems for present and future generations. HMAR conducts field responses to sightings protected marine species and works to manage anthropogenic impacts to the animals, in, and around areas under DAR jurisdiction. HMAR performs stranding and salvage responses in support of protected species. HMAR provides educational interpretive services to the public and collects information on reports of protected species.

The proposed MOU seeks to clarify the relationship between DAR and HMAR to the benefit of both parties. Both DAR and HMAR share a common interest in protecting and supporting the native aquatic wildlife present in Hawaii's nearshore waters. HMAR can provide assistance in areas where DAR has limited capacity to act and HMAR has the expertise and ability to act. This MOU passed an initial review by the State of Hawaii Department of the Attorney General.

RECOMMENDATIONS:

That the Board:

- 1) Authorize and approve the request to enter into a Memorandum of Understanding between the Department of Land and Natural Resources (or "DLNR") Division of Aquatic Resources (or "DAR") and the Hawaii Marine Mammal Alliance doing business as the Hawaii Marine Animal Response (or "HMAR"), Regarding the facilitation of interactions to protect aquatic resources.

Respectfully submitted,



Brian J. Neilson, Acting Administrator  
Division of Aquatic Resources

APPROVED FOR SUBMITTAL



Suzanne Case., Chairperson  
Board of Land and Natural Resources

Attachments:

**Exhibit 1 – Memorandum of Understanding** between the Department of Land and Natural Resources Division of Aquatic Resources and the Hawaii Marine Mammal Alliance dba the Hawaii Marine Animal Response, regarding Hawaii Marine Animal Response's assistance in activities that will support Division of Aquatic Resources' mission.

MEMORANDUM OF UNDERSTANDING  
BETWEEN  
HAWAII MARINE MAMMAL ALLIANCE INCORPORATED  
doing business as HAWAII MARINE ANIMAL RESPONSE  
AND THE  
STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF AQUATIC RESOURCES

This Memorandum of Understanding, made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by and between Hawaii Marine Mammal Alliance Incorporated doing business as 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 (or “DLNR”), Division of Aquatic Resources (or “DAR”), 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, DAR’s mission is to work with the people of Hawaii to manage, conserve and restore the state’s unique aquatic resources and ecosystems for present and future generations; and

WHEREAS, DAR and HMAR share a common interest in protecting and supporting the native aquatic wildlife present in nearshore waters; and

WHEREAS, HMAR’s roles include field response to sightings, work to manage anthropogenic impacts to and with protected marine species on, in and around DLNR areas of jurisdiction, to perform stranding and salvage 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 has the professional expertise to provide the above described field response, stranding and salvage response, other directed agency support, and educational outreach to the public; and while DAR has limited staff and funding for such activities; and

WHEREAS, a Memorandum of Understanding that clarifies the relationship between DAR 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 DAR, now both parties hereto deem it mutually advantageous and desirable to cooperate and hereby agree as follows:

DAR/HMAR  
Memorandum of Understanding

DAR agrees to:

1. Allow HMAR to assist DAR by utilizing HMAR resources, personnel and equipment in activities that further DAR objectives;
2. Work with HMAR to assist in its activities, 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 and maintain, in good standing, a National Oceanic and Atmospheric Administration (or "NOAA") Regional Stranding Agreement to be authorized to take marine mammals when directed by NOAA, a NOAA Cooperative Agreement associated with the management, stranding and salvage support of sea turtles, a U.S. Fish and Wildlife Service (or "USFWS") Migratory Bird Treaty Act permit, and a DLNR Division of Forestry and Wildlife (or "DOFAW") Wildlife Permit.
2. Provide educational outreach and interpretive services to raise environmental awareness and manage public behavior around protected marine species, and provide stranding and salvage support as authorized by NOAA, USFWS and DOFAW agreements and permits in various areas under DAR jurisdiction, as may be mutually agreed upon;
3. Coordinate and supervise staff and volunteers for all activities conducted;
4. 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;
2. This Memorandum of Understanding may be terminated by HMAR or DAR 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:

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

DAR/HMAR

Memorandum of Understanding

Department of Land and Natural Resources:

Division of Aquatic Resources

1151 Punchbowl Street, Room 330

Honolulu, Hawaii 96813

(808) 587-0115

DAR/HMAR  
Memorandum of Understanding

IN WITNESS WHEREOF, Hawaii Marine Mammal Alliance Incorporated, 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 MAMMAL  
ALLIANCE INCORPORATED

By: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_, 2020

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

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Chairperson, Board of Land and Natural  
Resources

APPROVED AS TO FORM:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Deputy Attorney General