

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

June 26, 2020

Board of Land  
and Natural Resources  
Honolulu, Hawaii

Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Special Ocean Use Permit to Mr. Kevin Bachar, Pangolin Pictures, PBS, for Access to State Waters to Conduct Filming Activities

The Division of Aquatic Resources (DAR) hereby submits a request for your authorization and approval for issuance of a Papahānaumokuākea Marine National Monument special ocean use permit to Kevin Bachar of Pangolin Pictures pursuant to § 187A-6, Hawaii Revised Statutes (HRS), chapter 13-60.5, Hawaii Administrative Rules (HAR), and all other applicable laws and regulations.

The special ocean use permit, as described below, would allow entry and 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:

- French Frigate Shoals

The activities covered under this permit would occur between June 27, 2020 and June 26, 2021.

INTENDED ACTIVITIES

The applicant proposes to connect the public to the Monument through the creation of a natural history documentary for the PBS series “Nature” focusing in part on the wildlife of French Frigate Shoals. Pangolin Pictures have accessed French Frigate Shoals previously in 2013 without incident (permit no. PMNM-2013-007), and produced the documentary “Wild Hawaii” which aired on National Geographic. This is a new application as proposed activities include filming underwater.

A director of photography and up to two other individuals would access marine and terrestrial areas at French Frigate Shoals aboard the SSV Makani Olu for up to 8 days in late June – early July 2020. Potential animals and interactions to be filmed include albatross, great frigate birds, Hawaiian monk seals, green sea turtles, various species of sharks, and specifically predation of albatross by sharks. Protected species (monk seals and turtles) would not be approached and only filmed within the recommended distances for viewing these species in PMNM Best Management Practice # 010 (Marine Wildlife Viewing Guidelines). The proposed activities would include in

water filming of sharks (including swimming/snorkeling), and filming/photographing other wildlife and general scenic features. All activities would be conducted under the direct supervision of a designated PMNM resource monitor.

To safeguard Monument resources the applicant would abide by the following PMNM Best Management Practices (BMPs) while conducting the aforementioned activities within the PMNM: Human Hazards to Seabirds Briefing (BMP #003), Special Conditions and Rules for Moving Between Islands / Atolls and Packing for Field Camps (BMP #007), Reducing Light Impact to Sea Turtles (BMP #009), Marine Wildlife Viewing Guidelines (BMP #010), Disease and Introduced Species Prevention Protocol for Permitted Activities in the Marine Environment (BMP #011), and Best Practices for Maritime Heritage Sites (BMP #017).

The activities will benefit the conservation and management of the Monument by supporting the Monument Management Plan (MMP) as described in:

**Strategy MCS-3: Communicate results of research and monitoring over the life of the plan:**

*Research is an exciting way to promote ecosystem literacy and caring for the NWHI. Ecosystem research-related education and outreach present an ideal opportunity to “bring the place to the people and not the people to the place.” This strategy serves a dual purpose of presenting the science to a general audience and promoting the research necessary to manage the Monument. In addition, research and modeling discoveries can be shared with the public and incorporated into classroom curricula. Activities contained within this strategy apply to terrestrial and marine research and monitoring activities in the Monument. (PMNM MMP Vol. 1, p. 127, 2008).*

**Activity CBO-2.3: Support other entities’ efforts to broaden knowledge of and appreciation for Monument resources and management priorities.**

*Establishment of the Monument has created interest from documentary filmmakers, writers, photographers, and other entities to help us “bring the place to the people.” The MMB will support those endeavors that provide benefit to Monument resources and management and our constituents without impacting Monument resources. (PMNM MMP Vol. 1, p. 271, 2008).*

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

- Anchoring a vessel
- 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: Hawaii Division of Aquatic Resources, Hawaii 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

February 14, 2020, 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 concerns were raised. Applicant responses are noted below.

**QUESTIONS:**

1. Please explain what safety procedures you have in place for in-water filming sharks? Sharks at French Frigate Shoals may exhibit different or more aggressive behaviors than those found in other more populated areas.

**Applicant Response:** *Thank you for your question. Mr. Atkins will only film sharks in the water with the presence of an experienced, local safety diver (listed in Section A under question 4 as Production Assistant—I'm happy to change the language of this to "Safety Diver" if preferred for clarification). Mr. Atkins has four decades of experience filming sharks in the Hawaiian chain, as well as around the globe. This experience allows him to read animal behaviors and make safe and appropriate decisions for filming.*

*Our production company has filmed dozens of natural history documentaries for networks such as PBS, National Geographic, and Discovery Channel in underwater marine systems. We always have at least one safety diver in the water with the camera person for every production we film. Safety of the people, the animals, and the environment is paramount.*

2. With East Island mostly gone (and limited space for seals and turtles to haul out), where will you potentially want to film?

**Applicant Response:** *Since East Island has sadly been nearly washed away by the hurricane, we have been in close contact with local scientists and researchers to determine the best location to see the albatross and tiger shark interaction. We understand there have been sightings on Tern Island and Trig Island. We are remaining in contact with researchers as we approach the season to determine the best location to film this behavior. Because of the changing circumstances and changing animal behavior due to the hurricane's impact on East Island, we are requesting to finalize our intended locations of filming in French Frigate Shoals as close to the filming date as possible that the PMNM office will permit us and determined by the most recent observations and information.*

*When filming wildlife and during all times on the expedition we will respect the habitat of seals, turtles, and all animals and especially endangered animals following the*

*guidelines in the Best Management Practices, Marine Mammal Protection Act and the Endangered Species Act.*

3. Would the applicant be open to discussing potentially filming specific areas for management agencies to use for education and outreach purposes?

**Applicant Response:** *Yes.*

#### COMMENTS / RECOMMENDATIONS:

1. Please be aware that the permitted vessel will need to comply with monument regulations including an installed OLE approved Vessel Monitoring System (VMS) as well as hull and rodent inspections prior to departure.

**Applicant Response:** *Thank you, understood.*

2. A PMNM designated Resource Monitor will be required to accompany this expedition.

**Applicant Response:** *Thank you, understood.*

3. Please read all Best Management Practices, including the Monument biosecurity protocols, closely and well in advance of the planned activity. Soft gear (such as backpacks, camera straps, clothes, etc, must be brand new and frozen for 48 hours prior to use on any islands in French Frigate Shoals.

**Applicant Response:** *Thank you, understood.*

4. If the applicant wants to film closer than the distances outlined in the Best Management Practices document “Wildlife Viewing Guidelines”, that would require separate Marine Mammal Protection Act and Endangered Species Act permits. The applicant can find information for those permits by visiting the following link: [apply for a separate filming permit](#). If the applicant does not need to approach closer than the stated guidelines (on land and in water), separate permits are not required.

**Applicant Response:** *Thank you, understood.*

5. If access is granted, NMFS requests that careful coordination between the applicant and the NMFS seal and turtle field teams at Tern Island takes place, and that proper oversight is ensured. Normally, NMFS field staff would provide assistance in this oversight, but the

field staff this year will be less seasoned than in past years, so the ability of that staff to provide guidance or assist in oversight will be more limited.

**Applicant Response:** *Thank you, understood.*

6. Due to Covid-19, the State of Hawaii Department of Land and Natural Resources are refraining from BLNR Landboard approvals at this time for remote activities in Papahānaumokuākea Marine National Monument.

**Applicant Response:** *Thank you, understood.*

**[UPDATE as of end of May 2020]**

The BLNR will review proposed activities within PMNM so long as the following condition be included in the permit.

1. The permittee is required to follow all applicable Federal, State, and County laws with respect to the COVID-19 emergency response that apply at the time of departure and return. In issuance of this permit, the State of Hawaii is not otherwise monitoring or regulating permittee's compliance with COVID-19 laws and is not responsible for the health and safety of crew members, researchers or other occupants of the vessel associated with this permit.

**Applicant Response:** *Understood. Please see attached "Health Protocol for Safe Filming" document for additional information on how we plan to comply with all applicable laws and regulations.*

**MMB Covid-19 Health and Safety Questions and Applicant Responses:**

1. What measures are you taking to comply with the U.S. Centers for Disease Control and Prevention current COVID-19 guidelines for keeping all listed personnel safe?

**Applicant Response:** *Please see attached "Health Protocol for Safe Filming" document.*

2. What measures are you taking to comply with the State of Hawaii's and City and County of Honolulu's current COVID-19 requirements, and the Board of Land and Natural Resources' current COVID-19 guidelines??

**Applicant Response:** *Please see attached "Health Protocol for Safe Filming" document.*

3. What are your specific COVID-19 safety plans for departing from and/or returning to Hawaii?

**Applicant Response:** *Please see attached "Health Protocol for Safe Filming" document.*

4. Does your proposed vessel have professionally trained medical personnel on board?

**Applicant Response:** *Please see attached "Health Protocol for Safe Filming" document.*

5. What are your proposed vessel's capabilities/protocols in the event a medical evacuation is required?

**Applicant Response:** *Please see attached "Health Protocol for Safe Filming" document.*

**Comments received from the Native Hawaiian community are summarized as follows:**

Cultural reviews support the acceptance of this application.

**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.
- Coordination and consultation pursuant to ESA Section 7 will occur prior to issuance of this permit.
- 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 PAPAHA NAUMOKU AKEA MARINE NATIONAL MONUMENT SPECIAL OCEAN USE PERMIT TO MR. KEVIN BACHAR, PANGOLIN PICTURES, PBS, FOR ACCESS TO STATE WATERS TO CONDUCT FILMING ACTIVITIES UNDER PERMIT PMNM-2020-005")

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:

DAR 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 Research 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:

At the time of this submittal deadline, the MMB was considering this application, but hadn't yet endorsed as part of our MMB joint permit process. A verbal update will be provided at the time of the hearing.

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 Special Ocean Use Permit to Mr. Kevin Bachar, Pangolin Pictures, PBS, with the following special conditions:
  - a. 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.
  - b. Tenders and small vessels must be equipped with engines that meet EPA emissions requirements.
  - c. 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.
  - d. No fishing is allowed in State Waters except as authorized under State law for subsistence, traditional, and customary practices by Native Hawaiians.

- e. The permittee is required to follow all applicable Federal, State, and County laws with respect to the COVID-19 emergency response that apply at the time of departure and return. In issuance of this permit, the State of Hawaii is not otherwise monitoring or regulating permittee's compliance with COVID-19 laws and is not responsible for the health and safety of crew members, researchers or other occupants of the vessel associated with this permit.

Respectfully submitted,

*Maria Carnevale* 

State of Hawaii, Co-Manager  
Papahānaumokuākea Marine National Monument

APPROVED FOR SUBMITTAL

**Signature:** *Suzanne D. Case*

**Email:** [suzanne.case@hawaii.gov](mailto:suzanne.case@hawaii.gov)

Suzanne D. Case  
Chairperson



## **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):**

Makani Olu: Harry Sprague, Captain, Matt Claybaugh - CEO, 8 crew TBD  
Daniel Link, Resource Monitor (USFWS)  
Paul Atkins, Director of Photography  
Camera Assisstant, 2TBD

**2. Specific Site Location(s): (Attach copies of specific collection locations):** Islands and shallow water areas of French Frigate Shoals, primarily Tern and East Island

**3. Other permits (list and attach documentation of all other related Federal or State permits):** PMNM-2020-005

**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):** These activities are financially sponsored by the Public Broadcasting System (PBS)

**5. Time frame:**

Activity start: Late June 2020  
Activity completion: Early July 2020

Dates actively inside the Monument:  
From: 6/29/2020 (Exact Date TBD)  
To: 7/6/2020 (Exact Date TBD)

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:** Liability Insurance Attached.

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

- Vessel  
 Aircraft

Provide Vessel and Aircraft information: SSV Makani Olu

**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: TBD

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:**

Each day personnel and minimal camera gear will be transported from the Makani Olu to a filming site, whether that be an island or a shallow water environment. BMPs for Boat Operations and special considerations and rules for moving between islands will be followed.

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

### **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 IGE  
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

June 26, 2020

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  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAOHOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

TO: Division of Aquatic Resources File

THROUGH: Suzanne D. 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  
PAPAHĀNAUMOKUĀKEA MARINE NATIONAL MONUMENT SPECIAL OCEAN USE PERMIT TO MR.  
KEVIN BACHAR, PANGOLIN PICTURES, PBS, FOR ACCESS TO STATE WATERS TO CONDUCT  
FILMING ACTIVITIES UNDER PERMIT PMNM-2020-005.

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 Special Ocean Use Permit to Mr. Kevin Bachar, Pangolin Pictures, PBS, to Conduct Filming Activities

Permit Number: PMNM-2020-005

Project Description:

The research permit application, as described below, would allow entry and activities to occur in Papahānaumokuākea Marine National Monument (Monument), including the NWHI State waters from June 26, 2020 to June 25, 2020.

The Applicant proposes to conduct filming activities for an upcoming PBS content. While the in the Monument, activities would include: filming; photography; and swimming, snorkeling, and SCUBA diving. Filming equipment would include handheld standard cameras, tripods, microphones, and underwater lighting instruments and housing equipment.

The applicant and up to four persons to act as his film crew would conduct filming and photography activities at French Frigate Shoals under the guidance of a designated Monument

ITEM F-1c

escort. This includes all activities related to the filming of the State listed species, the Hawaiian monk seal, or 'Īlioholoikauaua, and sea turtles, or honu.

The activities proposed by the Applicant directly support the Monument Management Plan's priority management needs under Constituency Building and Outreach (CBO) Action Plan 2.3 – "Support other entities' efforts to broaden knowledge of and appreciation for Monument resources and management priorities. Establishment of the Monument has created interest from documentary filmmakers, writers, photographers, and other entities to help us 'bring the place to the people'." Activities such as those to be carried out by the permittee, are also addressed in the Monument Management Plan Environmental Assessment (December 2008) which resulted in a FONSI. The end value of the film product is high in terms of educational outreach and raising public awareness to further the educational value of the Monument and its continued conservation protections. National Geographic's television documentary has the ability to "bring the place to the people" and showcase the wildlife of the Monument.

#### Consulted Parties:

The permit application was sent out for review and comment to the following scientific and cultural entities: Hawaii Division of Aquatic Resources, Hawaii 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, 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 the filming and photographing of wildlife interactions activities at French Frigate Shoals, 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 activity.

2. The Exemption Class for Scientific Research 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. 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 photographing and recording activities, such as those being proposed. The proposed data (imagery) collection activities here appear to fall squarely under the exemption class #5, exempt item #13 as described under the Exemption List for the Department of Land and Natural

Resources published on June 5, 2015. As discussed below, no significant disturbance to any environmental resource is anticipated in the filming and photographing of wildlife interactions activities at French Frigate Shoals. 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.

Since the designation of the Monument, a number of filming and photography projects have been undertaken to date in State Waters to effectively bring the place to the people. There were no deleterious effects from the previous projects. 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 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. 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.

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.

Again, 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.

**Papahānaumokuākea Marine National Monument**  
SPECIAL OCEAN USE 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](mailto: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:** Kevin Bachar

**Affiliation:** Pangolin Pictures and PBS/Thirteen

**Permit Category:** Special Ocean Use

**Proposed Activity Dates:** Last week of June and first week of July, 2020

**Proposed Method of Entry (Vessel/Plane):** NOAA compliant vessel “The Searcher”

**Proposed Locations:** French Frigate Shoals

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

Thirteen individuals estimated including film crew and boat crew

**Estimated number of days in the Monument:** 14 days

### **Description of proposed activities:** (complete these sentences):

a.) The proposed activity would...

be to film a sequence in French Frigate Shoals of Great Frigatebirds and various species of albatross who mate, hatch, fledge and display other behavior, as well as Hawaiian monk seals for a natural history documentary for the respected PBS series titled NATURE, airing on PBS for free to the public in 2020 or 2021. We would also like to film tiger sharks exhibiting a behavior that is unique to Hawai'i and demonstrates their intelligence and learning ability to travel to FFS precisely when albatross first start to fledge. We are also requesting to film with a drone only over water, never over land, carefully following FAA drone guides as well as guides from the Monument.

b.) To accomplish this activity we would ....

charter the NOAA compliant vessel, The Searcher, from Kewalo Basin, Honolulu to French Frigate Shoals where we are requesting permission to film for five days from the boat, in shallow water and on land. 14 days in the monument are

requested to account for travel time and potential weather delays, while only 5 days of suitable weather at French Frigate Shoals is needed for this activity. All crew will sleep and eat on the vessel. Only Mr. Atkins and his film assistant, as well as any necessary boat crew, will leave The Searcher to film on beaches or in seabird colonies. Mr. Atkins will be filming with a telephoto lens that allows exceptional cinematographic quality while maintaining sufficient distance between Mr. Atkins and any wildlife. They would travel from the main vessel to shore on a 20-foot Zodiac Mark V. For drone filming, a licensed FAA pilot, Daniel Kwiatkowski, specialising in cinematic drone filming of wildlife would launch the drone from the boat (a small, cinematic drone that weighs less than 6 pounds - Mavic II). It would only film over water, never in or over the bird colonies. A drone camera assistant will spot the drone to ensure that it does not interfere with bird flight patterns. Mr. Kwiatkowski assisted Mr. Atkins in 2013 on our previous filming permit in the Monument so he is familiar with the fragile and important ecosystems of the Monument (it should be noted that there was no drone filming at the time of our 2013 filming).

c.) This activity would help the Monument by ...

supporting the Vision and Mission of the Monument by using the powerful and engaging medium of documentary television to reach nearly every household in the United States and territories to encourage a deep reverence, appreciation, and respect for the importance of the Monument and Hawaiian ecosystems. Filmmaking plays an important role in shaping culture; this film will have the power to inspire appreciation for the natural world, ecosystems in Hawai‘i, and Hawaiian culture which is so closely tied to the ocean and native animals. Public support for the natural world is a key player in shifting policy towards protection and perpetuation of ecosystems, including NWHI ecosystems, for generations today and for posterity.

**Other information or background:**

In 2013, Pangolin Pictures had the honor of sending a two person film crew to French Frigate Shoals for the filming of a scene for our documentary “Wild Hawaii” which aired on National Geographic and was ultimately nominated for an Emmy (permit number PMNM-2013-007). Paul Atkins was the director of photography for our 2013 program and is director of photography for our current PBS NATURE program. Mr. Atkins has specialized in wildlife filmmaking for four decades, has a Bachelor of Science (FSU) and Master of Science (HU) studying coral reef behavior and zoology, has won numerous Emmy awards, filmed on nearly every continent, worked on renowned Hollywood productions (such as

Academy Award winning films “Master and Commander” and “The Revenant”), was praised by Sir David Attenborough for “his profound understanding of the animals he films,” and is a Hawai’i local.

## **Section A - Applicant Information**

### **1. Applicant**

Name (last, first, middle initial): Bachar, Kevin

Title: Director/Producer of the film

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

Paul Atkins, MS, ASC is the person responsible in the field. He is the Director of Photography for the documentary. Mr. Atkins’s resume is attached.

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

Phone:

Fax:

Email:

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

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

Pangolin Pictures and PBS/Thirteen:

Pangolin Pictures was founded in 1995 by Emmy-winning National Geographic senior producer, Kevin Bachar. Since then, Pangolin has produced dozens of documentaries for PBS, National Geographic, Discovery Channel, Smithsonian, the Cornell University Lab of Ornithology, NatGeo Wild, and several other international networks. Pangolin Pictures documentaries have received numerous honors including three Emmy awards, two Wildscreen Panda nominations, the prestigious Genesis Award, two Cine Golden Eagles, and three Cindy Awards among others. Our documentary, African Grey Parrot: Species in

Decline, co-produced with Cornell, was presented at the IUCN Cites convention in 2016 where it was an influential factor in the decision to move the Parrot to Appendix I in an effort to protect the animal from extinction. Our team's expertise in filming wildlife, passion for conservation, and respect for nature make us one of the world's top production companies in natural history filmmaking today.

PBS, which will be airing the documentary and is funding the program, is a nonprofit organization that is considered “America’s Classroom,” and for fifty years has brought reliable, trusted, high quality programming to the American public. PBS reaches 83% of all US television households, a viewership 70% larger than that of Discovery Channel and notably larger than other television networks. Our documentary for PBS’s series “NATURE” will “educate, engage, and inspire all Americans” by promoting learning and reverence for the natural world through “the power of media.” PBS NATURE has won many Emmy awards as well as winning the venerated Sierra Club honors--evidence of a proven history of dedication to environmental storytelling of the highest quality.

**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):**

1. Director of Photography - Paul Atkins
2. Drone Pilot - Daniel Kwiatkowski or other equally qualified drone pilot
3. Camera Assistant - individual to be determined
4. Production Assistant - individual to be determined
5. Production Assistant - individual to be determined
6. Boat Captain - Jonathan Littenberg
7. Boat crew - individual to be determined
8. Boat crew - individual to be determined
9. Boat crew - individual to be determined
10. Boat crew - individual to be determined
11. Boat crew - individual to be determined
12. Boat crew - individual to be determined
13. Boat crew - individual to be determined

**Section B: Project Information**

**5a. Project location(s):**

**Ocean Based**

|                          |                              |                 |                          |               |                          |               |                          |            |
|--------------------------|------------------------------|-----------------|--------------------------|---------------|--------------------------|---------------|--------------------------|------------|
| <input type="checkbox"/> | Nihoa Island                 | Land-           | <input type="checkbox"/> | based Shallow | <input type="checkbox"/> | water Deep    | <input type="checkbox"/> | water      |
| <input type="checkbox"/> | Necker Island                |                 | <input type="checkbox"/> |               | <input type="checkbox"/> |               | <input type="checkbox"/> |            |
|                          | (Mokumanamana)               | Land-based      | <input type="checkbox"/> | Shallow water | <input type="checkbox"/> | Deep water    | <input type="checkbox"/> |            |
| <input type="checkbox"/> | √ French Frigate Shoals      |                 | <input type="checkbox"/> |               | <input type="checkbox"/> |               | <input type="checkbox"/> | √ Land-    |
| <input type="checkbox"/> | based                        | √ Shallow water | <input type="checkbox"/> | Deep water    |                          |               |                          |            |
| <input type="checkbox"/> | Gardner Pinnacles            | Land-           | <input type="checkbox"/> | based Shallow | <input type="checkbox"/> | water Deep    | <input type="checkbox"/> | water      |
| <input type="checkbox"/> | Maro Reef                    |                 | <input type="checkbox"/> |               | <input type="checkbox"/> |               | <input type="checkbox"/> |            |
| <input type="checkbox"/> | Laysan Island                | Land-           | <input type="checkbox"/> | based Shallow | <input type="checkbox"/> | water Deep    | <input type="checkbox"/> | water      |
| <input type="checkbox"/> | Lisianski Island, Neva Shoal |                 | <input type="checkbox"/> | Land-based    | <input type="checkbox"/> | Shallow water | <input type="checkbox"/> | Deep       |
| <input type="checkbox"/> | water                        |                 | <input type="checkbox"/> |               | <input type="checkbox"/> |               | <input type="checkbox"/> |            |
| <input type="checkbox"/> | Pearl and Hermes Atoll       |                 |                          |               | Land-based               | Shallow water |                          | Deep water |
|                          | Midway Atoll                 |                 |                          |               | Land-based               | Shallow water |                          | Deep water |
|                          | Kure Atoll                   |                 |                          |               | Land-based               | Shallow water |                          | Deep water |
|                          | Other                        |                 |                          |               |                          |               |                          |            |

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:

We will be filming in French Frigate Shoals. On our previous permit in 2013, we filmed fledging albatross on East Island, however the island was nearly entirely washed away by Hurricane Walaka in 2018. Therefore, we are in close contact with scientists and biologists who conduct their research in French Frigate Shoals to determine the exact location for filming albatross. We currently are planning to film on or in the water surrounding Tern and Trig Islands, however, this is subject to change based on advise from the scientists.

**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 proposed activities is to film natural history footage in order to produce a “blue-chip” documentary of the highest quality to air on PBS in the Fall of 2020, available for free to the public. The documentary will teach a wide audience through exciting and dynamic visual storytelling of different species of marine animals and how they interact with their environment and other species, ultimately inspiring awe and respect for the Monument, Hawaiian ecosystems outside of the Monument, and for the natural world.

The goals of the activities in the Monument are to (1) film monk seals, seabirds, Laysan albatross, black-footed albatross, and other albatross at French Frigate Shoals, tiger sharks and any other species we may encounter while at French Frigate Shoals, (2) film the animals’ normal behavior and interactions in their natural habitat, and ultimately (3) support PBS to achieve their mission to “educate, engage, and inspire all Americans” by using the powerful medium of documentary film to promote learning and reverence for the natural world while reaching almost every household in the US -- an audience that is larger than nearly any other network, which also (4) supports the Vision of the Monument by bringing awareness and respect of the Monument to nearly every American household and inspiring support and understanding for the necessity to “forever protect and perpetuate ecosystem health and diversity and Native Hawaiian cultural significance of **Papahānaumokuākea**.”

\*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.

The Hawaiian Monk Seal is the only federally protected species we intend to film, though we will maintain sufficient distance as to comply with monument BMPs.

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 CoTrustees 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 abide by all guidelines outlined by the Monument, including biosecurity measures. Additionally, Pangolin Pictures has a history of respecting cultural, natural and historic resources and ecological integrity wherever we film. Our company does extensive research during the production of all of our documentaries in order to approach each project with the utmost respect for cultural, natural and historic resources--such research includes working with locals to respect local culture and customs, turning to scientists and researchers for the latest science and for advice in best methods when working with animals, researching and reading scientific publications about the animals we intend to film and their surrounding environment, working exclusively with wildlife documentarians who have extensive and diverse experience in natural history filmmaking, and carefully and meticulously following the guides and procedures outlined in each permit.

Our priority has always been and continues to be to ensure the safety and comfort of the species we film and any other animals we encounter with the absolute least impact possible.

Producers are working with top experts in their fields to ensure all filming in the Monument is safe and respectful to the animals, factually accurate, and does not cause any negative impact whatsoever on the animals and the environment.

- 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?

This documentary will meet both the mission of the Monument and PBS mission is to “strengthen the social, democratic, and cultural health of the U.S.” This program will show the public that the Northwestern Hawaiian Islands are integral components to the survival of multiple species of birds, sharks, and the endangered Hawaiian Monk Seal. By discussing the urgent importance of



maintaining a protected area for these animals and by showing the general public engaging, captivating, cinematic images of the precious and unique wildlife in Hawai'i, our film will promote the conservation of the Monument's resources and will help to engender a cultural environment in the United States of respect for nature and appreciation for its importance and beauty during such a critical time in our planet's history. The powerful influence that film is on culture will allow a widespread, positive, lasting effect on the Monument by continuing to positively shape public opinion and American culture towards conservation and respect for the natural world.

- 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.

The documentary is an exploration of the wildlife that lives in Hawai'i and, for this scene specifically, the Monument itself. Stock footage of the target species that meets the industry standard, PBS's precedents of excellent quality material, and current camera standards that match ever-improving technological advances is not available. Therefore, it is required that we film original footage on site within the Monument.

- 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 do not foresee any adverse impacts on the Monument. We are approaching the making of our film with respect to Hawaiian culture and to the natural and historic resources within the Monument. Because our documentary will "bring the Monument to the people," it will allow a potential audience of 230 million people to learn and appreciate this environment without creating any negative impacts of carbon-heavy touristic travel to Hawai'i or entering the fragile ecosystems there.

We recognize that Papahānaumokuākea is a refuge for many animals and is integral to the survival of all species that reside within or migrate through the NWHI, so we take a very serious and conscious approach to filming wildlife. PBS NATURE has been working in wildlife filmmaking for 39 years and adheres to very strict guidelines and protocols when interacting with wild animals and ecosystems. Our cameraman is very experienced in working with wildlife and understands how to film with as little as possible to no interference with the animals' natural behavior or habitat.

The historical resources of the Monument will not be impacted by our crew as we do not intend to visit the historic cultural sites of Nihoa and Mokumanamana.

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

We are requesting to be in the monument for 14 days to account for travel time and potential weather delays, though only 5 days of suitable weather at French Frigate Shoals is needed for this activity. Weather permitting, the full time in the monument will likely be close to 9 days. For natural history filmmaking it is common to be in the field for several weeks to increase the likelihood of seeing specific behaviors (such as tiger sharks predating on albatross), therefore a field time of only nine days, including travel days from Honolulu to French Frigate

Shoals, is a more modest timeframe that respects the fragile ecosystem of the Monument by limiting our time there. The duration of activities is not longer than necessary to achieve the activity's intended purpose.

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

Pangolin Pictures has years of experience in natural history filmmaking and proven ability to execute all wildlife filmmaking with the utmost respect for nature as evidenced by the numerous permits that Pangolin Pictures has been granted in the U.S. through such departments as the Papahānaumokuākea Marine National Monument, Halaku Forest National Wildlife Refuge, Hawaii County Parks, the State of Hawaii, the National Park Service, NY Office of Parks, Recreation and Historic Preservation, Gateway National Recreation Area, as well as permits in protected areas across the globe.

To ensure our team is qualified to conduct and complete the activity of filming while mitigating any potential impacts from its conduct, Pangolin Pictures has carefully assembled a highly experienced team with decades of experience filming wildlife. We will abide by all rules outlined by the Monument to mitigate any potential impacts. Additionally, our research team is in contact with scientists and researchers who conduct their work in the Monument or study the ecosystems or animals there for further advice on preventing any potential negative impacts.

Our Lead Investigator is Paul Atkins, MS, ASC, a wildlife filmmaking expert and Hawai'i local. Mr. Atkins will supervise all activities under the permit and conduct underwater filming. Mr. Atkins is an esteemed wildlife cinematographer who has been filming wildlife in Hawai'i for nearly four decades. Mr. Atkins is equipped with a wide range of scientific and professional knowledge; he has a Bachelor of Science in Marine Biology from Florida State University, a Master of Science in Marine Biology from the University of Hawaii (UH), and began a PhD in coral reef behavior at UH before transitioning into environmental cinematography. Mr. Atkins has been praised by Sir David Attenborough for "his profound understanding of the animals he films".

Kevin Bachar, director and producer of the documentary, is an Emmy-winning filmmaker and the founder of Pangolin Pictures, with 35 years of experience filming wildlife on nearly every continent. Before founding Pangolin Pictures in 1995, Mr. Bachar was a senior producer at National Geographic for ten years. He has worked with the world's foremost experts on all of his environmental documentaries filming every class of animal. Mr. Bachar is well versed in the nuances involved in filming wildlife. Under Mr. Bachar's direction, Pangolin

Pictures has produced natural history documentaries for PBS, National Geographic, Smithsonian, Discovery, Cornell University Lab of Ornithology, and other international networks. In 2016, Mr. Bachar produced a documentary with the Cornell Lab of Ornithology about the African Grey Parrot, which was presented at the IUCN CITES Convention to advocate for the bird's protection. That Fall, the species was moved to Appendix I, protecting it from the trading that was driving it toward extinction.

Daniel Kwiatkowski is an FAA-licensed pilot with over 100 UAS flight hours filming marine animals. He has worked with Mr. Bachar and Mr. Atkins on over a dozen natural history documentaries and is highly knowledgeable about the delicate process of observing and filming animals as a wildlife drone cinematographer. If drone filming is approved, either Mr. Kwiatkowski will be our drone pilot or another pilot of equally qualified or greater experience in natural history filmmaking.

- 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.

Attached is the last page of the contract between Pangolin Pictures and PBS who is the financial sponsor of this program. If the Monument requests more evidence of financial resources, please email [REDACTED].

- 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.

Because our activities are limited to filming only, we do not anticipate any negative impact on the Monument. We intend to minimize potential impact by keeping an appropriate distance from the wildlife. Mr. Atkins's decades of experience will inform his prudent choices regarding the filming of the animals as well as the Watchable Wildlife Guidelines. We will not be using any equipment or techniques that are new, untested, or otherwise have unknown or uncertain impacts on the physical environment or animals. Paul Atkins will only use filming techniques that he has used in the past, including methods he used under our previously granted Monument permit PMNM-2013-007.

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

Yes, *The Searcher* complies with all requirements and is an approved vessel.

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

We will not film or conduct any activities that are not outlined in this application.

FOR SPECIAL OCEAN USE ACTIVITIES OUTSIDE OF MIDWAY ATOLL SPECIAL MANAGEMENT AREA, ANSWER THE ADDITIONAL THREE FINDINGS BELOW:

- k. Explain how your activity will directly benefit the conservation and management of the Monument.

Yes, the activity will benefit the conservation of the Monument by encouraging respect for the Monument and the animals and ecosystems within Papahānaumokuākea and therefore garnering support for conservation of the Monument.

- l. Explain how the purpose of your activity is for research or education related to the resources or qualities of the Monument.

Yes, the project is to film a documentary, which will educate the general public about the ocean, animals, and ecosystems in the Monument.

- m. Does the activity involve the use of a commercial passenger vessel (defined as a vessel that carries individuals who have paid for such carriage)?

No, this does not involve the use of a commercial passenger vessel.

FOR SPECIAL OCEAN USE ACTIVITIES WITHIN MIDWAY ATOLL SPECIAL MANAGEMENT AREA, ANSWER THE ADDITIONAL TWO FINDINGS BELOW:

- n. Explain how your activity will further the conservation and management of the Monument.

Not applicable.

- o. How is your activity compatible with the purposes for which the Midway Atoll National Wildlife Refuge was designated?

Not applicable.

**NOTE: If this is a first time Special Ocean Use activity, it will be subject to a pilot project and will be restricted in duration. Special Ocean Use activities proposed outside the Midway Atoll Special Management Area will require public notice of the application and an opportunity to provide comments is given at least 30 days prior to issuing the permit.**

This is not a first-time Special Ocean Use activity. Pangolin Pictures used an SOU permit in 2013 to film wildlife on FFS for a documentary collaboration with National Geographic, which was nominated for an Emmy.

**8. Procedures/Methods:**

We will travel to our work locations by departing from Kewalo Basin in Honolulu on the approved vessel The Searcher and cruising to French Frigate Shoals. When there, Paul Atkins will enter the water with snorkel gear and an underwater cinematic camera to film marine sequences. We are requesting permission to access the seabird colonies and beaches. Mr. Atkins, a film assistant, and one or two boat crew (whichever is deemed necessary by the captain) will board a 20foot Zodiac Mark V to go to shore where Mr. Atkins and assistant will walk onto land to film the seabirds. This would happen at sunrise and filming would end before sunset. Before sunset, or earlier, the crew will return to The Searcher. No filming will occur at night. No persons and no equipment will stay or be left on land overnight. For the water sequences, Mr. Atkins will enter the water either from the The Searcher or the Zodiac (whichever the Captain advises). A safety snorkeler or a camera assistant will join him in the water if deemed necessary. An assistant on the boat will watch Mr. Atkins as he is in the water. Mr. Atkins will swim to film wildlife (birds, tiger sharks or monk seals) but will maintain distance from the animals to try not to alter their behavior by his presence. Mr. Kwiatkowski will launch the drone from the deck of the Searcher. He will not fly the drone over bird colonies. If monk seals are present, he will not fly the drone lower than twenty meters above them to ensure their behavior is not changed by the drone's presence. Mr. Kwiatkowski will abide by all FAA regulations in terms of height and speed of the drone and will only fly the drone during weather and animal permitting conditions. He will avoid bird flight patterns.

**9. Provide proof of general liability insurance, or indicate that you will be posting an equivalent bond against claims arising out of activities conducted under the permit:**

A Certificate of Insurance is submitted along with this application.

**10. If applicable, describe how you are collaborating with others in any way to reduce duplicative activities in the Monument or elsewhere?**

As part of Pangolin Pictures' record of approaching all natural history programming through extensive research and preparation ahead of filming any wildlife sequence, our natural history researcher has been in direct contact with scientists and teams who conduct their research in French Frigate Shoals and the Northwestern Hawaiian Islands to seek information about the animals and ecosystems we intend to film, as well as, any additional advice the scientists can offer, including how best not to disturb the local environment or if any other research is being conducted in the same area and could interfere with each other's work or the environment. No such conflict has been found.

In order to reduce duplicative activities in the Monument, our research team has searched for any other Special Open Use permits and found one Special Ocean Use permit application submitted by Helen Jane Macdonald. Ms. Macdonald's requested activities would take place on Midway Atoll, which is notably not in the same area as our filming zone, which is within French Frigate Shoals. We do not anticipate any conflict or overlap between our filming and Ms. Macdonald's research.

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

Filming Equipment:

Sony FS7 Camera (1)  
RED Camera (1)  
Lens (4)  
Gates underwater camera housing (1)  
DJI Mavic drone (1)  
Tripod (1)

Snorkel Gear:

Goggles (2)  
Snorkel (2)  
Flippers to be determined (4)

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

None.

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

None.

**14. List all Applicants' publications directly related to the proposed project: Not applicable.**

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.



December 23, 2019

---

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 n/a
- Statement of information you wish to be kept confidential n/a
- Material Safety Data Sheets for Hazardous Materials