

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

February 4, 2022

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

PSF No.: 18SD-129

OAHU & MOLOKAI

Issuance of Right-of-Entry Permit to Hawaii Marine Mammal Alliance Inc., dba Hawaii Marine Animal Response, for Activities Relating to the Preservation and Recovery of Hawaii’s Endangered and Threatened Marine Animal Species on Unencumbered State-Owned Lands Located Seaward of the Shorelines of the Islands of Oahu and Molokai, Including Their Unencumbered Offshore Islets.

APPLICANT:

Hawaii Marine Mammal Alliance Inc., dba Hawaii Marine Animal Response (“HMMA/HMAR”), a 501(c)(3) non-profit organization.

LEGAL REFERENCES:

Section 171-55, Hawaii Revised Statutes (“HRS”), as amended
Chapter 195D, HRS, as amended
Section 205A-1, HRS, as amended
Endangered Species Act (“ESA”), 16 U.S.C. §1531 et seq. (1973), as amended
Marine Mammal Protection Act (“MMPA”), 16 U.S.C. §1361 et seq. (1972), as amended

LOCATION:

Unencumbered State-owned lands located seaward of the shoreline, pursuant to §205A-1, HRS, as amended, of the islands of Oahu and Molokai, including any offshore islets that also are classified by the Department as unencumbered.

AREA:

Total land area not available.

ZONING:

State Land Use District: Conservation
County of Maui CZO: NA
City & County of Honolulu CZO: NA

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES ___ NO x

CURRENT USE STATUS:

Unencumbered.

CHARACTER OF USE:

Natural resource protection.

TERM OF RIGHT-OF-ENTRY:

Up to one year, dates to be determined, with possibility of continuation for additional one-year periods, with Chairperson approval, for good cause shown.

CONSIDERATION:

Gratis.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the Chapter 343, HRS, Exemption List for the Department of Land and Natural Resources, reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from preparation of an environmental assessment pursuant to:

General Exemption Type 1, “Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing.”

PART 1, Item No. 44: “Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing.” (Refer to Exhibit A, Exemption Notification form.)

DCCA VERIFICATION:

Applicant is registered as an active, domestic non-profit corporation whose mission is to aid in the preservation and recovery of Hawaii's endangered and threatened marine animal species.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Comply with the requirements of all municipal, state, and federal authorities and observe all municipal, state, and federal laws applicable to the right-of-entry area or premises, now in force or which may be in force,
- 2) Carry a current policy of general liability insurance meeting State minimum coverage standards.

BACKGROUND:

Hawaii is home to a variety of endemic marine species existing in delicate balance with the environment. Those whose declining populations have been threatened by extinction are protected by federal law under the Endangered Species Act ("ESA") and/or the Marine Mammal Protection Act ("MMPA"). The United States Fish and Wildlife Service of the Department of the Interior ("USFWS") and the National Marine Fisheries Service ("NMFS") of the National Oceanic and Atmospheric Agency ("NOAA") under the Department of Commerce both share regulatory functions for these laws. Since their staff are limited in numbers, federal funding opportunities ("FFO") are periodically made available to recruit assistance in conservation efforts.

According to its President, Jon Gelman, HMMA/HMAR is the largest Hawaii-based non-profit organization specializing in marine species conservation and response. HMMA/HMAR has been operating since 2016 and is focused on the protected marine species of Oahu and Molokai that are most likely to be encountered and affected by humans due to their natural behaviors and habitats. These include the Hawaiian monk seal, green sea turtle, hawksbill turtle, spinner dolphin, humpback whale, several marine seabird species and others.

The non-profit is classified by the Internal Revenue Service as a 501(c)(3) public charity and works closely with and in support of the two regulatory agencies, USFWS and NMFS, which oversee enforcement of the MMPA and ESA. According to NMFS staff, HMMA/HMAR fills the role of volunteer coordinator for conservation support of the targeted marine animals on Oahu and Molokai, enabling the regulatory agency to broaden the reach of its programmatic support system through the services of the many HMMA/HMAR volunteers.

Through grant awards and their accompanying cooperative agreements with government agencies tasked with protecting these animals and their habitats, HMMA/HMAR volunteers are trained to provide support services for protected marine species. These services include public outreach and education, reporting of sightings of healthy animals as well as any assessed to be sick or injured, and also the monitoring of NOAA's Hawaii Statewide Marine Animal Stranding, Entanglement, and Reporting Hotline (888-256-9840) which addresses stranded/injured sea turtles, monk seals, dolphins, and whales.

To further support protection of these species from threats by human impacts on them and the environments in which they must live, HMAR takes in reports from the public of animals that are in direct need of assistance, and also engages in active removal of abandoned underwater fishing gear debris which can present entangling hazards to these animals in their oceanic habitats.

In addition, where animals such as seals and turtles haul out on shore and attract crowds of curious humans, HMAR volunteers can provide information and education for the humans and help keep crowds from getting too close to the subject animals.

To prevent potentially harmful human-animal interactions that can add to the mix of environmental pressures faced by these animals, HMAR volunteers may set up "awareness perimeters" between the observers and the observed, as needed, and stand by to answer questions and provide appropriate information. Engaging the concerned or curious public and providing education through transmission of valuable information can result in more informed human behavior and, hopefully, decrease or eliminate negative human-animal interactions. Additionally, in situations where an animal is discovered to be in poor health due to illness or injury, volunteers can report observations directly to regulatory authorities so that timely medical support can be provided.

Since its inception in 2016, HMAR has reached more than 300,000 people through outreach efforts, taken over 40,000 calls about animals in need of help, eliminated hundreds of hooking and entanglement hazards, and conducted over 1,000 rescues and escalations concerning injured or otherwise endangered animals.

REMARKS:

The activities described above take place on and along the shores of the islands of Oahu and Molokai, where HMMA/HMAR manages its corps of volunteers. While these areas are primarily unencumbered State-owned lands, a formal right-of-entry (ROE) to all unencumbered State-owned lands located seaward of the shoreline on the islands of Oahu and Molokai, including their unencumbered offshore islets, is being requested.

ROE permit conditions should also include an option to allow the right-of-entry permit to be continued on a month-to-month basis for additional one-year periods, pursuant to §171-55, HRS, at the discretion of the Chairperson.

A prior ROE to this organization for the same geographical areas was issued for a one-year term from April 15, 2019 through April 14, 2020. No request for term continuation was received by the Department at that time.

PERMIT FEES. Staff recommends that standard fees be waived for the subject right-of-entry permit, as the non-profit is providing community services on a volunteer basis.

AGENCY COMMENTS. Requests for comment were sent to the following agencies with responses as indicated. *Relevant prior comments have been added in italicized text.*

AGENCY	COMMENTS
DLNR-Division of Aquatic Resources	No response. <i>Prior comments from 2019: DAR works closely with Hawaii Marine Animal Response, also known as Hawaii Marine Mammal Alliance, Inc. and they are a good organization that fill [sic] a key role in protecting monk seals and turtles in Hawaii. DAR has no concerns with this proposal.</i>
DLNR-Division of Forestry & Wildlife	No response.
DLNR-Division of State Parks	No response
DLNR-Office of Conservation & Coastal Lands (OCCL)	We have no objections. <i>Prior comments from 2019: If needed, alternate lateral access should be determined.</i>
DLNR-Land Division, Oahu	No response.
DLNR-Land Division, Maui Nui	No response.
Office of Hawaiian Affairs	No response.
Dept. of Parks & Recreation, City & County of Honolulu	As we discussed the Department of Parks and Recreation considers our property line to be either the high wash of the waves or the lowest vegetation line fronting the ocean. Erosion of many of our beach parks is simply pushing our property line inland. If the Hawaii Marine Animal Response folks ever need to access any of our parks for their work we would ask them to contact the applicable District Park Office, discuss what they will be doing in the park and ask whether or not a formal Right of Entry is required.
Dept. of Parks & Recreation, Maui County	No response.
NOAA-National Marine Fisheries Service	The information in the submittal regarding HMAR and its activities is accurate to our knowledge, and we would support issuing the ROE. We note a similar or identical ROE was issued previously. HMAR is a very important partner for us as their efforts support our endangered species conservation and marine mammal protection mission.

Regarding prior 2019 comments from OCCL, HMMA/HMAR President Jon Gelman responded, "I will make a point of re-iterating to volunteer and staff of the need of providing/suggesting lateral access for people when an awareness perimeter has been established."

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, Hawaii Administrative Rules (HAR), this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment; and
2. Authorize the issuance of a right-of-entry permit to Hawaii Marine Mammal Alliance Inc., dba Hawaii Marine Animal Response, for the subject land areas under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
 - B. The Chairperson is authorized to continue the right-of-entry permit for additional one-year periods for good cause shown; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

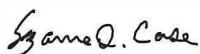
Respectfully Submitted,



Barbara J. Lee
Special Projects and Development Specialist

RT

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200.1, HAR.

Project Title: Issuance of Right-of-Entry Permit to Hawaii Marine Mammal Alliance Inc., dba Hawaii Marine Animal Response, for Activities Relating to the Preservation and Recovery of Hawaii's Endangered and Threatened Marine Animal Species on Unencumbered State-Owned Lands Located Seaward of the Shorelines of the Islands of Oahu and Molokai, Including Their Unencumbered Offshore Islets.

Project/Reference No.: PSF 18SD-129

Project Location: Unencumbered State-owned lands located seaward of the shoreline, as defined by §205A-1, HRS, of the islands of Oahu and Molokai, including their unencumbered offshore islets.

Project Description: Non-profit organization providing support services to federal and state agencies for marine animal species protected under the Endangered Species Act and the Marine Mammal Protection Act.

Ch. 343 Trigger(s): Use of State land.

Exemption Class and Item Numbers and Descriptions: In accordance with the Hawaii Administrative Rules (HAR), Section 11-200.1-15(a) & -16(a)(2) and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to

General Exemption Type 1: Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing; **PART 1, Item No. 44:** *Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing.*

Therefore, staff believes that the proposed project would involve negligible or no expansion or change in use beyond that previously existing.

Will the Cumulative Impact of Planned Successive Actions No. There will be no planned successive actions in the same place. Additionally, the likelihood of occurrence of the same activities in the same location over time is low, so cumulative impacts to any one location are not

EXHIBIT A

**in the Same Place
Significant?** anticipated to be significant.

**Action May Have
Significant Impact
on Particularly
Sensitive
Environment?** No. There are no particularly sensitive environmental issues involved with the proposed activities.

Analysis: The proposed activities will occur only when threatened or endangered marine animal species haul out on shorelines where human presence also occurs. All materials placed to mark “awareness perimeters” will be removed once they are not needed and the animal(s) has departed. As such, the cumulative impacts to the physical environment over time are not anticipated to be significant.

Consulted Parties: Various government agencies which support conservation of threatened and endangered marine species and/or which share management jurisdiction over coastal areas of Oahu or Molokai. Responses are included in the submittal to the Board of Land and Natural Resources (“Board”).

Recommendation: That the Board find this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

ADDITIONAL REFERENCES



Business Registration Division, Department of Commerce & Consumer Affairs
Hawaii Business Express
Start, manage, and learn about Hawaii businesses

DOCUMENTS CART:
0 Items
\$0.00

Search Home Help

HAWAII MARINE ANIMAL RESPONSE

Begins with... Search

[Back to search results](#)

Trade Name

[All Company Info](#) [Forms](#) [Buy Available Docs](#)

General Info

[Receive Trade Name Reminders](#)

Trade Name
HAWAII MARINE ANIMAL RESPONSE

Expiration Date
Dec 15, 2021

File Number
257504 D2

Registration Date
Dec 16, 2016

Certificate Number
4178559

Mailing Address
622 ILIKAI ST
KAILUA, Hawaii 96734
UNITED STATES

Status
Active

Registrant
[HAWAII MARINE MAMMAL ALLIANCE INC.](#)

Purpose
MARINE ANIMAL SURVEYS, STRANDING RESPONSE AND FIELD RESPONSE

AGENT NAME
UNITED STATES CORPORATION AGENTS, INC.

Category
0 - NO CATEGORY SELECTED

AGENT ADDRESS
1003 BISHOP ST STE 2700
HONOLULU, Hawaii 96813
UNITED STATES

Other Filings

Date	Description	Remarks
Dec 16, 2016	Application for Registration of TN/TM/SM	Application for Registration of TN/TM/SM

Note: Transactions may be available for purchase. Please see the [Buy Available Docs](#) tab for additional information.

End HMAR

EXHIBIT B

Also:



Business Registration Division, Department of Commerce & Consumer Affairs
Hawaii Business Express
Start, manage, and learn about Hawaii businesses

DOCUMENTS CART:
0 items
\$0.00

Search Home Help

HAWAII MARINE MAMMAL ALLIANCE INC.

[Back to search results](#)

Domestic Nonprofit Corporation

[All Company Info](#) [Forms](#) [Buy Available Docs](#)

General Info

You can purchase a *Certificate of Good Standing* for this business.

- Digital (PDF) for \$7.50
- Printed for \$7.50

[Add to Cart](#)

[Download company info as PDF](#)

[Receive Reminders / Alerts](#)

[Receive Annual Report Reminders](#)

MASTER NAME

HAWAII MARINE MAMMAL ALLIANCE INC.

TERM

PER

BUSINESS TYPE

Domestic Nonprofit Corporation

AGENT NAME

UNITED STATES CORPORATION AGENTS, INC.

FILE NUMBER

257504 D2

AGENT ADDRESS

1003 BISHOP ST STE 2700
HONOLULU, Hawaii 96813
UNITED STATES

STATUS

Active

PURPOSE

OUR MISSION IS TO UNDERTAKE SUBSTANTIAL ACTIONS THAT RESULT IN THE PRESERVATION, RECOVERY AND STEWARDSHIP OF HAWAII'S PROTECTED MARINE SPECIES AND THE ECOSYSTEM WE SHARE.

PLACE INCORPORATED

Hawaii UNITED STATES

REGISTRATION DATE

Jan 8, 2016

MAILING ADDRESS

150 HAMAKUA DR. #350
KAILUA, Hawaii 96734
UNITED STATES

Continued...

Annual Filings

Filing Year	Date Received	Status
2021	Jan 29, 2021	Processed
2020	Jan 2, 2020	Processed
2019	Jan 2, 2019	Processed
2018	Feb 4, 2018	Processed
2017	Jan 15, 2017	Processed

Officers

Name	Office [More info]	Date
GELMAN, JON	C/P/D	Jan 5, 2020
BEER-KERR, WHITNEY	S/T/D	Jan 5, 2020
NORTON, TERRY	D	Jan 5, 2020

Trade Names

Name	Type	Category	Registration Date	Expiration Date	Status
HAWAII MARINE ANIMAL CENTER	Trade Name	NO CATEGORY SELECTED	Apr 9, 2019	Apr 8, 2024	Active
HAWAII MARINE ANIMAL RESPONSE	Trade Name	NO CATEGORY SELECTED	Dec 16, 2016	Dec 15, 2021	Active
HAWAII MARINE SCIENCE CENTER	Trade Name	NO CATEGORY SELECTED	Apr 11, 2019	Apr 10, 2024	Active
HAWAII OCEAN CENTER	Trade Name	NO CATEGORY SELECTED	Oct 24, 2019	Oct 23, 2024	Active

Other Filings

Date	Description	Remarks
Jan 5, 2020	Officer / Director Change	Officer / Director Change
Jan 3, 2020	Officer / Director Change	Officer / Director Change
Jul 23, 2019	Officer / Director Change	Officer / Director Change
Jan 14, 2016	Name Change	FROM: HAWAIIAN MONK SEAL ALLIANCE INC.
Jan 8, 2016	Articles of Incorporation	Articles of Incorporation

Note: Transactions may be available for purchase. Please see the **Buy Available Docs** tab for additional information.

End HMMA