

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

June 28, 2013

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, National Geographic Channel, 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 research 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 July 1, 2013 and June 30, 2014.

The applicant is new, but the activities proposed are similar to other work previously permitted in the Monument.

INTENDED ACTIVITIES

The Applicant proposes to conduct filming activities for an upcoming National Geographic Channel wildlife documentary titled "WILD HAWAII". While 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 is requesting permission to film and photograph wildlife interactions with a focus on:

1. Tiger shark predation on fledgling albatross chicks in depths of less than 100 feet at French Frigate Shoals East Island;
2. Underwater scenes of Hawaiian monk seals swimming and feeding; and
3. Petrels, albatross, red footed booby birds and the great frigatebird nesting, hatching, and fledging at French Frigate Shoals Tern Island.

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

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.

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'. The Monument Management Board (MMB) will support those endeavors that provide benefit to Monument resources and management and our constituents without impacting Monument resources."

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 November 16, 2012, 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.

1. Please clarify whether the identified vessel (“Port of Normal”) is a commercial passenger vessel, and thus would not meet the Findings in the permit application.

The applicant states that they no longer traveling aboard the PORT OF NORMAL. They have accepted an invitation from Charles Littnan, lead scientist of the NOAA Monk Seals Research Program to accompany his biologists to the French Frigate Shoals (FFS) aboard the NOAA research vessel OSCAR ELTON SETTE. The travel dates have shifted to conform with the SETTE’s preexisting itinerary: 7/3-7/20.

Charles has asked that you feel free to contact him directly with any questions regarding our partnership with NOAA or this application:

Charles Littnan

Lead Scientist, Hawaiian Monk Seals Research Program
[REDACTED]

2. We suggest for you to charter the MV SEARCHER, which has more experience in accessing French Frigate Shoals. Are you willing to amend your ship charter?

The applicant states that they will not need to charter the MV SEARCHER as they will be travelling as nonpaying guests aboard the NOAA research vessel OSCAR ELTON SETTE.

3. Vessel plans to anchor within the Monument:

Request approximate locations of where the vessel plans to anchor. The vessel should be provided with appropriate vessel anchoring locations that would avoid impacts to resources, before leaving for the Monument.

The applicant explains that they are not privy to the course plotting and anchoring plans being prepared by the SETTE’s captain. However, Charles Littnan assures the applicant her captain and crew are well versed in the sensitivities of operating within the NWHI.

4. Verify the waste storage capacity on board and how many time times the vessel will have to empty the tanks at sea.

The applicant does not have access to this information at present. However, Charles Littnan assures the applicant that the vessel has traveled to the NWHI previously and is in full compliance with all Monument requirements.

5. Dive Plan: ensure the vessel/crew is aware of the closest hyperbaric chamber for treatment and that they verify that they have access to the chamber before departing Honolulu.

The applicant has located the closest hyperbaric chamber and will ensure that their vessel/crew has access to the chamber before departing from Honolulu.

6. A few of the target species that are mentioned are protected and/or threatened or endangered. The applicant should be aware that additional consultation(s) will be required for their requested activity, and they may need additional permit to film monk seals.

The applicant has consulted with a number of Fish and Wildlife Service biologists about the animals they are hoping to film with and will look into speaking with additional biologists about the Bulwer's petrel. They will also look into the additional monk seal permit ASAP.

Permit Coordinator Comment: The applicant would be filming monk seals under the direct supervision of NOAA-NMFS Hawaiian Monk Seal Recovery Program Staff and therefore would be covered under the NMFS ESA/MMPA permit (No. 10137-07).

7. Verify the waste storage capacity on board and how many time times the vessel will have to empty the tanks at sea.

The SETTE will drop them off at FFS and depart. Their crew will camp on the atoll with the NOAA monk seal team and abide by the same waste guidelines as the monk seal team.

8. There has been a high demand to film sharks predating on fledgling albatrosses, but this application is also hoping to get footage of the non-albatross seabirds.

The applicant would like to capture footage of sharks predating on fledging albatrosses, they have designed the timing of the trip around their breeding calendar. The applicant will also hope to capture footage of non-albatross seabirds.

9. You also mention that you hope to capture footage of petrels (and this is fantastic because there is virtually no public understanding/appreciation for petrels and other non-charismatic mega-fauna of NWHI), however, this will take some careful planning and consideration, possibly specialized equipment, and most certainly a staff escort to locate burrows and supervise access. We would certainly support this work and allocate staff or volunteer time to do so, but they should know that in July the only species of petrels around are Bulwer's petrels (nocturnal, crevice nesting birds and they are somewhat, but not extremely, sensitive). Bulwer's are amazing and unique birds that would be great nature documentary material, but they might need special equipment. Additional information is available from Monument personnel upon request.

A segment about a pelagic bird would fit perfectly in our special. We've read the Hawaii's Comprehensive Wildlife Conservation Strategy on Bulwer's and are very interested in learning more about them and including them in this special. Who should we connect with to speak more in depth about the Bulwer's?

The applicant is accustomed to filming animals at night and have the equipment to do so. Are there specific guidelines for filming with them at night? Who should we speak to about this?

Permit Coordinator Comment: the applicant was advised to contact Dr. David Hyrenbach of Hawaii Pacific University who is an expert on this species.

10. All activities requested except the underwater monk seal shots. Monk seals could probably be filmed from land with long lenses and some sort of blind perhaps, but underwater filming would violate our monk seal disturbance policy (as well as the MMPA in all likelihood). It is also very rare for even biologists to see monk seals feeding in French Frigate Shoals, so capturing that on film—even if it were permitted—would be extremely unlikely.

The applicant will abide by all policies and acquire the appropriate permits. They would like to film with Monk Seals because they are endemic to Hawaii and their show focuses on flora and fauna endemic to Hawaii. The applicant has already collaborated with the Monk Seal team on Molokai and will again be working with them closely the entire time the applicant is in the NWHI. This collaboration will ensure they abide by all pertinent guidelines pertaining to the monk seals.

11. The applicant should be aware that we will request that their proposed activity to have a Monument approved biological escort to accompany the crew on the vessel and during all shore trips at French Frigate Shoals.

A biologist from Charles Littnan's Monk Seal Program will serve as their biological escort.

12. Any filming of marine protected species (sea turtles, Hawaiian monk seals, and cetaceans) must follow Monument Best Management Practices (BMPs). We request that you coordinate with the appropriate experts on filming of such species in order to prevent potential impacts.

The applicant will most certainly coordinate with the appropriate experts on filming all animals during this shoot, especially marine protected species. The applicant has already connected with a number of FWS biologists to learn as much as possible about the animals that they are hoping to film at FFS. The applicant will continue to work with the appropriate experts in order to prevent potential impacts.

13. Please clarify whether the National Geographic Society has developed guidelines and protocol when conducting protocol in culturally significant places and interacting with indigenous peoples.

National Geographic Society has been shooting in culturally and ecologically significant areas for 125 years and has a strict protocol of noninterference. They consult experts beforehand to educate their crews on the specific sensitivities of the area and the animal, they rely on locals to minimize our disruption during the shoot and operate under a strict "leave no trace" policy.

Our resulting comment/question on this statement sought clarification ...whether the National Geographic Society has also developed guidelines and protocol when conducting protocol in culturally significant places and interacting with indigenous peoples (note- there is a typo in this part of the OHA letter- it should have actually read ...when conducting activities in culturally significant places and interacting with indigenous peoples).

The applicants response that ...we consult experts beforehand to educate our crews on the specific sensitivities of the area and the animal... does not make it clear whether the applicant is only confirming their existing stated policy regarding “interacting with wild animals”, or their willingness to develop additional protocol when they conduct activities in culturally significant places and need to interact with indigenous peoples.

Furthermore, the applicants response that they ...rely on locals to minimize our disruption during the shoot... creates three additional questions for OHA: 1. Who does the applicant define as a “local”; 2. To what is disturbance being minimized; and 3. How do the “locals” ensure the disturbance is minimized?

The applicant develops new protocols specific to each sensitive location, including this shoot at FFS. In this case, their filming guidelines are under the advice and direction of the NOAA team with whom they will be encamped on FFS.

1. *Since there are no true “locals” on FFS to consult, the applicant believe the NOAA biologists are the best resource for information on animal behavior on the atoll. Their goal is to document these creatures with as close to a policy on non-interference as is possible.*
2. *The applicant is minimizing their impact both on the fauna of the atoll and the atoll itself. In addition to their policy of non-interference with the animals, they operate under a strict “leave-no-trace” policy. This includes bringing no hazardous materials with them, taking all trash and expendables with them when they leave, and operating in a manner that causes no lasting damage to the local ecosystem.*
3. *The applicant is confident that the NOAA biologists are well-versed in responsible behaviors most beneficial to the FFS. Since they will be among the NOAA team the entire time they are on the atoll, they have no doubt that the NOAA team will help them behave and operate in the same fashion.*

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 PAPA HANAUMOKU AKEA MARINE NATIONAL MONUMENT SPECIAL OCEAN USE PERMIT TO MR. KEVIN BACHAR, PANGOLIN PICTURES, NATIONAL GEOGRAPHIC CHANNEL, FOR ACCESS TO STATE WATERS TO CONDUCT FILMING ACTIVITIES UNDER PERMIT PMNM-2013-007”)

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:

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

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

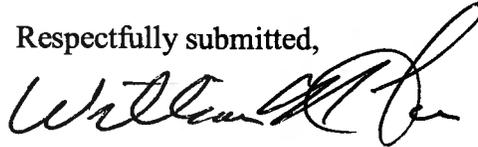
from the preparation of an environmental assessment.

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, National Geographic Channel, 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.

Respectfully submitted,



Administrator (Acting)

APPROVED FOR SUBMITTAL



William J. Aila, Jr.
Chairperson

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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:

Papahānaumokuākea Marine National Monument Permit Coordinator
6600 Kalaniana'ole Hwy. # 300
Honolulu, HI 96825

nwhipermit@noaa.gov

PHONE: (808) 397-2660 FAX: (808) 397-2662

SUBMITTAL VIA ELECTRONIC MAIL IS PREFERRED BUT NOT REQUIRED. FOR ADDITIONAL SUBMITTAL INSTRUCTIONS, SEE THE LAST PAGE.

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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, National Geographic Channel

Permit Category: Special Ocean Use

Proposed Activity Dates: July 1st 2013- July 17th 2013

Proposed Method of Entry (Vessel/Plane): Vessel, "Port of Normal"

Proposed Locations: French Frigate Shoals

Estimated number of individuals (including Applicant) to be covered under this permit: 7

Estimated number of days in the Monument: 10

Description of proposed activities: (complete these sentences):

a.) The proposed activity would...
be to film wildlife sequences for a National Geographic series titled, WILD HAWAII, to be broadcasted on National Geographic Channel in August 2013.

Goals/Objectives:

1. Tiger sharks predated on albatrosses.
2. Underwater scenes of monk seals swimming and feeding.
3. Petrels, albatrosses, red-foot booby birds and the great frigatebird nesting, hatching and fledging.

b.) To accomplish this activity we would
charter a private vessel to transport our crew from Honolulu to the waters outside the FFS where we will anchor within the acceptable boundaries near East Island. The name of the vessel is "Port of Normal" and the type of vessel is a Gulfstar 50. We will use a private tender to travel to and from the Port of Normal. We will film underwater sequences near East Island and Tern Island and request to film land shots of the great frigate bird, albatross, petrel and booby bird. To film the underwater sequences with the tiger sharks we will attach a (GoPro) video camera to a pole and insert it into the water and film from aboard our tender. As to not interfere with the tiger sharks natural behavior or endanger our crew.

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c.) This activity would help the Monument by ... promoting the Monuments goal to "bring the place to the people, rather than people to the place" by filming a segment on the FFS showing and informing millions of its thriving yet fragile ecosystem. Our main objective is to promote awareness of the endangered species that depend on the NWHI for survival, while focusing on the research and hard work that is put forth by the Monument on conservation and education. National Geographic's mission is to inspire people to care about the environment and that mission is the essence of the Nat Geo WILD series. We believe that wildlife conservation is a critical component of a 21st century education and National Geographic is working to raise awareness so that all viewers have the opportunity to know and understand their planet.

Other information or background:

Founded in 1888, the National Geographic Society is one of the largest nonprofit scientific and educational organizations in the world. It reaches more than 360 million people worldwide each month through its five magazines, the National Geographic Channel, television documentaries, radio programs, films, books, videos, DVDs, maps and interactive media. Wild Hawaii will be broadcasted in many countries thus reaching a broad and international audience. Everything shot at the FFS will be filmed with the highest quality HD camera technology by a team of the most experienced wildlife cameramen, including Paul Atkins who has worked on numerous wildlife shows and feature films and has worked at the FFS previously.

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Section A - Applicant Information

1. Applicant

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

Title: Director, CEO Pangolin Pictures

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

Not applicable. Applicant will be present in the Monument.

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

1650 Broadway Suite 1208 New York, NY 10019

Phone: 212.245.4242

Fax: 212.245.4290

Email: Kevin@PangolinPictures.com

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

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

National Geographic Channel

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):

Kevin Bachar-Director

Paul Atkins- Director of Photography

Mark Gerismenko- Assistant Cameraman

Andy Seestedt- Producer

Erica Zienowicz- Associate Producer

Captain of Port of Normal - Rob Mathews

Cook of Port of Normal - Caroline Dias

Section B: Project Information

5a. Project location(s):

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

Ocean Based

NOTE: There is a fee schedule for people visiting Midway Atoll National Wildlife Refuge via vessel and aircraft.

Location Description:

French Frigate Shoals

Activities:

Filming mainly in the water with on shore activity at East Island and Tern Island.

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

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6 Purpose/Need/Scope *State purpose of proposed activities:*

WILD HAWAII is a two-part blue chip Special for the National Geographic Channel. Over the next 16 months we will be filming throughout the Hawaiian Islands documenting the varied and unique creatures, which call Hawaii home. This film series will celebrate the diversity of wildlife and the struggles animals face throughout the various Hawaiian environments. We will follow animals endemic to Hawaii, creatures such as the Hawaiian Hoary bat, The Monk Seal and Nene, while also highlighting those who pay constant visits to these inviting waters; animals such as Tiger Sharks, Great Frigate Birds and Humpback Whales. We will also look at the invasive species and the threats they pose to Hawaii's unique ecosystem and the various environments these animals survive in, whether it be soaking rain forests, blistering hot lava fields, or nearly barren atolls. These two hour-long films will showcase to the viewer how important it is to look at Hawaii as a spectacularly unique ecosystem and not just a tourist destination. These hours will also employ state-of-the-art camera systems and utilize a crew who have shot in French Frigate Shoals in the past. These programs will be the most detailed look at the natural history of Hawaii ever filmed by National Geographic.

7. Answer the Findings below by providing information that you believe will assist the Co-Trustees in determining how your proposed activities are compatible with the conservation and management of the natural, historic, and cultural resources of the Monument:

The Findings are as follows:

a. How can the activity be conducted with adequate safeguards for the cultural, natural and historic resources and ecological integrity of the Monument?

We will abide by all bio-security guidelines. All required certifications and inspections will be acquired prior to departing for the Monument. The vessel we are chartering will have the FWI-750VMS SB in place and will conduct a hull and rat inspection prior to departure. We are outfitting the vessel with a marine sanitation device, the Lectra/San MC. The ships tanks will be cleared prior to departure and will hold the vessels waste during our trip. The tank can hold 25 gallons of waste, our captain thinks that will last for 4 days for the amount of people on board. When the tanks fill we will travel 3 miles outside of the Monuments boundries to dispose of waste water. Any and all cleaning products will be environmentally friendly and biodegradable.

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?

National Geographic's mission is to increase and diffuse geographic knowledge while promoting the conservation of the world's cultural, historical and natural resources. Its purpose is to inspire people to care about the planet. We uphold the highest regard for the research and work done on the Monument and any and all activities preformed on the Monument will be a reflection of that.

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We recognize that Papahānaumokuākea is considered a sacred area to Native Hawaiians and we respect the significance of the many wahi pana found in the Northwestern Hawaiian Islands. Our filming will not interrupt, prevent, interfere or affect the Native Hawaiian's cultural use of the Monument in any way. Our vessel will be equipped with a marine sanitation device prior to departure. We will dispose and recycle of all waste accumulated by our crew when we return to Honolulu, thus not contributing to the marine debris and waste that is washed ashore on the atolls and islands. We are hoping to contribute rather to one of the missions of the Hōkūle'a crew by showing the broader public the health of the Northwestern Hawaiian Islands and displaying how important Papahānaumokuākea is to Hawaii's cultural foundation and history. WILD HAWAII is a program based on celebrating the diversity and strength of the Hawaiian archipelago while highlighting its uniquely vulnerable ecosystem. The NWHI's are an integral part of Hawaii's culture and history, which is why the inclusion of the Northwestern Hawaiian Islands is such an important piece of this program. We feel that by showing the public the unique wildlife that depend on the NWHI for survival and discussing the importance of maintaining a protected space for these animals we will promote the conservation of the Monument's resources.

c. Is there a practicable alternative to conducting the activity within the Monument? If not, explain why your activities must be conducted in the Monument.

We do not believe that there is a practicle alternative to filming the wildlife we are requesting to film but within the Monument. The wildlife that live on the Monument are the focus of the entire episode and the wildlife behavior that we are hoping to film is location-specific. The tiger sharks hunting albatross chicks only occurs in the Midway Atoll and East Island. We would prefer to film at East Island because the water clarity and visability is better, which will make for better footage and a safer enviroment for our cameramen.

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 plan to adversely affect or impact the Monuments cultural, natural or historical resources, qualities or ecological integrity. We recognize that Papahānaumokuākea is integral to the survival of the endangered and threatened species that reside within the NWHI and take a very serious and conscious approach to filming any and all wildlife. National Geographic has been working with wildlife in their natural environments since 1888 and adheres to very strict guidelines and protocols when interacting with wild animals. Our cameramen and crew are very experienced in working with wildlife and endeavor to film with very little, to no, interference with the animals' natural behavior or habitat. This program will broadcast on National Geographic Channel and will be available in over 315 million homes in 166 countries in 34 languages. National Geographic Channel has an incredible global reach, which means that people around the world will be able to learn about the wildlife of the Northwestern Hawaiian Islands and what the Monument is doing to protect these animals. They will be informed not only of the unique ecosystem of the Northwestern Hawaiian Islands but of the cultural and historical importance these islands have to Native Hawaiians. Further promoting the Monuments goal to "bring the place to the people, rather than people to the place."

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

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

We estimate a 10 day maximum time frame, which will most likely be an 8 day shoot depending on weather conditions and wildlife behavior. We've spoken to Beth Flint of the US Fish and Wildlife Service and Meg Duhr Schultz of the Tern Island Field Station and they've both recommended July as the best month to film with albatross chicks. We will stay no longer than needed.

Our estimated timeline is as follows:

July 1st: Depart Honolulu
July 4th: Arrive French Frigate Shoals
July 14th: Depart French Frigate Shoals
July 17th: Arrive Honolulu

Our captain has instructed us that the trip from Honolulu to French Frigate Shoals will take between 3 and 4 days depending on weather, that is why our time frame is 17 days not 10 days. We have an additional 7 days allotted for travel to and from Honolulu.

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

From Antarctica to the tropical Pacific, Director of Photography, Paul Atkins has filmed the world's wildlife and cultures for National Geographic and BBC, including many of their most successful series from TRAILS OF LIFE to PLANET EARTH. His internationally acclaimed cinematography and directing have earned him numerous Emmys, British Academy Awards and a prestigious Telluride Film Festival Tribute. In recent years, Paul has turned his cinematic attention to feature films including an indie production such as CHEIFS (Sundance '08) and the LAND HAS EYES (Sundance '04 and Fiji's submission for the best Foreign Film to the Academy Awards). On a forty-two day epic voyage around Cape Horn, Paul shot the ocean storm footage for Peter Weir on MASTER AND COMMANDER which won the 2004 Academy Award for Cinematography. In 2008, Paul was 2nd Unit DP on Terrance Malick's TREE OF LIFE and continues to work for Mr. Malick as his director of photography on an upcoming IMAX theatre.

Kevin Bachar, our Director, is an Emmy award-winning Producer and Director who formed Pangolin Pictures in 1995. Before that, he was a Senior Producer at National Geographic Television. At Pangolin Pictures he has produced multiple episodes of PBS Nature, including VIOLENT HAWAII, TALL BLONDES, WHAT FEMALES WANT AND MALES WILL DO, and KILAUEA MOUNTAIN OF FIRE. Other films and series include KILLER WHALES, TARANTULAS: KING OF THE SPIDERS, and the natural history specials THE INVADERS, which looked at our concerns with invasive species all over the world. He has been a guest lecturer at numerous universities and museums, and he won a prestigious Genesis Award for his film AUDUBON'S EAGLE ADVENTURES, his PBS film WHAT FEMALES WANT AND MALES WILL DO was a finalist for Best Animal Behavior at the 2009 Jackson Hole Wildlife Film Festival. He currently is in production on his 7th PBS Nature special titled THE SECRET

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LIFE OF DEER and is producing this special 2-part series for National Geographic, titled WILD HAWAII.

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. Please refer to the attached insurance certificate that states our public liability insurance is valued at \$1,000,000.00 for any one occurrence.

Each Occurrence: \$1,000,000.00
Damage To Rented Premises: \$100,000.00
Medical Expense: \$5,000.00
Pers & Adv Injury: \$1,000,000.00
General Aggreg: \$2,000,000.00
Products/Ops: \$1,000,000.00

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.

Our cameramen and crew are very experienced in working with wildlife and endeavor to film with very little, to no, interference with the animals natural behavior or habitat. We will abide by the Watchable Wildlife guidelines and maintain a set distance from monk seals, albatrosses and sea turtles on land and in the water and make sure not to interact, touch or impact their natural state in any way.

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

We have planned to charter the Port of Normal a Gulfstar 50 vessel. We are installing an FWI-750VMS SB and will conduct a rat and clean hull inspection prior to departure.

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

We do not intend to film or do anything that we have not outlined in this application.

FOR SPECIAL OCEAN USE ACTIVITIES OUTSIDE OF MIDWAY ATOLL SPECIAL MANAGEMENT AREA

k. Will the activity directly benefit the conservation and management of the Monument?

Yes by demonstrating how desperate the need for protection and conservation is for the wildlife of NWHI we will be promoting how important the Monument is to their survival.

l. Is the purpose of the activity for research or education related to the resources or qualities of the Monument?

The purpose of the activity is to educate the public on the struggles the wildlife of the NWHI face while highlighting the role the Monument has taken to protect them.

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- 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. We are chartering a private vessel.

FOR SPECIAL OCEAN USE ACTIVITIES WITHIN MIDWAY ATOLL SPECIAL MANAGEMENT AREA

- n. Does the activity further the conservation and management of the Monument?
Filming the wildlife at the Monument will raise awareness of the endangered species that live in the NWHI, thus supporting the need for preservation and protection.

- o. Is your activity compatible with the purposes for which the Midway Atoll National Wildlife Refuge was designated?
We will not be filming at the Midway Atoll.

NOTE: If this is a first time Special Ocean Use activity, it will be subject to a pilot project. Additionally, public notice of the application and an opportunity to provide comments is given at least 30 days prior to issuing the permit.

8. Procedures/Methods:

We will be using a private tender to transport us from our vessel to the shores of the FFS. Once on shore of East Island and Tern Island we will use a long lens to film the albatross, great frigate bird, red footed booby and petrel chicks from afar. The long lens will permit us to film close up shots of the birds without needing to be close to them. We need to access the beach and seabird colonies to film the fledging chicks. We will only film from a distance that is permitted by the Tern/East Island Research crew and will not interfere with the birds' natural behavior in any way.

Underwater Activities:

We will be using a private tender to transport us from our vessel to shallow waters. While filming with Tiger Sharks, we will film topside activity with a camera in an underwater casing and will film underwater activity with a GoPro (an underwater HD camera) attached to pole.

All remaining underwater filming will be done with certified divers using SCUBA diving gear. The cameraman and safety diver will dive from a private tender and will remain within shallow waters. We no longer plan to dive in deep water. Please refer to the separate document for our Dive Safety Plan.

There will be no need to occupy the Monument staff's time while we are filming other than general advice about the location and permission on where we are allowed to film.

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:

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Please refer to the attached insurance certificate that states our public liability insurance is valued at \$1,000,000.00 for each occurrence.

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

We have been collaborating with Paul Atkins of Moana Productions, a Hawaiian based film & television production company. Paul has filmed within the Monument several times and he has been a great source of knowledge in regards to ecological filming strategies, developing underwater shot lists and underwater film plans.

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

SCUBA diving gear.

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

Not applicable.

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

Not applicable.

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.

Signature

Date

SEND ONE SIGNED APPLICATION VIA MAIL TO THE MONUMENT OFFICE BELOW:

Papahānaumokuākea Marine National Monument Permit Coordinator
6600 Kalaniana'ole Hwy. # 300
Honolulu, HI 96825
FAX: (808) 397-2662

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DID YOU INCLUDE THESE?

- Applicant CV/Resume/Biography
- Intended field Principal Investigator CV/Resume/Biography
- Electronic and Hard Copy of Application with Signature
- Statement of information you wish to be kept confidential
- Material Safety Data Sheets for Hazardous Materials

Pangolin Pictures Dive Safety Plan

The Diver's Safety Plan will be used to manage all diving operations taking place on this project. Diving parameters for this project are as follows:

- a. All diving depths are less than 100 feet. SCUBA equipment will be used to support all diving operations.
- b. A standby diver and support equipment will be ready on the tender during all diving operations.
- c. All diving operations will comply with the Papahānaumokuākea Marine National Monument regulations for Special Ocean Use shallow water diving.
- d. Where an enclosed or confined space is not large enough for two divers, a diver shall be stationed at the underwater point of entry and an orientation line shall be used.
- e. The diver's flag (national or alpha) shall be prominently displayed whenever diving is conducted.
- f. A set of dive tables must be available at the dive site.
- g. It is the responsibility of the diver to terminate the dive, without fear of penalty, whenever he/she feels it is unsafe to continue the dive, unless it compromises the safety of another diver already in the water. The dive shall be terminated while there is still sufficient tank pressure to permit the diver to safely reach the surface, including decompression time, or to safely reach an additional air source at the decompression station.

Lead Diver

For each dive, one individual shall be designated as the Lead Diver. He/she shall be at the dive location during the diving operation. The Lead Diver shall be responsible for:

1. Coordination:

Diving shall be coordinated with other known activities in the vicinity, which are likely to interfere with diving operations.

2. Briefing:

The dive team members shall be briefed on:

- a. Dive objectives.
- b. Unusual hazards or environmental conditions likely to affect the safety of the diving operation.
- c. Modifications to diving or emergency procedures necessitated

by the specific diving operation.

- d. Reporting any physical problems or adverse physiological effects including symptoms of pressure-related injuries.

3. Dive Planning:

Dive planning shall take into consideration safety and health aspects of the following:

- a. Diving mode
- b. Surface and underwater conditions and hazards
- c. Breathing gas supply
- d. Thermal protection
- e. Diving equipment
- f. Dive team assignments
- g. Residual inert gas status of dive team members
- h. Decompression schedules and altitude corrections
- i. Emergency procedures

4. Emergency Equipment:

The Lead Diver must ensure that first aid and adequate emergency oxygen equipment is in working order and at the dive location.

Dive Plans

Dives should be planned around the competency of the least experienced diver. Before conducting any diving operations under the auspices of the SIO/UCSD, the Lead Diver for a proposed operation should consider the following:

1. Diver's qualifications, depth certifications, and type of certification held by each diver.
2. Emergency plan including:
 - a. Emergency contact information for each diver
 - b. Location and contact information for the nearest available hyperbaric chamber
 - c. Location and contact information for the nearest available hospital
 - d. Contact information for means of emergency transport
3. Approximate number of proposed dives.
4. Location(s) of proposed dives.
5. Estimated depth(s) and bottom time(s) anticipated.
6. Repetitive dives, if required.
7. Proposed work, equipment, and boats to be employed.
8. Any hazardous conditions anticipated.

If Diver is found injured or unconscious but still breathing follow these steps:

A. MILD SYMPTOMS: Fatigue, Skin Rash, Itching

1. Administer 100% oxygen.
2. Have Patient lie on left side and administer fluids.
3. Call 911 or transport to nearest medical facility.

**B. SERIOUS SYMPTOMS: UNUSUAL WEAKNESS PAIN, PARTICULARLY JOINT,
ABDOMINAL AND LOWER BACK DIZZINESS, VISION OR SPEECH DIFFICULTY
PARALYSIS, NUMBNESS/TINGLING, BREATHING DIFFICULTY, SEVERE COUGH,
BLOODY FROTHY MOUTH, DECREASE OR LOSS OF CONSCIOUSNESS,
CONVULSIONS**

1. Maintain open airway prevent aspiration of vomit.
2. Initiate CPR if necessary.
3. If conscious/breathing independently administer 100% oxygen.
4. Have patient lie on left side.
5. Advise patient not to sit up.
6. If convulsions occur do not restrain, support head and neck.
7. Protect injured diver from excessive heat. Cold, wetness, noxious fumes.
8. Arrange immediate evacuation to appropriate medical facility or to area assessable to paramedics.

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):

PAUL ATKINS, Cinematographer

DANIEL KWIATKOWSKI, Production Coordinator / Field Technician

2. Specific Site Location(s): (Attach copies of specific collection locations):

French Frigate Shoals

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

3a. For each of the permits listed, identify any permit violations or any permit that was suspended, amended, modified or revoked for cause. Explain the circumstances surrounding the violation or permit suspension, amendment, modification or revocation. N/A

4. Funding sources (Attach copies of your budget, specific to proposed activities under this permit and include funding sources. See instructions for more information): National Geographic Wild network

5. Time frame:

Activity start: July 3, 2013

Activity completion: July 21, 2013

Dates actively inside the Monument:

From: July 6 or 7th, 2013

To: July 17 or 18th, 2013

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

We are bound to the preexisting sailing schedule of the OSCAR ELTON SETTE

Personnel schedule in the Monument: Both Atkins and Kwiatkowski will be on FFS from about July 6 or 7th 2013 until July 17 or 18th 2013, per the SETTE's sailing schedule.

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: Pangolin holds a \$1 million general liability insurance policy (COI attached)

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

- Vessel
 Aircraft

Provide Vessel and Aircraft information: M/V OSCAR ELTON SETTE

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:

Vessel owner:

Captain's name:

IMO#:

Vessel ID#:

Flag:

Vessel type:

Call sign:

Embarkation port:

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

Length:

Gross tonnage:

Total ballast water capacity volume (m3):

Total number of ballast water tanks on ship:

Total fuel capacity:

Total number of fuel tanks on ship:

Marine Sanitation Device:

Type:

Explain in detail how you will comply with the regulations regarding discharge in the Monument. Describe in detail. If applicable, attach schematics of the vessel's discharge and treatment systems:

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:

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:

Additional Information for Land Based Operations

11. Proposed movement of personnel, gear, materials, and, if applicable, samples: Our crew will use NOAA's small boats (operated by NOAA personnel) to ferry themselves and their equipment from the SETTE to the shore. NOAA small boats and staff will also transport our crew about the atoll. All small boat transits will be executed on an as-needed basis when NOAA staff and boats are available.

12. Room and board requirements on island: Our crew will sleep and store equipment in our own tents and shelters that we will bring along. Food and drinking water will be supplied by the NOAA team which will be camping on the atoll at the same time.

13. Work space needs: The NOAA team will provide our crew with a dedicated generator and fuel for the charging of our equipment. Please note all generator use will occur solely on Tern Is., so as to keep the remainder of FFS free of noise.

We will require no other resources from NOAA or the Monument. Our crew will not use any type of hazardous or expendable material that will require disposal on the atoll.

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

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

June 28, 2013

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

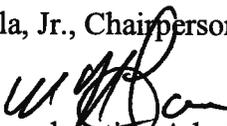
ESTHER KIA'AINA
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

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

TO: Division of Aquatic Resources File

THROUGH: William J. Aila, Jr., Chairperson

FROM: William Tam 
Water Deputy and Acting Administrator, Division of Aquatic Resources

SUBJECT:

DECLARATION OF EXEMPTION FROM THE PREPARATION OF AN ENVIRONMENTAL ASSESSMENT UNDER THE AUTHORITY OF CHAPTER 343, HRS AND CHAPTER 11-200 HAR, FOR PAPAHA NAUMOKU AKEA MARINE NATIONAL MONUMENT SPECIAL OCEAN USE PERMIT TO MR. KEVIN BACHAR, PANGOLIN PICTURES, NATIONAL GEOGRAPHIC CHANNEL, FOR ACCESS TO STATE WATERS TO CONDUCT FILMING ACTIVITIES UNDER PERMIT PMNM-2013-007.

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, National Geographic Channel, to Conduct Filming Activities

Permit Number: PMNM-2013-007

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 July 1, 2013 to June 30, 2014.

The Applicant proposes to conduct filming activities for an upcoming National Geographic Channel wildlife documentary titled "WILD HAWAII". 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 is requesting permission to film and photograph wildlife interactions with a focus on:

ITEM F-3c

1. Tiger shark predation on fledgling albatross chicks in depths of less than 100 feet at French Frigate Shoals East Island;
2. Underwater scenes of Hawaiian monk seals swimming and feeding; and
3. Petrels, albatross, red footed booby birds and the great frigatebird nesting, hatching, and fledging at French Frigate Shoals Tern Island.

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 escort. This includes all activities related to the filming of the State listed species, the Hawaiian monk seal, or 'ilioholoikauaau, 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 since November 16, 2012, 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. Additionally, Exemption Class #5, Exempt Item #2 includes game and non-game wildlife surveys, photographing, and placing recording devices in the field to determine animal movement. DEPARTMENT OF LAND & NATURAL RESOURCES, EXEMPTION LIST FOR THE DIVISION OF FORESTRY AND WILDLIFE (June 12, 2008).

The proposed filming and photography activities here appear to fall squarely under the exemption class identified under HAR § 11-200-8.A.5., and are succinctly described under the former Fish and Game Division exemption list published in 2008. 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, nine filming and photography projects have been undertaken to date in State Waters. There were no deleterious effects from the previous projects. One additional filming and photography project for Yasuho Jimbo of the Tokyo Broadcasting System was approved by the BLNR on March 8, 2013 to conduct permitted activities from May 1 to August 31, 2013. 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.

The activities would be conducted from the NOAA research vessel OSCAR ELTON SETTE (PMNM-2013-002) during its July cruise and from the seasonal monk seal field camp base on French Frigate Shoals. The operation of the field camp, and associated monitoring activities, are covered under the Manager’s permit PMNM-2013-001. One Monument staff member will

accompany the applicant during filming and photographing activities. The Cetacean Cruise will also occur during this time period and activities are also covered under the Manager's permit.

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.



William J. Aila, Jr.
Chairperson, Board of Land and Natural Resources



Date