

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

June 8, 2012

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 Ellen Husain, Director, British Broadcasting Corporation, for Access to State Waters to Conduct Documentary Filming Activities in the Monument

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 Ellen Husain, Director, British Broadcasting Corporation, 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 photographic 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 15, 2012 and August 31, 2012.

INTENDED ACTIVITIES:

The applicant proposes to send a small film crew of six people to conduct filming activities for an upcoming wildlife documentary entitled "Survival," as well as to document additional stories of wildlife struggles and threats to PMNM resources.

The specific goals and objectives of the filming project would be the following:

- Albatross and fledging event
- Tiger sharks predated upon albatross chicks
- General topside and underwater scenic and details
- Bird colonies at Tern Island
- Other general incidental wildlife at the sites

To carry out these activities, the applicant proposes to construct a temporary platform on sandy substrate in shallow water (3-5 m.) near East Island to film specific sequences of interactions between albatross and sharks (see picture in application, Item F-6a). The structure would not be

ITEM F-6

in the marine environment for longer than 30 days and all platform materials would be removed at the end of the project. The applicant also proposes to film underwater using a small dive tender. Access to the beach areas of East Island to film albatross chicks prior to fledging, adult birds, and frigate birds may occur on a limited basis but only under the direct supervision of Monument staff. The applicant also proposes to film terrestrial wildlife at Tern island.

The applicant would not target or pursue protected species (ie. Monk seals) for filming. All filming activities would occur under the supervision of a Monument staff escort, and any filming of protected species would occur only under the direct supervision of Hawaiian Monk Seal Recovery Program Staff.

The purpose of these activities is in line with the Monument management goal to “bring the place to the people, rather than the people to the place,” while highlighting the unique and pristine nature of the area and its wildlife. Similar filming activities, including the construction of a similar platform, were conducted by the British Broadcasting Corporation (BBC) in 2007 (permitted to BBC Producer, Mark Brownlow under permit PMNM-2007-021), but this time, filming would be conducted with state of the art High Definition (HD) camera technology, to showcase the wildlife of the Monument at its best to a large and wide-ranging audience around the world. The applicant also hopes to get better underwater footage than was previously obtained. The documentary is expected to reach the largest global audiences available to natural history content, with typical distribution to over 150 territories worldwide, and will be the first and only filming activity to take place in the Monument with this high of quality film footage.

The activities proposed by the applicant directly support the Monument Management Plan’s priority management needs through action plan 3.5.2 – Constituency Building and Outreach. This activity would help the Monument by informing and educating the public of the value of the Monument’s natural and cultural resources.

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

- 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
- 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 April 25th, 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 questions were both raised and addressed:

1. *At what water depth will the platform be temporarily installed?*

The applicant states that she anticipates approximately 10 - 15' of water, but could be up to 20' as required for strategic positioning (it is most likely it would be shallower though).

2. *The application states the platform has a height of 15 ft., but how much of it will be underwater?*

The applicant responds that the platform would be of similar basic design to that used in 2007 (as shown in the attached picture). They would expect to have between 2' - 4' in height between the water surface and the actual deck of the filming platform, and there would also be a guard rail for safety, around 3' higher than the deck of the platform. The platform is modular in construction, therefore the total height of the platform would to some extent be determined by the depth of water in the most suitable location for filming. For example, if the water depth is 10' then the height of the platform deck might be 10' + 3' = 13'. If the water depth is 12' then they would build the deck at around 15'. In each case the guard rail would be approximately another 3' higher than the deck.

3. *How deep do the platform's stabilizing legs go into the sandy substrate?*

The applicant explains that neither the poles of the main structure nor the stabilising legs penetrate into the substrate. As on land the entire scaffold structure rests on the surface. On the 2007 trip they took small wooden boards to lay down beneath the bottoms of the poles and the sand to prevent any undermining of the substrate by water currents etc, however these were found to be unnecessary since there was very little water movement - so sediments were undisturbed at the bases of the poles. For an impression of the stabilisers, the applicant asks that reviewers please refer to the attached underwater picture - arrows indicate one of four stabiliser sections (the shorter triangular-shaped section at the right-side of the frame, with the diver's hand resting upon it). There are four stabilisers in total - one at each corner of the scaffold.

4. *What type of poles are used for the platform frame and what is the diameter of these poles?*

The applicant states that the poles are composed of high strength steel tubing with .095 inch wall thickness and an outside diameter of 1.69 inches used on all legs.

5. *What material is used for the top of the platform where the film crew will actually be standing on?*

The applicant explains that the platform planks are aluminium with a non-slip coating on the top side. These "platform planks" are a standard design feature of Safway™ scaffolds. The planks can be seen in picture F2007\_Scaffold.jpg (attached to the application), where there are three planks comprising the platform on which the crew are standing.

6. *Regarding the construction and deconstruction of the filming platform - how long will each process take?*

The applicant expects it to take approximately half a day to construct or deconstruct the platform (i.e. 2- 3 hrs).

7. *How many people will be involved in constructing / removing the platform?*

The applicant states that approximately 4 -5 people would be needed to construct or deconstruct the platform: two divers and two to three people in the boat.

8. *Will there be noise associated with construction / deconstruction?*

The applicant responds that there would be minimal noise associated with either process - the scaffold pieces slot together and are held with specialized fastenings and pins. This does not require nailing or hammering.

9. *Any potential for debris or contaminants to enter the water during construction, deconstruction and / or during filming on the platform?*

The applicant states that there is no real potential for debris or contaminants. The structure is a simple scaffold composed of iron frames and there are no fluids or other possible contaminating substances involved. When filming from the platform there would normally be a crew of two people and their associated camera equipment, which would not present a source of debris or contamination.

10. *If approved, how many project individuals would stay on at Tern Island after the MV Searcher departs?*

The applicant states that the number of people that could stay would be subject to berth space there. She expects that they would need a minimum of two people, and potentially three, if feasible.

11. *What arrangements would be made to compensate for the food and supplies consumed by the crew while they are residing at the Tern Island field station?*

The applicant reports that they have offered to pay for any costs associated with a stay on-island. They are in conversations with the Station Managers and would make arrangements as deemed appropriate by them, or other appropriate people involved in the running of the field station.

12. *These BBC productions have the largest audiences of any nature films ever produced, and the degree to which PMNM stories are represented in this film is one of our most potent ways to stay relevant, bring the Monument to the people, and ultimately achieve our conservation goals.*

The applicant states that past series of similar scope made by the same producers have had exceptional audiences. By many of the same producers, the series 'LIFE' was viewed 77 million times in the first month of transmission in the USA alone, and was shown in 150 territories worldwide.

13. *Applicant needs to ensure adequate coordination with Monument personnel, both in planning and execution; because of critical timing and proximity with threatened Hawaiian green sea turtle nesting activity at East Island, this project could negatively impact this species. Project activities should include ongoing project monitoring from Monument personnel, to ensure this project does not interfere with wildlife or negatively impact monitoring activities.*

The applicant states that this comment is noted.

14. *Applicant would be limited to access Tern and East islands only, in order to avoid disturbance to wildlife and monitoring activities at other islands.*

The applicant states that this comment is noted.

15. *'Topside' filming should only occur on Tern Island. Any land-based filming to occur that is not taken from the Tern Island runway must be pre-approved by Monument personnel.*

The applicant responds that it is vital to our film that they film black footed albatross at East Island, as requested in the permit. From prior experience of the location she is aware that there are many ground-nesting birds at the location on top of the island. However, the beach is clear of these so she requests that they can film on and from the beach – this was also previously suggested by the permit committee as an alternative to building the filming platform, so they infer it to be recognized as low impact. The applicant states that they would of course be entirely sensitive to impacts on the black footed albatross that come down to the beach and would avoid disturbing them, since it is their natural behaviour which they wish to film. It was observed during the 2007 trip that it is very rare to see green turtles haul out onto these beaches and that the beaches they use for basking are on the other side of the island. Nevertheless if green turtles were seen to be present they would be sensitive to this and avoid the area.

The applicant states that it is also vital that they film on top of the island, as albatross activity prior to fledging is vital to setting up the character of the albatross and endearing people to the young bird at the start of the filming sequence. It has been agreed that they will have a biological monitor with them at all times and the applicant would be happy to act under their guidance. She states that they have a specifically selected kit for the shoot with this filming in mind in the form of a camera mount that would allow them to get steady shots of the birds but with only one point of contact with the ground. Thus they can set up the a camera mount on a small clear patch of ground and slide the camera along above the ground to approach closer to the bird without disturbance.

16. *Reviewer appreciates that the applicant made an effort to answer the cultural components of the Findings questions. Recognition could be afforded that providing the educational and outreach potential of their proposed film is a “ho‘okupu” or gift back to the place that they have the honor of visiting and recording, and that raising awareness of the species that are integrally connected to Native Hawaiians could afford a positive impact on the cultural resources, which are the natural resources that they are filming.*

The applicant states that this is noted and that she appreciates the cultural significance of the NWHI to the native Hawaiian people, and the opportunity to visit them. She further hopes that the film will produce a beautiful documentation the natural resources found there.

17. *Implement boat handling and diving practices to avoid impact including abrasion to corals.*

The applicant states that this is noted and due care and attention will be exercised.

18. *Ensure scaffold structure (including the entire footprint of anchoring system) is placed in sediment substrate, and at a far enough distance away from corals/seagrass to ensure that activities around the scaffold will not abrade corals and/or that any sedimentation from construction or removal of scaffold will not affect corals/seagrass.*

The applicant states that this comment is noted.

19. *Underwater scaffolding must not come into contact with any live or dead coral and must be a minimum of 30 feet away from live coral. The Monument’s regular restrictions regarding anchoring around coral reefs apply.*

The applicant states that this comment is noted, and that their intention is to build upon sandy substrate.

20. *Reviewer would like to emphasize that this platform be placed on sandy substrate as stated in her application.*

The applicant states that this comment is noted, and that their, intention is to build upon sandy substrate.

21. *Recommend the use of anchors systems (e.g., sand screws) to secure scaffold, thereby ensuring that it does not move due to wave energy.*

The applicant states that this comment is noted.

22. *Remove scaffold and all related equipment post-action. The applicant needs to confirm that the temporary film platform structure will be removed from submerged lands within 30 days of installation.*

The applicant states that this comment is noted, and that their intention is to remove all structures on departure.

23. *The materials used to construct the scaffolding need to undergo pre-deployment inspection and treatment to ensure they are not transporting invasive species into Monument waters.*

The applicant states that this comment is noted, and asks that the POC please inform them as to what is involved.

24. *Participants who will be disembarking on Tern or East Island need to observe quarantine protocols for travel between the atoll's islands and for travel from Honolulu to islands within French Frigate Shoals.*

The applicant states that this comment is noted, and asks that the POC please inform them as to what is involved.

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

Cultural reviews support the acceptance of this application. No concerns were raised.

**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.
- A Section 7 ESA/MMPA consultation has been initiated and is in progress.
- 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 PAPAĀNAUMOKUĀKEA MARINE NATIONAL MONUMENT SPECIAL OCEAN USE PERMIT TO ELLEN HUSAIN, DIRECTOR, BRITISH BROADCASTING CORPORATION, FOR ACCESS TO STATE WATERS TO CONDUCT DOCUMENTARY FILMING ACTIVITIES IN THE MONUMENT UNDER PERMIT PMNM-2012-039”)

Has Applicant been granted a permit from the State in the past?      Yes       No

If so, please summarize past permits:

- Similar filming activities, including the construction of a similar platform, were permitted to Mark Brownlow, BBC Producer, under permit PMNM-2007-021.

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 Special Ocean Use 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 Ellen Husain, Director, British Broadcasting Corporation, 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 protocols 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,



GUY KAULUKUKUI  
Acting Administrator

APPROVED FOR SUBMITTAL



WILLIAM J. AILA, JR.  
Chairperson

**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:

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.**

## **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:** ELLEN HUSAIN

**Affiliation:**

BRITISH BROADCASTING CORPORATION  
BBC NATURAL HISTORY UNIT



**Permit Category:** Special Ocean Use

**Proposed Activity Dates:**

Exact dates tbc and dependent on wildlife, but are likely to be within the period of June 12th - July 12th

Current estimate of timing is as follows:

June 12th : Depart Honolulu

June 15th : Arrive French Frigate Shoals

June 28th : Depart French Frigate Shoals

July 1st : Arrive Honolulu

It is possible that we would consider a 2-man camera crew staying on at the research station for another 2 weeks after June 28th, ie to around July 12th to work purely on terrestrial shots if the appropriate quality of footage had not been achieved (for example due to poor weather).

However, this would be subject to availability of accommodation on the island, and availability of an alternative return passage (both of which are currently being investigated as per the note below, under 'Estimated number of days in the Monument')

**Proposed Method of Entry (Vessel/Plane):** Vessel.

**Proposed Locations:** 1. French Frigate Shoals. 2. The application to film at Midway atoll is being withdrawn, as we have been informed that there is unlikely to be accomodation on the

island (we would not plan to take the Searcher up to Midway, this leg was previously proposed to be accomplished by plane).

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

Estimate 9 BBC crew (this excludes liveaboard boat crew)

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

Estimate 4 weeks maximum, to be composed of i) approximately 2 weeks within monument waters aboard the liveaboard boat, The Searcher, and ii) if needed, possibly an additional 2 weeks of a smaller 2-person crew either staying on land at Tern Island research station after departure of the Searcher (logistical capacity for this is currently under discussion with station manager Paula Hartzell, this component of the trip may not be needed if all filming is successful in the 2 weeks aboard the boat. In addition the BBC recognises that the Research station is primarily for scientific purposes, and this component would only go ahead if our crew can be accommodated.)

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

a.) The proposed activity would...  
have the objective of filming two high quality wildlife sequences for a forthcoming wildlife documentary called SURVIVAL in production by the BBC and co-producers Discovery.

GOALS / OBJECTIVES: To film the following in state of the art high-definition format:

- i) Albatross and fledging event
- ii) Tiger sharks predating upon albatross chicks
- iii) General topside and underwater scenics and details.
- iv) Bird colonies at Tern island.
- v) Other general incidental wildlife at the site.

Note: The application to film spinner dolphins at Midway Atoll is being withdrawn.

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

**FRENCH FRIGATE SHOALS FILMING**

We would journey from Honolulu to French Frigate Shoals by liveaboard boat, we would anchor near to East Island. We would build a scaffold platform within the lagoon of the island as a long-lens filming platform (the entirety of which will be removed on departure). We would also film underwater by use of a small dive tender. We would also like to go ashore to film from land and also to film portraits of the albatross chicks prior to fledging, adult birds, and frigate birds predating on tern chicks (we will be sensitive to the need to minimize impacts on the island's bird colonies).

We may wish a small 2-man camera crew to remain on the island at the research station for another 2 weeks after June 28th (ie to around July 12th). However, this would be subject to availability of accommodation on the island, and availability of an alternative return passage

(both of which are currently being investigated as per the note under 'Estimated number of days in the Monument', above.)

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

The SURVIVAL sequence will fit within the Monument management goal to “bring the place to the people, rather than people to the place”, whilst highlighting the unique and pristine nature of the area and its wildlife, which forms the subject of the documentary. Filming will be conducted by some of the world's best wildlife cameramen with state of the art HD camera technology, showcasing the wildlife of the Monument at its best to a large and wide ranging audience around the world.

SURVIVAL 1 is a large scale ‘blue chip’ series similar in ambition to previous BBC /Discovery productions such as LIFE and PLANET EARTH. As such it is expected to reach the very largest global audiences available to natural history content, with typical distribution to over 150 territories worldwide.

**Other information or background:**

**Section A - Applicant Information**

**1. Applicant**

Name (last, first, middle initial): HUSAIN, ELLEN

Title: MISS

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

HUSAIN, ELLEN

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

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Phone: [REDACTED]

Fax: n/a

Email: [REDACTED]

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

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

British Broadcasting Corporation

**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):**

NOTE: Although we are in conversations with people, film crew members are still to be confirmed.

**1. ELLEN HUSAIN: DIRECTOR**



**FURTHER CREW NAMES AND DETAILS TO BE CONFIRMED:**

2. French Frigate Shoals underwater cameraman x 1 (likely David Reicherdt)
3. French Frigate Shoals Long lens cameraman x 1 (likely Warwick Sloss)
4. French Frigate Shoals Underwater cameraman buddy x 1 (likely Doug Perrine)
5. French Frigate Shoals Surface standby diver x 1
6. French Frigate Shoals Dive supervisor x 1
7. French Frigate Shoals Filming assistant x 1 (BBC EMPLOYEE TOM CROWLY, tbc)

**French Frigate Shoals Liveaboard vessel crew:**

- captain x 1
- cook x 1
- Misc crew x 3 (estimate)

**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 - TERN ISLAND & LAGOON**

Filming tiger sharks and albatross underwater and topside at East Island. Filming birds on East Island. Activity to be mainly focused in the area around approx coordinates: 23° 47' N, 166 ° 12' W

Filming birds from the water and ashore on Tern Island

Activity to be mainly focussed in the area around approx coordinates: 23° 52' N, 166 ° 17' W

Filming general scenics, and underwater life in and around the French Frigate shoals area.

**MIDWAY ISLAND & LAGOON**



This element of the application has been withdrawn, due to the likely lack of available accomodation on the island during the desired filming period.

**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:***

OVERALL PURPOSE: Filming for BBC Natural History Unit / Discovery Channel's 'SURVIVAL', a new high end wildlife documentary series for 2014.

SURVIVAL is the next high end big budget 'blue chip' series from the BBC / Discovery Channel, scheduled for 2014. Following in the footsteps of series such as PLANET EARTH and LIFE, SURVIVAL will showcase the most amazing animal stories from around the world, looking at the ways animals survive through their different life stages, from birth to death. We'll tell intimate stories of distinctive animal characters, each with a unique past, each facing an uncertain future. Like us, they will have to overcome the struggle to reach adulthood in the face of the unpredictable challenges thrown at them by their environment, their enemies, and even their own family. Filmed using state-of-the-art HD cameras and the very latest in digital film making technology, from the weakest to the strongest, the series will showcase the emotional highs and lows of trying to survive in the Natural World.

GOALS / OBJECTIVES: To film the following in state of the art high-definition format:

- i) Albatross and fledging event
- ii) Tiger sharks predated upon albatross chicks
- iii) General topside and underwater scenes and details.
- iv) Bird colonies at Tern island.
- v) Other general incidental wildlife at the site.

Note: The application to film spinner dolphins at Midway Atoll is being withdrawn.

Note: We do not intend to film monk seals.

**NEED & SCOPE:**

Although the BBC previously filmed at French Frigate Shoals in 2007 we feel that we could substantially improve upon those results – particularly with better underwater content, which was a minimal component of the story due to unseasonably strong winds causing poor visibility.

SURVIVAL is a new cutting-edge production from ex- Frozen Planet, Life, and Planet Earth producers. SURVIVAL will target a different, larger, and more varied audience to the previous South Pacific series. In order to reach viewers from a cross-section of the populace (not just those with a prior wildlife interest) SURVIVAL must have unparalleled footage quality. We are filming on the very latest cinematic Red Epic cameras at 4k resolution, which is more than 4 x higher definition than the footage generated by the Panasonic Varicams used for South Pacific. These cameras will produce far crisper, clearer, high-impact images of unparalleled clarity and beauty. We will also for the first time employ ultra high speed cameras capable of filming at 500 frames a second (the South Pacific cameras were able to film to 60 frames a second). The series filming style is also very different and new, where possible the SURVIVAL style is to incorporate smooth camera movement to enhance developing shots, making them feel more

modern and filmic than the static-camera used in South Pacific. From a narrative stance we will also pay particular attention to establishing the character of the albatross chick so that we can empathize with the ordeal that it is to face. For this we need to film additional material that was not filmed before. We also wish to enhance the underwater content of the sequence since this delivered few successful images of the sharks on the previous 2007 shoot. In summary the South Pacific sequence is not of high enough visual or editorial quality to be incorporated into the series, so the sequence would have to be dropped from the series if we are not able to re-shoot it. This would be a loss to the series, as well as a missed opportunity to promote public appreciation and awareness of the northwest Hawaiian islands.

The north west Hawaiian Islands are inaccessible to the general public; filming here for a high profile series like SURVIVAL will help to raise public awareness of the wildlife of this relatively newly-declared National Monument, enhancing public perception of the value of protection of the site by "bringing the place to the people, rather than the people to the place."

**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 PROPOSED ACTIVITIES ARE COMPATIBLE WITH THE FINDINGS OF  
PRESIDENTIAL PROCLAMATION 8031 AS FOLLOWS:

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?

Activity 1: Presence of the liveaboard boat MV Searcher and crew within the Monument waters.

i) Safeguards for the natural resources and ecological integrity of the Monument:

All bio-security guidelines will be adhered to, and the necessary checks and certifications will be obtained for the vessel prior to entering the Monument (as detailed in question 14). We have been assured by Captain Jonathan Littenburg that the Searcher has its Vessel Monitoring System (VMS) in place and that they will schedule the appropriate hull inspection 2 weeks prior to departure, as well as the rat inspection shortly prior to departure. Captain Littenburg is familiar with the requirements of operating within Monument waters, having made many trips there, and has assured the BBC that the relevant paperwork will be completed.

The MV Searcher already complies with the necessary standards to be allowed to visit the Monument. Ships tanks will be cleared before entering Monument waters in order to allow maximum holding capacity. While we are in Monument waters all discharge (black and grey water) shall be directed into holding tanks, to be disposed of upon departure from the Monument.

All other refuse shall be stored upon the Searcher until our return to Honolulu for proper disposal or recycling. This procedure was also adopted by the Searcher for the BBC's 2007 trip. If necessary the Searcher will do a trip outside of Monument waters to discharge waste water, should tanks be becoming full. In addition, we are now anticipating a shorter trip aboard the Searcher of around 12 – 14 days inside the Monument, so waste water storage needs will be reduced (this 12- 14 day period does not include any additional time that a 2-person camera crew might spend on Tern Island staying at the research station, and is specified purely in relation to the capacity of the waste-water holding facilities of the Searcher).

ii) Safeguards for the historic resources of the Monument:

The presence of the Searcher and BBC crew will not impact on the historic resources of the Monument, since the boat will not visit any islands where such resources are located.

iii) Safeguards for the cultural resources of the Monument.

The presence of the Searcher and BBC crew will not impact on the cultural resources of the Monument. The BBC recognizes that the Monument is a sacred place for native Hawaiian peoples but the presence of the BBC crew will not in any way interfere with cultural use of the Monument by native Hawaiians.

ACTIVITY 2: Filming wildlife at French Frigate Shoals.

i) Safeguards for the natural resources and ecological integrity of the Monument:

The BBC film crew will be composed of highly experienced individuals who have many years of professional experience working with wildlife. The aim of the BBC crew is to document the wild and un-impacted natural behaviour of their filming subjects. As such it is imperative that the animal subjects are either oblivious or completely unconcerned by the presence of the crew. The crew are used to the necessity of making this so, and it is part of the field craft of a professional wildlife film crew to avoid disturbing their animal filming subjects. An additional filming protocol detailing technical safeguards the BBC film crew will adopt in order to avoid damage to the Monument natural environment are found within the attached document: Proposed BBC Filming Protocol 2012.

ii) Safeguards for the historic resources of the Monument:

Filming will be carried out at French Frigate Shoals, where there are no ancient settlements of historic or cultural importance, filming will therefore not be deleterious to the historic resources of the Monument.

iii) Safeguards for the cultural resources of the Monument.

It is recognized that In Hawaiian traditions, the Northwestern Hawaiian Islands are considered a sacred place as are many of the animal found there. The BBC's activities will be sensitive to this knowledge and will be non-invasive towards the animals, and place; and so should not impact on

this status. Filming will be in a relatively contained area so will not impact on Hawaiian user groups (for example the modern Hawaiian wayfinders).

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? The BBC Natural History Unit is committed to minimizing the impacts of film shoots on the local environment. Our aim is to film completely natural wildlife behaviour, which necessitates that wildlife is un-disturbed by our presence. Advice of local representatives of the US Fish and Wildlife Service will be sought on best practices for minimizing the impacts of our activities within the monument, however there is no reason to believe that the BBC's activities will diminish Monument resources, or qualities. In addition, the shoot director (Ellen Husain) set up and oversaw diving operations on the BBC's previous 2007 shoot, and therefore has knowledge of the issues and considerations specific to working inside the Monument designated area. US FWS guidelines regarding bio-security and ecological integrity will be complied with. No indirect, secondary or cumulative effects are anticipated.

All materials brought into the Monument area will be removed.

The purpose of this trip is to film for a BBC wildlife documentary, this will involve no interaction with any of the cultural artifacts of the Monument. Respect to the sacred cultural status of the islands will be given, and our filming activities should not impact upon this. We therefore do not envisage either diminishment or enhancement to cultural resources and qualities of the monument by either direct, indirect, secondary or cumulative effects of our activities.

The purpose of this trip is to film for a BBC wildlife documentary, this will involve no interaction with any of the cultural artifacts of the Monument. Respect to the sacred cultural status of the islands will be given, and our filming activities should not impact upon this. We therefore do not envisage either diminishment or enhancement to cultural resources and qualities of the monument by either direct, indirect, secondary or cumulative effects of our activities.

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 wildlife behaviour to be filmed is location-specific. Filming of tiger shark predation on albatross is most effective at East Island, in French Frigate Shoals. French Frigate Shoals is one of only two locations where we know this tiger shark behaviour occurs, the other location is Midway Atoll, which also falls within the Monument area. The Midway location is problematic for our underwater filming for two reasons: Firstly it is known for poor visibility - and is therefore not only unlikely to provide the quality of footage needed for a film of this caliber, but

also poses a serious safety risk to have a crew in the water in low visibility conditions with many tiger sharks present. Secondly, the location is usually windy and is known for choppy seas, so topside long lens camera work would be problematic because of the movement of the boat.

We would like to withdraw the application to film the spinner dolphins at Midway.

d. How does the end value of the activity outweigh its adverse impacts on Monument cultural, natural and historic resources, qualities, and ecological integrity?

The BBC acknowledges that the Papahānaumokuākea area is host to many endangered or threatened species, both terrestrial and marine, some of which depend solely on Papahānaumokuākea for their survival, and that criteria ix and x for World Heritage status designation pertain to the unique and undisturbed natural resources and qualities of the island chain. The BBC Natural History Unit has been at the forefront of wildlife film making for more than 50 years, and takes a very serious and responsible attitude to avoidance of impacts on the natural resources it sets out to film. With experienced directors and camera and boat crew in place our aim will be to film the animals with no, or extremely minimal impact on their natural behaviour, so no significant adverse effect on the Monument's natural resources are envisaged.

Historic cultural resources as per criteria iii and iv of the World Heritage status application should not be impacted by the BBC's activities within the Monument. The film crew will not be visiting the historic cultural sites of Nihoa and Mokumanamana, so there will be no opportunity to impact upon archaeological sites. Attention will be paid to the sacred status of the Papahānaumokuākea area, but filming activities should not impact upon this.

BBC filming will not impact upon criterion viii of the World Heritage status application, since this pertains to the uniqueness of the Northwest Hawaiian islands as distinct linear example of ancient volcanic hotspot island chain formation.

Ecological integrity will be achieved by adherence to the rules regarding vessels discharge and clean hull policies.

In contrast to the projected low impact of the BBC filming on the Monument's cultural, natural, and historic resources, the end value of the film product is high in terms of educational outreach, and the ability of the series to "bring the place to the people". Other BBC natural history series such as the recent Planet Earth and Life demonstrate the positive value of wildlife film making in raising awareness and appreciation of the natural world, reaching mass audiences all over the world. Filming at French Frigate Shoals and Midway will promote public awareness of the Monument and its wildlife, as well as allow people who will never have the chance to visit in person to appreciate why the area is special, and why it should be conserved. We therefore submit that the benefits outweigh the impacts, which are very low.

The most recent comparable series to Survival is BBC /Discovery series "Life", which had several of the same producers as Survival. Simulcast across the Discovery family of channels,

Life reached an incredible 78.2 million viewers in the USA within one month. Life premiered in the UK (BBC One) on 12th October 2009 with an outstanding audience of 6.9 million for the first episode. To-date Life has been sold to 166 territories world wide, proving the far reach of such natural history series.

Survival has been undergoing research and development for approximately 1.5 years, and will be broadcast in the UK and USA in the autumn of 2014 with a similar profile, scale, and marketing to Life. The series will have taken 4 years to make.

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

We estimate 4 weeks maximum time within the Monument, but this is more likely to be around 14 days. Time would be composed of i) approximately 2 weeks within monument waters aboard the liveaboard boat, The Searcher, and ii) if needed, possibly an additional 2 weeks of a smaller 2-person crew either staying on land at Tern Island research station after departure of the Searcher (logistical capacity for this is currently under discussion with station manager Paula Hartzell, this component of the trip may not be needed if all filming is successful in the 2 weeks aboard the boat. In addition the BBC recognizes that the Research station is primarily for scientific purposes, and this component would only go ahead if our crew can be accommodated.)

Our proposed estimated schedule for the Searcher is as follows:

June 12th : Depart Honolulu

June 15th : Arrive French Frigate Shoals

June 28th : Depart French Frigate Shoals

July 1st : Arrive Honolulu

This shoot is timed so as to use the minimum time window possible within the Monument whilst still being able to achieve the high production values (excellence of footage quality) needed for the Survival sequence. Since there are limited numbers of tiger shark attacks witnessed each day (estimates are normally 3 - 6 attacks per day) and attacks are very fast and hard to predict, this only gives a small number of opportunities to film this event. We also plan to film these events from both above and below the water, as well as building a sequence around the character of the albatross chick, so a minimum of two weeks is needed to accomplish this. In addition, the season for the attacks is predictable to some extent, but since the fledging is a natural event it could shift slightly, less than a two week window would present an unacceptable risk. The shoot would only be extended beyond the approximately two week window if the team had been unsuccessful with getting the appropriate quality of footage - for example if opportunities did not arise due to poor weather, or the fledging season being slightly delayed.

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

Director Ellen Husain is an experienced BBC wildlife director who has overseen shoots all over the world, specializing in marine and underwater film shoots. She has overseen more than 25 shoots for the BBC alone and has a background in marine ecology and field research, with a doctorate in the field of coral reef ecology. Ellen set up and directed on the BBC's 2007 shoot at French Frigate Shoals for South Pacific series, and has overseen at least four other shoots within Hawaiian waters.

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.

**PUBLIC LIABILITY INSURANCE:** Please refer to the attached cover note for the BBC's public liability insurance, which is valued at £15,000,000 (fifteen million pounds sterling) for any one occurrence.

**TRAVEL INSURANCE FOR PERSONNEL:** Please refer to the attached travel insurance policy for details of medical and emergency evacuation /repatriation cover for all personnel.

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.

Since it is our aim to film the natural, undisturbed, behaviour of our wildlife subjects our filming approaches and techniques will be designed not to impact upon these subjects. There should be little or no impact on cultural, natural and historic resources, qualities, and ecological integrity.

The construction of a filming platform within the lagoon would be carried out in order to reduce the need for crew to spend time on the island. Similar platforms have been constructed on the previous 2007 BBC shoot for South Pacific series, as well as for previous productions such as the Trials of Life. The dimensions of the proposed platform would be similar to those of the BBC's 2007 platform, which was around 15' high, with a deck of around 7' wide by 10' long. This platform was built on a sandy substrate and was secured to the substrate by means of its own weight, iron counter-weights, and stabilizing legs as per scaffold design height-width specifications. There was little impact of water movement on the platform since the structure within the water was composed of scaffold poles and exerted little drag. Pictures of the platform used in 2007 as viewed from above and below the water are attached. All components were removed on departure and since the platform was constructed on a sandy substrate there was



relatively little chance for interaction with benthic biota (as evidenced by the underwater pictures).

It is no longer intended to film bioluminescence in Midway at night.

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 are in negotiations with the MV Searcher, which the BBC used in 2007. The MV Searcher has a history of operating within Monument waters is fitted with a mobile transceiver unit (VMS). In addition Captain Jonathan Littenburg will schedule clean hull inspection and rat-free certification to be completed shortly before the charter.

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

I hereby state that to the best of my knowledge there are no other factors which would make it inappropriate to grant the BBC a permit for the proposed filming activities.

#### 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?

The film will benefit the public case for conservation of the Monument by "bringing the place to the people". The Monument will be portrayed as a wild and un-touched place of extreme natural beauty – reinforcing its need for preservation and conservation. In addition to the main natural history sequence SURVIVAL will feature 'behind the scenes' reports and packages to be filmed as supplementary for the series. There is therefore scope for filming an issues-based report around the negative effects of marine debris and plastics, which can impact on our main albatross filming subjects. Director Ellen Husain has a background in marine biology (B.Sc.Hons; M.Sc., ; PhD.) with a commitment to marine conservation and will also be doing her own video diaries as part of the SURVIVAL series web presence. She will record a piece highlighting the impacts of marine debris with supplementary material filmed to illustrate this. SURVIVAL will have a high profile web presence which will showcase director's blogs.

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

Our filming is related to the unique and special wildlife of the Monument, as well as the outstanding beauty of the area, these qualities will be highlighted within the documentary film.

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)?

We will charter our own vessel (likely vessel: The MV Searcher)

## FOR SPECIAL OCEAN USE ACTIVITIES WITHIN MIDWAY ATOLL SPECIAL MANAGEMENT AREA

- n. Does the activity further the conservation and management of the Monument?  
Benefits to the monument will be by raising awareness of the unique wildlife and outstanding beauty of the Monument area, thereby promoting the case for conservation.
- o. Is your activity compatible with the purposes for which the Midway Atoll National Wildlife Refuge was designated?  
The application to film at Midway has been withdrawn.

**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:**

Description of procedures:

Underwater filming at French Frigate shoals will be carried out using SCUBA or rebreathers, diving from either a small boat, E.g. skiff or Zodiac.

We would like to temporarily construct a small platform in the water within the lagoon of East Island specifically for the purpose of long lens filming. In the BBC's previous 2007 a similar structure provided an effective filming platform, helping to minimize the need to spend time on land for long lens filming. A temporary platform has been used in the previous filming trips (Eg, the BBC's 2007 South Pacific film shoot, the Cousteau trip in 2006, and the BBC Trials of Life trip, in the 1980s), as a place to base divers and camera men near to East Island, when it helped reduce the need to go ashore. Ellen Husain, the current SURVIVAL shoot director designed and built the platform used for the BBC's 2007 filming, and the current platform will follow the same basic design, using scaffold poles and timber, this will be removed when filming is completed.

Topside and long lens filming will be conducted either from the platform, or on land (e.g. on Tern Island, or East Island, where permitted) – it is not possible to carry out long lens filming from a boat, since any movement of the boat at all is greatly exaggerated in the frame when the lens is zoomed in, creating an extremely shaky and completely unusable image.

Transport to filming locations:

It is expected that two small tenders will be brought with us, and that one of these will be dedicated as a dive boat, and the other used more generally as a tender, and also for transport of the topside camera people. The fledgling albatross filming is important for the Survival sequence in order to establish the character of the young albatross and the trials that lie ahead.

Need to enter seabird colonies and access to beaches: These would need to be accessed in order to film the adult and fledgling albatross' and other scenic views of the location.

Filming will be conducted as per prior guidance sought from relevant experts and scientific researchers with experience of working within the Monument.

Work at night: No filming is anticipated at night at French Frigate Shoals. It is no longer proposed to film bioluminescence at Midway atoll at night.

It is no longer proposed to film spinner dolphins at Midway atoll.

Need for Monument staff:

No need for monument staff is anticipated beyond general advice about the location, and what we are allowed to do.

**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:**

Please refer to attached certificate of BBC of Public Liability with indemnity limit of £15,000,000 (fifteen million pounds sterling) for any one occurrence.

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

Not applicable

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

SCUBA and rebreather diving equipment to be used during underwater filming.

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

Not applicable (aside from any fuel and general daily operational materials for the running of liveboard boat)

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

The BBC would like to construct a temporary platform similar to that used in the previous filming trips (Eg, the BBC's 2007 South Pacific film shoot, the Cousteau trip in 2006, and the BBC Trials of Life trip, in the 1980s). This will function primarily as a long-lens filming platform, reducing the need to go ashore. Ellen Husain, the current SURVIVAL shoot director designed and built the platform used for the BBC's 2007 filming, and the current platform will follow the same basic design, using scaffold poles and timber. The entire installation and all materials will be removed at the end of the filming period.

The dimensions of the proposed platform would be similar to those of the previous 2007 platform, which was around 15' high, with a deck of around 7' wide by 10' long. This platform was built on a sandy substrate and was secured to the substrate by means of its own weight, iron counter-weights, and stabilising legs as per scaffold design height-width specifications. There

was little impact of water movement on the platform since the structure within the water was composed of scaffold poles and exerted little drag. Pictures of the platform used in 2007 as viewed from above and below the water are attached.

**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.

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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

**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

## 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):**

**BBC CREW:**

1. Ellen Husain  
Director (BBC)

[REDACTED]

2. David Reichert  
Underwater cameraman (Freelance)  
David Reichert Reichert Films, LLC

[REDACTED]

3. Paul Stewart  
Topside cameraman (Freelance)  
Dr. Paul D. Stewart

[REDACTED]

4. Doug Perrine  
In-water cameraman buddy (Freelance)

[REDACTED]

5. Matthew D'Avella  
Surface and standby diver /dive buddy (Freelance)

[REDACTED]

6. Rob Drewitt  
Making Of cameraman /standby diver (Freelance)

[REDACTED]

**MV SEARCHER CREW:**

Jon Littenberg, captain  
Richard Littenberg, doctor  
Barbara Littenberg, cook/crew  
Noah Nugent, crew  
Kenrick Karas, crew  
Gillian Wysock, crew

**BIOLOGICAL MONITOR:  
(FWS personnel – FWS to supply details)**

**2. Specific Site Location(s): (Attach copies of specific collection locations):**  
No collections to be taken.

Filming locations are as follows:

French Frigate Shoals – East Island

East Island activity to be mainly focused in the area around approx coordinates:  
23° 47' N, 166 ° 12' W

French Frigate Shoals – Tern Island

Tern Island activity to be mainly focussed in the area around approx coordinates:  
23° 52' N, 166 ° 17' W

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

No other permits.

**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.**

No violations.

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

Funding sources:  
British Broadcasting Corporation  
BBC Worldwide  
Discovery Channel

Budget attached.

**5. Time frame:**

All activities to be completed in June – July 2012.

Activity start: 15<sup>th</sup> June

Completion of main film shoot will be around June 29<sup>th</sup>, with the MV Searcher returning in to Honolulu on the 2<sup>nd</sup> July.

It is possible that a small 1 or 2 person crew will stay on when the boat returns. They would be on-island at Tern staying at the research station. They would then continue up to Midway with the NOAA boat, expected to arrive Midway on 21<sup>st</sup> July. They would then return to Honolulu by the first available flight (we are currently awaiting details of flight availability from Ty Benally).

Dates actively inside the Monument:

Main shoot: from: 16<sup>th</sup> June – 29<sup>th</sup> June.

Possible 1 – 2 person crew continuation to 21<sup>st</sup> July or next available flight from Midway to Honolulu after that date. (pending verification of onward passage to Midway atoll and flight out of Midway, as described above.)

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

Limiting factors are whether or not there is a return flight available from Midway to transport the 1 -2 person crew back to Honolulu on or after July 21<sup>st</sup> (we are currently awaiting details of flight availability from Ty Benally).

Personnel schedule in the Monument:

Film crew for main shoot aboard the MV Searcher, dates (as explained in more detail above) are from June 15<sup>th</sup> – July 2<sup>nd</sup>.

1. Ellen Husain - Director
2. David Reichert - Underwater cameraman
3. Paul Stewart - Topside cameraman
4. Doug Perrine - In-water cameraman buddy
5. Matthew D'Avella - surface and standby diver /dive buddy
6. Rob Drewitt - Making Of cameraman /standby diver.

MV Searcher crew:

Jon Littenberg, captain  
Richard Littenberg, doctor  
Barbara Littenberg, cook/crew  
Noah Nugent, crew  
Kenrick Karas, crew  
Gillian Wysock, crew

**Biological monitor (FWS personnel – FWS to supply details)**

Film crew for extended shoot ashore based at Tern Island, and on the NOAA research boat (as explained in more detail above).

1. Ellen Husain – Director & camera operator.
2. One possible other person from the crew above – name to be confirmed.

**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:**

Insurance documentation attached.  
CEGA Evacuation policy documentation attached.

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

- Vessel  
 Aircraft

Provide Vessel and Aircraft information: MV Searcher.

**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: completed 5/22/12  
 Ballast water, Date: n/a  
 Gear/equipment, Date: n/a  
 Hull inspection, Date completed 5/22/12



**9. Vessel information (NOTE: if you are traveling aboard a National Oceanic and Atmospheric Administration vessel, skip this question):**

Vessel name: Searcher

Vessel owner: the medical foundation

Captain's name: jon littenberg

IMO#:8981884

Vessel ID#:1103056

Flag: us

Vessel type: steel trawler

Call sign: wda6100

Embarkation port: honolulu

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

Length: 96ft

Gross tonnage: 105

Total ballast water capacity volume (m3): n/a

Total number of ballast water tanks on ship: 0

Total fuel capacity: 9600 us gal

Total number of fuel tanks on ship: 6

Marine Sanitation Device: yes, headhunter marine

Type: II

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:

*All black and grey waters shall be stored in storage tanks until our departure from monument waters. All rubbish and recycling shall be securely stored aboard for proper disposal upon our return to Honolulu.*

Other fuel/hazardous materials to be carried on board and amounts:

*Small amounts of gasoline for the outboards on the skiffs, approximately 30 gal.*

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:

*thrane and thrane sailor*

VMS Email: 436998398@c.xantic.net

Inmarsat ID#:4tto92e62b15

\* 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:

*Two of the following: Zodiac mark v (90 horsepower evinrude), Zodiac Mark V (60 hp evinrude), Carolina Skiff (90 hp Honda)*

## **Additional Information for Land Based Operations**

### **11. Proposed movement of personnel, gear, materials, and, if applicable, samples:**

All camera and filming equipment will be brought in to the Monument aboard the MV Searcher, departing Honolulu 15/6/12, arriving French Frigate Shoals 18/6/12.

The Searcher will depart FFS 29/6/12, and return to Honolulu 2/7/12.

During the intervening filming period any shore access will be provided by tenders from the MV Searcher.

If the small crew of 1-2 people stay on at Tern Island (as detailed above) then any movement between Tern and East Island will be by one of the research station tenders.

If the small crew (1 – 2 people) stay on at Tern Island they will depart Tern Island with a paired-down camera kit of (estimated) around 10 boxes on or around June 13<sup>th</sup> July by use of a NOAA research vessel which will then cruise to Midway Atoll, scheduled to arrive on the 21<sup>st</sup> July.

The crew would then fly back from Midway to Honolulu, taking filming equipment with them.

### **12. Room and board requirements on island:**

If the 1-2 person crew stay on at Tern Island then they will need room and board from June 29<sup>th</sup> – July 13<sup>th</sup>, when the NOAA research boat is scheduled to come through.

### **13. Work space needs:**

Some space will be needed for store and access of camera kit boxes (likely estimate 10 large pelican cases /boxes maximum). Bench space or other clean dry space (eg a large table) will be needed for setting up and maintaining cameras between use. Power facilities will be needed for charging camera batteries and for use with computers and hard drives for downloading footage.

#### **DID YOU INCLUDE THESE?**

- Map(s) or GPS point(s) of Project Location(s), if applicable
- Funding Proposal(s) n/a – this project has no funding proposals.
- Funding and Award Documentation, if already received n/a

- Documentation of Insurance, if already received
- Documentation of Inspections
- Documentation of all required Federal and State Permits or applications for permits



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF AQUATIC RESOURCES  
1151 PUNCHBOWL STREET, ROOM 330  
HONOLULU, HAWAII 96813

June 8, 2012

TO: Division of Aquatic Resources File

THROUGH: William J. Aila, Jr., Chairperson *W. J. Aila, Jr.*

FROM: Guy Kaulukukui, First Deputy and Acting Administrator *Guy Kaulukukui*  
Division of Aquatic Resources

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 ELLEN  
HUSAIN, DIRECTOR, BRITISH BROADCASTING CORPORATION, FOR ACCESS TO STATE WATERS TO  
CONDUCT DOCUMENTARY FILMING ACTIVITIES IN THE MONUMENT  
UNDER PERMIT PMNM-2012-039

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 Ellen Husain, Director, British Broadcasting Corporation, for Access to State Waters to Conduct Documentary Filming Activities in the Monument

Permit Number: PMNM-2012-039

Project Description:

The special ocean use 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 15, 2012 through August 31, 2012.

This project is aimed at creating a high-quality wildlife documentary using High Definition film and state-of-the-art camera equipment and technology, which would reach a global audience and highlight the unique and pristine nature of the PMNM and its wildlife. To carry out these activities, the applicant proposes to construct a temporary platform on sandy substrate in shallow water (3-5 m.) near East Island to film specific sequences of interactions between albatross and sharks. The structure would not be in the marine environment for longer than 30 days and all platform materials would be removed at the end of the project. The applicant also proposes to film underwater using a small dive tender. Access to the beach areas of East Island to film

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CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

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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

albatross chicks prior to fledging, adult birds, and frigate birds may occur on a limited basis but only under the direct supervision of Monument staff. The applicant also proposes to film terrestrial wildlife at Tern Island. The applicant would not target or pursue protected species (ie. Monk seals) for filming. All filming activities would occur under the supervision of a Monument staff escort, and any filming of protected species would occur only under the direct supervision of Hawaiian Monk Seal Recovery Program Staff.

The proposed activities are in direct support the Monument Management Plan's priority management needs through action plan 3.5.2 – Constituency Building and Outreach. The Constituency Building and Outreach Action Plan specifies to support efforts to broaden knowledge of and appreciation for Monument resources. Activities to support outreach, including “bringing the place to the people” through filmmaking, such as that to be carried out by the permittee, are addressed in the Monument Management Plan Environmental Assessment. This EA summarizes that engaging Monument constituencies through integrated communications and interactive experiences could result in a beneficial effect on the Monument's natural resources (PMNM MMP Vol 2, p.170).

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 April 25th, 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 § 11-200-8, HAR, including the criteria used to determine significance under § 11-200-12, HAR, 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 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. § 11-200-7, HAR. This permit does not involve an activity that is precedent to a later planned activity.
2. The Exemption Class for Basic Data Collection 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. §11-200-8(A)(5), HAR, specifically 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 filming activities here appear to fall squarely under the exemption class #5, exempt item #4 as described under the former Fish and Game Division exemption list published in January 19, 1976. Filming is considered data collection. As discussed below, no significant disturbance to any environmental resource is anticipated in either the filming of Monument resources. 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.” § 11-200-8(B), HAR. To gauge whether a significant impact or effect is probable, an exempting agency must consider every phase of a proposed action, any expected primary and secondary consequences, the long-term and short-term effects of the action, the overall and cumulative effect of the action, and the sum effects of an action on the quality of the environment. § 11-200-12, HAR. Examples of actions which commonly have a significant effect on the environment are listed under § 11-200-12, HAR.

Since the designation of the Monument, seven filming and photography projects have been undertaken to date in State waters. There were no deleterious effects from the previous projects. Permittees conducting these activities are always escorted while in the field and no collections are allowed. 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 proposed activities would be conducted from the MV SEARCHER (permitted under the Co-Trustee permit, PMNM-2012-001), tentatively scheduled to depart on June 15, and arrive and remain at FFS until July 1. This would be the only activities taking place from the ship. During this time frame, however, the NOAA Ship OSCAR ELTON SETTE (PMNM-2012-008) may also be in the Monument. The following table lists the activities that are anticipated to take place on this cruise pending approval of permit applications.

**Table 1. Concurrent projects aboard NOAA SHIP OSCAR ELTON SETTE.**

Permit	Purpose and Scope	Location
PMNM-2012-008 Dreflak	The permit allows NOAA Ship OSCAR ELTON SETTE entry into PMNM. Personnel aboard the vessel will be permitted under separate permits.	Nihoa, Mokumanamana, FFS, Laysan, Lisianski, Pearl and Hermes, Kure

Permit	Purpose and Scope	Location
PMNM-2012-001 Co-Trustee	The permit allows facilitation for the needs of the monk seal field camp and to do marine debris work	All locations
PMNM-2012-013 Parrish/ Van Atta (proposed)	The proposed action is conduct selected removal of predatory sharks from Hawaiian monk seal pupping sites at French Frigate Shoals.	FFS
PMNM-2012-042 Correa (proposed)	The proposed action is to 3D imagery at Midway atoll	Midway

None of the activities on this cruise overlap with the documentary activities that are being proposed by the Applicant, since none of the other proposed activities are filming wildlife. The 3D imagery that is being collected by Correa (PMNM-2012-042) occurs during the same time, but is at a completely different location than the Applicant.

The culmination of these permits, and their disparate activities, occurring throughout the Monument over a 2-week period, is not anticipated to have significant cumulative impacts. 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. 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 filming 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.

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WILLIAM J. AILA, JR.  
Chairperson, Board of Land and Natural Resources

\_\_\_\_\_  
Date