

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

August 10, 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 Solomon Enos, Individual Artist, for Access to State Waters to Conduct Art and Photographic 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 Solomon Enos, Individual Artist, 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 observational 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:

- Nihoa Island
- Necker Island (Mokumanamana)
- French Frigate Shoals
- Gardner Pinnacles
- Maro Reef
- Laysan Island
- Lisianski Island, Neva Shoal
- Pearl and Hermes Atoll
- Kure Atoll

The activities covered under this permit would occur between September 1, 2012 and August 31, 2013.

The activities being proposed are similar to other work previously permitted and conducted in the Monument.

INTENDED ACTIVITIES

The applicant proposes to photograph and sketch areas of the Monument; specifically Nihoa, Mokumanamana (Necker), French Frigate Shoals, Midway and Kure for the purpose of creating a body of fine art to promote the Native Hawaiian cultural significance of the region.

To carry out this purpose, the applicant would swim, snorkel, film, photograph, and sketch within marine and terrestrial areas within the following Special Preservation Areas: Nihoa, Mokumanamana, French Frigate Shoals (Tern Island under direction of Refuge manager on-site), and Kure (under the direction of State Wildlife Sanctuary manager); and the Midway Atoll

Special Management Area (under the direction of the Refuge manager onsite). He would transport various art materials, easels, sketchpads, paint, and draw Native Hawaiian cultural sites, unique reef and terrestrial organisms, and their interconnected relationships, as well as current threats to the PMNM ecosystem. All paints and painting easels would remain on-board the vessel and no easel materials or paints would be brought ashore or disposed of in the Monument. The applicant does not intend to target or film any protected species.

The project would directly benefit the conservation and management of the Monument by increasing ocean ecosystems literacy and promoting stewardship values in line with the Monument Management Plan's (MMP's) Ocean Ecosystems Literacy Action Plan Strategy-1, "mainstreaming Northwestern Hawaiian Islands (NWHI) and ocean ecosystem literacy" (PMNM MMP 2008 Vol. I, p. 287). In addition, the project would also "integrate Native Hawaiian values and cultural information into general outreach and educational programs," as directed in the MMP's Native Hawaiian Culture and History Action Plan 5.1 (PMNM MMP 2008 Vol. I, p. 139).

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

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 June 29th, 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:

*1. What are the applicant's intentions at Nihoa and Mokumanamana specifically? A biological escort (who is familiar with these resources) will need to accompany him, especially since marine bird nesting on these islands will be active during his visit, including the other islands in his request.*

Solomon Enos responded that he would be doing color sketches and studies of objects and environments with the intent to translate them onto a series of box-canvases when he returns to the ship. The amount of access need not be anything beyond what areas already planned to be accessed by the other groups and there does not need to be any special arrangements made for him, unless recommended by the scientists.

*2. I understand the applicant is proposing activities under a special ocean use application, thus allowing for revenue generation (for profit); please confirm that the applicant will abide by PMNM permit reporting requirements calling for the reporting of all revenue generated annually as a result of these activities (sale of artwork).*

Solomon Enos stated that he would abide by the PMNM permit.

*3. If/when requested would the applicant be able to donate one or more artwork pieces for display at PMNM public visitor centers (e.g., Midway and Mokupāpapa Discovery Center in Hilo, HI)?*

Yes, Solomon Enos answered that he would be happy to donate one or more pieces for display.

*4. It would be helpful to understand the research procedures the applicant will use before/during the cruise to identify traditional knowledge specifically related to the Northwestern Hawaiian Islands (NWHI), since he aims to interpret a Native Hawaiian landscape there. In particular, knowing the mythological discourse related to the NWHI could impact his interpretation of biophysical observations.*

Solomon Enos stated that he would attempt to view the environment through the perspective of his ancestors in the attempt to foster another perspective on the experience. To this end, wherever possible, he would be sketching forms, studying color, and tapping into the environment with all his senses.

*5. The applicant states in Findings question 7(a), that he intends to consult with the Office of Hawaiian Affairs (OHA) and the PMNM NOAA Native Hawaiian Program Coordinator. Recommend touching bases/corresponding with these two entities as stated in the application (if this has not already occurred).*

Yes, Solomon says he plans to do this in early August.

*6. The Native Hawaiian Cultural Working Group (CWG) will certainly appreciate this project. Would the applicant be willing to present to the Native Hawaiian CWG either before or after the trip? Or other venue such as the Monument Management Board, on experience/intent, benefit to resources, etc.*

Solomon responds that he would be honored to present to any board or group that would have him, preferably after the trip.

**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.
- The proposed activities are in compliance with the Endangered Species Act.
- The proposed activities are in compliance with Section 106 of the National Historic Preservation Act.
  
- 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 PAPAHAŌNAUMOKUĀKEA MARINE NATIONAL MONUMENT SPECIAL OCEAN USE PERMIT TO SOLOMON ENOS, INDEPENDENT ARTIST, FOR ACCESS TO STATE WATERS TO CONDUCT ART AND PHOTOGRAPHIC ACTIVITIES UNDER PERMIT PMNM-2012-053”)

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 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 Solomon Enos, Independent Artist, 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,



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:** Solomon Enos  
**Affiliation:** Individual Artist

**Permit Category:** Special Ocean Use  
**Proposed Activity Dates:** 09/04/12 - 09/28/12  
**Proposed Method of Entry (Vessel/Plane):** NOAA Vessel Hi'ialakai  
**Proposed Locations:** To be determined based on research team schedule

**Estimated number of individuals (including Applicant) to be covered under this permit:** 1  
**Estimated number of days in the Monument:** 24

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

a.) The proposed activity would...  
Develop a body of artwork (fine art quality)—paintings, sketches and photographs—that comes from and expresses a Native Hawaiian perspective of the NWHI.

b.) To accomplish this activity we would ...  
To accomplish this mission I would be traveling to the Monument aboard the NOAA Ship Hi'ialakai with scientists and other professionals working within the Monument. I would be sketching/working aboard the boat, in the water, and on land when applicable.

c.) This activity would help the Monument by ...  
Providing the Monument with the first ever fine art illustrations and paintings of Papahānaumokuākea from a Native Hawaiian perspective. These images would be used to support a greater understanding of Native Hawaiian culture as it applies to the NWHI, and to promote public awareness of the cultural significance of the region, as well as the unique and fragile living ecosystems of the NWHI.

Because of the close relationship between Native Hawaiians and the NWHI region, many, if not most, of the species to be observed by the methods outlined in this application are of great cultural significance to Native Hawaiians, in spiritual, religious, nutritional, utilitarian, and other ways. The images created from this journey to Papahānaumokuākea will provide a legacy for generations to come and a way for the Monument to build and strengthen bonds with the Native Hawaiian community, and to reinforce the importance of the regions cultural significance as the Monument was inscribed as a mixed, natural and cultural World Heritage Site. It is my hope that an informed public constituency supporting the long-term protection of cultural sites and artifacts, will ensure the long-term sustainability of cultural practices that are dependent upon abundant, healthy marine resources and support further cultural research of the NWHI.

**Other information or background:**

I am a native Hawaiian artist born and raised on the West side of O`ahu, in Makaha Valley. My family is active in the community: my father, Eric Enos, is founder of the Ka`ala Cultural Learning Center; my mother, Shelly Enos, works at the Wai`anae Coast Comprehensive Health Center; my brother, Kamuela Enos, works at MA`O Organic Farms and was recently named as a commissioner for President Obama's Advisory Committee for Asian Americans and Pacific Islanders; my brother, Kanoe Enos, is a social worker; and his twin Kanohe Enos, is an artisan and woodworker who makes indigenous tools and implements. I am proud of my family, and credit them for much of my original inspiration and support in becoming an artist.

I am likely most well-known for three things: being a muralist, being a book illustrator, and being the artist who painted "Kamapua`a." I am less known for but equally proud of being a father, husband, uncle, and intelligent optimist. ([www.solomonenos.com](http://www.solomonenos.com))



**Section A - Applicant Information**

**1. Applicant**

Name (last, first, middle initial): Enos, Solomon

Title: Native Hawaiian Artist

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

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

[REDACTED]

Phone: [REDACTED]

Fax: none

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):**  
Individual Artist

**4. Additional persons to be covered by permit. List all personnel roles and names (if known at time of application) here (e.g. John Doe, Research Diver; Jane Doe, Field Technician):**  
1 TBD

**Section B: Project Information**

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

<input checked="" type="checkbox"/> Nihoa Island	<input checked="" type="checkbox"/> Land-based	<input checked="" type="checkbox"/> Shallow water	<input type="checkbox"/> Deep water
<input checked="" type="checkbox"/> Necker Island (Mokumanamana)	<input checked="" type="checkbox"/> Land-based	<input checked="" 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 checked="" type="checkbox"/> Midway Atoll	<input checked="" type="checkbox"/> Land-based	<input checked="" type="checkbox"/> Shallow water	<input type="checkbox"/> Deep water
<input checked="" type="checkbox"/> Kure Atoll	<input checked="" type="checkbox"/> Land-based	<input checked="" 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:

On board the Hi'ialakai will always be a default location for sketching and artistic work. The water and land based locations will be dependent on the weather during this cruise, and the schedule of the research teams. However, land access is being sought at Nihoa, Mokumanamana, and Midway.

**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:***

We need access to Papahānaumokuākea Marine National Monument in order to provide a culturally-framed artistic expression of the region based on personal experience of the artist. The work created from this journey will assist to bring the place to the people, and to raise awareness of the cultural significance and ecological sensitivity of these remote coral reef ecosystems. The fine art show created from this experience will hang in galleries throughout Hawaii and contacts will be sought to have the show travel internationally. As well, scans and prints will be made of each piece so that the public has the ability to acquire the art and Papahānaumokuākea can use the images in education and outreach materials.

\*Considering the purpose of the proposed activities, do you intend to film / photograph federally protected species? Yes  No

For a list of terrestrial species protected under the Endangered Species Act visit:

<http://www.fws.gov/angered/>

For a list of marine species protected under the Endangered Species Act visit:

<http://www.nmfs.noaa.gov/pr/species/esa/>

For information about species protected under the Marine Mammal Protection Act visit:

<http://www.nmfs.noaa.gov/pr/laws/mmpa/>

**7. Answer the Findings below by providing information that you believe will assist the 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?

In terms of protecting the cultural, natural and ecological integrity of the area, I will be a guest on a NOAA vessel throughout my trip to the Monument. While on the ship I will adhere to all NOAA waste management and environmental safeguarding practices, including snorkel gear disinfection protocols and the freezing of clothes and bags for any land access. For any water access I will always be with PMNM staff and/or Hi'ialakai Crew, and will abide by all in-water PMNM Best Management Practices. For all land access, I understand I will be (hope to be) escorted by authorized PMNM FWS personnel knowledgeable about the unique sensitivities of each island in order to guide our daily activities, and help us create the smallest impact possible on our environment. While on land, I will not move alter or disrupt any sites or natural/cultural resources. Extreme caution will be exercised to prevent negative impact to seabird nesting habitat.

I will not pursue and do not intend to target any protected species for observation purposes, as that is not the project purpose.

Not only will I receive the Native Hawaiian cultural briefing before departure, as required; I also intend to consult with the Office of Hawaiian Affairs (OHA) and the Monument's Native Hawaiian program coordinator on proper conduct while in the NWHI, on cultural sensitivities associated with the proposed activities and locations, and on the applicability of the results of this research to the role of OHA as one of the PMNM management agencies.

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 indirect, secondary and cumulative effects of my visit to the Monument will be positive and will continue to be positive for a long time to come. My intent is for this activity to support or advance the perpetuation of traditional knowledge and ancestral connections of Native Hawaiians to the NWHI, through art. The art created from this experience will educate, inspire and encourage people to care about the NWHI, our global ocean and to appreciate the use and importance of traditional or indigenous knowledge. Given that my sketching and artistic work in general is a non-invasive medium, the cultural and educational benefits of this project vastly outweigh the negligible impacts. By strictly adhering to all PMNM best management practices, I believe this activity can be conducted in a manner compatible with the management direction of Proclamation 8031.

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. There is no practical alternative for an artist to create art about an area without visiting the area and receiving a sense of place. My goal is to produce an authentic body of work that will honor the depth and breadth of Native Hawaiian culture and its expansion in the NWHI for generations to come; this could only be achieved by first having a personal experience of the NWHI and to have made initial sketches on site.

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 end goal of our project will vastly outweigh the adverse impact of our visit to the area. The value of my activity is found in its ability to educate a large audience about the importance of conserving cultural, natural and historic resources—and to see these resources as one—which is how they are seen from a Native Hawaiian perspective. The adverse impacts of my activities will be very minimal, and the public exposure and the extent of the outreach that will occur is very high. I think that the importance of highlighting Papahānaumokuākea in the public's eye will ensure that the protection of this place continues, and that any threats to the integrity of its cultural resources will be taken seriously.

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

The duration of our activity is in accordance with the NOAA cruise I will be on for the project. The schedule will be controlled by the PI but at present the cruise is set to be 24 days.

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

I received my first commission as a sixth grader, illustrating curriculum for younger elementary students at Makaha Elementary, and have been on a roll ever since. Na Akua Hawai'i (The Gods and Goddesses of Hawai'i) published through Bishop Museum Press in 2004 and The centennial edition of The Epic Tales of Hi'iakaikapoliopele, published through Awaiaulu Press in 2006 are a couple of the books I have illustrated. I have also worked for and with many organizations on the West side of the island, including: Makaha Elementary School, Nanakuli Intermediate School, MA`O Organic Farms, Ka`ala Cultural Learning Center, Hoa`aina O Makaha, and Wai`anae Coast Comprehensive Health Center. Each of these organizations has given me an opportunity to see—in concrete ways—the way art, the land, and the people can all take care of and inspire each other. I have also done artwork for The Sheraton Waikiki, Royal Hawaiian Hotel Royal Beach Tower, Aulani - Disney Hawaii Hotel, and other commercial spaces.

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.

I will supply all the necessary artistic materials needed for the project. Transportation, food and lodging will be supplied by the NOAA ship Hi'ialakai and/or PMNM. However, my overall needs are very minimal. In terms of financial resources to mitigate any potential impacts. I will provide necessary documentation shortly after application submission, as stated below in question 9.

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.

My methods will be to sketch in the field and aboard the ship. For water access I will observe and sketch aboard the ship upon my return. Sketching is a non-invasive activity; therefore my impact will be minimal. I may also paint or take photographs but both are also non-invasive. Any paints I use will be water based, non-toxic and nothing will be disposed of without the approval by the PMNM Monument Management Board and using the methods recommended by the Hi'ialakai Commanding Officers/Chief Scientist. I will always be under the direction of a Monument staff member that has years of experience working in the Northwestern Hawaiian Islands. I will defer to their guidance at all times. The Monument's cultural, natural and historic resources will be highlighted in my work, therefore my goals are aligned in that we both want to promote and protect them. In the long term reproductions of the art created from this expedition

will be sold. Specific plans on how, where and the quantity of sales, as well as how sales can support similar accesses in the future, has yet to be determined.

i. Has your vessel has been outfitted with a mobile transceiver unit approved by OLE and complies with the requirements of Presidential Proclamation 8031?  
Our vessell would be the NOAA Ship Hi'ialakai, which as I understand has a working transceiver unit approved by OLE and complies with these requirments.

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

I have been working closely with NOAA in order to responsibly gain access to the Monument and will continue to work closely with all agencies on the Monument Management Board. I am highly experienced (see attached CVs) in the work I do and as a Native Hawaiian I take very seriously my responsibility to act appropriately when travelling in the Monument or the kupuna islands. I have been working closely with NOAA in order to responsibly gain access to the Monument and will continue to work closely with all agencies on the Monument Management Board. I am highly experienced (see attached CVs) in the work I do and as a Native Hawaiian I take very seriously my responsibility to act appropriately when travelling in the Monument or the kupuna islands.

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

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

My goal is to promote the Native Hawaiian significance of the region and its conservation through education. I have successfully achieved similar goals in previous artistic endeavors. In this way, my activity will directly benefit the continued conservation and management of the Monument.

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

The main purpose of our activity is to produce a body of work to educate, and inspire. The work as a whole will specifically highlight the unique resources and qualities of Papahanaumokuakea.

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 will be on a NOAA vessel

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

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

My goal is to promote the ideas of stewardship, and kinship with resources through education. My work as a whole speaks to these same ideas, they have simply been focused on experiences in the main Hawaiian islands. Although the Northwestern Hawaiian Islands are protected from most threats by their status as a Monument, there are still influences beyond the control of local natural resource managers, such as marine debris and climate change, that can affect this ecosystem. By continuing to educate the public, we can raise awareness of global and international threats to locally protected areas. As well, by continuing to raise the awareness of the importance of traditional knowledge and perspectives, we will expand our ability to adapt and mitigate these threats.

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

My aim is to document the cultural and natural resources of the Refuge. This activity will produce a body of fine art that will enhance education and outreach for the public regarding Midway Atoll National Wildlife Refuge.

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

#### **8. Procedures/Methods:**

For water access I plan on going out on the small boats with my sketch pad. I will always work within the schedule and location that the research team's needs dictate. For times I am able to snorkel I will observe and sketch aboard the Hi'ialakai upon my return to the ship; I may use an underwater camera. When on land I will follow all regulations and restrictions that apply within State and US Fish and Wildlife Service Refuges, and will stay with an appointed escort when needed. All sketching will be done in a way as to minimize disturbance to wildlife, and should wildlife appear to notice or be disturbed by my work I will cease activities in that area. I will rely on the direction of the Monument staff research specialist that will be working with us to aid us in avoiding areas that are highly sensitive, and to understand when and where the appropriate places to work are located.

The primary targets for observations and sketching may include:

- Hawaiian archeological sites
- Hawaiian Endemic Species
- Apex Predators
- Unique Reef Organisms (eg: Acropora table corals, southern Japanese fish, ect)
- Healthy coral reef communities
- Management related research activities (eg: predator tagging, coral symbiont research, crustose coralline algae, etc)
- Terrestrial management and restoration activities
- Threats to the ecosystem (eg: marine debris, coral disease, plastic ingestion by marine life, etc)

The initial body of art will be created within the first year post expedition. Pre-cruise meetings will help develop cultural themes and topic areas to address in the sketches while in the NWHI. I will not be bringing easels or paint onto the islands.

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

**10. If applicable, describe how you are collaborating with others in any way to reduce duplicative activities in the Monument or elsewhere?**  
This project is the first of its kind. Previously photographers and other informal artists have visited the Monument but none before have had the intent to document the Native Hawaiian cultural significance or to create through this perspective. The art created from this expedition will provide the Monument with its first collection of culturally-based fine art paintings/images.

**11. List all specialized gear and materials to be used in this activity:**  
Art pencils and brushes, sketch pads, watercolors, water based acrylic paints, painting easel, HD camera.

**12. List all Hazardous Materials you propose to take to and use within the Monument:**  
None

**13. Describe any fixed installations and instrumentation proposed to be set in the Monument:**  
None

**14. List all Applicants' publications directly related to the proposed project:**  
See attached CV for artwork and gallery shows produced by applicant.



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

**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):** Solomon Enos

**2. Specific Site Location(s): (Attach copies of specific collection locations):** Nihoa, Mokumanamana, French Frigate Shoals, Gardner Pinnacles, Laysan, Lisianski, Pearl and Hermes, Midway, and Kure atoll

**3. Other permits (list and attach documentation of all other related Federal or State permits):** We are in process with all permitting at this time. No permits have been granted to date.

**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.** None

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

**5. Time frame:**

Activity start: Sept 4, 2012

Activity completion: September 24, 2012\* subject to change based on NOAA cruise schedule

Dates actively inside the Monument:

From: Sept. 5, 2012

To: Sept 23, 2012\* subject to change based on NOAA cruise schedule

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

Personnel schedule in the Monument: One personnel (Applicant) will be escorted by Monument staff at all times.

**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:**

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

- Vessel  
 Aircraft

Provide Vessel and Aircraft information: NOAA SHIP *Hi'ialakai*

**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):**

N/A

- 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: N/A

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

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: N/A

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: N/A

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

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

This will be provided for by NOAA staff in charge of ship logistics.

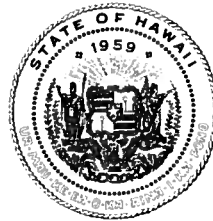
**12. Room and board requirements on island: N/A**

**13. Work space needs:**

**DID YOU INCLUDE THESE?**

- Map(s) or GPS point(s) of Project Location(s), if applicable
- Funding Proposal(s)
- Funding and Award Documentation, if already received
- Documentation of Insurance, if already received
- Documentation of Inspections
- Documentation of all required Federal and State Permits or applications for permits

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



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

August 10, 2012

TO: Division of Aquatic Resources File

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

FROM: Guy Kaulukukui *G. 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  
SOLOMON ENOS, INDEPENDENT ARTIST, FOR ACCESS TO STATE WATERS TO CONDUCT ART AND  
PHOTOGRAPHIC ACTIVITIES  
UNDER PERMIT PMNM-2012-053

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 Solomon Enos, Independent Artist, for Access to State Waters to Conduct Art and Photographic Activities

Permit Number: PMNM-2012-053

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 September 1, 2012 through August 31, 2013.

The project would entail the applicant swimming, photographing and sketching areas of the Monument; specifically Nihoa, Mokumanamana (Necker), French Frigate Shoals, Midway and Kure for the purpose of creating a body of fine art to promote the Native Hawaiian cultural significance of the region.

The project is in direct support of the Monument Management Plan's (MMP's) Ocean Ecosystems Literacy Action Plan Strategy-1, "mainstreaming Northwestern Hawaiian Islands (NWHI) and ocean ecosystem literacy" by increasing ocean ecosystems literacy and promoting stewardship values (PMNM MMP 2008 Vol. I, p. 287). In addition, the project would also "integrate Native Hawaiian values and cultural information into general outreach an educational

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

GUY KAULUKUKUI  
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

programs,” as directed in the MMP’s Native Hawaiian Culture and History Action Plan 5.1 (PMNM MMP 2008 Vol. I, p. 139). Activities to support outreach, including “bringing the place to the people” through filmmaking, photography, and art 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 would 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 June 29th 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 filming and photography, 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 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. HAR §11-200-8.A.5. 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 and photography 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 and photography are considered data collection. As discussed below, no significant disturbance to any environmental resource is anticipated in either the filming or photographing 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.” 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. 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 activities would be conducted from the NOAA Ship HI'IALAKAI (PMNM-2012-009) during its September cruise. The following table lists additional activities that are anticipated to take place on this cruise pending approval of permit applications.

**Table 1. Concurrent Projects Aboard NOAA SHIP HI'IALAKAI**

<b>Permit</b>	<b>Purpose and Scope</b>	<b>Location</b>
PMNM-2012-009 NOAA Ship HI'IALAKAI	The permit allows NOAA Ship HI'IALAKAI entry into PMNM. Personnel aboard the vessel will be permitted under separate permits.	All locations
PMNM-2012-050 Kosaki (approved)	The proposed action is to allow collection of fish and alien invertebrates and deployment of data loggers at mesophotic depths.	All locations
PMNM-2012-038 Anthony (proposed)	The proposed action is to film and photograph natural/cultural elements of PMNM to supplement and update PMNM's cultural briefing video.	All locations
PMNM-2012-029 Lammers (issued)	The permitted action is to deploy and retrieve hydrophone arrays and 4 deep water Ecological Acoustic Recorders (EARs).	All locations



Permit	Purpose and Scope	Location
PMNM-2012-030 Karl (issued)	The proposed action is to allow collection of certain coral and shallow water reef fishes.	All locations
PMNM-2012-041 Winn and Kahng (issued)	The permitted action is to collect seawater samples to measure abiotic marine alkalinity and pH.	All locations
PMNM-2012-050 Meyer (proposed)	The proposed action is to allow collection of specific reef fish and top predator movements	All locations
PMNM-2012-045 Bowen (proposed)	The proposed action is to allow collection of specific reef fish, invertebrate and algal species	All locations

One additional proposed activities, Anthony (PMNM-2012-038), would include filming during this time span and needs to be considered when reviewing this proposed activity. The impacts of these filming and photography activities considered both individually and together would be very minimal. Both activities are targeted at reaching the general public through different techniques- pre access training video, photographs, fine art, sketches, and paintings. As such, it would be fine to have these similar activities occurring concurrently. In addition, the diversity of these filming projects would only serve to enhance efforts to reach broad audiences with information about the Monument and its resources.

The culmination of these permits, and their disparate activities, occurring throughout the Monument over a 4-week period, is not anticipated to have significant cumulative impacts. The M/V Searcher (PMNM-2012-001) would also be in the Monument during this time frame facilitating the Intertidal Biodiversity Cruise with proposed activities by Springer (PMNM-2012-052) and Toonen-Bird (PMNM-2012-049). Since their activities would also occur in the same locations prioritized by Enos, cumulative impacts must be considered. Being that Solomon Enos' activities are purely observational, there would be no cumulative impact issues relating to these three permits overlapping in space and time.

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.  
Board of Land and Natural Resources

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Date