

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

September 14, 2012

Board of Land
and Natural Resources
Honolulu, Hawaii

Request for Approval of Special Activity Permit 2013-14 for
Ms. Marjorie Awai, Disney Vacation Club Hawaii Management Company to Use Small
Mesh Nets to Collect Live Marine Life for Stocking into a Saltwater Swimming Pool

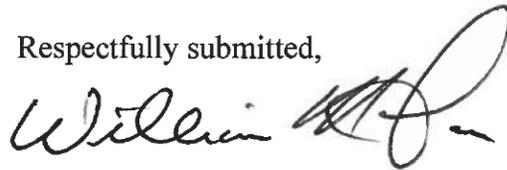
The applicant proposes to conduct activities relating to the use of small mesh nets to collect live regulated and non-regulated marine fish and invertebrate species for stocking into a saltwater swimming pool on the grounds of the Aulani Resort in Ko Olina, Oahu. The use of the small mesh nets is to reduce the physical damage to the fishes collected and the take of undersized fishes is to enable a smoother transition into captivity.

RECOMMENDATION:

Based on the Departments exemption determination (attached) and the application and record in this matter, the Board DECLARES, FINDS, and DECIDES:

- 1) That the actions covered by this permit will have little or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment;
- 2) To delegate the Chairperson to sign the declaration of exemption on behalf of the Board, for purposes of recordkeeping requirements of chapter 343, HRS, and chapter 11-200, HAR; and
- 3) To authorize and approve, with stated conditions, the proposed special activity permit.

Respectfully submitted,



WILLIAM M. TAM
Acting Administrator

APPROVED FOR SUBMITTAL:



WILLIAM J. AILA, JR.
Chairperson

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

September 14, 2012

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

PAUL J. CONRY
INTERIM FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

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

TO: Division of Aquatic Resources File

THROUGH: William J. Aila, Jr., Interim Chairperson

FROM: Robert Nishimoto, Environmental Program Manager
Division of Aquatic Resources

SUBJECT: Declaration of Exemption from the Preparation of an Environmental Assessment under the Authority of Chapter 343, HRS, and Chapter 11-200, HAR, for a Special Activity Permit to Ms. Marjorie Awai, Aulani, Disney Vacation Club Hawaii.

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: Special Activity Permit to Ms. Marjorie Awai, Aulani, Disney Vacation Club Hawaii, for the taking of the regulated marine fishes, for the stocking of a marine display/swim pool at the Aulani Resort, located in Ko Olina, Oahu.

Permit Number: SAP 2013-014.

Project Description: The permit, as described below, would authorize the taking of regulated marine fishes, from September 14, 2012 through September 13, 2013. The taking of regulated undersized marine fishes is prohibited under Chapter 13-95, Hawaii Administrative Rule (HAR). The permit would authorize the taking of certain regulated marine species for stocking in a marine swimming pool that is also an aquarium. The permit would also authorize the use of small mesh barrier nets that are prohibited under section 13-75-14, HAR.

The stocking of certain regulated marine species is to introduce a variety of algae and other benthic grazers into the existing community of marine fishes to help keep the pool clean. The take of undersized specimens is needed because the younger animals adapt better to captivity than adults. The Division staff has visited the site twice since the start of the pool and noted the improvements over the course of the year. The applicant has demonstrated an ability to maintain good water quality and living conditions for marine fish species. The stable ecosystem in the pool is expected to keep the additional regulated species in good condition.

The use of the small mesh nets are needed to reduce the risk of physically damaging the fishes during capture and handling to minimize injury and potential mortalities.

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. Since this permit involves an activity that is precedent to a later planned activity, i.e., the removal and disposal of alien marine algae throughout the permit period, the categorical exemption determination here will treat all planned activities as a single action under § 11-200-7, HAR.
2. The Exemption Class #1 for Maintenance of Existing Facilities with no Serious or Major Environmental Disturbance Appears to Apply. § 11-200-8(a)(1), HAR, exempts the class of actions which involve “maintenance of ... existing ... facilities, involving negligible or no expansion or change of use beyond that previously existing.”

In addition, the activities under consideration are exempt under Exemption Class #1, Exempt Items #7 which include “maintenance of existing parks, fishing areas” Department of Land and Natural Resources, Exemption List for the Division of Fish and Game, approved January 19, 1976.

The proposed maintenance of the pool appears to fall squarely under the exemption classes identified under §§11-200-8(a)(1), HAR, and as described under the 1976 exemption list class items. As discussed below, no significant disturbance to any environmental resource is anticipated. 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.

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 that does not diminish marine resources, qualities, and ecological integrity, or have any indirect, secondary, cultural, or cumulative effects.

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 have a Minimal or No Significant Effect on the Environment. 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 activities covered by this permit will be carried out with strict safeguards for the natural, historic, and cultural resources, other applicable law and agency policies and standard operating procedures.

Conclusion. Upon consideration of the permit to be approved by the Board of Land and Natural Resources, the potential effects of the above listed project as provided by Chapter 343, HRS, and Chapter 11-200, HAR, have been determined to be of probable minimal or no significant effect on the environment and exempt from the preparation of an environmental assessment.

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

Date

Department of Land & Natural Resources
DIVISION OF AQUATIC RESOURCES
1151 Punchbowl Street, Room 330
Honolulu, Hawaii 96813

Date Issued: September 14, 2012

Valid Not Longer Than
One Year From Date Issued

SPECIAL ACTIVITY PERMIT

The Department of Land and Natural Resources hereby grants permission for certain activities involving aquatic organisms belonging to the people of Hawaii, under Section 187A-6, Hawaii Revised Statutes, and other applicable laws.

The Permittees are

Name: Ms. Marjorie Awai Address: Aulani Resort
Title: Professional Aquarist 92-1185 Ali'i nui Drive
Affiliation: Disney Vacation Club Hawaii Kapolei, HI 96707

This permit is issued, subject to the general and special conditions, to use small mesh nets, hook-and-line, and hand collecting, to take regulated and non-regulated marine species, for stocking into a marine pool located at Ko Olina, Oahu.

Common Name	Scientific Name	Number Specimen	Collecting Location
Various regulated and non-regulated marine	See Appendix 1	See Appendix 1	Oahu

I. GENERAL CONDITIONS:

- A. This permit does not make the Department of Land and Natural Resources or the State of Hawaii liable in any way for any claim of personal injury or property damage to the permittee or assistants which may occur during any activity conducted under this permit; moreover, the permittee and all assistants agree to hold the State harmless against any and all claims of personal injury, death or property damage resulting from activities of the permittee or any assistant.
- B. This permit conveys a privilege to engage in only those activities under the jurisdiction of the Department of Land and Natural Resources. The permittee is responsible for complying with all applicable County, State, and Federal requirements. The permit does not convey any privilege of access over or through private property.
- C. The permittee and each assistant are individually responsible and accountable for their actions while conducting activities authorized under this permit; additionally, the permittee is responsible and accountable for the actions of the permittee's assistants.

- D. This permit is not transferable or assignable. Any person whose name does not appear on this permit and is conducting any activity described herein is subject to prosecution for violation of State laws.
- E. The permittee may request changes to the permit. Any such request to make changes to the permit must be made in writing and received by the Department at least thirty days prior to the change. The addition of new assistants will require each individual to sign the Attachment on page 7 stating that they have read, understood, and agree to abide by all general and special permit conditions. No change may be implemented without written approval from the Department.
- F. The permittee may request to:
 - 1. Add assistants to the permit;
 - 2. Add another permittee or replace an existing permittee in the manner stated above; and
 - 3. Change the activities authorized under this permit.
- G. The permittee or their assistant(s) must have with them a copy of this permit while conducting activities authorized by this permit.
- H. This permit authorizes collection of organisms protected by Federal law only with prior appropriate Federal authority, which must be described on Page 1 of this permit (if applicable).
- I. This permit expires on the date indicated on Page 1. Within one month of the expiration date, the permittee must return this permit to the address listed on the upper left corner of page 1 with complete information on all activities authorized under this permit, on the attached Activity Report form.
- J. The permittee and assistants agree to provide access to data obtained under authority of this permit upon request of the Division of Aquatic Resources, and to provide to the Division a copy of each report, published for distribution, prepared with data obtained under this permit. The permittee agrees to provide the Division of Aquatic Resources access to organisms obtained and held under this permit for on-site inspection.
- K. A violation of any terms or condition of this permit or any violation of State law not covered by this permit may result in revocation of the permit and other penalties as provided by law. In addition, the Department may consider any such violation as grounds for denying any future permit applications.

II. SPECIAL CONDITIONS

- A. This permit authorizes the use of hook-and-line, hand, or small mesh nets (barrier and hand nets) to take regulated and non-regulated marine species, the numbers and

species as listed in Appendix 1, to stock a marine swimming pool located at the Aulani Resort in Ko Olina, Oahu.

- B. The collecting locations will be on Oahu, but will be determined with additional consultations with the Division of Aquatic Resources prior to field work, provided that no collections are authorized in any restricted areas.
- C. The use of any chemical substance to collect marine life is expressly prohibited under this permit.
- D. Disposition of collected marine life: Animals that die in captivity may be disposed of at the discretion of the permittee. Non-regulated species may be transferred live to other facilities, either within or outside the State, without notification to the Division. Regulated species may be transferred live to other facilities, either within or outside the State, only upon prior approval by the Division.
- E. The primary permittee and designated assistants are required to obtain permission before entering upon lands or waters not under the jurisdiction of the Department (see "C", General Conditions, page 1 of this permit).
- F. This permit does not by implication authorize the primary permittee or any designated assistant to engage in any other activity that is in violation of any other State, Federal or County law, regulation or ordinance.

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

cc: DOCARE
 Special Agent in Charge, USFWS, Honolulu
 DAR

SIGNATURES AND AGREEMENT

By my signature below, I acknowledge receipt and understanding of the general and special conditions of this Special Activity Permit. Further, I agree to abide by all of these conditions when conducting activities authorized by this permit.

PRINCIPAL PERMITTEES: _____
Ms. Marjorie Awai

DESIGNATED ASSISTANTS:

Signature: _____

Print Name: Jeff Sedon

Signature: _____

Print Name: Kirk Murakami

Signature: _____

Print Name: Eric Curtis

Signature: _____

Print Name: Jane Davis

Signature: _____

Print Name: Darnell Hurst

Signature: _____

Print Name: Therese Hayes

Signature: _____

Print Name: Jacob Madison

Signature: _____

Print Name: Eddie Smith

Signature: _____

Print Name: Raffy Jacinto

Signature: _____

Print Name: Jamie Sawrey

Signature: _____

Print Name: Britney Mosey

Signature: _____

Print Name: Kalei Samson

Signature: _____

Print Name: Whitney Broekstra

Signature: _____

Print Name: Amy Reierson

DESIGNATED ASSISTANTS: (continued)

Signature: _____

Print Name: _____

ACTIVITY REPORT

Results of all activities performed under authority of this permit must be reported on this form (or copies) within one month after the permit expires (see first page). Use as many sheets as you need. Submit the report to the Division of Aquatic Resources at 1151 Punchbowl Street, Room 330, Honolulu, HI 96813.

Date	Location	Common or Scientific Name	Quantity Collected*	Disposition of Specimens
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Permittee Signature

Ms. Marjorie Awai
Printed name

Signature

Date

*If salvaged (collected because the specimen was dead or injured already), please detail circumstances: condition (dead, or describe extent of injury), how or from whom the specimen was obtained.

ATTACHMENT FOR DESIGNATED ASSISTANTS ONLY

Primary Permittee: Ms. Marjorie Awai

I, being the primary permittee, hereby acknowledge the addition of the following designated assistants.

Ms. Marjorie Awai

Date

ADDITIONAL DESIGNATED ASSISTANTS

We, the undersigned, have read, understand, and agree to all conditions stipulated in the above Special Activity Permit.

Signature _____

Print Name: _____

Appendix 1. List of Authorized Species for Taking on Oahu

Common Name	Scientific Name	No. & Size of Specimens	Sexes*	size (TL)
flame angelfish	<i>Centropyge loriculus</i>	0.0.5		1.5-2"
Potter's angelfish	<i>Centropyge potteri</i>	0.0.25		1.5-2.5"
bandit angelfish	<i>Apolemichthys arcuatus</i>	0.0.2		3-4"
speckled butterflyfish	<i>Chaetodon citrinellus</i>	0.0.5		4-5"
bluestripe butterflyfish	<i>Chaetodon fremblii</i>	0.0.2		3-4"
pyramid butterflyfish	<i>Hemitaurichthys polylepis</i>	0.0.25		5"
Achilles tang	<i>Acanthurus achilles</i>	0.0.5		4-5"
Whitespotted surgeonfish	<i>Acanthurus guttatus</i>	0.0.10		8-10"
whitebar surgeonfish	<i>Acanthurus leucoparievus</i>	0.0.10		6-9"
brown surgeonfish	<i>Acanthurus nigrofuscus</i>	0.0.5		4-5"
bluespine unicornfish	<i>Naso unicornis</i>	0.0.5		6-8"
Moorish idol	<i>Zanclus cornutus</i>	0.0.10		4-5"
ornate wrasse	<i>Halichoeres ornatussumus</i>	0.0.10		3.5-5"
yellowtail wrasse	<i>Coris gaimard</i>	0.0.10		4-9"
lined coris	<i>Coris ballieui</i>	1.4.0		8-10"
blackstripe coris	<i>Coris flavovittata</i>	0.0.10		4-6"
Hawaiian cleaner wrasse	<i>Labroides phthirophagus</i>	0.0.2		2-3"
fantail filefish	<i>Pervagor spilosoma</i>	0.0.10		3-4"
palenose parrotfish	<i>Scarus psitticus</i>	0.0.10		5-9"
stareye parrotfish	<i>Calotomus carolinus</i>	0.0.10		5-10"
whitesaddle goatfish	<i>Parupeneus porphyreus</i>	0.0.5		7-8"
white goatfish	<i>Mulloidichthys flavolineatus</i>	0.0.15		7-8"
yellowfin goatfish	<i>Mulloidichthys vanicolensis</i>	0.0.15		7-8"
bandtail goatfish	<i>Upeneus arge</i>	0.0.5		7-8"
whitespotted toby	<i>Canthigaster jactator</i>	0.0.5		2.5-3"
spotted boxfish	<i>Ostracion meleagris</i>	1.1.0		3-4"
thornback cowfish	<i>Lactoria fornasini</i>	0.0.2		3-4"
longnose hawkfish	<i>Oxycirrhites typus</i>	0.0.2		2-3"
redbarred hawkfish	<i>Cirrhitops fasciatus</i>	0.0.10		2-3"
Hawaiian morwong	<i>Goniistius vittatus</i>	0.0.2		4-8"
stripey	<i>Microcanthus strigatus</i>	0.0.10		3-4"
sharpnose mullet	<i>Neomyxus leuciscus</i>	0.0.30		5-7"
iridescent cardinalfish	<i>Apogon kallopterus</i>	0.0.50		2-3"
Bright-eye damselfish	<i>Plectroglyphidodon imparipennis</i>	0.0.40		1.5"
Hawaiian rock damselfish	<i>Plectroglyphidodon sindonis</i>	0.0.5		2-3"
scarface blenny	<i>Cirrhipectes vanderbilti</i>	0.0.10		2-3"
gargantuan blenny	<i>Cirrhipectes obscurus</i>	0.0.5		4-5"
Hawaiian flagtail	<i>Kuhlia xenura</i>	0.0.100		3-4"

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spotted eagle ray	<i>Aetobatis narinari</i>	0.0.3	18-22"
brittlestar	<i>Ophiocoma</i> spp.	0.0.10	4-6"
banded coral shrimp	<i>Stenopus hispidus</i>	0.0.10	1.5-2"
cleaner shrimp	<i>Lysmata amboinensis</i>	0.0.10	1.5-2"
marbled shrimp	<i>Saron marmoratus</i>	0.0.10	1.5-2"
Hawaiian reef lobster	<i>Enoplometopus occidentalis</i>	0.0.5	3-4"
regal slipper lobster	<i>Arctides regalis</i>	0.0.5	3-4"
hairy hermit crab	<i>Aniculus</i> spp.	0.0.5	3-5"
hermit crab	<i>Calcinus</i> spp.	0.0.50	0.5"
hermit crab	<i>Dardanus</i> spp.	0.0.5	2-4"
box crab	<i>Calappa</i> spp.	0.0.5	2.5-3"
Hawaiian pompom crab	<i>Lybia edmondsoni</i>	0.0.5	0.5-1"

*male.female.sex unknown