

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

March 8, 2013

Board of Land  
and Natural Resources  
Honolulu, Hawaii

Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Special Ocean Use Permit to Yasuho Jimbo, Tokyo Broadcasting System (TBS), for Access to State Waters to Conduct Filming Activities

The Division of Aquatic Resources (DAR) hereby submits a request for your authorization and approval for issuance of a Papahānaumokuākea Marine National Monument special ocean use permit to Yasuho Jimbo, Tokyo Broadcasting System (TBS), 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 May 1, 2013 and August 31, 2013.

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

INTENDED ACTIVITIES

The applicant is proposing to film, both video and still, within PMNM for a television series program titled "The World Heritage". This series displays World Heritage Sites in high definition to raise awareness and mobilize resources for these conservation areas.

To conduct this activity, the applicant as part of a 12 person team would enter PMNM aboard Motor Vessel (MV) *Searcher* to gather photographs and film footage, including underwater, of the Monument's natural and cultural resources.

The project would directly benefit the conservation and management of the Monument by

ITEM F-1

bringing the place to the people and 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:

- 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 June 8th, 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, with the associated applicant verbatim responses:

*1. Will the final film product be targeted for audiences in Japan only or will TBS market to other audiences outside of Japan? And if so, what audiences would be targeted?*

We may broadcast it in overseas such as Hong Kong. Our targeted audiences are anyone who's interested in purchasing SONY products which is our exclusive sponsorship.

*2. What is the timeline of releasing the finished film product??*

Still tentative, but plan to broadcast end of October 2012.

*3. How will the applicant discuss the adverse effects of marine debris on wildlife (PMNM) resources? This would be an ideal opportunity to spread the message about plastic pollution in the marine environment, specifically within PMNM as a World Heritage Site?*

We'd like to discuss the adverse effects of marine debris on PMNM. In order to do so, we'd very much appreciate if you could introduce some researchers or provide us some references so we could send out the accurate messages.

*4. The applicant states on page 14, "This may encourage some sponsors to provide financial assistance for conservation activities." Would external (e.g. outside TBS) sponsorship/funding be provided to the applicant to conduct the proposed activities; or is the applicant referring to funding assistance for Monument management and conservation activities? How did past TBS projects influence or encourage support for conservation and management activities in areas where TBS has filmed?*

Since we haven't received the filming permission as yet and we are not certain whether we could visit and conduct our proposal or not, we haven't received any financial assistance from anyone. We have had received funding a few times after broadcasting the program in the past.

*5. Will an English translator be available as part of the film crew to engage communication between Monument staff and the crew members?*

Our coordinator, Mr. Uto will be our English translator.

*6. What type of activities is the applicant proposing to conduct in deep water at Nihoa, Necker, French Frigate Shoals, and Midway? What depths are they referring to and what do they expect to document there?*

We will dive about 50m max in order to film coral reef, endemic fish, and mammals in deep water at Nihoa, Necker, French Frigate Shoals and Midway. We'd like to send the message to viewers that Papahānaumokuākea is the last sacred site for endangered species by filming their ecology.

Here's what we'd like to film at each island's deep water:

Nihoa Island; We understand there's a sea mount undersea. We'd like to film the sea mount as well as coral reef and endemic fish.

Necker Island; Coral reef and endemic fish.

French Frigate Shoals; Ecology of monk seals, sea turtles, coral reef, endemic fish and the world largest table coral.

Midway Atoll; Coral reef and fish. If possible, we'd like to film sunken vessels and planes.

*7. Why is the size of their landing team listed as 10 individuals? What would the role of each individual be while on land?*

After careful consideration, we will have 6 people on landing team.

1. Cameraman
2. Camera Assistant
3. Director
4. Coordinator/Translator
5. Researcher
6. Monument Personnel

*8. General condition number 23 of all PMNM permits states, "All data acquired or created in conjunction with this permit will be submitted with the summary report, and annual report. Photographic and video material is considered data. The permittee retains ownership of any*

*data, (including but not limited to any photographic or video material), derivative analyses, or other work product, or other copyrightable works, but the Federal Government and the State of Hawai'i retain a lifetime, non-exclusive, worldwide, royalty-free license to use the same for government purposes, including copying and redissemination, and making derivative works." The PMNM uses such material for public outreach and educational events to further the conservation and management of the Monument.*

Noted.

*9. Page 3 of the application states that the applicant is proposing to film sunken vessels and planes at Midway Atoll National Wildlife Refuge / Battle of Midway National Memorial. In order to protect U.S. military vessels and aircraft, regardless of the passage of time, a new law requires that archaeological research permits be issued for access to these sites. More information on this law can be found at:*

*[http://www.navy.mil/submit/display.asp?story\\_id=16064](http://www.navy.mil/submit/display.asp?story_id=16064)*

We will act accordingly under the new law and obtain the appropriate permission for filming.

*10. The applicant would be required to follow all applicable Monument Best Management Practices and protocols. A complete list of Monument Best Management Practices can be found here: <http://www.papahanaumokuakea.gov/permit/bestmanagement.html>*

Noted.

*11. Be advised that no albatross will be on the islands during the month of September.*

We will look for some existing footage of albatross to make up for it.

*12. An assigned biological monitor/escort that is approved by the Monument Management Board will be required for access to all islands proposed.*

A biological escort will be on board with us and accompany us to all islands accordingly.

*13. If granted access to both Mokumanamana and Nihoa, a cultural escort will be required on the landing team.*

Understood.

*14. In pages 8-9 of the application (bullet-points #1-4): The applicant states that a "NOAA duty officer" will be accompanying them on land while filming (repeated in other places). Considering the co-management structure of the Monument, this should be clarified as "Monument personnel".*

Noted.

*15. In areas where the vessel would be anchored, the applicant would be required to place the anchor in sand, and to avoid live coral or colonized limestone.*

Understood. Will make sure to place the anchor in sand.

*16. Pending the final determination of filming sites and activities by the Monument Management Board, National Marine Fisheries Service recommends the applicant in coordination with PMNM to use existing footage for atolls and islands other than Midway, and suggests the applicants consider the use of existing footage of monk seals and Endangered Species Act (ESA) or Marine Mammal Protection Act (MMPA) listed species.*

As suggested, we will take into account the idea of using existing footage. However, we'd very much like to film Monk seals on our own. We will promise to act with appropriate manner when we film.

*17. NOAA National Marine Fisheries Service (NMFS) notes that Filming of any protected species must follow wildlife viewing Monument Best Management Practices.*

Understood.

*18. The State of Hawai'i has concern with the species list at the locations provided on page 3 of the application, as several of the species listed are not known from those islands (e.g., there are no Laysan ducks on the islands of Nihoa and Necker).*

Noted.

*19. The State of Hawai'i has concern with presence of the film crew on the more remote islands (Nihoa, Necker) where birds are not accustomed to people and more susceptible to flush from nests and be stressed, and would recommend filming only be allowed from ship at these two sites and that additional footage, if necessary, be obtained from prior filming/photography events on those islands.*

In regards to filming Nihoa and Necker island, our main purpose is to film Native Hawaiian's Monument. We will minimize the impact on birds with monument personnel's assistant.

*20. The NOAA PMNM Office of National Marine Sanctuaries (ONMS), Education and Technology Coordinator would like to discuss with the applicant the possibility to narrow their focus and purchase footage from KGMB/Cousteau, National Geographic, Chris Jordan, British Broadcasting Corporation, or Paliku Films, etc. rather than try to capture their proposed footage all themselves. This would certainly lessen impacts to Monument resources. Contact information:*

*a. Mr. Andy Collins, NOAA NOS ONMS PMNM Education & Technology Coordinator (andy.collins@noaa.gov)*

*b. Ms. Toni Parras, NOAA NOS ONMS PMNM Communications Manager, (Toni.Parras@noaa.gov)*

*Please be sure to also carbon copy (cc) you're PMNM Permit Application Point of Contact to ensure clear communication in regards to your application.*

Noted.

*21. Recommend the applicant conduct background research before entering the Monument in regards to the cultural significance of the place. A good place to start is the PMNM website*

at: <http://www.papahānaumokuākea.gov/heritage/welcome.html>. The applicant does not seem to understand that from the Hawaiian perspective, natural resources are cultural resources.

Understood. Will make sure to conduct background research.

22. The State of Hawai'i, Office of Hawaiian Affairs (OHA) questions whether the applicant might be able to review archived "stock footage" (footage) that is on file from previous accesses to Nihoa, Mokumanana (Necker) and French Frigate Shoals to determine whether this footage might meet the needs of the project. If so, this will eliminate the need for the applicant to access these sensitive areas. Furthermore, OHA has contracted with a separate applicant, Nā'ālehu Anthony to gather HD footage on these same islands. To a certain extent, OHA recognizes why the applicant might want to access Papahānaumokuākea to get an initial sense of this sacred place. Thus, we have no objections to the applicant accessing Midway Atoll to conduct filming activities following any required protocols.

We'd like to see existing footage first and then would like to consider whether we use it or not. We'd definitely like to visit all those 4 islands and receive the permission of filming with monument personnel's assistant.

**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 PAPAHAUNAUMOKUĀKEA MARINE NATIONAL MONUMENT SPECIAL OCEAN USE PERMIT TO YASUHO JIMBO, TBS VISION INC., FOR ACCESS TO STATE WATERS TO CONDUCT PHOTOGRAPHIC ACTIVITIES UNDER PERMIT PMNM-2013-012")

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

If so, please summarize past permits: none.

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 will not permit access to Nihoa and Mokumanamana for this activity and concurs with the special conditions recommended by DAR staff.

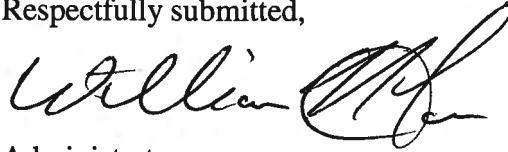
### RECOMMENDATION

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 Yasuho Jimbo, TBS Vision Inc., 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

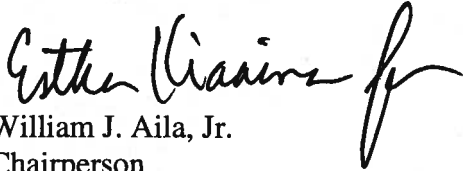
- d. No fishing is allowed in State Waters except as authorized under State law for subsistence, traditional and customary practices by Native Hawaiians.

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](mailto: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:** Yasuho Jimbo

**Affiliation:** TBS Vision Inc.

**Permit Category:** Special Ocean Use

**Proposed Activity Dates:** May 1, 2013 to August 31, 2013 (the dates may vary)

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

Vessel "Searcher" to Nihoa Island, Necker Island and French Frigate Shoals.

Aircraft: Chartered from Honolulu to the Midway Atoll

**Proposed Locations:** Nihoa Island, Necker Island, French Frigate Shoals and Midway Atoll

\*We would like to hire NOAA researchers to show the islands

**Estimated number of individuals (including Applicant) to be covered under this permit:** 16

**Estimated number of days in the Monument:** 15 days

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

a.) The proposed activity would...

Our show, called The World Heritage, is the series of documentary programs, aired in 30-minute weekly slots, feature UNESCO world heritage sites celebrating natural and cultural treasures. Now in its seventeenth year, the series has introduced audiences to over 560 world heritage sites. World heritage sites are priceless assets - gems of the natural world and treasures created by humankind over the course of centuries and we would like to introduce the newly registered location, the Monument.

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

We want to capture three aspects of the Monument, the Hawaiian culture, the marine life and the history and chose four locations, Nihoa Island, Necker Island, French Frigate Shoals and Midway Atoll. The followings are the proposed activities in each location.

Nihoa Island

- Land

The monument of Hawaiian ancestries including Heiiau  
Seabirds (Laysan Duck, Laysan Finch, Nihoa Finch and Nihoa Millerbird)

-Ocean

Marine Life

Necker Island

-Land

The monument of Hawaiian ancestries including Heiiau  
Seabirds (Laysan Duck, Laysan Finch, Nihoa Finch and Nihoa Millerbird)

-Ocean

Marine Life

French Frigate Shoals

-Land

The NOAA research for Hawaiian Monk Seal, Hawaiian Green Sea Turtles, Laysan and Black-footed albatross, Sherewaters, Petrels and Terns

-Ocean

The NOAA research for Hawaiian Monk Seal, Hawaiian Green Sea Turtles, coral reefs

Midway

-Land

Phoebastria nigripes, Phoebastria immutabilis

-Ocean

Sunken vessels and planes

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

Our show captures the world heritages in high definition, helping to reinforce humanity's shared legacy. The programs combine the highest levels of visual quality with compelling narration and inspiring music. We are willing to share any footage upon your request. Moreover, our show has attracted various international buyers and raised awareness of both domestic and international TV viewers and mobilize resources for the world heritage conservation.

**Other information or background:**

**Section A - Applicant Information**

**1. Applicant**

Name (last, first, middle initial): Yasuho Jimbo

Title: Producer

\*Working for TBS Vision Inc since 1993, I have been directing and producing news and documentary shows since 1993.

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

Yasuho Jimbo

TBS Vision Inc.



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

Phone:

Fax:

Email:

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

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

TBS Vision Inc

**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):**

The maximum number is 16

1. Haruki Enatsu  
Director

2. Katsuhito Uto  
Media Coordinator

3. Yuichi Nishi  
Cameraman

4. Kazuo Akutsu  
Cameraman

5. Shuji Hamano  
Cameraman

6. Shigeru Furushima  
Underwater Cameraman

7. Kazumasa Hara  
Underwater Cameraman/ Lighting

8. Satoshi Toyoda  
Underwater Camera assistant

9. Jonathan Littenberg  
Captain

10. Richard Littenberg  
Ship's doctor

11. Kendrick Karas  
Crew

12. Noah nugget  
Crew

13. Gillian wysock

14. Barbara Littenberg  
Cook

15. Sheila Conant (To be confirmed shortly)  
Researcher

16. Another Researcher ( To be confirmed)

**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 checked="" type="checkbox"/> Deep water |
| <input checked="" type="checkbox"/> Necker Island (Mokumanamana) | <input checked="" type="checkbox"/> Land-based | <input checked="" type="checkbox"/> Shallow water | <input checked="" type="checkbox"/> Deep water |
| <input checked="" type="checkbox"/> French Frigate Shoals        | <input checked="" type="checkbox"/> Land-based | <input checked="" type="checkbox"/> Shallow water | <input checked="" 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 checked="" 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:

We are planning to hire NOAA guides or researchers to take us to the most ideal locations for filming if available. Please see the activity description in the summary section.

**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:***

Our show, "The World Heritage", is forged a partnership with UNESCO to film world heritages and has been introduced over 560 sites in last 16 years. We need the newly registered world heritage, Papahānaumokua, to expand our collection.

Please find the referral letter from UNESCO as attached. (Appendix a)

**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?

While filming and staying in the Monument, we will not discharge any waste or material in the Monument in order to protect the natural, cultural, and historic resources of the Monument. In order to ensure that Monument resources are not impacted, we will keep all wastes and materials in the tank on the vessel.

We will not be discharging anything into Monument waters. All waste waters will be stored in holding tanks aboard the Searcher for disposal upon our exiting of Monument waters. All other waste shall be stored appropriately aboard the Searcher for disposal or recycling upon our return to Honolulu.

The maximum number on the vessel is 16 people.

1. Nihoa Island

- Panoramic shot from the vessel
- Filming Monument of Native Hawaiian on land with an instruction by a researcher/NOAA duty officer.
- Underwater filming around the island by Scuba diving.

2. Mokumanamana Island

- Panoramic shot from the vessel
- Filming Monument of Native Hawaiian on land with an instruction by a researcher/NOAA duty officer.
- Underwater filming around the island by Scuba diving.



### 3. French Frigate Shoals

- Panoramic shot from the vessel
  - Filming ecosystems such as Hawaiian Monk Seal from the vessel as well as by scuba diving.
  - Filming endemic birds from the vessel as well as on land.
  - Filming coral reef and fish ecologies by scuba diving.
- \*All filming will accompany a researcher or NOAA duty officer.

### 4. Midway atoll

- We will get there by a charter flight from Honolulu.
- Filming the sea bird colony, nature of atoll on land with an instruction by a researcher/NOAA duty officer.

For cultural, natural and historical resources of a Monument, a specialist/expert or the official of NOAA will accompany all the filming, and we will act appropriately according to their directions.

In regards to the filming the Monument from the vessel Searcher, this boat has numerous experiences of visiting protected areas to research and film many cultural and natural sites. We made sure to choose the vessel which has never caused any accidents or damages the sites in the past.

Hawaii is one of the most popular destinations for Japanese in many decades. Broadcasting this Native Hawaiian culture brings more understanding of their ideas of Hawaii and its culturally and naturally valuable world heritage.

We expect more Japanese to visit Hawaii after watching our program and hope some tourism revenues could be useful for some conservation work of PMNM.

We believe our program could contribute such supports to the site.

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?

We would like to film this valuable Monumen to enhance awareness of importance of the world heritage property which shall inherit to our future generations.

We are enhancing awaraeness of importance of the world heritage property by airing the progem through one of the most popular terrestorial channels, TBS. (Tokyo Broadcasting Television)

Broadcasting this wonderful world heritage will certainly encourage viewers for education of conservation activities. Also, this will encourage our children of the future for protecting nature

and natural resources. This may encourage some sponsors to provide financial assistance for conservation activities.

Moreover, if the Monument is suffered from natural disasters, our footage will certainly useful for restoration efforts.

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

We are specialized for filming the World Heritages around the world. Conducting our activity within the Monument with our experienced knowledge of filming the World Heritages around the world will bring down the valuable footage to our future generations.

We are one of the most experienced filming companies that has been conducting filming activities around the world and produce the highest level of quality and provide highest level of safety.

UNESCO often asks us for copies of our footage for their special events and conferences considering our high quality of filming technique.

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 value of the activity is to film and enhance awareness of this important and valuable Monument to our future generations.

We promise we would not give an adverse impacts to the Monument's cultural, natural and historic resources.

Please note during our 17 years experiences, we have never damaged to the natural heritages, the cultural heritages, the Monuments, the buildings, the sites, qualities of integrity of World Heritage sites nor caused any sort of trouble during our stay within the sites.

The end value of the proposed activities is to bring down the valuable footage of PMNM to the next generations for their educations.

Our target audiences are between teenagers to 60s.

The following is the list of other films we have produced for other world heritage sites which consequently have produced great values.

- Bwindi Impenetrable National Park (Uganda)  
Introduced Gorilla Trekking within our program.

Revenue increase by increased trekking visitors was certainly a great help for Gorilla conservation activities.

- Bamiyan Valley (Afghanistan)

We filmed and covered the Buddha before Taliban blew it up in 2001.

Our footage will certainly be valuable and useful for its restoration work in the future.

- Citadel, Sans Souci, Ramiers (Haiti)

We filmed this world heritage right before 2010 Haiti earthquake.

We asked viewers their contributions within the program to provide them its reconstruction assistance.

- Sacred city of Caral-Supe (Peru)

We donated funds for the excavation and research for its monument/ruins.

- Everglades National Park (United States)

We covered its danger of the development and encouraged our viewers for conservation activities of Japanese world heritage sites.

- Bam and its Cultural landscape (Iran)

We covered its danger of collapsing by the earthquake and encouraged our viewers for conservation activities of Japanese world heritage sites.

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

We'll need a director, a cameraman, a camera assistant, a coordinator as well as a researcher/NOAA duty officer in order to film the monument. This is the minimum number of filming staff for land filming.

We request 15 days total to conduct the proposed activities.

Day 1: Oahu island to Nihoa island

Day 2: Filming Nihoa island

Day 3: Filming Nihoa island, to Mokumanamana island

Day 4: Filming Mokumanamana island

Day 5: Filming Mokumanamana island, to French Frigate Shoals

Day 6: Filming French Frigate Shoals

Day 7: Filming French Frigate Shoals

Day 8: Filming French Frigate Shoals

Day 9 : Filming French Frigate Shoals  
Day 10: Filming French Frigate Shoals, to Honolulu  
Day 11: To Honolulu  
Day 12: to Midway by chartered aircraft  
Day 13: Filming Midway Atoll  
Day 14: Filming Midway Atoll  
Day 15: Filming Midway Atoll, to Honolulu

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

The applicant, TBS Vision Inc, is one of the largest TV production companies in Japan. From special programs on travel, nature, and history to social and cultural informational programs, gossip shows, documentaries, and shopping programs, TBS-Vision produces TV programs in a wide variety of genres since 1955. TBS Vision will employ the vessel crew members and pay for the use of the vessel, Searcher and members.

The following list is other protected areas we have filmed successfully in the past as well as the durations of filming within those areas.

1. Tongariro National Park (New Zealand) 3/21-3/31/2012
2. The Greater Blue Mountains Area (Australia) 4/1-4/10/2012
3. Ningaloo Coast (Australia) 4/10-4/20/2012
4. Teide National Park (Spain) 3/12-3/22/2012
5. Galapagos Islands (Ecuador) 2/15-3/15/2012
6. Kinabalu Park (Malaysia) 2/1-2/10/2012
7. Kilimanjaro National Park (United Republic of Tanzania) 1/15-1/25/2012
8. Kahuzi-Biega National Park (Democratic Republic of the Congo) 1/26-2/3/2012
9. Lake Malawi National Park (Malawi) 2/4-2/14/2012
10. Central Highlands of Sri Lanka (Sri Lanka) 1/29-2/8/2012
11. Cerrado Protected Areas: Chapada dos Veadeiros and Emas National Parks (Brazil) 10/29-11/10/2011
12. Yakushima (Japan) 10/01-10/10/2011
13. Lake Turkana National Parks (Kenya) 08/18-08/28/2011
14. Pitons, cirques and remparts of Reunion Island (France) 08/29-09/10/2011
15. Jungfrau-Aletsch-Bietschhorn (Switzerland) 08/03-08/13/2011
16. Cape Girolata, Cape Porto, Scandola Nature Reserve and the Piana Calanches in Corsica (France) 08/14-08/24/2011
17. Gros Morne National Park (Canada) 07/01-07/10/2011

18. Nahanni National Park (Canada) 07/10-07/20/2011
19. Ogasawara Islands (Japan) 06/20-06/30/2011
20. Sagarmatha National Park (Nepal) 04/12-04/30/2011
21. Mount Kenya National Park / Natural Forest (Kenya) 3/24-4/5/2011
22. Tsingy de Bemaraha Strict Nature Reserve (Madagascar) 4/6-4/16/2011
23. Rainforests of the Atsinanana (Madagascar) 4/17-4/27/2011
24. Lake Baikal (Russian Federation) 03/19-03/29/2011
25. Pantanal Conservation Area (Brazil) 2/28-3/10/2011
26. Carlsbad Caverns National Park (United States of America) 8/23-9/4/2010
27. Waterton Glacier International Peace Park (Canada & U.S.A.) 9/5-9/15/2010
28. Ibiza, biodiversity and culture (Spain) 7/21-7/23/2010
29. Huascarán National Park (Peru) 7/18-7/28/2010
30. Kaziranga National Park (India) 04/18-4/28/2010

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.

TBS Vision Inc. capitalized at 100 million yen and currently has 115 employees. Please see attached company profile for more details.

In last 16 years since our show started, we have never caused any accidents or received claims. Also, our latest project in the Pacific Ocean was filming Bikini Atoll and completed without any adverse impacts. Our team consists of the most experienced professionals in Japan, and we are confident to conduct the activity with appropriate manners.

Please see the details of insurance that was sent by attached file before which will be used to mitigate any potential impacts resulting from the conduct of proposed activities.

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.

In order to achieve the proposed activity's goal, we'll film the Monument by high vision camera, and also underwater high vision camera. 4 or 5 crew members will be filming at one time. We will follow the instructions from NOAA guidelines and researchers and we will pay adequate attention to film the natural environment.

To conduct the proposed activities, we will have 3 individual teams.

1. Underwater filming crew 3 People (An underwater cameraman, an underwater lighting, a cameraman assistant)
2. Onshore (on land) filming crew 5 people (A director, a cameraman, a camera assistant, a coordinator, a researcher/NOAA duty offer)
3. Onboard filming crew 2 People (a cameraman, a researcher)

Other crew members on the vessel will not be on land.

Please see the photographs of filming equipments attached to the e-mail.

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

Searcher is a thrane and thrane sailor unit, isn# 4TT092E62B15. We will be conducting our rat and hull inspections prior to departure and will submit them to the monument office.

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

No one who will be involved in the porposed activies has never committed a violation within a protected area.

#### 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?

Broadcasting this wonderful world heritage will certainly encourage viewers for education of conservation activities. Also, this will encourage our children of the future for protecting nature and natural resources. This may encourage some sponsors to provide financial assistance for conservation activities.

Moreover, if the Monument is suffered from natural disasters, our footage will certainly useful for restoration efforts.

We will submit the film footage when requested, however the ownership of the footage will be retained by TBS Vision, Inc.

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

Yes. It is related.

Please see the Letter of Support by UNESCO previously provided to understand how our activities have been demonstrating to show the resources and qualities of the monuments.

- 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

please see attached latest insurance certificate.

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

- n. Does the activity further the conservation and management of the Monument?

Yes. Please see the answer to the question "k".

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

We are seeking to broadcast wildlife and historic resources in the Midway Atoll. Our advanced filming skills and technologies will help to achieve one of the Monument's goal of bringing the place to the people rather than the people to the place and raise public awareness of the importance and sensitivity of the biological, historic and cultural importance of Midway.

**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:**

Possible methods for filming are walking, climbing, wading, swimming, snorkeling, SCUBA diving, and boating.

We need to enter a seabird colony and need access to beaches. Night time shooting is not necessary.

We will request assistance from Monument staff for knowledge and data and reward them with the appropriate compensation.

**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 find attached. (Appendix b)

The expiration date is February 21, 2012. It is an annual contract and will be renewed for another year. We will submit the copy of the latest certificate upon your request after the current expiration date

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

We don't have any affiliations to collaborate with so far. However, it is possible if we receive the offer to help our filming.

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

Please find attached. (Appendix c)

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

No

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

No

**14. List all Applicants' publications directly related to the proposed project:**

We have filmed over 560 world heritages and 74 DVDs have been released in Japan. Please find attached for the detail. (Appendix d)

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

神保春步

Date

2013 / 02 / 15



**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):** Film Crew: Haruki Enatsu, Director; Michael Hahn, Media Coord; Yuichi Nishi, Cameraman; Kazuo Akutsu, Cameraman; Shuji Hamano, Cameraman; Shigeru Furushima, Underwater Cameraman; Kazumasa Hara, Underwater Cameraman/ Lighting; Dr. Sheila Conant, Researcher; Monument Escort, TBD.  
MV Searcher Vessel Crew: Jonathan Littenberg, Captain; Richard Littenberg, Doctor; Kendrick Karas, Crew; Noah nugget, Crew; Gillian Wysock, Crew; Barbara Littenberg, Cook.

**2. Specific Site Location(s): (Attach copies of specific collection locations):** French Frigate Shoals, Nihoa, Necker, Midway

**3. Other permits (list and attach documentation of all other related Federal or State permits):** None

**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):** Tokyo Broadcasting System (TBS) Vision

**5. Time frame:**

Activity start: May 2013

Activity completion: August 2013

Dates actively inside the Monument:

From: TBD

To: TBD (15 days maximum in the Monument)

Describe any limiting factors in declaring specific dates of the proposed activity at the time of application: Vessel availability and weather.

Personnel schedule in the Monument: TBD

**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: 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):**

Will be scheduled.

- 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: MV Searcher

Vessel owner: THE MEDICAL FOUNDATION FOR THE STUDY OF THE ENVIRONMENT

Captain's name: Jonathan Littenberg

IMO#: 192

Vessel ID#: U.S. Coast Guard 1103056

Flag: U.S.

Vessel type: Steel Hull

Call sign: WDA 6100

Embarkation port: Honolulu

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

Length: LOA 96 FT/REGISTERED 78.1 FT  
Gross tonnage: 197  
Total ballast water capacity volume (m3): N/A  
Total number of ballast water tanks on ship: N/A  
Total fuel capacity: 9600 Gallons  
Total number of fuel tanks on ship: 6  
Marine Sanitation Device: YES  
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 materials and fluids shall be properly stored in the holding tanks while the vessel is in monument waters and will be properly disposed of upon our exit from the monument.

Other fuel/hazardous materials to be carried on board and amounts: Approximately 30 gallons of unleaded fuel in jerry cans for use in the skiffs

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: VESSEL MONITORING SYSTEM - THRANE & THRANE SAILOR TT-3606XP

VMS Email: 436998398@c12.stratoemobile.net  
Inmarsat ID#:4TT072E62B15 Contact:Jonathan Littenberg(808.225.8982) or Barbara Littenberg(808.221.6156)

\* Individuals MUST ENSURE that a type-approved VMS unit is installed and that its automatic position reports are being properly received by the NOAA OLE system prior to the issuance of a permit. To make sure your VMS is properly configured for the NOAA OLE system, please contact NOAA OLE at (808) 203-2503 or (808) 203-2500.

\* PERMITS WILL NOT BE ISSUED TO INDIVIDUALS ENTERING THE MONUMENT VIA VESSEL UNTIL NOAA OLE HAS CONTACTED THE MONUMENT PERMIT COORDINATOR WITH A 'POSITIVE CHECK' READING.

#### **10. Tender information:**

On what workboats (tenders) will personnel, gear and materials be transported within the Monument? List the number of tenders/skiffs aboard and specific types of motors:

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

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

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

**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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

March 8, 2013

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

ESTHER KIA'AINA  
FIRST DEPUTY

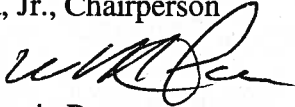
WILLIAM M. TAM  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING

FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

TO: Division of Aquatic Resources File

THROUGH: William J. Aila, Jr., Chairperson

FROM: William Tam   
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  
YASUHO JIMBO, TBA VISION INC., FOR ACCESS TO STATE WATERS TO CONDUCT FILMING  
ACTIVITIES UNDER PERMIT PMNM-2013-012

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 Yasuho Jimbo, TBA Vision Inc., for Access to State Waters to Conduct Filming Activities

Permit Number: PMNM-2013-012

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 May 1, 2013 through August 31, 2013.

The project would entail that the applicant and up to 11 additional persons (his film and vessel crew) enter PMNM and conduct filming activities on land and underwater at Nihoa and Necker Islands, French Frigate Shoals, and Midway Atoll. All activities would be conducted under the guidance of a designated Monument escort. The filming activities would culminate with the production of a PMNM film as part of his series on World Heritage sites that would reach a broad audience.

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

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(NWHI) and ocean ecosystem literacy” by increasing ocean ecosystems literacy and promoting stewardship values (PMNM MMP 2008 Vol. I, p. 287). Activities to support outreach, including “bringing the place to the people” through filmmaking and photography, as well as the television series programming 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 8th 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 raise sensitive concern for land access to Nihoa and Mokumanamana. As such, this activity will not be permitted access to these areas. The now limited permitted activity 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 M/V Searcher, permitted in conjunction with Jimbo’s permit.

No additional cruises and proposed activities that would include filming during potentially when Jimbo is in PMNM and thus there is no anticipated cumulative impacts from this activity. In addition, it is likely that Jimbo will coordinate with prior permittees to share footage, eliminating the need for him to visit the uninhabited islands altogether and minimize his activities within PMNM.

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.



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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