

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

September 27, 2013

Board of Land
and Natural Resources
Honolulu, Hawaii

Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Special Ocean Use Permit to Mr. Na‘alehu Anthony, Paliku Films, for Access to State Waters to Conduct Filming of Natural and Cultural Elements 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 Mr. Na‘alehu Anthony (Applicant), Director and Photographer, Paliku Films, 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 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
- Mokumanamana (Necker Island)
- French Frigate Shoals

The activities covered under this permit would occur between October 1, 2013 to September 30, 2014.

The Applicant and proposed filming of natural and cultural elements are largely a renewal of work previously permitted in the Monument.

INTENDED ACTIVITIES

The Applicant proposes to film and photograph natural and cultural elements of the Monument on land and in the water around Nihoa Island, Mokumanamana, and French Frigate Shoals (Tern Island). The Applicant and four (4) film crew members, including one US Fish and Wildlife Service (USFWS)-approved escort, would use the M/V SEARCHER (separately permitted under permit number PMNM-2013-001) as a support platform between October 4 to 15, 2013. Personnel would camp overnight on Tern Island (restricted to the runway only) for up to one (1)

night, and camp overnight on Nihoa Island and Mokumanamana for up to three (3) nights on each island using minimal camp gear (sleeping mats and tarps). No tents would be used and camp sites would not be located in areas where seals and sea turtles are present. In addition to conducting activities on land, the Applicant would conduct filming and photography activities in shallow marine environments (less than 100 ft in depth) by free-diving at all three island locations.

The Applicant's primary intent for this project would be to use film and photographs from these locations to be used in a new Monument Native Hawaiian cultural briefing video, which is used to supplement live briefings currently conducted by cultural experts for permittees prior to entry into the Monument.

In order to reduce human impacts to Nihoa Island, the Applicant would abide by Monument Best Management Practices for Activities on Nihoa Island that specify camping protocols, protocols to reduce impacts to cultural and natural resources, and human presence restrictions (overnight camping is restricted to no more than five (5) individuals). All activities would be under the direct supervision of a designated Monument biological escort. Beach access at Nihoa Island would be prohibited and landing on all islands (including Nihoa Island, Mokumanamana, and Tern Island) would only occur in the intertidal zone when no Hawaiian monk seals and sea turtles are present at the landing sites. The Applicant does not intend to approach or film protected species, however, the applicant proposes to conduct filming activities in Hawaiian monk seal critical habitat and in areas where seals and sea turtles are present.

The activities proposed by the Applicant directly support the Monument Management Plan's (MMP) priority management needs through Ocean Ecosystem Literacy Action Plan (Strategy OEL-2: Develop and implement new tools to "bring the place to the people" (MMP Vol. 1, p290, 2008)). The Applicant would obtain photographs and high definition film to update the Monument's Native Hawaiian cultural briefing video for educating permitted personnel entering the Monument on the cultural significance of the Monument. These activities fit into this Strategy because the video produced would engage a broad and diverse audience. Images obtained from the activity would be used to educate the general public on the importance of the Monument through short video segments for local television programs. The Applicant does not anticipate generating revenue above and beyond covering expenses.

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 August 2, 2013, 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. No concerns were raised.

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. No concerns were raised.

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:

- An informal consultation pursuant to Section 7 of the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. §1531 *et seq.*) was initiated on August 12, 2013 and the National Marine Fisheries Service (NMFS) concurred with National Ocean Service Office of National Marine Sanctuaries (NOS ONMS) determination that the proposed action may affect, but is not likely to adversely affect ESA-listed marine species, including Hawaiian monk seals (*Monachus schauinslandi*), green sea turtles (*Chelona mydas*), and hawksbill sea turtles (*Eretmochelys imbricata*), and is not likely to adversely affect designated monk seal critical habitat (NMFS letter of concurrence received August 23, 2013). The NMFS determination was based on the finding that the effects of the proposed action are expected to be insignificant, discountable, or beneficial as defined in the joint USFWS-NMFS Endangered Species Consultation Handbook¹.
- A coordination and consultation letter pursuant to section 106 of the National Historic Preservation Act of 1966 (NHPA), as amended (16 U.S.C. §470f) was initiated on August 1, 2013 with the State of Hawai'i Historic Preservation Division (SHPD). ONMS requested concurrence with the determination that no adverse impacts are anticipated on historic properties for project activities summarized above including filming and photography. Consultations were also initiated with the Office of Hawaiian Affairs (OHA), Hui Mālama I Na Kūpuna O Hawai'i Nei, the Kamakākūokalani Center for Hawaiian Studies, and the Monument's Native Hawaiian Cultural Working Group. Following a review period extending 30 days, the SHPD office concurred that the

¹ USFWS and NMFS. 1998. Endangered Species Consultation Handbook. Procedures for Conducting Consultation and Conference Activities Under Section 7 of the Endangered Species Act.
http://www.nmfs.gov/pr/pdfs/laws/esa_section7_handbook.pdf

proposed activities have no adverse impact on historic properties, as the activities consist of non-invasive filming and photography of natural and cultural resources.

- 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 MR. NA‘ALEHU ANTHONY, PALIKU FILMS, FOR ACCESS TO STATE WATERS TO CONDUCT FILMING OF NATURAL AND CULTURAL ELEMENTS ACTIVITIES UNDER PERMIT PMNM-2013-026”)

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

If so, please summarize past permits:

- The applicant was granted permit PMNM-2012-038 in 2012 to conduct similar work.

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:

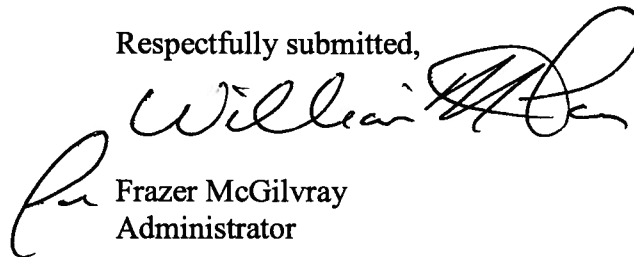
The MMB is of the opinion that the Applicant has met the findings of Presidential Proclamation 8031 and this activity may be conducted subject to completion of all compliance requirements. The MMB concurs with the special conditions recommended by DAR staff.

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 Mr. Na'alehu Anthony, Paliku Films, with the following special conditions:
 - a. To prevent introduction of disease or the unintended transport of live organisms, the permittee must comply with the disease and transport protocol attached to this permit.
 - b. Tenders and small vessels must be equipped with engines that meet EPA emissions requirements.
 - c. Refueling of tenders and all small vessels must be done at the support ships and outside the confines of lagoons or near-shore waters in the State Marine Refuge.
 - d. No fishing is allowed in State Waters except as authorized under state law for subsistence, traditional, and customary practices by Native Hawaiians.
 - e. If there is any Hawaiian monk seal or any other protected species in the area when performing any permitted activity shall cease until the animal(s) depart the area, except as permitted for specific management of that species.
 - f. For all activities requiring landing on uninhabited islands an authorized staff escort trained for each particular inhabited island will be included on the landing team.

Respectfully submitted,


Frazer McGilvray
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: Na'alehu Anthony

Affiliation: Paliku Documentary Films DBA moe aku productions LLC

Permit Category: Special Ocean Use

Proposed Activity Dates: October 1, 2013 - September 30, 2014

Proposed Method of Entry (Vessel/Plane): MV Searcher

Proposed Locations: Nihoa, Mokumanamana, French Frigate Shoals and their near shore waters.

Estimated number of individuals (including Applicant) to be covered under this permit: 4

Estimated number of days in the Monument: 30

Description of proposed activities: (complete these sentences):

- a.) The proposed activity would...
be videotaping animals and cultural sites to use for a new cultural briefing video that would be used to help PMNM visitors further understand the cultural richness of the region.
- b.) To accomplish this activity we would
shoot video in as many terrestrial sites that we can gain access to via a NOAA sponsored cruise.
- c.) This activity would help the Monument by ...
Providing for a product that can be used by all the orgs and people who enter PMNM by informing them about the cultural heritage that is preserved there.

Other information or background: The applicant was allowed on a NOWRAMP cruise in 2002 as the terrestrial photographer. The material that was captured in the 3 week voyage has proven invaluable for numerous video projects about the region over the past 10 years. This material needs to be refreshed in order to keep the footage relevant for future projects. As such, the applicant captured HD video footage of some of the island/atoll areas of PMNM in 2012 under PMNM-2012-038, however, due to weather conditions creating hazardous conditions, the

applicant was not able to capture all the necessary HD footage. We will be working with OHA and other partners to be able to generate enough resource to be able to cover the time that we are there, the media management time, the equipment and clothing expense and the edit time needed to build these particular described products. The applicant does not anticipate making any money above and beyond covering expenses.

Section A - Applicant Information

1. Applicant

Name (last, first, middle initial): Anthony, Na'alehu, K.

Title: Director and Photographer

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

Na'alehu K. Anthony

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

██████████

████████████████████

████████████████

████████████████████████████

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

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

Paliku Documentary Films, DBA Moe Aku Productions LLC

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):

Nā'ālehu Anthony, Director and Photographer

'Āina Paikai, Photographer

Scott Kanda, Photographer

Biological Monitor, TBD

Papahānaumokuākea Marine National Monument
Permit Application – Special Ocean Use
OMB Control # 0648-0548
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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 type="checkbox"/> Midway Atoll	<input type="checkbox"/> Land-based	<input type="checkbox"/> Shallow water	<input type="checkbox"/> Deep water
<input type="checkbox"/> Kure Atoll	<input type="checkbox"/> Land-based	<input type="checkbox"/> Shallow water	<input type="checkbox"/> Deep water
<input type="checkbox"/> Other			

Ocean Based

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

Location Description:

The applicant and team are planning to be berthed on MV Searcher on one of its cruises. They understand that they will be subject to the needs of the cruise, the others on board, weather, and other conditions that cannot be planned for, and therefore will take as much land time as can be given. Applicant would like to spend as much time as possible on Nihoa and Mokumanana but also be able to shoot material on all the atolls and basalt islands that are scheduled for stops by MV Searcher. Daytime activities will include recording images of the terrestrial landscapes that exist. Overnight activities include setting up a timelapse camera at the campsite. Campsite location on Nihoa would likely be the dry river bed just above the FWS sign. As for Moku Manamana, applicant is in conversation with FWS staff in an effort to determine the best location and will plan on using the site recommended. The campsite on both islands will be a minimum footprint (e.g., ≤120 sq ft) and would be just sleeping mats and a tarp, no tents. Furthermore, applicant would also like to be able to shoot in shallow water to help illustrate the biodiversity of the region. The applicant and team would also like to stay overnight (1 night) on Tern Island in order to catch dawn time lapse footage. If arrangement could be made to stay in the barracks, that would be optimal for the team and less gear and no need for campsite or equipment.

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:*

The scope of the activities include access to terrestrial locations at PMNM to videotape the biological and cultural resources located there. The footage will be incorporated and edited into a new educational cultural briefing video which will be used in place of a live person who can brief people entering PMNM about the rich cultural history that the region possess. (The applicant does not intend to film or photograph federally protected species.)

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?

Having been to the region before, applicant understands the importance of the biological and cultural protocols necessary to ensuring the integrity of the sites and is willing to comply with any and all protocol to mitigate impact and contamination. Given applicant's intimate understanding and appreciation for the cultural significance of these sites, they will prepare themselves to follow those protocol as well and are working on an agreement with FWS-approved escort, Kekuwa Kikilo'i, to join them.

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? Applicant conducted extensive planning and discussion to ensure we met necessary cultural, historic, and biological protocols for their expedition in 2012 (entering under PMNM-2012-038) and will follow the same protocol and engage the same individuals who consulted them in 2012. There should be no negative impacts to the region. The potential educational gain to both the community that will utilize the Cultural briefing piece as well as the public at large will be great. The applicant can also raise awareness about the region by capturing images of its cultural beauty and natural splendor hence supporting the need for special protocols and protection for the region. Further, the video segments are the best replacement for actually being there. It is the applicant's intent to make the point in the video pieces that by understanding the cultural relevance of the place, all people - tourists, scientists and educators alike - will come away with a deeper respect and understanding for the area.

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.

No, there is not. Because applicants are videographers capturing the uniqueness of this particular place, there is not other way or place to capture those images. These images will allow those who may never physically enter the monument an opportunity to see and hear of its beauty, increasing awareness and appreciation via the new cultural briefing video applicant is producing. Similar to the new knowledge that current scientific research in the region generates, so to is greater cultural insight being revealed and cultural practitioners continue their research. Recent scholarship and research in the region is yielding new evidence of the traditional significance of this area. This new and exciting information should be shared with everyone who enters the area to allow for a better understanding on how this region has evolved.

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 goal of the project is to give those who will never have a chance to go to PMNM a glimpse into its beauty and significance with the goal of raising conscious awareness for this unique place with the hope of more and more people becoming advocates for its protection and preservation. The educational potential of PMNM is immense and those who have the privilege of visiting the monument and working in the area have an immediate understanding and connection with this place. The applicant's goal is to use visual story telling to simulate this experience as best possible, with an emphasis on bringing forth the cultural significance of Papahānaumokuākea. It can be argued that the line between the main Hawaiian Islands and PMNM didn't exist a hundred years ago and are desire is to relay the message that the main Hawaiian islands are equally special and that people should protect and cherish the main Hawaiian islands with as much energy and enthusiasm as is put forth in the protection and preservation of PMNM.

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

The applicant is looking at spending no more than two days on each island. Night timelapse is necessary to capture some of the images that researchers and historians talk about as related to connecting celestial knowledge (e.g., traditional Hawaiian knowledge of identifying celestial bodies and knowing their movements) with what happens on these islands given their unique position on the planet. The challenge for

the applicant is to collect as much footage as possible given that time constraint. The rest of the time we will be spent aboard MV Searcher in transit.

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 was part of the NOWRAMP projects educational effort in 2002. They executed what many thought to be impossible. They shot, edited, and uploaded a 4 minute segment a day to provide new content to a Bishop Museum project about the NWHI. This was done within all the biological and cultural protocols to ensure a minimized the impact on the environment while maximizing the educational impact of the content produced to inspire students and teachers. The applicant has traveled across the Pacific on Voyaging canoes to some of the most remote places on the planet (Rapa Nui, Palau, Yap, to name a few) where mitigating impacts is also critical to the success of those places. The applicant has the qualifications through the types of projects that it produces to fit within and comply with the protocols necessary for positive results. Again in 2012, the applicant began capturing updated HD video footage of PMNM. Due to weather conditions, island access was limited and no all necessary footage was captured, therefore, necessitating another trip.

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.

The applicant is working with the Office Of Hawaiian Affairs to fund the project. NOAA will be providing for our berths on board MV Searcher. Applicant will have a FWS monitor on all the terrestrial visits.

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.

The applicant is well versed in operating on remote regions of the Pacific and knows how to prepare and what to expect on a trip of this sort. The applicant will be methodical in the preparation and execution of the the shoot. All members of the team will be briefed on the procedures and protocols of both the ship by the ships crew and of the locations which the applicant will enter by the FWS escort. We understand that the weather conditions need to be favorable to transit from the mother ship to the islands and atolls on the smaller boats. They will be traveling with pelican cases to keep all moisture out of the gear while we are in transit to the locations. They understand that under certain circumstances they will have to either not land on the island or swim with gear to do the island. Water activities will be limited to snorkeling and scuba for the

purposes of capturing images of the biodiversity of the underwater environment.

Applicant will be utilizing the small transit boats to get to and from the islands.

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

Yes, MV Searcher has an approved Vessel Monitoring System.

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

At this time the applicant can conceive of no other factors that would make this proposed activity in the Monument inappropriate, but the applicant is willing to take suggestions and answer questions staff may have about the applicants procedures or methodologies.

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

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

Yes, the products that will be edited will help to educate all those that go to PMNM. The materials will be put to DVD for the Monument to use and be available for upload to the PMNM website.

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

Yes, the core purpose of the proposed activity is to educate a broad populace of future permittees as well as people living in the main Hawaiian Islands about the cultural, biological and historical resources of Papahānaumokuakea, in part, from an indigenous perspective.

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.

FOR SPECIAL OCEAN USE ACTIVITIES WITHIN MIDWAY ATOLL SPECIAL MANAGEMENT AREA

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

Yes, it gives specific information pertaining to the cultural history of the place.

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

yes

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:

Applicant will take 4-6 high definition cameras on this expedition. They will be suitable to the conditions for which we will be working on the island. All of the gear will be battery operated and there will be no need of shore power of any of the equipment that we are bringing. Each photographer will be setting up one timelapse camera and have 1-2 cameras from which they will capture high definition images from. While on board the MV Searcher, this material will be downloaded to a double redundant drive set with the appropriate metadata and other tags necessary for recognition into the future. Half of the cameras will be waterproof to 100 feet the others will be carried to land in waterproof pelican cases to be opened upon terrestrial arrival. While one of the products that will come out of this expedition will be a cultural briefing video, applicant also intends to highlight some of the people who have made it their life's work to study and protect the region. In order to best illustrate their passion for working in and around PMNM, the applicant will seek out images that speak to the unique and diverse nature of the region, including but beyond Nīhoa and Mokumanamana, wherever MV Searcher and crew will travel.

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:

Applicant has a \$2,000,000 insurance policy and is attached to this application.

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

The applicant will provide the co managers with copies of all the raw footage and the edited sequences. The cultural video helps to fulfill a requirement of the Monument Management Plan. The applicant is in conversations with 2 local television broadcast agencies ensuring that they do not have to send their own crews to this fragile location.

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

Canon video camera, Tripod, Pelican carrying cases.

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:

Paliku Documentary Films directed and produced the current Cultural Briefing Video for permittees accessing Papahānaumokuākea who are not able to have a live person perform their required cultural briefing before accessing the Monument. This video was used in the ceremony for the inscription of Papahānaumokuākea as a World Heritage mixed site, and is posted on 'Ōiwi TV. The applicant produced the bulk of the video material that exists on the website www.hawaiianatolls.org

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): Na'alehu Anthony, Director, Producer, Photographer; Kamakaniokaaina Paikai, Photographer

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

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.

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):

Production Staff Subtotal				4,000
Equipment Rental Staff Subtotal				1,000

Our total budget for this voyage is \$5,000. The funds were provided by OHA, any and all other services will be inkind.

5. Time frame:

Activity start: Oct 7, 2013

Activity completion: Oct 19, 2013* subject to change based on SEARCHER cruise schedule

Dates actively inside the Monument:

From: Oct 8, 2013

To: Oct 18, 2013* subject to change based on SEARCHER cruise schedule

Describe any limiting factors in declaring specific dates of the proposed activity at the time of application: Weather and cruise schedules are always a factor when considering the timeframe of any movement on the water

Personnel schedule in the Monument: French Frigate Shoals: 3 days (10/10 - 10/12)
NEC: 2 days (10/13 - 10/14; transit 10/15)
NIH: 2 days (10/16 - 10/17)

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: We have a 2 million dollar general liability insurance and all team members will have DAN insurance before entering the monument. That insurance has been purchased in the past by our team members when traveling on both NOAA sanctioned cruises and while on Hokule'a. We do not foresee any complications in purchasing this insurance for this voyage.

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

- Vessel
 Aircraft

Provide Vessel and Aircraft information: 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):

It is our understanding that NOAA staff will be conducting these inspections

- 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#:

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Vessel ID#:
Flag:
Vessel type:
Call sign:
Embarkation port:
Last port vessel will have been at prior to this embarkation:
Length:
Gross tonnage:
Total ballast water capacity volume (m3):
Total number of ballast water tanks on ship:
Total fuel capacity:
Total number of fuel tanks on ship:
Marine Sanitation Device:
Type:

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

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

Provide proof of a National Oceanic and Atmospheric Administration (NOAA) Office of Law Enforcement-approved Vessel Monitoring System (VMS). Provide the name and contact information of the contractor responsible for installing the VMS system. Also describe VMS unit name and type:

VMS Email:
Inmarsat ID#:

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

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

10. Tender information:

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

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

Additional Information for Land Based Operations

11. Proposed movement of personnel, gear, materials, and, if applicable, samples:
We understand that the weather conditions need to be favorable to transit from the mother ship to the islands and atolls on the smaller boats. We will be traveling with pelican cases to keep all moisture out of the gear while we are in transit to the locations. We understand that under certain circumstances we will have to either not land on the island or swim with gear to do the island.

12. Room and board requirements on island: none

13. Work space needs: none

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



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

September 27, 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: Frazer McGilvray
Administrator, Division of Aquatic Resources

SUBJECT:

DECLARATION OF EXEMPTION FROM THE PREPARATION OF AN ENVIRONMENTAL ASSESSMENT UNDER THE AUTHORITY OF CHAPTER 343, HRS AND CHAPTER 11-200 HAR, FOR PAPAHA NAUMOKU AKEA MARINE NATIONAL MONUMENT SPECIAL OCEAN USE PERMIT TO MR. NA'ALEHU ANTHONY, PALIKU FILMS, FOR ACCESS TO STATE WATERS TO CONDUCT FILMING OF NATURAL AND CULTURAL ELEMENTS ACTIVITIES UNDER PERMIT PMNM-2013-026.

The following permitted activities are found to be exempted from preparation of an environmental assessment under the authority of Chapter 343, HRS and Chapter 11-200, HAR:

Project Title:

Papahānaumokuākea Marine National Monument Special Ocean Use Permit to Mr. Na'alehu Anthony, Paliku Films, for Access to State Waters to Conduct Filming of Natural and Cultural Elements Activities

Permit Number: PMNM-2013-026

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 October 1, 2013 to September 30, 2014.

The Applicant proposes to film and photograph natural and cultural elements of the Monument on land and in the water around Nihoa Island, Mokumanamana, and French Frigate Shoals (Tern Island). The Applicant and four (4) film crew members, including one US Fish and Wildlife Service (USFWS)-approved escort, would use the M/V SEARCHER (separately permitted under permit number PMNM-2013-001) as a support platform between October 4 to 15, 2013. Personnel would camp overnight on Tern Island (restricted to the runway only) for up to one (1) night, and camp overnight on Nihoa Island and Mokumanamana for up to three (3) nights on

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each island using minimal camp gear (sleeping mats and tarps). No tents would be used and camp sites would not be located in areas where seals and sea turtles are present. In addition to conducting activities on land, the Applicant would conduct filming and photography activities in shallow marine environments (less than 100 ft in depth) by free-diving at all three island locations.

The Applicant's primary intent for this project would be to use film and photographs from these locations to be used in a new Monument Native Hawaiian cultural briefing video, which is used to supplement live briefings currently conducted by cultural experts for permittees prior to entry into the Monument.

In order to reduce human impacts to Nihoa Island, the Applicant would abide by Monument Best Management Practices for Activities on Nihoa Island that specify camping protocols, protocols to reduce impacts to cultural and natural resources, and human presence restrictions (overnight camping is restricted to no more than five (5) individuals). All activities would be under the direct supervision of a designated Monument biological escort. Beach access at Nihoa Island would be prohibited and landing on all islands (including Nihoa Island, Mokumanamana, and Tern Island) would only occur in the intertidal zone when no Hawaiian monk seals and sea turtles are present at the landing sites. The Applicant does not intend to approach or film protected species, however, the applicant proposes to conduct filming activities in Hawaiian monk seal critical habitat and in areas where seals and sea turtles are present.

The activities proposed by the Applicant directly support the Monument Management Plan's (MMP) priority management needs through Ocean Ecosystem Literacy Action Plan (Strategy OEL-2: Develop and implement new tools to "bring the place to the people" (MMP Vol. 1, p290, 2008)). The Applicant would obtain photographs and high definition film to update the Monument's Native Hawaiian cultural briefing video for educating permitted personnel entering the Monument on the cultural significance of the Monument. These activities fit into this Strategy because the video produced would engage a broad and diverse audience. Images obtained from the activity would be used to educate the general public on the importance of the Monument through short video segments for local television programs. The Applicant does not anticipate generating revenue above and beyond covering expenses. Activities such as those to be carried out by the permittee, are also addressed in the Monument Management Plan Environmental Assessment (December 2008) which resulted in a FONSI.

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 August 2, 2013, giving the public an opportunity to comment. The application was posted within 40 days of its receipt, in accordance with the Monument's Public Notification Policy.

Exemption Determination:

After reviewing HAR § 11-200-(8), including the criteria used to determine significance under HAR § 11-200-12, DLNR has concluded that the activities under this permit would have

minimal or no significant effect on the environment and that issuance of the permit is categorically exempt from the requirement to prepare an environmental assessment based on the following analysis:

1. All activities associated with this permit, including the activities involved with filming of natural and cultural elements both on land and in the water, have been evaluated as a single action. As a preliminary matter, multiple or phased actions, such as when a group of actions are part of a larger undertaking, or when an individual project is precedent to or represents a commitment to a larger project, must be grouped together and evaluated as a single action. HAR § 11-200-7. This permit does not involve an activity that is precedent to a later activity.

2. The Exemption Class for 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. 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.” Additionally, Exemption Class #5, Exempt Item #2 includes game and non-game wildlife surveys, photographing, recording, sampling, and collection in the field. This exemption class has been interpreted to include the filming and photography activities involved with this project. DEPARTMENT OF LAND & NATURAL RESOURCES, EXEMPTION LIST FOR THE DIVISION OF FORESTRY AND WILDLIFE (June 12, 2008).

The proposed filming and photography activities here appear to fall squarely under the exemption class identified under HAR § 11-200-8.A.5., and are succinctly described under the former Fish and Game Division exemption list published in 2008. As discussed below, no significant disturbance to any environmental resource is anticipated in filming and photography in both the water and on land activities. 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.

This activity involves filming and photography activities on land and surrounding waters at Nihoa Island, Mokumanamana, and French Frigate Shoals (Tern Island). The Applicant proposes to camp at all three locations. On both Nihoa Island and Mokumanamana, the Applicant would camp for up to three (3) nights on each island using minimal camping gear and following the Best Management Practices (BMPs) for Nihoa Island. On Tern Island, the Applicant would camp for up to one (1) night and be restricted to the runway only. A USFWS-approved escort would be present with the Applicant at all three locations. Minimal impact to all three locations is

expected. 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 concurrently from the NOAA ship M/V SEARCHER permitted under PMNM-2013-001.

Permit	Purpose and scope	Location
PMNM-2013-001 Co-Manager (issued)	This permit allows the NOAA ship SEARCHER entry into the Monument. Personnel aboard the vessels will be permitted under separate permits.	All locations
PMNM-2013-018 Asher (issued)	This permit allows activities for research on abundance and size distribution of apex predators (sharks and jacks) and coral reef species independent of divers in habitats of less than 100 m.	Nihoa Island, Mokumanamana, French Frigate Shoals
PMNM-2013-025 Winn-Kahng (proposed)	This permit would allow the collection of surface seawater samples from shallow waters.	Nihoa Island, Mokumanamana, French Frigate Shoals

Access to Nihoa, Mokumanamana, and French Frigate Shoals (Tern Island), would be conducted from a small boat deployed from the M/V SEARCHER. The two other permits issued to Asher and proposed to be issued to Winn-Kahng would occur in the same locations as the proposed activities. No interaction of activities is anticipated because the Applicant would be filming and photographing on land for a large part of the project and only minimally in the water. The location and nature of activities are not expected to overlap. Cumulative impacts from all activities is not expected to be significant.

All activities on Nihoa Island would follow Monument BMPs for Nihoa Island including limiting the amount of time on the island for all permittees both for individual permits and under yearly restrictions, limiting the areas visited, and guidance for limiting interactions with Hawaiian monk seals and turtles. All activities at all locations would be under the direct supervision of a designated Monument biological escort. The Applicant does not intend to approach or film protected species. No interaction of activities are anticipated and the culmination of these permits is not anticipated to have significant cumulative impacts.

Since no significant cumulative impacts or significant impacts with respect to any particularly sensitive aspect of the project area are anticipated, the categorical exemptions identified above should remain applicable.

4. Overall Impacts will Probably be Minimal and Insignificant.

Again, any foreseeable impacts from the proposed activity will probably be minimal, and further mitigated by general and specific conditions attached to the permit. Specifically, all activities covered by this permit will be carried out with strict safeguards for the natural, historic, and cultural resources of the Monument as required by Presidential Proclamation 8031, other applicable law and agency policies and standard operating procedures.

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

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

Date