

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

April 25, 2008

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 Brian Armstrong, National Geographic Society, for Access to State Waters to Conduct Documentary 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 applicant Brian Armstrong, Series Producer for National Geographic Television and Film, National Geographic Society, a foreign nonprofit corporation, pursuant to § 187A-6, Hawaii Revised Statutes (HRS), chapter 13-60.5, Hawaii Administrative Rules (HAR), and all other applicable laws and regulations.

The special ocean use permit, as described below, would allow entry and filming activities to occur in the Papahānaumokuākea Marine National Monument (Monument), including the NWHI State Marine Refuge and the waters (0-3 nautical miles) surrounding the following sites:

- French Frigate Shoals,
- Pearl and Hermes Atoll,
- Midway Atoll,
- Kure Atoll

The activities covered under this permit would occur from June 1, 2008 through June 30, 2008.

INTENDED ACTIVITIES

The applicant proposes to record high definition video images of marine life and science/research activities for inclusion in a one hour documentary on the Monument for National Geographic Television's series entitled "Wild Spaces." The goal of the film is to portray the unique characteristics and biota of the Northwestern Hawaiian Islands, and to promote public awareness of the fragile living marine ecosystems found there.

The applicant and his team would travel to the Monument aboard the NOAA Ship HI'IALAKAI with scientists and other professionals working within the Monument. The team would go out on the small boats to film, and would be escorted at all times by Monument staff who would ensure

that all regulations and protocols are followed. Monument staff would aid the team in understanding when and where the appropriate places to film are located, as well as avoiding areas that are highly sensitive. Filming would occur aboard the boats and in the water. Primary targets for filming include: Hawaiian endemic species, apex predators, reef communities and organisms, management-related research activities, and threats to the ecosystem. The scientists and research being conducted to study and protect the Monument's unique marine ecosystems would be highlighted.

This would be the fifth film in the Wild Spaces series produced by Brian Armstrong for National Geographic, and would ultimately be broadcast nationally on the National Geographic channel. This project would be done in partnership with NOAA's Office of National Marine Sanctuaries through its communications chief.

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 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), and United States Fish and Wildlife Service Hawaiian and Pacific Islands National Wildlife Refuge Complex Office. The Office of Hawaiian Affairs (OHA), and the Kaho'olawe Island Reserve Commission (KIRC) were also consulted.

Comments received from the scientific community are summarized as follows:

Scientific reviews support the acceptance of this application.

Concerns raised were:

1. Ensure that the applicant understands and abides by the federal laws that disallow any disturbance of species listed under the Endangered Species Act and the Marine Mammal Protection Act.

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

Cultural reviews support the acceptance of 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:

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

If so, please summarize past permits:

Have there been any a) violations: Yes No

b) Late/incomplete post-activity reports: Yes No

Are there any other relevant concerns from previous permits? Yes No

RESPONSE:

1. The Applicant will be escorted at all times by a Monument staff member who will ensure that all laws, regulations, and protocols are followed, including those related to the disturbance of marine mammals and endangered species.

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 the following special instructions and conditions, which are in addition to the Papahānaumokuākea Marine National Monument Special Ocean Use Permit General Conditions. The following special conditions have been vetted through the legal counsel of the Co-Trustee agencies.

1. 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.
2. Tenders and small vessels must be equipped with engines that meet EPA emissions requirements.
3. 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 NWHI Marine Refuge.
4. No fishing is allowed in state waters except as authorized under State law for subsistence, traditional and customary practices by Native Hawaiians.

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:

“That the Board authorize and approve a Special Ocean Use Permit to Brian Armstrong, National Geographic Society.”

Respectfully submitted,



DAN POLHEMUS
Administrator

APPROVED FOR SUBMITTAL



LAURA H. THIELEN
Chairperson