

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 Conservation and Management Permit to Kelly Gleason, National Oceanic and Atmospheric Administration, Papahānaumokuākea Marine National Monument, for Access to State Waters to Conduct Maritime Heritage Activities.

The Division of Aquatic Resources (DAR) hereby submits a request for your authorization and approval for issuance of a Papahānaumokuākea Marine National Monument conservation and management permit to applicant Kelly Gleason, Maritime Archaeologist, of the National Oceanic and Atmospheric Administration (NOAA), Papahānaumokuākea Marine National Monument, pursuant to § 187A-6, Hawaii Revised Statutes (HRS), chapter 13-60.5, Hawaii Administrative Rules (HAR), and all other applicable laws and regulations.

The conservation and management permit, as described below, would allow entry and management 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 July 31, 2008 through August 31, 2008.

Portions of the proposed activities are a renewal of work previously permitted and conducted in the Monument.

INTENDED ACTIVITIES

The applicant proposes to conduct the following maritime heritage activities:

- 1) non-invasive wreck site assessment surveys;
- 2) snorkeler towboard survey of high potential wreck site areas;

- 3) recovery of three selected artifacts from shipwreck sites at Kure Atoll; and
- 4) the collection of high-definition film footage for an education and outreach video product.

The first activity refers to a detailed investigation of a single wreck or archaeological site, while the second is a broader search for previously unlocated and undiscovered resources. During the site assessments, divers would deploy a temporary baseline, replicating previous surveys by attaching the baseline to fixed stainless steel datums. Baseline datums would be established using 3/8" stainless steel rods driven by hammer into clear areas of noncoral substrate. Triangulation of the area would be conducted using survey tapes. Artifacts and features would be temporarily tagged with numbers and photographed in-place. Diver tow boarding operations would be conducted only after training by NOAA National Marine Fisheries Service (NMFS) and following established NOAA NMFS tow boarding protocols for the NWHI. These activities are both continuations of ongoing maritime heritage survey and inventory efforts within the Monument.

The third activity would be the recovery of three historic artifacts (two ship's bells and a sounding lead) from the USS Saginaw and Parker wrecks. Removal consists of collecting the artifacts from the surface of the hard bottom substrate, placing them into a padded container underwater and carefully transporting them to the dive boat and main vessel. No sediment or substrate would be moved or disturbed in the process, as the artifacts are not buried. Following treatment at a conservation facility in California, the artifacts would be shipped back to Papahānaumokuākea Marine National Monument office in Hawaii, and subsequently sent for further study and public display as part of a maritime heritage themed exhibit at the Mokuapāpapa Discovery Center in Hilo, Hawaii. All artifact recovery activities would be conducted according to strict protocol and with the highest level of sensitivity to natural, cultural and historic resources.

The fourth activity would be the collection of film footage to be used in creating a short education and outreach video. A NOAA filmmaker would be contracted for the purposes of this project, and conduct filmmaking activities alongside the maritime archaeology team. The film would focus on maritime archeological field surveys and the interpretation of the shipwreck stories in the Monument. It would be used in public presentations, conferences, and as a product to distribute to the public.

Initially this permit application also proposed conducting remote sensing surveys (magnetometer and side scan sonar) of potential wreck sites, as well as access to Nihoa and Necker Islands. Those portions of the application have since been withdrawn.

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

- 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
- 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. How any organisms adhering to the artifacts, and/or water used to transport the artifacts back to the Main Hawaiian Islands would be sterilized prior to transport
2. Artifacts collected in State of Hawaii waters are the property of the State of Hawaii. Future use of the artifacts should be outlined in a loan agreement between the State of Hawaii and the other Co-Trustees

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

Cultural reviews support the acceptance of 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:

- State of Hawaii DLNR Section 106 Compliance (complete)
- Naval Historical Center Artifact Recovery Permit (pending)

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

If so, please summarize past permits:

- However, portions of the proposed work (survey activities) described in this submittal are a continuation of activities conducted in the Monument under permits

DLNR/NWHI/06R013 and PMNM-2007-040, issued to Dr. Hans Van Tilburg in 2006 and 2007.

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 has included a disease and introduced species protocol for the recovery of artifacts from the Monument. The protocol involves placing the artifacts in containers of fresh water which are immediately sealed, and remain sealed and secure until returning to Honolulu. Once in Honolulu, the artifacts are removed from the fresh water, wrapped in damp towels, and sent to a conservation facility in California for treatment. The fresh water used to transport the artifacts to Honolulu is then treated with a bleach solution and disposed of. For further details, see attached protocol.
2. The Applicant is aware of this issue and plans to work with the Navy and/or the State to secure any necessary loan agreements.

STAFF OPINION:

DAR staff is of the opinion that Applicant has properly demonstrated valid justifications for her 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 Conservation and Management Permit General Conditions. The following special conditions have been vetted through the legal counsel of the Co-Trustee agencies.

1. This permit is not to be used for nor does it authorize the sale of collected organisms. Under this permit, the authorized activities must be for noncommercial purposes not involving the use or sale of any organism, by-products, or materials collected within the Monument for obtaining patent or intellectual property rights.
2. 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.
3. Tenders and small vessels must be equipped with engines that meet EPA emissions requirements.
4. 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.

5. 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 Conservation and Management Permit to Kelly Gleason, NOAA, Papahānaumokuākea Marine National Monument.”

Respectfully submitted,



for DAN POLHEMUS
Administrator

APPROVED FOR SUBMITTAL



LAURA H. THIELEN
Chairperson