

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

November 14, 2008

Board of Land  
and Natural Resources  
Honolulu, Hawaii

Request for Approval of a Special Activity Permit for Dr. Spencer Malecha  
University of Hawaii Manoa, Department of Human Nutrition Food and Animal Sciences

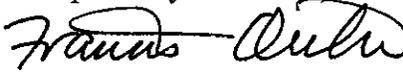
The applicant proposes to collect two species of Hawaiian spiny lobsters (*Panulirus marginatus*, and *P. penicillatus* and two species of Hawaiian slipper lobsters (*Scyllarides squammosus* and *S. haanii* for research to assess their aquaculture potential for diversifying the Hawaiian open ocean sea cage industry. The applicant requests to collect adult gravid and non-gravid females, adult males and juveniles of both sexes of the listed lobster species from the Island of Oahu, the Island of Hawaii (Kona coast) and the Island of Molokai.

This permit allows the taking, possessing, transporting, and holding of the listed lobster species. The collected animals will be held at several locations. This permit does not authorize the permittee to kill any of the listed lobster species. The applicant requests the use of illegal trap gear. Special conditions for trap modification, use limits, and protocol for lost traps are included in the permit. Special Conditions have also been included for the disposition of the research animals and authorization from DAR prior to returning them to the wild. This permit is required because the work includes the use of the unlawful Fathom Plus Plastic traps, taking, possessing and holding female lobsters (gravid and non-gravid), undersized lobsters, and collecting during the closed season. This permit will be valid no longer than one year from the date issued.

RECOMMENDATION:

“That the Board authorize and approve, with stated conditions, this Special Activity Permit for Dr. Spencer Malecha.”

Respectfully submitted,

  
for DAN POLHEMUS  
Administrator

APPROVED FOR SUBMITTAL:

  
LAURA H. THIELEN  
Chairperson

ITEM F-1

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

SPECIAL  
 ACTIVITY PERMIT NO. SAP 2009-28

Date of Issue: \_\_\_\_\_

Expiration Date:  
Valid for not longer than one year from date issued

SPECIAL ACTIVITY PERMIT

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

Permittee: Dr. Spencer Malecha  
 1955 East West Road  
 Honolulu, Hawaii 96822

Ph: (808)753-6392

This permit is issued, subject to the general and special conditions below, for the purpose of collecting two species of Hawaiian spiny lobsters, *Panulirus marginatus*, and *P. penicillatus*; two species of Hawaiian slipper lobsters, *Scyllarides squammosus* and *S. haanii* for research to assess the aquaculture potential of these species. This permit allows the **TAKE, CATCH, POSSESSION, and TRANSPORT** of certain aquatic life from the waters of the State, as described below.

This permit, when signed by the Department, authorizes the permittee, and only the designated assistants on the final page(s) of, or attachments to, this permit, to engage in activities otherwise prohibited by law, subject to the general and special conditions.

Types of Aquatic Life	Scientific Name	Limits	Gear	Locations
Invertebrates Spiny lobsters	<i>Panulirus marginatus</i> <i>Panulirus penicillatus</i>	6 gravid (with eggs) females of each listed species (total 12) 6 non-gravid females of each listed species (total 12) 6 adult males of each listed species (total 12) 40 juveniles of each listed species (total 80)	Fathom Plus Plastic Traps and metal mesh traps with Special Conditions D	Island of Oahu, Island of Hawaii (Kona coast) and Island of Molokai ONLY along with Special Conditions B

Slipper lobsters	<i>Scyllarides squamosus</i> <i>Scyllarides haanii</i>	6 gravid (with eggs) Females of each listed species (total 12) 6 non-gravid females of each listed species (total 12) 6 adult males of each listed species (total 12) 40 juveniles of each listed species (total 80)	Fathom Plus Plastic Traps and metal mesh traps with Special Conditions D	Island of Oahu, Island of Hawaii (Kona coast) and Island of Molokai ONLY along with Special Conditions B

Part I. GENERAL CONDITIONS:

1. The permittee and each assistant will not make the Department or the State of Hawaii liable in any way for any claim of personal injury or property damage which may result from activity authorized by this permit; the permittee and each assistant agree to hold the Department and State harmless against any and all claims of injury, death or damage resulting from actions or omissions under this permit.
2. This permit conveys a privilege to engage in **ONLY** those activities under the jurisdiction of the Department. The permittee and each assistant are responsible for complying with all applicable authorities; County, State, and Federal requirements. This permit does NOT convey any privilege of access over or through private property.
3. The permittee and each assistant is individually responsible and accountable for his or her actions while conducting activities authorized by this permit; the permittee is additionally responsible and accountable for the actions of each assistant.
4. Any person whose name does not appear on this permit and is conducting any activity described herein, is subject to prosecution for violation of State laws.
5. The permittee may request changes to the permit. Any such request to make changes to the permit must be made in writing and received by the Department at least forty-five (45) days prior to the change. No change may be implemented without written approval from the Department. The addition of new assistants will require each individual to sign the Attachment page stating that they have read, understand and agree to abide by all general and special permit conditions. Original signed versions of the Attachment page must be returned to the Department for validation; once approved, such persons are added to the permit.
6. This permit is neither transferable nor assignable to another person.
7. The permittee or assistant must carry a copy of this permit on location while conducting activities authorized by this permit.
8. Authority granted by this permit **ends** on the expiration date (i.e. "Not Valid After") on the first page of this permit. Within thirty (30) days of the expiration date, or the cessation of activities covered under this permit (which ever comes first), or reapplying for an SAP, the permittee agrees to **return this permit** to the Division of Aquatic Resources (Division) **with a completed Collecting Report**, reporting results of all collecting and

other activities covered under this permit, and other information, if required and listed under the special conditions, for the full duration of this permit.

9. The permittee and assistants agree to provide access to data obtained under this permit upon request of the Division, to provide to the Division one copy of each report prepared with such data and published for distribution, and to allow Department staff to inspect on permittee's premises, organisms collected under this permit, or organisms and/or substrate maintained with such organisms.

11. This permit authorizes collection of organisms protected by Federal law only with prior appropriate Federal authority, which must be described on Page 1 of this permit (if applicable).

12. Violation of any condition of this permit by any person may be cause for immediate revocation of the permit; the person responsible may be subject to penalty as provided by law; violation may be cause also for denial of future permit applications.

## II. SPECIAL CONDITIONS:

A. General Statement: This permit authorizes collecting, possessing, and inter-island transport between the Island of Oahu, the Island of Hawaii and the Island of Molokai, of four Hawaiian lobster species; two (2) Hawaiian spiny lobster species; *Panulirus marginatus*, and *P. penicillatus* and two (2) Hawaiian slipper lobster species; *Scyllarides squammosus* and *S. haanii*, subject to the other conditions of this permit for the purpose of assessing their aquaculture potential for diversifying the Hawaiian open ocean sea cage industry.

B. Location: Collecting activities under this permit are limited to waters of the State of Hawaii and is expressly prohibited in the Marine Life Conservation Districts (MLCDs), Shoreline Fisheries Management Areas (SFMA), Marine Life Refuge (MLRs), Public Fishing Areas (PFAs), Natural Area Reserves (NARs), Fishery Management Areas (FMAs) and other prohibited locations or areas that may be designated as such during the effective period of this permit.

----OAHU-----  
Hanauma Bay MLCD  
Pupukea MLCD  
Waikiki MLCD  
Coconut Island MLR  
Heeia Kea Wharf FMA  
Waialua Bay FMA  
Pokai Bay  
Honolulu Harbor  
Ala Wai Canal FMA  
Kapalama Canal FMA  
Diamond Head SFMA  
Haleiwa Harbor FMA  
Paiko Lagoon Wildlife  
Refuge  
Paiko Lagoon Wildlife  
Refug

----HAWAII----  
Kailua Bay FMA  
Waiakea PFA  
Wailea Bay MLCD  
Lapakahi Bay MLCD  
Kealahou Bay MLCD  
Hilo Bay FMA  
Wailoa River FMA  
Wailuku River FMA  
Puako Bay & Reef FMA  
Kawaihae Harbor FMA  
Old Kona Airport MLCD  
Kiholo Bay FMA  
Kona Coast FMA  
Waiopae Tidepools MLCD  
West Hawaii Regional  
Fisheries Management Area

----MAUI-----  
Kahului Harbor FMA  
Honolua-Mokuleia Bay MLCD  
Molokini Shoal MLCD  
Ahihi-Kinau NAR  
  
----KAUAI-----  
Waimea Recreation Pier &  
Waimea Bay FMA  
Kapaa Canal FMA  
Waikaena Canal FMA  
  
Ahukini Recreational  
Pier FMA  
Hanamaulu Bay FMA

----LANAI----  
Manele-Hulopoe MLCD  
Manele Harbor FMA

----MOLOKAI---  
Kauanakakai Harbor FMA

C. Collecting Practices: The permittee is responsible for persons engaging in activities under this permit behaving professionally and responsibly, in a manner which does not generate conflict with public or private sectors, including fishing and dive-tour industries and local communities.

Collecting activities under authority of this permit must be supervised directly, on site by either Dr. Malecha or his appointed representative (who must be a signatory of this permit).

**Spiny lobsters:**

This permit allows the capture and collection of the spiny lobster, *Panulirus marginatus* as follows;

- no more than six (6) legal sized berried (gravid) females,
- no more than six (6) legal sized unberried (non-gravid) females,
- no more than six (6) legal sized males and
- no more than forty (40) juveniles (6cm or greater CL);

the capture and collection of the spiny lobster *Panulirus penicillatus* as follows;

- no more than six (6) legal sized berried (gravid) females,
- no more than six (6) legal sized unberried (non-gravid) females,
- no more than six (6) legal sized males and
- no more than forty (40) juveniles (6cm or greater CL).

No more than a total of twelve (12) legal sized berried female spiny lobsters, no more than twelve (12) legal sized unberried female spiny lobsters, no more than twelve (12) legal sized male spiny lobsters and no more than eighty (80) juvenile spiny lobsters (6cm or greater CL) may be captured and collected during the effective period of this permit.

**Slipper lobsters:**

This permit allows the capture and collection of the slipper lobster, *Scyllarides squammosus* as follows;

- no more than six (6) legal sized berried (gravid) females,
- no more than six (6) legal sized unberried (non-gravid) females,
- no more than six (6) legal sized males and
- no more than forty (40) juveniles (6cm or greater CL);

the capture and collection of the slipper lobster *Scyllarides haani* as follows;

- no more than six (6) legal sized berried (gravid) females,
- no more than six (6) legal sized unberried (non-gravid) females,
- no more than six (6) legal sized males and
- no more than forty (40) juveniles (6cm or greater CL).

No more than a total of twelve (12) legal sized berried female slipper lobsters, no more than twelve (12) legal sized unberried female slipper lobsters, and no more than twelve (12) legal sized male slipper lobsters and no more than eighty (80) juvenile slipper lobsters (6cm or greater CL) may be captured and collected during the effective period of this permit.

**Mutilation:**

It is unlawful to mutilate any lobster.

**Identifying collected lobsters:**

The applicant will use some means to identify each lobster retained under this permit and maintain a list of each lobster and the location where it was collected.

D. Gear and Methods: This permit allows the use of wire mesh traps and Fathom Plus plastic mesh traps, during the effective period of this permit; provided that the each type of the allowed traps used for this project is subject to the following:

Traps:

Escape opening, hinges and locks:

Each Fathom Plus Plastic mesh trap will be modified with no less than two permanently unobstructed openings located on opposing sides of the trap as follows; one panel will include the bottom edge of the trap, flush to the edge so that there is no lip, as one of the dimensions; the second panel will include the top edge of the trap, flush to the edge so that there is no lip, as one of the dimensions; so that if the trap settles upside down, or sideways, animals could crawl out of the unobstructed opening. The measurement in all dimensions for the escape opening must be 6-1/2 inches or more. 6-1/2 inches is the LARGEST/LONGEST measurement of the inside opening of the entry cone of the Fathom Plus Plastic mesh traps.

All hinges and the locks of the Fathom Plus Plastic mesh trap must be replaced with metal hinge pins and metal locks, or the like, that will disintegrate in the marine environment (salt water) within three days. A sample of the metal hinge pins and locks, or the replacement material, must be submitted to the Division.

Each wire mesh trap must meet the current legal requirements for traps and in addition be modified with the same escape openings as specified for the Fathom Plus Plastic traps above.

Tags for traps:

All traps modified as specified above, will be submitted to the Division for inspection and approval for use under this permit. Only traps tagged by the Division are allowed for used during the effective period of this permit.

Within thirty (30) days of the expiration of this permit, or the end of the project, whichever comes first, the primary permittee will notify the Division to arrange for a final trap inspection and tag removal. Tags may only be removed by the Division.

Use Limits:

Under this permit no more than a total of twelve (12) modified, inspected and tagged traps as follows may be used at one time in the following combination;

- no more than twelve (12) traps in any combination of Fathom Plus Plastic Traps and wire mesh traps may be used at a time; or
- no more than a total of twelve (12) tagged Fathom Plus Traps at one time or
- no more than a total of twelve (12) wire mesh traps at one time, during the effective period of this permit.

A total of only twelve (12) tagged Fathom Plus plastic mesh and/or wire mesh traps are exempted for use during the effective period of this permit.

Traps may only be set and left in the water between 5:30PM and 11:00AM. Any trap used under this permit must be removed from the water no later than 11:00AM on the day after the day it was set.

Traps will **not** be set on coral or on any hard surface on which there are visible live organisms attached.

Lost Traps:

When a trap is lost, all attempts must be made to retrieve it.

When a lost trap cannot be recovered and retrieved, a report with information, including but not limited to; the number of trap(s) lost, the date, time and location of the lost trap(s), must be submitted to the Division by fax, email, or in person within 24 hours of the incident.

Spears: Not allowed to be used under this permit.

Chemicals: Use of any chemical substances pursuant to Section 188-23, Hawaii Revised Statutes, electrical shocking devices, or explosives remain expressly prohibited.

E. Use of Organisms: Organisms and live rock taken from State waters under authority of this permit may be used only for scientific study on the Island of Oahu, the Island of Hawaii and the Island of Molokai, except as authorized by prior written approval of the Division (or as detailed above):

1. Organisms collected under authority of this permit may not be used for personal consumption or sale; organisms collected under this permit may not be traded, bartered or loaned to other individuals, institutions or entities;
2. Written approval must be obtained from the Division prior to;
  - a. Purchasing or any other acquisition of regulated organisms (regardless of origin), alive from any other party,
  - b. Transporting any live organism (regulated or not) out-of-state, between islands,
  - c. Exchanging or donating any organisms collected under this permit to any other person, party or organization;
  - d. Release of any/all captured marine life exempted under this permit that is kept in a tank for any length of time regardless of whether the filtration system is open or closed.

F. Reports:

Trap-set inventory list

Information recorded on the trap-set inventory list will consist of, but not be limited to, the following;

Date

Location of trap-set including GPS coordinates; latitude and longitude to seconds

Number of each species per trap set (identified to the ability of the researcher)

Length of each individual or a random sub sample of 30 individual (see Hawaii fishing regulations, total length if not listed)

Species of each individual measured

Sex of each individual measured

Physical condition of each individual measured

Mutilations of each individual trapped

Condition of each individual animal, live or dead

Reproductive condition of each individual measured

Final Disposition of animal

Kept for research/project individually identified on list

Given to another researcher individually identified on list

Returned to capture location (can be reported as a count)

Monthly Report: The permittee will submit a monthly status report to the Division no later than 10 working days after the end of the previous month. The report will include, but not limited information such as a trap-set inventory list, progress of project, problems and lost gear, for the period that the report covers.

Final Report: Upon expiration of this permit, the permittee must provide to the Division, a final written field report summarizing results of collecting activity carried out under this permit and the analysis of the data:

1. The final field report should provide a written explanation as to how the collection of and/or impact to these regulated marine species for this activity is benefiting the State of Hawai'i in general and specifically, the improved management of the species that was impacted by this activity.
2. The final field report must describe, in form specified by the Department,
  - a. Names and total numbers/quantities of all specimens collected under this permit,
  - b. Their dispositions (i.e. on display; released/returned to the ocean; died),
  - c. Description of any additional benefits beyond the scientific analysis provided to the Department or the public during the period;
3. An inventory of organisms (dead or alive) present at the facility or with the permittee the end of the report period, in form acceptable to the Division, must accompany the final field report;
4. The final field report is due at the Division's Honolulu office within thirty (30) days after the expiration of the permit, the cessation of activities covered under this permit (whichever comes first), and is required prior to any renewal of this permit or reapplying for an SAP.

Disposition of captured marine life:

A final disposition list of all listed marine life **retained** for this project must be recorded and maintained. The information recorded on the disposition list will consist of but not be limited to, the following;

Each retained species

Number of individuals of each species retained

Disposition of retained marine life means;

Where the marine life is sent (each time)

Where the marine life is being kept (each time)

If during the collection process, the marine life collected is in excess of the requested amount allowed on this permit, it must be returned alive and in good condition to the location in the waters where they were caught as soon as possible after it is documented on the trap-set inventory list.

Any/all captured spiny or slipper lobsters exempted under this permit over the allowed collection/capture quota **MUST** not be retained, but returned to the capture location as soon as possible after it has been recorded on the trap set inventory list (refer to reports above). A copy of the trap set inventory must be submitted to the Division along with the monthly status report. (Special condition F)

G. Closed Season:

The closed season for lobsters is May 1 through August 31. This permit allows the permittee and assistants to collect the listed spiny and slipper lobster species during the closed season for the effective period of the permit under the special conditions of this permit. Any/All marine life, captured/taken by any approved and tagged trap on this permit, whether specifically listed on this permit or not, must be documented on a trap-set inventory list and the final disposition of these animals, listed on the final disposition list.

H. Notification:

The primary permittee or an assistant responsible for the field collecting activity shall notify the DOCARE at least 48 hours in advance of any field collecting activity and provide such information as: location; date; time; and number of persons to be involved. Telephone: Honolulu 587-0077; Hawaii 974-6208; Maui 984-8110; Kauai 274-3521; or Molokai 567-6618.

VALIDATING SIGNATURE

LAURA H. THIELEN, Chairperson and member  
Board of Land and Natural Resources

cc: (x) DOCARE - Oahu, Molokai  
(x) USFWS

ACKNOWLEDGING SIGNATURE

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

PRIMARY PERMITTEE: Dr. Spencer Malecha

Spencer R. Malecha  
Signature

Nov 1, 2008  
Date

DESIGNATED ASSISTANTS:

Signature: Keith Kaneko  
Print Name: Keith Kaneko

Signature: Cole Santos  
Print Name: Cole Santos

Signature: Maria Wolfe  
Print Name: Maria Wolfe

Signature: Leard Williams  
Print Name: Leard Williams

Signature: Casey M. Brown  
Print Name: Casey M. Brown

Signature: Denise K. Dowda  
Print Name: Denise K. Dowda

Signature: Andrew Rossiter  
Print Name: ANDREW ROSSITER

Signature: John R. Cates  
Print Name: John R. Cates

Signature: Clyde Tamaru  
Print Name: CLYDE TAMARU

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_

## ACTIVITY REPORT

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

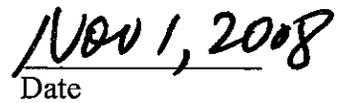
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Date	Location	Common or Scientific Name	Quantity Collected*	Disposition of Specimens
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Primary Permittee Signature

Dr. Spencer Malecha

  
Signature

  
Date

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

ATTACHMENT FOR DESIGNATED ASSISTANTS ONLY

Primary Permittee: Dr. Spencer Malecha

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

ADDITIONAL DESIGNATED ASSISTANTS

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

Signature \_\_\_\_\_

Print Name: \_\_\_\_\_

Signature \_\_\_\_\_

Print Name: \_\_\_\_\_