

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

February 25, 2011

Board of Land  
and Natural Resources  
Honolulu, Hawaii

Request for Approval of Special Activity Permit 2011-54 for  
Dr. Donald Kobayashi, Pacific Islands Fisheries Science Center, NOAA, to Conduct  
Research on State Regulated Deep-7 Bottomfish in the Main Hawaiian Islands

The applicant proposes to conduct activities relating to research on seven species of Hawaiian deep sea bottomfish, known as the deep-7 bottomfish. The bottomfish fishery is currently being jointly managed between the State and Federal fisheries agencies, such as the National Marine Fisheries Service and the Western Pacific Fisheries Management Council. Part of this joint effort is to gather information on bottomfish biology, behavior, and distribution. This research would add to our understanding to better manage this fishery.

RECOMMENDATION:

“That the Board authorize and approve, with stated conditions, this Special Activity Permit for Dr. Donald Kobayashi of The Pacific Islands Fisheries Science Center.”

Respectfully submitted,



FRANCIS OISHI  
Program Manager

APPROVED FOR SUBMITTAL:



WILLIAM J. AILA, JR.  
Interim Chairperson



I. GENERAL CONDITIONS:

- A. This permit does not make the Department of Land and Natural Resources or the State of Hawaii liable in any way for any claim of personal injury or property damage to the permittee or assistants which may occur during any activity conducted under this permit; moreover, the permittee and all assistants agree to hold the State harmless against any and all claims of personal injury, death or property damage resulting from activities of the permittee or any assistant.
- B. This permit conveys a privilege to engage in only those activities under the jurisdiction of the Department of Land and Natural Resources. The permittee is responsible for complying with all applicable County, State, and Federal requirements. The permit does not convey any privilege of access over or through private property.
- C. The permittee and each assistant are individually responsible and accountable for their actions while conducting activities authorized under this permit; additionally, the permittee is responsible and accountable for the actions of the permittee's assistants.
- D. This permit is not transferable or assignable. 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.
- E. 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 thirty days prior to the change. The addition of new assistants will require each individual to sign the Attachment on page 6 stating that they have read, understood, and agree to abide by all general and special permit conditions. No change may be implemented without written approval from the Department.
- F. The permittee may request to:
  1. Add assistants to the permit;
  2. Add another permittee or replace an existing permittee in the manner stated above;  
and
  3. Change the activities authorized under this permit.
- G. The permittee or their assistant(s) must have with them a copy of this permit while conducting activities authorized by this permit.
- H. 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).
- I. This permit does not authorize the sale of any collected organism.

- J. This permit expires on the date indicated on Page 1. Within one month of the expiration date, the permittee must return this permit to the address listed on the upper left corner of page 1 with complete information on all activities authorized under this permit, on the attached Activity Report form.
- K. The permittee and assistants agree to provide access to data obtained under authority of this permit upon request of the Division of Aquatic Resources, and to provide to the Division a copy of each report, published for distribution, prepared with data obtained under this permit. The permittee agrees to provide the Division of Aquatic Resources access to organisms obtained and held under this permit for on-site inspection.
- L. A violation of any terms or condition of this permit or any violation of State law not covered by this permit may result in revocation of the permit and other penalties as provided by law. In addition, the Department may consider any such violation as grounds for denying any future permit applications.

## II. SPECIAL CONDITIONS

- A. This permit authorizes the use of traps, small mesh nets (including trawls), and hook and line to take the marine listed on page 1 within established bottomfish restricted fishing areas. In addition, this permit authorizes the take of more than the five-bag limit of deep-7 bottomfish established by State law, up to the limits specified on page 1 of any size length. The permittee is authorized to continue capturing and tagging bottomfish during the closed season. Lastly, the permit waives the bottomfish registration and vessel identification requirements for federal research vessels.
- B. The use of any chemical substance to take fish is expressly prohibited under this permit but may be used to preserve fish once taken.
- C. The primary permittee and designated assistants are required to obtain permission before entering upon lands or waters not under the jurisdiction of the Department (see "C", General Conditions, page 2 of this permit).
- D. This permit does not by implication authorize the primary permittee or any designated assistant to engage in any other activity that is in violation of any other State, Federal or County law, regulation or ordinance.

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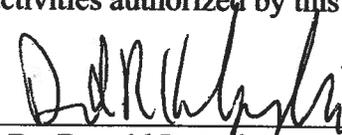
William J. Aila, Jr., Interim Chairperson  
Department of Land and Natural Resources

cc: (x) DOCARE

SIGNATURES AND AGREEMENT

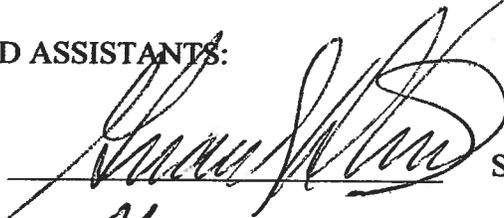
By my signature below, I acknowledge receipt and understanding of the general and special conditions of this Special Activity Permit. Further, I agree to abide by all of these conditions when conducting activities authorized by this permit.

PRINCIPAL PERMITTEES:

  
Dr. Donald R. Kobayashi

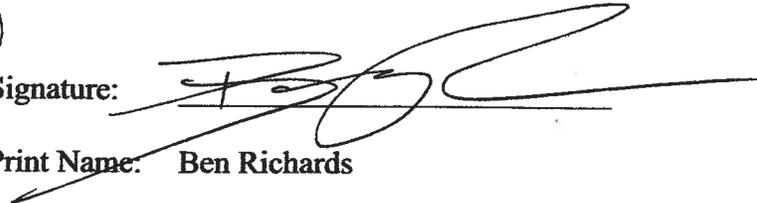
DESIGNATED ASSISTANTS:

Signature:



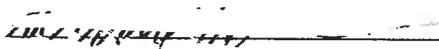
Print Name: Gerard D. Nardo

Signature:



Print Name: Ben Richards

Signature:



Print Name: Basil Oshiro

Signature:



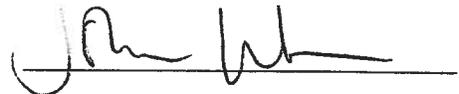
Print Name: Layne Nakagawa

Signature:



Print Name: Clayward Tam

Signature:



Print Name: Johanna Wren

Signature:



Print Name: Jeff Drazen

Signature:



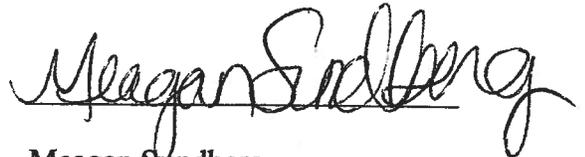
Print Name: Chris Demarke

Signature:



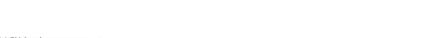
Print Name: Robert Humphreys

Signature:



Print Name: Meagan Sundberg

Signature:



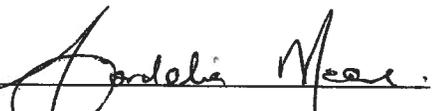
Print Name: Oskie Rice

Signature:



Print Name: Ray Shirokawa

Signature:



Print Name: Cordelia Moore

Signature:



Print Name:



SIGNATURES AND AGREEMENT

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

PRINCIPAL PERMITTEES: \_\_\_\_\_  
Dr. Donald R. Kobayashi

DESIGNATED ASSISTANTS:

Signature: \_\_\_\_\_

Print Name: Gerard DiNardo

Signature: \_\_\_\_\_

Print Name: Ben Richards

Signature: \_\_\_\_\_

Print Name: Basil Oshiro

Signature: \_\_\_\_\_

Print Name: Layne Nakagawa

Signature: \_\_\_\_\_

Print Name: Clayward Tam

Signature: \_\_\_\_\_

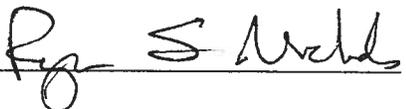
Print Name: Johanna Wren

Signature: \_\_\_\_\_

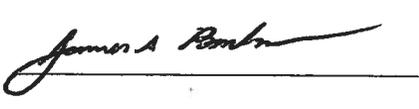
Print Name: Jeff Drazen

Signature: \_\_\_\_\_

Print Name: Chris Demarke

Signature: 

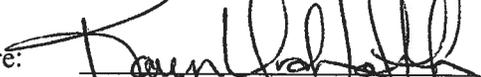
Print Name: Ryan Nichols

Signature: 

Print Name: James Barlow

Signature: 

Print Name: Kurt Kawamoto

Signature: 

Print Name: Karen Underkoffler

Signature: \_\_\_\_\_

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

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<br>Name | Quantity<br>Collected* | Disposition<br>of Specimens |
|------|----------|------------------------------|------------------------|-----------------------------|
|------|----------|------------------------------|------------------------|-----------------------------|

Permittee Signatures

Dr. Donald R. Kobayashi  
Printed name

\_\_\_\_\_  
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. Donald R. Kobayashi

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

\_\_\_\_\_  
Dr. Donald R. Kobayashi

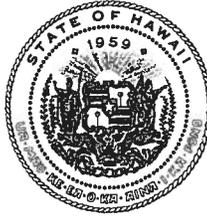
\_\_\_\_\_  
Date

ADDITIONAL DESIGNATED ASSISTANTS

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

Signature \_\_\_\_\_

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



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF AQUATIC RESOURCES  
1151 PUNCHBOWL STREET, ROOM 330  
HONOLULU, HAWAII 96813

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

GUY KAULUKUKUI  
FIRST DEPUTY

WILLIAM M. TAM  
INTERIM 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

February 25, 2011

TO: Division of Aquatic Resources File

THROUGH: William J. Aila, Jr., Interim Chairperson

FROM: Robert Nishimoto, Aquatic Biologist   
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 a Special Activity Permit to Dr. Donald R. Kobayashi, Pacific Islands Fisheries Science Center, NOAA, for studies on Hawaii State deep-seven bottomfish and jacks.

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: Special Activity Permit to Dr. Donald R. Kobayashi, Pacific Islands Fisheries Science Center, NOAA, for studies on Hawaii State deep-seven bottomfish and jacks.

Permit Number: SAP 2011-054.

Project Description: The research permit, as described below, would allow up to 500 takes of all seven species of State regulated deep-seven bottomfish, including within bottomfish restricted fishing areas (BRFAs), and 20 each of three species of jacks. There are three parts of the study – 1) to gather life history data on age, growth, abundance, spawning and size at maturity, 2) to gather data on incidentally caught species of the deep slope bottomfish ecosystem habitat to understand their population structure and the predator/prey relationship with juvenile bottomfish, including sampling the stomach content of potential predators of juvenile bottomfish, and 3) tag and release viable adult specimens that are not exhibiting signs of barotrauma or subsequently sampled for stomach contents, if external tags are available. The permit would allow the continuation of research activities even after the annual closure of the bottomfish fishing year has been declared. This is needed to continue to gather data on the deep-7 bottomfish throughout the life cycle of the regulated species throughout the year. The fishery is currently one of the most heavily regulated fisheries being managed under a Total Allowable Catch limit, bag limits, closed areas, and gear restrictions.

Consulted Parties: Not applicable.

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 have been evaluated as a single action. Since this permit involves an activity that is precedent to a later planned activity, i.e the collection of field data throughout the permit period, the categorical exemption determination here will treat all planned activities as a single action under § 11-200-7, HAR.

2. The Exemption Class for Scientific Research with no Serious or Major Environmental Disturbance Appears to Apply. 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.” This exemption class has been interpreted to include the research on animals, such as those being proposed.

In addition, the activities under consideration are exempt under Exemption Class #5, Exempt Items #3, #4, and #5, respectively, which include “placing recording devices in the field to determine animal movement,” as well as “wildlife and game surveys, censuses, inventories, studies...” and “...marine surveys and research activities...” Department of Land and Natural Resources, Exemption List for the Division of Fish and Game, approved January 19, 1976.

The proposed acoustic monitoring activities here appear to fall squarely under the exemption class identified under HAR § 11-200-8.A.5. and as described under the 1976 exemption list class items. As discussed below, no significant disturbance to any environmental resource is anticipated. 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.

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 that does not diminish marine resources, qualities, and ecological integrity, or have any indirect, secondary, cultural, or cumulative effects.

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 have a Minimal or No Significant Effect on the Environment.

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 research activities covered by this permit will be carried out with strict safeguards for the natural, historic, and cultural resources, other applicable law and agency policies and standard operating procedures.

Conclusion. Upon consideration of the permit to be approved by the Chairperson, being delegated signatory authority on behalf of the Board of Land and Natural Resources at its meeting of October 24, 2008, the potential effects of the above listed project as provided by Chapter 343, HRS, and Chapter 11-200, HAR, have been determined to be of probable minimal or no significant effect on the environment and exempt from the preparation of an environmental assessment.

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

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Date