

Prepared for:

National Oceanic and Atmospheric Administration
National Marine Fisheries Service

Programmatic Environmental Impact Statement

Appendix B: National Historic Preservation Act Section 106 Compliance

Final PEIS for Hawaiian Monk Seal Recovery Actions

March 2014



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**NATIONAL HISTORIC PRESERVATION ACT
SECTION 106 COMPLIANCE
FOR THE
HAWAIIAN MONK SEAL
RECOVERY ACTIONS**

National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Pacific Island Regional Office

Portions prepared under contract by:
Pacific Legacy, Inc.

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1.0 INTRODUCTION

1.1 OVERVIEW

Pacific Legacy, Inc. has prepared the following report to assist the National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS) in complying with its duties under Section 106 of the National Historic Preservation Act (NHPA). Section 106 consultation with Native Hawaiian organizations (NHOs) and other interested parties was conducted to consider the potential effects on historic properties of proposed Hawaiian monk seal recovery actions.

The proposed recovery actions include research and enhancement activities presented in an application prepared by NMFS for a research and enhancement permit under the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) (NOAA NMFS Permit application 16632). In compliance with the National Environmental Policy Act (NEPA), these activities and their potential environmental impacts are described and analyzed in the Programmatic Environmental Impact Statement for Hawaiian Monk Seal Recovery Actions (PEIS). The following report presents the process implemented by NMFS to comply with NHPA Section 106 for the undertaking of a program funded and carried out by a Federal agency and associated with issuance of the ESA-MMPA permit for Hawaiian monk seal recovery actions. The report includes descriptions of the undertaking, the potential area of effects, steps taken to identify the historic properties potentially affected, and the consultation process conducted to assess the potential effects. The report concludes with a determination of no historic properties affected and presents the basis for this determination.

1.2 RELEVANT STATUTES AND AGENCY REGULATIONS

The proposed Hawaiian monk seal recovery actions entail “take” of Hawaiian monk seals under the ESA and MMPA. Issuance of a permit for “take” under the ESA and MMPA requires compliance with other federal laws including, but not limited to, NEPA and NHPA. Under these statutes, NOAA, as a federal agency, has the responsibility to ensure effective stewardship of the cultural resources that may be impacted by its proposed actions. The Code of Federal Regulations (Federal Code) implements these federal statutes.

1.2.1 National Environmental Policy Act

The National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321 *et seq.*, § 4331(a)(4) (2012), requires, in part, the consideration, discussion, and analysis of possible impacts to cultural resources as part of the human environment. The NEPA requirements related to Hawaiian monk seal recovery actions are implemented through the Federal Code provisions for environmental impact statements, 40 C.F.R. §§ 1502, § 1502.16(g) (2012), and the NHPA Section 106 consultation process discussed below.

Among the potential effects of federal actions to be considered under NEPA are historic and cultural effects, “whether direct, indirect, or cumulative” (40 C.F.R. §1508.8(b)), including

“considerations of both context and intensity” (40 C.F.R. §1508.27). The unique characteristics of the proposed project’s geographic area, including its proximity to historic or cultural resources, must also be taken into consideration (40 C.F.R. §1508.27(b)(3)). According the Federal Code, the Environmental Impact Statement is required to discuss the potential impacts that all of the proposed alternatives may have on cultural resources, including analysis of the proposed actions, any unavoidable adverse effects if the proposals are implemented, the relationship of the short-term uses of the environment to the maintenance and enhancement of long-term use, and any irreversible or irretrievable commitment of resources involved in the proposals if they are implemented. It must also consider “the degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources” (40 C.F.R. §1508.27(b)(8)).

1.2.2 National Historic Preservation Act

The goal of the National Historic Preservation Act of 1966 (NHPA, Public Law 89-665 and amendments thereto; 16 U.S.C. §§ 470 *et seq.*) is to empower Federal agencies to act as responsible stewards of U.S. cultural resources when agency actions affect historic properties. The NHPA established the Advisory Council on Historic Preservation (ACHP), an independent federal agency that promotes the preservation, enhancement, and productive use of historic resources, and advises the President and Congress on national historic preservation policy. The ACHP is the only entity with the legal responsibility to encourage Federal agencies to factor historic preservation into Federal project requirements. It also authorized the Secretary of the Interior to expand and maintain a National Register of Historic Places composed of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, engineering, and culture. (Title I Section 101 (a)(1)(A)). Historic properties meeting criteria for evaluation defined in Federal Code 36 C.F.R. § 60.4 are eligible for designation as "National Historic Landmarks" and can be included on the National Register.

Section 106 of the NHPA (16 U.S.C. § 470 (f)) requires Federal agencies to take into account the effects of their undertakings on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register of Historic Places. An “undertaking,” as defined as “a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; and those requiring a Federal permit, license or approval” (36 C.F.R. § 800.16(y)). The Section 106 process seeks to accommodate historic preservation concerns with the needs of Federal undertakings through consultation among the agency officials and other parties with an interest in the effects of the undertaking on historic properties during the early stages of project planning (36 C.F.R. § 800.1(a)).

The Federal Code implementing the NHPA, 36 C.F.R. §§ 800 *et seq.* (2012), specifies the process for Section 106 consultation. The provision for consultation required under Section 106 applies when a project 1) includes a federal or federally licensed action, and 2) the action has the potential to affect properties that are listed in or are eligible for listing in the National Register of Historic Places. As part of the Section 106 process, the Federal agency must identify historic properties located within the Area of Potential Effects (APE) of the undertaking (CFR § 800.4 (b)). Identification efforts may include background research, consultation, oral history

interviews, investigation, and field survey depending upon the scope of the APE. The process of identifying historic properties that may be affected by the agency's undertakings involves:

1. Determining and documenting the area of potential effects for the project.
2. Reviewing existing information on historic properties within the area of potential effects, including any data concerning possible historic properties not yet identified.
3. Seeking information, as appropriate, from consulting parties, and other individuals and organizations likely to have knowledge of, or concerns with, historic properties in the area, and identify issues relating to the undertaking's potential effects on historic properties.
4. Gathering information from any Native Hawaiian organization to assist in identifying properties which may be of religious and cultural significance to them and may be eligible for the National Register (CFR § 800.4 (a)).

Section 101 of the NHPA states that, "In carrying out its responsibilities under section 106 of this Act, a Federal agency shall consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to properties described in subparagraph (A)" (Section 101 (d)(6)(B)). These are, "Properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization [that] may be determined to be eligible for inclusion on the National Register" (Section 101 (d)(6)(A)). The intent of this consultation is to identify historic properties potentially affected by the undertaking and to seek ways to avoid, minimize or mitigate any adverse effects on those properties (36 C.F.R. § 800.1(a)).

The NHPA, Section 301 Title III (16 U.S.C. 470 (w) – Definitions (5)) defines a Native Hawaiian organization (NHO) as any organization which "serves and represents the interests of Native Hawaiians," "has as a primary and stated purpose the provision of services to Native Hawaiians" and "has demonstrated expertise in aspects of historic preservation that are culturally significant to Native Hawaiians." This includes, but is not limited to, the Office of Hawaiian Affairs of the State of Hawai'i and Hui Mālama I Nā Kūpuna O Hawai'i Nei, an organization incorporated under the laws of the State of Hawai'i.

The Federal agency must ensure that the Section 106 process is initiated early in the undertaking's planning, so that a broad range of alternatives may be considered during the planning process. It must also complete the Section 106 process prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license. This, however, does not prohibit the agency from conducting or authorizing nondestructive project planning activities before completing compliance with Section 106, provided that such actions do not restrict the subsequent consideration of alternatives to avoid, minimize or mitigate the undertaking's adverse effects on historic properties (36 C.F.R. § 800.1 (c)).

Under the Federal Code, the consultation process provides for the inclusion of certain parties, including the State Historic Preservation Officer (36 C.F.R. § 800.2 (c)(1)), Native Hawaiian Organizations (36 C.F.R. § 800.2 (c)(2)), representatives of local governments (36 C.F.R. § 800.2 (c)(3)), additional consulting parties with a demonstrated interest in the undertaking (36 C.F.R. § 800.2 (c)(5)), and the public (36 C.F.R. § 800.2 (c)(5)(d)). There are specific provisions in 36 C.F.R. § 800.2 for coordination with the NEPA process and for consultation with any NHO that attaches religious and cultural significance to historic properties that may be affected by an

undertaking. 36 CFR §800.2 (c)(2)(ii)(A) requires that the federal agency conducting Section 106 consultation must insure that the consultation process provides the NHOs involved with a reasonable opportunity to identify their concerns about historic properties, to advise on the identification and evaluation of historic properties, including those of traditional religious and cultural importance, to articulate their views on the undertaking's effects on such properties, and to participate in the resolution of any potential effects.

2.0 BACKGROUND

2.1 HAWAIIAN MONK SEAL RECOVERY PROGRAM AND PROPOSED RECOVERY ACTIONS

NMFS is the federal agency responsible for management of Hawaiian monk seals, under the ESA (16 United States Code [U.S.C.] 1531 *et seq.*) and MMPA (16 U.S.C. 1361 *et seq.*). NMFS funds, permits, and conducts research and enhancement activities on Hawaiian monk seals in the Northwestern Hawaiian Islands (NWHI) and main Hawaiian Islands (MHI).

Populations of the Hawaiian monk seal (*Monachus schauinslandi*) have experienced a prolonged decline. In 1976, NMFS listed Hawaiian monk seals as “endangered” under the ESA (41 Federal Register [FR] 51611) and “depleted” under the MMPA. NMFS implements recovery actions (research and enhancement) for Hawaiian monk seals to promote the conservation and recovery of the species population to levels at which ESA protection is no longer needed. NMFS has proposed new research and enhancement activities for Hawaiian monk seals and has applied for authorization under the ESA and MMPA to conduct these activities (collectively referred to as recovery actions). The activities associated with this undertaking include, but are not limited to, monitoring, tagging, limited on-site medical treatment and the temporary translocation of seals between islands to enhance juvenile survival.

The intent of this report is to assess the potential effects to historic properties of the research and enhancement activities proposed in the ESA and MMPA permit application, to provide a summary of NHPA Section 106 consultations held regarding these potential effects, and to present the determination made by NMFS regarding these potential effects pursuant to NHPA Section 106.

Several actions proposed in the permit application may have the potential to affect historic properties within the Hawaiian archipelago. These historic properties may include both shoreline sites and submerged sites. Areas of traditional cultural significance, such as bays and beaches associated with legendary or historic events, which may be eligible for listing on the National Register as Traditional Cultural Properties could also be affected by activities related to the undertaking. The Section 106 consultation held in association with this undertaking focused on identifying Native Hawaiian concerns regarding the potential effects of the proposed NMFS Hawaiian monk seal research and enhancement activities on historic properties.

2.2 HAWAIIAN MONK SEAL

The Hawaiian monk seal is among the rarest of all marine mammals. It is endemic to the islands of the Hawaiian chain and found nowhere else on earth. Hunted to the brink of extinction in the late 19th century, Hawaiian monk seals have been declining in population since the late 1950s. The monk seal population is currently declining overall. While the larger monk seal population in the NWHI is shrinking, the population within the MHI is growing.

At present, the majority of monk seals live in six main breeding subpopulations located within the NWHI on Kure Atoll, Midway Islands, Pearl and Hermes Reef, Lisianski Island, Laysan Island, and French Frigate Shoals. Smaller breeding sub-populations also occur on Mokumanamana (Necker) and Nihoa Islands. Monk seals have also been observed at Gardner Pinnacles and Maro Reef. Monk seals are also found within the MHI where births have occurred on many of the major islands.

As a general rule, Hawaiian monk seals are relatively solitary and do not congregate in large groups as do other seal species such as sea lions and harbor seals. Monk seals occupy a range of marine and coastal habitats. They frequent the waters surrounding atolls, islands, and areas farther offshore on reefs and submerged banks. Monk seals are also found using deepwater slopes and coral beds as foraging habitats. They often haul-out on land to rest during the day, and prefer sandy, protected beaches surrounded by shallow waters when pupping. Hawaiian monk seals are apex predators within the coral reef environment. They are primarily benthic foragers, feeding along the sea bottom on a variety of prey including fish, cephalopods, and crustaceans, although their diet varies depending upon location, sex, and age.

2.3 AREA OF POTENTIAL EFFECTS

The Project Area for the proposed Hawaiian monk seal recovery actions encompasses the range where Hawaiian monk seals are found throughout the Hawaiian Archipelago, including the main Hawaiian Islands, the Northwestern Hawaiian Islands, and Johnston Atoll (Figure 1). It includes portions of the open-ocean and near-shore environment where monk seals may be found, as well as the shore zone of the islands, islets and atolls that make up the Hawaiian Archipelago and Johnston Atoll. For the purposes of NEPA, the shore zone generally includes those terrestrial areas 5 meters inland from the line where the shore meets the sea. In addition, secondary use areas, such as research field camps in the NWHI, are also considered for inclusion.

For the purposes of NHPA Section 106 consultation, the Area of Potential Effects (APE) of an undertaking is defined as the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist (CFR 36 § 800.16 (d)). The APE for the proposed Hawaiian monk seal recovery actions includes the shore zone, encompassing those terrestrial areas up to 25 meters inland from the upper reaches of the wash of the waves, at high tide during the season in which the highest wash of the waves occurs (usually evidenced by the edge of vegetation growth or the upper limit of debris), and the inshore waters up to 300 meters off from the shoreline, as well as camp sites further inland on the NWHI (as described in Section 3.4.6. of the PEIS). This APE has been extended further inland than the NEPA project area out of an abundance of caution regarding the potential direct and indirect effects of monk seal recovery actions on historic properties.

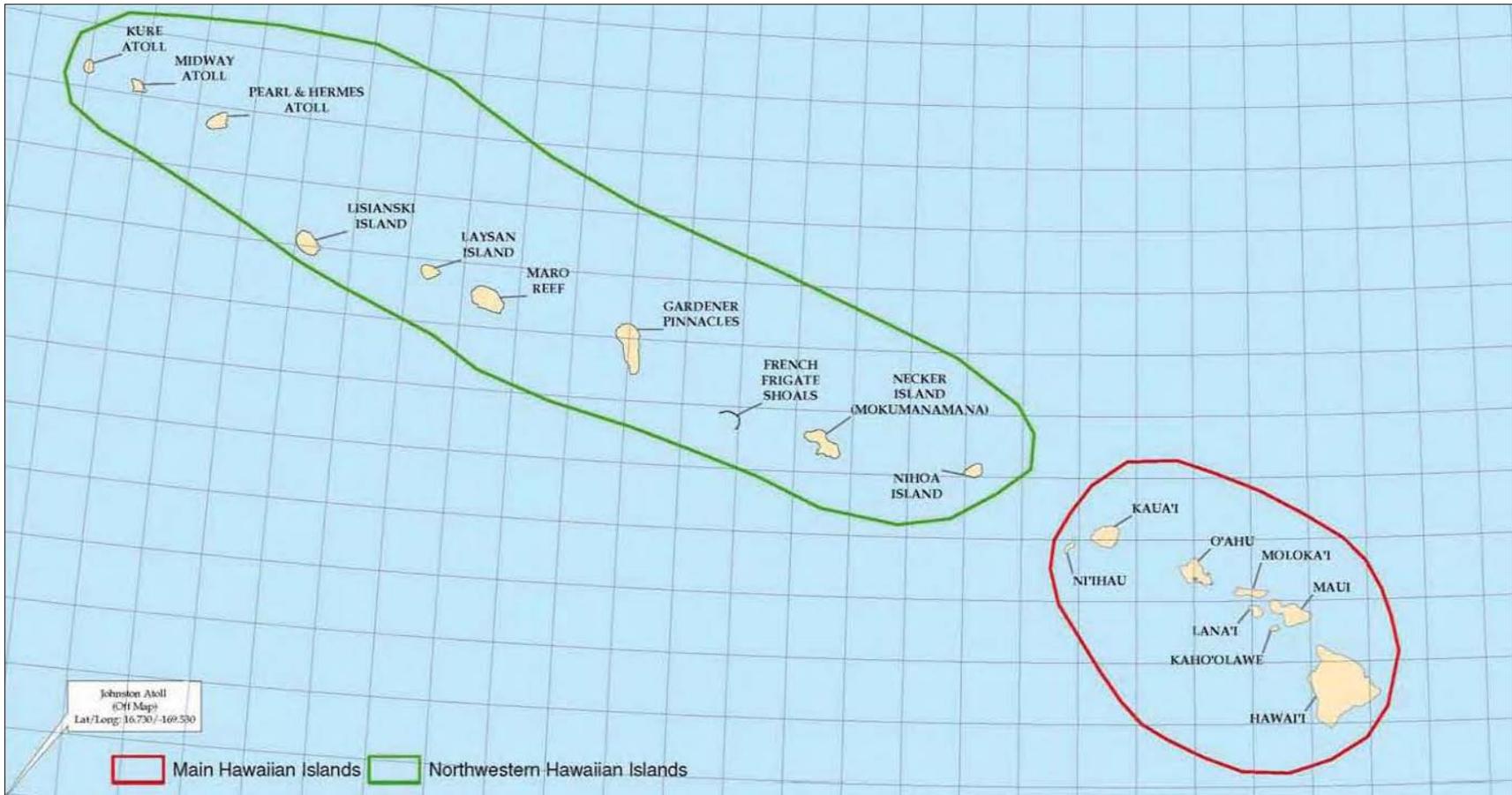


Figure 1. Project area for the Programmatic Environmental Impact Statement (PEIS) for the Hawaiian Monk Seal Recovery Actions.

2.3.1 Main Hawaiian Islands

The eight main islands of the Hawaiian chain include the high volcanic islands of Hawai‘i, Maui, Kaho‘olawe, Lāna‘i, Moloka‘i, O‘ahu, Kaua‘i and Ni‘ihau, which rest at the southeastern end of the archipelago. The main Hawaiian Islands (MHI) comprise approximately 12,548 square kilometers of land and 1,431 km of coastline (Coastal Geology Group 2011; DBEDT 2010). Hawaiian monk seals can be found in small numbers throughout MHI (Antonelis *et al.* 2006). The areas within these main Hawaiian Islands (MHI) potentially affected by monk seal recovery actions addressed in the PEIS include the shoreline areas and the immediate offshore zone.

2.3.2 Northwestern Hawaiian Islands

The Northwestern Hawaiian Islands (NWHI) consist of those islands, atolls, rocks, reefs and shoals that lie to the northwest of the MHI. Also known as the Leeward Islands, the NWHI extend approximately 1,240 miles (2,000 kilometers) from the island of Nihoa in the southeast to Kure Atoll in the northwest (Figure 2). The land that makes up the NWHI totals approximately 13.6 square kilometers (approximately 5.2 square miles). None of the island groups cover more than 6 square kilometers (approximately 4 square miles) in total area. The mean elevation of the islands is less than 33 feet (10 meters), with the highest elevation being at 275 meters on Nihoa Island (Juvik and Juvik 1998). The NWHI are surrounded by over 30 submerged ancillary banks and seamounts. The majority of the islands are uninhabited, with the exception of Midway Atoll, Kure Atoll, Laysan Island, and French Frigate Shoals, which have been occupied by various government agencies for extended periods over the last century (Friedlander et al. 2009).

In 2006, the entire NWHI were included within the Papahānaumokuākea Marine National Monument, which was created by Presidential Proclamation 8031 on June 15, 2006 under the authority of the Antiquities Act of 1906 (16 U.S.C. §§ 431-433). The Monument, which encompasses an area of approximately 142,948 square miles (370,234 square kilometers), includes the ten main islands and atolls that make up Northwestern Hawaiian Islands and the surrounding waters. Its boundaries begin 125 miles west of the main Hawaiian Island of Kaua‘i. Papahānaumokuākea Marine National Monument is the largest protected area in the United States, as well as the world’s largest fully protected marine area. On June 30, 2010, the World Heritage Committee of the United Nations Educational, Scientific and Cultural Organization (UNESCO) unanimously inscribed Papahānaumokuākea as a mixed (i.e., cultural and natural) site. The management of the Monument is under the co-trusteeship of the National Oceanic and Atmospheric Administration, the U. S. Fish and Wildlife Service and the State of Hawai‘i.

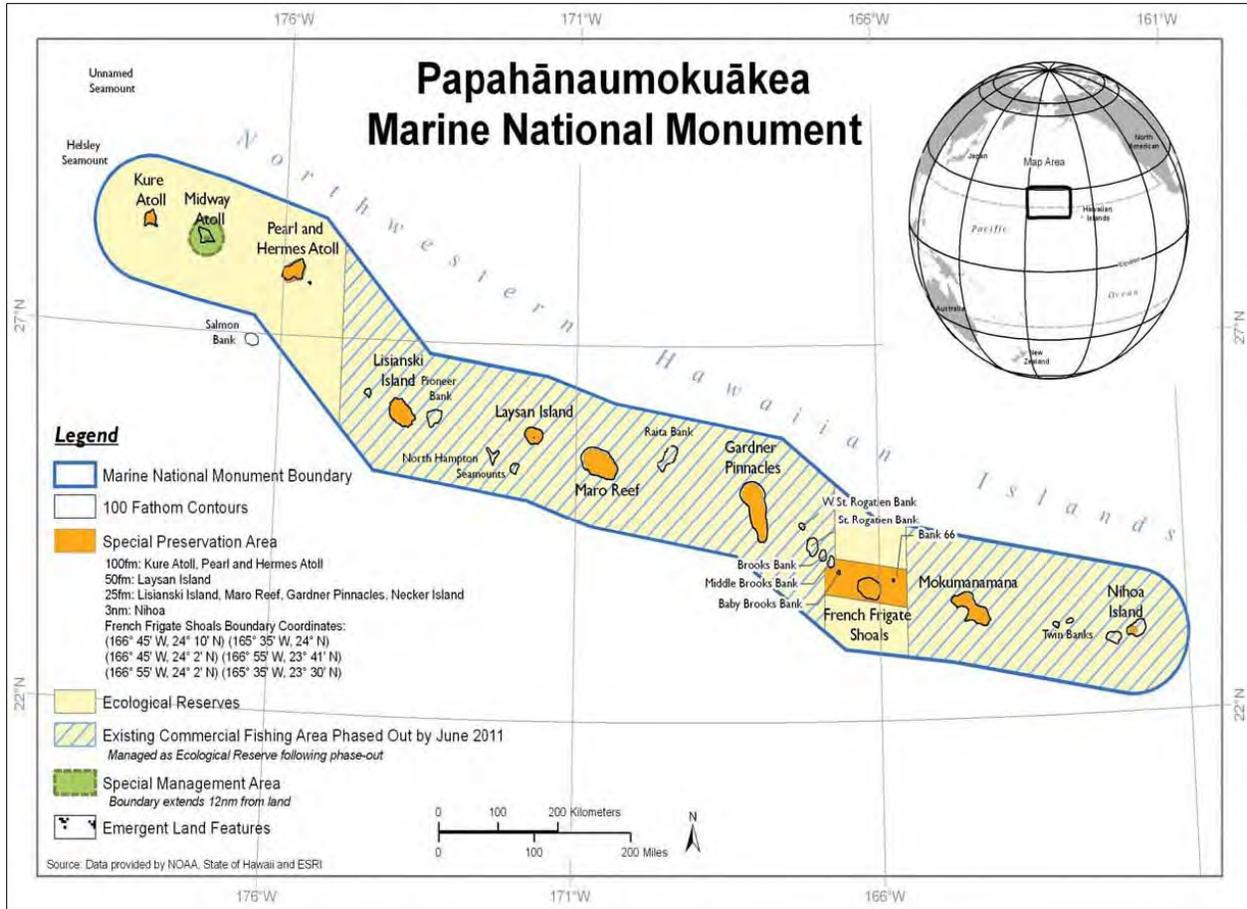


Figure 2. Northwestern Hawaiian Islands.

2.4 PREVIOUS STUDIES

The following previously existing studies were taken into consideration in preparing this report.

A document entitled “Draft Section 106 Analysis of Programmatic Environmental Impact Statement for the Hawaiian Monk Seal Recovery Program” was prepared for NMFS in 2011 (Watson 2011). This report determined that the research and enhancement activities proposed for Hawaiian monk seal recovery possessed no potential to cause effects on historic properties, and therefore Section 106 consultation was not required.

Considering public comment on the Draft PEIS and further analysis during preparation of the Final PEIS, NMFS reconsidered the “no potential to affect” finding of the 2011 report and determined that a potential to affect historic properties likely did exist. The present report documents the process and findings of the NHPA 106 compliance process under this assumption that there was a potential to affect historic properties.

Also in 2011, a *Maritime Heritage Research, Education, and Management Plan* was prepared for the Papahānaumokuākea Marine National Monument. This Management Plan addressed the sites in the Monument associated with the historic period and provides extensive information on these historic resources. The information contained in this document regarding the historic resources of the NWHI has been utilized in preparing the present report.

NMFS conducted a NHPA Section 106 consultation in 2008 regarding Hawaiian monk seal research and enhancement activities on Nihoa. The activities included camping restricted to specified locations and limited access to the interior of the island seal as needed for the purposes of seal monitoring and translocation. As a result of this consultation, NMFS determined it would mitigate physical damage and ensure the preservation of cultural properties at Nihoa consistent with a no adverse effects determination, and the Hawaii SHPO transmitted its concurrence with this determination on March 24, 2008. (As discussed in Section 7 below, unlike the undertaking considered in 2008, the activities associated with present undertaking considered in this report are limited to intertidal and coastal areas below the sea cliffs of Nihoa , and do not include camping or access to the interior of Nihoa.)

2.5 SCOPE OF WORK AND OBJECTIVES

Several of the newly developed recovery actions may possess the potential to affect historic properties within in the Hawaiian archipelago. These properties include both shoreline sites (such as dune burials, coastal habitation structures, fishponds and fishing shrines) and submerged sites (such as offshore wrecks or underwater fishing *ko'a*). Traditional Cultural Properties eligible for listing on the National Register of Historic Places (such as geographic locations possessing traditional religious significance or headlands, bays and beaches associated with legendary or historic events) may also be affected. The following report focuses on addressing the potential effects of proposed Hawaiian monk seal recovery actions on these historic properties. The objective of the present study is to assist NMFS in fulfilling its statutory obligations under Section 106 of NHPA to protect historic properties during the planning and implementation of the proposed Hawaiian monk seal recovery actions.

3.0 METHODOLOGY

3.1 BACKGROUND RESEARCH

In order to understand the potential effects of Hawaiian monk seal recovery actions on historic properties, a thorough study was made of the types of archaeological and cultural sites that may be present within the project APE. Due to the geographic extent of the APE, an effort was made to identify the range of sites that may be affected rather than to identify individual historic properties. This was particularly necessary given that many of the potential activity locations within the APE have not been the subject of detailed archaeological investigations, and therefore not all of the sites present within them have been identified or documented.

An analysis was also undertaken of the range of research and enhancement activities proposed in order to determine their potential physical effects to historic properties. Not only were the recovery actions themselves taken into consideration (e.g. transit to and from project sites, activities involved in seal relocation), but consideration was also given to their consequences (e.g. translocated seals interacting with and impacting historic properties).

3.2 COMMUNITY MEETINGS

As part of public outreach associated with the preparation of the Hawaiian monk seal PEIS, a series of community meetings were held at various venues on the islands of Moloka‘i, Lāna‘i, Maui, Hawai‘i, and O‘ahu. Examples of the meeting announcements published in island newspapers and posted on the NMFS PIRO website are provided in Appendix A of this report. The purpose of these meetings was to provide the public with the opportunity to offer information on the historic properties, cultural resources and traditional practices that may be affected by the recovery actions. The meetings were also intended to enable Native Hawaiian organizations and other interested parties to assist in developing strategies to prevent or minimize any potential effects resulting from these proposed actions. The results of these community meetings are discussed in Section 7.0.

3.3 SECTION 106 CONSULTATION

In complying with the statutory requirements of Section 106 of the NHPA, NMFS has identified, contacted and consulted with Native Hawaiian Organizations (NHOs) and other interested parties to obtain their assistance in identifying historic properties that may be affected by the recovery actions proposed. Copies of correspondence between NMFS and NHO's regarding the consultation are provided in Appendix C, D, E and F of this report. This consultation was also intended to provide the NHOs and other parties with an opportunity to express any concerns they might have about the potential effects of monk seal recovery actions on these historic properties and to recommend measures to avoid, minimize, or mitigate any potential adverse effects. This consultation process is discussed in detail in Section 7.0.

4.0 ACTIVITIES RELATED TO THE UNDERTAKING

4.1 CURRENT ACTIVITIES

The existing permit issued to the NMFS Pacific Islands Fisheries Science Center (PIFSC) under the Marine Mammal Protection Act (MMPA-ESA Permit No. 10137-07) authorizes research and enhancement activities on Hawaiian monk seals. These activities (which are listed in Table 2.10-1 of the PEIS) include aerial, vessel, and ground surveys, sample collection, medical treatment, marking of animals, attachment of telemetry instruments, translocation and temporary captivity. The PIFSC is authorized to undertake these activities each year through June of 2014, at which time the existing permit will expire.

4.2 ACTIVITIES PROPOSED IN ESA-MMPA PERMIT APPLICATION

The proposed recovery actions (referred to as research and enhancement activities) are presented in the ESA-MMPA Permit application (NMFS application number 16632). The actions are also described in the PEIS in the sections that present the preferred alternative (alternative 3). The activities are briefly summarized below. The entire permit application may be reviewed at the following website:

<http://www.nmfs.noaa.gov/pr/permits/monkseal16632.htm>.

4.2.1 Proposed Activities

The proposed actions presented in the ESA-MMPA permit application encompass the range of research and enhancement activities considered most promising for fostering monk seal recovery over the next five years. All activities currently permitted would continue (these activities are listed in Table 2.10-1 of the PEIS). The PEIS considers the suite of recovery actions that would be conducted on an intermittent basis over a 10-year period. Additional actions would include increased handling of Hawaiian monk seals, as well as a seal behavior modification program intended to prevent or reduce human-monk seal interactions. The scope and number of seal translocations would also be expanded to include the translocation of Hawaiian monk seals within the MHI or within the NWHI, as well as the translocation of a limited numbers of seals from the MHI to the NWHI (see PEIS Section 3.9). As a result, boat and land vehicle activity, as well as shoreline activities, would be greater than at present. Activities conducted would include aerial, vessel and land-based surveys, and some handling and transportation of Hawaiian monk seals. Boats and land vehicles will be used to transport researchers and possibly animals. Researchers will cross beach and dune areas on foot to reach monk seal locations. Recovery activities will be conducted throughout the APE, in the MHI, NWHI, and on Johnston Atoll. Researchers will seasonally (typically April or May through August) occupy existing camp sites in the NWHI.

The APE for this undertaking is relatively large considering the natural range of the Hawaiian monk seal. Nevertheless, the actual spatial “footprint” of the recovery activities themselves would be quite small in comparison, and the activities would occur infrequently and rarely

repeatedly in any one location. The activities would also be quite limited in terms of intensity and duration. Only a limited number of staff (usually less than 10) and only one or two vehicles and/or small vessels would be involved in conducting any of the activities, and the activities would usually be completed in one hour or less. In addition, none of the activities would entail alteration of any structure, shoreline, or seafloor substrate, nor would any activity entail any new restriction on resource use or access.

4.3 RELEVANT TASKS ASSOCIATED WITH UNDERTAKING

1. Translocation

This activity involves the temporary or permanent translocation of weaned pups, juveniles and sub-adults, and adult males within or between subpopulations within the species range. It will include translocations within the NWHI, within the MHI, and from the MHI to the NWHI.

Tasks Involved:

Translocation within the NWHI

Capture of the seal:

Seals are captured by manual physical restraint, herding (sometimes with plywood boards), and placed in nets or cages for transport. The removal cage (for adults) or net (for pups) is transported to the capture site by boat and is hand-carried from the boat to the seal's location on the beach. Depending on the size of the seal, two to four NOAA staff will be present to carry the cage or carrier and to monitor the seal. There is no large-scale movement of sand or digging.

Transport to the release site:

The captive seal is then hand-carried to the release site or to the waiting boat for transport to the release site.

Release of the seal:

The capture process is reversed at the release site, whether from a net or cage. The captive seal is hand-carried from the boat to the release site. Pups are typically released on the beach above the water-line. Depending on the size of the seal, two to four NOAA staff will be present to carry the cage or net and to monitor the seal.

Translocation within the MHI and from the MHI to the NWHI

Capture of the seal:

Seal cages are typically transported to the capture site by truck. As a seal is usually translocated from an area of human population to a more remote locale, the capture site is likely to have nearby vehicle parking for the truck, as in the case of a beach park, or at least nearby access to a paved road. No off-road vehicle access is involved. The cage (for adults) or net (for pups) is hand-carried from the truck to the seal's location on the beach. Depending on the size of the seal, two to four NOAA staff will be present to carry the cage or carrier and to monitor the seal. There is no large-scale movement of sand or digging.

Transport to the release site:

The captive seal is hand-carried to the waiting truck or boat for transport to the release site. The cage is typically not carried a long distance due to its weight. As the release site is usually remote, seals are often transported by boat.

Release of the seal:

The capture process is reversed at the release site, whether from a net or cage. The captive seal is hand-carried from the boat to the release site. Pups are typically released on the beach above the water-line. Depending on the size of the seal, two to four NOAA staff will be present to carry the cage or net and to monitor the seal.

2. Carcass Removal

Removal of a deceased animal in the MHI involves collection of the carcass and its transport to a necropsy facility. The site is accessed according to the same process outlined above for translocation via truck for a populated area or boat for a remote area. When the site is remote, two to four NOAA staff may be required to hike from the road, producing cross-country pedestrian traffic.

This activity in the NWHI involves access to the site and carcass removal by boat or on foot. Some necropsies are conducted where carcasses are found in the NWHI (without transporting the carcass).

3. Other Tasks

Other activities proposed, including disentanglement, health assessment, etc., may involve pedestrian traffic or boat traffic to access the seals. The sites would be accessed according to the same process outlined above for translocation via truck for a populated area or boat for a remote area. When the site is remote, two to five NOAA staff may be required to hike from the road, producing cross-country pedestrian traffic. This activity in the NWHI usually involves access to the site by boat.

5.0 HISTORIC PROPERTIES POTENTIALLY AFFECTED

5.1 HISTORIC PROPERTIES

The NHPA of 1966 (Section 101) authorized the Secretary of Interior to maintain and expand a National Register of Historic Places (National Register) that contains a listing of districts, sites, buildings, structures and objects significant in American history, architecture, archaeology, engineering and culture. The National Register is defined as an authoritative guide to be used by Federal, State, and local governments, private groups, and citizens to identify the nation's cultural resources and to indicate what properties should be considered for protection from destruction or impairment.

The term "historic property" is defined in the NHPA (Section 301 Title III, 16 U.S.C. 470w – Definitions (5)) as: "any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in the National Register." Historic properties eligible for inclusion in the National Register include both properties formally listed on the National Register and all other historic and cultural sites that meet the National Register criteria (36 C.F.R. § 800.16(1)). These include properties of traditional religious and cultural importance.

A property may be listed on the National Register if it meets the criteria for evaluation as defined in Title 36 C.F.R. § 60.4:

The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and

- (a) That are associated with events that have made a significant contribution to the broad patterns of our history; or
- (b) That are associated with the lives of persons significant in our past; or
- (c) That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- (d) That have yielded, or may be likely to yield, information important in prehistory or history.

The Advisory Council on Historic Preservation has recently recognized that large scale historic properties of religious and cultural significance are often comprised of multiple, linked features that form a cohesive "landscape" (ACHP 2011). The component sites that make up such a Traditional Cultural Landscape all contribute their individual significance to form a greater landscape-wide whole. The range of criteria under which a cultural landscape can be determined to be significant is often greater than that of its component sites.

The Secretary of Interior has also recognized the significance of Traditional Cultural Properties (TCPs). The National Register Bulletin 38 "Guidelines for Evaluating and Documenting

Traditional Cultural Properties" (Parker and King 1990) defines "[a] traditional cultural property ... as one that is eligible for inclusion on the National Register because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community's history, and (b) are important in maintaining the continuing cultural identity of the community" (Parker and King 1990:1).

A TCP can be considered a historic property even if it does not possess any recognizable archaeological remains. The lack of any physical evidence of an area's past use and significance would in no way reduce its importance as a TCP. "Although many traditional cultural properties have visual physical indications, others do not. Importantly, the historical significance of most traditional cultural properties can only be evaluated in terms of the oral histories of the community" (Sebastian 1993:22). The Advisory Council on Historic Preservation (ACHP) 1985 guidelines also note that "[a] property need not have been in consistent use since antiquity by a cultural system in order to have traditional cultural value..." (ACHP 1985:7).

As mentioned above, a historic property need not be formally listed on the National Register to receive NHPA protection. The property need only meet the National Register criteria (i.e., be eligible for listing in the National Register). Therefore, in those cases where the archaeological sites within an area have not yet been formally identified or documented, the sites may still warrant protection under NHPA if they meet the requirements to be eligible for listing in the National Register.

5.2 HISTORIC PROPERTIES WITHIN THE AREA OF POTENTIAL EFFECTS

A wide range of historic properties are known to be present within the APE of the proposed monk seal recovery actions. NMFS has determined that the APE for this project encompasses the range where Hawaiian monk seals are found throughout the Hawaiian Archipelago, including the NWHI, MHI and Johnston Atoll. The APE includes the shore zone, encompassing those terrestrial areas up to twenty-five meters inland from the line where the shore meets the sea, and the inshore waters up to 300 meters off from the shoreline, as well as camp sites further inland on the NWHI (as described in Section 3.4.6. of the PEIS). Historic properties that may be present in these areas include both traditional Hawaiian and post-Contact sites.

Given the vast geographic extent of the APE, as well as the programmatic nature of the actions themselves, it is not practical to list all of the historic properties that have the potential to be affected by the undertaking. This list would easily extend into the thousands of sites. There also remain many coastal areas within the MHI where the archaeological sites have not yet been identified or adequately documented.

In order to determine the potential effects of monk seal recovery actions on historic properties within the APE and to propose measures that may serve to mitigate these effects, it is necessary to examine the range of sites that may be affected. The following sections describe the general types of historic properties that can be predicted to be present within the Area of Potential Effects of the monk seal recovery program in both the Northwestern Hawaiian Islands (NWHI) and the Main Hawaiian Islands (MHI).

5.3 NORTHWESTERN HAWAIIAN ISLANDS

The relative density of historic properties within the NWHI is much less than in the MHI. This is due primarily to the relative lack of habitable land area on many of the islands, reefs and atolls. Although recent studies suggest that several of the Leeward Islands were known to early Hawaiian voyagers (Kikiloi 2006, 2010), the only islands which have been found to contain evidence of traditional Hawaiian occupation are Nihoa and Mokumanamana (Necker), the closest islands to the main Hawaiian chain. These islands have been the subject of several archaeological investigations (Emory 1928, Cleghorn 1988, and Kikiloi and Graves 2005). Both islands were designated as archaeological districts (the Nihoa Island Archaeological District, Site # 92-01-89; and the Necker Island Archaeological District, Site # 91-01-53) and placed on the National Register in 1988. Together the two islands contain over 140 documented archaeological sites.

Located at the southeastern end of the NWHI chain, the island of Nihoa covers only about 1 square kilometer (171 acres) of land. This remnant volcanic island is bounded by sea cliffs, some of which rise up to 900 feet in height. More than 90 historic properties have been recorded on the island; 66 by the Tanager Expedition (Emory 1928) and an additional 22 in 1984 (Cleghorn 1984, Kikiloi and Graves 2006). These sites include habitation terraces and bluff shelters, agricultural terraces, ceremonial structures, and burial caves (State of Hawai'i 2008:16). The presence of stone faced and soil filled terraces suggests cultivation of dryland crops, possibly *'uala* (sweet potato, *Ipomoea batatas*). It has been suggested that the island's abundant natural resources, including fish, shell fish, birds, bird eggs, and presumably monk seals, as well as the presence of at least three freshwater seeps, allowed it to support as many as 100 people on a semi-permanent basis between A.D. 1000 and A.D. 1700 (Cleghorn 1988). All of the archaeological sites situated on the island are located on the gentler upland slopes above the coastal cliffs, while monk seal recovery activities would be restricted to the basalt ledges washed by the tide. Given Nihoa's topography, there is little likelihood that monk seal recovery actions will affect the islands historic properties.

Much the same is true for the remnant volcanic island of Mokumanamana (Necker). Of the fifty-five documented historic properties on Mokumanamana, thirty-three are religious sites, seventeen are shelter caves, and two sites are of unknown function. The island possesses the highest concentration of religious structures found anywhere in the Hawaiian Archipelago (State of Hawai'i 2008:16-17). Unlike Nihoa, however, the island does not possess agricultural terraces. This small, dry island has little soil suitable for cultivation. It seems probable that Hawaiian voyagers traveled to Mokumanamana from Nihoa and the MHI primarily for religious purposes. The island's archaeological sites are all located along the upper slopes of its central ridge well away from the shoreline and outside the APE of the undertaking. Given the topography of the island there is little likelihood that monk seal recovery activities will geographically overlap the areas occupied by these historic properties and therefore will not affect them.

Many of the low-lying atolls located to the north and west of Nihoa and Mokumanamana are subject to dynamic environmental conditions. Small sand islands and sand spits shift over time

and are washed over in the winter by strong storm waves. To date, no direct archaeological evidence of Polynesian presence has been discovered on the remaining islands of the NWHI or on Johnston Island (Apple 1973; Ziegler 1990). A systematic archaeological survey for such sites has yet to be undertaken.

Historic era shipwrecks are present in the offshore waters of several of NWHI. Archival research indicates that there may be as many as sixty shipwreck sites, the earliest dating back to 1818 (Papahānaumokuākea Marine National Monument 2011:20-21), and at least sixty-one aircraft sites in the waters of the Papahānaumokuākea Marine National Monument. To date, seventeen shipwreck sites have been discovered and documented by NOAA archaeologists. These vessels range from nineteenth century whaling ships and cargo vessels to World War II Liberty ships (Papahānaumokuākea Marine National Monument 2011:34-43). At least 67 naval aircraft are recorded as being lost in the vicinity of the NWHI. During the World War II, an intense air battle was waged directly over and around Midway Atoll. Numerous Japanese and American planes were shot down and their wrecks are considered to be war graves (Papahānaumokuākea Marine National Monument 2011:22). Shipwrecks and underwater plane crash sites located within 300 meters of the shoreline have the potential to be affected by the anchoring of vessels associated with monk seal recovery actions.

During the historic period, Midway Atoll was the most heavily utilized of the NWHI, and the relics of that use remain today in a variety of forms. By 1903 a cable station was in operation on the island, and in the 1930s, Midway became a stopover for the famous Pan American Airways flying clipper seaplanes on their five-day transpacific passage. The construction of a naval air facility at Midway began in 1940. The island played a major role in one of the most important battles of the war. The Battle of Midway, which took place from June 4 to 7, 1942, is considered the turning point of the war in the Pacific. Because of its association with the battle, Midway Atoll has been designated a National Memorial (Papahānaumokuākea Marine National Monument 2011:21-22). Historic properties present on the island include several ammunition magazines, a concrete pillbox, and gun and battery emplacements. For the most part these historic properties are located outside the APE of the undertaking. Although Johnston Island was at one time the site of a U. S. Navy air station, the only remnant of its historic remaining today is the airfield.

5.4 MAIN HAWAIIAN ISLANDS

Although relatively few of the archaeological and cultural resources located within the NWHI have the potential to be affected by the research and enhancement recovery activities, this is not the case in the MHI. The shoreline and immediate offshore areas within the MHI contain large numbers of both pre-Contact and historic archaeological sites. The individual sites are far too numerous to be listed here and, as noted above, many have not yet been formally identified or documented.

The Hawai‘i State Historic Preservation Division (SHPD) is presently updating its Geographic Information System (GIS) database of historic properties which have been assigned State Inventory of Historic Places (SIHP) site numbers. When completed, the database will show the exact location of all SIHP sites for which accurate location coordinates are available. Once the

database is fully operational, it will be possible to quickly identify all those documented sites that fall within the relative proximity of a proposed monk seal recovery action. The SHPD GIS database can therefore serve as a useful tool in planning monk seal recovery actions so as to avoid adversely affecting known historic properties.

Several types of traditional Hawaiian historic properties are likely to be encountered within the APE for monk seal recovery actions. These properties can be grouped into onshore sites, sites located within the intertidal zone, and offshore sites.

5.4.1 Onshore Traditional Historic Properties

Traditional Hawaiian sites can be found along the shorelines of all of the MHI. They occur in a range of natural environments from rocky headlands to sandy beaches. Due to the fact that many of these onshore features occur within or atop sand dunes, coastal sites can often be relatively fragile and susceptible to damage from pedestrian traffic and other activities. The types of historic properties found up to 25 meters inland from the line where the shore meets the sea include the following:

Coastal house sites and other habitation structures: These might consist of stone faced platforms or terraces that served as the foundations of pole and thatch dwellings or walled house enclosures. They can be built on or immediately behind sand dunes, on coastal flats, or atop shoreline promontories. The walls and facings of these structures, being of stacked stone, are relatively fragile and can be easily tumbled if climbed upon.

Buried cultural deposits: These subsurface deposits of cultural features (stone lined fire hearths, post holes, pits, etc.) and materials (artifacts, food remains, etc.) usually represent the remnants of former habitation areas. They are often present in sand flats and dunes situated just back of the high tide line and are visible as dark, charcoal stained layers exposed in the face of wave cuts. These deposits are highly susceptible to erosion by wave action or pedestrian traffic.

Canoe landings and canoe sheds: While canoe landings are often natural features such as small sand beaches or areas of gently sloping shingles where a canoe could easily be brought ashore, canoe sheds were long and narrow, stone walled enclosures that were originally roofed with thatch. Like other stacked stone structures, canoe sheds are susceptible to collapse.

Fishing shrines and other religious sites: Small fishing shrines (*ko'a*) were often built near the shoreline, usually on low promontories overlooking the sea. It was at these *ko'a* that the first fish of the catch was left as an offering to Kū'ulakai or one of the other patron gods of fishing. Larger religious structures (*heiau*) were usually set further back from the shore, but at times they can be found just above the high tide line. Both of these types of ceremonial sites, being stacked stone structures (platforms, terraces or enclosures), are susceptible to human impacts.

Human burials: It is relatively easy to excavate a shallow pit into soft sand. For this reason, sand dunes and sandy shorelines were among the preferred burial areas (*ilina*) utilized

during both the pre-Contact and early historic periods. Dune burial was particularly frequent in the early years of the post-Contact era when epidemics of introduced diseases decimated the Hawaiian population, leaving little time for more elaborate burial measures. Some coastal burial areas consist of formal cemeteries with individual graves marked by stone mounds or headstones. Other *ilina* are unmarked and may not be immediately recognizable on the surface. It is always safest to assume that a sizeable sand dune is likely to contain burials. Dune burials, like the dunes themselves, are extremely fragile and can be easily disturbed and damaged if exposed by wave action or human activity.

5.4.2 Intertidal Traditional Historic Properties

Very little archaeological evidence of past human activities has survived in the turbid environment of the surf zone. Some traditional features, however, have been documented within more gentle intertidal areas. Most of the historic properties present within the intertidal zone are relatively impervious to minor disturbances such as those that might result from monk seal recovery actions. These intertidal sites may include:

Fishing-related features: Along the shoreline where low promontories and fingers of lava extend out into the sea, it is not unusual to encounter depressions of various sizes and shapes that have been battered or ground into the surface of *pāhoehoe*. These depressions were created and used for a range of purposes. They include bait cups (mortar-like depressions used in grinding *palu*, bait) and fish poison basins (shallow depressions where plants like *'auhuhu* and *'akia* were pounded to extract their juices, which were then used to stun fish in tidal pools). These features were created by the Hawaiians who fished the tidal pools and the shallow offshore waters.

Salt pans: Some of the shallow depressions pecked and ground into the *pāhoehoe* lava at or just above the high tide line were used for the manufacture of salt. These basins were filled with sea water, which was then allowed to evaporate and the resulting salt crystals were collected and used to season food and for ceremonial purposes.

Rock art: Some traditional Hawaiian petroglyphs are known to have been carved into the surface of level lava or sandstone benches which extend out into the intertidal zone. The primary example of an occasionally submerged petroglyph field is in the *ahupua'a* of Kahalu'u on the island of Hawai'i.

5.4.3 Off-Shore Traditional Historic Properties

While there are a substantial number of pre-Contact historic properties located within the shoreline zone of the monk seal APE, there are relatively few located in the offshore waters up to 300 meter from the shore. The sites that do exist are for the most part stacked stone structures that could potentially be disturbed by activities such as the capture and translocation of a monk seal.

Fishponds and fish traps: Stone walled fishponds (and, to a lesser extent, fish traps) were traditionally constructed in the shallow off-shore waters that fringe the leeward coasts (and sheltered portions of the windward coasts) of several of the MHI. The largest concentrations of traditional *loko i'a* (fishponds) are located along the southern coastlines of O'ahu and Moloka'i, and the west coast of Hawai'i island, though *loko i'a* can be found on

almost all of the main islands. The State of Hawai'i Office of Planning maintains a GIS database that shows the locations of several fishponds presently listed on the NRHP (Figure 3). Traditional fishponds are most commonly of two types, either *loko kuapā* (walled shoreline ponds) or *pu'uone* (inland ponds connected to the sea). While many ancient ponds are long abandoned (the walls of some having been damaged or destroyed, others silted in), some ponds have been restored and are actively used for aquaculture. The stacked stone walls of these ponds are susceptible to damage from human activity.

Ceremonial sites: There is archaeological evidence that some traditional ceremonial structures were located within the off-shore zone. Such sites are relatively rare. The most well known of these is the *heiau* of Hale o Kapuni located in Pelekane bay on the Kohala coast of the island of Hawai'i. This shrine is submerged just offshore below the larger *heiau* of Mailekini and Pu'u Koholā and near the former royal compound within Pu'u Koholā National Historic Site. A site like Hale o Kapuni could be damaged by vessels unaware of its existence.

5.4.4 Post-Contact Historic Properties

Post-Contact shoreline structures include piers, jetties, lighthouses and other historic properties associated with maritime activities. Stone walled livestock enclosures were sometimes constructed just back of the beach, particularly when cattle and other livestock were to be taken or swum out to vessels waiting offshore to transport them to other islands. The remains of historic residential sites are less common, but are sometimes present close to the shoreline. Also found are the remnants of the cement pillboxes erected during World War II as part of a coastal defense system aimed at defending against a potential Japanese invasion. These military defensive positions are located at strategic points along the coastlines of most of the main islands. In general, because of the materials used in their construction, post-Contact shoreline sites tend to be more robust than pre-Contact sites and are less likely to be impacted by monk seal recovery activities.

The most common offshore historic properties that date from the post-Contact period are historic shipwrecks. Shipwrecks in shallow water close to shore have been reported off most of the MHI. There are several shipwrecks off the coast of O'ahu which are listed on the NRHP. Many of these are located within Pearl Harbor, including the U.S.S. Arizona, U.S.S. Bowfin, and U.S.S. Utah. Shipwrecks are generally much more fragile than most historic era shoreline sites, and have the potential to be affected by vessels anchoring on or near them to conduct monk seal recovery activities.

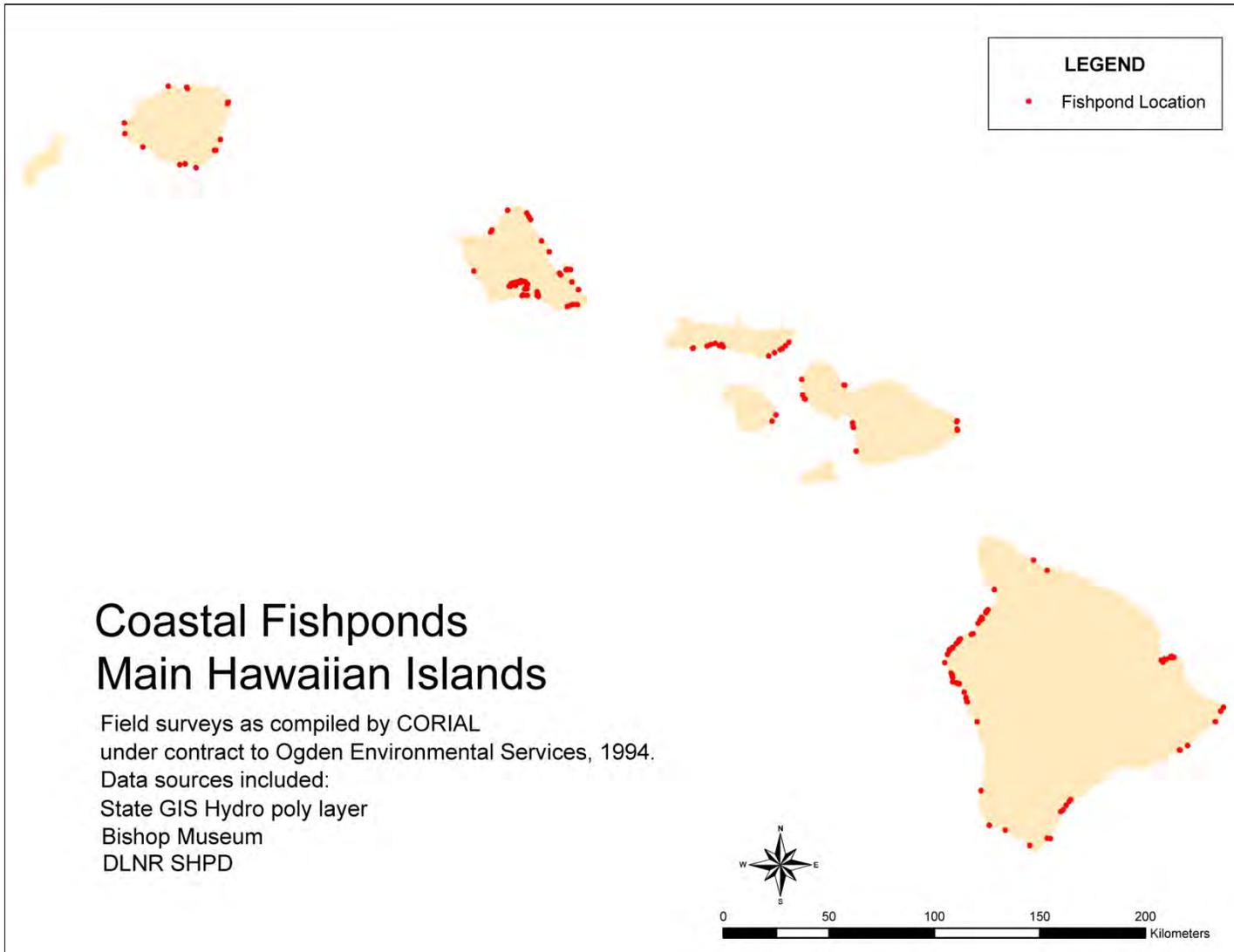


Figure 3. Locations of known coastal fishponds within the main Hawaiian Islands (data courtesy State of Hawai'i Office of Planning Geographic Information System database).

5.4.5 Traditional Cultural Properties

Traditional Cultural Properties (TCPs) are far more difficult to recognize than most archaeological sites since their significance often depends less on a physical structure than on some mythical or historic event that may have taken place there or some ritual associated with the place. At present, there are no TCP listed on the National Register for Hawai‘i. There are, however, numerous known *wahi pana* (storied places) which may be eligible for nomination. Sites eligible for listing as a coastal TCP may include physical features such as *leina a ke akua*, the leaping off points from which a departing spirit enters the next world. There are several of these within the MHI. Bays and beaches, stretches of shoreline and other natural landmarks may be associated with mythic or historic figures, traditional activities or historic events. One example is the westernmost tip of the island of Kaho‘olawe, which is known as Lae o Kealaikahiki, the point of the pathway to Kahiki (foreign lands). This point and the adjacent channel are traditionally associated with the epic sea voyages which once took place between Hawai‘i and the islands of Central Polynesia. In most cases the activities associated with monk seal recovery will have little effect on areas that may be eligible for listing as TCPs. It is important, however, that NMFS staff and volunteers be aware of such areas and treat them with respect.

6.0 POTENTIAL EFFECTS TO HISTORIC PROPERTIES

Section 106 of NHPA requires Federal agencies to take into account the effects of their undertakings on any historic properties located within the APE of a proposed project. The Federal Code that implements Section 106 of the NHPA defines “effect” as an “alteration to the characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register” (36 C.F.R. § 800.26). These effects may be either direct or indirect. Effects to historic and cultural resources, including historic structures, archaeological sites, and traditional cultural properties, would be considered significant if they affected the integrity of historic properties that are listed (or are eligible for listing) on the National Register of Historic Places. Integrity can be considered to mean not simply the physical integrity of a structure, but “the integrity of [its] location, design, setting, materials, workmanship, feeling, and association” (Title 36 C.F.R. § 60.4). Adverse effects are those that detract from the qualities that give a property its significance and contribute to its NRHP eligibility. Direct effects are those that physically alter the historic property in some way. Indirect effects diminish some significant aspect of the historic property, but do not physically alter it.

Adverse effects to historic properties may include, but are not limited to:

1. Physical destruction of or damage to all or part of the property.
2. Alteration of a property, including restoration, rehabilitation, repair, maintenance, stabilization, hazardous material remediation and provision of handicapped access, that is not consistent with the Secretary's Standards for the Treatment of Historic Properties (36 CFR part 68) and applicable guidelines.
3. Removal of the property from its historic location.
4. Change of the character of the property's use or of physical features within the property's setting that contribute to its historic significance.
5. Introduction of visual, atmospheric or audible elements that diminish the integrity of the property's significant historic features.
6. Neglect of a property which causes its deterioration, except where such neglect and deterioration are recognized qualities of a property of religious and cultural significance to an Indian tribe or Native Hawaiian organization.
7. Transfer, lease, or sale of property out of Federal ownership or control without adequate and legally enforceable restrictions or conditions to ensure long-term preservation of the property's historic significance (36 CFR § 800.5(a)(2)).

As detailed in the previous section, a variety of historical properties are present within the APE for the proposed Hawaiian monk seal recovery actions. These historic properties are most abundant within the MHI, but also occur in the NWHI. The purpose of this section is to identify direct, indirect and cumulative effects to cultural and historical resources that may result from proposed monk seal recovery actions.

None of the proposed actions associated with Hawaiian monk seal recovery entail the intentional alteration or destruction of any structure, land, shoreline or seafloor substrate. Therefore, all potential effects to historic properties would be the unintended result of

conducting recovery activities. Potential direct effects to historic properties could result from the physical activities associated with Hawaiian monk seal recovery actions or from the activities of monk seals relocated as part of the recovery effort.

Pedestrian and vehicle traffic through remote areas in order to access seal locations and vessel traffic to access seals on remote beaches have the greatest potential to affect historic properties in the form of specific sites or structures. Land based pedestrian and vehicle traffic has the potential to directly affect fragile stacked stone structures, subsurface archaeological deposits, and human burials. Such sites may be located along the route of travel from the established road to the study or translocation area, on the beach itself, or in adjacent sand dunes. There is much less likelihood that recovery activities will affect broader areas that may be eligible for listing as TCPs, such as bays and beaches, stretches of shoreline and other natural landmarks. The highly intermittent frequency and small “footprint” of the proposed activities, combined with the very low physical impact of the activities themselves, especially at a landscape level, would likely cause no effect to these TCPs. It is important, however, that NMFS staff and volunteers be aware of such areas and treat them with respect.

Due to the short term nature of Hawaiian monk seal recovery activities there is much less potential for indirect effects on historic properties. Indirect effects which might be considered to diminish some significant aspect of a historic property include long term visual and auditory effects. These sorts of effects are unlikely to occur as a result of Hawaiian monk seal recovery actions.

During their normal haul out activities, Hawaiian monk seals seldom venture further inland than the high tide line. Translocated seals are therefore unlikely to adversely affect on-shore historic properties. The only off-shore historic properties seals may be likely to affect are coastal fishponds or fish traps. A number of traditional *loko i'a* (fishponds), located along the coastlines of the MHI, have been returned to operation in the last few years. A translocated monk seal that managed to enter such a pond could feed on the fish being raised there, and thus disrupt aquaculture operations. The physical activities involved in removing the monk seal from within the pond could possibly result in damage to the structure.

6.1 POTENTIAL EFFECTS OF PROPOSED ACTIONS

The proposed undertaking includes activities that can include aerial, vessel, and land-based surveys, as well as some handling and transportation of the monk seals. Boats and land vehicles will be used to transport researchers and possibly animals. Researchers will also cross beach and dune areas on foot to reach monk seal locations. Recovery activities will be conducted throughout the APE, in the MHI, NWHI, and on Johnston Atoll. Researchers will seasonally (typically April or May through August) occupy existing camp sites in the NWHI.

Hawaiian monk seal recovery actions are likely to take place in both well-traveled beach areas and in more remote locations that have not been subject to much human traffic. These remote areas can be fragile and susceptible to disturbance. Archaeological sites located along the path of access to and from monk seal locations have the potential to be affected. Stacked stone structures and surface scatters of cultural material could be impacted by pedestrian traffic, as

could fragile dune areas that may contain buried cultural deposits or human remains. In order to mitigate potential effects, researchers and volunteers undertaking monk seal recovery activities would need to recognize and avoid these sensitive sites and areas. While vessel-based activities are less likely to impact historic sites, anchoring could result in damage to marine wreck sites. There is also the possibility that Hawaiian monk seals translocated by NMFS as part of the proposed undertaking might enter fishponds on their own accord and may have to be physically removed from the fishponds. The activities associated with the removal of a translocated monk seal from the interior of a fishpond have the potential to result in damage to the fishpond walls and other structural features.

The proposed research and enhancement recovery activities associated with the undertaking have the potential to result in effects on historic properties within the APE. However, given the temporary and limited nature of the proposed monk seal recovery actions, the likelihood of adverse effects to historic properties is very low. The implementation of the measures to recognize, report and avoid historic properties outlined in Section 8.0 will further reduce the potential for effects to historic properties.

7.0 SECTION 106 CONSULTATION

Based on the analysis presented above, NMFS has determined that the proposed actions to recover the Hawaiian monk seal have the potential to cause effects on listed or eligible historic properties. For this reason, Section 106 consultation was initiated.

Section 106 of the NHPA requires that Federal agencies initiating undertakings in Hawai‘i consult with Native Hawaiian Organizations (NHOs) that attach traditional religious and cultural significance to eligible or listed historic properties that may be affected by that agency's undertakings (Section 101 (d)(6)(A&B)). Section 301 Title III of the NHPA (16 U.S.C. 470w – Definitions (5)) defines a Native Hawaiian organization as any organization which “serves and represents the interests of Native Hawaiians,” “has as a primary and stated purpose the provision of services to Native Hawaiians” and “has demonstrated expertise in aspects of historic preservation that are culturally significant to Native Hawaiians.” This includes, but is not limited to, the Office of Hawaiian Affairs of the State of Hawai‘i and Hui Mālama I Nā Kūpuna O Hawai‘i Nei. The goal of this consultation is to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any potential adverse effects on historic properties that are eligible to the National Register of Historic Places (36 C.F.R. §800.1(a)).

36 CFR §800.2 (c)(2)(ii)(A) requires that the federal agency conducting Section 106 consultation must ensure that the consultation process provides the NHOs involved with a reasonable opportunity to identify their concerns about historic properties, to advise on the identification and evaluation of historic properties, including those of traditional religious and cultural importance, to articulate their views on the undertaking's effects on such properties, and to participate in the resolution of adverse effects.

7.1 THE CONSULTATION PROCESS

In fulfilling its responsibilities under Section 106 of the NHPA, NMFS has undertaken a program of consultation with NHOs and other organizations and individuals with an interest in the eligible or listed historic properties that may be affected by the activities associated with Hawaiian monk seal recovery actions. The intent of the consultation was to:

1. Identify historic properties that may be affected by the proposed Hawaiian monk seal research and enhancement recovery actions. .
2. Identify potential adverse effects that may occur to these properties as a result of the actions.
3. Develop acceptable measures to recognize, report and avoid historic properties and thereby minimize any potential adverse effects.

7.2 INITIATION OF CONSULTATION

36 C.F.R. § 800.1(c) recommends that consultation be initiated early in the undertaking's planning, so that a broad range of alternatives may be considered during the planning process

for the undertaking. For this reason, NMFS initiated the Section 106 consultation process with the State Historic Preservation Division in March of 2011 (Appendix B). On October 17, 2012, letters (Appendix C) were sent to the State Historic Preservation Division and the following NHO's:

- Office of Hawaiian Affairs;
- Association of Hawaiian Civic Clubs;
- Hui Malama I Na Kupuna O Hawai'i Nei; and
- Island Burial Councils for Kaua'i/Ni'ihau, O'ahu, Maui/Lāna'i, Moloka'i and Hawai'i islands.

In concurrence with the Code of Federal Regulations implementing Section 106 consultation, NMFS requested these agencies and NHOs to assist in identifying historic properties which may be of religious and cultural significance to them and may be eligible for listing on the National Register (36 CFR 800.3 (f)(2)), as well as to identify any effects to those properties that might result from the proposed action. The letters also requested assistance in identifying additional NHO's with which to consult. NMFS received no response to these letters sent to the NHO's on October 17, 2012.

7.3 COMMUNITY MEETINGS

The Code of Federal Regulations implementing Section 106 stipulates that the agency involved must provide the public with information concerning the undertaking and its effects on historic properties and seek public comment and input (36 C.F.R. § 800.2 (c)(5)(d)(2)). In order to better inform the public about the proposed Hawaiian monk seal recovery actions and to seek public input, NMFS held a series of 11 public meetings between October and December 2012 on the islands of Kaua'i (N=2), O'ahu (N=3), Moloka'i (N=1), Lāna'i (N=1), Maui (N=2), and Hawai'i (N=2). The purpose of these meetings was to discuss the proposed undertaking, obtain assistance in identifying potentially affected historic properties, and invite participation by NHOs and other interested parties in the Section 106 consultation process. The public was notified of these meetings via newspaper ads placed in major local newspapers, posting on the NMFS website, and e-mail announcements sent to various group lists on file.

All meetings were held at public venues (elementary, middle or high schools) between 6:00 and 8:00 pm to allow them to be attended by individuals who worked or attended school during the day. Examples of public notices for these meetings are provided in Appendix A of this report. The meetings were held at eleven venues on six islands.

Moloka'i

Kaunakakai (29 October 2012) Moloka'i High School

Lāna'i

Lāna'i City (30 October 2012) Lāna'i High and Elementary School

Kaua'i

Waimea (7 November 2012) Waimea High School
 Kapa'a (8 November 2012) Kapa'a Middle School

Maui

Hāna (14 November 2012)	Hāna High School
Lāhainā (15 November 2012)	Lāhaināluna High School

Hawai'i

Hilo (27 November 2012)	Hilo High School
Kona (28 November 2012)	Kealakehe Elementary

O'ahu

Wai'anae (11 December 2012)	Wai'anae High School
Wai'alua (12 December 2012)	Wai'alua High and Intermediate School
Waimānalo (13 December 2012)	Waimānalo Elementary and Intermediate School

At these meetings, the proposed Hawaiian monk seal recovery actions associated with the undertaking were described and input was received from the public regarding the nature and extent of historic and cultural properties, resources, and practices that were expected to be located within, and/or associated with, the APE. These meetings were planned, convened, and facilitated by Dr. Paul Cleghorn of Pacific Legacy, Inc., working under a NMFS contract. Members of the NMFS staff participated in each meeting, providing information and responding to concerns expressed by those attending.

While meeting participants expressed comments and concerns about Hawaiian monk seals in general, very few comments were offered about potential effects to historic properties. More detailed descriptions of the individual meetings are provided in a separate cultural impact assessment report (Section 6.3) that was prepared by NMFS and provided in Appendix K of the PEIS.

7.3.1 Identified Historic Properties

Participants in the community meetings identified several types of historic properties that might be affected by proposed Hawaiian monk seal recovery activities. These included:

- Coastal *heiau* (religious sites);
- *Ko'a* (fishing shrines);
- Traditional stacked stone walls;
- Sand dunes containing buried cultural deposits;
- *Iwi kāhiko* (ancient human remains);
- Fishponds; and
- Fishing villages.

7.3.2 Concerns Expressed

The majority of concerns raised at these community meetings did not deal directly with historic properties, but were primarily related to issues affecting cultural resources and traditional cultural practices, public safety and commercial fishing. Some concern was expressed regarding the possibility that translocated monk seals might enter fishponds. Resulting discussions addressed the question of how best to remove a seal while minimizing impact to the pond itself. It was suggested that NMFS staff and volunteers be trained in removing seals from fishponds and that NMFS develop a protocol for such situations that would involve consulting with the *kahu* (caretaker) of the pond.

7.3.3 Measures Recommended to Prevent or Minimize Adverse Effects

A number of possible measures intended to prevent or minimize effects to historic properties during monk seal recovery activities were recommended by individuals attending the community meetings. These included:

Education of NOAA Staff and Volunteers

It was recommended that all personnel associated with the undertaking go through an orientation program that would include training in:

- Recognition and identification of cultural sites;
- Proper behavior around identified sites;
- How to report the presence of newly discovered sites; and
- Getting seals out of fishponds.

This training might need to be repeated every few years.

Consultation and Coordination

It was suggested that NMFS work with a cultural representative for each *moku* (district) on each island. Input should be sought from each *moku* individually.

It was also suggested that if a seal needs to be removed from a sensitive cultural area, such as a fishpond, that NMFS contact the *kahu* (caretaker) of that site or a community contact/expert to get direction about such things as the best way to access the site, where to stage activities, where to place the cage for the seal, etc. It was recommended that a protocol be developed to govern this community consultation prior to an activity, and a list of community contacts should be developed.

7.4 CONSULTATION

In March of 2013, the NMFS sent a second consultation letter to the original consulting parties listed in Section 7.2 above (Appendix D). This letter provided an update on the project and summarized NHPA Section 106 compliance efforts that had taken place to that point.

In April 2013, as a means of broadening the potential consulting parties, the NMFS sent out a letter (Appendix E) to 73 NHOs whose contact information was obtained from a list maintained by the Department of Interior, Office of Hawaiian Affairs (<http://www.doi.gov/ohr/nativehawaiians/nhol.cfm>).

Six of the NHOs contacted responded that they would be interested in consulting on the potential effects of the undertaking. Follow-up letters (Appendix F) were sent to the following six NHOs:

- Winifred Basques; Ha‘ouwi Homestead Association on Lāna‘I;
- Lu Ann Faborito; Makaha Hawaiian Civic Club;
- Roy Oliveira; Waiehu Kou Phase 3 Association;

- Jade Alohalani Smith; Moku o Kaupō;
- Hardy Spoehr; Papa Ola Lōkahi; and
- Matt Sproat; Honua Consulting.

Two of the above NHOs were unable to attend consultations (Basques and Faborito), despite repeated attempts by NMFS to include them in the process. The remaining four NHOs participated in two separate consultation sessions. Spoehr and Sproat attended a consultation meeting at the NMFS office on 12 June 2013 and Oliveira and Smith participated in a conference call consultation meeting on 24 July 2013. The consulting parties all voiced satisfaction with the measures proposed by NMFS (see Section 8.0) to recognize and avoid effects to historic properties and thought that with these in place the potential for any effects on historic properties would not be likely. All consulting parties indicated that the program would be more successful if NMFS could involve the various local communities in their activities.

8.0 RECOGNITION AND AVOIDANCE MEASURES

Although the actions associated with the undertaking are, by their nature, unlikely to affect historic properties, NMFS has developed a set of measures designed to further reduce the likelihood of effects. These measures have been developed in part via the community meetings and Section 106 consultations described in previous sections of this report. These measures serve in part to provide the basis for a determination of no historic properties affected by the undertaking.

8.1 NORTHWESTERN HAWAIIAN ISLANDS

Permits are presently required to conduct Hawaiian monk seal research and enhancement activities within the limits of the Papahānaumokuākea Marine National Monument. Any activities associated with monk seal recovery actions undertaken within the NWHI must therefore comply with Monument regulations and the terms and conditions of Presidential Proclamation 8031. Monument regulations state that “permittees [must] attend a cultural briefing on the significance of Monument resources to Native Hawaiians and that there are “prohibitions against the disturbance of any cultural or historic property” (NOAA 2008b). Thus, the “Monument permit program allows for a comprehensive review of proposed activities and will be administered to ensure compliance with Presidential Proclamation 8031, as well as other applicable Federal statutes (such as the NHPA) and state laws and regulations” (NOAA 2008b). Under the terms of the Monument permit, researchers and volunteers involved in Hawaiian monk seal recovery actions coordinate their activities with the Monument archaeologist and historic preservation specialists to insure that they do not adversely impact any of the Monument’s historic properties. All researchers landing on Nihoa or Mokumanana (Necker) are instructed to limit their activities to the immediate coastal area below the sea cliffs. The campsites in the NWHI to be used by researchers (not including Nihoa and Mokumanamana where no camping will occur) have already been in seasonal use since the 1980s, with rigorous protocols in place to protect the natural and cultural resources surrounding them (Monument Permit PMNM 2011-001, Appendix L of the PEIS). These protocols will be followed by all researchers involved in Hawaiian monk seal recovery actions to ensure that use of the NWHI camps will not impact cultural and historic resources.

8.2 MAIN HAWAIIAN ISLANDS

8.2.1 Terrestrial Effects

Historic properties located within the shoreline and intertidal zones have the potential to be impacted by terrestrial activities associated with Hawaiian monk seal recovery activities. The following measures will be implemented whenever feasible (see note below) to minimize these potential effects.

- At least one trained staff person and/or volunteer will be on hand and responsible for recognizing and avoiding historic properties whenever a recovery action is conducted within the APE. These personnel will be trained in the avoidance of known historic properties and the recognition, avoidance and reporting of

previously unknown historic properties, including archaeological sites and human remains.

- If previously unknown historic properties are found or suspected (such as an inadvertent find of a burial site), all personnel and activities associated with the recovery actions will be immediately moved away from the area of the found or suspected historic property, and the appropriate SHPD office will be notified as soon as possible.
- Any natural features (such as large sand dunes) that have a high potential to contain buried cultural deposits and human remains will be avoided.
- NMFS staff will reference the SHPD GIS database of historic properties when available or other available data provided by SHPD for the purposes of avoiding historic properties.
- Access routes will be planned in advance so as to avoid historic properties. NMFS staff and volunteers taking part in the activity will be instructed as to the locations, significance, condition and susceptibility to disturbance of all known historic properties in the area.
- All land based vehicles used to transport researchers and animals will be restricted to existing roadways (paved and unpaved).
- All equipment (temporary pens, markers, etc.) will be promptly removed from an area once monk seal recovery activities in that area are completed.

8.2.2 Marine Effects

Historic properties located within the off-shore zone have the potential to be impacted by vessel based activities associated with Hawaiian monk seal recovery. There is also the potential that activities associated with the removal of monk seals from fishponds may result in unintentional damage to those structures. The following measures will be implemented to minimize the potential effects of monk seal research and enhancement activities on off-shore historic properties.

- As described in NAO 217-103 (Management of NOAA Small Boats), and BMPs 004 (Small Boat Operations Diving Activities in Water), NMFS follows strict policies for operation of small boats that would be used for monk seal research and enhancement.
- Boat crews will be made aware of the locations of any known shipwrecks that may qualify as historic properties. These locations will be avoided so as not to disturb any subsurface features. Through coordination with SHPD staff, boat crews will also be made aware of the locations of all other known submerged cultural or historic sites.

- All boats will be launched and retrieved from established boat harbors, other developed locations, or shoreline areas (such as sandy beaches) previously determined to be absent of historic properties. Larger vessels will anchor in previously designated locations away from any known shipwrecks or other submerged cultural or historic sites.
- Should a Hawaiian monk seal enter a traditional fishpond that has been translocated as part of the recovery actions included in the undertaking, NMFS staff will work closely with SHPD, the landowner, local NHOs, and other appropriate entities to plan and coordinate seal removal efforts so as to ensure that suitable actions are taken to minimize impacts to the fishpond. (See Section 8.6.)

8.3 TRAINING

While many of the archaeological and cultural sites located within the APE for proposed Hawaiian monk seal recovery actions have been previously identified and can therefore be avoided, others remain either undiscovered or unrecorded. As specified above in the measures intended to mitigate potential terrestrial effects, specific NMFS staff and/or volunteers will be designated to be responsible for recognizing, avoiding, and reporting historic properties in the field and these personnel will receive sufficient training to carry out this responsibility. This training would include an overview of the types of traditional and historic archaeological sites and traditional cultural properties that they are likely to encounter, as well as instructions in how to recognize and avoid these sites. Proper and respectful protocol to be practiced while working around cultural sites would also be discussed. In addition, the training would cover the procedures for reporting the inadvertent discovery of unrecorded historic properties, most particularly human remains, should they be encountered.

8.4 PLANNING

Consideration of historic properties will be incorporated into the planning process for seal relocations whenever feasible (see note below). As part of this process, efforts will be made to identify any known historic properties that may be present in the vicinity of a proposed translocation site. The proximity of historic properties (such as coastal settlement structures, religious sites, or sand dunes that may contain cultural deposits or human burials) will be taken into consideration when considering potential alternative sites for monk seal translocation. If an area is known to possess fragile historic and cultural resources, such as sand dunes containing cultural deposits or human burials, translocation at this site will be avoided or carefully planned and conducted to avoid any pedestrian traffic or other activity on or adjacent to the site.

In the MHI, planning would involve referencing the SHPD GIS database of historic properties when available (see Section 8.5.1 below). Prior to that, NMFS will consult with SHPD to the maximum extent practicable prior to carrying out recovery activities. Planning will also involve finalization, and periodic revision as needed, of reporting procedures for field researchers to use in the event of inadvertent discoveries of archaeological sites and human remains. In general, SHPD staff and the appropriate Island Burial Council Chairperson will be the primary

initial points of contact, but other contact persons may be added depending on the type of inadvertent discovery and the specific site and/or island at which the inadvertent discovery is made. In the NWHI, under the terms of the Monument permit, researchers and volunteers involved in Hawaiian monk seal recovery actions coordinate their activities with the Monument archaeologist and historic preservation specialists as described above to insure that they do not adversely impact any of the Monument's historic properties.

8.5 COORDINATION

As part of the planning process, to the maximum feasible extent, NMFS will coordinate with appropriate stakeholders to help identify historic properties located within areas targeted for Hawaiian monk seal recovery actions.

8.5.1 Coordination with the Hawai'i State Historic Preservation Division

As mentioned in Section 4.3, SHPD is currently updating its GIS database of historic properties located within the MHI. This database will show the exact location of all documented historic properties for which accurate location coordinates are available. Once the database is fully operational, it will be possible to quickly identify any recorded sites located within the APE of a proposed action.

The SHPD GIS database can serve as a useful tool in planning Hawaiian monk seal research and enhancement activities so as to avoid impacting known historic properties. Teams planning the translocation of a seal would be able to ascertain the types and locations of the identified historic properties located within the APE of the various relocation alternatives. This information, supplemented by knowledge from local individuals, could help in determining which relocation site will have least impact on historic properties. The SHPD GIS database can also help teams conducting monk seal monitoring or medical related activities recognize and avoid identified historic properties. In addition, SHPD staff are located in each county and possess a broad knowledge base of documented historic properties on their respective islands. The SHPD staff may be able to suggest areas that would be suitable and unsuitable for the translocation of seals. Whenever feasible, NMFS staff will consult with SHPD during the planning of monk seal translocation activities so as to obtain their input and guidance.

8.5.2 Additional Coordination

The often brief and intermittent nature of many Hawaiian monk seal recovery actions makes it difficult to involve community members in specific activities. However, when appropriate and feasible, NMFS staff will contact and consult with island burial councils and the other identified knowledgeable individuals within the local communities in which recovery actions, such as translocations, are planned. These consultations will be conducted in part to determine if there are any known burials or possible burial locations within the identified areas and what, if any, cultural protocols may be appropriate.

8.6 PROTOCOLS REGARDING MONK SEALS IN FISHPONDS

NMFS will develop a protocol for dealing with the removal of Hawaiian monk seals that have

entered traditional fishponds. This protocol would involve consultation with the land owner and/or *kahu* (caretaker) of the pond, SHPD, local Native Hawaiian Organizations (if appropriate), and other appropriate entities to plan and coordinate the removal of the monk seal in a manner that would have the least impact on the structural integrity of the fishpond. A general protocol will be developed before recovery actions are conducted in the MHI, with the intent to revise and update this protocol to incorporate lessons learned and location specific information gathered if/when the protocol is implemented.

Note: In the course of implementing the recovery actions, there may be unplanned situations when some or all of these measures will not be feasible because human safety and/or animal welfare would be put at risk as a result of the time and/or actions necessary to implement the measures. These situations would typically arise as a result of factors beyond NMFS's control, such as changes in weather, changes in seal health status, equipment failure, vehicle break down, travel delays, and other unanticipated problems. Nevertheless, these situations will likely be very infrequent, and the measures specified above will be considered by NMFS as "best practices" and every reasonable effort will be made to implement them consistently.

9.0 SECTION 106 DETERMINATION

9.1 ASSESSMENT OF EFFECTS

As part of the Section 106 process, the federal agency proposing an undertaking is required to assess the effects that the undertaking will have on historic properties located within the project's APE. This is done by applying the criteria of adverse effect. In applying these criteria, the agency needs to consider any views concerning such effects that have been provided by consulting parties and the public during the Section 106 consultation process (36 CFR § 800.5(a)).

9.2 CRITERIA FOR DETERMINATION

The Code of Federal Regulations that implements NHPA Section 106 consultation (36 CFR § 800) defines an "effect" as an alteration to the characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register (36 CFR § 800.16 (i)). "An adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association" (36 CFR § 800.5(a)(1)). Adverse effects may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance or be cumulative in nature (36 CFR § 800.5(a)(1)).

Adverse effects to historic properties may include, but are not limited to:

1. Physical destruction of or damage to all or part of the property.
2. Alteration of a property, including restoration, rehabilitation, repair, maintenance, stabilization, hazardous material remediation and provision of handicapped access, that is not consistent with the Secretary's Standards for the Treatment of Historic Properties (36 CFR part 68) and applicable guidelines.
3. Removal of the property from its historic location.
4. Change of the character of the property's use or of physical features within the property's setting that contribute to its historic significance.
5. Introduction of visual, atmospheric or audible elements that diminish the integrity of the property's significant historic features.
6. Neglect of a property which causes its deterioration, except where such neglect and deterioration are recognized qualities of a property of religious and cultural significance to an Indian tribe or Native Hawaiian organization.
7. Transfer, lease, or sale of property out of Federal ownership or control without adequate and legally enforceable restrictions or conditions to ensure long-term preservation of the property's historic significance (36 CFR § 800.5(a)(2)).

9.3 FINDING OF NO EFFECT

According to Federal regulations, if the Federal agency planning an undertaking finds that either there are no historic properties present within the APE of the undertaking, or that there

are historic properties present but the undertaking will have no effect upon them (will not alter the characteristics of the historic property that qualify it for inclusion in or eligibility for the National Register), the agency may submit a determination of No Historic Properties Affected (36 CFR § 800.4 (d)(1)).

Although some of the Hawaiian monk seal recovery actions proposed could potentially cause physical damage to listed or eligible historic properties within the APE (as described in Section 6.0), the potential for any damage that would cause an effect as defined in the NHPA (36 CFR 800.16 (i)) is very low. The proposed activities entail small numbers of trained researchers engaged in light foot traffic in shoreline areas, use of light vehicles on pre-existing roadways, and operation of small vessels in inshore waters, to monitor, assess, restrain, capture, medically treat, apply seal behavior management procedures, and translocate endangered Hawaiian monk seals. None of the activities involve any land or ocean floor alteration or construction. These activities would be conducted intermittently and/or seasonally, and would occur within very small spatial areas dispersed very widely over the entire Hawaiian Archipelago. In addition, a suite of measures involving training and other procedures to recognize and avoid historic properties and report inadvertent finds (outlined in Section 8.0) is expected to further minimize and diminish any potential effects of these actions. This will result in the proposed undertaking having no effect upon historic properties present within the APE of the project. For this reason, NMFS has determined that the recovery actions proposed in the NMFS ESA-MMPA permit application (application number 16632) and described in the PEIS for Hawaiian Monk Seal Recovery Actions will result in no historic properties being affected.

9.4 NO EFFECTS DOCUMENTATION

Federal regulations stipulate that should a determination of no historic properties affected be arrived at, the agency proposing the undertaking is required to provide documentation of this finding to the State Historic Preservation Officer. The agency shall also notify all consulting parties, including Native Hawaiian organizations, and make the documentation available for public inspection prior to approving the undertaking (CFR § 800.4 (d)(1)).

The documentation of this finding shall include:

1. A description of the undertaking, specifying the Federal involvement, and its area of potential effects, including photographs, maps, drawings, as necessary.
2. A description of the steps taken to identify historic properties.
3. The basis for determining that no historic properties are present or affected (CFR § 800.4 (d)).

In order to comply with these regulations, NMFS has prepared a No Effects Determination letter for this undertaking. The document has been sent to the Hawai'i State Historic Preservation Officer, and copies have been made available to the public and provided to all of the parties directly involved in Section 106 consultation.

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APPENDIX A

Announcements of Community Meetings

**COMMUNITY INPUT SOUGHT ON
NOAA'S PROPOSED
HAWAIIAN MONK SEAL RECOVERY ACTIONS***

NOAA Fisheries and Pacific Legacy, Inc., are holding a series of community meetings seeking community input on proposed Hawaiian Monk Seal Recovery actions. Specifically, we are seeking information on potential adverse effects to historic properties and/or traditional cultural properties (e.g., archaeological sites), as well as information on potential impacts to cultural resources and practices (e.g., fish ponds and fish pond operation) that may result from implementation of actions proposed in the Draft Programmatic Environmental Impact Statement (PEIS) for Hawaiian Monk Seal Recovery. Examples of the proposed actions include capture, veterinary treatment, transportation, and release of monk seals on shorelines throughout the Hawaiian archipelago. Input from community meetings around the State will be incorporated into a revised Cultural Impact Assessment for the PEIS and will form an important component of NOAA's compliance with the National Historic Preservation Act Section 106. The Draft PEIS is available for review at:
<http://www.nmfs.noaa.gov/pr/permits/eis/hawaiianmonkseal.htm>

**MEETING SCHEDULE
(all meetings to be held between 6:00 - 8:00 pm)**

Moloka'i

Kaunakakai (29 October 2012) Moloka'i High School

Lana'i

Lana'i City (30 October 2012) Lana'i High and Elementary School

Kaua'i

Waimea (7 November 2012) Waimea High School
Kapa'a (8 November 2012) Kapa'a Middle School

Mau'i

Hana (14 November 2012) Hana High School
Lāhainā (15 November 2012) Lahaināluna High School

Hawai'i

Hilo (27 November 2012) Hilo High School
Kona (28 November 2012) Kealakehe Elementary

O'ahu

Wai'anae (11 December 2012) Wai'anae High School
Waialua (12 December 2012) Waialua High and Intermediate School
Waimānalo (13 December 2012) Waimānalo Elementary and Intermediate School

* THE PURPOSE OF THESE MEETINGS IS TO GATHER INPUT AND CONSULT WITH INTEREST PARTIES FOR THE PREPARATION OF A CULTURAL IMPACT ASSESSMENT (CIA) AND COMPLIANCE WITH THE NATIONAL HISTORIC PRESERVATION ACT SECTION 106 FOR THE HAWAIIAN MONK SEAL PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT.

For further information or to request sign language interpretation or other auxiliary aids, please contact Paul Cleghorn at cleghorn@pacificlegacy.com, (808) 263-4800 (phone), or (808) 263-4300 (fax). These meetings are accessible to people with disabilities.

Contact: Paul L. Cleghorn
Pacific Legacy
Phone: (808) 263-4800
Fax: (808) 263-4300

30 Auilike Street, Suite 301
Kailua, HI 96734
cleghorn@pacificlegacy.com

NOAA FISHERIES

PRESS RELEASE

COMMUNITY INPUT SOUGHT ON NOAA'S PROPOSED HAWAIIAN MONK SEAL RECOVERY ACTIONS*

NOAA Fisheries is holding a series of community meetings seeking community input on proposed Hawaiian monk seal recovery actions. Specifically, we are seeking information on potential adverse effects to historic properties and/or traditional cultural properties (e.g., archaeological sites), as well as information on potential impacts to cultural resources and practices (e.g., fish ponds and fish pond operation) that may result from implementation of actions proposed in the Draft Programmatic Environmental Impact Statement (PEIS) for Hawaiian Monk Seal Recovery. Examples of the proposed actions include capture, veterinary treatment, transportation, and release of monk seals on shorelines throughout the Hawaiian archipelago. Input from community meetings around the State will be incorporated into a revised Cultural Impact Assessment for the PEIS and will form an important component of NOAA's compliance with the National Historic Preservation Division Section 106. The Draft PEIS is available for review at: <http://www.nmfs.noaa.gov/pr/permits/eis/hawaiianmonkseal.htm>

MEETING SCHEDULE

(all meetings to be held between 6:00 – 8:00 pm)

Maui

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Lāhainā (15 November 2012)

Hāna High School
Lāhainā High School

Hawai'i

Hilo (27 November 2012)
Kona (28 November 2012)

Hilo High School
Kealahou Elementary

O'ahu

Wai'anae (11 December 2012)
Wai'alua (12 December 2012)
Waimānalo (13 December 2012)

Wai'anae High School
Wai'alua High & Intermediate School
Waimānalo Elementary & Intermediate School

*** THE PURPOSE OF THESE MEETINGS IS TO GATHER INPUT AND CONSULT WITH INTERESTED PARTIES FOR THE PREPARATION OF A CULTURAL IMPACT ASSESSMENT (CIA) AND COMPLIANCE WITH THE NATIONAL HISTORIC PRESERVATION ACT SECTION 106 FOR THE HAWAIIAN MONK SEAL PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT.**

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APPENDIX B

Letter to State Historic Preservation Division – Dated March 28, 2011



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Pacific Islands Regional Office
1601 Kapiolani Blvd., Suite 1110
Honolulu, Hawaii 96814-4700
(808) 944-2200 • Fax (808) 973-2941

MAR 28 2011

Pua Aiu, Ph.D.
Administrator
State Historic Preservation Division
Hawai'i Department of Land and Natural Resources
601 Kamokila Boulevard, Suite 555
Kapolei, HI 96707

Dear Dr. Aiu:

The U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NMFS), Pacific Islands Regional Office is preparing a Programmatic Environmental Impact Statement (PEIS) to assess the potential impacts of implementing specific management actions and administering a research and enhancement program to improve survival of Hawaiian monk seals (*Monachus schauinslandi*) in the Northwestern and Main Hawaiian Islands.

The purpose of this proposed action is to ensure the long-term viability of the Hawaiian monk seals in the wild, with the eventual goal of achieving reclassification to threatened status and, ultimately, removal from the List of Endangered and Threatened Wildlife under the ESA. Alternatives considered in the PEIS would generally include the provision of limited on-site medical treatment to monk seals and temporarily translocating seals from areas of low juvenile survival to areas of high juvenile survival. None of the alternatives under consideration entail destruction or alteration of land, substrate, or habitat. The Hawaiian monk seal population has experienced a prolonged decline and currently less than 1,200 monk seals remain. Additional information including the Federal Register notice and the first project newsletter are enclosed for reference.

Section 106 of the National Historic Preservation Act (NHPA) requires that Federal agencies identify historic properties that may be impacted by a federal undertaking, and seek to protect those properties that are eligible to the National Register of Historic Places (Register). NHPA regulations at 36 CFR Part 800 identify a consultative process to determine site eligibility, to evaluate potential impacts, and to identify impact avoidance or mitigation actions. Consultation parties are typically the State Historic Preservation Officer (SHPO) and any Native Hawaiian organization that attaches religious or cultural significance to any properties that may be affected by an undertaking. NMFS has identified this project as an "undertaking," as defined in 36 CFR Part 800, and this letter serves as notice that NMFS is initiating consultation under Section 106 of the NHPA. NMFS is currently studying the potential of the proposed project to affect historic properties, and will provide our findings to your office for comment once they are developed. We are seeking your assistance in identifying those properties within the Area of Potential Effects (APE) that may be eligible for the National Register listing, as well as potential impacts.



The APE for this project encompasses the range where Hawaiian monk seals are found throughout the Hawaiian Archipelago and Johnston Atoll including the NWHI and MHI. More specifically, the APE includes portions of the open ocean and near shore environment where monk seals may be found as well as the shore zone of the islands, islets, and atolls that make up the Hawaiian Archipelago and Johnston Atoll. For the purposes of this project, the shore zone includes terrestrial habitat 5 m inland from the upper reaches of the wash of the waves, at high tide during the season in which the highest wash of the waves occurs, usually evidenced by the edge of vegetation growth or the upper limit of debris. In addition, secondary use areas, such as research field camps in the Northwestern Hawaiian Islands, are also considered for inclusion in the APE. Known shipwrecks or navigational hazards within 300 meters from shore will be evaluated.

Once our current assessment has yielded results, NMFS will provide you a summary of our findings of effect and invite the agency to comment. If you have any questions about the project or our Section 106 compliance efforts, please contact Jeff Walters, our Marine Mammal Branch Chief, at (808) 944-2235, or via email at jeff.walters@noaa.gov.

Sincerely,



Michael D. Tosatto
Regional Administrator

Enclosures

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APPENDIX C

Letter to State Historic Preservation Division and Selected NHO's – Dated Oct. 17 2012



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Pacific Islands Regional Office
1601 Kapiolani Blvd., Suite 1110
Honolulu, Hawaii 96814-4700
(808) 944-2200 • Fax (808) 973-2941

OCT 17 2012

Pua Aiu, Ph.D.
Administrator
State Historic Preservation Division
Hawai'i Department of Land and Natural Resources
601 Kamokila Boulevard, Suite 555
Kapolei, HI 96707

Dear Dr. Aiu:

To follow up on my March 28, 2011, letter, the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NMFS), Pacific Islands Regional Office is preparing a Programmatic Environmental Impact Statement (PEIS) to assess the potential impacts of implementing specific management actions and administering a research and enhancement program to improve survival of Hawaiian monk seals (*Monachus schauinslandi*) in the Northwestern and main Hawaiian Islands. The Hawaiian monk seal population has experienced a prolonged decline and currently less than 1,200 monk seals remain.

The purpose of this proposed action is to ensure the long-term viability of Hawaiian monk seals in the wild, with the eventual goal of achieving reclassification to threatened status and, ultimately, removal from the List of Endangered and Threatened Wildlife under the Endangered Species Act. Alternatives considered in the PEIS include recovery actions conducted along shorelines and in the ocean, including monk seal monitoring; temporary seal restraint, capture and release; limited on-site medical treatment, and translocating seals from areas of low juvenile survival to areas of high juvenile survival. None of the alternatives under consideration entails destruction or alteration of any structure, land, shoreline, seafloor substrate, or habitat.

As you are aware, Section 106 of the National Historic Preservation Act (NHPA) requires that federal agencies identify historic properties that may be impacted by a federal undertaking, and seek to protect those properties that are eligible to the National Register of Historic Places. NHPA regulations at 36 CFR Part 800 identify a consultative process to determine site eligibility, to evaluate potential impacts, and to identify impact avoidance or mitigation actions. Consultation parties are typically the State Historic Preservation Officer and any Native Hawaiian organization (NHO) that attaches religious or cultural significance to any properties that may be affected by an undertaking. NMFS has identified this project as an "undertaking," as defined in 36 CFR Part 800, and as indicated in my March 28, 2011, letter, NMFS is initiating consultation under Section 106 of the NHPA. We are currently studying the potential of the proposed project to affect historic properties, and will provide our findings to your office for



comment once they are developed. We are seeking your assistance in identifying those properties within the Area of Potential Effects (APE) that may be eligible for the National Register listing, as well as potential impacts.

The APE for this project encompasses the range where Hawaiian monk seals are found throughout the Hawaiian Archipelago and Johnston Atoll including the Main Hawaiian Island and the Northwestern Hawaiian Islands. More specifically, the APE includes portions of the open ocean and near shore environment where monk seals may be found as well as the shore zone of the islands, islets, and atolls that make up the Hawaiian Archipelago and Johnston Atoll. For the purposes of this project, the shore zone includes terrestrial habitat 5 meters inland from the upper reaches of the wash of the waves, at high tide during the season in which the highest wash of the waves occurs, usually evidenced by the edge of vegetation growth or the upper limit of debris. In addition, secondary use areas, such as research field camps in the Northwestern Hawaiian Islands, are also considered for inclusion in the APE. Known shipwrecks or navigational hazards within 300 meters from shore will be evaluated.

NMFS is initiating the Section 106 consultation process with the SHPD and the following NHOs: Office of Hawaiian Affairs; Association of Hawaiian Civic Clubs; Hui Malama I Na Kupuna O Hawai'i Nei; and the Burial Councils for Kauai/Niihau, Oahu, Maui/Lanai, Molokai and Hawaii. We are seeking your assistance in identifying additional NHOs.

NMFS has contracted Pacific Legacy, Inc. to assist in the Section 106 consultation process including consultations with NHOs and other interested parties, and in revising the current cultural impact assessment in the PEIS. In this regard, community meetings will be held around the state to: (1) identify additional NHOs, (2) obtain information regarding the existence of historic properties of religious and cultural significance to NHOs, and (3) determine if the undertaking has the potential to impact traditional practices within the APE. The schedule for these community meetings is enclosed.

Once our current assessment has yielded results, we will provide you a summary of our findings of effect and invite the agency to comment. We look forward to hearing from you regarding additional NHOs, or if you have any questions or comments. Please contact Dr. Jeff Walters, our Marine Mammal Branch Chief, regarding this matter at (808) 944-2235, or via email at jeff.walters@noaa.gov.

Sincerely,



Michael D. Tosatto
Regional Administrator

Enclosure



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Pacific Islands Regional Office
1601 Kapiolani Blvd., Suite 1110
Honolulu, Hawaii 96814-4700
(808) 944-2200 • Fax (808) 973-2941

OCT 17 2012

Mr. Clisson Kunane Aipoalani, Chair
Kauai/Niihau Island Burial Council
c/o Mr. Hinano Rodriques
History and Culture Branch Chief
State Historic Preservation Division
Department of Land and Natural Resources
DLNR Maui Office Annex
130 Mahalani Street
Wailuku, HI 96793

Dear Mr. Aipoalani:

The U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NMFS), Pacific Islands Regional Office is preparing a Programmatic Environmental Impact Statement (PEIS) to assess the potential impacts of implementing specific management actions and administering a research and enhancement program to improve survival of Hawaiian monk seals (*Monachus schauinslandi*) in the Northwestern and main Hawaiian Islands. The Hawaiian monk seal population has experienced a prolonged decline and currently less than 1,200 monk seals remain.

The purpose of this proposed action is to ensure the long-term viability of Hawaiian monk seals in the wild, with the eventual goal of achieving reclassification to threatened status and, ultimately, removal from the List of Endangered and Threatened Wildlife under the Endangered Species Act. Alternatives considered in the PEIS include recovery actions conducted along shorelines and in the ocean, including monk seal monitoring; temporary seal restraint, capture and release; limited on-site medical treatment, and translocating seals from areas of low juvenile survival to areas of high juvenile survival. None of the alternatives under consideration entails destruction or alteration of any structure, land, shoreline, seafloor substrate, or habitat.

Section 106 of the National Historic Preservation Act (NHPA) requires that federal agencies identify historic properties that may be impacted by a federal undertaking, and seek to protect those properties that are eligible to the National Register of Historic Places. NHPA regulations at 36 CFR Part 800 identify a consultative process to determine site eligibility, to evaluate potential impacts, and to identify impact avoidance or mitigation actions. Consultation parties are typically the State Historic Preservation Officer and any Native Hawaiian organization (NHO) that attaches religious or cultural significance to any properties that may be affected by an undertaking. NMFS has identified this project as an "undertaking," as defined in 36 CFR Part 800, and NMFS is initiating consultation under Section 106 of the NHPA. We are currently studying the potential of the proposed project to affect historic properties, and will provide our



findings to your office for comment once they are developed. We are seeking your assistance in identifying those properties within the Area of Potential Effects (APE) that may be eligible for the National Register listing, as well as potential impacts.

The APE for this project encompasses the range where Hawaiian monk seals are found throughout the Hawaiian Archipelago and Johnston Atoll including the Main Hawaiian Island and the Northwestern Hawaiian Islands. More specifically, the APE includes portions of the open ocean and near shore environment where monk seals may be found as well as the shore zone of the islands, islets, and atolls that make up the Hawaiian Archipelago and Johnston Atoll. For the purposes of this project, the shore zone includes terrestrial habitat 5 meters inland from the upper reaches of the wash of the waves, at high tide during the season in which the highest wash of the waves occurs, usually evidenced by the edge of vegetation growth or the upper limit of debris. In addition, secondary use areas, such as research field camps in the Northwestern Hawaiian Islands, are also considered for inclusion in the APE. Known shipwrecks or navigational hazards within 300 meters from shore will be evaluated.

NMFS is initiating the Section 106 consultation process with the State Historic Preservation Division and the following NHOs: Office of Hawaiian Affairs; Association of Hawaiian Civic Clubs, Hui Malama I Na Kupuna O Hawai'i Nei; and the Burial Councils for Kauai/Niihau, Oahu, Maui/Lanai, Molokai and Hawaii. We are seeking your assistance in identifying additional NHOs.

NMFS has contracted Pacific Legacy, Inc. to assist in the Section 106 consultation process including consultations with NHOs and other interested parties, and in revising the current cultural impact assessment in the PEIS. In this regard, community meetings will be held around the state to: (1) identify additional NHOs, (2) obtain information regarding the existence of historic properties of religious and cultural significance to NHOs, and (3) determine if the undertaking has the potential to impact traditional practices within the APE. The schedule for these community meetings is enclosed.

Once our current assessment has yielded results, we will provide you a summary of our findings of effect and invite your organization to comment. We look forward to hearing from you regarding identifying additional NHOs, or if you have any questions or comments. Please contact Dr. Jeff Walters, our Marine Mammal Branch Chief, regarding this matter at (808) 944-2235, or via email at jeff.walters@noaa.gov.

Sincerely,



Michael D. Tosatto
Regional Administrator.

Enclosure

Similar letters, all dated October 17, 2012, were sent to:

Ms. Hinaleimoana Wong Kalu, Chair
Oahu Island Burial Council
c/o Mr. Hinano Rodriques
History and Culture Branch Chief
State Historic Preservation Division
Department of Land and Natural Resources
DLNR Maui Office Annex
130 Mahalani Street
Wailuku, HI 96793

Ms. Jersula L. Manaba, Chair
Molokai Island Burial Council
c/o Mr. Hinano Rodriques
History and Culture Branch Chief
State Historic Preservation Division
Department of Land and Natural Resources
DLNR Maui Office Annex
130 Mahalani Street
Wailuku, HI 96793

Mr. Kimo Lee, Chair
Hawaii Island Burial Council
c/o Mr. Hinano Rodriques
History and Culture Branch Chief
State Historic Preservation Division
Department of Land and Natural Resources
DLNR Maui Office Annex
130 Mahalani Street
Wailuku, HI 96793

Mr. Keeaumoku Kapu, Chair
Maui/Lāna`i Island Burial Council
c/o Mr. Hinano Rodriques
History and Culture Branch Chief
State Historic Preservation Division
Department of Land and Natural Resources
DLNR Maui Office Annex
130 Mahalani Street
Wailuku, HI 96793

Mr. Edward Halealoha Ayau
Hui Mālama I Nā Kūpuna O Hawai'i Nei
622 Wainaku Ave
Hilo, HI 96720

Ms. Mahealani Cypher
President
Association of Hawaiian Civic Clubs
P.O. Box 664
Honolulu, HI 96813

Mr. Kamana'opono Crabbe
CEO
Office of Hawaiian Affairs
711 Kapiolani Blvd., Suite 500
Honolulu, HI 96813

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APPENDIX D

Letter to State Historic Preservation Division and Selected NHO's – Dated March, 27 2013



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Pacific Islands Regional Office
1601 Kapiolani Blvd., Suite 1110
Honolulu, Hawaii 96814-4700
(808) 944-2200 • Fax (808) 973-2941

MAR 27 2013

Ms. Pua Aiu, Ph.D
Administrator
State Historic Preservation Division
Department of Land and Natural Resources
601 Kamokila Blvd., Suite 555
Kapolei, HI 96707

Dear Ms. Aiu:

I would like to provide an update to my October 17, 2012, letter regarding a National Historic Preservation Act (NHPA) Section 106 consultation process currently underway in association with a suite of proposed actions intended to promote recovery of the endangered Hawaiian monk seal. I would also like to take this opportunity to reiterate my request for your assistance in identifying any additional Native Hawaiian Organizations (NHOs) that may be interested in joining this consultation.

A permit application for authorization under the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) to conduct the Hawaiian monk seal recovery actions has been submitted to the National Marine Fisheries Service (NMFS), Office of Protected Resources. The 45-day public comment period for this permit application closes on April 15, 2013. The application, related documents, and guidance on submitting public comments may be viewed online at: <http://www.nmfs.noaa.gov/pr/permits/monkseal16632.htm>.

We are considering the suite of recovery actions included in the ESA-MMPA permit application to be an "undertaking" under the NHPA as defined in 36 CFR Part 800. As indicated in my October 17, 2012, letter regarding the Hawaiian monk seal recovery actions, the National Marine Fisheries Service (NMFS) has initiated a consultation process under Section 106 of the NHPA.

NMFS is preparing a "Final Programmatic Environmental Impact Statement (PEIS) for Hawaiian Monk Seal Recovery Actions" in compliance with the National Environmental Policy Act. The intent of the PEIS is to evaluate the potential direct, indirect, and cumulative impacts on the human environment of the alternative approaches to implementing Hawaiian monk seal recovery actions, including the actions specified in the ESA-MMPA permit application mentioned above.

We would like to point out that the recovery actions specified in the ESA-MMPA permit application no longer include temporarily moving seals from the Northwestern Hawaiian Islands (NWHI) to the main Hawaiian Islands (MHI) as part of the two-stage translocation process



described in the "Draft PEIS for Hawaiian Monk Seal Recovery Actions." NMFS is not currently pursuing this specific type of two-stage translocation recovery action pending further development of associated monk seal monitoring and management capacity. Since NMFS is not currently pursuing this specific recovery action and it is not included in the current ESA-MMPA permit application, the two-stage translocation action (i.e., moving seals from the NWHI for temporarily release in the MHI) is not be part of the "undertaking" under consideration during the current ongoing NHPA Section 106 consultation process.

We would also like to clarify that the area of potential effect (APE) under consideration in our NHPA 106 consultation process encompasses the range in which Hawaiian monk seals are found throughout the Hawaiian Archipelago and Johnston Atoll including the main Hawaiian Islands and the Northwestern Hawaiian Islands. More specifically, the APE includes portions of the open ocean and near shore environment where monk seals may be found as well as the shore zone of the islands, islets, and atolls that make up the Hawaiian Archipelago and Johnston Atoll. For the purposes of this project, the shore zone includes terrestrial habitat 25 meters inland from the upper reaches of the wash of the waves, at high tide during the season in which the highest wash of the waves occurs, usually evidenced by the edge of vegetation growth or the upper limit of debris. (We note that the October 17, 2012, letter erroneously indicated the shore zone included terrestrial habitat 5 meters inland, however, a 25-meter distance inland was specified in the Draft PEIS and has been used in all other communications with the public and consulting parties.) In addition, secondary use areas, such as research field camps in the Northwestern Hawaiian Islands, are considered for inclusion in the APE. Known shipwrecks or navigational hazards within 300 meters from shore will also be evaluated.

Regarding the NHPA Section 106 and NEPA processes, we have completed a round of public meetings to discuss the proposed recovery actions, identified potentially affected historic properties, and invited participation by Native Hawaiian Organizations and other interested parties in the Section 106 consultation process. Eleven public meetings were held on the islands of Kauai, Oahu, Lanai, Maui, Molokai, and Hawaii Island from October through early December 2012. The public was notified of these meetings via newspaper ads placed in major local newspapers, posting on a NMFS website, and e-mail announcements sent to various group lists on file. At these public meetings, the proposed actions associated with the undertaking were described and input was received from the public regarding the nature and extent of historic and cultural properties, resources, and practices that were expected to be located within, and/or associated, with the APE. Examples of the proposed actions discussed include capture, veterinary treatment, transportation, and release of monk seals on shorelines throughout the Hawaiian archipelago. Potential mitigation measures were also discussed at the meetings, including providing cultural and historical awareness training for program staff, and developing and maintaining close relationships with cultural practitioners in areas in which the proposed actions would be conducted. While meeting participants expressed comments and concerns about Hawaiian monk seals in general (e.g., concerns about impacts that may arise from the growing monk seal population in the main Hawaiian Islands), we heard very few concerns specifically regarding potential effects to historic properties or traditional cultural properties as

defined in the NHPA. Furthermore, to date, only one NHO representative has expressed interest in participating in the Section 106 consultation.

At this time, we have identified the following types of historic properties of religious and cultural significance to NHO's within the APE that may be affected by the proposed undertaking: coastal house sites and other habitation structures, buried cultural deposits, canoe landings and canoe sheds, fishing shrines and other religious sites, human burials, fishing related features, rock art, salt pans, and ceremonial sites. We note that none of the proposed actions associated with the undertaking entail alteration or destruction of any structure, land, shoreline or seafloor substrate. However, we recognize that your organization has special expertise in assessing the eligibility of properties of religious and cultural significance to NHO's, as well as in applying the criteria of adverse effects under 36 C.F.R. Part 800. Accordingly, before we conclude the identification process, and further to our letter dated October 17, 2012, we invite you to assist us in carrying out identification efforts and evaluating National Register eligibility of identified properties. In addition, we request your assistance in identifying additional NHOs and interested parties interested in joining this consultation.

We look forward to hearing from you no later than April 19, 2013 regarding identifying additional properties and NHOs and/or if you have any questions or comments. Please contact Dr. Jeff Walters, our Marine Mammal Branch Chief, regarding this matter at (808) 944-2235, or via email at jeff.walters@noaa.gov.

Sincerely,



Michael D. Tosatto
Regional Administrator



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Pacific Islands Regional Office
1601 Kapiolani Blvd., Suite 1110
Honolulu, Hawaii 96814-4700
(808) 944-2200 • Fax (808) 973-2941

MAR 27 2013

Mr. Clisson Kunane Aipolani
Chair
Kaua'i/Ni'ihau Island Burial Council
c/o Hinano Rodriques
History and Cultural Branch Chief
State Historic Preservation Division
Department of Land and Natural Resources
Maui Annex Office
130 Mahalani Street
Wailuku, HI 96793

Dear Mr. Aipolani:

I would like to provide an update to my October 17, 2012, letter regarding a National Historic Preservation Act (NHPA) Section 106 consultation process currently underway in association with a suite of proposed actions intended to promote recovery of the endangered Hawaiian monk seal. I would also like to take this opportunity to reiterate my request for your assistance in identifying any additional Native Hawaiian Organizations (NHOs) that may be interested in joining this consultation.

A permit application for authorization under the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) to conduct the Hawaiian monk seal recovery actions has been submitted to the National Marine Fisheries Service (NMFS), Office of Protected Resources. The 45-day public comment period for this permit application closes on April 15, 2013. The application, related documents, and guidance on submitting public comments may be viewed online at: <http://www.nmfs.noaa.gov/pr/permits/monkseal16632.htm>.

We are considering the suite of recovery actions included in the ESA-MMPA permit application to be an "undertaking" under the NHPA as defined in 36 CFR Part 800. As indicated in my October 17, 2012, letter regarding the Hawaiian monk seal recovery actions, the National Marine Fisheries Service (NMFS) has initiated a consultation process under Section 106 of the NHPA.

NMFS is preparing a "Final Programmatic Environmental Impact Statement (PEIS) for Hawaiian Monk Seal Recovery Actions" in compliance with the National Environmental Policy Act. The intent of the PEIS is to evaluate the potential direct, indirect, and cumulative impacts on the human environment of the alternative approaches to implementing Hawaiian monk seal recovery actions, including the actions specified in the ESA-MMPA permit application mentioned above.



We would like to point out that the recovery actions specified in the ESA-MMPA permit application no longer include temporarily moving seals from the Northwestern Hawaiian Islands (NWHI) to the main Hawaiian Islands (MHI) as part of the two-stage translocation process described in the "Draft PEIS for Hawaiian Monk Seal Recovery Actions." NMFS is not currently pursuing this specific type of two-stage translocation recovery action pending further development of associated monk seal monitoring and management capacity. Since NMFS is not currently pursuing this specific recovery action and it is not included in the current ESA-MMPA permit application, the two-stage translocation action (i.e., moving seals from the NWHI for temporarily release in the MHI) is not be part of the "undertaking" under consideration during the current ongoing NHPA Section 106 consultation process.

We would also like to clarify that the area of potential effect (APE) under consideration in our NHPA 106 consultation process encompasses the range in which Hawaiian monk seals are found throughout the Hawaiian Archipelago and Johnston Atoll including the main Hawaiian Islands and the Northwestern Hawaiian Islands. More specifically, the APE includes portions of the open ocean and near shore environment where monk seals may be found as well as the shore zone of the islands, islets, and atolls that make up the Hawaiian Archipelago and Johnston Atoll. For the purposes of this project, the shore zone includes terrestrial habitat 25 meters inland from the upper reaches of the wash of the waves, at high tide during the season in which the highest wash of the waves occurs, usually evidenced by the edge of vegetation growth or the upper limit of debris. (We note that the October 17, 2012, letter erroneously indicated the shore zone included terrestrial habitat 5 meters inland, however, a 25-meter distance inland was specified in the Draft PEIS and has been used in all other communications with the public and consulting parties.) In addition, secondary use areas, such as research field camps in the Northwestern Hawaiian Islands, are considered for inclusion in the APE. Known shipwrecks or navigational hazards within 300 meters from shore will also be evaluated.

Regarding the NHPA Section 106 and NEPA processes, we have completed a round of public meetings to discuss the proposed recovery actions, identified potentially affected historic properties, and invited participation by Native Hawaiian Organizations and other interested parties in the Section 106 consultation process. Eleven public meetings were held on the islands of Kauai, Oahu, Lanai, Maui, Molokai, and Hawaii Island from October through early December 2012. The public was notified of these meetings via newspaper ads placed in major local newspapers, posting on a NMFS website, and e-mail announcements sent to various group lists on file. At these public meetings, the proposed actions associated with the undertaking were described and input was received from the public regarding the nature and extent of historic and cultural properties, resources, and practices that were expected to be located within, and/or associated, with the APE. Examples of the proposed actions discussed include capture, veterinary treatment, transportation, and release of monk seals on shorelines throughout the Hawaiian archipelago. Potential mitigation measures were also discussed at the meetings, including providing cultural and historical awareness training for program staff, and developing and maintaining close relationships with cultural practitioners in areas in which the proposed

actions would be conducted. While meeting participants expressed comments and concerns about Hawaiian monk seals in general (e.g., concerns about impacts that may arise from the growing monk seal population in the main Hawaiian Islands), we heard very few concerns specifically regarding potential effects to historic properties or traditional cultural properties as defined in the NHPA. Furthermore, to date, only one NHO representative has expressed interest in participating in the Section 106 consultation.

At this time, we have identified the following types of historic properties of religious and cultural significance to NHO's within the APE that may be affected by the proposed undertaking: coastal house sites and other habitation structures, buried cultural deposits, canoe landings and canoe sheds, fishing shrines and other religious sites, human burials, fishing related features, rock art, salt pans, and ceremonial sites. We note that none of the proposed actions associated with the undertaking entail alteration or destruction of any structure, land, shoreline or seafloor substrate. However, we recognize that your organization has special expertise in assessing the eligibility of properties of religious and cultural significance to NHO's, as well as in applying the criteria of adverse effects under 36 C.F.R. Part 800. Accordingly, before we conclude the identification process, and further to our letter dated October 17, 2012, we invite you to assist us in carrying out identification efforts and evaluating National Register eligibility of identified properties. In addition, we request your assistance in identifying additional NHOs and interested parties interested in joining this consultation.

We look forward to hearing from you no later than April 19, 2013 regarding identifying additional properties and NHOs and/or if you have any questions or comments. Please contact Dr. Jeff Walters, our Marine Mammal Branch Chief, regarding this matter at (808) 944-2235, or via email at jeff.walters@noaa.gov.

Sincerely,



Michael D. Tosatto
Regional Administrator

Similar letters, all dated March 27, 2013, were sent to:

Ms. Hinalaimoana Wong Kalu, Chair
Oahu Island Burial Council
c/o Mr. Hinano Rodriques
History and Culture Branch Chief
State Historic Preservation Division
Department of Land and Natural Resources
DLNR Maui Office Annex
130 Mahalani Street
Wailuku, HI 96793

Ms. Jersula L. Manaba, Chair
Molokai Island Burial Council
c/o Mr. Hinano Rodriques
History and Culture Branch Chief
State Historic Preservation Division
Department of Land and Natural Resources
DLNR Maui Office Annex
130 Mahalani Street
Wailuku, HI 96793

Mr. Kimo Lee, Chair
Hawaii Island Burial Council
c/o Mr. Hinano Rodriques
History and Culture Branch Chief
State Historic Preservation Division
Department of Land and Natural Resources
DLNR Maui Office Annex
130 Mahalani Street
Wailuku, HI 96793

Mr. Keeaumoku Kapu, Chair
Maui/Lāna`i Island Burial Council
c/o Mr. Hinano Rodriques
History and Culture Branch Chief
State Historic Preservation Division
Department of Land and Natural Resources
DLNR Maui Office Annex
130 Mahalani Street
Wailuku, HI 96793

Mr. Edward Halealoha Ayau
Hui Mālama I Nā Kūpuna O Hawai'i Nei
622 Wainaku Ave
Hilo, HI 96720
Mr. Soulee Stroud

President
Association of Hawaiian Civic Clubs
P.O. Box 1135
Honolulu, HI 96807

Mr. Kamana'opono Crabbe
CEO
Office of Hawaiian Affairs
711 Kapiolani Blvd., Suite 500
Honolulu, HI 96813

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APPENDIX E

Section 106 Consultation Invitation Letters – Dated April 9, 2013



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Pacific Islands Regional Office
1801 Kapiolani Blvd., Suite 1110
Honolulu, Hawaii 96814-4700
(808) 944-2200 • Fax (808) 973-2941

09 2013

Mr. Souice LKO Stroud
Association of Hawaiian Civic Clubs
P.O. Box 1135
Honolulu, HI 96807

Dear Mr. Stroud:

The National Marine Fisheries Service (NMFS), Pacific Islands Region has submitted a permit application for authorization under the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) to conduct recovery actions to improve survival of Hawaiian monk seals (*Monachus schauinslandi*) in the Northwestern and main Hawaiian Islands. The Hawaiian monk seal is currently listed as an endangered species under the ESA. NMFS believes the research and management actions included in the permit application will increase understanding of the threats facing monk seals and ensure the long-term viability of Hawaiian monk seals in the wild. The Hawaiian monk seal population has experienced a prolonged decline and currently less than 1,200 monk seals remain in the world.

Section 106 of the National Historic Preservation Act (NHPA) requires that federal agencies identify historic properties that may be impacted by a federal undertaking, and seek to protect those properties that are eligible for listing in the National Register of Historic Places. NHPA regulations in 36 CFR Part 800 identify a consultation process to determine site eligibility, to evaluate potential impacts, and to identify impact avoidance or mitigation actions. Consultation parties are typically the State Historic Preservation Officer and any Native Hawaiian organization (NHO) that attaches religious or cultural significance to historic properties that may be affected by an undertaking. NMFS has identified this action identified in the ESA-MMPA permit application as an "undertaking" as defined in 36 CFR Part 800.

In October 2012, NMFS initiated a NHPA Section 106 process with the State Historic Preservation Division and reached out to the following NHOs: Office of Hawaiian Affairs, Association of Hawaiian Civic Clubs, Hui Mālama I Na Kūpuna O Hawai'i Nei, and the Burial Councils for Kaua'i/Ni'ihau, O'ahu, Maui/Lāna'i, Moloka'i and Hawai'i Islands. We invite your organization to consult with NMFS under NHPA Section 106, including identifying those properties (or types of properties) found within the Area of Potential Effect (APE) that may be eligible for National Register listing, and providing relevant information regarding potential impacts to those properties.

The APE for this project encompasses the range where Hawaiian monk seals are found throughout the Hawaiian Archipelago and Johnston Atoll, including the main Hawaiian Islands and the Northwestern Hawaiian Islands. More specifically, the APE includes portions of the



open ocean and near shore environment where monk seals may be found, as well as the shore zone of the islands, islets, and atolls that make up the Hawaiian Archipelago and Johnston Atoll. For the purposes of this project, the shore zone includes terrestrial habitat 25 meters inland from the upper reaches of the wash of the waves, at high tide during the season in which the highest wash of the waves occurs, usually evidenced by the edge of vegetation growth or the upper limit of debris. In addition, secondary use areas, such as research field camps in the Northwestern Hawaiian Islands, are also considered for inclusion in the APE. Known shipwrecks or navigational hazards within 300 meters from shore will also be evaluated.

In addition to NHPA compliance, NMFS is preparing a "Final Programmatic Environmental Impact Statement (PEIS) for Hawaiian Monk Seal Recovery Actions" in compliance with the National Environmental Policy Act (NEPA). The intent of the PEIS is to evaluate the potential direct, indirect, and cumulative impacts on the human environment of the alternative approaches to implementing Hawaiian monk seal recovery actions, including the actions specified in the ESA-MMPA permit application mentioned above.

We would like to point out that the recovery actions specified in the ESA-MMPA permit application no longer include temporarily moving seals from the Northwestern Hawaiian Islands (NWHI) to the main Hawaiian Islands (MHI) as part of the two-stage translocation program described in the "Draft PEIS for Hawaiian Monk Seal Recovery Actions." NMFS is not currently pursuing this specific type of two-stage translocation recovery action, pending further development of associated monk seal monitoring and management capacity. Since NMFS is not currently pursuing this specific recovery action and it is not included in the current ESA-MMPA permit application, the two-stage translocation action (i.e., moving seals from the NWHI for temporary release in the MHI) is not be part of the "undertaking" under consideration during the current ongoing NHPA Section 106 consultation process.

Regarding the NHPA Section 106 process thus far, we have completed a round of public meetings to discuss the proposed recovery actions, identified potentially affected historic properties, and invited participation by NHOs and other interested parties in the Section 106 consultation process. NMFS held eleven public meetings on the islands of Kaua'i, O'ahu, Lāna'i, Maui, Moloka'i, and Hawai'i Islands from October through early December 2012. The public was notified of these meetings via newspaper ads placed in major local newspapers, posting on a NMFS website, and e-mail announcements sent to various group lists on file. At these public meetings, the proposed actions associated with the undertaking were described and input was received from the public regarding the nature and extent of historic and cultural properties, resources, and practices that were expected to be located within, and/or associated, with the APE. Examples of the proposed actions discussed include capture, veterinary treatment, transportation, and release of monk seals on shorelines throughout the Hawaiian archipelago. Potential mitigation measures were also discussed at the meetings, including providing cultural and historical awareness training for program staff, and developing and maintaining close relationships with cultural practitioners in areas in which the proposed actions would be conducted. While meeting participants expressed comments and concerns about Hawaiian monk seals in general (e.g., concerns about impacts that may arise from the growing monk seal population in the main Hawaiian Islands), we heard very few concerns specifically regarding

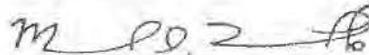
potential effects to historic properties or traditional cultural properties as defined in the NHPA. Furthermore, to date, only one NHO representative has expressed interest in participating in the Section 106 consultation.

At this time, we have identified the following types of historic properties of religious and cultural significance to NHO's within the APE that may be affected by the proposed undertaking. Areas included in the APE are coastal house sites and other habitation structures, buried cultural deposits, canoe landings and canoe sheds, fishing shrines and other religious sites, human burials, fishing related features, rock art, salt pans, and ceremonial sites. We note that none of the proposed actions associated with the undertaking entail alteration or destruction of any structure, land, shoreline or seafloor substrate. However, we recognize that your organization may have special expertise in assessing the eligibility of properties of religious and cultural significance to NHO's, as well as in applying the criteria of adverse effects under 36 CFR Part 800.

Accordingly, before we conclude the identification process, we invite you to assist us in carrying out identification efforts and evaluating National Register eligibility of identified properties. We further request your assistance in identifying additional properties that could be affected by the proposed actions, and NHOs and interested parties interested in joining this consultation. While the NHPA Section 106 consultation process does not have a specific deadline, the 45-day public comment period for the ESA-MMPA permit application itself closes on April 15, 2013. The application, related documents, and guidance on submitting public comments may be viewed online at: <http://www.nmfs.noaa.gov/pr/permits/monkseal16632.htm>.

We look forward to hearing from you no later than April 23, 2013 regarding your wish to consult under NHPA Section 106, identifying additional properties and NHOs, and/or if you have any other questions or comments. Should you be interested in participating as a consulting party, please submit your request in writing. We are enclosing a brochure that provides an overview of Hawaiian monk seal biology and conservation for your reference. Please contact Dr. Jeff Walters, our Marine Mammal Branch Chief, regarding this matter at (808) 944-2235, or via email at jeff.walters@noaa.gov.

Sincerely,



Michael D. Tosatto
Regional Administrator

Enclosure

cc: Dr. Pua Aiu, State Historic Preservation Division

(This is an example letter, for additional recipients, please see attached list)

Organization Name	Contact Prefix	Contact First Name	Contact Last Name
'Ahahui Siwila Hawai'i O Kapōlei	Mr.	Lance	Holden
'Aha Kāne	Mr.	G.	Kai
Aha Moku O Kahikinui	Ms.	Donna	Sterling
Aha Moku o Maui Inc.	Mr.	Ke'eaumoku	Kapu
Aha Wahine	Ms.	Linda	Paik
Ahupua'a o Moloka'i	Ms.	Kammy	Purdy
Aloha First	Mr.	Dennis	Kanahele
Association of Hawaiian Civic Clubs	Mr.	Soulee	Stroud
Association of Hawaiians for Homestead Lands	Ms.	Blossom	Feiteira
Au Puni O Hawaii	Mr.	Samson	Brown
Brian Kaniela Nae'ole Naauao	Mr.	Brian	Nae'ole Naauao
Charles Pelenui Mahi Ohana	Ms.	Maydean	Bowman
Council for Native Hawaiian Advancement	Ms.	Robin	Danner
Four Points Global Services, Corp.	Mr.	Howard	Joy
Friends of 'Iolani Palace	Mr.	Kippen	de Alba Chu
Friends of Moku'ula, Inc.	Ms.	Shirley	Kahai
George K. Cypher 'Ohana	Ms.	Mahealani	Cypher
God's Country Waimanalo	Ms.	Ilima	Ho-Lastimosa
Hau'ouwi Homestead Association on Lāna'i	Ms.	Winifred	Basques
Hawai'i Maoli	Mr.	Henry	Gomes
Hawaiian Civic Club of Hilo	Ms.	Antoinette	Mallow
Ho Ohana	Ms.	Ilima	Ho-Lastimosa
Ho'okano Family Land Trust	Ms.	Dawn	Chang
Hui Ho'onoho	Mr.	Edward	Ayau
Hui Huliau	Mr.	Adrian	Silva
Hui Kāko'o 'Āina Ho'opulapula	Ms.	Kaipo	Kincaid
Hui Kaleleiki Ohana	Ms.	Jaynie	Stone
Hui Mālama I Na Kūpuna O Hawai'i	Mr.	Edward	Ayau

Nei			
Kāko'o 'Ōiwi	Ms.	Mahealani	Cypher
Kalaeloa Heritage and Legacy Foundation	Ms.	Melissa	Lyman
Kalama'ula Mauka Homestead Association	Ms.	Victoria	Kapuni
Kamealoha	Mr.	Thomas	Kamealoha
Kamehameha Schools - Community Relations and Communications Group, Government Relations	Ms.	Piilani	Hanohano
Kamiloloa One Alii Homestead Association	Ms.	Vivian	Ainoa
Kanu o ka 'Āina Learning 'Ohana	Ms.	Taffi	Wise
Kapolei Community Development Corporation	Ms.	Shirley	Swinney
Kawaihapai Ohana	Mr.	Thomas	Shirai
Keoni Kealoha Alvarez	Mr.	Keoni	Alvarez
Ko'olau Foundation	Ms.	Mahealani	Cypher
Ko'olaupoko Hawaiian Civic Club	Ms.	Mahealani	Cypher
La'i 'Ōpua 2020	Mr.	Craig	Kahui
Lahui Kaka'ikahi	Mr.	Kaleo	Keeno
Ma'a 'Ohana c/o Lani Ma'a Lapilio	Ms.	Lani	Lapilio
Machado-Akana-Aona-Namakaeha Ohana	Ms.	Brenda	Lee
Mahu Ohana	Ms.	Keona	Mark
Makaha Hawaiian Civic Club	Ms.	Lu	Faborito
Maku'u Farmers Association	Ms.	Paula	Kekahuna
Malu 'ōhai Residents Association	Ms.	Homelani	Schaedel
Meleana Kawaiaea, LLC	Mr.	Paul	Richards
Moku o Kaupo	Ms.	Jade	Smith
Na Aikane O Maui	Ms.	Uilani	Kapu
Na Ku'auhau 'o Kahiwakaneikopolei	Ms.	H.	Cheek
Na Ohana o Puaoi a me Hanawahine	Ms.	Roxanne	Hanawahine
Nanakuli Housing Corporation	Ms.	Paige	Barber
Native Hawaiian Church	Mr.	Kaleo	Patterson

Native Hawaiian Economic Alliance	Mr.	Austin	Nakoa
Native Hawaiian Education Council	Ms.	Michelle	Balutski
Nekaifes Ohana	Ms.	Maraca	Nekaifes
Office of Hawaiian Affairs	Dr.	Kamana'opono	Crabbe
Pacific American Foundation	Mr.	Herb	Lee
Pacific Justice & Reconciliation Center	Mr.	Kaleo	Patterson
Papa Ola Lokahi	Mr.	Hardy	Spoehr
Papakōlea Community Development Corporation	Ms.	B.	Kekauoha
Paukukalo Hawaiian Homes Community Association	Ms.	Olinda	Aiwohi
Peahi Ohana	Mr.	Apela	Peahi
Piihonua Hawaiian Homestead Community Association	Mr.	Kaleo	Aki
Royal Hawaiian Academy of Traditional Arts	Mr.	L.	Suganuma
The Friends of Hokule'a and Hawai'iloa	Mr.	William	Richards
The I Mua Group	Mr.	Melvin	Soong
Wai'anae Hawaiian Civic Club	Ms.	Gege	Kawelo
Waiehu Kou Phase 3 Association	Mr.	Roy	Oliveira
Waimānalo Hawaiian Homes Association	Mr.	Paul	Richards
Honua Consulting	Mr.	Matthew	Sproat

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APPENDIX F

Letters to Responding NHO's Regarding Consultation Meetings



Pacific Basin — O'ahu
 30 Aulike Street, Suite 301
 Kailua, HI 96734

Phone: 808.263.4800
 Fax: 808.263.4300
www.pacificlegacy.com

3 May 2013

Ms. Winifred Basques, Jr.
 Ha'ouwi Homestead Assn on Lanai
 PO Box 63052
 Lanai City, HI 97675

Re: Section 106 consultation for the Hawaiian monk seal recovery actions

Dear Ms. Basques:

Thank you for your interest in participating in the consultation on historic properties pursuant to Section 106 of the National Historic Preservation Act (NHPA) regarding the Hawaiian monk seal recovery actions described in the April 9, 2013, letter sent to you by Michael D. Tosatto, Regional Administrator for the National Marine Fisheries Service (NMFS), Pacific Islands Regional Office. We are now ready to begin consulting with the parties who have expressed interest. I will be contacting you within two weeks to schedule a telephone conference to discuss the undertaking, answer any questions, and conduct the consultation. Participating in this conference call will be Drs. Jeff Waters and Rachel Sprague of NMFS, and me.

Enclosed are some documents that may help as reference materials before and during the consultation. The enclosed documents include:

1. A copy of the ESA-MMPA permit application. Issuance of the ESA-MMPA permit would be the "undertaking" that is triggering the NHPA 106 consultation process.
2. A short article summarizing the activities included (and not included) in the permit application (undertaking).
3. A fact sheet regarding the NHPA.
4. A draft document describing potential measures intended to mitigate (reduce or prevent) potential adverse impacts (or effects) on historic and cultural properties.

Please note that these consultations will be focused solely on potential effects to historic properties as specified in the NHPA and will not be addressing potential effects to cultural practices and other cultural resources as these effects are being evaluated by NMFS through a separate process under the National Environmental Policy Act (NEPA). Information on this NEPA process is available online at:

<http://www.nmfs.noaa.gov/pr/permits/eis/hawaiianmonkseal.htm>

**Pacific Basin -
Hawaii Island**
 900 Kamekoko Street
 Hilo, HI 96720
 808.351.9560 Ph.
 808.263.4300 Fax

Business Office
 2641 Hwy 4
 PO Box 6050
 Arnold, CA 95223
 209.795.4481 Ph.
 209.795.1907 Fax

Bay Area
 900 Misdel Street
 Berkeley, CA 94707
 510.524.3991 Ph.
 510.524.4419 Fax

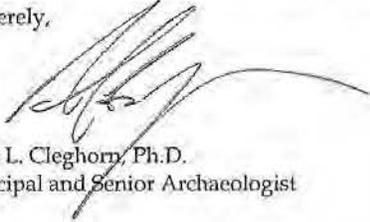
Sierra/Central Valley
 4919 Windplay Drive, Ste. 4
 El Dorado Hills, CA 95762
 916.358.5156 Ph.
 916.358.5161 Fax

**Inland Empire/Mojave
Desert**
 44702 10th Street West
 Lancaster, CA 93534
 661.729.9395 Ph.
 661.729.9417 Fax

Southern California
 PO Box 421282
 San Diego, CA 92142
 858.300.8024 Ph.
 510.524.4419 Fax

We will be contacting you soon in hopes of moving forward on the consultation. In the meantime, if you have any questions or desire more information, please feel free to contact me at 808-263-4800, or via email at cleghorn@pacificlegacy.com.

Sincerely,



Paul L. Cleghorn, Ph.D.
Principal and Senior Archaeologist

Enclosures



Pacific Basin – O‘ahu
 30 Aulike Street, Suite 301
 Kailua, HI 96734

Phone: 808.263.4800
 Fax: 808.263.4300
www.pacificlegacy.com

3 May 2013

Lu Ann Faborito
 P O Box 1783
 Wai‘anae, HI 96792 3

Re: Section 106 consultation for the Hawaiian monk seal recovery actions

Dear Ms. Faborito:

Thank you for your interest in participating in the consultation on historic properties pursuant to Section 106 of the National Historic Preservation Act (NHPA) regarding the Hawaiian monk seal recovery actions described in the April 9, 2013, letter sent to you by Michael D. Tosatto, Regional Administrator for the National Marine Fisheries Service (NMFS), Pacific Islands Regional Office. We are now ready to begin consulting with the parties who have expressed interest. I will be contacting you within two weeks to schedule a telephone conference to discuss the undertaking, answer any questions, and conduct the consultation. Participating in this conference call will be Drs. Jeff Waters and Rachel Sprague of NMFS, and me.

Enclosed are some documents that may help as reference materials before and during the consultation. The enclosed documents include:

1. A copy of the ESA-MMPA permit application. Issuance of the ESA-MMPA permit would be the "undertaking" that is triggering the NHPA 106 consultation process.
2. A short article summarizing the activities included (and not included) in the permit application (undertaking).
3. A fact sheet regarding the NHPA.
4. A draft document describing potential measures intended to mitigate (reduce or prevent) potential adverse impacts (or effects) on historic and cultural properties.

Please note that these consultations will be focused solely on potential effects to historic properties as specified in the NHPA and will not be addressing potential effects to cultural practices and other cultural resources as these effects are being evaluated by NMFS through a separate process under the National Environmental Policy Act (NEPA). Information on this NEPA process is available online at:

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**Pacific Basin –
Hawaii’s Island**
 900 Kamaoia Street
 Hilo, HI 96720
 808.351.9560 Ph.
 808.263.4300 Fax

Business Office
 2641 Hwy 4
 PO Box 6050
 Arnold, CA 95223
 209.795.4481 Ph.
 209.795.1967 Fax

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 900 Modoc Street
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 510.528.4419 Fax

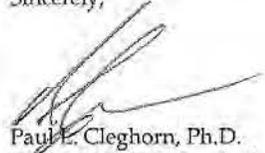
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 916.358.5156 Ph.
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Desert**
 44702 10th Street West
 Lancaster, CA 93534
 661.729.9395 Ph.
 661.729.9417 Fax

Southern California
 PO Box 421282
 San Diego, CA 92142
 858.903.8024 Ph.
 510.524.4419 Fax

We will be contacting you soon in hopes of moving forward on the consultation. In the meantime, if you have any questions or desire more information, please feel free to contact me at 808-263-4800, or via email at cleghorn@pacificlegacy.com.

Sincerely,



Paul E. Cleghorn, Ph.D.
Principal and Senior Archaeologist

Enclosures



Pacific Basin – O’ahu
 30 Aulike Street, Suite 301
 Kailua, HI 96734

Phone: 808.263.4800
 Fax: 808.263.4300
www.pacificlegacy.com

3 May 2013

Mr. Roy Oliveira
 49 Kaulana Na Pua Circle
 Wailuku, HI 96793

Re: Section 106 consultation for the Hawaiian monk seal recovery actions

Dear Mr. Olivera:

Thank you for your interest in participating in the consultation on historic properties pursuant to Section 106 of the National Historic Preservation Act (NHPA) regarding the Hawaiian monk seal recovery actions described in the April 9, 2013, letter sent to you by Michael D. Tosatto, Regional Administrator for the National Marine Fisheries Service (NMFS), Pacific Islands Regional Office. We are now ready to begin consulting with the parties who have expressed interest. I will be contacting you within two weeks to schedule a telephone conference to discuss the undertaking, answer any questions, and conduct the consultation. Participating in this conference call will be Drs. Jeff Waters and Rachel Sprague of NMFS, and me.

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Pacific Basin - Hawaii's Island 909 Kuanakoa Street Hilo, HI 96720 808.351.9560 Ph. 808.263.4300 Fax	Business Office 2641 Hwy 4 PO Box 6050 Arnold, CA 95223 209.795.4481 Ph. 209.795.1967 Fax	Bay Area 900 Modoc Street Berkeley, CA 94707 510.524.3991 Ph. 510.524.4419 Fax	Sierra/Central Valley 4919 Windplay Drive, Ste. 4 El Dorado Hills, CA 95762 916.358.5136 Ph. 916.358.5161 Fax	Inland Empire/Mojave Desert 44702 10th Street West Lancaster, CA 93534 661.729.9395 Ph. 661.729.9417 Fax	Southern California PO Box 421282 San Diego, CA 92142 858.906.8024 Ph. 510.524.4419 Fax
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Sincerely,



Paul L. Cleghorn, Ph.D.
Principal and Senior Archaeologist

Enclosures



Pacific Basin – O‘ahu
 30 Aulike Street, Suite 301
 Kailua, HI 96734

Phone: 808.263.4800
 Fax: 808.263.4300
www.pacificlegacy.com

3 May 2013

Hardy Spoehr, executive director
 Papa Ola Lokahi (Native Hawaiian Health Board)
 894 Queen Street
 Honolulu, HI 96813

Re: Section 106 consultation for the Hawaiian monk seal recovery actions


 Dear Mr. Spoehr:

Thank you for your interest in participating in the consultation on historic properties pursuant to Section 106 of the National Historic Preservation Act (NHPA) regarding the Hawaiian monk seal recovery actions described in the April 9, 2013, letter sent to you by Michael D. Tosatto, Regional Administrator for the National Marine Fisheries Service (NMFS), Pacific Islands Regional Office. We are now ready to begin consulting with the parties who have expressed interest. I will be contacting you within two weeks to schedule a telephone conference to discuss the undertaking, answer any questions, and conduct the consultation. Participating in this conference call will be Drs. Jeff Waters and Rachel Sprague of NMFS, and me.

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Sincerely,

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Paul L. Cleghorn, Ph.D.
Principal and Senior Archaeologist

Enclosures



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 Fax: 808.263.4300
 www.pacificlegacy.com

3 May 2013

Matt Sproat
 Honua Consulting
 4348 Wai'ala'e Ave. #254
 Honolulu, Hawai'i 96816

Re: Section 106 consultation for the Hawaiian monk seal recovery actions

Dear Mr. Sproat:

Thank you for your interest in participating in the consultation on historic properties pursuant to Section 106 of the National Historic Preservation Act (NHPA) regarding the Hawaiian monk seal recovery actions described in the April 9, 2013, letter sent to you by Michael D. Tosatto, Regional Administrator for the National Marine Fisheries Service (NMFS), Pacific Islands Regional Office. We are now ready to begin consulting with the parties who have expressed interest. I will be contacting you within two weeks to schedule a telephone conference to discuss the undertaking, answer any questions, and conduct the consultation. Participating in this conference call will be Drs. Jeff Waters and Rachel Sprague of NMFS, and me.

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Paul L. Cleghorn, Ph.D.
Principal and Senior Archaeologist

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 Kailua, HI 96734

Phone: 808.263.4800
 Fax: 808.263.4300
www.pacificlegacy.com

3 May 2013

Jade Alohalani Smith
 Moku o Kaupo Representative
 Phone: (808) 870-2820
www.ahamoku.org

Re: Section 106 consultation for the Hawaiian monk seal recovery actions

Dear Ms. Smith:

Thank you for your interest in participating in the consultation on historic properties pursuant to Section 106 of the National Historic Preservation Act (NHPA) regarding the Hawaiian monk seal recovery actions described in the April 9, 2013, letter sent to you by Michael D. Tosatto, Regional Administrator for the National Marine Fisheries Service (NMFS), Pacific Islands Regional Office. We are now ready to begin consulting with the parties who have expressed interest. I will be contacting you within two weeks to schedule a telephone conference to discuss the undertaking, answer any questions, and conduct the consultation. Participating in this conference call will be Drs. Jeff Waters and Rachel Sprague of NMFS, and me.

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Please note that these consultations will be focused solely on potential effects to historic properties as specified in the NHPA and will not be addressing potential effects to cultural practices and other cultural resources as these effects are being evaluated by NMFS through a separate process under the National Environmental Policy Act (NEPA). Information on this NEPA process is available online at:
<http://www.nmfs.noaa.gov/pr/permits/eis/hawaiianmonkseal.htm>

Pacific Basin - Hawai'i Island 900 Kamukoa Street Hilo, HI 96720 808.351.9560 Ph. 808.263.4300 Fax	Business Office 2641 Hwy 4 PO Box 6050 Arnold, CA 95223 209.795.4481 Ph. 209.795.1967 Fax	Bay Area 900 Madoc Street Berkeley, CA 94707 510.524.3991 Ph. 510.524.4419 Fax	Sierra/Central Valley 4919 Windplay Drive, Ste. 4 El Dorado Hills, CA 95762 916.358.5156 Ph. 916.358.5161 Fax	Inland Empire/Mojave Desert 44702 10th Street West Lancaster, CA 93534 661.729.9395 Ph. 661.729.9417 Fax	Southern California PO Box 421282 San Diego, CA 92142 858.870.8024 Ph. 619.524.4419 Fax
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We will be contacting you soon in hopes of moving forward on the consultation. In the meantime, if you have any questions or desire more information, please feel free to contact me at 808-263-4800, or via email at cleghorn@pacificlegacy.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul L. Cleghorn". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Paul L. Cleghorn, Ph.D.
Principal and Senior Archaeologist

Enclosures

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APPENDIX G

State Historic Preservation Division Response Letter – Dated May 10, 2013

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

HISTORIC PRESERVATION DIVISION
KAKUHIHEWA BUILDING
601 KAMOKILA BLVD STE 555
KAPOLEI HI 96707

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

May 10, 2013

Michael D. Tosatto
Regional Administrator
U.S. Department of Commerce
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Pacific Islands Regional Office
1601 Kapiolani Blvd., Suite 1110
Honolulu, HI 96814-4700

Log# 2013.2530
Doc# 1305PA01

Dear Mr. Tosatto,

Re: NHPA Section 106 Consultation
Update to October 17, 2012 letter regarding consultation on proposed actions to promote recovery of the endangered Hawaiian Monk seal.
Request for additional information regarding NHOs and traditional cultural properties.
All islands

Thank you for your letter of March 27, 2013, which we received on April 4, 2013. We have been discussing this request with Dr. Jeff Walters and apologize for our delayed response.

Your request indicates the following:

1. A permit application for authorization to conduct Hawaiian monk seal recovery action has been submitted to the National Marine Fisheries Service.
2. The public comment period ends on April 15, 2013.
3. The recovery actions in the permit are considered an undertaking.

Therefore consultation under 106 has been initiated. The area of potential effect (APE) includes the entire Hawaiian Archipelago and Johnston Atoll. In addition to areas of open ocean, the shore zone includes terrestrial habitat 25 meters inland from the upper reach of the wash of the waves. Although unlikely that monk-seal recovery efforts would affect a historic property, potential exists for burials and registered and eligible

sites within the APE to be affected, as well as not yet identified surface or subsurface historic properties.

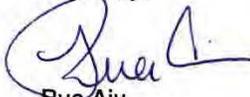
The State Historic Preservation Division has the following comments:

The division recommends that you consult with the Island Burial Councils. In addition we are providing you with a list of families who have established protocols to deal with burials that erode regularly from certain areas of the main Hawaiian Islands. They may be helpful in drafting protocols for your program.

We will withhold further comment until we can review your recovery plan which should have specifics on possible impacts to historic properties. We believe that our office and Native Hawaiian Organizations will be better able to comment on a plan with more specifics.

Please feel free to contact me at 692-8040 or by e-mail at pua.aiu@hawaii.gov if you have further questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Pua Aiu', written over a light blue circular stamp.

Pua Aiu
Administrator

Appendix A
List of families to consult for the Monk Seal Recovery Permit

Kona Coast

Curtis Tyler
77-6399 Nalani St. #104
Kailua-Kona, HI 96740

Nicole Lui
76-6217 Lehua Road
Kailua-Kona, HI 96740

Mikiala Roy
P.O. Box 596
Kailua-Kona, HI 96745

Hannah Reeves
P.O. Box 844
Kailua-Kona, HI 96745

Mahealani Pai
P.O.Box 251
Kailua-Kona, HI 96745

Jimmy Medeiros
P.O. Box 166
Honaunau, HI 96726

Kualoa

Cy Bridges: bridgesc@polynesia.com
Gladys Pualoa-Ahuna: verlamoore@hawaii.rr.com
Dawn Wasson: laiekupuna@yahoo.com
Kekela Miller: millerk010@hawaii.rr.com
Calvin Hoe: chhoe_hic@yahoo.com
Keoni Fox: fox@aliwireless.com
Kealoha Domingo: hawaiianstyle@rocketmail.com