FINDING OF NO SIGNIFICANT IMPACT

Damage Assessment and Restoration Plan and Environmental Assessment for the July 2, 2005, M/V Casitas Grounding at Pearl and Hermes Atoll, Northwest Hawaiian Islands, Hawaiian Islands National Wildlife Refuge, Papahānaumokuākea Marine National Monument

Background:

Under the Oil Pollution Act of 1990 (OPA) the Natural Resource Trustee Agencies (Trustees), including the National Oceanic and Atmospheric Administration (NOAA) on behalf of the U.S. Department of Commerce, the United States Fish and Wildlife Service (USFWS) on behalf of the U.S. Department of the Interior, and the Hawaii Department of Land and Natural Resources (DLNR) on behalf of the State of Hawaii, prepared the Final Damage Assessment and Restoration Plan and Environmental Assessment (DARP/EA) for the July 2, 2005, M/V Casitas Grounding at Pearl and Hermes Atoll. The DARP/EA assesses damages and evaluates restoration alternatives for natural resource injuries incurred as a result of this grounding.

The M/V Casitas, a 145 foot research vessel, ran aground at Pearl and Hermes Atoll within the Hawaiian Islands National Wildlife Refuge (now also part of the Papahānaumokuākea Marine National Monument) on July 2, 2005. The grounding resulted in injuries to natural resources, as did response actions taken to prevent or reduce the threat of a release of oil from the vessel into the environment. Following the incident, representatives of the Trustees and the vessel owners jointly conducted an assessment to determine the nature and extent of these injuries. In addition to other costs and damages, including those related to the incident response, the vessel owners are liable for natural resource damages, which are used to fund environmental restoration projects to compensate the public for the diminished ecological value of injured resources, including corals injured by the grounding and related response activities.

Restoration Alternatives:

The Trustees cooperatively developed the Final DARP/EA. It examines and evaluates potential projects to restore natural resources in compensation for injuries resulting from the M/V Casitas grounding.

The Trustees published a draft DARP/EA and invited the public to comment on it. It included discussion of a "no action" alternative and several individual projects to address the injured resources. The Trustees rejected the "no action" alternative because it does not compensate the public for interim losses suffered by the resources. OPA clearly establishes Trustee authority to seek compensation for interim losses pending recovery of natural resources. Furthermore, technically feasible alternatives for restoration are available. For the remaining active restoration alternatives, the Trustees considered criteria to evaluate the entire suite of projects that were under consideration. These criteria included each project's ability to restore resources of the type impacted by the grounding and relevant federal and state law provisions governing use of

damages for natural resources. Based on an evaluation under these criteria, the Trustees selected an alternative that provides funding for the following restoration project:

- Derelict Net and Debris Removal in the Monument

In conducting its evaluation of this project, the Trustees learned that marine debris removal activities, effectively identical to this project, are already an approved activity of the Papahānaumokuākea Marine National Monument pursuant to its Monument Management Plan. That plan was completed and subjected to full environmental review under the National Environmental Policy Act (NEPA) in 2008. The Monument Management Plan and its accompanying Environmental Assessment under NEPA were promulgated by the same three agencies that are the Trustees for the M/V Casitas grounding, and these same three agencies' representatives constitute the Monument Management Board that is charged with administering the Monument Management Plan. Therefore, the selected alternative in the M/V Casitas Final DARP/EA has already undergone a full environmental analysis by the Trustees in another document.

Public Involvement:

The Trustees released a draft DARP/EA on January 14, 2011, for public review and accepted public comments through February 15, 2011. In addition, the Trustees held a public meeting at the Liliha Public Library in Honolulu on February 15, 2011. The Trustees received no public comments.

Alternatives Considered:

The DARP/EA evaluates an array of project alternatives for restoration of corals. The evaluation criteria used by the Trustees considered the cost to carry out the alternative action, the extent to which each alternative is expected to meet the Trustees' goals and objectives in returning the injured natural resources and services to baseline and/or compensating for interim losses, the likelihood of success of each alternative, the extent to which each alternative will prevent future injury as a result of the grounding and avoid collateral injury as a result of implementing the alternative, the extent to which each alternative benefits more than one natural resource and/or service, the effect of each alternative on public health and safety, nexus to geographic location of the injury, opportunities to collaborate with other entities involved in restoration projects, and compliance with applicable federal and state laws and policies. The Trustees selected the most meritorious project based on this evaluation.

Four projects underwent evaluation. The specific projects which the Trustees considered are listed below with the selected project shown in italics.

- *Derelict Net and Debris Removal in the Monument*
- Cementing Loose Coral Fragments and Substrate
- Orphan Vessel Removal in the Monument
- Alien Algae Removal in the Main Hawaiian Islands

Environmental Consequences:

The National Environmental Policy Act (NEPA) requires an analysis of the effects of government actions on the quality of the human environment. In addition, Council on Environmental Quality (CEQ) regulations implementing NEPA recommend the avoidance of repetitive discussions when more than one environmental document addresses the same action(s) (as is the case for the selected project in this Final DARP/EA).

The selected marine debris removal project is an approved activity pursuant to the existing Monument Management Plan (MMP), which has already been subjected to a full environmental impacts analysis in the Monument Management Plan's Environmental Assessment (MMP/EA). The Trustees carefully considered that analysis when evaluating the selected project and incorporated it by reference in the Casitas Final DARP/EA. The MMP/EA acknowledged marine debris removal's "beneficial effect on natural resources by reducing injury or mortality and improving the health of the reef and associated species." It also concluded that the potential for adverse impacts was minimal and could be effectively mitigated through the use of Best Management Practices, which are outlined in the MMP.

In implementing the selected project, the Trustees will conduct any marine debris removal activities in accordance with Best Management Practices outlined in the MMP. Furthermore, any marine debris removal activities will be closely coordinated with the Monument Management Board. Thus, as discussed in the MMP/EA and incorporated by reference in the Final DARP/EA, any marine debris removal activities in the Monument are expected to be without significant adverse effects to soil, air quality, water resources, floodplains, wetlands, vegetation, fisheries, wildlife, visual quality, aesthetics/recreation, wilderness, subsistence, cultural resources, park management, or the local economy.

NOAA's Administrative Order (NAO) 216-6 (May 20, 1999) contains criteria for determining the significance of the impacts of a proposed action. In addition, the Council on Environmental Quality (CEQ) regulations at 40 C.F.R. §1508.27 state that the significance of an action should be analyzed both in terms of "context" and "intensity." The significance of this action is analyzed based on the NAO 216-6 criteria and CEQ's context and intensity criteria. The criteria listed below are relevant to making a Finding of No Significant Impact, and have been considered individually, as well as in combination with the others, and include:

(1) Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson Stevens Act and identified in Federal Management Plans (FMPs)?

> Response: No. As documented in the Final DARP/EA, and in concurrence with the MMP/EA, the Trustees do not expect the selected project to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Act. Any short-term and temporary localized impacts (such as potential disturbance of endangered species by divers or harm to corals from the removal of crusted debris) will be minimized or eliminated by the use of Best Management Practices.

(2) Can the proposed action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator prey relationships, etc.)?

Response: No. The selected project are not expected to have a substantial impact on ecosystem function and species biodiversity. As documented in the Final DARP/EA, and in concurrence with the MMP/EA, the selected project is expected to improve habitat function through the reduction of harm to corals by marine debris. Any potential adverse impacts (such as those discussed in (1) above) are expected to be minimal, short term, and localized.

(3) Can the proposed action reasonably be expected to have a substantial adverse impact on public health and safety?

Response: No. The selected project is not expected to have any impacts, adverse or otherwise, on public health and safety.

(4) Can the proposed action reasonably be expected to adversely affect endangered or threatened species, their critical habitat, marine mammals, or other non-target species?

Response: No. Any short-term and temporary localized impacts (such as potential disturbance of endangered species by divers or harm to corals from the removal of crusted debris) will be minimized or eliminated by the use of Best Management Practices (BMPs).

For example, marine debris workers could encounter endangered species or marine mammals during restoration activities. To avoid adverse impacts and prevent the potential for unauthorized "take" of a marine mammal or endangered species, divers observing or encountering marine mammals or endangered species while removing debris would be required to cease all activity until the animal departs the area. Debris removal workers will not approach or come within 150 feet of any Hawaiian monk seals that are hauled out on a beach. In addition, if nets or debris are heavily encrusted and firmly anchored to the substrate, only those sections that are free would be removed.

Completely encrusted nets that are fully incorporated as part of the substrate would not be removed. Live coral colonies, fish, and benthic invertebrates which are caught in the nets and debris as they are removed will be returned to the sea in the general vicinity as soon as practical and to the greatest extent possible. Accordingly, any potential adverse impacts are expected to be only minor, short term, and not significant overall.

(5) Are significant social or economic impacts interrelated with natural or physical environmental effects?

Response: No. The Trustees do not expect there to be significant adverse social or economic impacts interrelated with natural or physical environmental effects of the selected project.

(6) Are the effects on the quality of the human environment likely to be highly controversial?

Response: No. Based on past experiences in the Monument, the Trustees expect the public to be overwhelmingly supportive of the selected project. During the public review period of the Final DARP/EA, the Trustees received no negative public comments.

(7) Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers, essential fish habitat, or ecologically critical areas?

Response: No. The Trustees do not expect the selected project to result in substantial adverse impacts to unique areas or resources, such as historic or cultural resources, parks, wetlands, essential fish habitat, or ecologically critical areas including any within the Hawaiian Islands National Wildlife Refuge, or Papahānaumokuākea Marine National Monument. The affected environment is indeed unique, hence its designation as a Marine National Monument and its comprehensive management by the Trustees through the MMP. The MMP/EA has concluded that there could be minor and temporary impacts to ecologically sensitive or unique resources during the debris removal process, but the impacts would not be substantial due to use of BMPs (refer to the BMP examples provided above in criteria # 4). Overall, debris removal will result in an environmentally beneficial impact.

(8) Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

Response: No. Marine debris removal will not pose any uncertain effects or unknown risks to the human environment. As noted in the MMP/EA, marine debris removal is a long-standing method of resource protection in the Monument. The areas in which the project will be implemented are well known to the project implementers, and none of the project methods that are expected to be used are unique, controversial, or untried.

(9) Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts?

Response: No. The MMP/EA impacts analysis, incorporated by reference in the Casitas Final DARP/EA, evaluated the cumulative impacts of numerous actions occurring within the Monument (including marine debris removal) and concluded that there were no cumulatively significant impacts.

(10) Is the proposed action likely to 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?

Response: No. The selected project are not expected to impact any cultural, scientific, or historic resources.

(11) Can the proposed action reasonably be expected to result in the introduction or spread of a non-indigenous species?

Response: No. The selected project will adhere to all Monument protocols designed to prevent the introduction or spread of non-indigenous species.

(12) Is the proposed action likely to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration?

Response: No. Marine debris removal is a well-established, long-used management tool and resource protection tool within the Monument.

(13) Can the proposed action reasonably be expected to threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment?

Response: No. Implementation of the selected project would not require any violation of federal, state or local laws designed to protect the environment.

(14) Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?

Response: No. The MMP/EA impacts analysis, incorporated by reference in the Casitas Final DARP/EA, evaluated the cumulative impacts of numerous actions occurring within the Monument (including marine debris removal) and concluded that there were no potential cumulatively significant impacts.

DETERMINATION

Based upon an environmental review and evaluation in the DARP/EA for the M/V Casitas grounding and upon analysis incorporated by reference from the environmental assessment for the Papahānaumokuākea Marine National Monument Management Plan, I have determined that implementation of the restoration plan does not constitute a major Federal action significantly affecting the quality of the human environment under the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969 (as amended). Accordingly, an environmental impact statement is not presently required for this action. The DARP/EA is available upon request from Matthew Parry, NOAA Restoration Center, at 808-944-2211.

Montanio

MAR 11 2011

Patricia A. Montanio
Director, Office of Habitat Conservation
National Marine Fisheries Service
National Oceanic and Atmospheric Administration

Date