

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

June 9, 2016

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No.: 16HD-072  
HAWAII

Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Set Up, Firing, and all other Pre-display and Post-display activities for the 2016 Mauna Kea Beach Hotel Fourth of July Aerial Fireworks Display on July 4, 2016, on unencumbered State lands, Ouli, South Kohala, Hawaii, Tax Map Key: (3) 6-2-002: seaward of parcel 004.

APPLICANT:

Hawaii Explosives & Pyrotechnics, Inc., a Hawaii Domestic Profit Corporation.

LEGAL REFERENCE:

Sections 171-55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Ouli situated at Waimea, South Kohala, Hawaii, identified by Tax Map Key: (3) 6-2-002: seaward of parcel 4, as shown on the attached maps labeled Exhibit A.

AREA:

1,000 square feet, more or less for set-up and firing site area, plus a safety zone with a radius of approximately 200 feet around the firing site. The total estimated area including the firing site and the safety zone on unencumbered State lands is approximately 82,896 square feet.

ZONING:

State Land Use District:	Conservation
County of Hawaii CZO:	Un-zoned beach adjacent to parcel with V-1.25 Resort Hotel Zoning; also within County of Hawaii Special Management Area

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

YES \_\_\_\_ NO X

CURRENT USE STATUS:

Requested area is vacant and unencumbered.

CHARACTER OF USE:

Set-up and firing of Aerial Fireworks Display.

TERM OF RIGHT-OF-ENTRY:

From 10:00 am – 11:45 pm on July 4, 2016.

RENTAL

\$100.00 – Set-up and Firing Site Area

500.00 – Safety Zone Area (Flat fee when area exceeds 5,000 square feet)

\$600.00 – Total Rental Fee

COLLATERAL SECURITY DEPOSIT:

\$2500.00 cash deposit via certified check for clean-up deposit.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exhibit B attached.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO ____
Registered business name confirmed:	YES <u>X</u>	NO ____
Applicant in good standing confirmed:	YES <u>X</u>	NO ____

REMARKS:

Hawaii Explosives & Pyrotechnics, Inc. (Applicant) has requested a right-of-entry onto the subject land for purposes of conducting a special events aerial fireworks display for the Mauna Kea Beach Fourth of July Aerial Fireworks display at Kauna'oa Beach near the Mauna Kea Beach Hotel. The specific location of the fireworks display firing site is shown on Exhibit C attached.

In the past, Applicant was only charged for the area of the firing site, which is 1,000 square feet (or charge of \$100 for one day). But to conduct a display, Applicant needs to

exclude the public from an area extending for a radius of approximately 200 feet from the firing site. The size of the area circumscribed by the safety zone is approximately 125,600 square feet, of which about two-thirds, or 82,896 square feet, are located on unencumbered State land. If the daily rent for commercial rights-of-entry were applied to the 82,896 square feet of safety zone on State land, the charge per event would be about \$8,289.00, which is likely cost prohibitive for fireworks displays. The exclusion of the public is necessary for their safety but also poses a substantial interference with public use of the beach and near-shore waters. Accordingly, as a compromise, staff is recommending that an additional charge of \$500.00 be imposed to cover Applicant's exclusive use of the safety zone around the firing site.

Additionally, pursuant to BLNR meeting of March 24, 2016, under agenda item D-4, a \$2500 cash deposit via certified check is required as a clean-up deposit to ensure the timely clean-up in the fallout area following the event. The cash deposit will be held by DLNR staff with a 7 calendar day turn-around period and, if not forfeited, will be returned to Hawaii Explosives & Pyrotechnics, Inc. (HE&P). HE&P must turn in proof of clean-up evidence (photos and signed certificates) to DLNR within 3 calendar days. If staff determines the area was not adequately cleaned up after the 7-day turn around period, the \$2500.00 deposit may be forfeited. Also, in the event staff receives a complaint or otherwise becomes aware of fireworks debris appearing on or being left on the land or in the ocean, then staff is to provide notice to HE&P and they shall be allowed 48 hours to cure the default and clean the area to the satisfaction of department staff. If the default is not cured within the 48 hours allowed, the \$2500.00 deposit may be forfeited.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions. The Office of Conservation and Coastal Lands was consulted with no response. There are no other pertinent issues or concerns. Staff has no objection to the request.

RECOMMENDATION: That the Board


1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the issuance of a right-of-entry permit to Hawaii Explosives & Pyrotechnics, Inc. covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
  - B. Review and approval by the Department of the Attorney General; and
  - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Dan K. Gushiken  
Land Agent

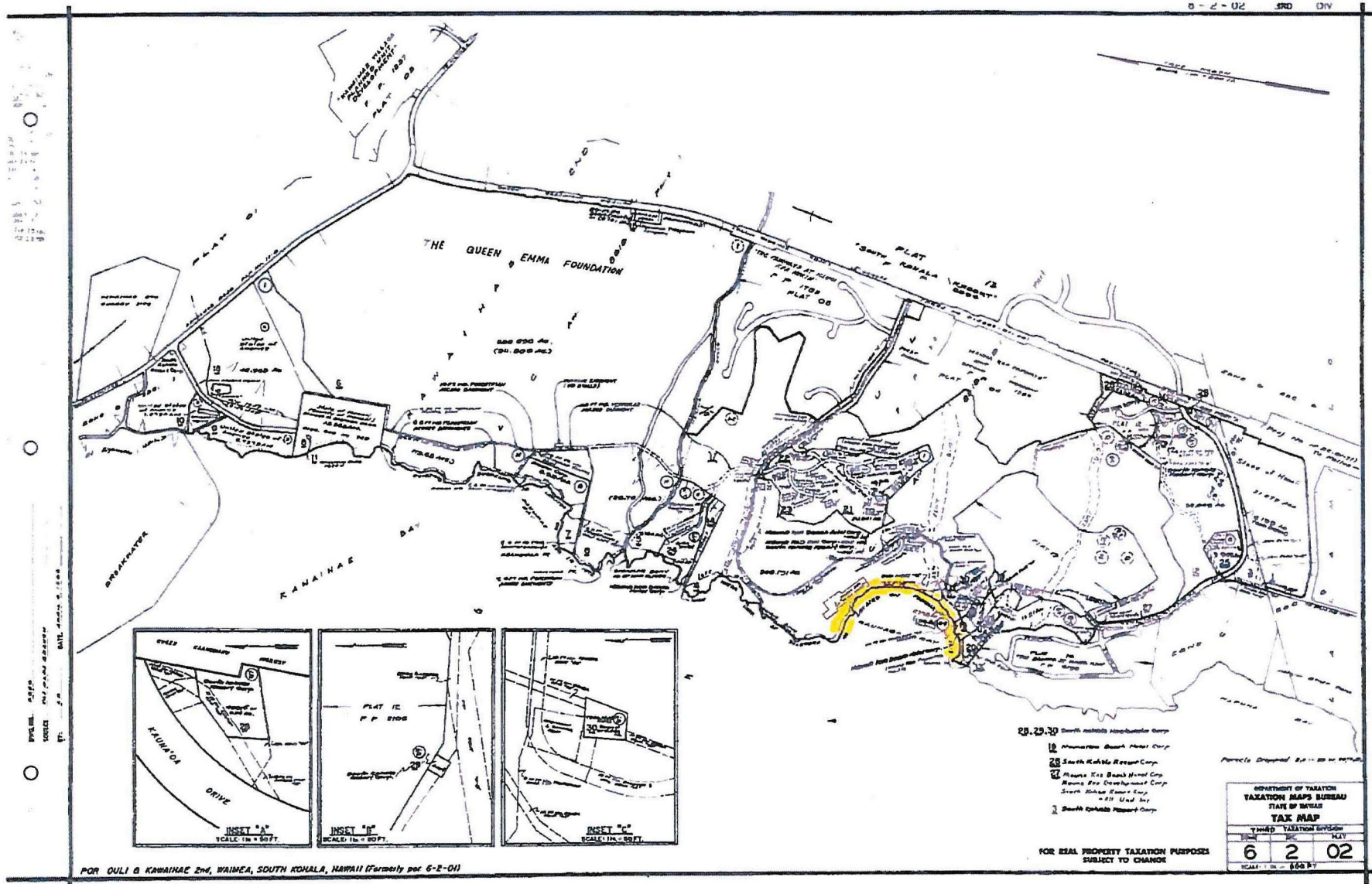
APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

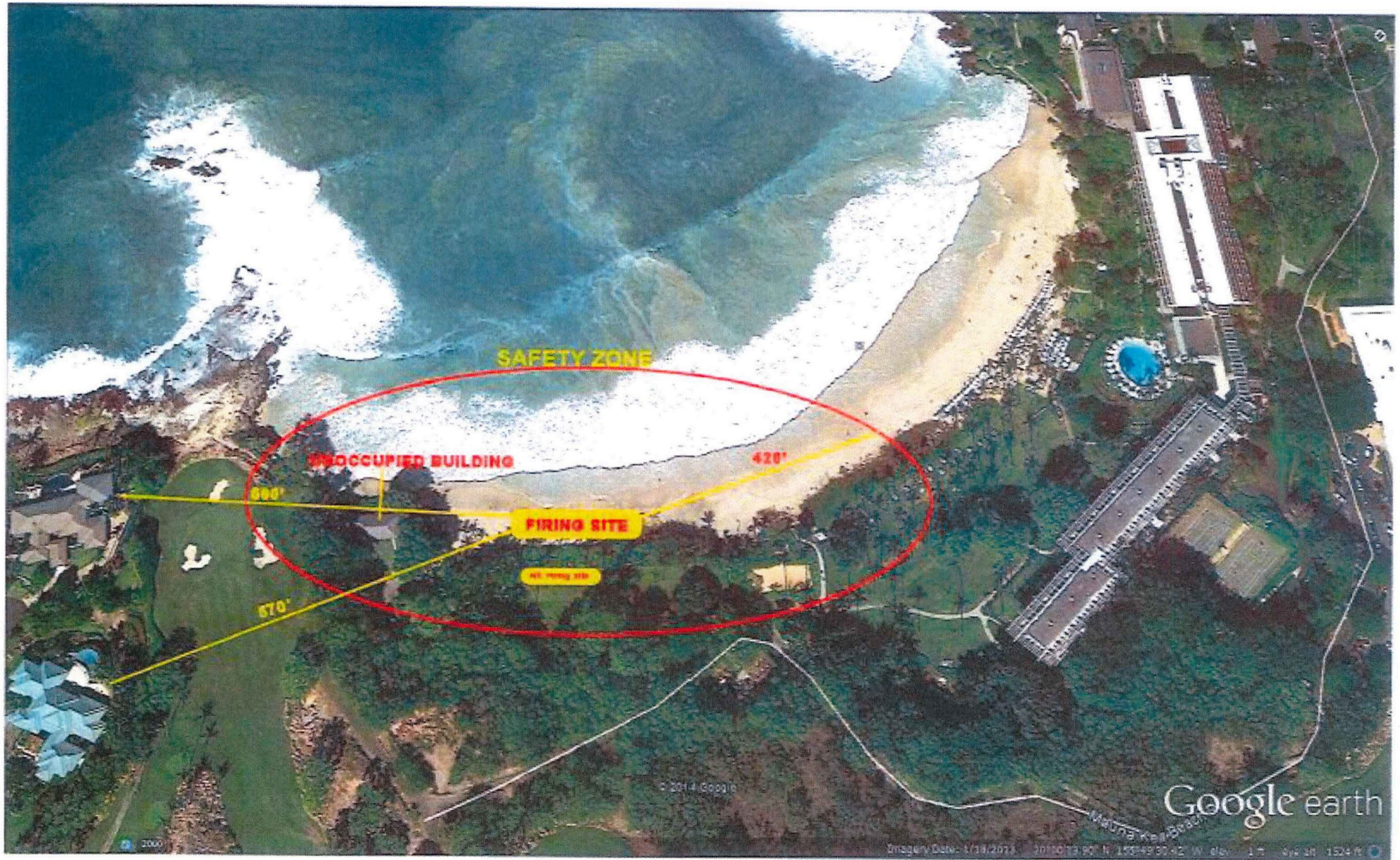


8 - 2 - 02 JMD DIV





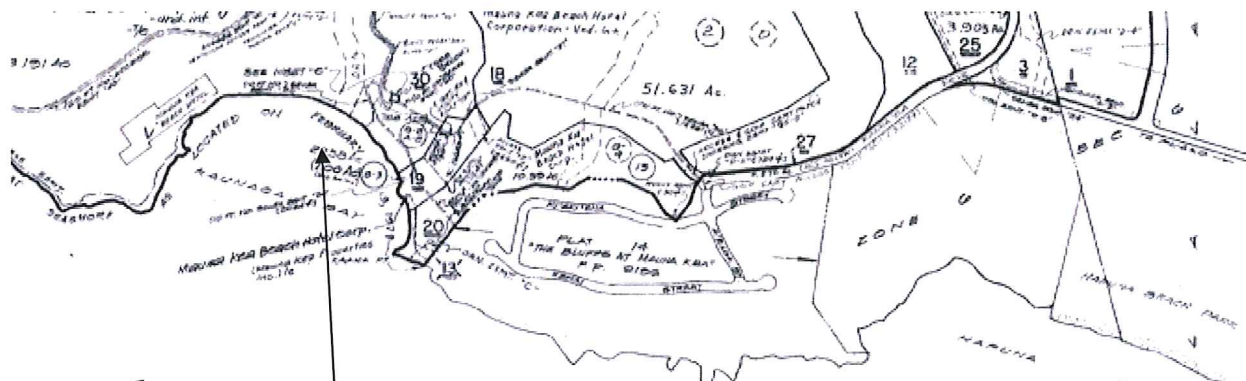
# EXHIBIT A





# EXHIBIT A

TMK; 3<sup>RD</sup>/6-2-02: POR. 4



- 28, 29, 30 South Kohala Macalester Corp.  
 19 Mauna Kea Beach Hotel Corp.  
 26 South Kohala Resort Corp.  
 27 Mauna Kea Beach Hotel Corp.  
 Mauna Kea Development Corp.  
 South Kohala Resort Corp.  
 - All Und. Int.  
 3 South Kohala Resort Corp.

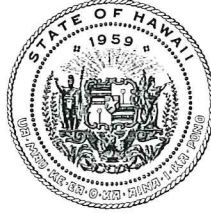
Parcels Dropped: 3, 8, 17, 20, 22, 23, 15.

FOR REAL PROPERTY TAXATION PURPOSES  
 SUBJECT TO CHANGE

DEPARTMENT OF TAXATION TAXATION MAPS BUREAU STATE OF HAWAII		
TAX MAP		
THIRD TAXATION DIVISION		
ZONE	SEC.	PLAT
6	2	02

LOCATION OF FIREWORKS  
 FIRING SITE

DAVID Y. IGE  
GOVERNOR OF HAWAII



**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**  
POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA  
FIRST DEPUTY

W. ROY HARDY  
ACTING 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  
STATE PARKS

**EXEMPTION NOTIFICATION**

From the preparation of an environmental assessment under the authority of Chapter 343, HRS and Chapter 11-200, HAR

**Project Title:** Issuance of Revocable Permit to Hawaii Explosives & Pyrotechnics, Inc.

**Project Number:** PSF No. 16HD-072

**Project Location:** Ouli, Waimea, South Kohala, Hawaii Tax Map Key: (3) 6-2-002: portion seaward of 004

**Project Description:** Mauna Kea Beach Fourth of July Fireworks Display for July 4, 2016

**Chapter 343 Trigger(s):** Use of State land

**Consulted Parties:** Office of Conservation and Coastal Lands (OCCL)

**Exemption Class No.:** In accordance with Hawai'i Administrative Rules Section 11-200-8 and the "Exemption List for the State of Hawaii, Department of Land and Natural Resources, as Reviewed and Concurred Upon by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No.1, Item 51, which states "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing."


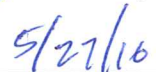
In the past, permits were periodically issued for conducting aerial fireworks display on the beach in this area, which have resulted in no known significant impacts to the natural and environmental resources in the area. As such, staff believes that the proposed event would involve negligible or no expansion or change in use of the subject area beyond that previously existing.



**Recommendation:**

It is recommended that the Board find that the issuance of a revocable permit to Hawaii Explosives & Pyrotechnics, Inc. will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

  
\_\_\_\_\_  
Suzanne D. Case, Chairperson

  
  
\_\_\_\_\_  
Date