

DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

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DIRECTOR

Deputy Directors  
JADE T. BUTAY  
ROSS M. HIGASHI  
EDWIN H. SNIFFEN  
DARRELL T. YOUNG

IN REPLY REFER TO:

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

OAHU

ISSUANCE OF A RIGHT-OF-ENTRY TO D. R. HORTON HAWAII AND ROYAL CONTRACTING CO., LTD AT KALAELOA BARBERS POINT HARBOR, OAHU, TAX MAP KEY NO. (1) 9-1-014, PORTIONS OF 024 AND 039

**LEGAL REFERENCE:**

Chapters 171-13 and 171-55, Hawaii Revised Statutes, as amended.

**APPLICANT (COLLECTIVELY):**

D. R. Horton Hawaii, whose mailing address is 130 Merchant St #112, Honolulu, HI 96813

Royal Contracting Co., Ltd. whose mailing address is 677 Ahua Street, Honolulu, Hawaii 96819

**CHARACTER OF USE:**

To remove and haul away coral material from designated Kalaeloa stockpiles 2, 3, and 4 areas.

**LOCATION:**

Portion of Government lands, situated at Kalaeloa Barbers Point Harbor, Honouliuli, Ewa Oahu, Tax Map Key No. (1) 9-1-014, portions of 024 and 039, as shown on the attached map labeled Exhibit "A."

**AREA:**

9 acres, more or less

**ITEM M-1**

**CONSIDERATION:**

Gratis

**ZONING:**

State of Land Use Commission: Urban  
City and County of Honolulu: I-3

**TERM OF RIGHT-OF-ENTRY:**

Twelve (12) months. Harbors Division has option to extend an additional 30 calendar days. Extensions beyond the 30 days will require Land Board Approval.

**COMMENCEMENT DATE:**

To be determined by the Director of Transportation

**CURRENT USE STATUS:**

Governor's Executive Order 3383 issued to the Department of Transportation for Piers and Shoreside Facilities Purposes

**LAND TITLE STATUS:**

Land acquired after Statehood (non-ceded).

**CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:**

A Declaration of Exemption from the preparation of an environmental assessment has been made by the Director of Transportation for the proposed right-of-entry use. This is exempt from Office of Environmental Quality Control (OEQC) requirements pursuant to Sub-Chapter 11-200-8 of the Hawaii Administrative Rules that exempts the "operation, repairs, or maintenance of existing structures, facilities, equipment, or topographical features involving negligible or no expansion or change of use beyond that previously existing."

**APPLICANT REQUIREMENTS:**

Both D. R. HORTON HAWAII AND ROYAL CONTRACTING CO shall be required to:

1. Ensure that their contractors, sub-contractors shall obtain the following insurance during the term of the Right-of-Entry and naming the Department of Transportation, Harbors Division as additional insured:

- a. Comprehensive General Liability and Property Damage Insurance with a combined minimum single limit of Two Million and No/100 Dollars (\$2,000,000.00) per occurrence for bodily injury and property damage.
  - b. Contractor' Automobile Liability and Protective Property Insurance with a combined minimum single limit of Three Million and No/100 Dollars (\$3,000,000.00) per occurrence for bodily injury and property damage.
  - c. Workers' Compensation Insurance as required by applicable law. Harbors Division will be named as additional insured.
2. D.R. Horton shall provide a grading and drainage stabilization plan for acceptance by the Harbors Division that maintains the existing drainage patterns. This plan shall include pre and post stockpile topographic information (reference to MLLW) that includes the area between John Wayne access road and the proposed Campbell Estates, Regional Drainage Channel; and the areas covering stockpile no. 2 up to the Mauka Harbors property line to the ocean. This plan shall be stamped by a licensed Hawaii, Civil Engineer.

**REMARKS:**

The stockpiles situated at Kalaeloa Barbers Point Harbor (KBPH) contain coral dredge spoils from the original development of KBPH. Over time, these stockpiles created a pollution control problem for Harbors Division in the management of dust control and the prevention of storm water runoff into the KBPH waters. Ultimately, the State of Hawaii and the Department of Transportation were found to be in violation of the Clean Water Act.

As required by the 2014 Consent Decree between the United States and the Department of Transportation (Case 1:14-cv-00408-JMS-KSC Filed 11/05/14) (hereinafter, "Consent Decree"), the U. S. Environmental Protection Agency approved a Dredge Spoil Stockpile Management Plan for KBPH Harbors in January 2015 for Harbors Division. The ultimate goal of this Dredge Spoil Stockpile Management Plan is the disposal of all stockpile materials as soon as possible to allow further development in accordance with the 2040 Harbors Master Plan for KBPH.

Until early this year, there were five major stockpiles of coral and/or coral dredge material at KBPH (see attached map). As of the date of this submittal, the status of each stockpile, including the remaining quantity and quality of the stockpile materials are as follows:

- Stockpile 1: Privately owned and removed by owner in Spring 2015;

- Stockpile 2: Part privately owned, part state-owned. Approximately 1,000,000 cubic yards remain. Inferior material, contains dredging impurities.
- Stockpiles 3 and 4: Part privately owned, part state-owned. Approximately 570,000 cubic yards remain. Inferior material, contains dredging impurities. However, as much as 400,000 cy of these two stockpiles were recently committed to the Department of Hawaiian Home Lands and Royal Contracting Co., Ltd. for the Ka Makana Ali'i Shopping Center in East Kapolei, which was approved by the Land Board in its April 8, 2016, meeting under Item M-1.
- Stockpile 5: State owned. Approximately 75,000 cubic yards remain. High-quality coral material, good for compaction.

In the past, Harbors Division has charged for the high-quality coral material from Stockpile 5 as there is high demand for this material from developers. The last sale of this stockpiled material to Paradigm Construction in 2013 was for use in DHHL's Kakaina (Waimanalo) residential development. The sale of a total of 52,650 cubic yards generated \$157,950 in revenue to Harbors Division.

In January 2016, the DOT Harbors received a request for between 700,000 to 1,000,000 cubic yards of inferior stockpile material from D. R. Horton Hawaii. In its request, D. R. Horton Hawaii informed Harbors Division that the inferior quality coral would be used as fill material and is needed for grading and land preparation for the 1,554 acre Hoopili residential development in East Kapolei.

The material situated at KBPH is also in close proximity to the construction site. The idea would be to deplete the remainder of Stockpile 2 first, then the remainder of Stockpiles 3 and 4. Harbors Division agreed to this request as it is a no-cost opportunity to quickly dispose of one-third of the inferior coral stockpile material that must be removed in order for Harbors Division to adhere to the Consent Decree terms.

To ensure compliance with the Consent Decree requirements, D. R. Horton Hawaii upon approval of its request, agrees to the following:

- That it will provide inspection and monitoring services to ensure stockpiles are sealed once removal of material is completed;
- That it will not store tools, equipment, or material on site at KBPH;
- That it will comply with all storm water regulatory requirements and provide monitoring reports on a bi-monthly basis (monitoring reports shall also verify the quantities of material removed from the stockpiles);
- That it will, prior to removal of any material, submit a Best Management Practices Plan, a Storm Water Pollution Prevention Plan, a Post-Construction Mitigation Plan, and a Final Stockpile Depletion Plan to Harbors Division for approval; and

- That it will, upon completion of the removal, manage, direct, inspect, and provide verification that the project site is stabilized in accordance with its submitted and approved plans, and in compliance with the terms of the Consent Decree.
- That it will provide a grading and drainage stabilization plan to ensure that after removal of the coral, rain water from the remaining site will not drain toward the harbor.

**RECOMMENDATION:**

That the Board authorizes the issuance of a Right-of-Entry to the Applicant, its contractors and sub-contractors covering the subject area for the purposes cited above, subject to the terms and conditions outlined above and incorporated herein by reference, and such terms and conditions as may be prescribed by the Director of Transportation.

Respectfully submitted,



FORD N. FUCHIGAMI  
Director of Transportation

APPROVED FOR SUBMITTAL:



SUZANNE CASE  
Chairperson and Member  
Board of Land and Natural Resources





# KALAELOA BARBER'S POINT

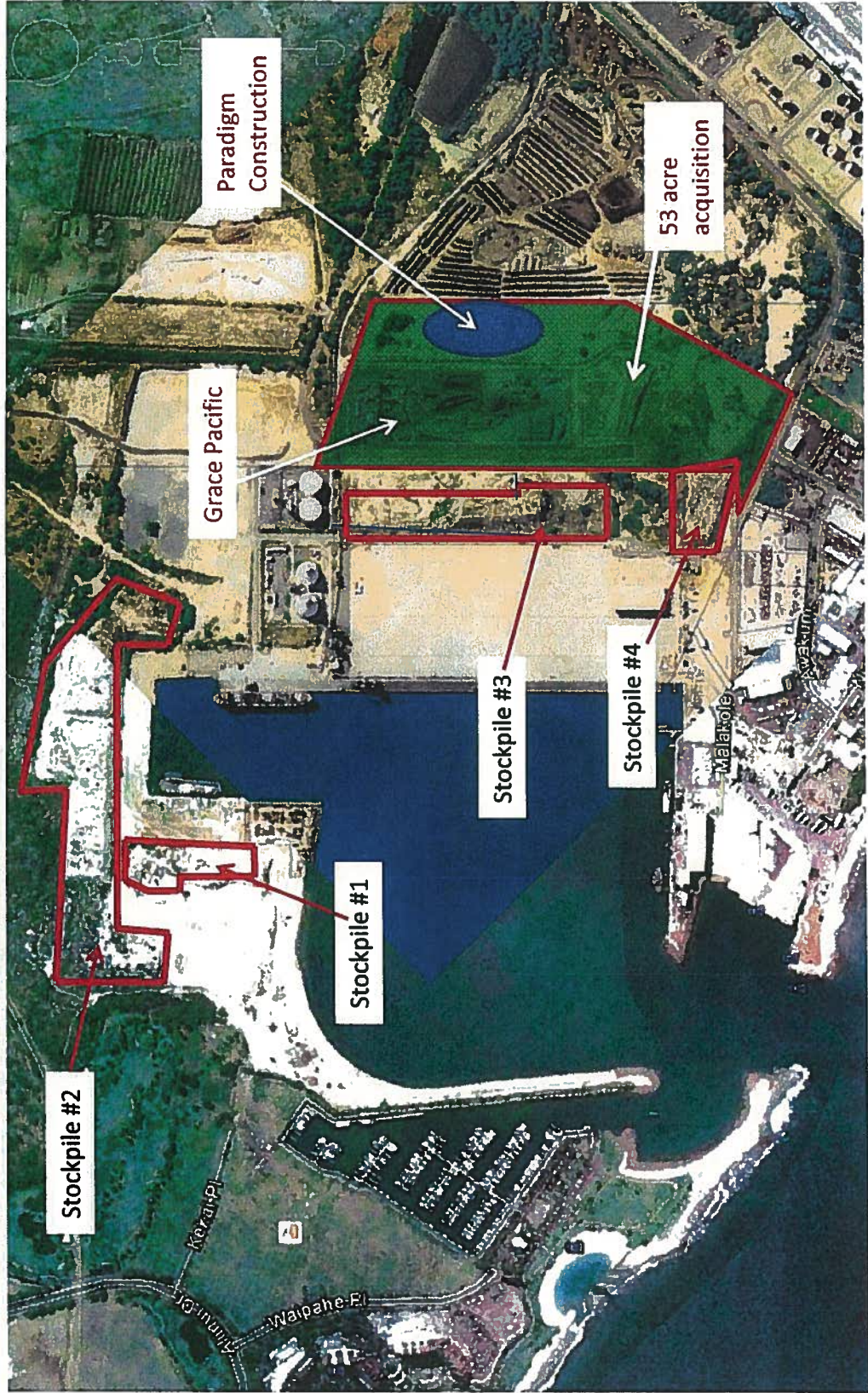


EXHIBIT "A"