

D-9

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

September 23, 2016

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

PSF No.: 16OD-108

OAHU

Issuance of Right-of-Entry Permit to Hawaii Explosives and Pyrotechnics, Inc. for Aerial Fireworks Display on December 31, 2016 at the beach fronting Kahala Hotel, Waialae, Honolulu, Oahu, Tax Map Key: (1) 3-5-023:seaward of 041

APPLICANT:

Hawaii Explosives and Pyrotechnics, Inc.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands situated Waialae, Honolulu, Oahu, identified by Tax Map Key: (1) 3-5-023:seaward of 041, as shown on the attached map labeled **Exhibit A**.

AREA:

500 square feet, more or less, and a safety zone with a radius of approximately 280 feet around the firing site.

ZONING:

State Land Use District: Urban
City and County of Honolulu LUO: Resort (for abutting property)

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Encumbered by Revocable Permit 7849 to Resorttrust Hawaii LLC, Permittee, for recreational and maintenance purposes.

CHARACTER OF USE:

Set up and firing of aerial fireworks display.

TERM:

Between 10:00 a.m. (December 31, 2016) to 3:00 a.m. (January 1, 2017).

RENTAL:

\$550 (One-time payment. See Remarks Section for breakdown of costs).

COLLATERAL SECURITY DEPOSIT:

None.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources approved 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. See **Exhibit B**.

DCCA VERIFICATION:

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

REMARKS:

Around 1963, the developer of the abutting hotel parcel obtained approval from the State to excavate the rock coastline and develop a beach and two small islets. The Board approved the agreement at its meeting on January 25, 1963. Subsequent to 1968, revocable permits were issued to the respective hotel owners over the subject location for recreational and maintenance purposes.

At its meeting on October 10, 2014, agenda item D-5, the Board approved as amended the issuance of a revocable permit to Resorttrust Hawaii, LLC for recreational and maintenance purposes.

Hawaii Explosives & Pyrotechnics, Inc. (HE) is requesting the issuance of a right-of-entry permit for the set-up and firing of a fireworks display from the seawall groin fronting the Kahala Hotel for a Special Event Fireworks Display occurring on December 31, 2016. HE is requesting the use of 500 square feet of State land to set-up a platform on the groin for the staging and firing of the fireworks. The event duration will be from 10:00 a.m. (December 31, 2016) to 3:00 a.m. (January 1, 2017) – the time period after the display will be used to clean-up and dispose debris along the beach and groin area, and breakdown and transport equipment.

At the September 25, 2015 Board meeting (item D-11) for an identical request for firework display, testimony was provided by a member of the general public regarding impact to the surroundings. The concerns included the impact of after-explosion fallout to the ocean marine life and dolphin enclosure, and noise effects on the dolphins. Responses from the Division of Aquatic Resources, Kahala's Dolphin Quest, and Hawaii Explosives & Pyrotechnics, Inc. to the testimony showed no adverse effects to marine life in the vicinity, and no adverse effects to the dolphins' health or well-being.

Also, staff is recommending that a charge of \$500 be imposed to cover the exclusive use of the safety zone as shown on Exhibit A. The total cost for this right-of-entry, which includes the staging area of \$50 will be \$550.

As in previous fireworks events, the Applicant will provide a courtesy notice to the manager of the adjacent Kahala Beach Condominium, who will post the notice on the bulletin board within the condominium regarding the December 31, 2016 event.

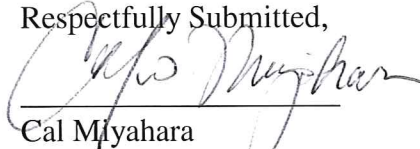
Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the past five years due to non-compliance with such terms and conditions. OCCL has no comments on the subject request. Staff does not have any objection to this request. There are no pertinent issues or concerns.

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 and Pyrotechnics, Inc. covering the subject area for aerial fireworks display purposes 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; and

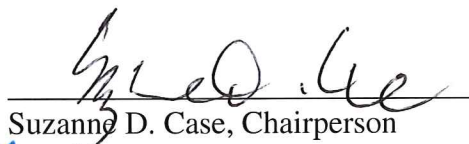
- B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Cal Miyahara
Shoreline Disposition Specialist

APPROVED FOR SUBMITTAL:


Suzanne D. Case, Chairperson

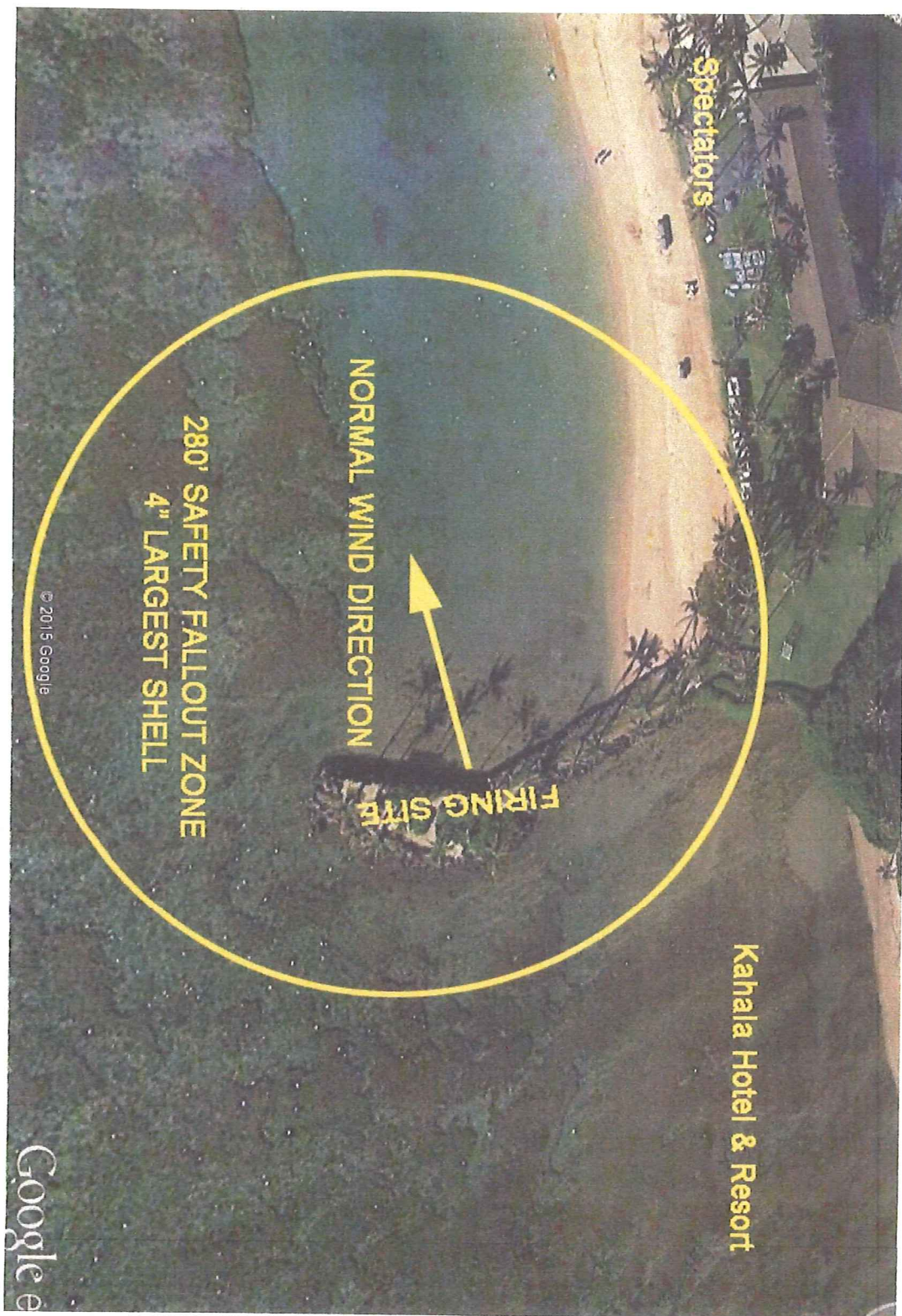


EXHIBIT A

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Issuance of right-of-entry for aerial fireworks display fronting the Kahala Hotel on December 31, 2016.
Project / Reference No.: PSF 16OD-108
Project Location: Waialae, Honolulu, Oahu, TMK (1) 3-5-023:seaward of 041.

Project Description: Aerial Fireworks Display fronting Kahala Hotel.

Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources approved 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 the "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.

Consulted Parties: Comments requested from OCCL.

Recommendation: It is recommended that the Board find that this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

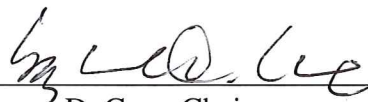

Suzanne D. Case, Chairperson
Date 9/1/16

EXHIBIT B