

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

May 25, 2018

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

PSF No 18SD-058

Statewide

Issuance of Right-of-Entry Permit to Department of Land and Natural Resources, Division of Aquatic Resources for Aquatic Nuisance Species Harbor Monitoring Project Purposes at Honolulu Harbor, Kalaeloa Barber's Point Harbor, Nawiliwili Harbor, Kahului Harbor, and Hilo Harbor; See Exhibits A1 to A5 for Locations.

APPLICANT:

Department of Land and Natural Resources, Division of Aquatic Resources (DAR).

LEGAL REFERENCE:

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

LOCATION:

Portion of submerged lands situated at Honolulu Harbor, Kalaeloa Barber's Point Harbor, Nawiliwili Harbor, Kahului Harbor, and Hilo Harbor as shown on the attached maps labeled **Exhibit A1 to A5**.

AREA:

Applicant plans to place 20 Autonomous Reef Monitoring Structures (ARMS) which is measuring about 18 inches x 14 inches. The total area is about 35 square feet spread out among the harbors.

ZONING:

State Land Use District: Conservation

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO X

CURRENT USE STATUS:

Harbor Location	EO Number	TMK, if available
Honolulu, Oahu	4006	N/A
Barbers Point, Oahu	3383	(1) 9-1-014:008
Kahului, Maui	3005	(2) 3-7-001:022
Hilo, Big Island	3962	N/A
Nawiliwili, Kauai	3371 and 3959	N/A

The requested submerged lands at various harbors have been set aside to the Department of Transportation pursuant to the executive orders cited above for harbors purposes.

CHARACTER OF USE:

For purposes of identifying all invertebrates, planktonic, and algae to the lowest taxonomic level, compare taxa to previous studies, and identify new taxa.

TERM OF RIGHT-OF-ENTRY:

One year.

CONSIDERATION:

Gratis.

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 reviewed and concurred by the Environmental Council on June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 5(1), and Exemption Class No. 5(13). See **Exhibit B**.

DCCA VERIFICATION:

Not applicable.

APPLICANT REQUIREMENTS:

None.

REMARKS:

In March 2018, the Applicant worked with the Office of Conservation and Coastal Lands (OCCL) to obtain approval to conduct an aquatic nuisance species harbor monitoring project at various State harbors throughout the State by submitting a Site Plan Approval application. The objectives of the project are: 1) To identify potential changes in the make-up of marine algae, invertebrates, and plankton occurring in Hawaii commercial harbors (focusing on non-native species); and, 2) Evaluate the occurrence of non-native invertebrates and algae on reefs adjacent to the selected harbors. If funding allows, the secondary objectives are: 1) To monitor larval transport in ballast water of inter-island shipping vessels; and, 2) To conduct genetic sequencing of each new taxa identified in the project. To accomplish the objectives, the Applicant intends to construct and maintain 20 Autonomous Reef Monitoring Structures (ARMS) distributed throughout the targeted harbors. Each ARMS equipment measures 18 inches long x 14 inches wide x 9 inches high (approximately 1.3 cubic feet, relatively small in size) and will be secured to the ocean bottom. At the end of the project all of the ARMS will be removed. OCCL approved the Site Plan Application (SPA ST-18-59), see **Exhibit C**.

Based on OCCL's approval, Staff is recommending this right-of-entry permit be at gratis, with authorization to the Chairperson to grant extensions if necessary.

OCCL cited Exemption Class 5(1) and 5(13) in there SPA permit. Also, OCCL has consulted with the Division of Aquatic Resources, who confirmed the exemptions.

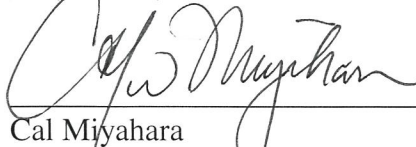
The Department of Transportation, Harbor's Division has no objections and concurs with the exemption for an Environmental Assessment. However, Harbors notes that DAR should coordinate with respective Harbor Districts and the U.S. Coast Guard.

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 the Applicant for 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. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State; and

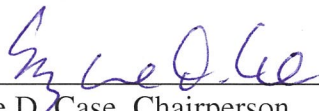
- C. Authorize the Chairperson to extend the right of entry permit for good cause.

Respectfully Submitted,

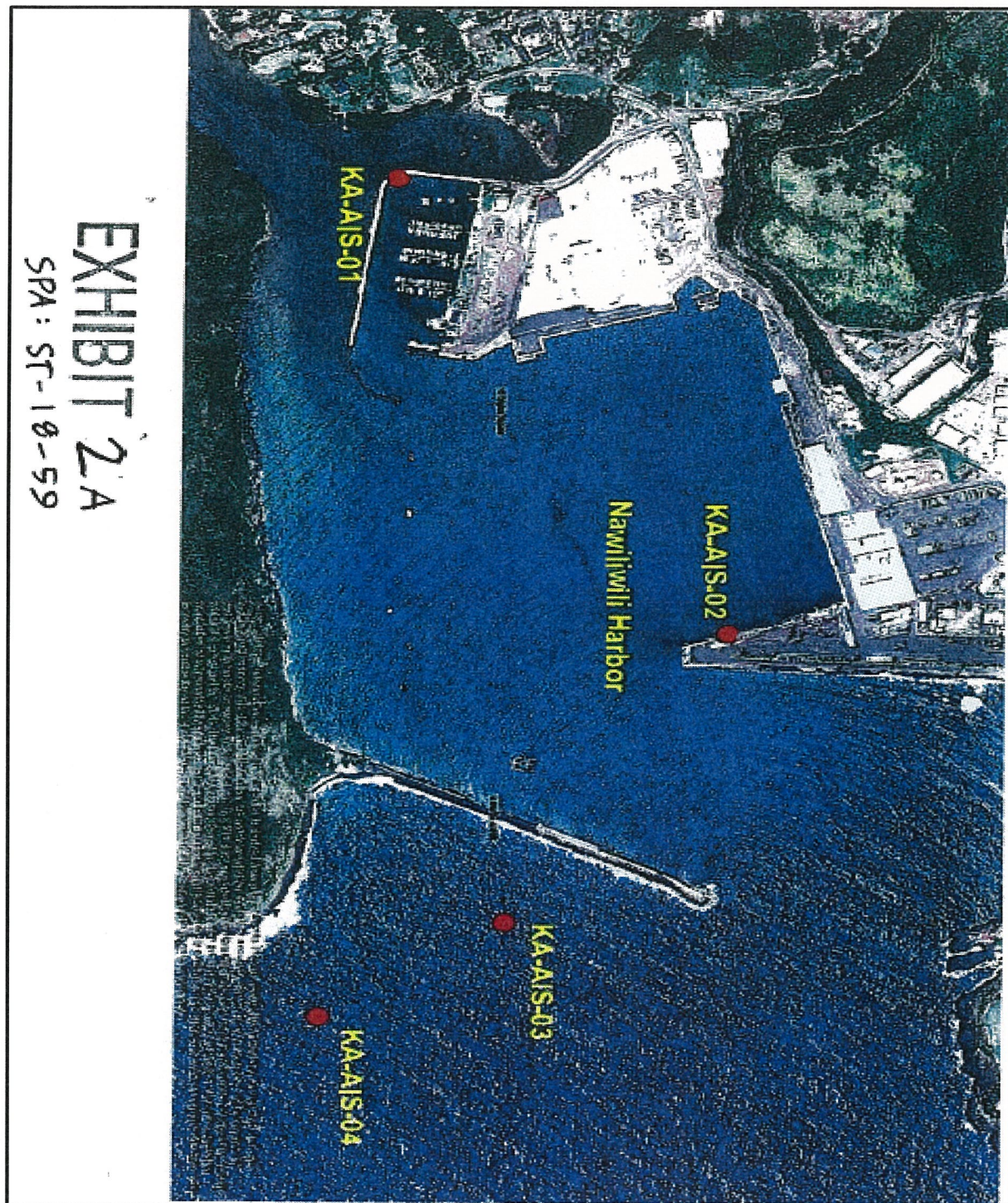


Cal Miyahara
Shoreline Disposition Specialist

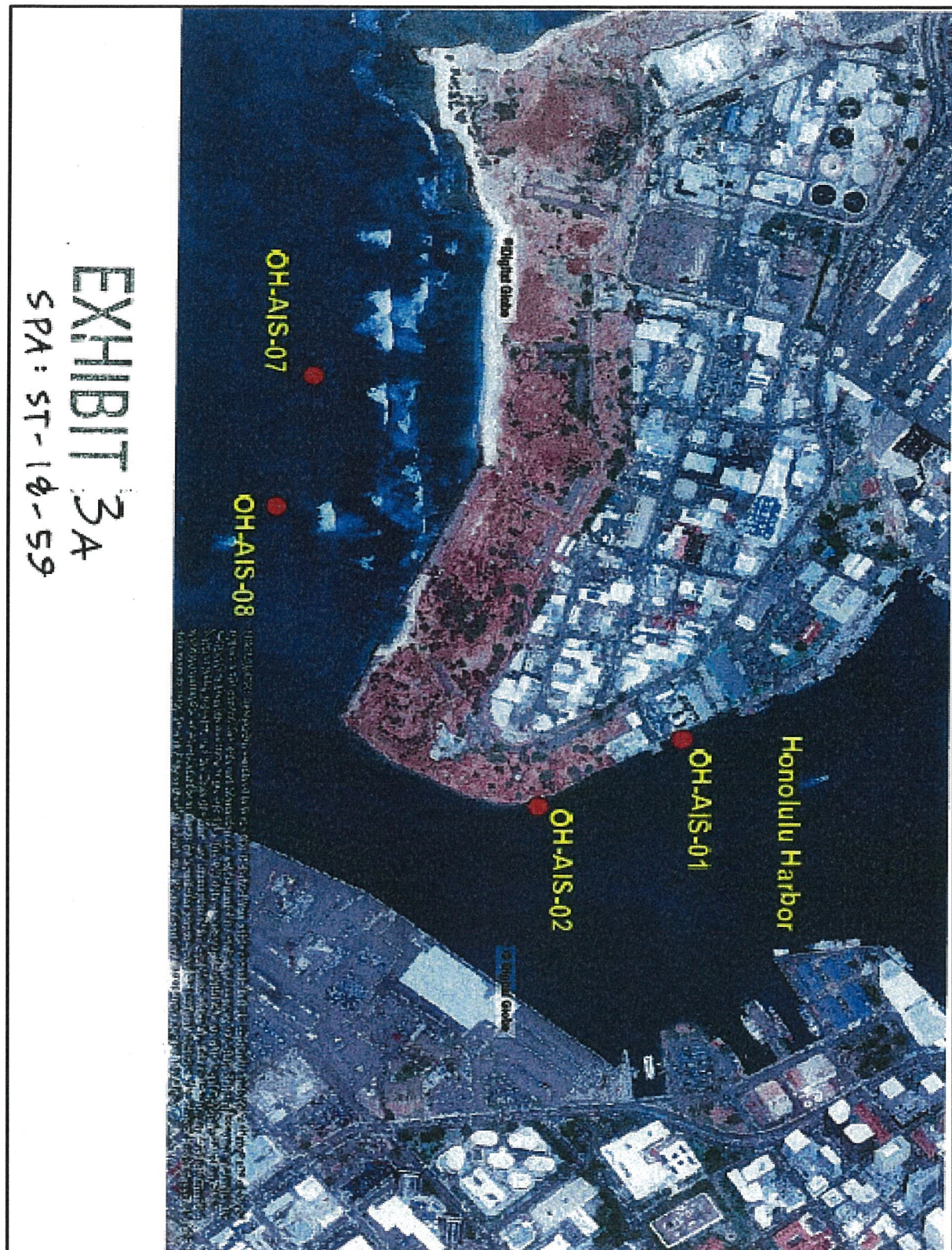
APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson



Nawiliwili Harbor, Kauai ARMS Locations



Honolulu Harbor, Oahu ARMS Locations

Exhibit A2

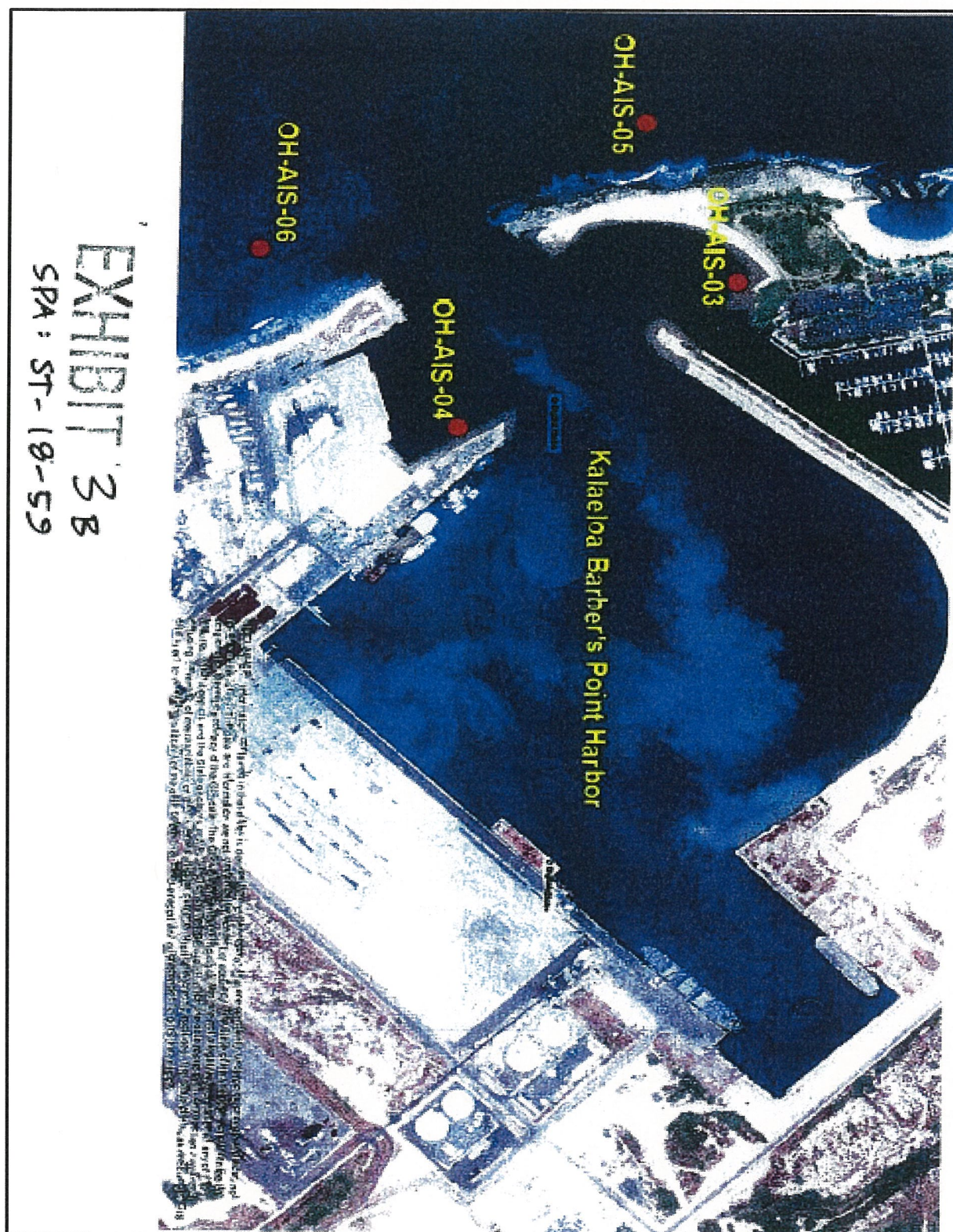
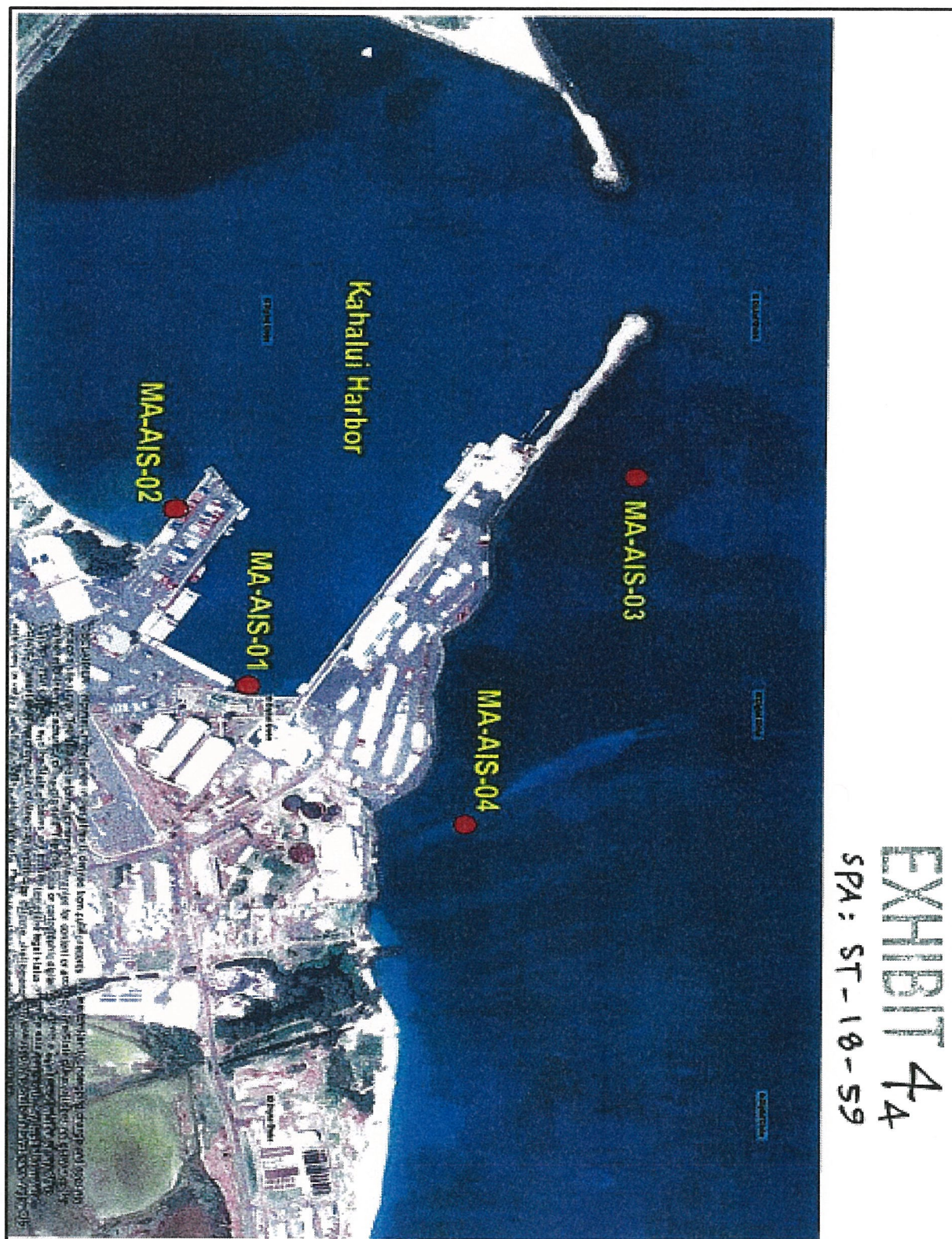


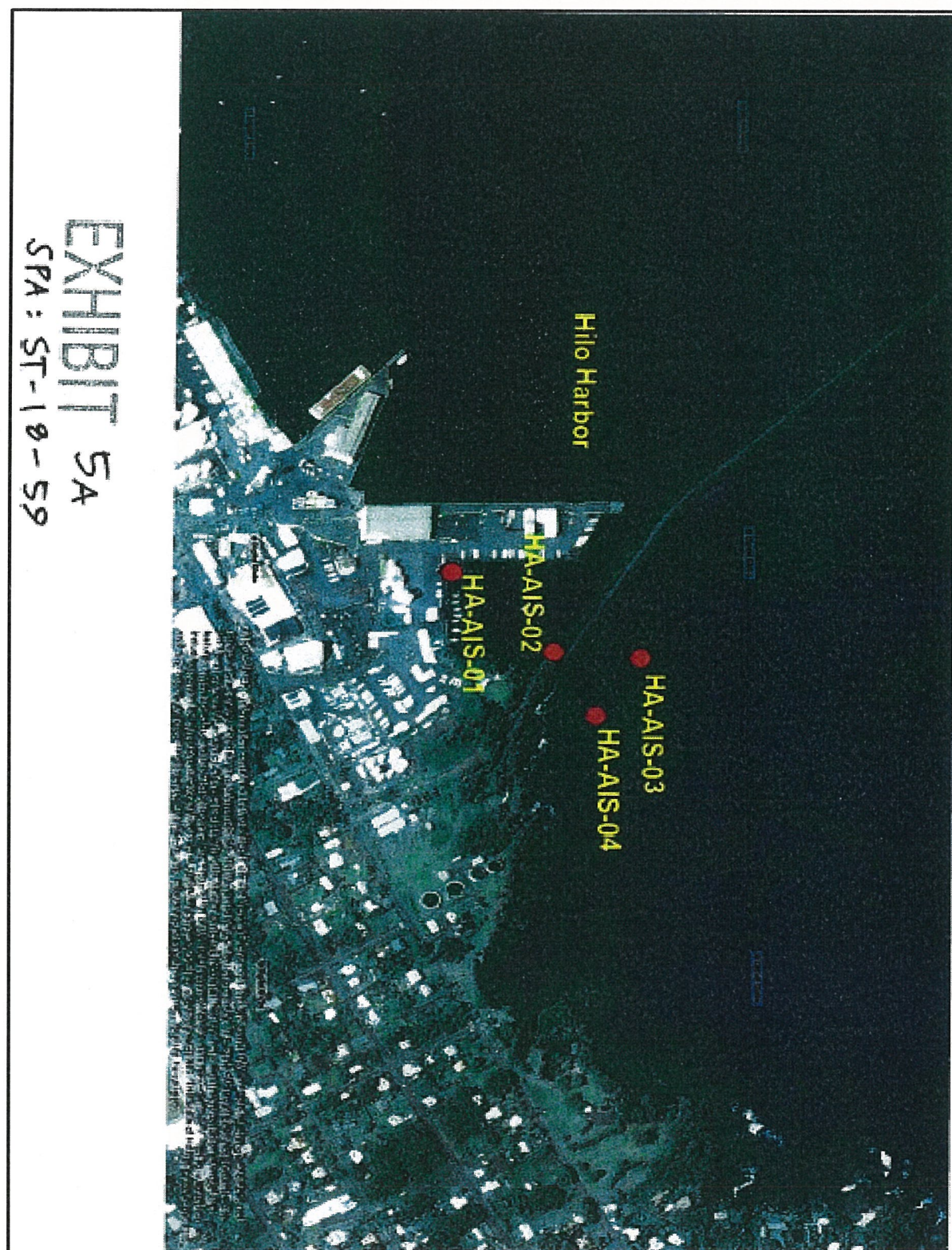
EXHIBIT 3B
SPA: ST-18-59

Barber's Point Harbor, Oahu ARMS Locations

Exhibit A3



Kahului Harbor, Maui ARMS Locations



Hilo Harbor, Big Island ARMS Locations

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 Permit regarding Site Plan Approval (SPA – ST-18-59) for Aquatic Nuisance Species Harbor Monitoring Project Purposes

Project / Reference No.: 18SD-058

Project Location: Oahu (Sand Island and Kalaeloa Barber's Point Harbor), Kauai (Nawiliwili Harbor), Maui (Kahului Harbor), and Hawaii (Hilo Harbor); Tax Map Key: Submerged Lands of the State – Various

Project Description: Construction and maintenance of Autonomous Reef Monitoring Structures (ARMS)

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

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8(a) (4), the subject request is exempt from the preparation of an environmental assessment pursuant to Class No. 5(1) that states, "Conduct surveys or collect data on existing environmental conditions (e.g., noise, air quality, water flow, water quality, etc.)"; and, Class 5(13) that states, "Research or experimental management actions that the Department declares are designed specifically to monitor, conserve, or enhance native species or native species' habitat."

Cumulative Impact of
Planned Successive
Actions in Same Place
Significant?:

No, the request is a one-time ROE to conduct experimental studies and data collection at specific locations within various State harbors; as such, staff believes that there would be no significant cumulative impact to the submerged lands.

Action May Have
Significant Impact on
Particularly Sensitive
Environment?:

No, the equipment being used is relatively small and will be removed at the completion of the study. In addition, based on the

Exhibit B

analysis below, staff believes there would be no significant impact to sensitive environmental or ecological receptors.

Consulted Parties


Consulted with the Department of Transportation, Harbor's Division.

Analysis:

Similar environmental study requests have been permitted in the past. The proposed activity is similar in type and scope. Such activities have resulted in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. Staff also believes that the request would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Recommendation:

That the Board find 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.

<p>DAVID Y. IGE GOVERNOR OF HAWAII</p> <p>RECEIVED LAND DIVISION</p> <p>APR -5 AM 10:48</p> <p>DEPT. OF LAND & NATURAL RESOURCES STATE OF HAWAII</p>	 <p>STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES OFFICE OF CONSERVATION AND COASTAL LANDS POST OFFICE BOX 621 HONOLULU, HAWAII 96809</p>	<p>SUZANNE D. CASE CHAIRPERSON BOARD OF LAND AND NATURAL RESOURCES COMMISSION ON WATER RESOURCE MANAGEMENT</p> <p>ROBERT K. MASUDA FIRST DEPUTY</p> <p>JEFFREY T. PEARSON, P.E. DEPUTY DIRECTOR - WATER</p> <p>AQUATIC RESOURCES BOATING AND OCEAN RECREATION BUREAU OF CONSERVANCIES COMMISSION ON WATER RESOURCE MANAGEMENT CONSERVATION AND COASTAL LANDS CONSERVATION AND RESOURCES ENFORCEMENT ENGINEERING FISHERY AND WILDLIFE HISTORIC PRESERVATION KAAULAOA ISLAND RESERVE COMMISSION LAND STATE PARKS</p>
<p>REF: OCCL: AJR</p>		<p>SPA: ST-18-59</p>
<p>Justin Goggins c/o DLNR - DAR 1039 Sand Island Parkway Honolulu, HI 96819</p>		<p>APR - 5 2018</p>
<p>SUBJECT: SITE PLAN APPROVAL (SPA) FOR AN AQUATIC NUISANCE SPECIES HARBOR MONITORING PROJECT Islands of Oahu (Sand Island, Māmalā Bay), Kauai (Nawiliwili Harbor), Maui (Kahului Harbor), and Hawaii (Hilo Harbor) <i>TMK: Submerged Lands of the State – Various</i></p>		
<p>Dear Mr. Goggins,</p> <p>The Office of Conservation and Coastal Lands (OCCL) is in receipt of your application regarding a proposal to conduct surveys for marine algae, invertebrates, and plankton in select harbors throughout the State of Hawaii (Exhibit 1). The proposed project areas are located in four different State harbors on submerged lands; submerged lands of the State or located within the State Land Use (SLU) Conservation District, <i>Resource Subzone</i>.</p> <p>DISCUSSION:</p> <p>Maritime shipping is the leading transport mechanism of biological invasions, while harbors and marinas tend to be the areas where introduced species are concentrated and allowed to become established. Harbors closely associated with natural marine habitats (e.g., as in Hawaii) promote dispersal of invasive species to other adjacent sensitive habitats. While considered low, there have been introductions of biological invasions to coral reef areas associated with commercial harbors here in Hawaii.</p> <p>This project aims to survey four (4) of the main Hawaiian Islands harbor areas for invasive species; twenty (20) sites have been chosen for this project and include Nawiliwili Harbor on Kauai (Exhibit 2, 2a), Honolulu Harbor and Kalaheo Barber's Point Harbor (Exhibit 3, 3a, 3b) on Oahu, Kahului Harbor on Maui (Exhibit 4, 4a) and Hilo Harbor on Hawaii Island (Exhibit 5, 5a). The primary objectives of the proposed project are to, 1) identify potential changes in the make-up of marine algae, invertebrates, and plankton occurring in Hawaii's commercial harbors, with a focus on non-native species, and 2) evaluate occurrence of non-native invertebrates and algae on reefs adjacent to select harbors. Secondary objectives include 1) the monitoring or larval transport in</p> <p>4.5.18 by: HDLO, KDLO, HDLO</p>		

REF: AJR: OCCL

SPA: ST-18-59

ballast water of inter-island shipping vessels, and 2) to conduct genetic sequencing of each taxa identified in the proposed survey in partnership with the *Hawaii Institute of Marine Biology* (HIMB). The applicant has stated these secondary objectives will only be pursued if funding allows.

Harbor sites were chosen by their level of exposure to introductions associated with vessel arrivals (**Exhibit 6**) and ballast water discharge levels (**Exhibit 7**). Harbor and adjacent reef sites will be chosen based on sites surveyed by previous marine studies.

PROPOSED LAND USES:

In order to complete this monitoring and collection project the applicant will install a combination of stationary settlement arrays, conduct water column sampling for plankton, and engage in in-water visual surveys to enumerate these organisms. Autonomous Reef Monitoring Structures (ARMS) will be used to conduct these surveys (**Exhibit 8**), staff notes that the ARMS devices have been used previously in the waters of Hawaii for collection and monitoring projects.

ARMS are constructed on grey PVC plastic with stainless steel bolts; a typical ARMS device weighs approximately 20 pounds and is approximately 18 inches by 14 inches and will be no more than 1-foot in height. The applicant has stated that four (4) ARMS devices will be placed at each site for a total of twenty (20) ARMS being deployed throughout the State. The applicant states that the ARMS devices will be placed in a harbor location (2 each) and on an adjacent reef site (2 each) at each of the four (4) harbor areas.

Deployment:

ARMS will be lowered to the bottom from a DLNR Division of Aquatic Resources (DAR) boat using lift-bags. Divers will secure the ARMS to the bottom substrate using steel stakes and cable ties. After deployment, the ARMS devices will be allowed a ten (1) month “soak time” with a maintenance check by divers after the initial five (5) month period.

Additional collection activities will include plankton sampling using “net rows” from the adjacent dock or pier, sampling of the harbor pilings to photograph and collect megafauna from the pier pilings; this will be done via scraping samples and collecting the material.

Retrieval:

- After ten (10) months divers will locate the ARMS and place a crate over the stacked plate portion to keep mobile fauna from escaping;
- The crate will be secured and brought to the surface by staff, and then placed in a tub of salt water; and
- The ARMS will be disassembled, photographed, and then sealed into a container for transport to the DAR laboratory.

The applicant states that no portion of the proposed ARMS will remain after retrieval and sampling occurs. The applicant further states that the goal of the project is to ID all invertebrates, planktonic, and algae to lowest taxonomic level; compare taxa collected to previous studies; ID new taxa, either as new records or range extensions (i.e., located outside typical range area).

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The proposed project is not anticipated to affect or alter any native or historical rights or access, and as this proposed project is located within heavily trafficked, existing State harbors there is no anticipated detriment to the environment and/or submerged lands of the State. The applicant has noted that while deployment or retrieval is being conducted DAR staff will monitoring boat traffic and advise other boaters as needed to keep divers safe. It is anticipated deployment and retrieval will require no more than one day at each of the sites (barring any unforeseen weather or other deployment issues).

ANALYSIS:

The placement of twenty (20) *Autonomous Reef Monitoring Structures (ARMS)* in submerged lands of the state, on the Islands of Kauai, Oahu, Maui and Hawaii is considered an identified land use in the State Land Use Conservation District *Resource* Subzone pursuant to Hawaii Administrative Rules (HAR) §13-5-22, P-1 **DATA COLLECTION (B-1)** *Basic data collection, research, education, and resource evaluation that results in a minor disturbance to natural resources or land (e.g., corings, excavations, etc.); and*

Additionally, as this project is to complete previous studies on biodiversity of nearshore habitats, and results in little to no disturbance to submerged lands of the state, OCCL staff has determined this project may be considered exempt from the preparation of an Environmental Assessment pursuant to HAR §11-200-8, **DLNR Exemption Class 5 (1)** – *Conduct surveys or collect data on existing environmental conditions (e.g., noise, air quality, water flows, water quality, etc.); and DLNR Exemption Class 5 (13)* – *Research or experimental management actions that the Department declares are designed specifically to monitor, conserve, or enhance native species or native species habitat.*

The DLNR – Division of Aquatic Resources (DAR) confirmed the exemptions listed above are applicable to these data collection projects.

Therefore, authorization is hereby granted for the proposed *DLNR - DAR Autonomous Reef Monitoring Structures (ARMS)* project located on submerged lands of the Islands of Kauai, Oahu, Maui and Hawaii, and is subject to the following conditions:

1. The permittee shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of this chapter;
2. The permittee shall obtain appropriate authorization from the department for the occupancy of state lands, if applicable;
3. The permittee shall comply with all applicable department of health administrative rules;
4. Unless otherwise authorized, any work or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the chairperson, and shall be completed within three years of the approval of such use. The permittee shall notify the department in writing when construction activity is initiated and when it is completed;

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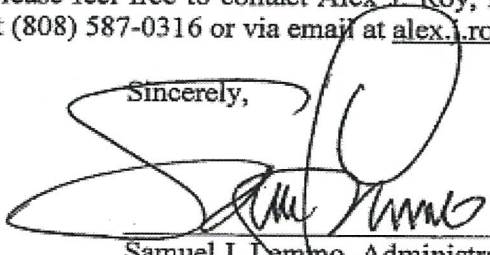
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5. The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
6. In issuing the permit, the department and board have relied on the information and data that the permittee has provided in connection with the permit application. If, subsequent to the issuance of the permit such information and data prove to be false, incomplete, or inaccurate, this permit may be modified, suspended, or revoked, in whole or in part, and the department may, in addition, institute appropriate legal proceedings;
7. When provided or required, potable water supply and sanitation facilities shall have the approval of the department of health and the county department of water supply;
8. Provisions for access, parking, drainage, fire protection, safety, signs, lighting, and changes on the landscape shall be provided;
9. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the permittee shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
10. Obstruction of public roads, trails, lateral shoreline access, and pathways shall be avoided or minimized. If obstruction is unavoidable, the permittee shall provide alternative roads, trails, lateral beach access, or pathways acceptable to the department;
11. During construction, appropriate mitigation measures shall be implemented to minimize impacts to off-site roadways, utilities, and public facilities;
12. The permittee acknowledges that the approved work shall not hamper, impede, or otherwise limit the exercise of traditional, customary, or religious practices of native Hawaiians in the immediate area, to the extent the practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law; and
13. Other terms and conditions as prescribed by the chairperson.
14. Failure to comply with any of these conditions shall render a permit void under the chapter, as determined by the chairperson or board.

Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. **Please sign two copies. Retain one copy and return the other copy to this office within 30 days.**

Should you have any questions, please feel free to contact Alex I. Roy, M.Sc. of our Office of Conservation and Coastal Lands at (808) 587-0316 or via email at alex.i.roy@hawaii.gov

Sincerely,



Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

REF: AJR: OCCL

SPA: ST-18-59

I concur with the conditions of this approval:

Applicant Signature

Date

CC: *Chairperson*
 ODLO
 DOBOR
 DOT - Harbors

Attachments: Exhibits 1 – 9