

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

December 14, 2018

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

PSF No 18OD-139

Oahu

Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Displays on December 31, 2018, at Duke Kahanamoku Lagoon; Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-3-037:021 (Portion), at the beach fronting the Kahala Hotel, Waialae, Honolulu, Oahu, Tax Map Key: (1) 3-5-023:041, and on Encumbered State lands off Ko Olina Beach, Honouliuli, Ewa, Oahu, Tax Map Key: (1) 9-1-057:seaward of 006.

APPLICANT:

Hawaii Explosives & Pyrotechnics, Inc.

LEGAL REFERENCE:

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

LOCATION:

Duke Kahanamoku Lagoon

Portion of Government lands situated at Waikiki, Honolulu, Oahu, identified by Tax Map Key: (1) 2-3-037:portion of 021, as shown on the map attached as **Exhibit A-1**.

Kahala Hotel

Portion of Government lands situated Waialae, Honolulu, Oahu, identified by Tax Map Key: (1) 3-5-023:041, as shown on the attached map labeled **Exhibit A-2**.

Ko Olina

Portion of Government lands situated at Honouliuli, Ewa, Honolulu, Oahu, identified by Tax Map Key:(1) 9-1-057:seaward of 006, as shown on the map attached as **Exhibit A-3**.

AREA:

Duke Kahanamoku Lagoon

500 square feet, more or less – Staging area, and a safety zone with a radius of approximately 250 feet around the firing site, as shown on Exhibit A-1.

Kahala Hotel

500 square feet, more or less, and a safety zone with a radius of approximately 210 feet around the firing site, as shown on Exhibit A-2.

Ko Olina

Staging area and a safety zone as shown on Exhibit A-3.

ZONING:

Duke Kahanamoku Lagoon

State Land Use District:	Urban
City and County of Honolulu LUO:	Public Precinct

Beach fronting Kahala Hotel

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

Ko Olina Beach

State Land Use District:	Conservation
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TRUST LAND STATUS:

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

CURRENT USE STATUS:

Duke Kahanamoku Lagoon

Requested area is vacant and unencumbered.

Kahala Hotel

Encumbered by Revocable Permit 7849 to Resorttrust Hawaii LLC, Permittee, for recreational and maintenance purposes. By letter dated November 15, 2018, Resorttrust Hawaii, LLC gave approval for the event and allowed access to the peninsula.

Ko Olina

Requested area is encumbered by Grant of Easement No. 5160, Ko Olina Intangibles, LLC, for non-exclusive public recreation easement. For the creation, construction, repair and maintenance of public beaches, swimming lagoons, lagoon channels and other public recreational areas and to provide public rights-of-way and/or access along the shoreline, on, over, under and across State beaches, tidal and submerged.

CHARACTER OF USE:

Set up and conducting aerial fireworks display.

TERM & RENTAL:

Duke Kahanamoku Lagoon \$550

Between 2:00 p.m. to 12:00 mid-night on December 31, 2018.

Beach fronting Kahala Hotel \$600

Between 10:00 a.m. on December 31, 2018 to 2:00 p.m. on January 1, 2019.

Ko Olina Beach \$1,300

Between 12:00 noon on December 30, 2018 to 12:00 noon on January 1, 2019.

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 concurred with 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:

Hawaii Explosives & Pyrotechnics, Inc. (HE) is requesting the issuance of a right-of-entry permit for the set-up and firing of fireworks displays on December 31, 2018, at Duke Kahanamoku Lagoon, the Kahala Hotel, and at Ko Olina for New Year's Eve Fireworks Display events. The public is able to view the special event show, provided they remain outside of the safety zone during the event.

Duke Kahanamoku Lagoon

The set-up and firing of the aerial fireworks display for the event will include the staging area, consisting of 500 square feet, and the preparation and firing of the aerial fireworks display from 2:00 p.m. to 12:00 mid-night on December 31, 2018, at Duke Kahanamoku Lagoon as shown on the attached map (see Exhibit A-1). According to HE, the approximate firing time is set to begin at 10:30 p.m.

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.

Beach fronting Kahala Hotel

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 New Year's Eve Fireworks Display occurring on December 31, 2018. 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. (12/31/18) to 2:00 p.m. (1/1/19). According to HE, the approximate firing time is set to begin at 12:00 mid-night.

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-2. The total cost for this right-of-entry, which includes the staging area of \$100 (\$50 per event day for 2 days) will be \$600.

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, 2018 event.

Ko Olina Beach

The set-up and firing of the aerial fireworks display for this event will include the staging area and the firing of the aerial fireworks display from fireworks batteries on the shoreline outside of the lagoons consisting of a 500 square feet area each from 12:00 noon (12/30/18) to 12:00 noon (1/1/19) at Sites B and C (3 days), as shown on the attached map labeled Exhibit A-3. All of the batteries will be projected away from the ocean, either Mauka or towards the Cove. Firing Site B will have a total of 4 battery locations; 3 of the batteries will be on Ko Olina's property along the Cove 1 shore, and the other battery will be along the oceanfront outside of the cove on encumbered State land (easement GL-5160). The battery on encumbered State land will require a right-of-entry permit (ROE). Firing Site C is located between Ko Olina's Coves 2 and 3. Although the battery will be located on Ko Olina's property for Site C, the Applicant is requesting the use of State lands Makai of the battery for safety purposes.

According to the Applicant, the location of the oceanfront battery at Site B cannot be placed adjacent to the other three battery sites along the Cove 1 shoreline, because the oceanfront battery will be launching larger diameter pyrotechnic shells which have a greater fallout area and therefore, need to be at a greater distance from the audience location as shown in Exhibit A-3. Ko Olina has no objection to the discharge of fireworks in the area covered by easement GL-5160.

HE is requesting the use of encumbered State land for the battery location for two reasons. First, larger diameter shells (5" and 6") will be fired from that battery, and therefore, it is required to be at a greater distance from the attendees. Secondly, problems were encountered during a previous show in the same vicinity when launchers were placed on Ko Olina's property (just Mauka of the shoreline). The abundance and close proximity of coconut trees in the vicinity created a challenge as there were very limited open spaces between tree tops to aim the batteries. As a result, there were difficulties in attempting to angle the batteries to fire towards the cove. This situation created an increased risk for fire, potential damage to vegetation or private property, increased the risk factor for HE personnel and attendees, and reduced the trajectory angle that could be safely achieved.

Also, staff is recommending that a charge of \$1,000 (\$500 for each safety zone) be imposed to cover the exclusive use of the two safety zone areas surrounding each firing site, as shown on Exhibit A-3. The total cost for this right-of-entry, which includes the staging area of \$300 (\$50 for each of the two firing sites for 3 days) will be \$1,300.

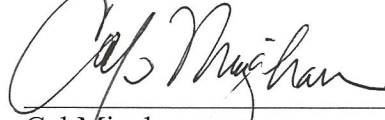
The Office of Conservation and Coastal Lands has no objections to the subject request and concurs with the exemption for an environmental assessment.

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. There are no pertinent issues or concerns. Staff does not have any objection to this 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 locations 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,



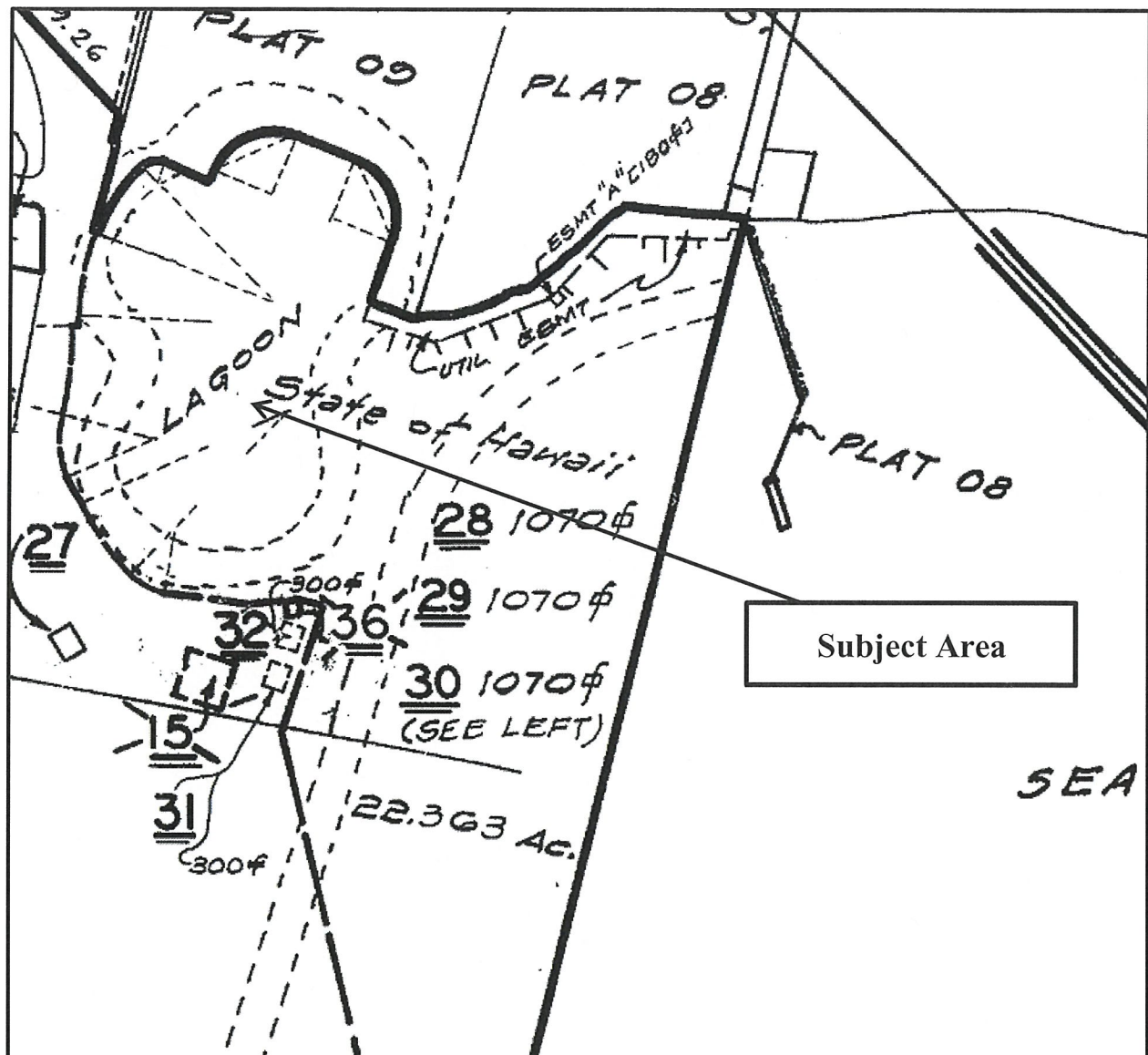
Cal Miyahara
Shoreline Disposition Specialist

APPROVED FOR SUBMITTAL:



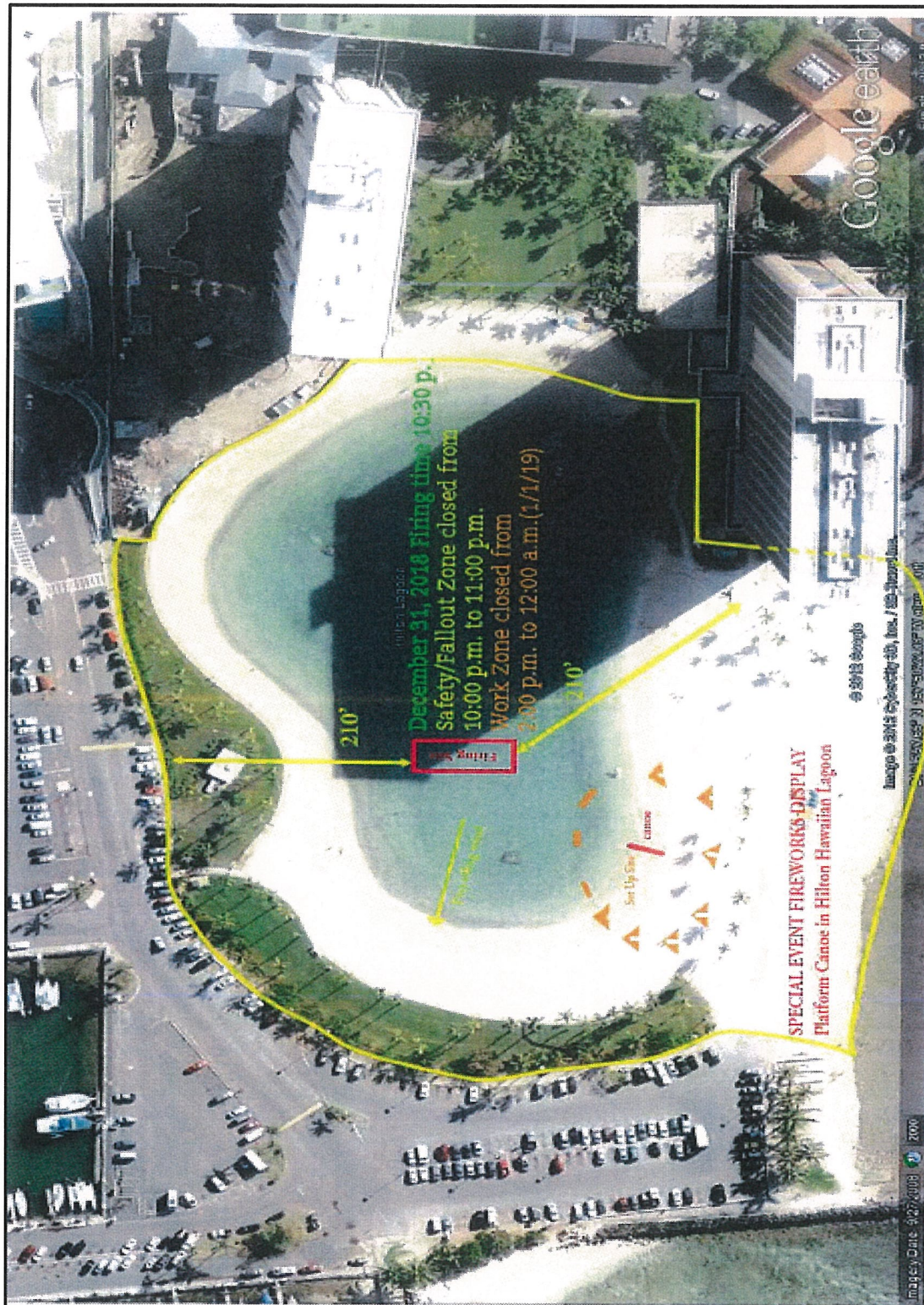
Suzanne D. Case, Chairperson



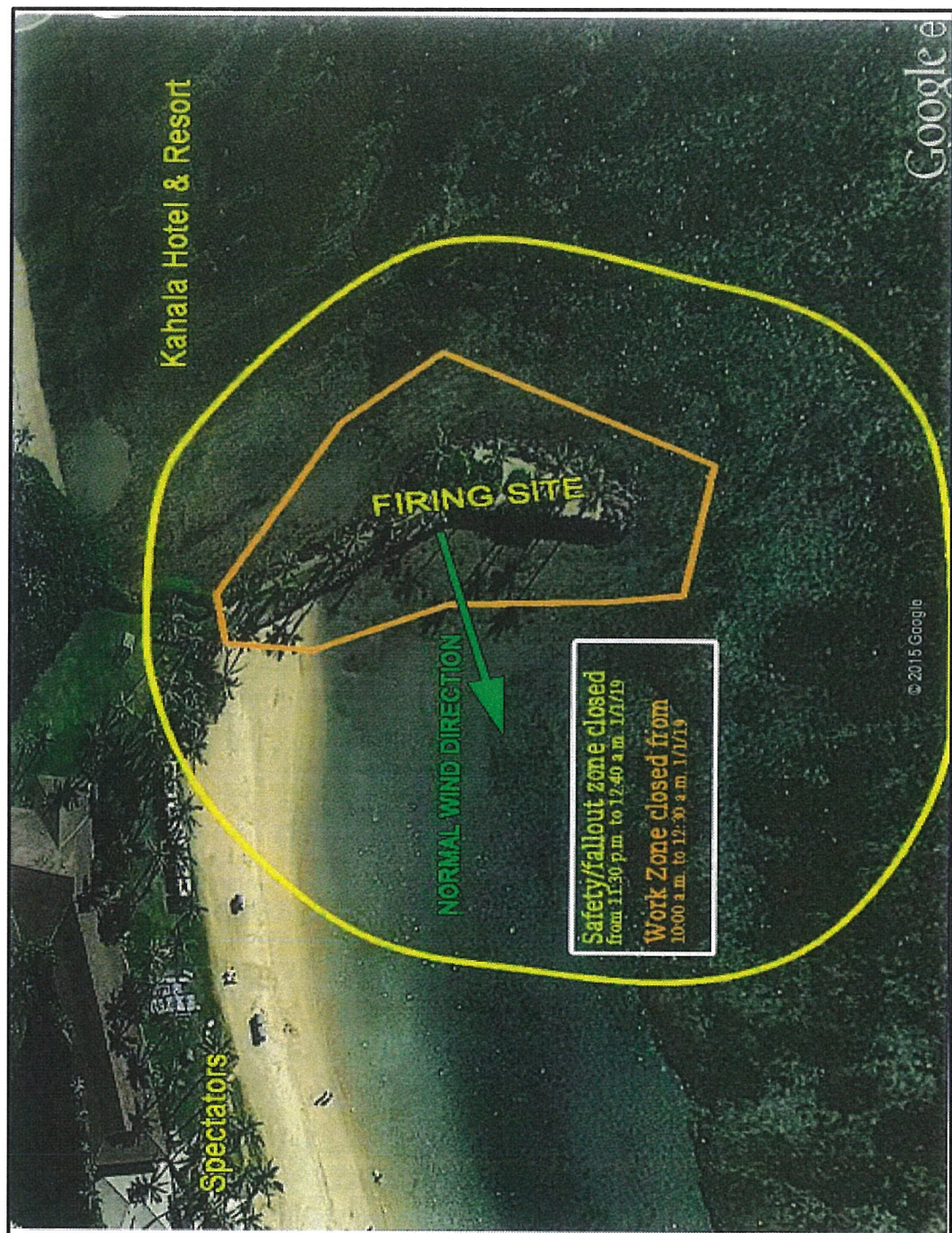


Duke Kahanamoku Lagoon
Tax Map Key: (1) 2-3-037:021 (Portion)

Exhibit A-1



December 31, 2018 fireworks display



Kahala Hotel
Tax Map Key: (1) 3-5-023:041
December 31, 2018 fireworks display

Exhibit A-2



Exhibit A-3



December 31, 2018 fireworks display

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 to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Displays on December 31, 2018, at Duke Kahanamoku Lagoon, at the beach fronting the Kahala Hotel, and on Encumbered State lands off Ko Olina Beach.
Reference No.:	PSF 18OD-139
Project Locations:	Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-3-037:021 (Portion). Waiialae, Honolulu, Oahu, Tax Map Key: (1) 3-5-023:041. Honouliuli, Ewa, Oahu, Tax Map Key: (1) 9-1-057:seaward of 006.
Project Description:	Aerial Fireworks Display at Duke Kahanamoku Lagoon, Kahala Hotel, and at Ko Olina.
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 concurred with 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".
Cumulative Impact of Planned Successive Actions in Same Place Significant?	No, similar events occur at the same location from time to time, but not on a routine or regular basis (e.g., daily or weekly). However, the based on the multiple environmental clean-ups conducted after each display, to remove debris from the lagoon area, staff believes that there would be no significant cumulative impact.
Action May Have Significant Impact on Particularly Sensitive Environment?	The requested area is a portion of State beach visited by tourists and residents, and is heavily impacted by human activity. Public access across the requested area is maintained by the Hilton Hawaiian Village staff. In addition, based on the analysis below, staff believes there would be no significant impact to sensitive environmental or ecological receptors.

Exhibit B

Consulted Parties:	Consulted with Office of Conservation and Coastal Lands who has no objections to the subject request and concurs with the exemption for an environmental assessment.
Analysis:	The Board has permitted similar events in the past. The proposed activity is of a similar type and scope of beach activities that periodically occurred and continues to occur on this and other beach areas across the State. 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:	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.