

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Recreation
Honolulu, Hawaii 96819

September 13, 2019

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

Land Board Members:

SUBJECT: ISSUANCE OF REVOCABLE PERMIT TO DEFRIES LUNCH WAGON, LLC,
FOR A MOBILE FOOD CONCESSION, LOCATED AT THE WAIKAEA
SMALL BOAT HARBOR, KAPAA, KAUAI, TAX MAP KEY: (4) 4-5-006:001
(Portion).

AND

DECLARE PROJECT EXEMPT FROM REQUIREMENTS OF CHAPTER 343,
HRS AND TITLE 11, CHAPTER 200, HAWAII ADMINISTRATIVE RULES.

APPLICANT:

Defries Lunch Wagon, LLC, whose business address is: P.O. Box 342, Anahola, Hawaii 96703.

LEGAL REFERENCE:

Sections 171-55 Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands situated at Waikaea Small Boat Harbor, Island of Kauai, Hawaii, Tax Map Key: (4) 4-5-006:001 (Portion), hereinafter referred to as the "Premises" as shown on the map labeled (**EXHIBIT A1 & A2**) and attached hereto.

AREA:

Approximately 400 square feet, more or less.

ZONING:

State Land Use District: Conservation, Urban
County of Kauai: Open, Within Kapaa Special Planning Area B

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act:

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

CURRENT USE STATUS:

Encumbered by Miscellaneous Permit # KMP-001 – issued to Defries Lunch Wagon, LLC.

CHARACTER OF USE:

Mobile food wagon selling plate style lunches, chips and soft drinks.

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson, with an expiration date of June 30, 2020.

MONTHLY RENTAL:

Two hundred dollars (\$200.00) per month or ten percent (10%) of gross receipts, whichever is greater.

COLLATERAL SECURITY DEPOSIT:

Twice the Monthly Rental.

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

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

In accordance with the “Exemption List for the Department of Land and Natural Resources, reviewed and concurred upon 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 1, Item No. 51, Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing.

REMARKS:

Applicant currently occupies approximately 400 square feet of unimproved state land at the Waikaea Small Boat Harbor under a miscellaneous permit. Staff has determined that the miscellaneous permit is not the correct disposition for this use and is therefore requesting the issuance of a revocable permit. The applicant's proposed use is allowed under County of Kauai zoning. **(EXHIBIT B)**

The 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.

Staff consulted and received concurrence from the Kauai District Land Office on the exemption confirmation.

JUSTIFICATION:

The issuance of revocable permit is a short-term measure which will allow staff to test the market to determine if it's practicable to seek the issuance of concession contract for a food truck at this location.

RECOMMENDATION:

That the Board of Land and Natural Resources:

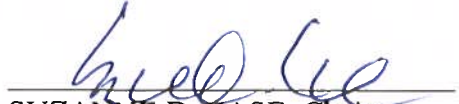
1. Declare that, after considering the potential effects of the proposed project as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the issuance of Revocable Permit to Defries Lunch Wagon, LLC. covering the subject area for a mobile food concession 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 Revocable Permit form, as may be amended from time to time; and
 - b. Review and approval by the Department of the Attorney General.
 - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



EDWARD R. UNDERWOOD, Administrator
Division of Boating & Ocean Recreation

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE, Chairperson
Board of Land and Natural Resources

Attachment:

- Exhibit A1 & A2 Aerial Maps of Waikaea SBH
- Exhibit B Picture of Food Wagon

EXEMPTION NOTIFICATION

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

Project Title:	Issuance of Revocable Permit to Defries Lunch Wagon, LLC, for a Mobile Food Concessions, Located at the Waikaea Small Boat Harbor, Kapaa, Kauai, Tax Map Key: (4) 4-5-006:001
Project / Reference No.:	
Project Location:	The Waikaea Small Boat Launch, Kapaa, Kauai, Tax map Key: (4) 4-5-006:001 (Portion)
Project Description:	Issuance of Revocable Permit for Mobile Food Wagon Purposes.
Chap. 343 Trigger(s):	Use of State lands
Exemption Class No(s).:	In accordance with the "Exemption List for the Department of Land and Natural Resources, reviewed and concurred upon 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 1, Item No. 51, 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?	There are no permanent above ground structures. Activities in the subject area have resulted in no known significant impact to the natural and environmental resources in the area.
Action May have Significant Impact on Particularly Sensitive Environment?	Staff is not aware of any particularly sensitive environmental issues and use of the area would not change negligently from what is existing.
Analysis:	Based on the above mentioned, staff believes there would be no significant impact to the environment.
Consulted Parties:	Kauai District Land Division - was consulted and concurred with respect to the Chapter 343 exemption.
Declaration	The Board find that this project will probably have minimal or no significant effect on the environment and declares that this project is exempt from the preparation of an environmental assessment.



Wagon Location

EXHIBIT A2

Defries Lunch Wagon

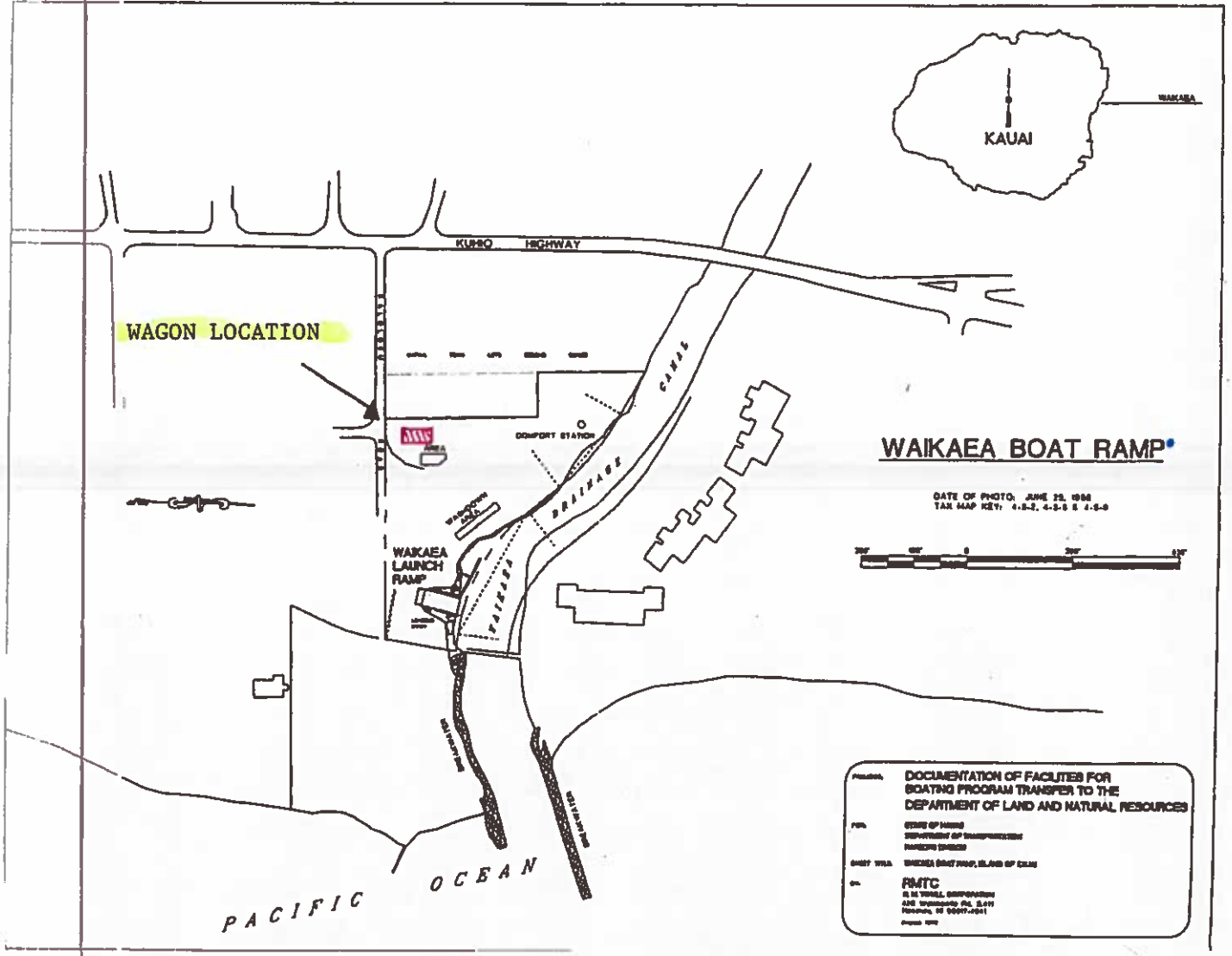


EXHIBIT B

