

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

November 8, 2019

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

Land Board Members:

SUBJECT: CONTINUATION OF A REVOCABLE PERMIT TO ATLANTIS  
SUBMARINES HAWAII, LLC TO OPERATE SUBMARINE TOURS  
AND OTHER MARITIME RELATED ACTIVITIES AT THE  
HONOKOHAU SMALL BOAT HARBOR, ISLAND OF HAWAII,  
HAWAII, TAX MAP KEY: (3) 7-4-008:003 (PORTION).

AND

DECLARE PROJECT EXEMPT FROM REQUIREMENTS OF  
CHAPTER 343, HRS AND TITLE 11, CHAPTER 200.1, HAWAII  
ADMINISTRATIVE RULES.

APPLICANT:

Atlantis Submarine Hawaii, LLC, a Delaware limited liability company, whose mailing address is  
75-5660 Palani Rd. #304, Kailua-Kona, Hawaii 96740-1673.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands situated at Honokohau Small Boat Harbor (HSBH), Honokohau,  
North Kona, Island of Hawaii, Hawaii identified by Tax Map Key: (3) 7-4-008:003 (por.) as  
shown on the attached map labeled **Exhibits A and B**.

AREA:

Approximate measurement of 60' x 55' or 3,300 Square Feet, hereinafter referred to as the  
"Premises".

The area consists of four small structures and a shipping container shown on **Exhibit B**. There is also a private driveway to the structures. All of Atlantis Submarine's structures and the drive way are within the permit area.

ZONING:

State Land Use District: Conservation, Urban  
County of Hawaii: CZO: Open

TRUST LAND STATUS:

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

CURRENT USE STATUS:

Currently Encumbered by Revocable Permit (RP) 36.

CHARACTER OF USE:

Occupy and use the Premises for the following specified purposes only: Maritime related activities to support submarine tour operations.

COMMENCEMENT DATE:

February 1, 2020, and ending June 30, 2020.

MONTHLY RENTAL:

Three Thousand One Hundred Eighty-Two and 70/100 dollars (\$3,182.70) per month, payable in advance by the first of each and every month and for the period beginning February 1, 2020, and ending June 30, 2020.

The proposed rent was increased by applying a three percent (3%) escalation, as recommended in the appraisal, done by CBRE, dated October 31, 2016, on behalf of DLNR DOBOR, to the 2019 rent of Three Thousand Ninety and no/100 dollars (\$3,090.00) per month.

COLLATERAL SECURITY DEPOSIT:

Twice the Monthly Rental Amount.

DCCA VERIFICATION:

Place of business registration confirmed: YES  
Registered business name confirmed: YES  
Applicant in good standing confirmed: YES

#### CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

This Exemption Notice for the above action is based on general exemption types enumerated in HAR § 11-200.1, under Exemption Class, 1. Operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features, involving, minor expansion or minor change of use beyond that previously existing.

Also, under DLNR Exemption List reviewed and concurred to by the Environmental Council on June 5, 2015, Exemption List Class 1: Item 51, “Permits, licenses, registrations and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing”.

In consultation with the Hawaii Land Division, regarding HRS Chapter 343, they concurred that this RP met the requirements of Chapter 343, HRS, and chapter 11-200.1, HAR and this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.

#### REMARKS:

At its February 8, 2019, meeting, under agenda Item J-2, the Board approved the continuation of RP 36 issued to Atlantis Submarine Hawaii, LLC in effect from February 1, 2019, to January 31, 2020.

Atlantis Submarine Hawaii, LLC has not had a lease, easement, or other disposition of state lands terminated within the last five years due to non-compliance with such terms and conditions.

#### JUSTIFICATION FOR AN RP:

Staff is working on converting this RP to a long-term disposition. The process of converting this RP to a long-term disposition will require additional time. Therefore, an RP is the proper disposition at this time.

#### RECOMMENDATION:

That the Board of Land and Natural Resources:

1. Declare that after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from preparation of an environmental assessment.
2. Authorize the continuance of Revocable Permit 36 issued to Atlantis Submarine Hawaii, LLC at Honokohau Small Boat Harbor covering the subject area for submarine tour operations under the terms and conditions cited above, which are by this reference, incorporated herein.

3. Reserve and delegate to the Chairperson the right and authority at any time to review and adjust the rental charges for Atlantis Submarine Hawaii, LLC.

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:

- A. Aerial Map of Atlantis Submarine Hawaii, LLC situated at Honokohau SBH
- B. Images of Structures located on the Subject Premises

DAVID Y. IGE



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

Division of Boating and Ocean Recreation  
4 Sand Island Access Road  
Honolulu, Hawaii 96819

November 8, 2019

**EXEMPTION NOTICE**

**SUZANNE D. CASE**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**ROBERT K. MASUDA**  
FIRST DEPUTY

**M. KALEO MANUEL**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

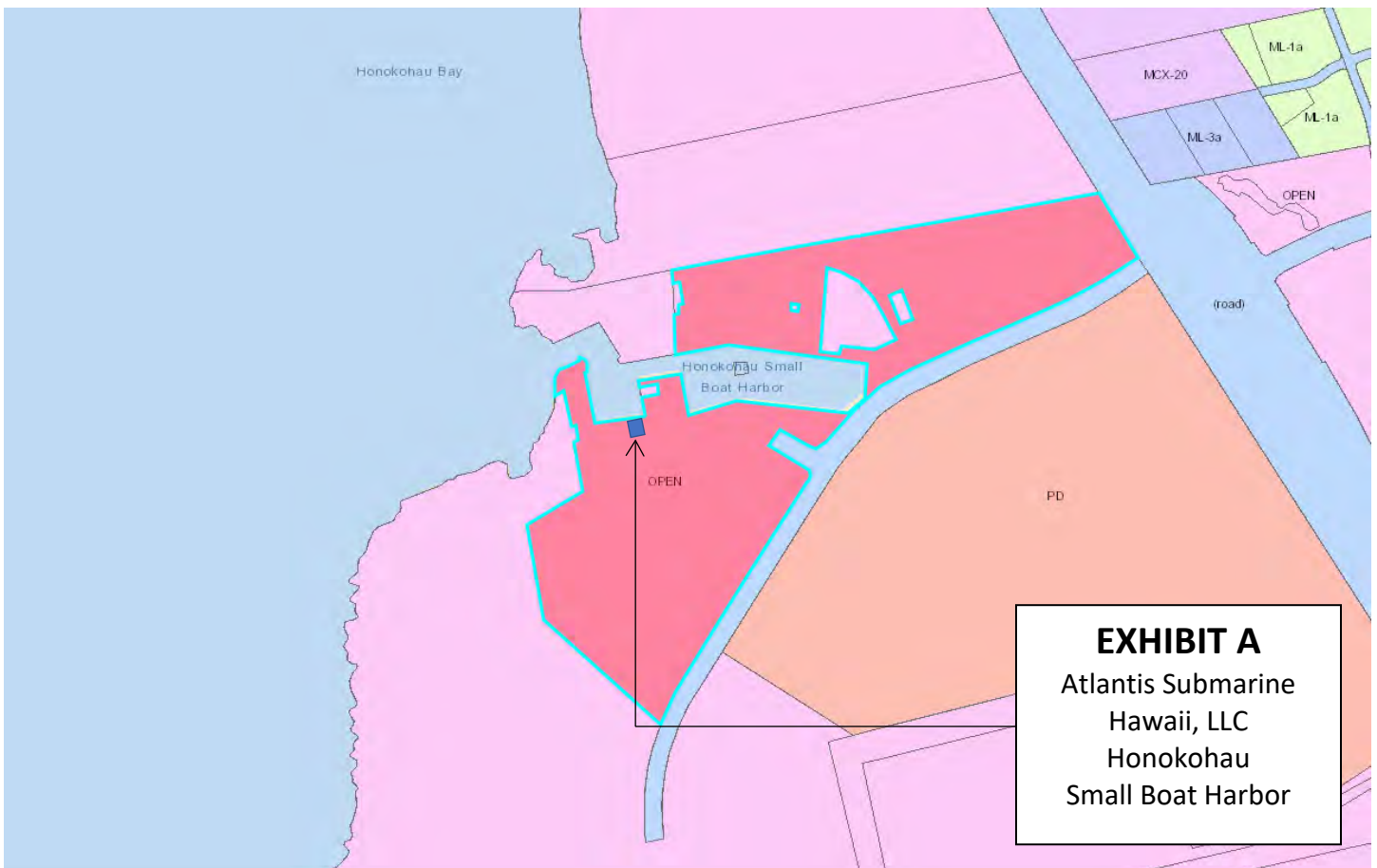
TO: DLNR Public Files for HRS Chapter 343 Exemptions  
FROM: BLNR via Chairperson for the Division of Boating & Ocean Recreation (DOBOR)  
RE: Exempted applicant action as defined by HRS § 343-5(b) and HAR § 11-200.1-15

Project Name:	Continuation of a Revocable Permit 36 to Atlantis Submarine Hawaii, LLC, (ASH)
Location (incl. address, island & district; TMK or other geolocation) :	Located at Honokohau Small Boat Harbor (HSBH), North Kona, Island of Hawaii, Tax Map Key: (3) 7-4-008:003 (POR.)
Project Start/End:	February 1, 2020, to June 30, 2020
Project Approval(s):	Continuation RP 36 from BLNR, HRS §171-55
Project Description:	Approximately 3,300 Sq. Ft. of fast lands for Marine related activities to support submarine tour operations. Permittee currently has a shipping container, four small structures and a private driveway within the permit area.
HRS § 343-5 Trigger(s):	Use of state lands
Exemption Class No(s):  (see general Exemption Types in HAR § 11-200.1-15; or  if from an approved DLNR Exemption List, cite the class and item)	<p>This Exemption Notice for the above action is based on general exemption types enumerated in HAR § 11-200.1, under Exemption Type(s):</p> <p>1. Operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features, involving, minor expansion or minor change of use beyond that previously existing.</p> <p>Also, under DLNR Exemption List reviewed and concurred to by the Environmental Council on June 5, 2015: Exemption List Class 1:</p> <p>Item 12, "Operations, repair, and maintenance of existing loading docks, piers, piles, boat launch ramps, offshore mooring facilities, and other similar support structures".</p> <p>Item 51, "Permits, licenses, registrations and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing".</p>

Analysis re: Application of Exemption(s) to the Proposed Action: (see HAR §11-200.1-17)	The applicant has been a responsible permittee of DLNR-DOBOR since March 15, 2017. The request to continue this RP would involve no expansion or change in use of the subject locations beyond that previously existing.
Previous Determinations and Exemption Notices? (see HAR §11-200.1-11 and -12)	The initial plan for Honokohau Harbor was approved in 1965. The initial phase of construction of the harbor was done by the U.S. Army Corps of Engineers between 1968 to 1970. A revised EIS (1975-11-DD-HA-REIS Honokohau Harbor) was done to allow for the construction of a small boat harbor for the purposes of supporting small boating needs, which included ancillary shore facilities. At the Board's November 10, 2016 meeting, under agenda Item J-2, the use of the fast lands to supported Atlantis Submarines boating operation was declared exempt and the RP was approved. DLNR-LD has filed for annual continuations with the Board since the initial 2016 approval and the action has been determined to be exempt from 343 as enumerated above.
Adverse Cumulative Impacts to Receiving Environment?  (Particularly sensitive environment?)	<p>None likely. The ASH was utilizing the area under DLNR-DOBOR since 2017. The currently existing dock facilitates and public access, minimizing any damage from mooring, erosion, coral impacts that might otherwise be caused if the structure was not used. Although there may be a potential for fuel spills from boating operations, the alternative to not use the designed boat dock would not obviate such risks. Any risk from cumulative impacts appears negligible.</p> <p>The ASH area is not a particularly sensitive environment, and no known threatened, endangered, or endemic species are impacted by issuance of this short-term permit.</p>
Other Considerations?	In DOBOR's experience issuance of an RP for use of a small boat harbor facility is unlikely to raise environmental concerns and is likely to enhance public safety for the boating public.
Analysis:	Based on its expertise and experience, DLNR/DOBOR believes the proposed action is a routine activity and ordinary function that merits exemption from the preparation of an environmental assessment.
Consulted Parties re: Propriety of Exemption:	Hawaii Land Division and Office of Conservation and Coastal Lands- were consulted and concurred with respect to the HRS Chapter 343 exemption.
Declaration	The Board determines, through its judgment and experience, that the requested action will individually and cumulatively probably have minimal or no significant effects on the environment, and that the proposed action is consistent with exemption and therefore declared exempt from the preparation of an environmental assessment.

## EXHIBIT A

Atlantis Submarine  
Hawaii, LLC  
Honokohau  
Small Boat Harbor



## EXHIBIT A

Atlantis Submarine  
Hawaii, LLC  
Honokohau  
Small Boat Harbor







Photos of the Premises

