

**State of Hawai'i  
Department of Land and Natural Resources  
Division of State Parks  
Honolulu, Hawai'i**

December 14, 2012

Board of Land and Natural Resources  
State of Hawai'i  
Honolulu, Hawai'i

Hawai'i

Request for Approval to Continue and Modify Revocable Permits Issued to Kona Boys, Inc., Iwa Kalua and Adventures In Paradise, LLC, for Commercial Kayak Tour Purposes, Under Terms and Conditions to be Determined by the Chairperson, Kaawaloa, Kealakekua Bay State Historical Park, Kealakekua, Hawaii.

**REQUEST:**

Request for approval to continue three existing revocable permits issued to Kona Boys, Inc., Iwa Kalua and Adventures in Paradise, LLC, and modify the terms of each of the revocable permits as described below for commercial kayak tours at Kealakekua Bay State Historical Park.

**LEGAL REFERENCE:**

Sections 171-55 and other applicable sections of Chapter 171, Hawaii Revised Statutes, as amended.

**LOCATION:**

Portion of Government lands situated at Ka'awaloa, Kealakekua, Kiloa, Waipunaula, Kalama 1, 3, 4 and 5, Liloa and Kahauloa 1, South Kona, Hawai'i, identified by Tax Map Keys: (3) 8-1-011:006 (por.), 010 (por.); (3) 8-2-04:15; and seaward of: 8-1-10 and 11; and 8-2-02, 04, 05 and 06, as shown on the attached maps labeled Exhibit A.

**ZONING:**

State Land Use District:

TMK: (3) 8-2-04:15 is in the Urban District; all other subject parcels are in the Conservation District

County of Hawai'i Zoning:

TMK: (3) 8-2-04:15 is zoned RS-10; all other subject parcels are unplanned

TRUST LAND STATUS:

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

CURRENT USE STATUS:

Encumbered by Governor's Executive Order 4145 setting aside land for Park and related purposes (covering the Ka'awaloa Flat area) and Governor's Executive Order 3706 setting aside for Kealakekua Bay Marine life Conservation District to be under the control of the Division of Boating and Ocean Recreation of the State of Hawai'i, Department of Land and Natural Resources.

CHARACTER OF USE:

For commercial kayak tours including launching and landing at Ka'awaloa Flat and Nāpo'opo landing.

MONTHLY RENTAL:

To be negotiated with the Permittees and subject to the approval of the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exemption Notification attached hereto as Exhibit B.

REMARKS:

On May 26, 2006 and September 9, 2010, the Board authorized the issuance of revocable permits (RP's) to four commercial kayak tour operators, three of which are the subject of this submittal. The other permit, issued to Hawai'i Pack and Paddle, LLC, was terminated by the Board at its September 14, 2012 meeting. The three RP's were continued by the Board at its December 9, 2011 meeting and will expire on December 31, 2012 unless again continued by the Board.

The RP's grant the right to land at Ka'awaloa flat and conduct commercial tours of the Ka'awaloa area under specific conditions.

Due to ongoing management and other concerns, the Department sought the Board's approval to transfer jurisdiction of the lands comprising the bay and the Nāpo'opo landing at its October 26, 2012 meeting (item D-4), to the Division of State Parks (State Parks) by Governor's Executive Order. Those areas, if approved by the Governor, would be added to the Kealakekua Bay State Historical Park. The Executive Order is being processed for the Governor's signature which is anticipated to be completed this year.

The practice of the existing commercial kayak tour operators at Kealakekua include launching from Nāpo‘opo‘o landing, traversing across the bay, landing at Ka‘awaloa flat, hiking along a specified route toward the Captain Cook Monument, swimming and snorkeling in the bay near the monument and returning by kayak to Nāpo‘opo‘o. To more effectively regulate the tours, State Parks seeks the Board’s approval to grant authority to the Chairperson to add provisions which permit the landing and launching at Nāpo‘opo‘o and operation in the bay in addition to the existing rights to land at Ka‘awaloa. In addition, because the rights under the RP’s will increase as a result of the changes, the Department requests that authority be delegated to the Chairperson to negotiate additional provisions of the RP’s including but not limited to the payment of amount of fees as the Chairperson deems appropriate.


In the October 26, 2012 submittal regarding the cancellation of Executive Order 3706 and reset aside to State Parks (Item D-4), the Department advised the Board of its plan to restrict kayak use in the bay and Nāpo‘opo‘o/Ka‘awaloa landings. This plan was expanded to include all vessel use not otherwise exempted by Federal law or existing Charter Sail permit. The purpose of the restriction is to primarily stop kayak use, both commercial and recreational, until such time as the Department is able to implement enforcement action to better manage the area. Therefore, further approval is sought to grant discretion to the Chairperson to determine a re-start date for RP holders to resume commercial kayak tours to under the terms of the modified RP’s.

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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 continuation of revocable permits to Kona Boys, Inc., Iwa Kalua and Adventures In Paradise, LLC for commercial kayak tour purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - a. That the authority be delegated to the Chairperson to determine a re-start date of the activities authorized in the revocable permits following the restrictions imposed on vessels by the Division of State Parks;
  - b. That authority is delegated to the Chairperson to negotiate other provisions and conditions of the revocable permits as determined by the Chairperson;
  - c. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
  - d. Review and approval by the Department of the Attorney General; and,
  - e. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

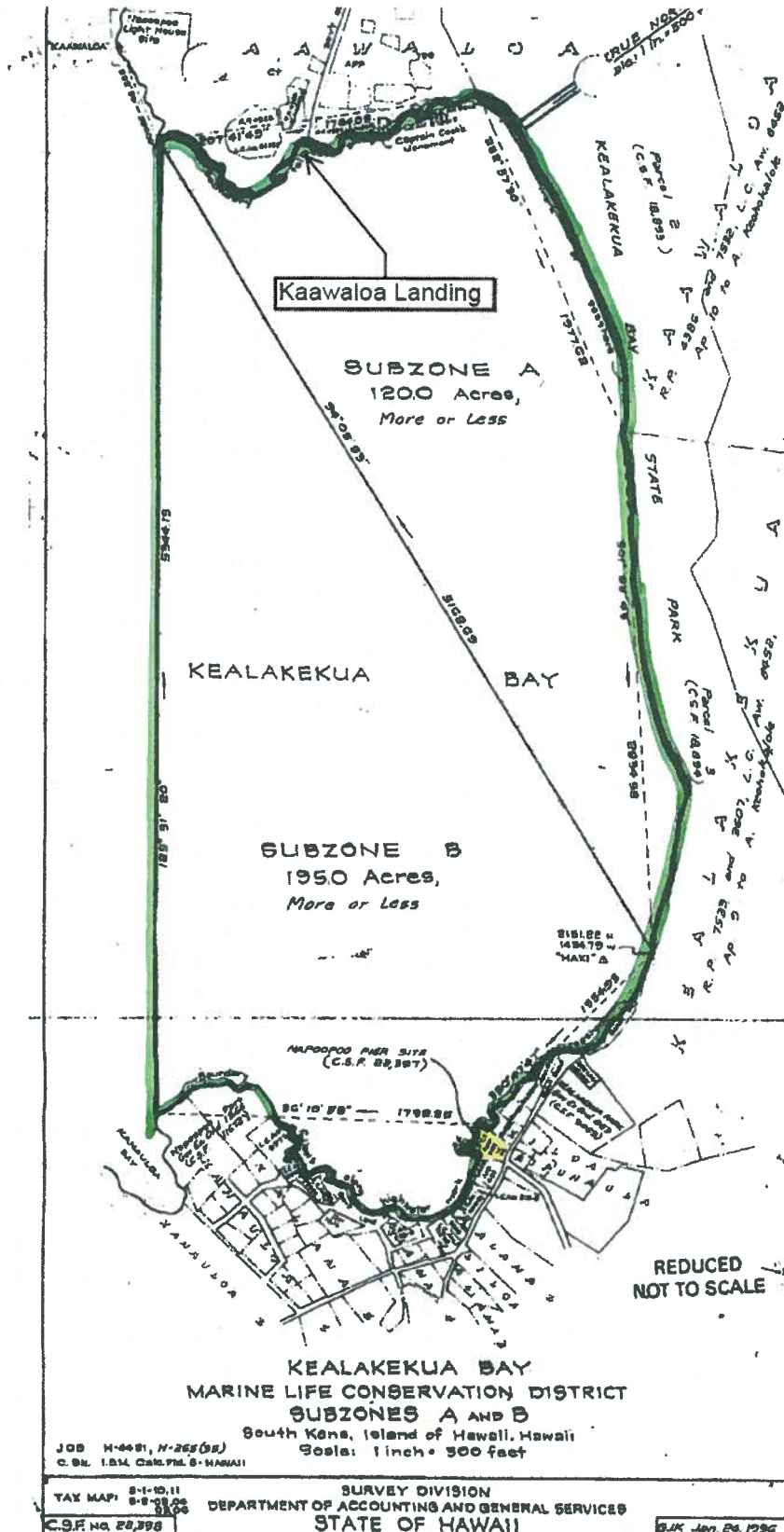
Respectfully Submitted,

  
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Daniel S. Quinn  
Administrator, Division of State Parks

APPROVED FOR SUBMITTAL:

  
\_\_\_\_\_  
William J. Aila, Jr., Chairperson

Exhibit A – Kealakekua Bay Map



Ka'awaloa Flat Map

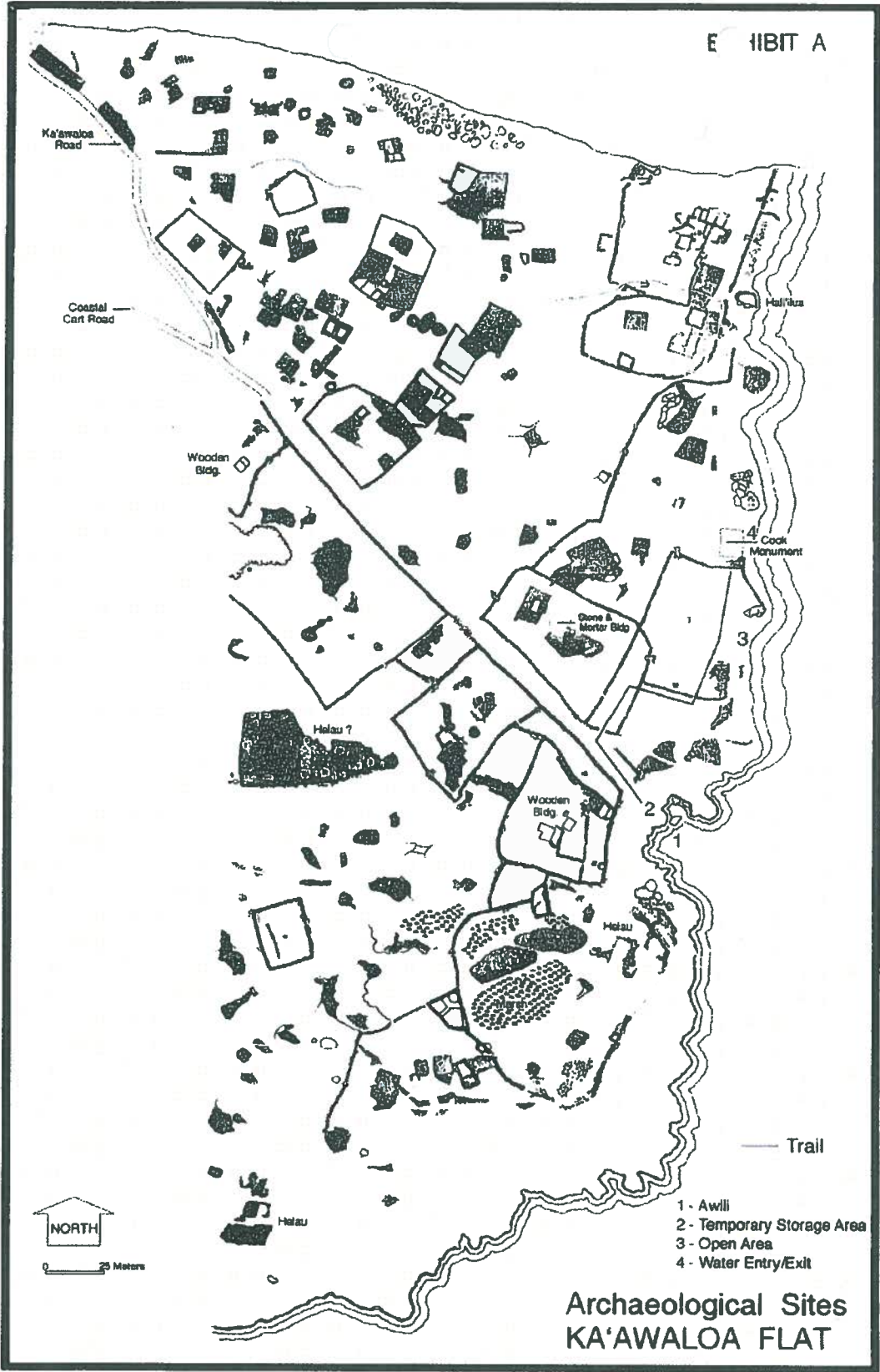




Exhibit B - Exemption Certification

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

DIVISION OF STATE PARKS  
POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

WILLIAM J. AILA, JR.  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

ESTHER P. KAJAFA  
FIRST DEPUTY DIRECTOR

WILLIAM M. TAM  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCE  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
LAND OIL AND GAS RESOURCES DIVISION  
LAND  
STATE TAXES

**EXEMPTION NOTIFICATION**

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

**Project Title:** Request for Approval to Continue and Modify Revocable Permits Issued to Kona Boys, Inc., Iwa Kalua and Adventures In Paradise, LLC for Commercial Kayak Tour Purposes, Under Terms and Conditions to be Determined by the Chairperson, Kaawaloa, Kealakekua Bay State Historical Park, Kealakekua, Hawaii.

**Project / Reference No.:** SP1204KBSP01

**Project Location:** Portion of Government lands situated at Ka'awaloa, Kealakekua, Kiloa, Waipunaula, Kalama 1, 3, 4 and 5, Liloa and Kahauloa 1, South Kona, Hawai'i, identified by Tax Map Keys: (3) 8-1-011:006, 010, (3) 8-2-04:15; and seaward of: 8-1-10 and 11; and 8-2-02, 04, 05 and 06

**Project Description:** Continue and modify revocable permits issued to Kona Boys, Inc., Iwa Kalua and Adventures in Paradise, LLC.

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

**Exemption Class No.:** In accordance with Hawaii Administrative Rule Section 11-200-8(a)(1)(4), the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation".

**Consulted Parties:** Division of Boating and Ocean Recreation  
Division of State Parks  
Division of Aquatic Resources  
Office of Conservation and Coastal Lands  
Division of Conservation and Resources Enforcement



The proposed exemption applies as this action is simply the continuation of existing revocable permits authorized by the Board and is a result of a

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transfer of management jurisdiction to the Division of State Parks for the water portion of the bay and the Nāpo'opo'o landing. The current use of the land and waters is authorized and no long term expansion is expected as a result of the existing revocable permits.

Recommendation:

That the Board find that this project will probably have minimal or no significant effect on the environment and therefore, is exempt from the preparation of an environmental assessment.

  
\_\_\_\_\_  
William J. Aila Jr., Chairperson 

12/4/12  
\_\_\_\_\_  
Date