

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

April 11, 2014

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

PSF No.: 14KD-017

Kauai

Issuance of Right-of-Entry Permit to Hi Tech FX LLC dba: J & M Displays West on Unencumbered State Beach Lands seaward of Poipu Beach Park on December 31, 2014, for Aerial Fireworks Display, por. of Koloa Beach, Poipu, Kauai, Tax Map Key: (4) 2-8-017:seaward of 001.

APPLICANT:

Hi Tech FX LLC dba: J & M Displays West, a limited liability corporation.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Koloa situated at por. of Koloa Beach, Koloa, Kauai, identified by Tax Map Key: (4) 2-8-017:seaward of 001., as shown on the attached map labeled Exhibits A & B.

AREA:

1,100 square feet, more or less – Set-up and Firing area.
6,000 square feet, more or less – Safety Zone

ZONING:

State Land Use District: Urban
County of Kauai CZO: Hotel & Resort

TRUST LAND STATUS:

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

CURRENT USE STATUS:

Requested area is vacant and unencumbered.

CHARACTER OF USE:

Set-up and conducting aerial fireworks display.

TERM:

Between 8:00 a.m. to 11:30 p.m. on December 31, 2014
[Firing window from 10:00 p.m. to 10:45 p.m.]

RENTAL:

\$110.00 - area of request to use is 1,100 square feet.
(rental based on \$.10 per square feet per day)

\$500.00 - area of safety zone exceeds 5,000 square feet and duration is less than one (1)
hour – flat fee rate.

\$610.00 - Total fee

COLLATERAL SECURITY DEPOSIT:

None.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Section 11-200-8(a)(1)(4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated December 4, 1991, 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." See Exhibit C.

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>

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Obtain written concurrence from County of Kauai, Department of Parks and Recreation on contingency plan and safety zone area.

REMARKS:

HI Tech FX LLC dba: J & M Displays West is requesting a right-of-entry permit for set-up and firing of fireworks display on a sand island located within Poipu Beach Park for Poipu Beach Resorts Association's New Years Eve Celebration.

The set-up and firing of the aerial fireworks display consisting of 1,100 square feet of a sand island from 8:00 a.m. to 11:30 p.m. on December 31, 2014 as shown on the attached map labeled Exhibit B. A firing time will be at approximately between 10:00 p.m. and 10:30 p.m. and breakdown by 11:30 p.m.

A contingency plan has been worked out with the County of Kauai, Department of Parks and Recreation to use a portion of Poipu Beach Park if the tide or surf conditions prevent using the sand island for a firing area.

The proposed activity is of a similar type and scope for fireworks display activities that historically 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. As such, staff believes that the proposed event would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Pursuant to the authority delegated by the Board on September 28, 2011, item D-4, right-of-entry permits were issued for fireworks displays in the past.

After discussion about the different types of commercial activities and any associated requirements, staff brings the request to the Board for disposition. The requested disposition could be in form of a Right-of-Entry permit.

In the past, the Applicant was only charged for the area of the firing site, which is 1,100 square feet (or a charge of \$110.00). But to conduct a display safely, Applicant needs to

exclude the public from a much larger area extending for a radius of approximately 6,000 square feet from the firing site. This safety zone is located on unencumbered beach and submerged lands. If the daily rent for commercial right-of-entry were applied to the safety zone, the charge per event would be cost prohibitive for fireworks displays. The exclusion of the public is necessary for their safety but also poses a substantial interference with public use of the beach. Accordingly as a compromise, staff is recommending that an additional charge of \$500 be imposed to cover Applicant's exclusive use of safety zone around the firing site.

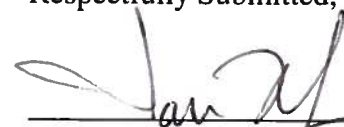
Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the past five years due to non-compliance with such terms and conditions.

No comments were solicited from government or community agencies.


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 HI Tech FX LLC dba: J & M Displays West on December 31, 2014 covering the subject area 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;
 - B. Contingency plan signed with the County of Kauai, Department of Parks and Recreation for alternate firing site and safety zone area.
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

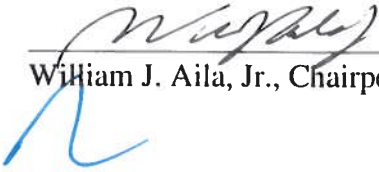
Respectfully Submitted,



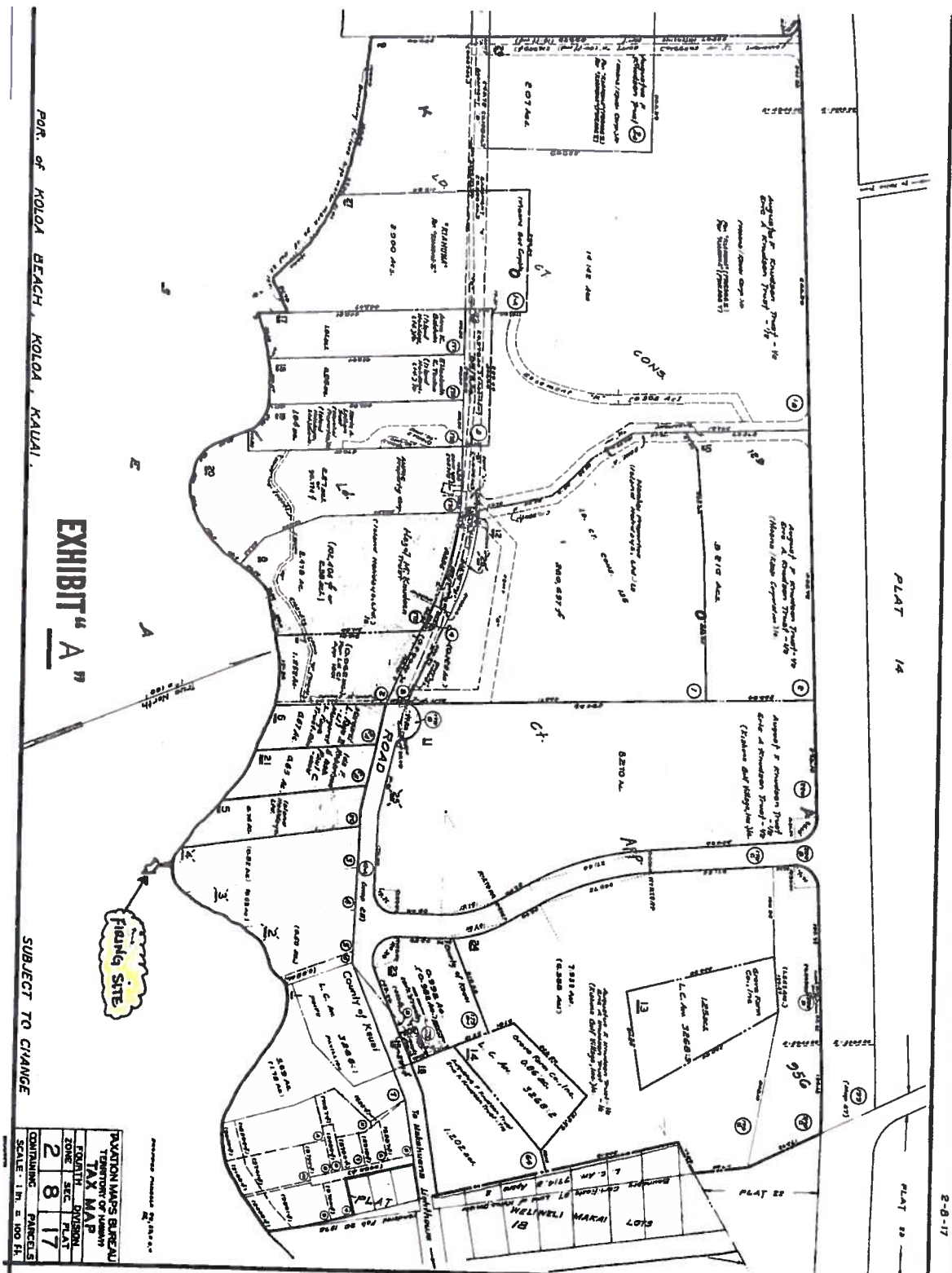
Marvin Mikasa
Acting District Land Agent



APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



PART OF KOLOA BEACH, KOLOA, KAUAI.

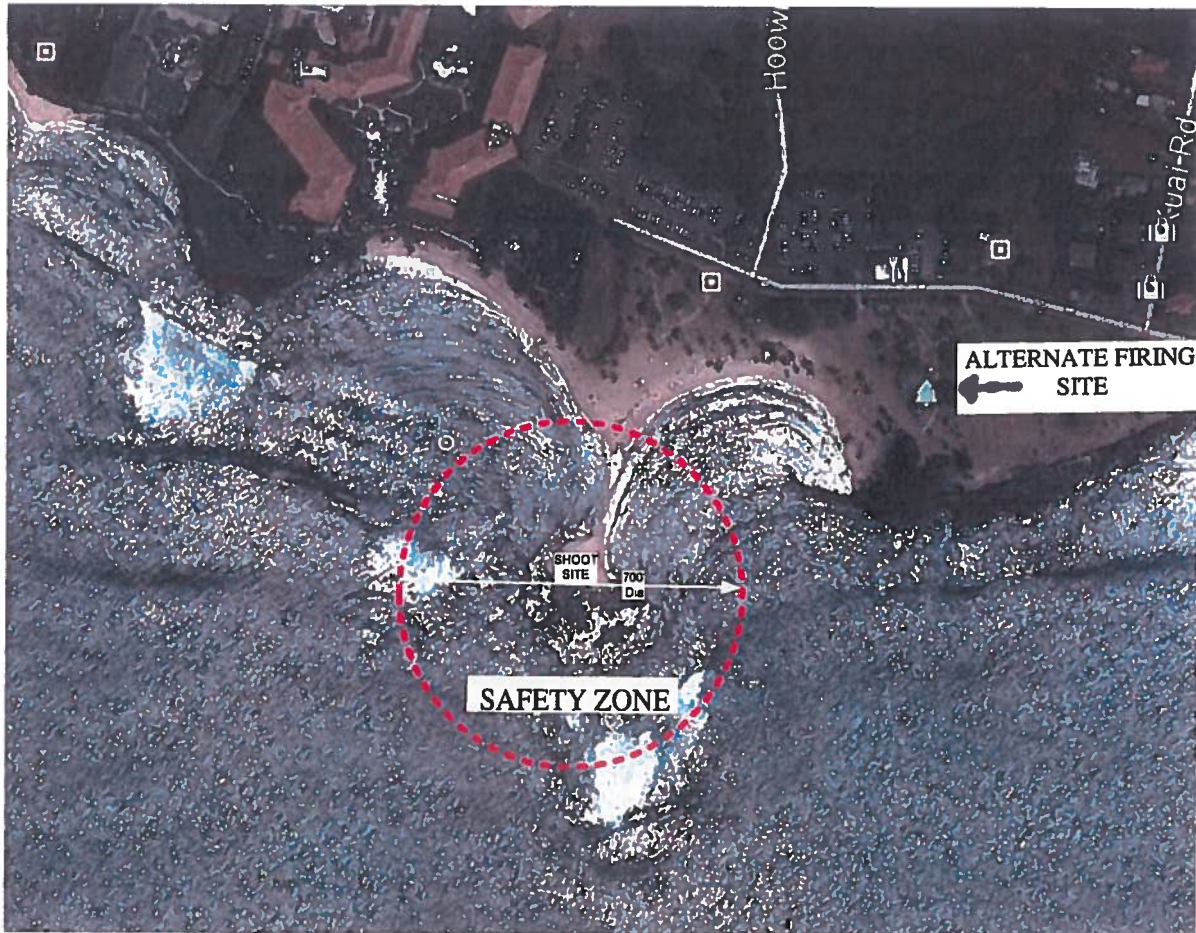
EXHIBIT "A"

SUBJECT TO CHANGE

PLATON MAPS BUREAU	
TERRITORY OF HAWAII	
FIELD TAX MAP	
ZONE	SEC. DIVISION
28	17
CONTAINING PARCELS	
SCALE - 1 in. = 100 ft.	

PLAT 14

2-8-17



TMK: (4) 2-8-017:seaward of 001

HI TECH FX LLC dba: J & M DISPLAYS WEST

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

JESSE K. SOUKI
FIRST DEPUTY

WILLIAM M. TAN
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONSERVATION
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES DEPARTMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHULAWE ISLAND RESERVE COMMISSION
LAND
STATU PARKS

EXEMPTION NOTIFICATION

From the preparation of an environmental assessment under the authority of Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Aerial Fireworks Display for New Years Eve Celebration for the Poipu Beach Resort Association

Project Number: PSF No. 14KD-017

Project Location: Poipu, Kauai, TMK: (4) 2-8-017:seaward of 001.

Project Description: Aerial Fireworks Display at Poipu Beach

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

Exemption Class No.: In accordance with Hawaii Administrative Rule Sections 11-200-8(a)(1)(4) and the 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."

This Division has permitted similar events on 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 has resulted in no known significant impacts, whether immediate or cumulative, to the nature, environmental and/or cultural resources in the area. As such staff believes that the proposed event would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Consulted Parties: Office of Conservation and Coastal Lands

EXHIBIT C


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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.



William J. Aila, Jr., Chairperson



Date 3/25/14