

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawaii

November 9, 2012

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

SUBJECT: Request by the Diamond Head International Music Festival, Inc.,
to Use Diamond Head State Monument Once a Year for Two
Years for a Two-Day Diamond Head Crater Celebration Music
Festival

The Diamond Head International Music Festival, Inc. (Applicant), has requested permission to hold a two-day (on a Saturday and Sunday) music festival at Diamond Head State Monument, which is known as the Diamond Head Crater Celebration (Event), annually for two consecutive years in 2013 and 2014 (Attachment 1). The Diamond Head International Music Festival, Inc. (aka GM Entertainment) previously obtained Board approval on October 22, 2004, for the Event held on April 1, 2006, and on June 23, 2006, for the Event held on May 19, 2007. While the Board Approval given on April 8, 2010 (Attachment 2), allowed for an event each in 2011 and 2012, none were held.

Both Diamond Head Crater Celebrations were successful events, with over 6,000 persons in attendance for each Event. The Applicant abided by all the conditions set by the Board for those Events. The Events had no significant effects on the natural resources of the Monument, and minimal impacts on the surrounding community.

In the initial October 22, 2004 Board submittal, multiple issues and concerns raised by neighborhood board members and the Diamond Head Citizen's Advisory Committee (DHCAC) were addressed, including logistics, parking, traffic, fire, noise, security, sanitation, consistency with the Diamond Head Master Plan Update and setting a precedent for future events. The Applicant proposed solutions to many of these concerns, which were also presented in the Board submittal. In response to these concerns, the Board's approval placed numerous conditions upon the applicant.

The Diamond Head International Music Festival, Inc., will attend neighborhood board meetings and meetings of the DHCAC to share their proposal for additional Crater Celebrations and hear concerns expressed by community members. The DHCAC has taken a position opposing these events at Diamond Head State Monument.

If permitted, the actual dates in 2013 and 2014 will be finalized based upon the availability of key artists and local participants. The Event will occur over a two-day period, on a Saturday and Sunday. The music program of the Event will end each night

by 10:00 p.m., and the premises will be vacated by 11:00 p.m. The Applicant is preparing to accommodate 7,500 paying patrons for each Event.

The park will remain open to the public from 6:00 a.m. to 12:00 p.m. on the Saturday and Sunday of the Diamond Head Crater Celebration. State Parks will also coordinate with the Applicant to clear the park visiting public from the park prior to the beginning of the Event each day.

The success of the previous Diamond Head Crater Celebrations has demonstrated that such events can be held within Diamond Head State Monument with minimal to no significant effect on the resources and the surrounding community. Events such as these in the Monument can also be a source of revenue for the Department and the Division of State Parks with these funds being used to improve visitor services at Diamond Head State Monument and other State Parks.

RECOMMENDATION:

This is being submitted for the Board's consideration. Should these events be approved, staff recommends the following conditions, consistent with the previous Board approvals. The amendments to the conditions made to the previous Board submittals are included in this submittal.

1. hold the Event held within the confines of the crater;
2. coordinate with the appropriate Department of Defense entities;
3. agree to keep the park open to the public from 6:00 a.m. to 12:00 p.m. on days of the Event, and to assist State Parks in clearing the park visiting public out of the park area at 12:00 p.m. on those day; and to end the music by 10:00 p.m. and have the crater premises vacated by 11:00 p.m.;
4. sign an Agreement with the Department (subject to review and approval of the Office of Attorney General) and pay a non-refundable deposit of \$10,000.00 to the Division of State Parks to reserve the Monument at least 90 days prior to the Event;
5. pay the Division of State Parks \$50,000.00, or 5% of gross revenues, whichever is more, for rental of the Monument for the Event;
6. be authorized to collect entry fees for the event and collect funds for food and beverages, event mementos and/or other related concert items within the park during the event, and to pay the Division of State Parks 5% of gross receipts of food, beverage, event mementos and/or other related concert items (merchandise) during the Event;

7. pay for security by Division of Conservation and Resources Enforcement Officers during set-up and take-down for the Event, and whenever Event personnel are on-site in the Monument;
8. provide and pay for security for the Event, in addition to the Division of Conservation and Resources Enforcement personnel;
9. procure and maintain, at its own cost and expense, in full force and effect throughout the term of this Special Use permit, commercial general liability insurance, in an amount of at least \$2,000,000 for each occurrence and \$4,000,000 aggregate, with an insurance company or companies licensed to do business in the State of Hawaii. The policy or policies of insurance shall name the State of Hawaii as an additional insured. The insurance shall cover the entire Event Site, including all grounds and all roadways or sidewalks on or adjacent to the Event Site in the use or control of the Permittee;
10. sell alcoholic beverages in compliance with all City and County of Honolulu Liquor Commission rules and regulations;
11. operate food service in compliance with all applicable State Department of Health rules and regulations;
12. be allowed to film and/or record the event and distribute these materials with no additional fees or royalties paid to the State;
13. waive any and all claims they may have against the State of Hawaii and its respective officers, agents and employees, and agrees to defend, hold harmless and indemnify the State of Hawaii and its respective officers, agents and employees from any suits, actions and claims arising out of and in any way connected with the activities permitted under the permit;
14. provide a site plan, transportation, parking and access plan, fire plan, security plan, and evacuation plan to be approved by the Chairperson prior to the Event;
15. be responsible for clean-up of the Event Site;
16. be liable for repairs, replacement and/or payment for any damages incurred at the Event Site during the period of this permit;
17. provide (with Division of State Parks staff) a report to the Board, before and after the Event, discussing what the impacts were and how they were mitigated;
18. include Hawaiian music performers in the Event;

19. provide, during each day of the Event, a briefing, which will include the cultural and natural significance of Diamond Head State Monument;
20. authorize the Chairperson to negotiate and sign the final agreement on behalf of the Department and the Board of Land and Natural Resources; and
21. comply with any other conditions that may be imposed by the Department, the Board of Land and Natural Resources, and/or the Chairperson.

Respectfully submitted,



Daniel S. Quinn
State Parks Administrator

PCW

APPROVE FOR SUBMITTAL:



WILLIAM J. AILA, JR., Chairperson

Attachments

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawaii

April 8, 2010

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

SUBJECT: Request to Use Diamond Head State Monument Once a Year for
Two Years for a Two-Day Diamond Head Crater Celebration

The Diamond Head International Music Festival (Applicant), Inc., has requested permission to hold a two-day (on a Saturday and Sunday) music festival at Diamond Head State Monument, which is known as the Diamond Head Crater Celebration (Event), annually for two consecutive years in 2011 and 2012 (Attachment 1). The Diamond Head International Music Festival, Inc. (aka GM Entertainment) previously obtained Board approval on October 22, 2004, (Attachment 2) for the Event held on April 1, 2006, and on June 23, 2006 (Attachment 3) for the Event held on May 19, 2007. While the Board Approval given on June 23, 2006, allowed for a second event in 2008, none was held.

Both Diamond Head Crater Celebrations were successful events, with over 6,000 persons in attendance for each Event. The Applicant abided by all the conditions set by the Board for those Events. The Events had no significant effects on the natural resources of the Monument, and minimal impacts on the surrounding community (Attachments 4, 5, and 6, Board Briefings).

In the October 22, 2004 Board submittal (Attachment 2), multiple issues and concerns raised by neighborhood board members and the Diamond Head Citizen's Advisory Committee (DHCAC) were addressed, including logistics, parking, traffic, fire, noise, security, sanitation, consistency with the Diamond Head Master Plan Update and setting a precedent for future events. The Applicant proposed solutions to many of these concerns, which were also presented in the Board submittal. In response to these concerns, the Board's approval placed numerous conditions upon the applicant.

The Diamond Head International Music Festival, Inc., will attend neighborhood board meetings and meetings of the DHCAC to share their proposal for additional Crater Celebrations and hear concerns expressed by community members. The DHCAC has taken a position opposing these events at Diamond Head State Monument. However, the

As mandated
APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

4/8/10

ITEM E - 2

DHCAC has developed criteria under which some sort of event would be appropriate in Diamond Head State Monument. These recommendations are attached (Attachment 7.)

If permitted, the actual dates in 2011 and 2012 will be finalized based upon the availability of key artists and local participants. The Event will occur over a two-day period, on a Saturday and Sunday. The Event will end each night by 10:00 p.m., by which time all the patrons will have vacated the crater. The Applicant is preparing to accommodate 7,500 paying patrons for each Event.

The park will remain open to the public from 6:00 a.m. to 12:00 p.m. on the Saturday and Sunday of the Diamond Head Crater Celebration. State Parks will also coordinate with the Applicant to clear the park visitors from the park prior to the beginning of the Event each day.

The success of the previous Diamond Head Crater Celebrations have demonstrated that such events can be held within Diamond Head State Monument with minimal to no significant effect on the resources and the surrounding community. Events such as these in the Monument can also be a source of revenue for the Department and the Division of State Parks with these funds being used to improve visitor services at Diamond Head State Monument and other State parks.

RECOMMENDATION:

This is being submitted for the Board's consideration. In deference to the DHCAC, staff defers to their recommendations. The DHCAC recommendations are attached as Attachment 7.

Should these events be approved, staff recommends the following conditions, consistent with the previous Board approval. Staff recommends changes to the following conditions from the previous Board approval (conditions number 3, 4, and 5)

1. hold the Event held within the confines of the crater;
2. coordinate with the appropriate Department of Defense entities;
3. agree to keep the park open to the public from 6:00 a.m. to 12:00 p.m. on days of the Event, and to assist State Parks in clearing the park visitors out of the park area at 12:00 p.m. on those days;

4. sign an Agreement with the Department (subject to review and approval of the Office of Attorney General) and pay a non-refundable deposit of \$2,100.00 to the Division of State Parks to reserve the Monument at least 90 days prior to the Event;
5. pay the Division of State Parks \$50,000.00, or 5% of gross revenues, whichever is more, for rental of the Monument for the Event;
6. be authorized to collect entry fees for the event and collect funds for food and beverages, event mementos and/or other related concert items within the park during the event, and to pay the Division of State Parks 5% of gross receipts of food, beverage, event mementos and/or other related concert items (merchandise) during the Event;
7. pay for security by Division of Conservation and Resources Enforcement Officers during set-up and take-down for the Event, and whenever Event personnel are on-site in the Monument;
8. provide and pay for security for the Event, in addition to the Division of Conservation and Resources Enforcement personnel;
9. procure and maintain, at its own cost and expense, in full force and effect throughout the term of this Special Use permit, commercial general liability insurance, in an amount of at least \$2,000,000 for each occurrence and \$4,000,000 aggregate, with an insurance company or companies licensed to do business in the State of Hawaii. The policy or policies of insurance shall name the State of Hawaii as an additional insured. The insurance shall cover the entire Event Site, including all grounds and all roadways or sidewalks on or adjacent to the Event Site in the use or control of the Permittee;
10. sell alcoholic beverages in compliance with all City and County of Honolulu Liquor Commission rules and regulations;
11. operate food service in compliance with all applicable State Department of Health rules and regulations;
12. be allowed to film and/or record the event and distribute these materials with no additional fees or royalties paid to the State;

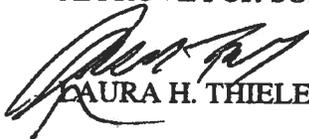
13. waive any and all claims they may have against the State of Hawaii and its respective officers, agents and employees, and agrees to defend, hold harmless and indemnify the State of Hawaii and its respective officers, agents and employees from any suits, actions and claims arising out of and in any way connected with the activities permitted under the permit;
14. provide a site plan, transportation, parking and access plan, fire plan, security plan, and evacuation plan to be approved by the Chairperson prior to the Event;
15. be responsible for clean-up of the Event Site;
16. be liable for repairs, replacement and/or payment for any damages incurred at the Event Site during the period of this permit;
17. provide (with Division of State Parks staff) a report to the Board, before and after the Event, discussing what the impacts were and how they were mitigated;
18. include Hawaiian music performers in the Event;
19. provide, during each day of the Event, a briefing, which will include the cultural and natural significance of Diamond Head State Monument;
20. authorize the Chairperson to negotiate and sign the final agreement on behalf of the Department and the Board of Land and Natural Resources; and
21. comply with any other conditions that may be imposed by the Department, the Board of Land and Natural Resources, and/or the Chairperson.

Respectfully submitted,



Daniel S. Quinn
State Parks Administrator

APPROVE FOR SUBMITTAL:



LAURA H. THIELEN, Chairperson

Attachment

AMENDMENT:

The Board:

Made the following amendments to the submittal:

1. The music is over at 10:00 pm and the premises vacated by 11:00 pm.
 2. Item #4, change the non-refundable deposit amount of [\$2,100.00] to \$10,000.00.
- Otherwise, staff's submittal is approved.