

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

June 28, 2013

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

PSF#13MD-099
Maui

Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display Purposes at Honuaula, Makena, Maui, Tax Map Key:(2) 2-1-006: seaward of 036.

APPLICANT:

Hawaii Explosives & Pyrotechnics, Inc. whose business and mailing address is P.O. Box 1244, Keaau, Hawaii 96749.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Honuaula, Makena, Maui identified by Tax Map Key: (2) 2-1-006: seaward of 036, as shown on the attached Tax map labeled Exhibit (A). Also, refer to the attached map of the subject area, which was provided by Hawaii Explosives & Pyrotechnics, Inc. labeled Exhibit (B).

AREA:

500 square feet, more or less, for the firing site, plus a safety zone with a radius of approximately 280 feet around the firing site. The total area including the firing site and the safety zone is approximately 162,476 square feet.

ZONING:

State Land Use District: Conservation

TRUST LAND STATUS:

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

CURRENT USE STATUS:

Vacant and unencumbered.

CHARACTER OF USE:

Aerial Fireworks Display

TERM:

From 12:00 p.m. to 11:45 p.m. on July 14, 2013.
(firing window from 8:45 p.m. to 9:55 p.m.)

RENTAL:

\$50.00 – Firing site area
\$500.00 – Safety Firing Zone
Total : \$550.00

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."

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>

REMARKS:

Hawaii Explosives & Pyrotechnics, Inc. is requesting a right-of-entry permit to perform a fireworks display as part of a private event. The event is scheduled for July 14, 2013. Set up will start at 12:00 p.m. and breakdown by 11:45 p.m. The fireworks display will run for approximately 15 minutes between the hours of 8:45 p.m. and 9:55 p.m.

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.

In the past, Applicant was only charged for the area of the firing site, which is 500 square feet (or a charge of \$50). But to conduct a display, Applicant needs to exclude the public from an area extending for a radius of approximately 280 feet from the firing site. The size of the area circumscribed by the safety zone is approximately 246,176 square feet, of which approximately two-thirds, or 162,476 square feet, are located on unencumbered beach and submerged lands. If the daily rent for commercial rights-of-entry were applied to the safety zone, the charge per event would be about \$16,247, which is likely 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.

No comments were solicited from government or community agencies.

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/use would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

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 Hawaii Explosives & Pyrotechnics, Inc. 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. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Larry Pacheco, Land Agent

APPROVED FOR SUBMITTAL:



William J Aila Jr., Chairperson

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

June 5, 2013

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

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FIRST DEPUTY

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DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
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ENGINEERING

FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAIHOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

EXEMPTION NOTIFICATION

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

Project Title: Hawaii Explosives & Pyrotechnics Inc.

Project / Reference No.: PSF#13MD-099

Project Location: Honuaula, Makena, Maui, TMK: (2) 2-1-006: Seaward of 036, fronting the Makena Golf Course.

Project Description: Aerial Fireworks Display (July 14, 2013)

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

Exemption Class No. and Description: 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 state "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."

Exemption Item Description from Agency Exemption List:

Exemption Class No. 1 of the Department of Land and Natural Resources, Approved Exemption List, dated December 4, 1991. Pursuant to the authority delegated by the Board on September 28, 2001 (D-4), right-of-entry permits were issued for these types of beach activities in the past.

Exemption Notification
Hawaii Explosives & Pyrotechnics

Recommendation:

It is anticipated this event 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

2


Date

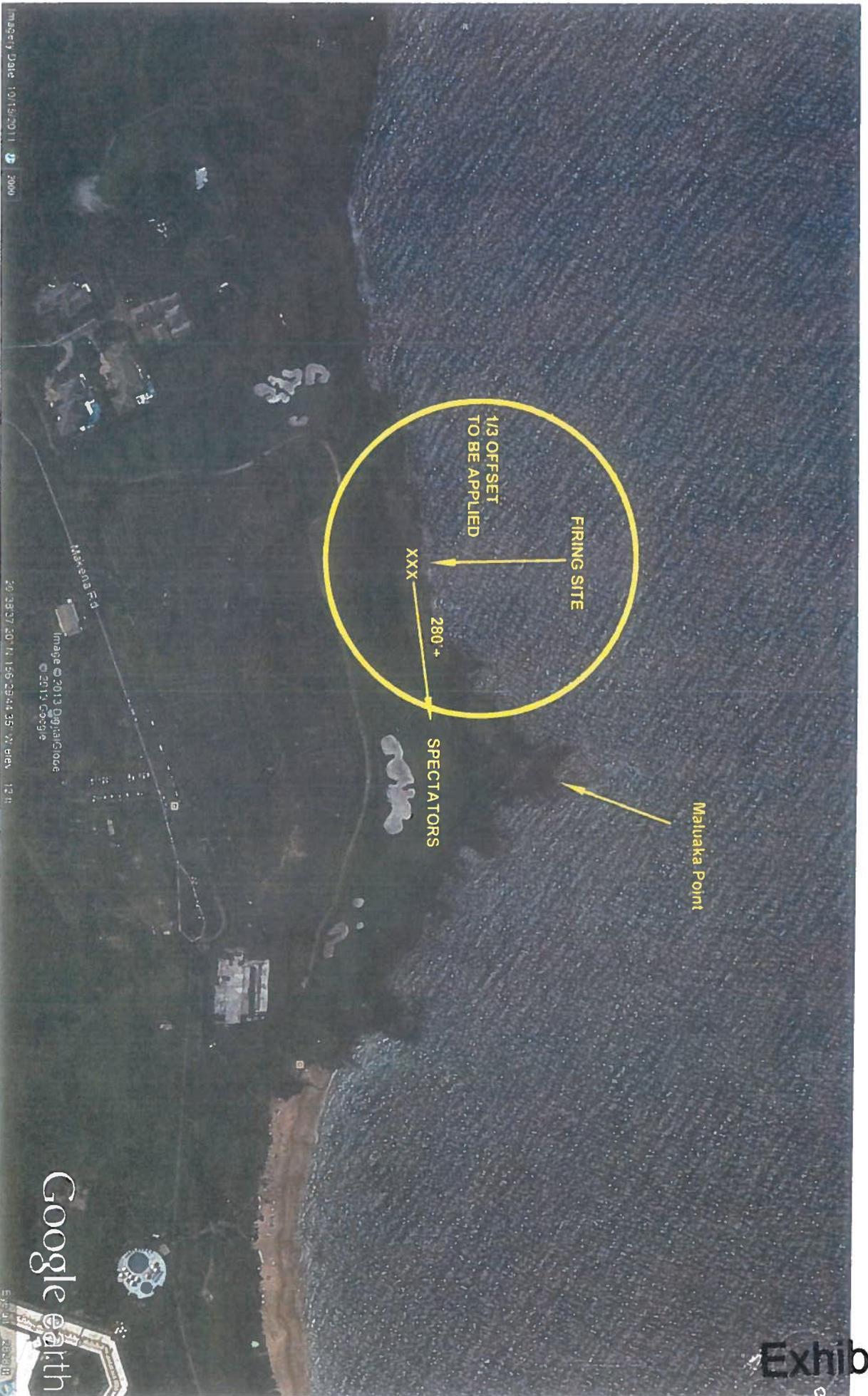


Exhibit B