

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

January 10, 2014

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

PSF No.13HD-209

Hawaii

After-the-Fact Approval of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Set up and Firing of Aerial Fireworks Display on New Year's Eve, 2013, Ouli, South Kohala, Hawaii, Tax Map Key: (3) 6-2-02: seaward of 04.

APPLICANT:

Hawaii Explosives & Pyrotechnics Inc., a Hawaii corporation

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Ouli situated at Waimea, South Kohala, Hawaii, identified by Tax Map Key: (3) 6-2-2: portion seaward of 4, as shown on the attached map labeled Exhibit A.

AREA:

1,500 square feet, more or less for a set-up and firing site area, plus a safety zone with a radius of approximately 200 feet around the firing site. The total approximate area including the firing site and the safety zone on unencumbered State lands is approximately 82,896 square feet.

ZONING:

State Land Use District: Conservation
County of Hawaii CZO: Un-zoned beach adjacent to parcel with V-1.25 Resort Hotel zoning; also within Special Management Area

TRUST LAND STATUS:

Section 5(a) 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 firing of aerial fireworks display.

TERM:

From 10:00 a.m. (12/31/13) to 3:00 a.m. (1/01/14)

RENTAL:

	\$150.00 – set-up and firing site area
	500.00 – safety zone area (flat fee when area exceeds 5,000 sq. ft.)
	<u>250.00</u> – Late request surcharge ¹
Total:	\$900.00

COLLATERAL SECURITY DEPOSIT:

None.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exhibit B attached.

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>

¹ Land Board action of June 14, 2013 (agenda item D-11, as amended) regarding the delegation of authority to issue right-of-entry permits on unencumbered lands imposes a surcharge for requests not received in a timely manner.

REMARKS:

Hawaii Explosive & Pyrotechnics, Inc. (Applicant) has requested a right-of-entry onto the subject land for purposes of conducting a special events aerial fireworks display for the New Year's celebration at Kauna'oa Beach near the Mauna Kea Beach Hotel. The specific location of the fireworks display firing site is shown on Exhibit C attached.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions. A revocable permit is more appropriate than a long-term disposition in light of the single date requested for the fireworks display.

In the past, Applicant was only charged for the area of the firing site, which is 1,500 square feet (or a charge of \$150 for one day). But to conduct a display, Applicant needs to exclude the public from an area extending for a radius of approximately 200 feet from the firing site. The size of the area circumscribed by the safety zone is approximately 125,600 square feet, of which about two-thirds, or 82,896 square feet, are located on unencumbered State land. If the daily rent for commercial rights-of-entry were applied to the 82,896 square of safety zone on State land, the charge per event would be about \$8,289, 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 and near-shore waters. 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.

Additionally, staff received this request via email on 12/05/13 and after the deadline for the December Board meeting. Consequently, this request is being presented as an after-the-fact approval for the use of unencumbered State lands. At its meeting of 6/14/13 under agenda item D-11, as amended, the Board updated the right-of-entry procedures and included a provision to allow for a surcharge be added to the cost of the right-of-entry should the applicant submit their request in an untimely manner. According to the schedule, the applicant submitted their request in the fourth week prior to the event and is therefore being assessed a \$250.00 surcharge.

No comments were solicited from other government or community agencies because there is no change to the use of the area from prior years. There were fireworks displays at this same site on New Year's Eve 2012 and July 4, 2013.

There are no other pertinent issues or concerns. Staff has no objection to the request.

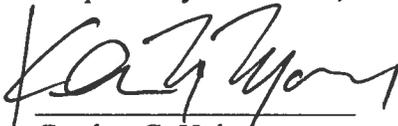
RECOMMENDATION: That the Board;

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 set-up and firing of 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; and
 - b. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Gordon C. Heit
District Land Agent

APPROVED FOR SUBMITTAL:

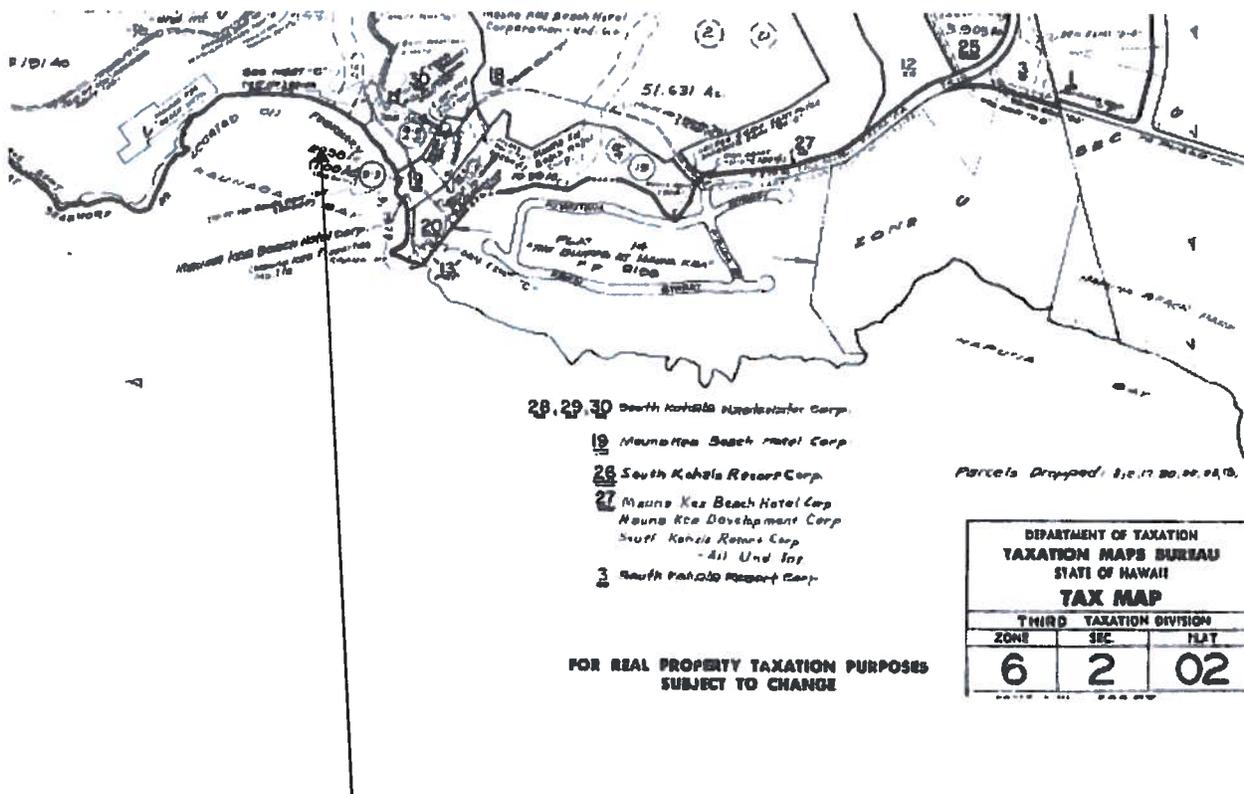


William J. Aila Jr., Chairperson



EXHIBIT A

TMK; 3RD/6-2-02: POR. 4



**LOCATION OF FIREWORKS
FIRING SITE**

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ESTHER KIA'AINA
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

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CONSERVATION AND RESOURCES ENFORCEMENT

ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

EXEMPTION NOTIFICATION

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

- Project Title:** Issuance of Right-of-Entry to Hawaii Explosives & Pyrotechnics, Inc.
- Project Number:** PSF No. 13HD-209
- Project Location:** Ouli, Waimea, South Kohala, Hawaii Tax Map Key: (3) 6-2-02: portion seaward of 04
- Project Description:** New Year's Eve 2013 aerial fireworks display
- Consulted Parties:** None
- Exemption Class No.:** In accordance with the "Exemption List for the State of Hawaii, Department of Land and Natural Resources, as Reviewed and Concurred Upon by the Environmental Council (Docket 91-EX-2, December 4, 1991), the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No.1, "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 [HAR § 11-200-8(a)(1)]."
- Exemption Item No. And Description:** Class No.1, "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."

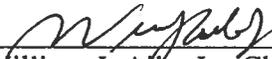
EXHIBIT B

This exemption is appropriate because the applicant, Hawaii Explosives & Pyrotechnics, Inc. (HEPI) has requested the use of a small area for a single aerial fireworks display. The location has been used periodically for such displays in recent years without significant impact on the environment.

The grant of a right-of-entry for the limited purpose will result in no material change or significant cumulative impact. If further actions are taken that result in a material change, HEPI will be required to be in compliance with Chapter 343.

Recommendation:

It is recommended that the Board find that the issuance of a right-of-entry to Hawaii Explosives & Pyrotechnics, Inc. 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. Afa, Jr., Chairperson



Date





Display Firing Site Map
Mauna Kea Beach Hotel New Year's Eve Fireworks Display

Date: Monday, December 31, 2013
Firing Time: 12:00 midnight (approximately)
Firing Site: Kauna'oa Beach adjacent to Mauna Kea Beach Hotel
Alt. Firing Site: Mauna Kea Beach Hotel - South Point Lawn Luau Grounds