

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

April 22, 2016

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

PSF No 16OD-035

Oahu

Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc.
for Aerial Fireworks Display at Duke Kahanamoku Beach on April 28, May 14, and
May 19, 2016, Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-3-037:021 (Portion).

APPLICANT:

Hawaii Explosives & Pyrotechnics, Inc.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands situated at Waikiki, Honolulu, Oahu, identified by Tax Map
Key:(1) 2-3-037:portion of 021, as shown on the map attached as **Exhibit A**.

AREA:

500 square feet, more or less – Staging area, and a safety zone with a radius of approximately
250 feet around the firing site.

ZONING:

State Land Use District: Urban
City and County of Honolulu LUO: Public Precinct

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 conducting aerial fireworks display.

TERM:

Between 12:00 p.m. to 10:00 p.m. on Thursday, April 28; Saturday, May 14; and Thursday, May 19, 2016.

RENTAL:

\$1,650 (One-time payment. \$550 per event date). See Remarks Section for breakdown of costs).

COLLATERAL SECURITY DEPOSIT:

None.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources concurred with by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item 51. See **Exhibit B**.

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 the issuance of a right-of-entry permit for the set-up and firing of fireworks display within the lagoon at Duke Kahanamoku Beach for the Special Event Fireworks Display.

The set-up and firing of the aerial fireworks display for this event will include the staging area and the firing of the aerial fireworks display from a platform within the lagoon consisting of 500 square feet from 12:00 p.m. to 10:00 p.m. on April 28, May 14, and May 19, 2016 at Duke Kahanamoku Beach as shown on the attached map labeled Exhibit A.

At its meeting on March 11, 2016, under agenda item D-7, the Board deleted the staff's recommendation of a \$250,000 performance bond to ensure the satisfactory clean-up of the land and submerged land areas. Instead, the Board required a \$2,500 cash deposit via certified check. The Board added that the deposit check shall be held by the staff for up to 30 days after the scheduled event. During this interim 30 day period Hawaii Explosives will be afforded the opportunity to do additional clean-up, to the satisfaction of the staff, within 48 hours of a notice of findings of additional fireworks debris. The Board also approved staff's recommendation that Hawaii Explosives provide evidence of the clean-up in the form of date and time stamped photographs of the premises taken before and after the fireworks display, and signed certificates from Hawaii Explosives and a representative from the abutting property attesting to the satisfactory clean-up. These requirements have now been inserted in the right-of-entry permit.

For consideration of future right-of-entry permits, the Board requested that Hawaii Explosives provide an outline of the company's protocol for the clean-up of fireworks debris after the show. Hawaii Explosives must also conduct research and report on the weight of fireworks before they are ignited, the weight of fireworks debris after explosion, and the average amount of debris that is collected. The Board also instructed the staff to obtain an opinion from the Attorney General office on whether fireworks debris that falls into the ocean is and not completely removed and remediated constitutes a violation of the Clean Water Act.

At its meeting on March 24, 2016, under agenda item D-4, the Board requested that staff seek the Department of Health's (DOH) comments regarding the residual debris and chemicals deposited in off-shore marine waters as a result of the explosion of fireworks is permitted by the Clean Water Act and if any regulatory approval is required by the DOH. The response by the DOH, Clean Water Branch is that they are not requiring fireworks vendors to obtain a National Pollutant Discharge Elimination System (NPDES) permit or other approvals from their office for the explosion of fireworks in the off-shore marine waters, provided that the fireworks debris is cleaned-up and disposed of properly. See **Exhibit C**.

At the same meeting, Hawaii Explosives submitted to the Board a "Pre and Post Display Clean up Procedures" for the April 11, 2016, Shipwreck Beach, Kauai fireworks display. Staff understands the Board had no objection to the procedures provided. Although the clean-up procedure was drafted for the Kauai display, the general procedures will be applicable to all other fireworks display sites throughout the State. Also, future fireworks displays by all fireworks vendors should, at a minimum, include the subject clean-up procedures. See **Exhibit D**. Starting from the subject request, if approved, staff will start inserting the procedures shown on Exhibit D in the right-of-entry permit.

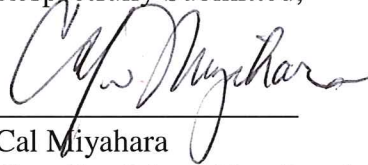
In addition, staff is recommending that a charge of \$500 (per event day) be imposed to cover the exclusive use of the safety zone as shown on Exhibit A. The total cost for this right-of-entry, which includes the staging area of \$50 (per event day) will be \$1,650.

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. There are no pertinent issues or concerns. Staff does not have any objection to this 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. on April 28, May 14, and May 19, 2016 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,



Cal Miyahara
Shoreline Disposition Specialist

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

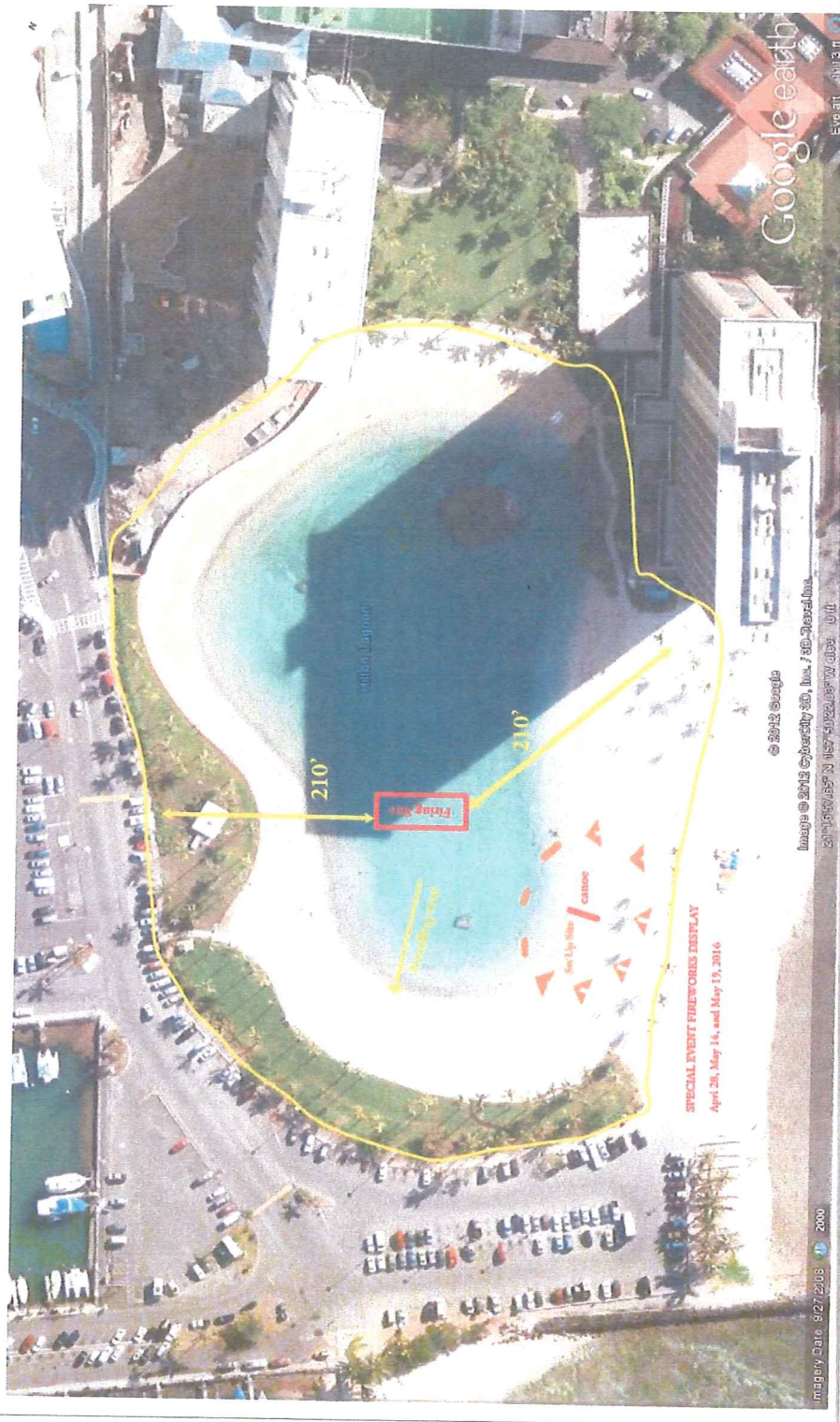


Exhibit A

EXEMPTION NOTIFICATION

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

Project Title: Fireworks Display at Duke Kahanamoku Beach on April 28, May 14, and May 19, 2016

Project / Reference No.: PSF 16OD-035

Project Location: Waikiki, Honolulu, Oahu, TMK:(1) 2-3-037: portion of: 021.

Project Description: Aerial Fireworks Display at Duke Kahanamoku Beach

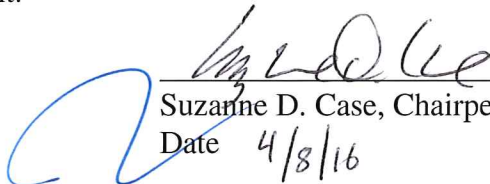
Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources concurred with by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item 51, which states the "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing".

In the past, permits were periodically issued for conducting aerial fireworks displays on the beach in this area, which have resulted in no known significant impacts to the natural and environmental 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: Comments requested from OCCL. As of this writing, OCCL has not provided comments.

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.



Suzanne D. Case, Chairperson
Date 4/8/16

Exhibit B

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. BOX 3378
HONOLULU, HI 96801-3378

VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

In reply, please refer to:
EMDC:WB

04002PDCL.16

April 1, 2016

Mr. Russell Tsuji
Administrator
Land Division
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

Dear Mr. Tsuji:

Subject: Comments on Residual Debris and Chemicals Deposited in Offshore Marine Waters Resulting from Explosion of Fireworks

The Department of Health (DOH), Clean Water Branch (CWB), acknowledges receipt of your letter, dated March 24, 2016, requesting a determination as to whether residual debris and chemicals deposited in the offshore marine waters resulting from the explosion of fireworks is allowed by the Clean Water Act, and whether any regulatory approvals may be required from our office. Your letter also included a sample right-of-entry permit for an aerial fireworks display in Waikiki.

The DOH-CWB appreciates the mitigative measures on Page 3 of the sample right-of-entry permit (e.g. \$2500 cash deposit to ensure satisfactory clean-up; clean-up to the satisfaction of your staff within 48 hours of notice of findings of additional fireworks debris; evidence of clean-up in the form of date and time stamped photographs before and after the fireworks display; signed certificates from your applicant and a representative from the abutting property attesting to the satisfactory clean-up; protocols for clean-up of fireworks debris after the show; and research and reporting of the weight of fireworks before they are ignited, the weight of fireworks debris after explosion, and the average amount of debris that is collected). The DOH-CWB does not require a National Pollutant Discharge Elimination System (NPDES) permit or other approvals from our office for the explosion of fireworks in the offshore marine waters, provided that the fireworks debris is cleaned-up and disposed of properly.

Exhibit C

Mr. Russell Tsuji
April 1, 2016
Page 2

04002PDCL.16

If you have any questions, please contact Mr. Darryl Lum of the Engineering Section, CWB, at (808) 586-4309.

Sincerely,



STUART YAMADA, P.E., CHIEF
Environmental Management Division

DCL:dcl

c: Mr. Russell Tsuji [via e-mail russell.y.tsuji@hawaii.gov]
Mr. Calen Miyahara [via e-mail calen.m.miyahara@hawaii.gov only]
Mr. Barry Cheung [via e-mail barry.w.cheung@hawaii.gov only]

Hawaii Explosives & Pyrotechnics, Inc.

P. O. Box 1244 Keaau, Hawaii 96749
Phone: (808) 968-0600 (Big Island) Fax: (808) 968-0800 (Big Island)
Toll Free: (800) 240-6064 Email: hepinc@hipyro.com

Pre and Post Display Clean up Procedures

Shipwreck Beach, Poipu, Kaua'i

Pre-display set up trash management:

*Site appropriate trash receptacles will be positioned within the firing site during set up operations for containment and disposal of any cardboard and/or related packing material from cartons and/or display equipment.

*Our employees are trained to malama the 'aina, and take special care to ensure all trash associated with the set up process is thrown away in company provided trash receptacles. Work areas will be kept clean and orderly.

*Any materials used for weather protection of display pyrotechnics will be removed prior to firing of the display.

*Cardboard cartons will be broken down and stored in the truck prior to display firing.

Post-display:

*Upon receipt of the "all clear" signal from display operator; employees assigned to post display clean up will begin their initial "sweep" of the beach and surrounding fallout zone. Using headlamps, rakes and specially crafted screened dustpans they will work their way from the outermost point all the way in to the actual firing location; covering the beach, shoreline, and shallow waters within estimated fallout zone.

*Clean up operations will continue until display operator has determined there are no hazardous materials present and he or she is satisfied that the beach will be as presentable as possible to the public at day break.

*Display crew will return early the next morning to continue clean up efforts in the fallout area as well as in the surrounding waters. They will again be equipped with rakes, modified dustpans, and appropriate trash receptacles for cleaning of the beach. Snorkels and masks will be used for survey of the waters fronting the firing site and within fallout zone(s). Any fireworks debris discovered will be retrieved and put into a special bag for containment. Once on land the debris will be put into our trash receptacles.

*Area will receive the final stamp of approval by the display operator, all fireworks debris collected will be loaded into our truck and we will depart the site.

Exhibit D