

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

September 23, 2016

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

PSF No.: 16HD-110
HAWAII

Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Set Up, Firing, and all other Pre-display and Post-display activities for the Porter-Lyon Wedding Aerial Fireworks Display at Mauna Kea Beach's Kauna`oa Beach on October 29, 2016, on unencumbered State lands, Ouli, South Kohala, Hawaii, Tax Map Key: (3) 6-2-002: seaward of parcel 004.

APPLICANT:

Hawaii Explosives & Pyrotechnics, Inc., a Hawaii Domestic Profit Corporation.

LEGAL REFERENCE:

Sections 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) 6-2-002: seaward of parcel 004, as shown on the attached maps labeled Exhibit A.

AREA:

1,000 square feet, more or less for set-up and firing site area, plus a safety zone with a radius of approximately 200 feet around the firing site. The total estimated area including the firing site and the safety zone on unencumbered State lands is approximately 82,896 square feet. Approximate area shown on attached aerial map labeled as Exhibit A-1.

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 County of Hawaii 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:
YES NO

CURRENT USE STATUS:

Requested area is vacant and unencumbered.

CHARACTER OF USE:

Set-up and firing of Aerial Fireworks Display.

TERM OF RIGHT-OF-ENTRY:

From 4:00 pm – 11:45 pm, October 29, 2016.

RENTAL

\$100.00 – Set-up and Firing Site Area
500.00 – Safety Zone Area (Flat fee when area exceeds 5,000 square feet)
\$600.00 – Total Rental Fee

COLLATERAL SECURITY DEPOSIT:

\$2,500.00 for Clean-Up Deposit via Certified Check

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exhibit B attached.

DCCA VERIFICATION:

Place of business registration confirmed: YES NO
Registered business name confirmed: YES NO
Applicant in good standing confirmed: YES NO

REMARKS:

Hawaii Explosives & 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 Porter-Lyon Wedding at Kauna'oa Beach near the Mauna Kea Beach Hotel on October 29, 2016.

In the past, Applicant was only charged for the area of the firing site, which is 1,000 square feet (or charge of \$100 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 feet of safety zone on State land, the charge per event would be about \$8,289.00, 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 \$500.00 be imposed to cover Applicant's exclusive use of the safety zone around the firing site.

Additionally, pursuant to BLNR meeting of March 24, 2016, under agenda item D-4, a \$2500 cash deposit via certified check is required as a clean-up deposit to ensure the timely clean-up in the fallout area following the event. The cash deposit will be held by DLNR staff with a 7 calendar day turn-around period and, if not forfeited, will be returned to Hawaii Explosives & Pyrotechnics, Inc. (HE&P). HE&P must turn in proof of clean-up evidence (photos and signed certificates) to DLNR within 3 calendar days. If staff determines the area was not adequately cleaned up after the 7-day turn around period, the \$2500.00 deposit may be forfeited. Also, in the event staff receives a complaint or otherwise becomes aware of fireworks debris appearing on or being left on the land or in the ocean, then staff is to provide notice to HE&P and they shall be allowed 48 hours to cure the default and clean the area to the satisfaction of department staff. If the default is not cured within the 48 hours allowed, the \$2500.00 deposit may be forfeited.

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. No comments were solicited from other government agencies or community agencies because there is no change to the use of the area from prior years. 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 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. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Dan K. Gushiken
Land Agent

APPROVED FOR SUBMITTAL:

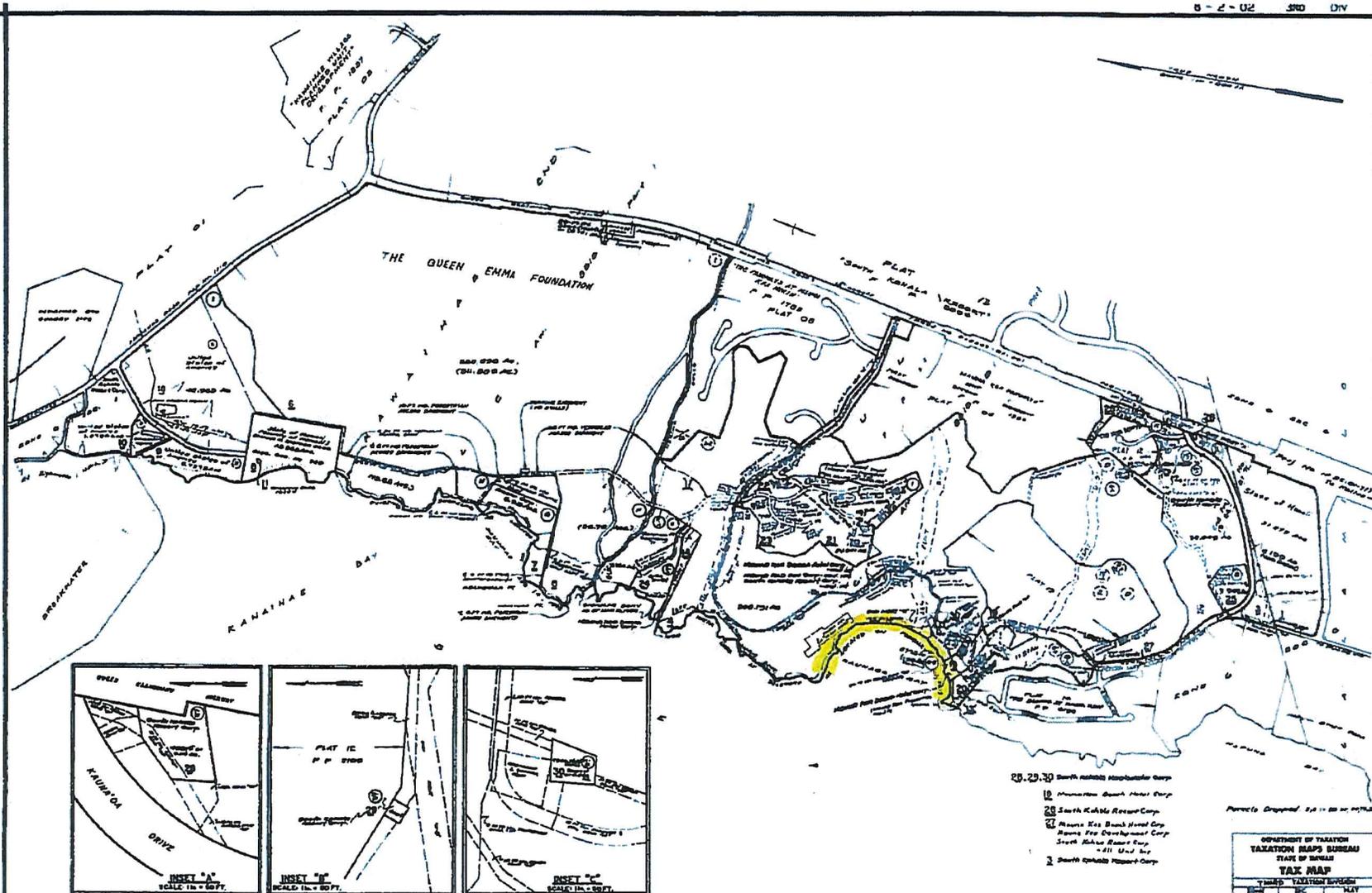


Suzanne D. Case, Chairperson

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EXHIBIT A

6-2-02 SRD DRY



- 25.29.30 South Kohala Hospital Corp
- 10 Mountain View Hotel Corp
- 28 South Kohala Resort Corp
- 27 Hawaii Koa Bank Hotel Corp
- 26 Hawaii Koa Bank Hotel Corp
- 25 South Kohala Resort Corp

Parcels Dropped 24, 25, 26, 27, 28, 29, 30

DEPARTMENT OF TAXATION TAXATION MAPS BUREAU STATE OF HAWAII		
TAX MAP		
TAXED	TAXATION DIVISION	DATE
6	2	02
SCALE: 1" = 600 FT.		

FOR OULI & KAWAINAE 2nd, WAIMEA, SOUTH KOHALA, HAWAII (Formerly plat 6-2-01)

FOR REAL PROPERTY TAXATION PURPOSES
SUBJECT TO CHANGE

EXHIBIT A-1



Approximate Area of Firing Site (Circled in Yellow)

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
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 Revocable Permit to Hawaii Explosives & Pyrotechnics, Inc.

Project Number: PSF No. 16HD-110

Project Location: Ouli, Waimea, South Kohala, Hawaii Tax Map Key: (3) 6-2-002: portion seaward of 004

Project Description: Aerial Fireworks Display for Porter-Lyon Wedding at Mauna Kea Beach's Kauna`oa Beach on October 29, 2106

Chapter 343 Trigger(s): Use of State land

Consulted Parties: Office of Conservation and Coastal Lands (OCCL)

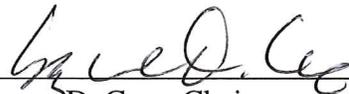
Exemption Class No.: In accordance with Hawai'i Administrative Rules Section 11-200-8 and the "Exemption List for the State of Hawaii, Department of Land and Natural Resources, as Reviewed and Concurred Upon by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No.1, Item 51, which states "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 display 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.

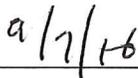
EXHIBIT B

Recommendation:

It is recommended that the Board find that the issuance of a revocable permit 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.



Suzanne D. Case, Chairperson



Date

