

State of Hawaii  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of Boating and Ocean Recreation  
Honolulu, Hawaii 96819

January 13, 2017

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

**Declare Project Exempt From Requirements of Chapter 343, HRS, and Title 11,  
Chapter 200, Hawaii Administrative Rules**

**Installation of Offshore Mooring for Pyro Spectaculars North, Inc.  
Kihei, Maui, Hawaii**

The Division of Boating and Ocean Recreation (DOBOR) is requesting that the Board of Land and Natural Resources (Board) declare installation of the subject offshore mooring exempt from the requirements of Hawaii Revised Statutes, Chapter 343 to prepare an Environmental Assessment (EA), due to the use of submerged State land and the proposed offshore mooring being located outside of the existing Kihei Offshore Mooring Zone as required by HAR 13-235-9.

In accordance with Hawaii Administrative Rule (HAR) Section 11-200-8(A) and the Exemption List for the Department of Land and Natural Resources (DLNR), Approved by the Environmental Council, on June 5, 2015, this project is exempt from the preparation of an EA pursuant to the following exemptions:

Item No. 13 of Exemption Class 6: "Placement or construction of accessory structures such as...mooring buoys, blocks, and piles, and other similar structures accessory to existing facilities on state land and waters."

Pursuant to Chapter 343, HRS, and Chapter 11-200, HAR, the attached Exemption Notification labeled Exhibit A was prepared. Also attached is the applicant's request for EA Exemption approval, labeled Exhibit B, the approved Mooring Installation Plan, labeled Exhibit C, and the U.S. Army Corps of Engineers Letter of Permission authorizing installation of the mooring in navigable waters of the U.S., labeled Exhibit D.

**RECOMMENDATION**

Declare that, after considering the potential effects of the proposed project 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.

Respectfully submitted,



EDWARD R. UNDERWOOD  
Administrator

Approved For Submittal:



SUZANNE D. CASE  
Chairperson

Attachments: Exhibit A – Exemption Notification  
Exhibit B – Applicant's Request for EA Exemption  
Exhibit C – Approved Mooring Installation Plan  
Exhibit D – U.S. Army Corps of Engineers Letter of Permission

DAVID Y. IGE  
GOVERNOR OF HAWAII



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

KEKOA KALUHIWA  
FIRST DEPUTY

JEFFREY T. PEARSON  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LAND  
CONSERVATION AND RESOURCES EMERGENCY  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

January 13, 2017

**EXEMPTION NOTIFICATION**

Regarding the preparation of an environmental assessment pursuant to Chapter 343, Hawaii Revised Statutes (HRS), and Chapter 11-200, Hawaii Administrative Rules (HAR).

Project Title:	Installation of Offshore Mooring for Pyro Spectaculars North, Inc., Kihei, Maui, Hawaii
Project Number:	None
Project Description:	Installation of an offshore mooring for a fireworks barge.
Chapter 343 Trigger(s)	Use of State Lands (submerged)
Exemption Class & Description:	Exemption Authority: Exemption List for the Department of Land and Natural Resources approved by the Environmental Council on June 5, 2015. Scope of Work: Installation of offshore mooring. Exemption Class 6: Construction or placement of minor structures accessory to existing facilities.
Exemption Item Number and Description:	Item No. 13 of Class 6: Placement or construction of accessory structures such as utility sheds, storage or maintenance sheds, office trailers, trash enclosures, comfort stations or sanitation facilities and related individual wastewater disposal systems, bus shelters, pavilions or picnic shelters, parking and fee collection facilities, checking stations, interpretive kiosks and displays, dock boxes, mooring cleats, bumpers, and mooring buoys, blocks and piles, and other similar structures accessory to existing facilities on state lands or waters.
Consultation:	The following agencies/entities were consulted, see attached records of consultation. <ul style="list-style-type: none"> <li>U.S. Army Corps of Engineers, Honolulu District</li> </ul>
Recommendation:	It is anticipated this project will 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

1/13/17  
Date

## EXHIBIT B

Request for Approval of Installation of New Commercial Offshore Mooring  
Outside Existing Kihei Offshore Mooring Zone

and

Request for Exemption from Environmental Assessment Requirement

Submitted in compliance with

Hawaii Revised Statutes Chapter 343 and HAR §§11-200-8; 11-200-8(b)

Submitted to:

Board of Land & Natural Resources

State of Hawaii, Department of Land & Natural Resources (DLNR)

Division of Boating and Ocean Recreation

4 Sand Island Access Road

Honolulu, HI 96819

Email: [finn.d.mccall@hawaii.gov](mailto:finn.d.mccall@hawaii.gov)

Phone: (808) 587-3250

Submitted by:

Mr. Dan Ramsauer, Hawaii Operations Manager

Pyro Spectaculars North, Inc.

Email: [dramsauer@pyrospec.com](mailto:dramsauer@pyrospec.com)

Phone: (408) 859-7478

Request 1

Pyro Spectaculars North, Inc., (hereinafter referred to as "Petitioner") requests approval of the Board of Land and Natural Resources to place new commercial mooring in Maalaea Bay off Kihei, Maui outside of the existing Kihei Mooring Zone for reasons described herein-below.

Request 2

Petitioner requests exemption from requirement for environmental assessment report associated with the proposed mooring installation, as the proposed mooring will have little or no environmental impact, as discussed herein-below.

Reasoning and Justification for Requests

A) Mooring Placement Outside Existing Kiehei Mooring Zone

Petitioner requests placement of the below described new commercial offshore mooring outside the existing Kiehi Mooring Zone (hereinafter, the "KMZ") for the following reasons:

- 1) The proposed installation outside the KMZ has been approved by the State of Hawaii, Office of Planning, Department of Business, Economic Development, and Tourism (DBEDT), Hawaii Coastal Zone Management (CZM) Program and the Army Corp of Engineers.

- 2) Water depths within the existing KMZ (approximately 20 feet) are too shallow to safely moor a vessel. Currently there are only marker buoys in the existing KMZ for paddlers.
- 3) Placement of the mooring within the KMZ could subject the vessel to damage or destruction in severe weather conditions and large swells due to the shallow depth within the KMZ.
- 4) Placement of the mooring within the KMZ could subject the shallow bottom within the KMZ to disturbance in severe weather conditions.
- 5) No moorings currently exist within the KMZ due to the shallow depth within the KMZ.
- 6) Currently approximately 20 existing moorings within Maalaea Bay off Kihei are located outside the KMZ due to the above-stated conditions. Enclosed is a partial list of existing mooring locations.
- 7) The proposed location provides sufficient depth to fully mitigate the likelihood of damage to the vessel during severe weather conditions.

**B) Environmental Assessment Exemption**

- 1) Petitioner requests exemption from requirement for environmental assessment report associated with the proposed mooring installation, as the proposed installation will have little or no impact on the environment in the proposed location.
- 2) The current Exemption List for the Department of Land and Natural Resources, dated June 5, 2015, provides as follows under Exemption Class 6:

“13. Placement or construction of accessory structures such as...mooring cleats, bumpers, and mooring buoys, blocks, and piles, and other similar structures accessory to existing facilities on state lands and waters.”

**Project Description**

Installation of a new commercial offshore mooring buoy in the Kihei Offshore Mooring Zone located in Maalaea Bay off Kihei, Island of Maui, Hawaii.

**Technical Description of Proposed Installation** – MANTA RAY® anchor, a patented labor and time saving device, will be driven into the ground with no holes, no digging and no concrete. Unlike other anchoring systems, the MANTA RAY actually compacts the soil around itself providing a safe and environmentally sensitive installation. MANTA RAY anchors are driven with conventional hydraulic/pneumatic equipment that is readily available worldwide. Once driven to the proper depth, an upward pull on the anchor tendon rotates the MANTA RAY into a perpendicular “anchor lock” position in undisturbed soil. The mooring anchor will be installed by Maui Mooring Service, approved by NOAA and the Army Corps of Engineers.

**Location of Proposed Installation** – The proposed mooring buoy would be located at center coordinates: Latitude 20.78358 and Longitude -156.47413. This location is approximately 3200 feet from the nearest shore.

**Purpose of Proposed Installation** – The proposed mooring will be used by Pyro Spectaculars North, Inc. solely for the purpose of mooring an 18’X39’ aluminum decked fireworks display

barge. No fireworks, fireworks related equipment, or volatile materials of any kind will be stored at the mooring location. No fireworks will be discharged at the mooring location.

Commercial Activities Associated with Project – Pyro Spectaculars North, Inc. is a public-display fireworks company that provides professional fireworks displays throughout the world. Pyro Spectaculars will use the mooring location for mooring an aluminum decked fireworks display barge which will be utilized for the firing of public and private fireworks displays at various offshore locations near the island of Maui.

Impact on Coastal Ecosystems - NEGLIGIBLE

The proposed mooring site is approximately 3200 feet from the nearest shore and is not within the Special Management Area or Shoreline Setback Area, nor is the site within a State Conservation District. This site does not provide habitat for any known endangered species of plants, birds, or mammals. The site is not within, and does not abut any National Area Reserve, Marine Conservation District, or estuary. The site is not on or close to any reef or coral colonies.

No material will be placed or discharged in the project area. A MANTA RAY anchor will be utilized in order to protect the natural resources in the area. The MANTA RAY anchor is an environmentally friendly anchor system that installs easily underwater with conventional equipment. No dredge or fill activities will be involved in the installation of the MANTA RAY mooring anchor.

Impact on Marine Resources – NONE

The proposed mooring does not involve or affect the use or development of any marine or coastal resources.

Impact on Historic Resources – NONE

The project site is not within a designated historic or cultural district and has not been listed or nominated for the Hawaii or National Register of Historic Places. The proposed project site contains no known historic or archeological resources and is not within or adjacent to any Hawaiian fishpond or historic settlement area.

Impact on Scenic and Open Space Resources - NEGLIGIBLE

No structure will be located at the proposed mooring location. The only visible portion of the proposed mooring will be the float and the fireworks barge itself when attached to the mooring.

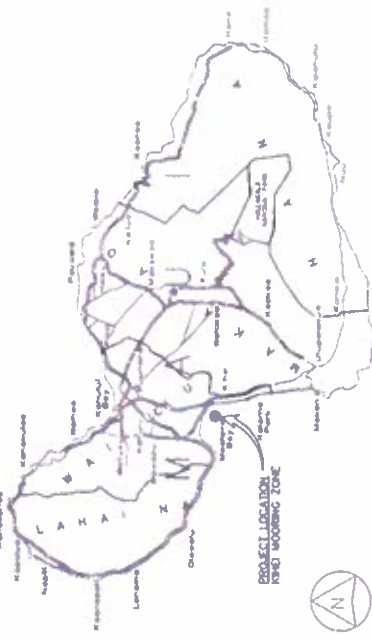
Enclosure: As Stated.

US Army Corps of Engineers  
 Honolulu District Regulatory Office  
 Received by POH (District Office)  
 Date: August 1, 2016  
 ENCLOSURE 1

EXHIBIT C

OFFSHORE MOORING - KIHEI MOORING ZONE  
 FOR DAN RAMSAUER - PYRO SPACTACULARS NORTH, INC.

GPS COORDINATES OF MOORING : 20°47.015'N, 156°28.445'W  
 APPROXIMATE WATER DEPTH : 37'



SCALE IN MILES  
 0 1 2

VICINITY MAP

Department of Land and Natural Resources  
 Division of Boating and Ocean Recreation  
 PLUM REVIEWER

Approved  
 Rejected  
 F. McCall

Date: 10/10/16  
 Comments, comments or approval of plans and not return the contractor from their local, state, federal or other agency regulations or permit conditions. This review is for general conformance with engineering design guidelines. The contractor is responsible for complying all department, division requirements, and coordination with all other tasks.

GENERAL NOTES  
 1. All drawings shall be prepared in accordance with the standards of the American Society of Civil Engineers (ASCE) and the International Standards Organization (ISO).  
 2. All drawings shall be prepared in accordance with the standards of the American Society of Mechanical Engineers (ASME) and the International Standards Organization (ISO).  
 3. All drawings shall be prepared in accordance with the standards of the American Society of Mechanical Engineers (ASME) and the International Standards Organization (ISO).



Dan Ramsauer  
 Professional Engineer  
 License No. 15000  
 State of Hawaii

PHREE  
 CREATIONS, LLC.  
 61-433 CALENDAR RD. MOORE  
 HAWAII, HONOLULU HI 96813-1000 349-4600

PROPOSED  
 OFFSHORE MOORING  
 KIHEI MOORING ZONE  
 FOR:  
 DAN RAMSAUER  
 PYRO SPACTACULARS NORTH, INC.  
 PHONE: (424) 899-7187

DPS COORDINATES 20°47.015'N  
 156°28.445'W

SHEET TITLE  
 TITLE SHEET

DATE: AUGUST 1, 2016 SHEET: 1 OF 2



NOTE: FOR MOORING ZONE AS DETECTED BY NAVAL COMPOSITE BATHY (83-216-54) WILL BE REVISED IN THE FUTURE TO ACCOMMODATE VESSELS MOORED OUTSIDE OF THE CURRENTLY DETECTED ZONE.

LOCATION MAP

INDEX TO DRAWINGS

SHEET NUMBER	DRAWING NUMBER	DESCRIPTION
1	T-1	TITLE, INDEX TO DRAWINGS, AND VICINITY MAP
2	S-1	MOORING PLAN





# EXHIBIT D



DEPARTMENT OF THE ARMY  
HONOLULU DISTRICT, U.S. ARMY CORPS OF ENGINEERS  
FORT SHAFTER, HAWAII 96858-5440

October 14, 2016

SUBJECT: Final Letter of Permission for Pyro Spectaculars North Permanent Offshore Mooring Buoy, Maalaea Bay, Island of Maui, Hawaii; DA File No. POH-2016-00169

Mr. Dan Ramsauer  
Pyro Spectaculars North  
5201 Lang Avenue  
McClellan, CA 95652

Dear Mr. Ramsauer:

This is in reference to your request for a Department of the Army (DA) permit to perform work in or affecting waters of the United States. If you determine the permit provided is acceptable in its entirety and you have chosen to proceed with the authorized activity, then upon recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), you are authorized under a Letter of Permission (LOP) to install a permanent commercial mooring buoy for a fireworks display barge off Kihei, in Maalaea Bay, Island of Maui, Hawaii. The proposed mooring buoy would be located at center coordinates: Latitude 20.78358 and Longitude -156.47413.

The project must be completed in accordance with the enclosed project plans (Enclosure 1), and the general and special conditions which are incorporated in, and made a part of, the permit.

## **PERMIT CONDITIONS:**

### **General Conditions:**

1. The time limit for completing the work authorized ends on **October 14, 2021**. If the work authorized is not completed on or before this date, authorization, if not previously revoked or specifically extended, shall cease and be null and void. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one (1) month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to

abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner on the permit transfer form (Enclosure 2) and forward a copy of this form and this LOP letter to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit.
6. If a conditioned Coastal Zone Management Consistency Determination has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit.
7. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

**Special Conditions:**

1. Your use of the permitted activity must not interfere with the public's right to free navigation on all navigable waters of the United States.
2. You must install and maintain, at your expense, any safety lights and signals prescribed by the United States Coast Guard (USCG), through regulations or otherwise, on your authorized facilities. The USCG may be reached at the following address and telephone number: U.S. Coast Guard, Sector Honolulu, 433 Ala Moana Boulevard, Pier 4, Honolulu, Hawaii 96813. You can contact the USCG via email at [Nicolas.A.Jarboe@uscg.mil](mailto:Nicolas.A.Jarboe@uscg.mil). and/or [Kensley.raigeluw@uscg.mil](mailto:Kensley.raigeluw@uscg.mil).
3. The permittee understands and agrees that if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required upon due notice from the Corps of Engineers to remove, relocate, or alter the structural work

or obstructions caused thereby without expense to the United States. No claim shall be made against the United States on account of any such removal or alternation.

4. A signed certification be submitted to this office upon completion of work. Therefore, please sign, date and return a scanned copy of the enclosed Compliance Certification form (Enclosure 3) within seven (7) days of completion of work to [CEPOH-RO@usace.army.mil](mailto:CEPOH-RO@usace.army.mil) and/or to [Katy.R.Damico@usace.army.mil](mailto:Katy.R.Damico@usace.army.mil) .

**Project Specific Conditions:**

1. For compliance with Section 7 of the Endangered Species Act: You must comply with the attached best management practices (BMPs) to avoid effects to threatened or endangered marine species (Enclosure 4).
2. For compliance with Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act:
  - (a) You should install the manta anchors only in sandy areas devoid of corals, seagrass, and *Halimeda* algae.
  - (b) You should, as specified in the State of Hawaii Division of Boating and Ocean Recreation's (DOBOR) Permanent mooring agreement, maintain the mooring buoy and once it is no longer needed, be fully responsible for removing all components of the mooring so it does not become marine debris. This will avoid any impact to nearby resources from broken derelict buoy materials.
  - (c) In the long-term maintenance of the mooring, you should ensure that the barge be maintained and not become disassociated from the mooring and thereby act as marine debris. This will avoid any impact to nearby resources from derelict material/marine debris from the barge.
  - (d) You should have plans in place to avoid discharge of pollutants from long-term mooring of the barge. This will avoid a contribution to reduced water quality of the water column habitat in the area.
3. You may conducted maintenance, repair and/or replacement of the existing mooring gear (i.e. chains, ropes, floats, shackles, etc.), as deemed necessary, without obtaining any additional written authorization from this office until the expiration date stated in General Condition 1 above. Although written authorization is not required from this office for maintenance activities associated with this existing mooring buoy, we recommend use of Best Management Practices to avoid and minimize adverse impacts to aquatic resources.

This letter contains an initial proffered permit for your proposed project/permit application. If you object to certain terms and conditions contained within the permit, you may request that the permit be modified. Enclosed you will find a Notification of Administrative Appeal Options and Process fact sheet and Request for Appeal (RFA) form (Enclosure 5). If you choose to object to certain terms and conditions of the permit,

you must follow the directions provided in Section 1, Part A and submit the completed RFA form to the letterhead address.

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria under 33 CFR Part 331.5, and that it has been received by the District office within 60 days of the date of the RFA. Should you decide to submit an RFA form, it must be received at the letterhead address by 60 days from the date of this letter.

Thank you for your cooperation with the Honolulu District Regulatory Program. Should you have any questions related to this permit, please contact me via telephone at (671) 339-2108 or (808) 835-4160 or via e-mail at [Katy.R.Damico@usace.army.mil](mailto:Katy.R.Damico@usace.army.mil). You are encouraged to provide comments on your experience with the Honolulu District Regulatory Office by accessing our web-based customer survey form at [http://corpsmapu.usace.army.mil/cm\\_apex/f?p=136:4:0](http://corpsmapu.usace.army.mil/cm_apex/f?p=136:4:0).

REVIEWED AND APPROVED FOR THE COMMANDER, JAMES D. HOYMAN,  
LIEUTENANT COLONEL, U.S. ARMY, DISTRICT ENGINEER:



(FOR DISTRICT COMMANDER)  
Katy R. Damico  
Project Manager  
Honolulu District Regulatory Branch

Enclosures

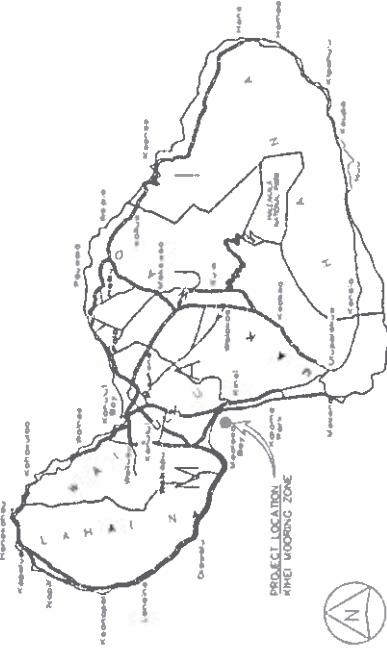
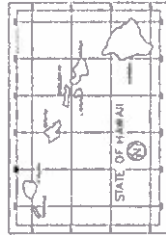
cc:

Mr. John Nakagawa, State of Hawaii DBEDT Office of Planning  
Mr. Edward Underwood, DLNR-DOBOR  
Mr. Finn McCall, DLNR-DOBOR  
Mr. Nick Jarobe, U.S. Coast Guard, Sector Honolulu  
Mr. Randy McIntosh, NOAA Protected Resources Division  
Mr. Stuart Goldberg, NOAA Habitat Conservation Division

US Army Corps of Engineers  
 Honolulu District Regulatory Office  
 2225 Kalanianaʻaʻole Highway  
 Honolulu, HI 96819  
 Date: August 1, 2016  
 ENCLOSURE 1

# OFFSHORE MOORING - KIHEI MOORING ZONE FOR DAN RAMSAUER - PYRO SPACTACULARS NORTH, INC.

GPS COORDINATES OF MOORING : 20°47.015'N, 156°28.448'W  
 APPROXIMATE WATER DEPTH : 37'



SCALE IN MILES  
 0 1 2 3 4

VICINITY MAP



NOTE: KIHEI MOORING ZONE AS DEFINED BY MARINE ADMINISTRATIVE RULES (813-230-63) WILL BE REVISED IN THE FUTURE TO ACCOMMODATE VESSELS MOORED OUTSIDE OF THE CURRENTLY DEFINED ZONE.

LOCATION MAP

INDEX TO DRAWINGS	
SHEET NUMBER	DESCRIPTION
1	T-1 TITLE, INDEX TO DRAWINGS, AND VICINITY MAP
2	S-1 MOORING PLAN

**PHREE CREATIONS, LLC.**  
 61155 KAMEHAMEHA HIGHWAY  
 HALENNA, HAWAII 96712 • (808) 345-6700



*Phree Creations, LLC*  
 1000 KALANIANAʻOLE BLVD, SUITE 100  
 HONOLULU, HI 96813  
 TEL: (808) 345-6700  
 FAX: (808) 345-6701  
 WWW.PHREECREATIONS.COM

**GENERAL NOTES**  
 1. THIS DRAWING IS THE PROPERTY OF PHREE CREATIONS, LLC. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON.  
 2. ANY REVISIONS TO THIS DRAWING MUST BE APPROVED BY PHREE CREATIONS, LLC.  
 3. THE USER OF THIS DRAWING SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.  
 4. THE USER OF THIS DRAWING SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY SURVEY DATA AND INFORMATION.  
 5. THE USER OF THIS DRAWING SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INFORMATION FROM THE APPROPRIATE AGENCIES.  
 6. THE USER OF THIS DRAWING SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INFORMATION FROM THE APPROPRIATE AGENCIES.

REVISION NUMBER DATE DESCRIPTION

PROPOSED  
 OFFSHORE MOORING  
 KIHEI MOORING ZONE  
 FOR:

**DAN RAMSAUER**  
 PYRO SPACTACULARS NORTH, INC.  
 PHONE: (408) 859-7487

GPS COORDINATES 20°47.015'N  
 156°28.448'W

**TITLE SHEET**

FILE NO. 2015-00012 DRAWING NO.  
 SHEET T-1  
 DATE MARCH 24, 2016 SHEET 1 OF 2





**US Army Corps of Engineers, Honolulu District**  
**DEPARTMENT OF THE ARMY PERMIT**  
**PERMIT TRANSFER**

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**File Number: POH-2016-00169**  
**Project Title: Pyro Spectaculars North Permanent Offshore Mooring Buoy,**  
**Maalaea Bay, Island of Maui, Hawaii**  
**Subject: Department of the Army Permit Property Transfer**

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**PROPERTY TRANSFER:** When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

**PERMIT TRANSFEREE:**

\_\_\_\_\_  
Permittee/Transferee Signature

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Permittee Name (Please Print)

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, and Zip Code

**NEW PROPERTY OWNER:**

\_\_\_\_\_  
New Permittee/Property Owner Signature

\_\_\_\_\_  
DATE

\_\_\_\_\_  
New Permittee/Property Owner Name (Please Print)

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, and Zip Code



**US Army Corps of Engineers, Honolulu District**

**DEPARTMENT OF THE ARMY PERMIT**  
**COMPLIANCE CERTIFICATION**

---

**File Number: POH-2016-00169**  
**Project Title: Pyro Spectaculars North Permanent Offshore Mooring Buoy,**  
**Maalaea Bay, Island of Maui, Hawaii**  
**Subject: Department of the Army Permit Compliance Certificate**

---

**PERMIT TYPE:** Letter of Permission (LOP)

**NAME OF PERMITTEE:** Mr. Dan Ramsauer / Pyro Spectaculars North

**DATE OF ISSUANCE:** Provisional LOP: September 23, 2016  
Final LOP: October 14, 2016

**DATE OF EXPIRATION:** October 14, 2021

The permittee must, upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address or via email within seven (7) days of completion of work:

Honolulu District US Army Corps of Engineers  
Regulatory Office  
Building 230, CEPOH-RO  
Fort Shafter, HI 96858-5440  
Email: [CEPOH-RO@usace.army.mil](mailto:CEPOH-RO@usace.army.mil)

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with the terms and conditions of this permit, you are subject to permit suspension, modification or revocation.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit conditions.

\_\_\_\_\_  
Signature of Permittee

\_\_\_\_\_  
Date



**Proposed Best Management Practices:**

1. Constant vigilance shall be kept for the presence of non-coral ESA-listed marine species (sea turtles and/or marine mammals) during all aspects of the permitted action.

a) A responsible party, i.e., permittee/site manager/project supervisor, shall designate a competent observer to search/monitor work sites and the areas adjacent to the authorized work area for ESA-listed marine species;

b) Searches and monitoring shall be made prior to the start of work each day, including prior to resumption of work following any break of more than one-half hour. Additional periodic searches and monitoring throughout the work day are strongly recommended;

c) All in-water work will be postponed or halted when ESA-listed marine species are within 50 yards of the proposed work, and will only begin/resume after the animals have voluntarily departed the area, with the following exception: if ESA-listed marine species are noticed within 50 yards after work has already begun, that work may continue only if, in the best judgment of the responsible party, the activity is unlikely disturb or harm the animal(s), for example, divers performing surveys or underwater work (excluding the use of toxic chemicals) is likely safe, the use of heavy machinery is not;

d) Special attention will be given to verify that no ESA-listed marine species are in the area where equipment or material is expected to contact the substrate before that equipment may enter the water;

e) All objects will be lowered to the bottom (or installed) in a controlled manner. This can include the use of buoyancy controls such as lift bags, or the use of cranes, winches, or other equipment that affect positive control over the rate of descent;

f) In-water tethers, as well as mooring lines for vessels and marker buoys shall be kept to the minimum lengths necessary, and shall remain deployed only as long as needed to properly accomplish the required work;

g) When piloting vessels, vessel operators shall alter course to remain at least 100 yards from whales, and at least 50 yards from other marine mammals and sea turtles;

h) Reduce vessel speed to 10 knots or less when piloting vessels at or within the ranges described above from marine mammals and sea turtles. Operators shall be particularly vigilant to watch for sea turtles at or near the surface in areas of known or suspected activity, and if practicable, reduce vessel speed to 5 knots or less;

i) If, despite efforts to maintain the distances and speeds described above, a marine mammal or sea turtle approaches the vessel, the engine will be put into neutral until the animal is at least 50 feet away, and then will be slowly moved away to the prescribed distance;

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND  
REQUEST FOR APPEAL**

Applicant: Mr. Dan Ramsauer/Pyro Spectaculars North		File Number: POH-2016-00169	Date: 14-OCT-2016
Attached is:			See Section below
X	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
X	PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
	PERMIT DENIAL	C	
	APPROVED JURISDICTIONAL DETERMINATION	D	
	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

**SECTION I -** The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/appeals.aspx> or Corps regulations at 33 CFR Part 331.

**A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.**

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

**B: PROFFERED PERMIT: You may accept or appeal the permit**

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**C: PERMIT DENIAL:** You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**D: APPROVED JURISDICTIONAL DETERMINATION:** You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**E: PRELIMINARY JURISDICTIONAL DETERMINATION:** You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

**SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

**REASONS FOR APPEAL OR OBJECTIONS:** (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

**ADDITIONAL INFORMATION:** The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION:**

If you have questions regarding this decision and/or the appeal process you may contact:  
Honolulu District, U.S. Army Corps of Engineers  
Regulatory Office, CEPOH-RO  
Building 230  
Fort Shafter, Hawaii 96858-5440  
Phone: (808) 835-4303

If you only have questions regarding the appeal process you may also contact:  
Dr. Linda Hihara-Endo  
Acting Regulatory Program Manager  
U.S. Army Corps of Engineers  
Building 525  
Fort Shafter, HI 96858-5440  
808-835-4621

**RIGHT OF ENTRY:** Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

\_\_\_\_\_  
Signature of appellant or agent.

Date: \_\_\_\_\_

Telephone number: \_\_\_\_\_

