

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

April 22, 2022

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

PSF No.: 22MD-023

MAUI

Issuance of Right-of-Entry Permit to Pyro Spectaculars North, Inc. for Aerial Fireworks Display on May 2, 2022 at Fleming Beach, Honolua, Lahaina, Maui, Tax Map Key: (2) 4-2-004: seaward of 016.

APPLICANT:

Pyro Spectaculars North, Inc.

LEGAL REFERENCE:

Section 171-55, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands situated at Fleming Beach, Honolua, Lahaina, Maui, identified by Tax Map Key: (2) 4-2-004: seaward of 016, as shown on the attached map labeled Exhibit A.

AREA:

400 square feet, more or less, a safety zone of 75 feet radius, and a fallout zone of approximately 280 feet radius around the firing site at the time of the display.

ZONING:

State Land Use District:	Conservation
Maui LUO:	Not zoned

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Unencumbered beach.

CHARACTER OF USE:

Set up and firing of aerial fireworks display.

TERM:

Between 10:00 a.m. to 11:59 p.m., Monday, May 2, 2022.

RENTAL:

\$2,266.23 (One-time payment. See Remarks Section for breakdown of costs).

COLLATERAL SECURITY DEPOSIT:

None.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Section 11-200.1-15, Hawaii Administrative Rules (HAR), and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to General Exemption Type 1, Part 1, Item 44, 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." The request is a de minimis action that will probably have minimal or no significant effect on the environment and should be declared exempt from the preparation of an environmental assessment and the requirements of §11-200.1-17, HAR.

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>

APPLICANT REQUIREMENTS:

Applicant shall be required to:

1. Obtain all permits and approvals from the County of Maui required for the use of D.T. Fleming Beach Park, if any; and

2. Post a deposit of \$2,500 to ensure timely clean-up after the event described above. Payment shall be in the form of a certified check payable to the Department of Land and Natural Resources. The deposit may be held by the Department for up to seven (7) days after the scheduled fireworks event, and if not forfeited under the conditions discussed below, will be returned to permittee.

REMARKS:

Pyro Spectaculars North, Inc. (PSN) is requesting the issuance of a right-of-entry permit for the set-up and firing of a fireworks display on the unencumbered beach fronting D.T. Fleming Beach Park for a special event fireworks display occurring on May 2, 2022. PSN is requesting the use of 400 square feet of State land to set-up a platform for the staging and firing of the fireworks. The right-of-entry duration will be from 10:00 a.m. to 11:59 p.m., Monday, May 2, 2022. The fireworks show is scheduled to begin at 9:50 p.m. and end no later than 10:00 p.m.

At approximately 10:30 a.m. a safety zone of about 75' radius will be established around the mortar racks. Before loading and wiring of all pyrotechnic effects, the area will be cleared and cordoned off. Private Security will arrive at approximately 7:30 p.m. to monitor the restricted area and strictly limit access to authorized company personnel directly related to display. PSN will use a small utility vehicle, a Kawasaki Mule Side by Side, to transport mortar racks, firing equipment, safety equipment, barricade tape and t-posts to and from the firing site.

Staff is recommending a permit fee of \$2,266.23 based on the following calculation.

Setup area and safety zone radius of 75' = 150' diameter = 17,662.25 square feet (SF).
 $17,662.25 \text{ SF} \times \$0.10 \text{ per SF per day} = \$1,766.23 + \$500 \text{ showtime exclusive use fallout zone fee} = \underline{\$2,266.23} \text{ Total.}$

\$500 is a flat fee to cover the exclusive use of the fallout zone, during the fireworks show, as shown on Exhibit B. Also shown on Exhibit B is the path that the utility vehicle will traverse to the firing site.

In addition, PSN will be required to comply with the standard terms and conditions for rights-of-entry for fireworks displays including, without limitation, submission to the Department of satisfactory evidence of post-event clean-up, consisting of: (i) date-stamped photographs of the premises taken during the daytime on the day of the event and on the day immediately following the event; (ii) a certification regarding the clean-up of the premises in the form used for these types of events completed by PSN; and (iii) a certification regarding the clean-up of the premises in the form used for these types of events completed by the property owner or operator who contracted for the event, or who accommodated guests who contracted for the event.

The DLNR Division of Aquatic Resources was asked to comment on this submittal. They did not see a problem with a small utility vehicle on the beach because this type of event is infrequent. Applicant is advised to be careful not to disturb resting turtles or monk seals if they are present. The bigger concern with coastal fireworks displays is the fallout into the ocean. This becomes more of a concern the more often the displays are put on. Applicant indicated to MDLO staff that they do not have future plans for more fireworks shows at this location.

On Tuesday March 29, 2022, District Land Agent, Daniel Ornellas, conducted a site inspection of the proposed launch site to be located along the shoreline fronting the restroom area of the County of Maui, Department of Parks and Recreation, DT Flemings Beach Park, situate at TMK (2) 4-2-004:016 in Kapalua. Ornellas met with on-duty Lt. Jeff of the Maui Fire Department's Division of Ocean Safety to discuss if there were any concerns with the proposed launch site and ongoing ocean safety operations. The proposed launch site is located south of where lifeguard services and equipment are provided. Furthermore, Ocean Safety personnel stated that past firework events have not led to any significant adverse impacts to ocean safety operations or use of or access to the public beach in general during standard ocean safety operating hours.

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. Staff does not have any objection to this request.

RECOMMENDATION: That the Board:

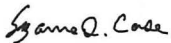
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment as a de minimis action.
2. Authorize the issuance of a right-of-entry permit to Pyro Spectaculars North, 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. One (1) small utility vehicle is allowed during the duration of the right-of-entry; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



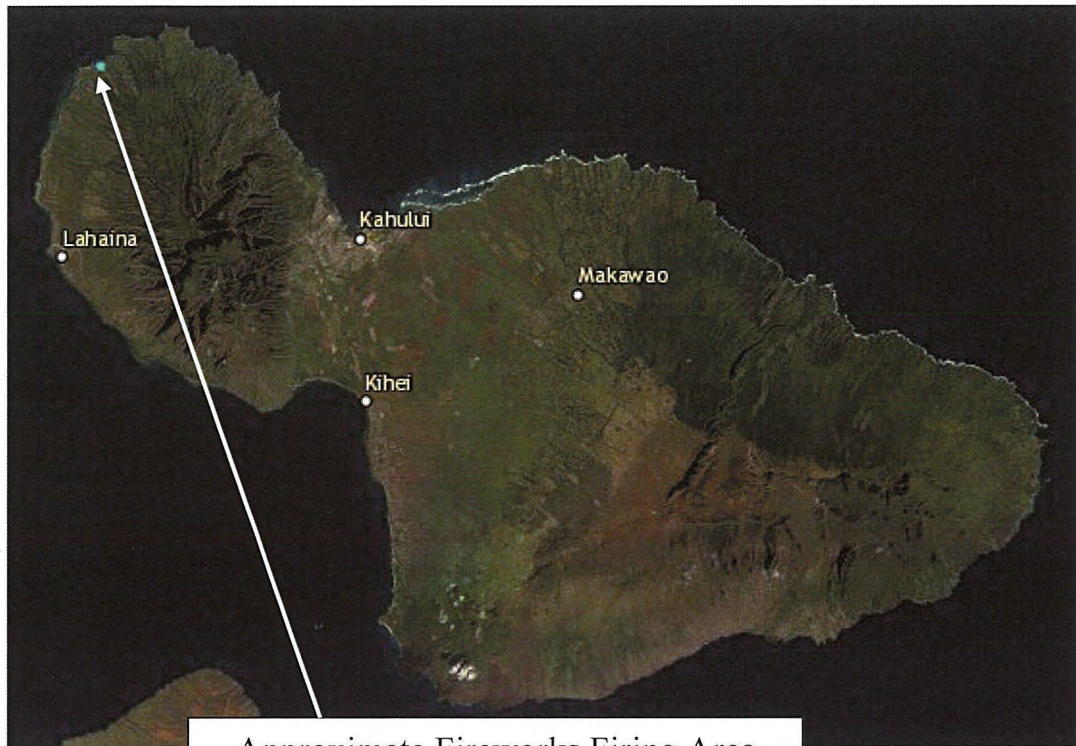
Seiko Machida
Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson





Approximate Fireworks Firing Area
TMK: (2) 4-2-004: seaward of 016



EXHIBIT A



Mule Path to Site
Red line is the path to the setup site that we used on past shows at this location. We always avoid people on the beach.

