

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

May 13, 2022

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

PSF No.: 22KD- 024

KAUAI

Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Displays on June 12, 2022 and May 26, 2022 at Shipwreck Beach, Paa, Koloa, Kauai, Tax Map Key: (4) 2-9-001: seaward of 002.

APPLICANT:

Hawaii Explosives & Pyrotechnics, Inc.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands situated at Shipwreck Beach, Paa, Koloa, Kauai, Tax Map Key: (4) 2-9-001: seaward of 002, as shown on the attached map labeled **Exhibit A**.

AREA:

500 square feet, more or less, for the firing rack and a safety zone with an area of approximately 13,500 square feet surrounding the firing site at the time of the display.

ZONING:

State Land Use District:	Conservation
County of Kauai CZO:	RR10

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:

Safety buffer zone for aerial fireworks display.

TERM:

Between 12:00 p.m. to 11:59 p.m., Thursday, May 26, 2022 and between 12:00 p.m. to 11:59 p.m., Sunday, June 12, 2022.

RENTAL:

\$1,100.00 (One-time payment; \$550 per display). See Remarks Section for breakdown of costs.

COLLATERAL SECURITY DEPOSIT:

\$2,500.00 per display.

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 post a deposit of \$2,500 to ensure timely clean-up after each 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:

Hawaii Explosives & Pyrotechnics, Inc. (HEP) is requesting the issuance of a right-of-entry permit for use as a buffer/safety zone during the firing of fireworks displays on the unencumbered beach fronting the Grand Hyatt Resort for special events fireworks displays occurring on May 26 and June 12, 2022. HEP is requesting the use of 500 square feet of State land to set up the firing rack required for the display and approximately 13,500 square feet for a safety zone while firing the fireworks. The event duration will be from 12:00 p.m. to 11:59 p.m., Thursday, May 26, 2022 and between 12:00 p.m. to 11:59 p.m., Sunday, June 12, 2022.

At the April 8, 2022 Land Board meeting, under item number D-3, the pyrotechnic company for a Maui event required an exclusive use of a safety zone (excluding the public) with a radius of 75' around the firing rack beginning the moment the live fireworks were brought on site as per the national standards the company follows and as such, the Land Board charged \$0.10 per square foot for the Maui safety zone.¹ According to HEP, it does not require exclusive use of a similar safety zone around the firing rack for this ROE and only plans to exclude the public from the larger fallout safety zone imposed during the actual display for which the Board has typically charged a flat rate of \$500.

Staff is recommending that a flat-fee charge of \$500 per event be imposed to cover the exclusive use of the safety zone as shown on Exhibit A as established by prior Bd action D-3, April 8, 2022. The total cost for this right-of-entry, which includes the firing rack staging area of \$50 per event, will be \$1,100.00. In addition, HEP 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 HEP; 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.

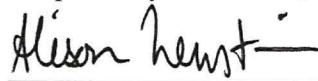
Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the past five years due to non-compliance with such terms and conditions. Staff does not have any objection to this request. There are no pertinent issues or concerns.

¹ The safety zone covered 17,662.30 sf at a charge of \$1,766.23. An additional \$500 was charged for the larger fallout safety zone imposed shortly before and during the actual display.

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 Hawaii Explosives & Pyrotechnics, 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; and
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

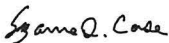
Respectfully Submitted,



Alison Neustein
District Land Agent

APPROVED FOR SUBMITTAL:

RT



Suzanne D. Case, Chairperson



EXHIBIT A

