

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

May 24, 2024

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

PSF 24OD-039

OAHU

Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Private Event Aerial Fireworks Display at Duke Kahanamoku Lagoon on Thursday, June 6, 2024, Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-3-037: portion of 021.

APPLICANT:

Hawaii Explosives & Pyrotechnics, Inc., a Hawaii profit corporation.

LEGAL REFERENCE:

Section 171-55 and Chapter 343, Hawaii Revised Statutes (HRS), as amended.
 Chapter 11-200.1, Hawaii Administrative Rules (HAR), 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 **Exhibit A**.

AREA:

| | |
|-----------------------|--------------------------------------|
| Set Piece Firing Zone | 17,671.5 square feet (approximately) |
|-----------------------|--------------------------------------|

ZONING:

| | |
|--|---------------------------------|
| State Land Use District: City and County of Honolulu LUO: | Conservation 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 unencumbered and open to public beach access.

CHARACTER OF USE:

Set up and conducting aerial fireworks display.

TERM:

Between 12:00 p.m. to 11:45 p.m. on Thursday, June 6, 2024.

RENTAL:

One-time payment of \$1,761.15. See Remarks Section for breakdown of costs.

COLLATERAL SECURITY DEPOSIT:

\$2,500.00

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules ("HAR") §11-200.1-15 and -16 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to General Exemption Type 1 for "[o]perations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing." Specifically, the subject request is exempt under Part 1, Item 44, which applies to "[p]ermits, licenses, registrations, and rights-of entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing."
(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> |

APPLICANT REQUIREMENTS:

Applicant will be required to post a deposit of \$2,500 to ensure timely clean-up after the event described above. Payment shall be made 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 the Applicant.

REMARKS:

Land Division submitted a request on behalf of the current applicant to the Board for consideration at its meeting on May 10, 2024, under agenda item D-5, for a right-of-entry permit for the setup and firing of a fireworks display at Duke Kahanamoku Lagoon on June 6, 2024, in connection with a private event being hosted at the adjacent Hilton Hawaiian Village. The public will be able to view the private event's aerial show, provided they remain outside of the safety zone during the event.

The Applicant contacted Land Division on April 26, 2024, requesting to include an additional element in the Applicant's right-of-entry request for the June 6, 2024, private aerial fireworks display referenced above. This additional request was not received timely for inclusion in the original Board submittal. Therefore, Land Division agreed to bring this additional request to the Board in a separate submittal, to be heard and considered by the Board at the first available opportunity. **(Exhibit C)**

The present submittal addresses Hawaii Explosives & Pyrotechnics, Inc. (HE)'s, request for issuance of a right-of-entry permit for the setup and firing of a fireworks ground display piece, also known as a set piece, at Duke Kahanamoku Lagoon on June 6, 2024, for display to a private event being hosted at the adjacent Hilton Hawaiian Village's Great Lawn. The use and location requested in the present submittal were not included in the right-of-entry permit request submitted to the Board for consideration on May 10, 2024.

The set piece comprises a wooden frame measuring seven feet high by nine feet wide. The frame holds flares, called lances, that are each approximately the size of a pencil and display varying colors of light. When the lances on the set piece are ignited, they will display the corporate logo of Scentsy, the corporate sponsor of the private aerial fireworks display. **(Exhibit D)** The Applicant plans to assemble the set piece on a land-based raft or canoe within the same 500 square foot work zone that is included in the right-of-entry permit considered by the Board at its May 10, 2024, meeting under agenda item D-5.

The raft or canoe with the assembled set piece will be transported from the work zone, floated across the lagoon, and secured to the island at some point before the aerial display begins. The set piece will be ignited immediately after the aerial fireworks display ends and will serve as a grand finale to the aerial display.

When ignited, the set piece requires a firing zone of 17,671.5 square feet, which is entirely contained within Duke Kahanamoku Lagoon. The firing zone includes both the raft or canoe containing the set piece and a buffer area to protect public safety. A licensed display operator will be present on or next to the canoe with the set piece during the ignition period. No other individuals will be allowed within the firing zone during the ignition period. The entirety of Duke Kahanamoku Lagoon is within the safety zone from which the public is excluded for one hour before and one hour after the aerial fireworks show. **(Exhibit E)**

According to the Applicant, the set piece produces virtually no debris. All remnants of ash will be contained on the raft or canoe, which will be removed from the lagoon island after the display and will be disassembled on land within the safety zone for the aerial display. The Applicant does not anticipate the need for additional clean up beyond its standard protocols, which have been previously submitted to the Board.

The Applicant has provided the Department with a certificate of liability insurance documenting the following current policies:

- | | | |
|---------------------------------|------------------|-------------|
| 1. Commercial General Liability | Aggregate Limit: | \$2,000,000 |
| 2. Umbrella Liability | Aggregate Limit: | \$4,000,000 |

Explanation of Rental Amount:

Rent for the set piece was calculated using the Department's standard rate of \$0.10 per square foot of State land. The firing zone requested by the Applicant measures 17,671.5 square feet. The firing zone constitutes a circle with a radius of 75 feet, with the set piece located at the midpoint of the circle.

The set piece is designed and located to be visible from the Great Lawn of the Hilton Hawaiian Village hotel, where the private event hosted by Sentsy will be held. The set piece likely not be visible to the general public because of its orientation toward the private event and its location within the aerial display's safety zone, from which members of the public are excluded at the time that the set piece will be ignited. It is relatively small, only nine feet high, and will be placed at a low-lying point on the landscape. There are no aerial effects that would be visible over the horizon.

The set piece will display the Scentsy corporate logo, and no other image or design. The nature of the display and its orientation make it clear that the set piece is intended to benefit the private event and its corporate sponsor rather than the general public. It appears from maps and information provided by the Applicant

that the only location from which the set piece will be fully visible is the private property of the Hilton Hawaiian Village, which will be occupied by Sentsy's private event. (**Exhibit F**)

The right-of-entry permit requested by the Applicant and considered by the Board on May 10, 2024, includes use and occupancy of State land that overlaps with the use and occupancy contemplated in the present submittal, specifically the staging and safety zone areas. However, under the present submittal, the Applicant further requests occupancy of 17,671.5 square feet of State Conservation District land and a use, ground-based fireworks, that were not included in the May 10, 2024, submittal. Additionally, as the proposed use contemplated under this request exceeds the time period and scope of use (including excluding the public from the area) that is allowed under the safety zone, staff believes that a separate disposition along with additional rent should be required. Land Division has determined that rent for the present submittal should fully account for this additional occupancy and use.

The Office of Conservation and Coastal Lands (OCCL) was consulted on this submittal. OCCL had no objections and concurred with the proposed Environmental Assessment exemption.

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.

There are no additional pertinent issues or concerns.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Sections 11-200.1-15 and -16, 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 for set piece 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 for aerial firework displays, 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,



Rebecca L. Anderson
Shoreline Specialist

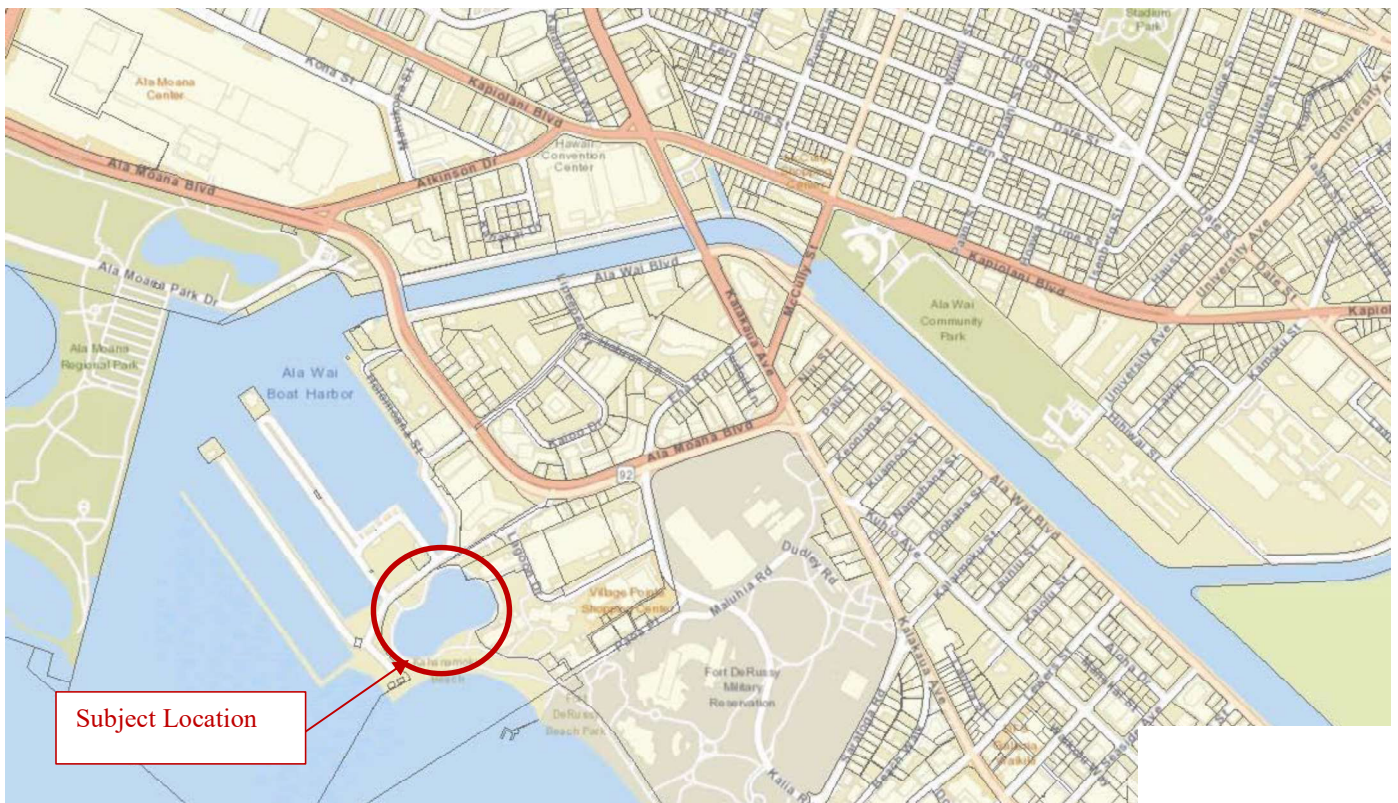
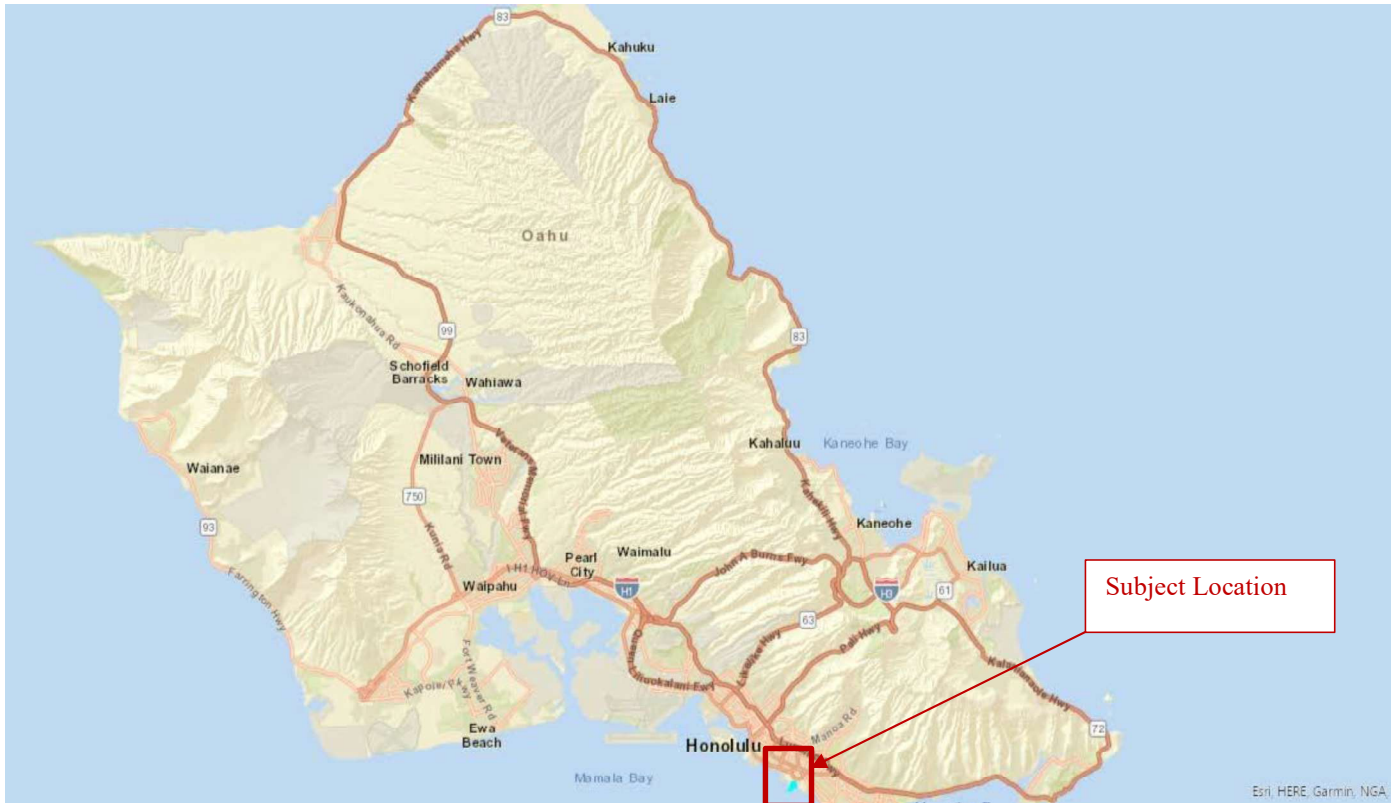
APPROVED FOR SUBMITTAL:



Dawn N. S. Chang, Chairperson



TMK (1) 2-3-037:portion of 021



EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200.1-15, HAR

Project Title: Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display on Thursday, June 6, 2024, at Duke Kahanamoku Lagoon.

Reference No.: PSF# 24OD-039

Project Locations: Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-3-037: portion of 021.

Project Description: Aerial Fireworks Display at Duke Kahanamoku Lagoon.

Chap. 343 Use of State Land

Trigger(s):

Exemption Class

No.:

In accordance with Hawaii Administrative Rules (HAR) sections 11-200.1-15 and -16 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to General Exemption Type 1 for "[o]perations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing." Specifically, the subject request is exempt under Part 1, Item 44, which applies to "[p]ermits, licenses, registrations, and rights-of entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing."

Cumulative Impact of Planned Successive Actions in Same Place Significant?

No. Similar events occur at the same location from time to time. However, based on the multiple environmental clean-ups conducted after each display to remove debris from the lagoon area, staff believes that there would be no significant cumulative impact.

Action May Have Significant Impact on Particularly

The requested area is a portion of State beach visited by tourists and residents and is heavily impacted by human activity. Public access across the requested area is maintained by the Hilton Hawaiian Village staff. In

Sensitive
Environment?

In addition, based on the analysis below, staff believes there would be no significant impact to sensitive environmental or ecological receptors.

Consulted Parties:

Office of Conservation and Coastal Lands (OCCL) concurs with the proposed exemption.

Analysis:

The Board has permitted similar events in the past. The proposed activity is of a similar type and scope of beach activities that have periodically occurred and continue to occur on this and other beach areas across the State. Such activities have resulted in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. Staff also believes that the request would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

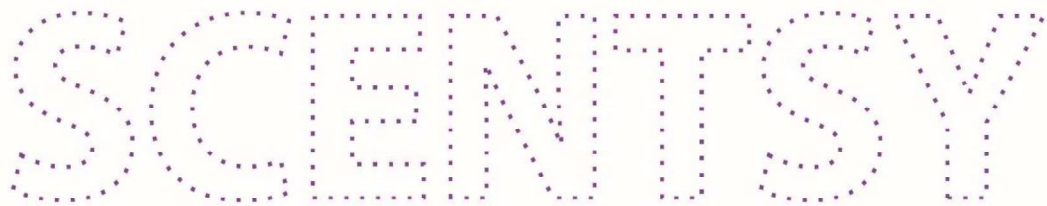
Recommendation:

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.

TMK (1) 2-3-037: portion of 021
Map of Set Piece Location



Design for Set Display
Provided by Applicant



SCENTSY

TMK (1) 2-3-037: portion of 021
Map of Aerial Display Sites and Safety Zone



TMK (1) 2-3-037: portion of 021
Approximate Safety Zone for Set Piece



