

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

July 12, 2024

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

PSF 24OD-061

OAHU

Issuance of Right-of-Entry Permit to SKYMAGIC USA, Inc. for Exclusion Zone for an Aerial Display Drone Show, Including Rehearsals, August 13, 2024, through August 18, 2024, at Duke Kahanamoku Beach, Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-3-037: portion of 021.

APPLICANT:

SKYMAGIC USA, Inc., a Delaware for-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:

Exclusion Zone (approximate)	76,236 square feet
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ZONING:

State Land Use District:	Conservation
City and County of Honolulu LUO:	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 access.

CHARACTER OF USE:

Exclusion zone for public drone show.

TERM:

Rehearsals:

9:30 PM August 13, 2024, through 4:00 AM August 14, 2024.

9:30 PM August 14, 2024, through 4:00 AM August 15, 2024.

Show:

7:00 PM through 8:30 PM August 15, 2024.

7:00 PM through 8:30 PM August 17, 2024.

7:00 PM through 8:30 PM August 18, 2024.

See **Exhibit B**

RENTAL:

One-time payment of \$4,313.75.

Area requested		76,236 square feet
Cost per square foot per day	X	\$0.10
Number of days	X	5 days
Total		\$38,118.00

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 C**)

DELAWARE DIVISION OF CORPORATIONS 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 and restoration of beach area 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 event and, if not forfeited under the conditions discussed below, will be returned to the Applicant.

REMARKS:

The present submittal is a request for use of a portion of State land at Duke Kahanamoku Beach for the land-based portion of the exclusion zone for a series of drone shows. The drone shows are being presented in conjunction with the 2024 Pokemon World Championship, which will be held at the Hawaii Convention Center August 16 through 18, 2024. The drone show will be free and visible to the public from Duke Kahanamoku Beach. Members of the public will be able to move freely within and through the viewing area at all times.

The site arrangement for the drone show location consists of the following:

- An exclusion zone that spans a portion of Duke Kahanamoku Beach subject to Land Division jurisdiction on the makai side of Duke Kahanamoku Lagoon, the Ala Wai Boat Harbor parking lot, a portion of Duke Kahanamoku Beach subject to DOBOR jurisdiction, and an ocean area subject to U.S. Coast Guard jurisdiction;
- A take off and landing zone and equipment staging and storage area within the Ala Wai Boat Harbor parking lot;
- A show box over the ocean within which the drones will be flown for rehearsal and shows; and
- A public viewing area on the beach fronting the Hilton Hawaiian Village hotel, which will remain open to free movement by the public. (**Exhibit D**)

The present submittal applies only to the exclusion zone area located on the beach adjacent to Duke Kahanamoku Lagoon. This is the only portion of the site subject to Land Division jurisdiction. The exclusion zone will be closed to the public while drones are in the air during two nights of rehearsals and three nights of shows for reasons of public safety. For show rehearsals, closure will take place during overnight hours when public use of the beach is minimal. On each of the three

Page 4

show days, the exclusion zone will be closed to the public for a limited time before each drone show and will be reopened immediately after the show has ended and drones have returned to the take off and landing zone.

The Applicant has stated that it will maintain an access path approximately eight feet wide along the outside of the exclusion zone at the edge of Duke Kahanamoku Lagoon. Closure will be accomplished by stationing security guards and placing caution tape around the perimeter of the area. The Applicant has stated that it will hire private security personnel and is coordinating with the Division of Conservation and Resource Enforcement (DOCARE) on security planning.

The Applicant has received authorization for use of State Land at the Ala Wai Boat Harbor and Harbor parking lot from the Division of Boating and Ocean Recreation (DOBOR). The Applicant has also stated that it has received authorization from the U.S. Coast Guard to use ocean areas as part of the exclusion zone and that the U.S. Coast Guard will assist with in-water management of the exclusion zone. Additionally, the Applicant's safety boat will be in the water in the ocean portion of the exclusion zone during rehearsals and shows to recover any drones that may enter the water.

The Applicant has consulted with the Division of Forestry and Wildlife (DOFAW) regarding the interaction of drones with seabirds that may be present in the area. Pursuant to DOFAW's recommendations, the Applicant will work with Hui Manu-o-Ku to identify and map any active White Tern nesting sites in the area of the drone show and will work with experts including personnel from Hawaii Marine Animal Rescue, DOCARE, Hui Manu-o-Ku, and wildlife biologist consultants to monitor the site with thermal binoculars during rehearsals and shows. The Applicant is working with DOFAW on developing protocols for mitigation and recovery actions in the case that drones interact with or strike seabirds. As of the time of the preparation of this submittal, DOFAW has reviewed the Applicant's protocols and has communicated outstanding concerns to the Applicant. The Applicant has stated that it will continue to work with DOFAW to address these concerns.

The Applicant has also consulted with the Division of Aquatic Resources (DAR) regarding protocols for drone use in a marine environment where mammals and other marine life are present. DAR has requested that the Applicant comply with federal drone guidelines for viewing marine life as published by the National Oceanic and Atmospheric Administration (NOAA). These include maintaining a 1,000-foot minimum altitude over marine mammals; avoiding buzzing, taking off, or taxiing near marine mammals; and avoiding flying drones near marine animals. In addition, DAR has provided the Applicant with contact information for reporting any incidental entanglement of or interaction with any protected species including monk seals, sea turtles, or cetaceans.

DAR has also requested that any safety boats in the ocean exclusion zone adhere to DAR's standards, including the following:

Page 5

- Operation under low speeds with a spotter on deck to avoid interactions with monk seals, sea turtles, and cetaceans that may be in the area;
- Adherence to State and federal rules prohibiting interaction with and disturbance to protected species;
- Anchoring only in sand and avoidance of coral, live rock, or hard substrate;
- Notification of DAR if any drones are recovered from the marine environment; and
- Availability of divers or snorkelers the morning after shows and rehearsals for search and recovery of any fallen drones from the marine environment if night-time recovery is not possible.

The Hawaii Film Office has stated that it will issue film permits to the Applicant, as required for all drone activity on State land. The Film Office has stated that its permits will be issued in conjunction with DOBOR, DOFAW, and DAR.

The Applicant has provided the Department with documentation of a liability insurance policy issued by Starr International (Europe) Limited. The policy includes coverage for bodily injury and damage to property and has a combined aggregate limit of £10,000,000.00 (Great British Pounds). As of June 27, 2024, this converts to \$12,643,000.00. The policy names the Department as an additional insured.

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.

The 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 SKYMAGIC USA, Inc. covering the subject area for purposes of an exclusion zone for an aerial display drone show under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

Page 6

- 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,



Rebecca L. Anderson
Shoreline Specialist

APPROVED FOR SUBMITTAL:



Dawn N. S. Chang, Chairperson



RT

Tax Map Key: (1) 2-3-037:portion of 021

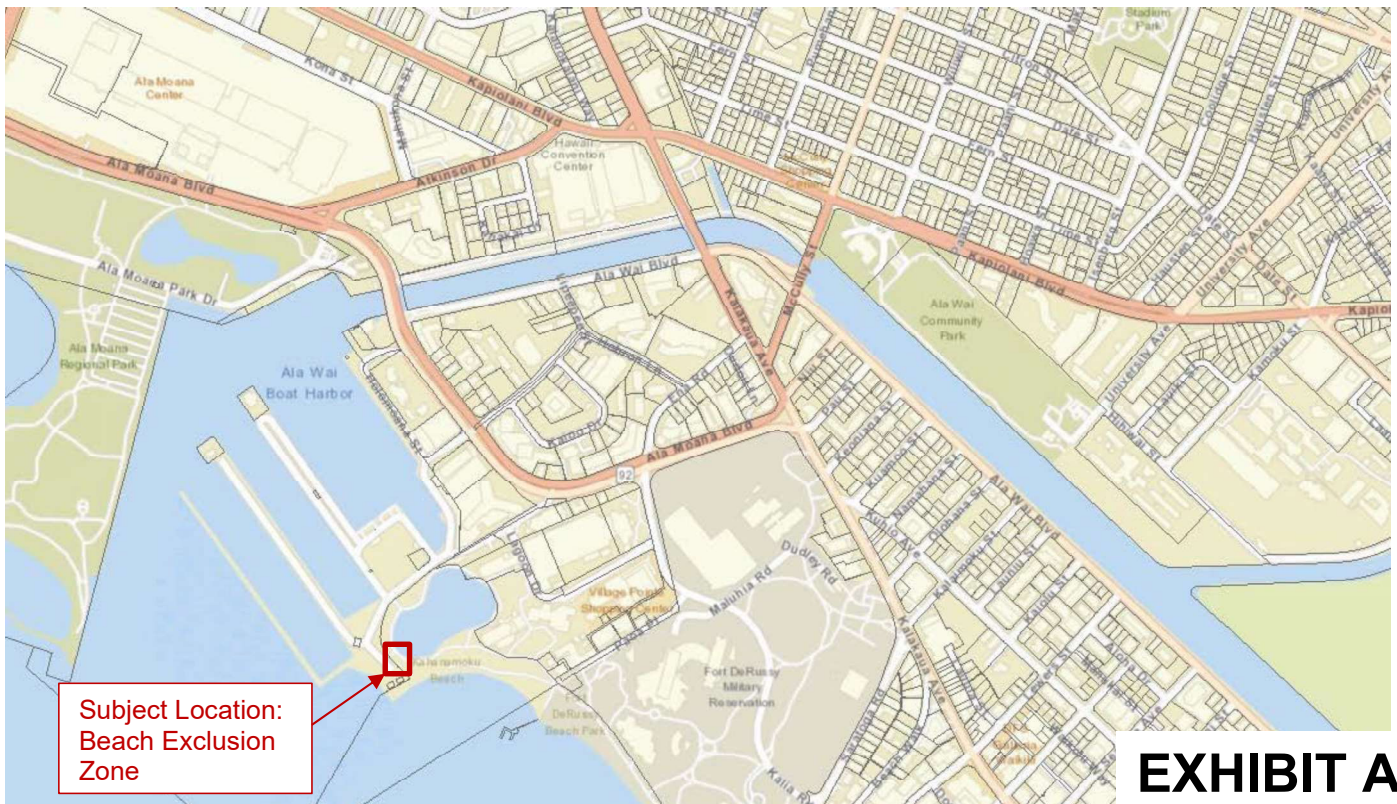


EXHIBIT A



SKYMAGIC Pokémon Hawaii Schedule V5

Tuesday 13/08/24 into Wednesday 14/08/24

07:30 – 16:30 Gravity Site Infrastructure Tent/Generator etc
16:30 SKYMAGIC Load In/Freight Arrives
19:00 Dinner
21:30 – 04:00 Security/DOCARE/USCG Manage Exclusion Zone
22:30 Test Slot 1: 1 drone
23:30 Test Slot 2: 16 drones
00:30 Test Slot 3: 48 drones
01:30 Test Slot 4: 108 drones
02:30 Test Slot 4: 148 drones
03:30 Test Slot 5: 148 drones
04:00 Call Ends

Wednesday 14/08/24 into Thursday 15/08/24

18:30 SKYMAGIC Crew Call
18:30 – 22:30 SKYMAGIC Set Up
21:30 – 04:00 Security/DOCARE/USCG Manage Exclusion Zone
22:30 Test Slot 6: 428 Drones (Full Technical Rehearsal)
23:30 Test Slot 7: TBC/Contingency
00:30 Test Slot 8: 428 drones Dress Rehearsal.
01:30 Test Slot 9: TBC/Contingency
02:30 Test Slot 10: TBC/Contingency
03:30 Test Slot 11: TBC/Contingency
04:00 Call Ends

Thursday 15/08/24

16:00 SKYMAGIC Crew Call
16:00 – 20:00 SKYMAGIC Set Up
19:00 – 21:00 Security/DOCARE/USCG Manage Exclusion Zone
20:00 Drones Show 1
20:30 – 21:30 SKYMAGIC Pack Down
22:00 Call Ends

Friday 16/08/24

No Show

Saturday 17/08/24

16:00 SKYMAGIC Crew Call
16:00 – 20:00 SKYMAGIC Set Up
19:00 – 21:00 Security/DOCARE/USCG Manage Exclusion Zone
20:00 Drones Show 2
20:30 – 21:30 SKYMAGIC Pack Down
22:00 Call Ends





Sunday 18/08/24 into Monday 19/08/24

16:00	SKYMAGIC Crew Call
16:00 – 20:00	SKYMAGIC Set Up
19:00 – 21:00	Security/DOCARE/USCG Manage Exclusion Zone
20:00	Drones Show 3
20:30 – 22:30	SKYMAGIC Pack Down
22:30	Freight Collection Rokit Global
23:30	Call Ends

Monday 19/08/24

09:00 – 18:00	Gravity Marquee Load Out / Generator / Site infrastructure.
18:00	Site Handed Back



DYFAN RHYS
HEAD OF OPERATIONS & PRODUCTION

T: +44 (0) 845 805 0922
M: +44 (0) 7540 070 509
www.skymagic.show



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 SKYMAGIC USA, at Duke Kahanamoku Lagoon.

Reference No.: PSF# 24OD-061

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

Project Description: Exclusion zone for drone shows at Duke Kahanamoku Beach.

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. Although the requested use for a drone show at this location is novel, the use of State land for an exclusion zone is analogous to that which has been repeatedly approved by the Board for regular fireworks shows at the same location. The exclusion zone will be closed to the public for show rehearsals at overnight hours when public use of the beach is minimal. The exclusion zone will be closed to the public for a limited time before each drone show and will be reopened immediately after the show has ended. The use of State land for an exclusion zone for regularly occurring fireworks shows has proven

to have minimal impact to the beach and surrounding environment.

Action May Have
Significant Impact
on Particularly
Sensitive
Environment?

The requested area is a portion of State beach visited by tourists and residents and is heavily impacted by human activity. Public access laterally across the exclusion zone will be maintained via an approximately eight-foot-wide access route following along the edge of Duke Kahanamoku Lagoon. 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 the use of the same portion of State land as an exclusion zone for 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

