

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of Conservation and Resources Enforcement  
Hawaii Hunter Education Program  
Honolulu, Hawaii 96813

August 12, 2011

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

**SUBJECT: REQUEST APPROVAL TO SEEK THE GOVERNOR'S APPROVAL TO INDEMNIFY THE CITY AND COUNTY OF HONOLULU DEPARTMENT OF PARKS AND RECREATION FOR THE USE OF THE KOKO HEAD SHOOTING COMPLEX ON SEPTEMBER 17 & 18, 2011 FOR THE NATIONAL HUNTING AND FISHING DAY CELEBRATION**

**SUMMARY:** Hawaii's 21<sup>st</sup> annual National Hunting and Fishing Day ("NHFD") will be held at the Koko Head Shooting Complex on September 17 and 18, 2011. The facility/property is owned by the City and County of Honolulu ("County"). In order to use the facility, the County will require the State to agree to indemnify the County. The Hawaii Hunter Education Program requests that the Board of Land and Natural Resources approve its request to seek the Governor's approval to indemnify the Department of Parks and Recreation, City and County of Honolulu for the event.

**BACKGROUND:** Hawaii has celebrated National Hunting and Fishing Day for the past seventeen years. The nation has observed National Hunting and Fishing Day since May 2, 1972 when President Richard M. Nixon signed the inaugural declaration for this annual event.

The National and Hawaii's National Hunting and Fishing Day recognize the contributions of sportsmen and women to wildlife conservation, restoration, hunter education in safety, responsibility and the shooting sports. The Pittman/Robertson Act of 1937 imposes a 10.5% to 11.0 % tax on firearms, handguns, ammunition, archery equipment and accessories. Since 1937 the total contribution from shooters and hunters has been over twenty-two billion dollars for wildlife restoration. Nationally, U.S. sportsmen generate over four million dollars a day for hunting, shooting and conservation.

Hawaii's NHFD is unique in that monetary and food donations to the Hawaii Food Bank garner coupons that can be redeemed for hands on activities in archery, rifle, muzzle loading, action pistol, shotgun, surf and fly casting. There are mandatory safety briefs, eye and ear protection and age restrictions for all shooters. The emphasis is on gun-

proofing the public to prevent accidents and save lives as well as offering hands-on outdoor recreational opportunities. There are wildlife displays, marine life in fresh and saltwater tanks, and veteran sportsmen and fishermen to relate quality experience, direction and advice to the public.

The 2011 NHFD has partnered with twenty outdoor clubs and organizations, in addition to DLNR's DOCARE, DOFAW, DAR, DOBOR, and the Hawaii Hunter Education Program. The Watson T. Yoshimoto Foundation annually pays the \$1,300 plus for the rental of the main tent and tables. The Hawaii NHFD event is published on the national NHFD website and publicized in the local media. With the increased publicity of the 2011 NHFD, donations to the Hawaii Food Bank are expected to set new benchmarks.

The 2011 Hawaii NHFD will be held at the Koko Head Shooting Complex on September 17 and 18, 2011. The facility is owned by the County. In order to use the facility, the County will require the State to agree to the following indemnification provision:

The State shall indemnify, defend, and hold harmless the Department of Parks and Recreation, of the City and County of Honolulu its officers, employees, and agents, from any and all claims of liability for any damage to real or personal property or injury to or death of any persons when such damage, injury or death arises out of the action or omission of the State, its officers, employees agents, consultants, contractors, or invitees in conjunction with the 2011 National Hunting and Fishing Day Celebration to be held at the Koko Head Shooting Complex, City and County of Honolulu, Hawaii, on September 17 & 18, 2011 from 10:00 a.m. to 4:00 p.m.; provided that the State shall not be required to indemnify, defend, or hold harmless, the Department of Parks and Recreation, City and County of Honolulu, its officers, employees, and agents, consultants, contractors, or invitees, regarding the maintenance and repair of the above mentioned facility/property. This provision shall not be read or interpreted to create any liability of the State or any person or entity to any person or entity, except for the duties to indemnify, defend, and hold harmless set forth herein. This provision is not intended to and shall not be interpreted to benefit any third person, or to benefit or create any third-party beneficiary.

Under §46-71.5, Hawaii Revised Statutes ("HRS"), the State may agree to indemnify, defend, and hold harmless a county agency if certain preconditions are satisfied: 1) The Governor approves the State's proposed indemnification; and (2) The Comptroller, pursuant to Section 41D-8.5, HRS, has (a) obtained an insurance policy in an amount sufficient to cover reasonably anticipated liability of the State that may arise or (b) determined that the obtaining such a policy is not in the best interest of the State.

Normally, the Hawaii Hunter Education Program would have sought the Board's approval prior to seeking the Governor's approval. There is a time limitation for receiving all approvals because the event takes place on September 17 and 18, 2011.

Due to time constraint and reductions program staff; we have initiated the process for obtaining the Governor's approval while concurrently presenting this matter to the Board. Accordingly, the Governor's approval will be contingent upon the Board's approval of the proposed request.

RECOMMENDATION:

That the Board:

- 1) That the Board approves the request to seek the Governor's approval to indemnify the City and County of Honolulu Department of Parks and Recreation in conjunction with the 2011 National Hunting and Fishing Day Celebration to be held at the Koko Head Shooting Complex on September 17 and 18, 2011.
- 2) That the Board authorizes the Chairperson to seek all necessary approvals and execute all documents related to the indemnification, subject to review and approval by the Department of the Attorney General.

Respectfully submitted,

  
RANDY K. AWO  
Acting Enforcement Chief

APPROVED FOR SUBMITTAL:

  
WILLIAM J. AILA, JR., Chairperson  
Board of Land and Natural Resources