

STATE OF HAWAI'I  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of Boating and Ocean Recreation  
Honolulu, Hawai'i 96819

October 13, 2017

Chairperson and Members  
Board of Land and Natural Resources  
State of Hawai'i  
Honolulu, HI

Land Board Members:

SUBJECT: ADMINISTRATIVE ENFORCEMENT ACTION FOR VIOLATIONS OF HAWAII ADMINISTRATIVE RULE § 13-244-19: AUTHORIZATION REQUIRED TO HOLD REGATTA, MARINE PARADE, BOAT RACE OR EXHIBITION, AGAINST MR. SEAN PAGETT FOR FAILING TO OBTAIN A MARINE EVENT PERMIT FROM THE DEPARTMENT OF LAND AND NATURAL RESOURCES, DIVISION OF BOATING AND OCEAN RECREATION, FOR ATHLETIC EVENTS INVOLVING THE USE OF STATE OCEAN WATERS; REQUEST THE ISSUANCE OF A FINE OF \$10,000 FOR TWO VIOLATIONS, PURSUANT TO HAWAII REVISED STATUTES § 200-14.5(C).

SUMMARY:

This submittal requests that the Board of Land and Natural Resources (Board) find Mr. Sean Pagett in violation of Hawai'i Administrative Rule (HAR) § 13-244-19 Authorization required to hold regatta, marine parade, boat race or exhibition. The Division of Boating and Ocean Recreation (DOBOR) recommends that the Board issue an administrative fine of ten thousand dollars (\$10,000.00) pursuant to Hawai'i Revised Statutes (HRS) § 200-14.5.

DOBOR staff anticipates a request for contested case hearing as to this submittal. Mr. Pagett is entitled to a contested case. DOBOR staff therefore also requests that the Board approve a contested case hearing and authorize the Chairperson to select and appoint a Hearing Officer.

Against:	Mr. Sean Pagett
Dates of Incidents:	November 27, 2016 and December 25, 2016
Location of Incidents:	Kailua-Kona, Hawai'i

Violation: Violation of Hawai‘i Administrative Rules, Section 13-244-19: Authorization required to hold regatta, marine parade, boat race or exhibition, for failure to obtain a Marine Ocean Water Event permit.

Recommended fine: Administrative fine of ten thousand dollars (\$10,000.00) pursuant to HRS § 200-14.5(c).

### INTRODUCTION:

According to a July 15, 2014 article published by the *West Hawaii Today* newspaper (included in **Exhibit “B”**), Mr. Sean Pagett (aka “Peaman”) has staged over 350 endurance events for participants of all ages in and around Kailua-Kona, Hawai‘i during the last 29 years. These events include running, biking, swimming, or a combination of each in which there are approximately 70 to 120+ participants per event.

Events involving swimming are typically staged from or around the Kailua-Kona Pier, and swim portions of events take place within the adjacent designated Ocean Recreation Management Area as defined in HAR § 13-256-156. The swim zone (Zone “B”) is marked by line and buoys, but it is not uncommon for recreational swimmers and boaters to swim/drift into the restricted areas around Kailua-Kona pier.

A schedule of Peaman events, attached hereto as **Exhibit “A”**, can be found advertised at local gyms, fitness centers, and online at <http://bigislandraces.com/extras/peaman-events>. Race results are typically published online and/or in the *West Hawaii Today* newspaper. Past statements by Mr. Pagett to DOBOR staff and Mr. Pagett’s statements to the *West Hawaii Today* newspaper, show that Mr. Pagett has been informed that he is required to submit an application for and obtain a Marine Ocean Water Event permit for his events as far back as 2001. Various *West Hawaii Today* news articles discussing Mr. Pagett’s interactions with DOBOR staff and his knowledge of the permit requirements are attached hereto as **Exhibit “B”**.

### FACTUAL BACKGROUND:

The following timeline is presented to summarize the incidents pertaining to Mr. Pagett’s alleged violations of HAR § 13-244-19 in which he was witnessed and once cited for conducting marine events without a permit, beginning November 27, 2016.

November 27, 2016: As detailed in **Exhibit “D”**, at approximately 8:08 a.m., Mr. Pagett runs the “Post Pigout Peamania (PPP),” which per advertisement is a four-segment race (swim-run-swim-run event) involving two loops on a ¼ mile swim and 2-mile run/walk course. PPP organizers set up pop-up tents on the north end of the Kailua-Kona Pier.

PPP participants use the adjacent designated swim zone for the swim course. Mr. Pagett did not apply for a Marine Ocean Water Event permit as required by HAR § 13-244-19. This is the first alleged violation of HAR § 13-244-19.

On this day, the Cruise Ship MS AMSTERDAM (“Cruise Ship”) makes a scheduled port call to Kailua-Kona at approximately 7:00 a.m., which introduces the additional presence of commercial craft in the area surrounding the swim zones during the PPP. Up to approximately 2,000 passengers are ferried by the vessel’s tenders to disembark at the Kailua-Kona pier loading area. The loading area is located adjacent to the swim zone used for the PPP. A map of this area is attached hereto as **Exhibit “C”**. DOBOR tried to communicate to the Cruise Ship and other permitted commercial operators about use the PPP so that these other users could avoid potential conflicts and be mindful of persons in the water, but DOBOR was unable to do so.

After November 27, 2016 and Mr. Pagett being advised that he is potentially in violation of HAR § 13-244-19 by DOBOR staff and Division of Conservation and Resources Enforcement (DOCARE) officers, DOBOR conducts research to determine if HAR § 13-244-19 was applicable to his events.

December 4, 2016: The *West Hawaii Today* newspaper publishes an article (included in **Exhibit “A”**) which states that, “Peaman said he had permits up until about 15 years ago. When requirements for permits changed, and began necessitating insurance coverage, he stopped applying. Since that time, Peaman has had conversations on a few occasions with representatives of the DLNR in which the need for permits was discussed, but Sunday [November 27, 2016] was the first time anyone had ever tried to shut him down.”

December 12, 2016: William Taylor (DOBOR Hawai‘i Island District Manager), Daniel Mersburgh (DOBOR Hawai‘i Island Harbor Agent), Stephen Schmelz (DOBOR Hawai‘i Island Harbor Agent), and Jason Hamada (DOCARE Hawaii Island Officer), meet with Mr. Pagett, his attorney, and a representative from Peoples Advocacy for Trails Hawaii (PATH) to further discuss Mr. Pagett’s events and ways to achieve compliance with State Marine Event permitting requirements. DOBOR staff explain that the requirements of HAR § 13-244-19 are applicable to Mr. Pagett’s events and that a use permit would be required for future events. In discussions, PATH offers to cover risk management insurance requirements for future Peaman events. Mr. Pagett states he does not believe that HAR § 13-244-19 is applicable to his events based on his argument that (1) participants do not pay a registration fee, (2) participants do not register for his events, (3) the event does not give out prizes, and (4) participants are basically a group of friends that gather to do timed events. Also, Mr. Pagett believes that that the law does not pertain to him because he was running the events before the current rule went into effect.

DOBOR and DOCARE staff advise Mr. Pagett that holding future Peaman events could result in issuance of a citation by DOCARE officers.

December 25, 2016: Mr. Pagett holds the “Peaman Birthday Bonanza (PBB),” which according to advertisements involves a ½ mile swim and 3.9-mile run/walk race. Mr. Pagett neither submitted an application for a Marine Ocean Water Event permit nor was he issued a permit by DOBOR for the PBB. Mr. Pagett is cited by DOCARE officers for violation of HAR § 13-244-19. The DOCARE incident report is attached hereto as **Exhibit “D”**. This is the second alleged violation of HAR § 13-244-19.

Following the aforementioned events, DOBOR staff prepared a submittal to bring this matter before the Board of Land and Natural Resources (Board) for its April 13, 2017 meeting. In the meantime, Mr. Pagett filed a court case regarding the matter in the Circuit Court of the Third Circuit, *Sean W. Pagett v. Dep’t of Land & Natural Res.*, Civil No. 17-1-127K.

August 14, 2017: The Circuit Court of the Third Circuit issues a judgment, attached hereto as **Exhibit “E”**, granting DLNR’s motion to dismiss Mr. Pagett’s request for declaratory judgment on grounds that the court lacks subject-matter jurisdiction.

DOBOR is now bringing this administrative enforcement action before the Board to confirm the applicability of HAR § 13-244-19 to Mr. Pagett’s events and to authorize the issuance of an administrative fine of ten thousand dollars (\$10,000.00).

#### REGULATORY AUTHORITY FOR ENFORCEMENT:

##### *A. Applicable Hawai‘i Administrative Rules*

##### *1. Rule Violated:*

HAR § 13-244-19 is entitled: Authorization required to hold regatta, marine parade, boat race or exhibition. This rule requires any person or organization planning to hold a regatta, marine parade, boat race, or exhibition to obtain a permit to obtain authorization from the department in the form of a Marine Ocean Water Event permit. The rule provides:

##### *(b) Authorization required; submission of application.*

- (1) Any person or organization planning to hold a regatta or marine parade which, by its nature, circumstances or location, will introduce extra or unusual hazards to the safety of persons or property on the waters of the State shall submit an application to the chairperson of the board of land and natural resources. No person shall hold such a regatta or marine parade, unless the authorization of the chairperson, has been secured, except that the chairperson's authorization is not required if prior authorization has*



been secured from the United States Coast Guard. Examples of conditions which are deemed to introduce extra or unusual hazards to the safety of life include, but are not limited to: an inherently hazardous competition, the customary presence of commercial or pleasure craft in the area, any obstruction of navigable channels which may reasonably be expected to result, and the expected accumulation of spectator craft.

- (2) Where the events are to be held regularly or repeatedly in a single area by an individual or organization, the chairperson may, subject to conditions set from time to time by the department, grant a permit for the series of events for a fixed period of time, not to exceed one year.
- (3) The application shall be submitted no less than thirty days prior to the start of the proposed event.
- (4) The application shall include the following details:
  - (A) Name and address of sponsoring organization.
  - (B) Name, address and telephone number of person or persons in charge of the event.
  - (C) Nature and purpose of the event.
  - (D) Information as to general public interest.
  - (E) Estimated number and type of watercraft participating in the event.
  - (F) Estimated number and type of spectator watercraft.
  - (G) Number of boats being furnished by sponsoring organization to patrol event.
  - (H) Time schedule and description of events.
  - (I) A section of a chart or scale drawing showing the boundaries of the event, various water courses or areas to be utilized by participants, officials, and spectator craft.

## *2. Relevant Definitions:*

HAR § 13-244-19(a) defines “Regatta” or “marine parade” as: “an organized water event of limited duration which is conducted according to a prearranged schedule.”

The intent of the Marine Ocean Water Event permit is to reduce or eliminate ocean use conflicts and ensure that potential safety concerns are addressed and mitigated prior to an event. As such, in accordance with the definitions set forth in HAR § 13-244-19(a), the requirements of issuance of a Marine Ocean Water Event permit would include paddling events, canoe regattas, and swimming events, as well as the type of organized scheduled water events that Mr. Pagett conducts.

We note that an identical definition is contained in federal law. 33 Code of Federal Regulations (CFR) Part 100: 33 CFR § 100.05(a) states, “Regatta or marine parade

means an organized water event of limited duration which is conducted according to a prearranged schedule.”

*3. Administrative fines authorized for violations of HAR § 13-244-19:*

HAR § 13-230-4(b) Penalties and prosecution, provides that “the board is authorized to set, charge, and collect administrative fines and to recover administrative fees and costs, including attorney’s fees and costs, or bring legal action to recover administration fines, fees and costs, including attorney’s fees and costs, or payment for damages or for the cost to correct damages resulting from violation of subtitle 8 of title 12 or any rule adopted thereunder in accordance with section 200-14.5, Hawaii Revised Statutes. Each day or instance of violation shall constitute a separate offense.”

HRS § 200-14.5(a) General administrative penalties, provides: “Except as otherwise provided by law, the board is authorized to set, charge, and collect administrative fines and to recover administrative fees and costs, including attorney's fees and costs, or bring legal action to recover administrative fines and fees and costs, including attorney's fees and costs, or payment for damages or for the cost to correct damages resulting from a violation of subtitle 8 of title 12 or any rule adopted thereunder. Each day or instance of violation shall constitute a separate offense.”

HRS § 200-14.5(c) sets the fine limits for all violations not involving pollution of the waters of the State as follows:

- (1) For a first violation or a violation beyond five years of a previous violation, a fine of not more than \$5,000;
- (2) For a second violation within five years of a previous violation, by a fine of not more than \$10,000; and
- (3) For a third or subsequent violation within five years of the last violation, by a fine of not more than \$15,000.

*B. Other relevant authority:*

Further supporting DOBOR’s position that Mr. Pagett is required to obtain a Marine Ocean Water Event permit to conduct his events is U.S. Coast Guard Commandant Instructions Manual 16751.3 (excerpt of COMDTINST M16751.3 attached hereto as **Exhibit “F”**), which includes “[e]vents involving [...] more than 50 swimmers” as an example of a situation where an event organizer is required to obtain a Coast Guard marine permit.

APPLICATION OF LAW AND RECOMMENDED ACTION:

- A. *Mr. Pagett’s actions are subject to administrative action because DOBOR’s HAR definitions and HAR § 13-244-19 apply to the type of organized events Mr. Pagett was conducting.*

Based on definitions in DOBOR’s administrative rules, definitions in applicable CFR provisions, and the foregoing facts, Mr. Pagett was clearly engaged in running and coordinating a marine regatta without obtaining a valid Marine Ocean Water Event permit from DOBOR.

HAR § 13-244-19 defines “regatta” or “marine parade” as “an organized water event of limited duration which is conducted according to a prearranged schedule.” Mr. Pagett’s events are organized swimming races in the waters of the State conducted to a prearranged schedule and, therefore, fall under the regulatory definition.

HAR § 13-244-19(b) requires “[a]ny person or organization planning to hold a regatta or marine parade, which by its nature, circumstances or location, will introduce extra or unusual hazards to the safety of persons or property on the waters of the State” to obtain a Marine Ocean Water Event permit. HAR § 13-244-19(b) further provides examples of conduct falling under its provisions: “an inherently hazardous competition, the customary presence of commercial or pleasure craft in the area, any obstruction of navigable channels which may reasonably be expected to result, and the expected accumulation of spectator craft.”

Mr. Pagett’s events, by their nature, circumstances, or location, introduce extra or unusual hazards to the safety of persons or property on the waters of the State and also fall under the “inherently hazardous competition” example provided in HAR § 13-244-19(b). The nature and circumstances of Mr. Pagett’s events introduce extra hazards to the safety of persons and property on the waters of the State because the events, which include swimming competitions, increase the risk that an event participant could be injured in the course of competing. According to DOCARE report 17-0567-HA, pertaining to Mr. Pagett’s December 25, 2016 event, there were 135 names listed in the sign out sheet. This means over one hundred participants were competing in the water during the event, presenting a risk not only to participants but to others in the water. If Mr. Pagett does not obtain the appropriate permit, the risk of injury is also increased because DOBOR staff is unaware of when and where competitive events will occur and cannot not notify vessels in the area ahead of time that there would be participants in the water, as was the case with Mr. Pagett’s November 27, 2016 event. Furthermore, the locations of Mr. Pagett’s events introduce extra hazards to the safety of persons and property on the waters of the State because the events are typically held in public areas where both commercial and recreational vessels are in operation. Participants are at risk of being struck by vessels operating in the area, and vessels themselves are at risk of striking other vessels if trying to avoid striking a participant.

A DOBOR Marine Ocean Water Event permit not only allows DOBOR to keep track of how many marine events will be occurring in an area but also notifies the U.S. Coast Guard that a marine event is taking place. DOBOR keeps track of marine events to ensure that the number of participants does not exceed a reasonable level. If necessary, DOBOR can limit the events taking place in a particular area when it is aware of each event. When the Coast Guard is informed of a marine event, it will be able to ensure that adequate Coast Guard resources will be allocated for the event.

**Exhibit “G”** shows four other marine events that DOBOR has authorized through Marine Ocean Water Event permits, which involve the same types of activities as Mr. Pagett’s events.

According to an article published by the *Star Advertiser* on September 4, 2017, a participant in the 2017 Waikiki Roughwater Swim was found unresponsive by lifeguards (*see Exhibit “H”*). KITV4 news reported on September 5, 2017 that about 75 Waikiki Roughwater Swim participants required assistance from lifeguards and event personnel (*see Exhibit “H”*). The 2017 Waikiki Roughwater Swim was a properly permitted marine event that took place on September 4, 2017. As reported by KHON2 news on September 5, 2016, in the 2016 Waikiki Roughwater Swim, a properly permitted marine event that took place on September 5, 2016, more than 300 swimmers who participated in the event required assistance due to strong currents (*see Exhibit “H”*). There were more than one hundred individuals performing rescues in the 2016 Waikiki Roughwater Swim, a combination of volunteers and lifeguards from the City and County of Honolulu Ocean Safety Division. When emergency services officials are aware of marine events, they will be able to help ensure that there are enough personnel for event safety.

*B. Mr. Pagett did not comply with HAR requirements and restrictions.*

Mr. Pagett did not have prior authorization from the U.S. Coast Guard to conduct his marine events and therefore does not fall under the exception to obtaining a permit from the department under HAR § 13-244-19(b). Further, as set forth above, DOBOR staff and DOCARE officers witnessed Mr. Pagett conducting marine events on two occasions without a valid Marine Ocean Water Event permit.

*C. Maximum fine authorized by statute.*

Pursuant to HAR § 13-230-4(b), “[e]ach day or instance of violation shall constitute a separate offense.” As evidenced by the attached DOCARE report (**Exhibit “D”**), Mr. Pagett was observed by DOBOR staff on November 27, 2016 conducting a marine event without a valid Marine Ocean Water Event permit and was cited by DOCARE officers on December 25, 2016 for conducting another marine event without a valid Marine Ocean Water Event permit in violation of HAR § 13-244-19.

The maximum fine for Mr. Pagett’s two violations, as authorized by HRS § 200-14.5(c), can be no more than five thousand dollars (\$5,000.00) for each instance of violation. Therefore, the maximum fine for Mr. Pagett’s two violations is ten thousand dollars

(\$10,000.00). DOBOR believes that unless there are consequences for violating HRS and HAR provisions, people do not have an incentive to abide by the rules and directions of DOCARE and DOBOR. In order to encourage compliance and curb present and future violations of the rules, DOBOR recommends that the Board issue the maximum ten thousand-dollar (\$10,000.00) fine to Mr. Pagett. DOBOR reserves the right to seek recovery of administrative fees and costs, including attorney's fees and costs, at a later date, including within the context of contested-case proceedings pursuant to HRS § 200-14.5.

RECOMMENDATIONS:

DOBOR respectfully requests that the Board:

1. Find that HAR § 13-244-19 is applicable to Mr. Sean Pagett's events;
2. Find that Mr. Pagett committed two administrative violations of HAR § 13-244-19;
3. Issue an administrative fine to Mr. Pagett in the amount of ten thousand dollars (\$10,000.00).
4. If Mr. Pagett petitions the Board for a contested case hearing, determine that he is entitled to a contested case, authorize the appointment of a Hearing Officer to conduct all the hearings relevant to the petition for a contested-case hearing, and delegate authority to the Chairperson to select and appoint a Hearing Officer for such contested-case hearing.

Respectfully submitted,



EDWARD R. UNDERWOOD,  
Administrator  
Division of Boating and Ocean Recreation

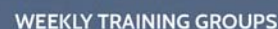
APPROVED FOR SUBMITTAL:



SUZANNE D. CASE, Chairperson  
Board of Land and Natural Resources

Attachments:

- A. List of scheduled Peaman events (Exhibit “A”)
- B. Various articles detailing Mr. Pagett’s interactions with DLNR staff (Exhibit “B”)
- C. HAR § 13-256-156 Kailua Pier Restricted Zones with map (Exhibit “C”)
- D. DOCARE report 17-0567-HA (Exhibit “D”)
- E. Judgment for *Sean W. Pagett v. Dep’t of Land & Natural Res.*, Civil No. 17-1-127K. (Exhibit “E”)
- F. Excerpt of COMDTINST M16751.3 (Exhibit “F”)
- G. Four permits authorizing marine events involving swim competitions (Exhibit “G”)
- H. News articles covering the 2017 and 2016 Waikiki Roughwater Swim competitions (Exhibit “H”)



As usual, the events will include four races. The individual pea and chickpea race is usually the most popular, but we also have a good turnout in the split-pea relay race, pea-wee individual race and pea-wee split-pea race. Each of these races includes divisions, or pods as I like to call them, such as finned peas, family relays, corporate relays, K-9, baby strollers and even unicycles. Our only real rule is that if we don't currently have a "pod" for you, we will create one. All of these

**Peaman Splish-Splash and Superbowl Shuffle Biathlon. [Last week in January]**

## Exhibit "A"



*THEME: We encourage all participants to wear the logos or colors of their favorite national football league team or previous year Super Bowl team.*

## The Terrific Turtle Trudge, The Mighty Mouse Scamper and The Roadrunner 1- mile Romp. [Third week in February]

In February, we will honor Gene “Turtle” Power, Linda “Mouse” Kelley and Rani “The Roadrunner” Tanimoto on the third Sunday of the month. The three run/walk events are called The Terrific Turtle Trudge, The Mighty Mouse Scamper and The Roadrunner 1- mile Romp. **The Trudge will cover 332,640 inches; the Scamper will be 126,720 inches; and the 1-mile Romp will be 63,360 inches.** The pods will be separated by weight rather than age.

*THEME: We encourage people to wear turtle, mouse or roadrunner stuff.*

## Zoomin’ Zak Plunge and Plod Biathlon. [First Sunday of March]

We will celebrate St. Patrick’s Day on the first Sunday of March. The event is the Zoomin’ Zak Plunge and Plod Biathlon. The course will include **3/4 mile swim**

**and a 3.9-mile run.** St. Patrick’s Day is a great day to be Irish and wear green, but we will also remember one of my all-time favorite people, Zak Harvey.

*THEME: St. Patrick’s Day is a great day to be Irish and wear green.*



Start of a Peaman

## Carboman 10-mile Mosey, Dragon 3.5-mile Dash and 1-mile Golden Fox Gallop. [Third Sunday of April]

On the third Sunday of the month, we’ll go back to the streets for the Carboman **10-mile Mosey**, Dragon **3.5-mile Dash** and **1-mile Golden Fox Gallop**. The three run/walk races will honor a trio of our original peas, Craig “Carboman” Leeper, Gary “The Dragon” Grubb and Lenny “The Golden Fox” Katz.

*THEME: The event theme will be Easter, Spring and, of course, Carboman, The Dragon and The Golden Fox.*

## Polar Bear’s Pinto Bean and Pinata Biathlon. [First Sunday of May]

The Polar Bear event is open to guys age 20 and up, and boys and girls 19 and under. **The race covers a half-mile-swim and two-mile-run course.** The Polar Bear event will celebrate Cinco De Mayo. At the Polar Bear Cinco De Mayo celebration, we will offer a two-loop-swim only race that will make up for the cancellation of the traditional Cinco swim. I think we will call ours the Sinko or Swimo De Mayo.

*THEME: The event theme will be Cinco De Mayo.*

## Bree Wee Chickpea Biathlon. [Second Sunday of May]

Bree Wee’s biathlon is open to gals 20 and up, and boys and girls 19 and under. The race covers a **half-mile-swim and two-mile-run course.** Bree’s race will honor moms and women, who truly are the ones that keep our planet spinning.



THEME: ?.

○

## Papa Pea's Birthday Biathlon and Salute to the 70s. [Second Sunday of June]

In June, we will use our usual formula of celebrating my dad's birthday two weeks after the "Honu Half Ironman. The event will be called Papa Pea's Birthday Biathlon and Salute to the 70s. The course will include a **34-mile swim and a 3.1-mile run/walk**. We will, of course, be celebrating Bill "Papa Pea" Pagett's birthday and the year 1975.

THEME: *The 70s.*

○

## Pedal Till Ya Puke and Run Till Ya Ralph + The Papa Pea Pedal or Plod + Mad Dog Mile. [July]

In July we will venture away from Kailua Bay and Alii Drive to pretend that we are in France for the final weeks of the "Tour de France." The hill climb event will be open to road bikes, mountain bikes, runners and walkers. Both the Pedal Till Ya Puke and Run Till Ya Ralph (**both 61/2 miles**) start at the bottom of Kaloko Drive and finish at the top. Start time is 8 a.m. The Papa Pea Pedal or Plod will start three miles up the hill and finish **31/2 miles** later at the top. Finally at 9 a.m. the Mad Dog Mile will get going with an out and back **1-mile** course that starts at the top. At this event we will begin our "Christmas in July" charitable collections. We will be gathering as many new or slightly used event or volunteer T-shirts as possible. We will also continue our year-round collection of both useable and unuseable athletic shoes.

THEME: *up hill pain?*

○

## The Brown Bear Bash and Sunny Sprint. [Third Sunday of August]

In August we will distribute all our items we can collect to those in need. All donations will be made in memory of Sunny Haspe. Prior to giving out all of the stuff on the third Sunday of the month we will honor Brown Bear and Sunny with The Brown Bear Bash and Sunny Sprint. The bash will be a **13-mile swim and 3.1-mile run/walk** and the sprint will cover **200 yards in the water to go with a 1-mile run/walk**.

THEME: The event theme will be bright and sunny clothes or things with bears on them.

○

## Peaman Kickoff Klassic Biathlon. [Second Sunday of September]

In September we will celebrate the start of football season and the arrival of the Iron-people at the Peaman Kickoff Klassic Biathlon. The event will the second Sunday of the month and will consist of a **34-mile swim and 3.9-mile run/walk**.

THEME: Wear the logos or colors of your favorite pro, college or high school team.

○

## Peaman Thrash and Dash Biathlon. [near end of October]

Two weeks after the Ford Ironman World Championship we will help cure everyone's Ironman fever with the always fun Peaman Thrash and Dash Biathlon. It a great first timer with a **13-mile swim and a 2-mile run/ walk**.

THEME: All "peaticpants" are encouraged to wear autumn colors or silly Halloween stuff.

○

## Post Pigout Peamania. [last Sunday of November]

November will bring about complete lunacy as our fanatical FPP wackos bring back this year's most fun event, the Post Pigout Peamania. The swim-run – swim- run event will be, as usual, the Sunday after Thanksgiving. The four-segment race will be two loops on the **1/4-mile swim and 2-mile run/walk** course. The pea-wee race will also cover two loops. *Doing one loop or mixing the long course and pea-wee course is also OK.*

THEME: ?

○

## Peaman's Birthday Bonanza. [last Sunday of December]

We will wrap up our FPP schedule with Peaman's Birthday Bonanza on the last Sunday of December. Western-themed attire is encouraged and a bandana or sheriff 's badge never slowed anyone down in a **1/2-mile swim and 3.9-mile run/walk** race.

THEME: All Western-themed attire is encouraged and a bandana or sheriff 's badge never slowed anyone down.

CATEGORIES

- Articles
- Biathlon
- Cycling
- Duathlon
- Lavaman Events
- Mango
- News
- Peaman Race
- Race Results
- Running Race
- Swim Race
- Triathlon

UPCOMING EVENTS

AUGUST, 2017

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SORT OPTIONS

No Events

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- Big Island Bike Tours
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- BigIslandRunning.com
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- Coconutgirls
- Coffee Talk Riders
- Cycle Station
- Eric Neilsen – Coaching
- Hawaii Cycling Club
- iworkouts.pro
- JTL Timing
- Kiser Motorcycles
- Kona Aquatics
- KONA COMMUNITY AQUATIC CENTER
- Kona Dolphins Swim Club
- PATH
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- Team Mango Races
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## North Hawaii News

### Q&A: Sean "Peaman" Pagett reflects on decades of providing fun outdoor events

Published July 15, 2014 - 1:01am

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Published July 15, 2014 - 9:41am



Name: Sean "Peaman" Pagett

**Resume:** Founder of Frozen Pea Production; has staged 334 — and counting — free, local endurance events for all ages; four-time Ironman finisher; inaugural recipient of the Ironman Malama Award; Mayor's Award for Excellence winner; member of the Big Island Sports Hall of Fame.

**Quotable:** "I get all the praise, but I always say these are community events, put on by the community, for the community. We really all come together. For me, I didn't do anything but go down and play with my friends."

**Upcoming event:** Peaman Red, White and Blue Biathlon (half-mile swim, 3.5 mile run/walk), July 21, 8 a.m., Kailua Pier

By J.R. de Groote  
West Hawaii Today

[jdegroote@westhawaii.com](mailto:jdegroote@westhawaii.com)

Editor's note: *This is one in a series of Q&As with members of the Big Island sporting community.*

It's hard to find someone who embodies the aloha spirit more than Sean "Peaman" Pagett.

While Peaman's heath has been on the decline in the past few decades, the 50-year-old's sturdy spirit has remained intact.

Since 1987, the eternal optimist and Konawaena High School graduate has staged nearly 350 fun, free, and sometimes strangely named events on the Big Island with the goal of bringing the community together and emphasizing the importance of exercise.

The four-time Ironman finisher (1982, '83, '89 and '94), Big Island Sports Hall of Fame member and recipient of the Mayor's Award for Excellence as well as countless other accolades, took time out of his schedule to sit down with

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West Hawaii Today to discuss what sparked his passion for putting on Peaman events, his perspective on the health of endurance sports on the Big Island, and even the beginnings of his legendary nickname.

**Q: What is the Peaman origin story? Was there a moment or something that sparked you to start putting on Peaman events?**

**A:** It is multifaceted. When I started this everyone had the running fever and wanted to do 5Ks, 10Ks and marathons. It was really big. Then suddenly insurance started causing a lot of races to cancel, causing our activity calendar in Kona to dwindle down.

Here I am, some punk kid at 20-something-years-old, saying, ‘We don’t need no insurance. We don’t need no waivers. I don’t care, sue me. I don’t have anything but this cardboard box.’

From there I made up Frozen Pea Productions and I used that silly name because I thought it was funny. I thought we could be the opposite of Ironman. Ironman is long, hard, grueling and expensive. Peaman events are short, easy, free and fun.

One day someone said, ‘Hey, there’s that pea guy.’ It evolved into Peaman and has stuck ever since.

**Q: Can you talk a little about your condition and what effect it has had on your life?**

**A:** The accident happened when I was 9 years old when we were back visiting Manhattan Beach, California. A drunk driver hit us going almost 70 mph, killing my mother instantly. It put me in the hospital for an extended amount of time and caused major damage to my pituitary gland, which helps maintain your body’s muscle mass.

During the accident I had the experience of going toward the loving light of God and then going back into my body. I would say that moment has formed my life in a very positive way.

When I was in high school, no one knew how bad the pituitary damage was. When everyone else was growing facial hair and wanting to have girlfriends, I wanted to play in the mud. I was not interested in standing in the hallway with fancy clothes. I wanted to throw the ball around like we did in elementary school.

In high school, I was running track and playing Pop Warner football and doing all the things normal kids did, but just having a lot of pain and unusual health situations. Suddenly, my femur breaks and they tell me I have the bone density of a 70-year-old man and that I have osteoporosis.

If you look now, as far as my health and the pain I’m in, I still say it is a blessing. I would not be doing what I’m doing if it was not for that.

**Q: How do you deal with the rough patches?**

**A:** Last year before the Hapuna Rough Water Swim was a big rough patch. I was hovering around 80 pounds and sometimes sleeping up to 36 hours at a time. To do Hapuna — I cannot even explain it. On paper, it was nearly impossible.

When you go into something and tell yourself you can’t do it, you’re not going to do it. In the years I was able to do Ironman, I did not train as much as I should have, but never told myself I couldn’t do it. When I did train, I wouldn’t wear a watch or heart monitor because I didn’t want something to tell me what my limits were. I just go by how I feel, regardless of time or numbers.

I think the way I make it through the rough patches is with consistency and not giving up. I do what I can do, but make the effort to get up and do it. Movement is what keeps me alive.

**Q: What do you hope people take away from a Peaman event?**

**A:** I would say the beauty of Kona and the giving nature of the people here.

I always hope people experience aloha in its purest form, which is when people come together and celebrate the day. I really get perturbed when people talk bad about Hawaii and say the aloha is gone. There is always aloha, you just have to find it.

Our slogan is, “Live, Laugh and be a Pea.” All these people who are so called “adults” love a kids party better. People are big kids and just want to have fun. That’s my belief.

**Q: Do you think the simplicity of the events helps with that?**

**A:** Simplicity is key. We don’t want to intimidate people before they even get to the race.

We have no entry fee and no application and only signing out. You don’t have to do anything beforehand. Someone could come down five minutes before and ask what they have to do to race, and I’ll tell them just head down to the start and get ready to go.

We are humbly proud that we have been able to put races on so that people can walk and be social, or race and be serious.

**Q: What’s your opinion on the health of endurance sports on the Big Island?**

**A:** It is on the upswing and it is continuing because of the youth movement. The kids are coming up and enjoying more active lives and seeing how important fitness is.

The first time I did Ironman I was 18. Cars could still go on the road and the bikes were big and clunky. No one knew what to eat either. Halfway through the race you could holler for some Burger King and then eat it on your bike. There was a lot more throwing up going on back then.

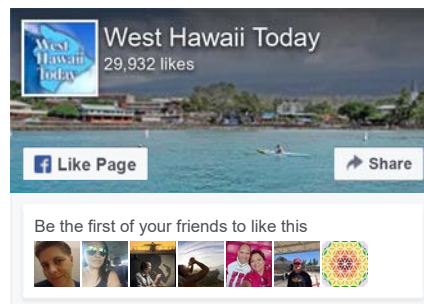
Now it is in your face in bold lettering — this has no sugar, this is gluten-free, this is all natural. In general, the amount of knowledge there is out there on the human body and the importance of fitness gets people into sports.

**Q: What role do you believe sports play for youth?**

**A:** Sports are a really good way to set kids up for the rest of their lives. I think coaches and sports really set your character on who you are from everything from your personal relationships to work, and how you manage your life. You learn that discipline and dedication.

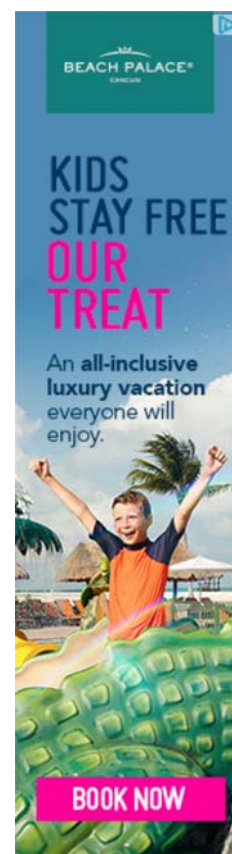
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**Q: What pushed you to do Ironman?**

**A:** I wanted the adventure of finishing something like that. To participate in something that is the equivalent of the Super Bowl of that sport is uncommon. There are not many sports where you are side-by-side with world champions and the top athletes in the game. No one ever says, 'I'm going to go play in the World Series.' You can actually do the Ironman.

**Q: What have been some of the most rewarding aspects of what you do?**

**A:** It would probably be the changes in the people over time, over almost three decades now. Seeing the kids grow up from a baby stroller to a great runner, or even better a great person, is tremendous.

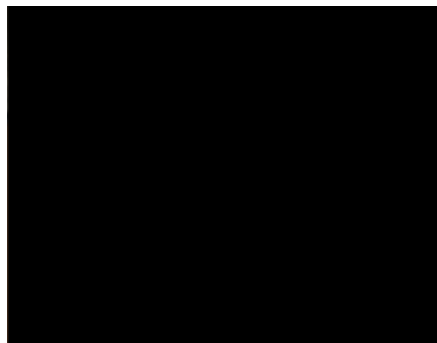
I have had people come up and tell me they just got over an addiction to drugs, or were 300 pounds and lost a ton of weight and having the Peaman races and that community there helped them through it. I'm in tears when I hear things like that. Having someone express how profound the experience was for them, when really I'm just a guy who wanted to play, have fun and pursue my passion.

**Q: What are some of the best memories you have from the Peaman events?**

**A:** Of course, meeting my wife Linda Jane Kelley at the Post Pigout Plunge in November of 1989. I remember her coming up and being so genuinely thankful. We got to be really good friends and have been together ever since.

I think of everyone at the events being family, but when Linda Jane, Sparky, Bucky (children) and my dad (Bill "Papa Pea" Pagett) come down, there is nothing like it. Those are the times that really stand out.

I just feel beyond blessed to have been a part of this. I get all the praise, but I always say these are community events, put on by the community, for the community. We really all come together. For me, I didn't do anything but go down and play with my friends.



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By Max Dible West Hawaii Today [mdible@westhawaii.com](mailto:mdible@westhawaii.com)

KAILUA-KONA — The Peaman event series has become an informal institution in Kona — a part of the fabric of the community.

But a recent confrontation between Sean "Peaman" Pagett — the organizer of the Frozen Pea Productions events — and an unnamed employee of the Hawaii Department of Land and Natural Resources regarding a permitting issue threatened the future of the monthly races, which have been a staple of the area over the past 30 years.

The Post Pigout Peamania, a swim/run race set every year for the Sunday after Thanksgiving, was held Nov. 27 at Kailua Pier and marked the 29th anniversary of Peaman races on Hawaii Island.

But as the event was kicking off, Peaman was approached by a man from the DLNR's Division of Boating and Ocean Recreation. The employee told Peaman he was shutting down the event because its participants weren't permitted to use the ocean for the swimming portion of the race.

"They decided to flex their muscle on Sunday and tell me we needed a permit. I disagreed," Peaman said. "Who owns the ocean? My stance is I don't feel we should need a permit to use the ocean."

The altercation between Peaman and the DOBOR employee grew heated, and the employee — whose name DOBOR declined to provide — called for backup.

"The fellow I was chatting with said, and this is a direct quote, 'I need armed backup,'" Peaman said.

Three DLNR officers soon arrived, and after a long discussion, the event was allowed to continue. They told Peaman, however, that if he didn't procure the proper permit prior to his next race — Peaman's Birthday Bonanza, which falls this year on Christmas Day — DOBOR would shut it down.

The permit process for events like Peaman's has two layers. One permit is required for use of the pier, the other permit is for use of the ocean in the context of a staged event.



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Bill Taylor, DOBOR Hawaii District manager, said the permit process itself is free, although there is a rental fee for use of the pier, which runs at 25 cents per square foot used, as that space is then not available for use by the public.

Using the ocean is free, but obtaining the permit to do so for an event requires liability insurance to cover any harm that may come to participants during the course of the race.

That insurance costs money Peaman said he doesn't have, as he already operates what he calls a "negative-profit company," meaning the monthly races are paid for out of his own pocket to the tune of around \$700 per event.

The events are free-of-charge to participants and are operated by a team of unpaid volunteers.

Taylor acknowledged the confrontation between one of his employees and Peaman on Sunday got a little out of control, adding that the situation could have been avoided and also misrepresented the role DOBOR plays in requiring permits for ocean use.

"You're supposed to provide some type of insurance to relieve any liability from your event on the state and also on you, the organizer. That's the purpose of insurance," Taylor explained. "The purpose of the permit is to basically make, for lack of better words, the ocean-using public aware there's an event going on to reduce conflicts and ensure everyone's safety."

Peaman said he was taken aback somewhat by the timing of the DOBOR employee's attempt to shut down the race, an attempt he called premeditated, as the events have been taking place for nearly three decades.

Peaman said he had permits up until about 15 years ago. When requirements for permits changed and began necessitating insurance coverage, he stopped applying.

Since that time, Peaman has had conversations on a few occasions with representatives of the DLNR in which the need for permits was discussed, but Sunday was the first time anyone had ever tried to shut him down.

Taylor, who has managed the district for DOBOR for only the last five months, said he couldn't speak to why the department hadn't more aggressively pursued permitting requirements for Peaman events in the past.

Taylor further explained that the DLNR could retroactively levy fines against Peaman for events that were held without a permit, but that he has no desire or intention to do so.

"We've been doing it forever, and it's never been a problem. It's well received by the community," Peaman said. "The intent of the events was to create something that was free and family-oriented, where people could come down and afford to bring the kids. Inclusion is an important factor for us. One of our mottos is that if we don't have a division for you, we'll create one."

Christine DeCarli, 40, moved to Kona 15 years ago and began competing in Peaman events in 2010. Since then, she has become a volunteer, helping stage the monthly races because she believes they're that important to locals.

"I think they're amazing for our community. They're a way for families and friends to get together doing something healthy, doing something fun," she said. "And aside from all he does for the community, as a friend, I really think putting on these events has been a light in Peaman's life. It's given him a lot of joy to be with people, to feel like he's helping people, and he loves to have fun. And that's what these events are — pure, clean fun."

Taylor agreed with DeCarli's assessment, adding that the last thing he wants to see is the end of Peaman events in Kona.

"I think the events are valuable," Taylor said. "I have friends who participate in them. They're good for the community. I want to keep them running. I don't want them to be shut down."

To that end, Taylor and Peaman connected by phone Thursday afternoon to discuss the issues and set up a meeting.

Both men said the conversation was cordial and productive, and both are confident that meeting somewhere in the middle, where state regulations are observed and the Peaman events are allowed to continue without onerous costs or logistical hassles, is a readily achievable goal.

"Bill Taylor was positive, and he said we both have the same goal — to keep (the races) going," Peaman said. "We'll have to negotiate a little bit on how to do a few of the different things. We may have to go to waivers, have people sign waivers, which we've never done. But the main thing is whatever we have to do to keep the (events) going is what we're going to do."

Taylor echoed Peaman's comments.

"The plans are to get everyone into compliance with the marine permitting requirements, and I think we can come to a reasonable agreement. I don't want to be adversarial," said Taylor, adding the only cost issue that can't be avoided is the rental use of the pier, although Peaman said his events can continue without that use. "We want to make sure everyone is protected. I am confident we are going to get there."

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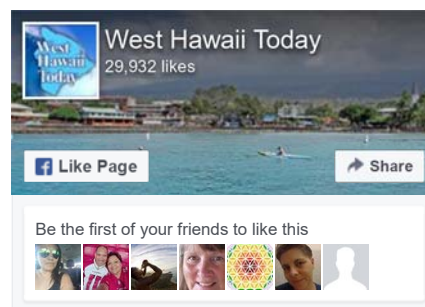
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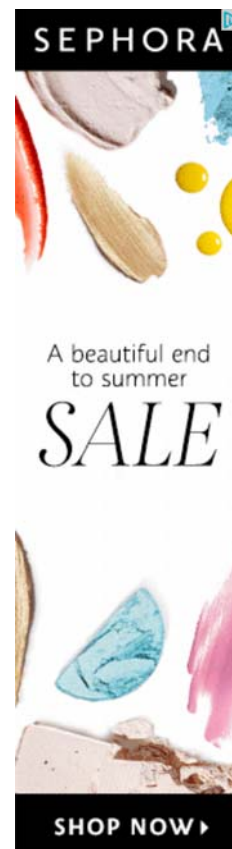
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### Contact Peaman expects fine

Published December 24, 2016 - 12:05am

Updated: December 24, 2016 - 12:05am

By Max Dible West Hawaii Today [mdible@westhawaii.com](mailto:mdible@westhawaii.com)

KAILUA-KONA — Sean "Peaman" Pagett expects his Christmas Day will begin with a criminal citation from the Division of Conservation and Resources Enforcement, the enforcement branch of the Department of Land and Natural Resources.

In fact, he's counting on it.

A dispute between Peaman and the DLNR over permits and insurance coverage stemming from an informal swim/run event in November threatens to impede the Doc Ferren Hall of Fame Biathlon, the next race in the annual Frozen Pea Production event series, which is scheduled for 8 a.m. on Christmas Day.

But the race — which consists of a half mile swim from the pier followed by a 3.9-mile run on Alii Drive — must go on, said Peaman, who has been conducting his informal event series for the last 29 years. And he's willing to suffer whatever consequences await.

"I'm not a villain, I'm not Robin Hood, I'm not bucking the system. I'm just standing up for my right to use the ocean as a citizen," Peaman said. "I don't want to be involved in any of this, but I feel that strongly about what we're doing."

The issue at hand involves Hawaii Administrative Rule Section 13-244-19, which deals with authorization for staging a regatta, marine parade, boat race or exhibition.

The rule defines these events as any "organized water event of limited duration, which is conducted according to a prearranged schedule" that "will introduce extra or unusual hazards to the safety of persons or property on the water."

Bill Taylor, Division of Boating and Ocean Recreation Hawaii District manager, explained that the acquisition of a marine event permit requires a detailed description of what the event will entail, including dates, times and number of participants, among other information.

State law further requires the purchase of risk-management insurance to cover such events once a permit is issued, he said.

The department contends that Peaman's events full under the purview of the rule. Peaman and his legal counsel disagree.

"We believe that DLNR's application of (the rule) to Peaman's 'races' is based on an overly broad and erroneous interpretation of the rule," said Jason Braswell, an attorney representing Peaman. "Legally for Peaman, the best way for him to challenge this rule is to be cited for violating it."

A citation carries with it a penalty of between \$50-\$1,000, and/or imprisonment for no more than 30 days, according to the DLNR. Braswell said if Peaman is issued a citation, it would amount to being charged with a misdemeanor.

The rule in question has been in effect since February of 1994, which has led Peaman to the question of, "Why is this happening now?"

He acknowledged he's been approached by the DLNR on multiple occasions over the years about the necessity of a permit, yet he's never been cited.

"We'll get that citation, and I'll plead not guilty," Peaman said. "I have no doubt that in the end, we will win our case."

The Peaman series, which has grown into an informal institution in Kailua-Kona over the last three decades, first encountered resistance in November. A DOCARE officer tried to shut down the Post Pigout Peamania swim/run race that is held the first Sunday after Thanksgiving every year.

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An altercation ensued, more DOCARE officers were called in, and eventually the race was allowed to continue. However, the officers told Peaman then that if he didn't acquire the proper permits and provide proof of insurance, further action would be taken.

Peaman and Taylor subsequently spoke over the phone, both telling the West Hawaii Today they were optimistic about meeting somewhere in the middle. Compromises might have included grandfathering Peaman's races in, as they were conducted for several years prior to the issuing of the administrative rule in question.

Another possible solution involved participants signing waivers in place of Peaman acquiring risk-management insurance coverage.

The permitting process is free, and because of the nature of Peaman's use of the pier, the DLNR is not pursuing permit requirements or payments for its use. But Peaman described the financial burden of acquiring insurance as onerous, as he pays for each of his free events out of pocket, operating at a loss of several thousands of dollars per year.

Taylor, Peaman and other representatives from both sides of the dispute sat down earlier this month to iron out such details, but Peaman said by then, Taylor and DOBOR were no longer willing to compromise.

"During that time between meetings, we went back and did our research and we found out that waivers couldn't be applicable to his events," Taylor said. "It's not permitted by state law."

The parties failed to reach an agreement before the meeting concluded. Peaman indicated to Taylor then his intention to hold the race scheduled for Christmas Day, saying the "handshake agreement" between the two was that such action would result in a citation.

Taylor said DOBOR handles the permitting process only, and he therefore can't speak to how DOCARE officers, who handle enforcement of DLNR rules, might proceed Sunday morning.

DLNR spokesperson Deborah Ward wrote in an email that DOCARE is aware of Peaman's plans, but "does not comment on possible law enforcement actions."

To Peaman's understanding, the citation he's expecting this Christmas won't result in the race being shut down. The question that remains, though, is what will become of the Peaman race series once he's cited and the court proceedings begin?

Peaman said he refuses to bend to the DLNR's rule. But continuing to stage races after such a refusal would likely result in the piling up of citations, fines and possible jail time.

He can't continue to sponsor the races on his own without betraying his convictions, but he's also unwilling to deprive the community of access to them.

That's where Peoples Advocacy for Trails Hawaii, or PATH, factors into the equation.

Tina Clothier, executive director of PATH, accompanied Peaman to his meeting with DOBOR earlier this month, where she stated her intention to keep the events running.

The difference is that PATH, which has deeper coffers than Peaman, will act in compliance with DLNR regulations, including extending the liability insurance it already procures for its events to future Peaman races it intends to sponsor.

She said PATH will be there to support Peaman events for as long as is needed.

"We see Peaman events as being sort of the premier active living events in Kailua-Kona. It really is very welcoming for people just starting out in terms of physical activity, and it's great for the whole family," Clothier said. "I have personally seen kids who started with Peaman grow up to become Ironman triathletes. It's such a great way introduce people in our community to the sport of swimming and running."

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Sean "Peaman" Pagett, left, talks to officers Destiny Hoopii and Len Losalio of the Division of Conservation and Resources Enforcement, the enforcement branch of the Department of Land and Natural Resources, on Sunday. (Tom Hasslinger/ West Hawaii Today)

By Tom Hasslinger West Hawaii Today [thasslinger@westhawaii.com](mailto:thasslinger@westhawaii.com)  
KAILUA-KONA — Peaman was cited.

But, he said, it didn't ruin his Christmas.

"No one wants to go to court," Sean "Peaman" Pagett said Sunday after receiving a ticket from the Department of Land and Natural Resources (DLNR) for hosting the Doc Ferren Hall of Fame Biathlon, one of many races put on by Peaman's Frozen Pea Productions.

The criminal citation from the department's enforcement branch, the Division of Conservation and Resources Enforcement (DOCARE), comes not with a fine but with a court date — early February.

"Nah," Pagett said about the potential violation ruining race day — not to mention his birthday, which is today. "It was awesome."

The race, which took place at 8 a.m. Christmas morning, consisted of a half-mile swim from the pier on the waterfront in Kailua-Kona followed by a 3.9-mile run on Alii Drive. Around 150 people took part in the run and swim. It's one of countless races Pagett has hosted over the last 29 years.

Recently, however, the state looked into permitting rules around the race, and told Peaman that the events, should they continue, would need the proper insurance.

The issue at hand involves Hawaii Administrative Rule Section 13-244-19, which deals with authorization for staging a regatta, marine parade, boat race or exhibition.

The rule defines these events as any "organized water event of limited duration, which is conducted according to a prearranged schedule" that "will introduce extra or unusual hazards to the safety of persons or property on the



water." State law further requires the purchase of risk-management insurance to cover such events once a permit is issued.

The department contends that Peaman's events fall under the purview of the rule.

On Sunday, at least three DOCARE officers were at the pier to monitor the race. They declined to comment to West Hawaii Today.

And the race went on like normal, with participants swimming through glass-like water then running down Alii Drive under clear blue skies.

Pagett said he was given the ticket after the race concluded, and the DLNR officers were apologetic about it, complimenting him on the race's organization and how friendly the participants were. He said he'd fight the citation in court.

But the back story leading up to the race was noticed by participants. The potential fine was covered in West Hawaii Today prior to Christmas Day's race.

"To be honest, it's really sad, you know?" said Jamie Chantlos, who's run Peaman's races before, including Sunday, about the conflict over what she said should be a simple issue of letting people run and swim instead of focusing on fines and conflict. "Why get your pants in a wad?"

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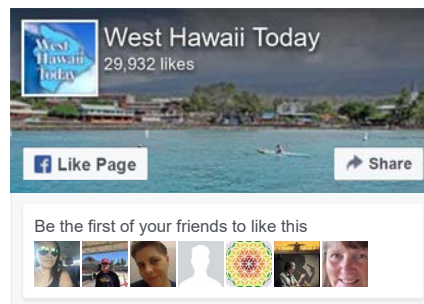
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2017-08-31 10:22

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distance of three thousand five hundred forty feet; 090 degrees for a distance of one thousand seven hundred forty feet; then in a straight line to the point of beginning.

(d) Zone C shall be closed to parasail and all thrill craft operations from May 15 to December 15 of each year. [Eff 2/24/94] (Auth: HRS §§200-21, 200-22, 200-22, 200-24, 200-37) (Imp: §§200-22, 200-24, 200-37)

§13-256-156 Kailua Pier Restricted Zones. (a) Kailua Pier Restricted Zones means the areas defined by the boundary lines as shown on Exhibit "III", dated June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

(b) Zone A.

- (1) Beginning at a point at the low water mark on the east side of Kailua Pier; then by azimuth measured clockwise from True South, 317 degrees for a distance of two hundred twenty feet; 336 degrees for a distance of three hundred twelve feet; 026 degrees 30 minutes for a distance of four hundred sixty-five feet; 158 degrees for a distance of three hundred four feet; 214 degrees for a distance of one hundred eighteen feet to the western seaward edge of Kailua Pier.
- (2) Restrictions. This area is designated for boating use only. Swimming is prohibited.

(c) Zone B.

- (1) Beginning at a point at the low water mark on the east side of Kailua Pier; then by azimuth measured clockwise from True South; 317 degrees for a distance of two hundred twenty feet; 292 degrees for a distance of six hundred eighty-three feet to intersect with the low water mark fronting the western property line of Hulihee Palace; thence along the low water mark to the beginning.
- (2) Restrictions. This area is designated a swimming zone. No person shall operate or

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moor a vessel within this zone, except for commercial fishing vessels engaged in baitfishing operations. Vessels operating near the shoreline of Kailua Bay between Hulihee Palace and the Kona Hilton Hotel shall exercise caution due to swimming activity. [Eff 2/24/94] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: §§200-2, 200-3, 200-4)

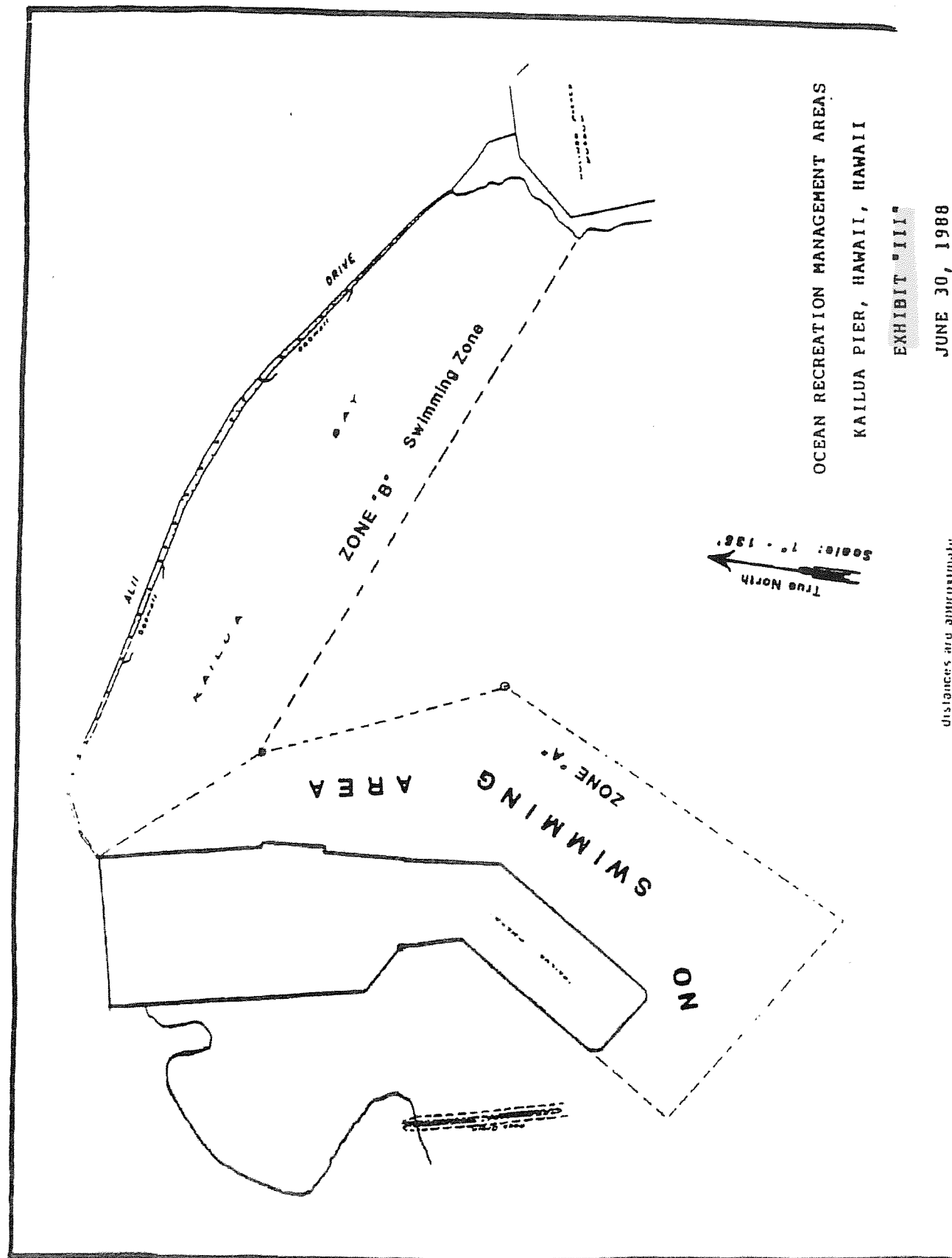
§13-256-157 Honokohau Swimming Zone. (a) Honokohau Swimming Zone means the area confined by the boundaries shown on Exhibit "JJJ", dated August 15, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the low water mark located by azimuth measured from True South from the N. E. Range Marker at Noio Point 160 degrees for a distance of four hundred seventeen feet; then 243 degrees to a point at the low water mark of the shoreline south of Honokohau Harbor entrance; then along the shoreline in a southwesterly direction to the point of beginning.

(b) Restrictions. Honokohau Swimming Zone is designated as a swimming and diving zone. No person shall operate or moor a vessel within this zone. [Eff 2/24/94] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: §§200-2, 200-3, 200-4)

§13-256-158 Kua Bay Swimming Zone. (a) Kua Bay Swimming Zone means the area confined by the boundaries shown on Exhibit "KKK", dated September 19, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at the low water mark on the shoreline of Papiha Point; then by straight line to the low water mark at Punalua Point; then along the low water mark to the point of beginning.



January 6, 2017

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER THROUGH MANAGEMENT  
KEKOA KALUHIWA  
FIRST DEPUTY  
JEFFREY T. PEARSON  
DEPUTY DIRECTOR - WATER  
EDWARD R. UNIKERWOOD  
ADMINISTRATOR  
DIVISION OF BOATING AND OCEAN RECREATION



**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**  
**DIVISION OF BOATING AND OCEAN RECREATION**

HAWAII DISTRICT  
74-380 KEALAKEHE PARKWAY  
KAILUA-KONA, HAWAII 96740  
PHONE: (808) 327-3690 FACSIMILE: (808) 327-3693

January 6, 2017

TO: Matthew Gutierrez, Officer, DOCARE

FROM: W. E. Taylor, Hawaii District Manager, DOBOR

SUBJECT: Mr. Sean Pagett, Violation of Hawaii Administrative Rules §13-244-19

The following is a brief synopsis/statement to the best of my knowledge of the events/actions of the Division of Boating and Ocean Recreation (DOBOR)/Division of Conservation and Resource Enforcement (DOCARE) to address and attempt to remedy violations of Hawaii Administrative Rules (HAR) apparently committed by Mr. Sean Pagett.

On November 27, 2016, at approximately 08:08 a.m., Mr. Sean Pagett was scheduled to run the Post Pigout Peamina, which per advertisement was a four-segment race (swim-run-swim-run event) involving two loops on the ¼ mile swim and 2-mile run/walk course. The adjacent designated swim zone was used by participants for the swim course. Mr. Pagett had not applied for a Marine Ocean Water Use Permit as required by HAR §13-244-19.

On this day, the Cruise Ship MS AMSTERDAM made a scheduled a port call to Kailua-Kona at approximately 07:00 a.m., which introduced additional presence of commercial crafts in the area surrounding the swim zones during the scheduled event. Up to approx. 2,000 passengers were to be ferried by the vessels tenders to disembark at the Kailua-Kona pier loading area. The loading area is located adjacent to the swim zone used by Mr. Paget for his events. On this day, DOBOR was unable to communicate to the Cruise Ship and all other permitted commercial operators that use the Kailua-Kona Pier of the scheduled event to avoid potential conflicts and be mindful of persons in the water.

At approximately 07:45 a.m., a DOBOR staff member observed over 100 persons gathering at the entrance to the Kailua-Kona Pier to participate in the event. The DOBOR staff member approached Mr. Pagett and advised him that there was not a Marine Ocean Water Use Permit issued for the event and advised him that he was in violation of HAR related to conducting organized water events without the appropriate permit issued by the division and insurance. The DOBOR staff member contacted DOCARE and three officers arrived on scene. The event was allowed to continue.

**Exhibit"D"**



January 6, 2017

Following the events of November 27, 2017, and Mr. Pagett being advised at that time that he was potentially in violation of HAR §13-244-19 by DOBOR staff and DOCARE officers, DOBOR conducted extensive research to determine if HAR §13-244-19 was applicable to his events. On December 12, 2017, myself, staff personnel, and a DOCARE Officer met with Mr. Pagett, his attorney (Mr Jason Braswell) and a representative from People Advocacy for Trails Hawaii (PATH) (Ms. Tina Clothier) at the DOBOR Hawaii District Office to further discuss his events and ways to achieve compliance with State Marine Event Permitting requirements. During this meeting, it was explained that the requirements of HAR §13-244-19 were applicable to his events and that a permit would be required for future events. PATH had offered to cover the Risk Management insurance requirements for future Peaman events. Mr. Pagett, has stated that did not believe that HAR §13-244-19 is applicable to his events. He was advised that the running of future events without a Marine Ocean Water Use Permit may result in issuance of a citation by DOCARE officers.

On December 25, 2017, the Peaman Birthday Bonanza was held, which according to advertisement involved a ½ mile swim and 3.9 run/walk race. Mr. Pagett did not submit an application for a Marine Ocean Water Event permit nor was issued a permit by DOBOR for this event. Mr. Pagett was cited by DOCARE officers for violation of HAR §13-244-19.

#

LD

## State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

INVESTIGATION # 17-0567-HA	District North Kona	Lead Investigator Gutierrez, Matthew	Report Status In Progress	Key Report <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Date/Time Reported 12/25/2016 08:00AM	Location Kailua Bay	Classification OWNWB: No Marine Parade Permit		Connecting Reports

## Incident &amp; Report Control Form

DOCARE-5 (Rev. 8/03)

## A. COMPLAINT

Taken By: Matthew Gutierrez  
 How Taken: On Beat  
 Reported Date/Time: 12/25/2016 08:00AM

Complainant: Matthew Gutierrez  
 Home Work Cell

Phone:

Address:

Incident Summary Description: OWNWB: No Marine Parade Permit

Suspect: Sean PAGETT

Vehicle/Vessel:

Location: Kailua Bay

Occured From: 12/25/2016 08:00AM

Location Notes:

Occured To:

## B. REPORT CONTROL

Branch: Hawaii  
 District: North Kona  
 Lead Investigator: Matthew Gutierrez  
 Date Assigned: 12/28/2016 09:55AM

## C. NOTES/DISPOSITION/OTHER INFO

## INFORMATION

12-25-2016: Sean PAGETT was issued a citation for OWNWB: No Marine Parade Permit. For full information please refer to the attached supplemental reports.

## DISPOSITION

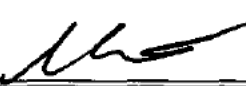
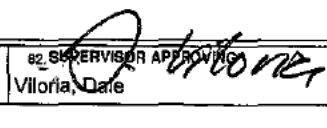
In view of the above information this case is closed citation issued. Please route a copy to the Kona Prosecutors office for their review and information.

CLOSED:CITATION ISSUED

**State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement**

<b>INVESTIGATION #</b> 17-0567-HA	<b>District</b> North Kona	<b>Lead Investigator</b> Gutierrez, Matthew	<b>Report Status</b> In Progress	<b>Key Report</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Date/Time Reported</b> 12/25/2016 08:00AM	<b>Location</b> Kailua Bay	<b>Classification</b> OWNWB: No Marine Parade Permit	<b>Connecting Reports</b>	

## Investigation Report

<b>BASIC</b>	<b>1. CLASSIFICATION</b> OWNWB: No Marine Parade Permit						<b>2. SOURCE</b> On Beat	
	<b>3. COMPLAINANT'S NAME</b> Matthew Gutierrez			<b>4. SEX</b>	<b>5. RACE</b>	<b>6. AGE</b>	<b>7. BIRTH DATE</b>	<b>8. OCCUPATION</b>
	<b>9. ADDRESS</b>			<b>10. PLACE EMPLOYED/SCHOOL ATTENDING</b>		<b>11. HOME</b>	<b>12. WORK</b>	<b>13. CELL</b>
	<b>14. LOCATION OF INCIDENT/INTERSECTING STREET</b> Kailua Bay					<b>15. DATE/TIME OCCURRED</b> 12/25/2016 08:00AM		<b>16. DATE/TIME REPORTED</b> 12/25/2016 08:00AM
<b>VEHICLES</b>	<b>17. TYPE</b>	<b>18. YEAR</b>	<b>19. MAKE</b>	<b>20. MODEL</b>	<b>21. COLOR</b>	<b>22. LICENSE / HA No.</b>	<b>23. LENGTH</b>	<b>24. STOLEN</b>
	<b>25. REGISTERED OWNER</b>		<b>26. ADDRESS</b>			<b>27. HOME</b>	<b>28. WORK</b>	<b>29. CELL</b>
	<b>30. NOTES</b>							
	<b>31. TYPE</b>	<b>32. YEAR</b>	<b>33. MAKE</b>	<b>34. MODEL</b>	<b>35. COLOR</b>	<b>36. LICENSE / HA No.</b>	<b>37. LENGTH</b>	<b>38. STOLEN</b>
<b>PEOPLE</b>	<b>39. REGISTERED OWNER</b>		<b>40. ADDRESS</b>			<b>41. HOME</b>	<b>42. WORK</b>	<b>43. CELL</b>
	<b>44. NOTES</b>							
	<b>45. NAME</b> Sean PAGETT			<b>46. SEX</b> Male	<b>47. RACE</b>	<b>48. AGE</b>	<b>49. BIRTH DATE</b>	<b>50. OCCUPATION</b>
	<b>51. CATEGORY</b> Suspect		<b>52. ADDRESS</b>				<b>53. HOME</b>	<b>54. WORK</b> <b>55. CELL</b>
<b>SYNOPSIS</b>	<b>56. NAME</b> William TAYLOR			<b>57. SEX</b> Male	<b>58. RACE</b>	<b>59. AGE</b>	<b>60. BIRTH DATE</b>	<b>61. OCCUPATION</b>
	<b>62. CATEGORY</b> Witness		<b>63. ADDRESS</b> 74-380 Kealahou PW, Kailua Kona, HI, 96740				<b>64. HOME</b>	<b>65. WORK</b> <b>66. CELL</b>
	<b>67. NAME</b>			<b>68. SEX</b>	<b>69. RACE</b>	<b>70. AGE</b>	<b>71. BIRTH DATE</b>	<b>72. OCCUPATION</b>
	<b>73. CATEGORY</b>		<b>74. ADDRESS</b>				<b>75. HOME</b>	<b>76. WORK</b> <b>77. CELL</b>
<b>WRITER</b>	<b>78. SYNOPSIS INFORMATION</b>							
	12-25-2016: Sean PAGETT was issued a citation for OWNWB: No Marine Parade Permit. For full information please refer to the attached supplemental reports.							
	<b>DISPOSITION</b>							
	In view of the above information this case is closed citation issued.							
<b>WRITER</b>	CLOSED: CITATION ISSUED							
	****PLEASE ROUTE A COPY TO DOBOR DISTRICT MANAGER WILLIAM TAYLOR****							
	<div style="display: flex; justify-content: space-between;"> <div>  </div> <div>  </div> </div>							
	<b>79. REPORT WRITTEN BY</b> Gutierrez, Matthew		<b>80. BADGE No.</b> 122	<b>81. DATE/TIME WRITTEN</b> 01/13/2017 03:07PM	<b>82. SUPERVISOR APPROVING</b> Victoria, Date	<b>83. DATE/TIME APPROVED</b> 01-21-17/1300	<b>84. BADGE No.</b> 244	<b>85. DISPOSITION</b>

INVESTIGATION # 17-0567-HA	DISTRICT North Kona	LEAD INVESTIGATOR Matthew Gutierrez	KEY REPORT <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
DATE / TIME REPORTED 12/25/2016 8:00:00 AM	LOCATION Kailua Bay	CLASSIFICATION OWNWB: No Marine Parade Permit	CONNECTING REPORT(S)

Report Type: ☐ Continuation of Report ☒ Supplemental ☐ Follow Up  
 Date/Time Written: 12-28-2016/1200HRS  
 Written By: M.GUTIERREZ

## Report

### ASSIGNEMENT

On 12-25-2016: Officers Destiny HOOPII, Amanda LLANES, Len LOSALIO and I were assigned to conduct checks at Kailua Pier for any violations after it was learned that an event will be taking place without a permit. I assigned myself and Officer LLANES to be in plain clothes in an attempt to observe and photograph violations more closely.

### INFORMATION/PRIOR CONTACTS

On 11-25-2016: I was contacted by DOBOR employee Sally Geiger via telephone to look into an unpermitted event that will be taking place on Kailua Pier on 11-27-2016. Sally explained to me that the event is named "The Post Pigout Peaman." Sally said she was informed that this event is going to take place even though there is no permit to do so. It was explained to me that a marine/ ocean event permit was needed along with a Right of entry permit to use the pier. Sally said neither one of those permits have been issued for this event.

11-27-2016:0745HRS: I was contacted by DOBOR employee Steve SCHMELZ requesting assistance due to the peaman event preparing to begin. SCHEMLZ explained to me that he had contacted Sean PAGETT who is in charge of the event and told him the event is unpermitted and he is in violation. I responded with Officer LLANES and Officer Jason HAMADA. SCHMELZ pointed out Sean PAGETT who was wearing a neon green long sleeve run big shirt. It was explained to PAGETT that a Marine parade event permit and a right of entry permit was required to hold this type of event. PAGETT told me that his lawyer had told him otherwise because he is just using the swim zone and has less than one hundred people. I informed him that the next event that he has without the proper permitting he will be receiving a citation.

### DOBOR MEETING/WITNESS

12-12-2016: A meeting was held at Honokohau DOBOR office with DLNR employees and Sean PAGETT, and Jason BRASWELL who is PAGETT's attorney. The meeting was held to discuss the permit requirements and to offer assistance with obtaining the proper permits. Please refer to Officer Jason HAMADA's attached supplemental report for full information on this meeting.

DOBOR District Manager the witness is identified as:

William TAYLOR  
 [REDACTED]  
 74-380 Kealahou Parkway  
 Kailua-Kona, HI 96740  
 State of Hawaii  
 DOBOR

Please refer to DOBAR District Manager William TAYLOR's written statement for full information.

Officer \_\_\_\_\_ Badge No. \_\_\_\_\_ Date / Time \_\_\_\_\_

**State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement**

INVESTIGATION # 17-0567-HA	DISTRICT North Kona	LEAD INVESTIGATOR Matthew Gutierrez	KEY REPORT <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
DATE / TIME REPORTED 12/25/2016 8:00:00 AM	LOCATION Kailua Bay	CLASSIFICATION OWNWB: No Marine Parade Permit	CONNECTING REPORT(S)

## Report (Continued)

### RESEARCH CONDUCTED

After being informed that the event will take place even though no permit was issued. I conducted internet research to confirm that the peaman event will be taking place on Christmas day. I was able to find a calendar from big island running company that had the event scheduled for 12-25-2016. Please see attached print out of big island running company's calendar.

### SUSPECT IDENTIFIED/CONTACT #1

The suspect in this case is identified as:

Sean PAGETT [REDACTED]



At approximately 0730HRS Officers HOOPII and LOSALIO were contacted by PAGETT. Officer HOOPII obtained the information regarding the permit issue for the peaman event. Please refer to HOOPII and LOSALIO's supplemental reports for full information on the initial contact with PAGETT.

### OBSERVATIONS

HRS 12-25-2016:0600HRS: Along with Officer LLANES in plain clothes I observed multiple people gathering near the entrance of the pier who appeared to be there to participate in the peaman event. While sitting on the sea wall I observed Sean "peaman" PAGETT arrive to the area in a silver Toyota pickup. PAGETT unloaded plastic crates and plastic tables to shaded area on the pier. I also noticed a group of people gathering across the parking area near the canoes who appeared to be getting ready for an event in that area as well.

At approximately 0808HRS a large number of participants and spectators have arrived and waiting for the race to begin. PAGETT was observed addressing the participants on the beach with welcoming statements, as well as instructions on the courses for the race. He stated that the course will start at the "first white canister" and continued to inform the group that it was very important to keep the swim lane buoys on the right side on the way out, and on the left on the way back. The race began at approximately 0816hrs. Shortly after the race began I went and changed from plain clothes to my full DOCARE uniform due to spectators recognizing who I was.

Once I returned from changing my clothes I observed participants completing the race and receiving a numbered stick as they crossed the finish line. The stick with a number represented the number of participant to finish the race. Each person would take the stick and sign out. The sign out table was set up under the shaded area on the pier. The lady at the table would ask which portion of the race did they complete and write it down next to their name and number that was on the stick.

Please refer to Officers LLANES, HOOPII and LOSALIO's supplemental reports for full information on observations of the event.

Officer

Badge No.

Date / Time

INVESTIGATION #  
17-0567-HA

DISTRICT  
North Kona

LEAD INVESTIGATOR  
Matthew Gutierrez

KEY REPORT  
☒ Yes ☐ No

DATE / TIME REPORTED  
12/25/2016 8:00:00 AM

LOCATION  
Kailua Bay

CLASSIFICATION  
OWNWB: No Marine Parade Permit

CONNECTING REPORT(S)

## Report (Continued)

### SUSPECT CONTACT #2

12-25-2016: 0950HRS: Officer LOSALIO and I made contact with PAGETT after the race was complete and most of the spectators have left the area. PAGETT was cooperative and offered any information I requested. I informed him that he was in violation for having the peaman event and not having the proper permit to do so. PAGETT explained that he understood and he was expecting a citation so he can go to court and sort it all out. I issued a citation to PAGETT with no incident.

### CITATION ISSUED

On December 25, 2016 a citation was issued to Sean PAGETT for Small Boat Harbor (No Marine Parade Permit) to appear at KN DCT on February 09, 2016 at 830HRS.

### PHOTOGRAPHS

Photos were taken by refer to the attached photographic record for full information.

### EVIDENCE

Videos were taken as evidence for this case. Please refer to evidence report for full information.

### DISPOSITION

In view of the above information this case is closed citation issued.

CLOSED: CITATION ISSUED

\*\*\*\*PLEASE ROUTE A COPY TO DOBOR DISTRICT MANAGER WILLIAM TAYLOR\*\*\*\*

Officer

Badge No.

Date / Time

1-12-17

## State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

INVESTIGATION # 17-0567-HA	DISTRICT North Kona	LEAD INVESTIGATOR Matthew Gutierrez	KEY REPORT <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
DATE / TIME REPORTED 12/25/2016 8:00:00 AM	LOCATION Kailua Bay	CLASSIFICATION OWNWB: No Marine Parade Permit	CONNECTING REPORT(S)

Report Type: ☐ Continuation of Report ☒ Supplemental ☐ Follow Up  
 Date/Time Written: 01-01-2017 / 2100 Hrs  
 Written By: Ofcr. J. HAMADA #242

## Report

ASSIGNMENT

On 12-16-2016 at 1318 Hrs, I received an email from Bill TAYLOR, Hawaii District Manager DLNR Division of Boating and Ocean Recreation, stating that based on a conversation with Sean "PeaMan" PAGETT's lawyer on 12-14-2016, he's anticipating that the upcoming PeaMan event on December 25 will be held at the Kailua Pier unpermitted. Being that representatives from DOBOR and DOCARE, along with PAGETT and his lawyer met on 12-12-2016 regarding the permit application process and to address any questions and concerns from PAGETT, TAYLOR is requesting enforcement if the event is held as planned.

INFORMATION

Being that I was going to be on leave from 12-21-2016 to 12-30-2016, I emailed all West Hawaii officers as well as Branch Chief L. KAMAKAU a copy of TAYLOR's letter, as well as topics discussed at the meeting that I attended on 12-12-2016.

SUMMARY OF MEETING ON 12-12-2016

I attended a meeting at the Honokohau DOBOR office on 12-12-2016 at 1000 Hrs. Parties present from DLNR are as follows: myself (DOCARE), Bill TAYLOR (DOBOR Hawaii District Manager), Dan MERSBURGH (Harbor Agent IV), and Steve SCHMELZ. Also present was Tina CLOTHIER (Executive Director of PATH), Sean "PeaMan" PAGETT, Jason BRASWELL (Attorney for PeaMan), and Ingrid HILLHOUSE.

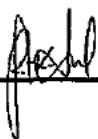
TAYLOR began by going over the reasons permits are required for pier usage, specifically listing the following:

1. Preventing ocean conflicts by opening communication between events and other pier users (such as cruise ship tenders). Preventing unnecessary safety issues caused by having multiple users/events being held at the same time.
2. Provide DOBOR/DOCARE with prior knowledge of events being held.
3. Insurance requirements are to protect State and event organizer from liability.

TAYLOR then referred to HAR 13-244-19 as the section that requires PeaMan events to obtain a permit prior to holding their events at the Kailua Pier. BRASWELL was unclear on the interpretation of "marine parade" as written in the section. TAYLOR related that a "marine parade" is an organized water event of limited duration with a prearranged schedule. PAGETT comments that he doesn't feel the section applies to his events. TAYLOR notes that permitting is per event however, under subsection 2, permits can be issued for continuously occurring events only if dates are set. PAGETT then provided parties with copy of tentative 2017 schedule, with 13 events listed. 2017 PeaMan schedule will be submitted as part of this investigation as "Attachment A".

PAGETT again comments that he does not feel that the rule applies to his events as he is not for profit, does not charge entry fee, and does not have sign in for participants.

A physical copy of the permit application is provided to PAGETT, BRASWELL, and CLOTHIER. TAYLOR notes that the application must be submitted at least 30 days prior to event.

Officer 

#242  
Badge No.

01-06-2017 / 1017 Hrs  
Date / Time

**State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement**

INVESTIGATION # 17-0567-HA	DISTRICT North Kona	LEAD INVESTIGATOR Matthew Gutierrez	KEY REPORT <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
DATE / TIME REPORTED 12/25/2016 8:00:00 AM	LOCATION Kailua Bay	CLASSIFICATION OWNWB: No Marine Parade Permit	CONNECTING REPORT(S)

**Report (Continued)**

BRASWELL states that it is impossible for them to meet 30 day requirement for December event. TAYLOR states that he will allow application to be turned in after 30 day deadline for December event, and will grant permit as long as all other requirements are met.

TAYLOR states that his office has done some research regarding insurance policies for similar type of events and the most cost effective one they have found is through USA Triathlon. Suggests that PAGETT look into joining and conducting events under "practice events" so they can fall under their umbrella policy. They believe that is the same policy used for Lavaman, Ultraman, and Mango events.

BRASWELL brought up taking case to Land Board, contested case hearing. MERSBURGH related that Land Board meets once a month, and believes it takes about 6 weeks to get on an agenda. Land Board may or may not grant a contested case hearing. Information will be forwarded to parties in case they want to take that route.

PAGETT asked about previous talks, between himself and TAYLOR, of using waivers to conduct event without insurance. TAYLOR stated that the State will not allow waivers/release of liability. Event must have insurance to obtain permit.

CLOTHIER from PATH offers to cover insurance for December event. BRASWELL does not see any legal issues with PATH providing insurance for December event. TAYLOR states that December event will be permitted pending application with valid certificate of insurance.

TAYLOR provides PAGETT with a copy of the 2017 cruise ship schedule to possibly avoid any scheduling conflicts. PAGETT related that PeaMan schedule is tentative and flexible to revisions.

Conclusion of meeting.

**ATTACHMENT A**

2017 PeaMan Schedule, page 1 of 1, will be submitted as part of this investigation labeled "Attachment A".

**ATTACHMENT B**

Labeled and submitted as "Attachment B", page 1 of 1, is a scan of a Facebook post by Peaman Peaman (PAGETT) to a Public Group titled PeaMan...Frozen Pea Productions!, dated November 27, 2016. Area of emphasis is second comment by Peaman Peaman which states, "If anybody's interested in helping me work with the DLNR On Pea day permits please contact me" posted November 27, 2016 at 13:15. Second area of emphasis is the next comment posted by Peaman Peaman which states, "Thank you! And big love! I just don't play by the rules very well when they don't make sense" posted November 27, 2016 at 13:37.

**ATTACHMENT C**

Labeled and submitted as "Attachment C", page 1 of 1, is a scan of a Facebook post by Pam MILLER to a Public Group titled PeaMan...Frozen Pea Productions!, dated December 4, 2017 at 12:02. Post is a link to an article in West Hawaii Today titled "Peaman hits permit snag". Area of emphasis is designated with (1), where Tina SCOVILLE CLOTHIER (PATH) and David O. BALDWIN (Hawaiiiphotoman) offer insurance assistance for events.

**ATTACHMENT D**

Labeled and submitted as "Attachment D", page 1 of 1, is a scan of a Facebook post by Peaman Peaman to a Public Group titled PeaMan...Frozen Pea Productions!, dated December 1, 2016 at 18:39. Post refers to conversation between PeaMan and Bill TAYLOR.

---

Officer

Badge No.

Date / Time



**State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement**INVESTIGATION #  
17-0567-HADISTRICT  
North KonaLEAD INVESTIGATOR  
Matthew GutierrezKEY REPORT  
☒ Yes ☐ NoDATE / TIME REPORTED  
12/25/2016 8:00:00 AMLOCATION  
Kailua BayCLASSIFICATION  
OWNWB: No Marine Parade Permit

CONNECTING REPORT(S)

**Report (Continued)****ATTACHMENT E**

Labeled and submitted as "Attachment E", page 1 of 1, is a scan of a Facebook post by Peaman Peaman to a Public Group titled PeaMan...Frozen Pea Productions!, dated December 24, 2016 at 16:27. Area of emphasis is the bottom half of post which states, "I am 100% confident that we are doing nothing wrong and are breaking no rules or regulations by swimming in the ocean as a group."

**DISPOSITION**

In view of the above information, this investigation will remain continuing. Route copy of report to initial investigator Ofcr. M. GUTIERREZ for his review and final disposition.

INV. CONTINUING

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Officer

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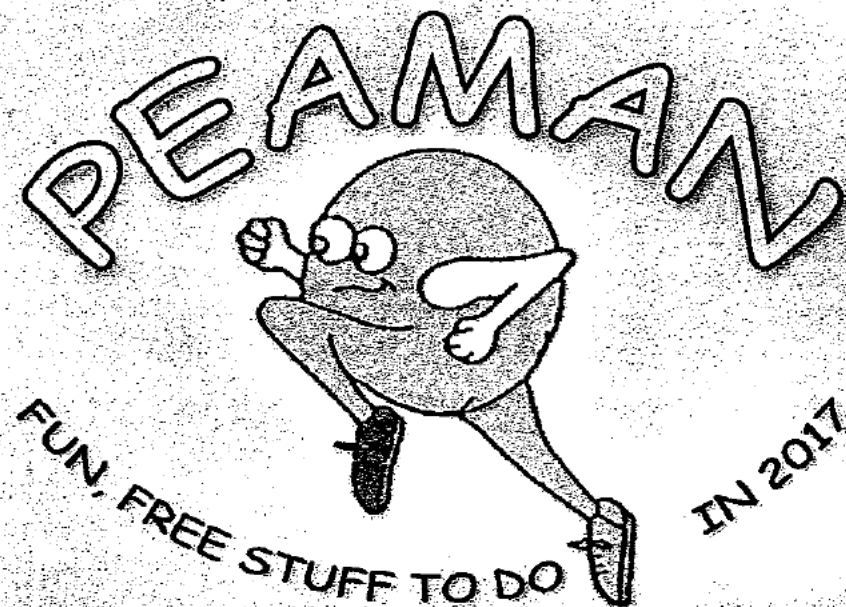
Badge No.

---

Date / Time

# 2017 Peaman Schedule

<b>January 29</b> 8:08 AM	<b>Peaman Splish-Splash and Superbowl Shuffle Biathlon</b> 1/2 Mile Swim / 3.1 Mile Run ***LavaKids Pea Wee Course (200-yd Swim / 1-Mile Run)
<b>February 19</b> 8:08 AM	<b>DeCarli Run-Swim-Run</b> 2-Mile Run / 1/3 Mile Swim / 2-Mile Run ***LavaKids Pea Wee Course (200-yd Swim / 1-Mile Run)
<b>March 5</b> 8:08 AM	<b>Zoomin' Zak Plunge and Plod Biathlon</b> 1/2 Mile Swim / 3.9 Mile Run ***LavaKids Pea Wee Course (200-yd Swim / 1-Mile Run)
<b>April 16</b> 8:08 AM	<b>The Road Runner Biathlon</b> 3/4 Mile Swim / 3.5 Mile Run ***LavaKids Pea Wee Course (200-yd Swim / 1-Mile Run)
<b>May 14</b> 8:08 AM	<b>Peaman Spring, Sprang, Sprung Biathlon</b> 3/4 Mile Swim / 3.1 Mile Run ***LavaKids Pea Wee Course (200-yd Swim / 1-Mile Run)
<b>June 11</b> 8:08 AM	<b>Papa Pea's Sizzling Summer Sprint</b> 1/2 Mile Swim / 2 Mile Run ***LavaKids Pea Wee Course (200-yd Swim / 1-Mile Run)
<b>July 16</b> 8:08 AM	<b>The Peas on Earth Biathlon</b> 1/2 Mile Swim / 3.5 Mile Run ***LavaKids Pea Wee Course (200-yd Swim / 1-Mile Run)
<b>August 6</b> 8:08 AM	<b>Pedal Till Ya Puke (6.5 Miles)</b> <b>Run Till Ya Ralph (6.5 Miles)</b> <i>Hill Climbs on</i> <b>Papa Pea Pedal or Plod (3.5 Miles)</b> <i>Kaloko Drive</i> <b>Mad Dog Mile (1-Mile)</b> (All Races open to Road & Mtn. Bikes, Runners and Walkers)
<b>August 20</b> 8:08 AM	<b>Brown Bear Bash and Sunny Sprint</b> 1/3 Mile Swim / 3.1 Mile Run (Bash) 200 Yard Swim / 1 Mile Run or Walk (Sprint) & ***LavaKids
<b>September 10</b> 8:08 AM	<b>The Wee and DLT Whirled Pea's Biathlon</b> 3/4 Mile Swim / 3.9 Mile Run ***LavaKids Pea Wee Course (200-yd Swim / 1-Mile Run)
<b>October 29</b> 8:08 AM	<b>Peaman Thrash and Dash Biathlon</b> 1/3 Mile Swim / 2 Mile Run ***LavaKids Pea Wee Course (200-yd Swim / 1-Mile Run)
<b>November 19</b> 8:08 AM	<b>Peamania</b> 1/4 Mile Swim + 2-Mile Clockwise Run/Walk + 1/4 Mile Swim + 2-Mile Counter Clockwise Run/Walk ***LavaKids Pea Wee Race is Also a Two-Loop Course
<b>December 31</b> 8:08 AM	<b>Doc Ferren Hall of Fame Biathlon</b> 1/2 Mile Swim / 3.9 Mile Run ***LavaKids Pea Wee Course (200-yd Swim / 1-Mile Run)



## All of Peaman's Aerobic Adventures Are:

- Sunday Mornings at 8:08 AM -
- At Kaiakeakua Beach, Next to Kailua-Kona Pier, Unless Noted \*\* -
- Masks, Snorkels & Fins are Welcome -
- No Entry Forms or Fees! -
- No Sign-Up, Sign-Out When Finished -
- \*\*\*LavaKids Pea Wee Course Always Available (200 yd. Swim, 1-Mi Run)
- Fun for the Whole Family! -

### Frozen Pea Productions

808-938-2296

Sean "Peaman" Pagett

C/O Regency at Hualalai Rm. A-306

75-181 Hualalai Road

Kailua-Kona, Hawaii 96740

### For Info on More Free Events

Thanksgiving Triathlon | Team Kiser | 808-989-2580

Big Island Running Co. | [www.bigislandrunningcompany.com](http://www.bigislandrunningcompany.com) | 808-327-9333

LavaKids | [www.lavakids.org](http://www.lavakids.org)

Schedule created by Rani & Penn Henderson

**LOVE, LAUGH AND BE A PEAI!**



Peaman Peaman

27 November 2016 at 12:00pm

It's been fun! C-YA P's 🍻🍻🍻

Like

Share

Agnes Prienn, Christine DeCarli and 15 others



Lori Montgomery Thanks for the fun race this morning and sorry to have to leave right after for work. Mahalo you fast guy!

Like 27 November 2016 at 12:05



Peaman Peaman if anybody's interested in helping me work with the DLNR On Pea day permits please contact me 🍻🍻🍻 PEA 🍻

Like 3 27 November 2016 at 13:15



Christine DeCarli We've got your back, Pea! There's already some of us workin' on it 🍻

Like 2 27 November 2016 at 13:24



Peaman Peaman Thank you! And big love! I just don't play by the rules very well when they don't make sense 🍻🍻🍻

Like 4 27 November 2016 at 14:37



LaVerne Evans Curry We so have your back. There was a lot of talk and ideas going on after the race. Sorry you, all of us, have to even go through this. Take such a fun community event that promotes health, togetherness, love, laughter and bonding for the whole family and leave it to Kona DLNR to try to run it for all of us for NO REASON!!!! Sorry Pea, don't stress until we have to and we will work this out

Like 8 27 November 2016 at 14:40



Jennifer Nottage I believe, truly, that this potential problem has a ready solution. Peaman races MUST go on and to that end, we will all see to it!...btw Chippy had good fun carving out his distance, unintentionally, 1.7 miles. My son does things his way with a smile the whole way. Pea and Chipea 🍻

Like 27 November 2016 at 20:19 Edit



David O. Baldwin I Don't know the issues but you can count on me to be LOUD and proud to support you

Like 1 27 November 2016 at 20:45



LaVerne Evans Curry What if we ALL host the peaman races. Not just Sean. So on the given dates, we show up, there happens to be a timer and we are all just having a family fun TRAINING RACE Day. If DLNR question who is in charge, we reply no one, all of us. They can't control a group of people getting together to have a training day even if there is a timer. IDK, just a thought

Like 7 27 November 2016 at 20:54



Jennifer Nottage I don't know the specific issues, but from my understanding this morning there's a new man representing the DLNR on the Pier and if the Peaman event falls on a cruise ship day like this morning the new employee had some concerns... however, I do know that one thing Pea cherishes about his events (which he considers not as "his" but "ours" is the lack of formalities, as in no entry fees, no legal waivers, no paid officials, taxes, licenses and insurances... which is the true essence of Peamans and how they've brightened and shined in our community for nearly 30 years. THIRTY YEARS without incident! Thus, it's surely crucial to Pea's heart that the events continue to carry on in this way... we've got Pea's Back and the importance of this wonderful monthly tradition in our community. I can't imagine a Kona Pier w/out Peaman... so we just need to rally and overcome whatever these concerns are and satisfy the concerns of the DLNR count Tad Nottage and myself in... minor bureaucracy has nothing over these very special monthly events in Kona Town

Like 7 27 November 2016 at 21:08



Kevin Prater Does anyone know who to call at DLNR to bombard with calls

Like 1 28 November 2016 at 10:45



Nathan Grocholski Lopez Peaman Peaman

I know a guy at DLNR he said he'd like to sit down and talk with you. Call me 8082170948

Like 1 28 November 2016 at 11:58



Peaman Peaman I'm off island until late next week 🍻

Like 1 28 November 2016 at 23:30



Jennifer Nottage Peaman Peaman So happy your flying your wings. I am so happy for you and blessed to be your friend 🍻

Like 29 November 2016 at 08:17



Nathan Grocholski Lopez Peaman Peaman

You'll want to talk to this guy. He wants to figure it out so we can keep this going

Let me know when you get home

Safe travels

Like 29 November 2016 at 09:28



Peaman Peaman Nathan Grocholski Lopez 🍻🍻🍻

Like 29 November 2016 at 09:57



Peaman Peaman 🍻

Like 29 November 2016 at 09:44

"ATTACHMENT C"  
PAGE 1 of 1



Pam Miller shared a link  
4 December 2016 at 12:02 • 4 likes • 0 comments

Here's the article West Hawaii Today printed. ALL WHO LOVE Peaman AND HIS PEAMAN EVENTS. PLEASE WRITE LETTERS TO THE EDITOR-! The more public support shown for these events will help the cause. If you don't know what to write, just answer those questions. 1. What do you love most about doing Peaman events? How long have you been participating? What would Kona look like without them? How do Peaman events WELCOME EVERYONE into our Kona Ohana with ALOHA? Show your support please-! Write to the editor here it's easy: <http://weathawaii.com/webform/letter-editor>

<http://weathawaii.com/local/peaman-hits-permit-snap>



### Peaman hits permit snag

KAILUA-KONA — The Peaman event series has become an informal institution in Kona — a part of the fabric of the community.  
WESTHAWAII TODAY.COM

Like Share

Steve Wae, Curt Ocho and 43 others

34 shares



Pam Miller shared to all who can help-!  
Like 2 4 December 2016 at 12:04

Farima Penabazco Martin I am sharing it now!  
Like 1 4 December 2016 at 12:10



Jan Roberts Reported  
Like 4 4 December 2016 at 12:15



Tommy Lane Shared!  
Like 1 4 December 2016 at 12:09



Kristi Van Pelt So, if liability insurance is an issue, why can't we have participants sign a liability release? These are such fun family and friend events that have launched many local hiker athletes and are truly part of a healthy lifestyle that represents some of... See more  
Like 6 4 December 2016 at 14:44



Peaman Peaman To Kristi Van Pelt I would love if if you would join me when I meet with the Dink later this week most likely Thursday or Friday I don't get home til Wednesday but any help would be great  
Like 1 4 December 2016 at 15:01



Tina Scoville Clothier Sean, how many folks do you want at this meeting? We've already talked about asking Nicole to be there since it's a state matter. Tina  
Like 4 4 December 2016 at 15:20



Peaman Peaman Tina Scoville Clothier #4  
Like 1 4 December 2016 at 15:45



Kristi Van Pelt Peaman Peaman Hi Sean, I am in contact with Tina already. I'll be home from Costa Rica on Thursday. I will stay in touch.  
Like 1 4 December 2016 at 17:24



Kim McKay Shared  
Like 1 4 December 2016 at 15:23



Tina Scoville Clothier PATH has offered to cover the insurance. We will be joining Sean when he meets with the Harbor Master. He seems to be supportive.  
Like 5 4 December 2016 at 15:28



David O. Baldwin Havespoton has liability insurance. Can we help?  
Like 2 4 December 2016 at 15:51



Tina Scoville Clothier Do you have event liability insurance? I have offered to cover these events with PATH's event insurance.  
Like 2 4 December 2016 at 15:59



David O. Baldwin We pay per event, per location.  
Like 4 4 December 2016 at 16:01



Esther Lehmann I wrote one!  
Dear Editor,

We have been participating in Peaman events for many, many years. My kids have been able to be a part of them from the time they were born, even if it was volunteering with me in their stroller. It's a free, safe, family event that brings our community together.

It would be so sad to lose this event in our community. It's how we've met many families, it's how we've spent many Sundays together, it's an event that promotes health for all ages, and it's actually a little bit like Christmas for the kids with the gifts that are often there.

All we ask is that the "powers that be" would allow the permit to be used for free in a way that benefits our community and not just people visiting our island.

Sincerely,

Esther Lehmann

Like 2 4 December 2016 at 21:14

Peaman Peaman Amen!  
Like 1 5 December 2016 at 21:44



Esther Lehmann We are with you Peaman Peaman! We are so blessed by you!  
Like 2 5 December 2016 at 22:15



Jason Nixon Unbelievable  
Like they have nothing better to do  
Like 1 5 December 2016 at 01:22



**Peaman Peaman**

1 December 2016 at 18:39 Citrus Heights, CA

Today I had a really good conversation with Bill Taylor from the harbors division! I look forward to meeting with him next week to work out the details to keep all of our frozen P productions events rolling along as smoothly as possible! Family, friends, fitness and fun forever! 🍷🍷🍷💖!!

Like

Share

68 Art Oishi, Esther Lehmann and 66 others

View 7 more comments



**Shawn Wistrom** Rock on, Peaman; we miss you & your amazing events! 🍷

Like · 1 · 2 December 2016 at 22:40



**Jan Roberts** Your presence was missed on our last Guppy swim

Like · 1 · 2 December 2016 at 23:29



**Peaman Peaman**

24 December 2016 at 16:27 Kailua-Kona

HAPPEA Christmas Eve!! 🎄 🌴 I hope to see a lot of our Ohana at tomorrow morningsDR. Frank Ferren Hall of Fame biathlon!!A nice half mile swim and a 3.9 mile run will be a great way to start off Christmas Day 🎄 start time will be the usual 8:08 AM right next to the kailua Kona pier 🌴 most importantly please remember that it is Christmas day and we are all there for the same reason the show aloha, have fun playing and enjoying the beauty of this wonderful Island of Hawaii 🌴 I am 100% confident that we are doing nothing wrong and are breaking no rules or regulations by swimming in the ocean as a group. If we do experience a citation we will except it very peacefully and then move forward through the legal system 🌴 I hope Santa Claus is good to you all I think I've been pretty good this year 🎄 🌴 🌴 🌴 🌴

Like

Share

🌴 ka Hoomana, Agnes Prehn and 77 others



**Kelly Burbank McCloskey** Happea Christmas friend!!

Like 1 · 24 December 2016 at 17:22



**Joan Tolby** Go for it Peaman....so proud of what you have accomplished with the families in Hawaii. I can't help but believe that the big guy upstairs is looking out for you and what you are trying to accomplish. Have a GREAT day tomorrow 🌴 🌴

Like 4 · 24 December 2016 at 17:40



**LaVerne Evans** Curry Curry family will be there!!! So agree and support you 100%! Merry Christmas!

Like 1 · 24 December 2016 at 17:43



**Pam Miller** Miller Ohana will be there! So HaPea!!!

Like 2 · 24 December 2016 at 18:30



**Jean Pinc** Count down to B-Day 🌴 🌴 🌴

Like 1 · 24 December 2016 at 21:51



**Moani Keala Eckart** Ohana will be there to celebrate and support you! 🌴 🎄

Like 1 · 24 December 2016 at 22:28



**Marjorie Erway** Actually, Peaman, you've been more than 'pretty good' this year! You've been a mave!!!

Like 1 · 24 December 2016 at 22:49



Marjorie Erway replied · 2 Replies



**Esther Lehmann** Merry Christmas and Happy Birthday!

Like 1 · 24 December 2016 at 22:55

INVESTIGATION # 17-0567-HA	DISTRICT North Kona	LEAD INVESTIGATOR Matthew Gutierrez	KEY REPORT <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
DATE / TIME REPORTED 12/25/2016 8:00:00 AM	LOCATION Kailua Bay	CLASSIFICATION OWNWB: No Marine Parade Permit	CONNECTING REPORT(S)

Report Type: ☐ Continuation of Report ☒ Supplemental ☐ Follow Up  
 Date/Time Written: 01/07/2017  
 Written By: Llanes, Amanda

## Report

### ASSIGNMENT

12-25-2016: 0600 HRS: Lead Officer Matthew GUTIERREZ, Officer Destiny HOOPII, Officer Len LOSALIO, and I were assigned to attend and observe an event held by Sean "Peaman" Pagett known as "The Peaman Birthday Bash" that was scheduled to kickoff at Kailua Pier at approximately 0800 HRS. I was assigned to attend the event in plain clothes, and to record the race from a participant's point of view.

### OBSERVATIONS

12-25-2016: Approximately 0720 HRS I observed multiple people gathering near the gated entrance of the pier who I believed to be likely participants of the "Peaman Race". Thereafter I observed Sean "Peaman" Pagett arrive on scene in a silver Toyota Pick-up that was filled with tables, cones and various other boxes. PAGETT and other participants then began unloading the vehicles contents, and started setting up tables inside the pier under the tented area.

12-25-2016: 0800 HRS: At this time many participants and observers had arrived, and began gathering on and around the small beach area located on the North-East end of the pier. I then observed PAGETT step up on a wall and motion for the participants to assemble closer. He began his speech by welcoming the participants to the 30<sup>th</sup> annual Peaman Race, and then continued by describing the runner's portion of the course. He instructed the participants to start behind the marked cones, turn around at either the one mile or 3.8 mile turn around both marked by "Peaman" signs, and once the participants had crossed the finish line, to grab a number stick from a race assistant, and then continue to the sign-out sheet where food, and gifts will then after be provided. Subsequently at approximately 08:08 HRS PAGETT began addressing the participants on the beach with welcoming statements, as well as the swimmers courses. He stated that the course will start at the "first white canister", and continued on informing the group that it was very important to keep the swim lane buoys on the right side on the way out, and the left side on the way back. The swimmers were to turn around at the half mile marker, and make their way back. At approximately 0816 HRS the race began.

12-25-2016: 0820HRS: During the swimmers course I observed around ten to fifteen participants swimming outside of the designated swim zone. I also observed the "Body Glove" vessel docking at the pier close to where the swimmers were exiting the swim zone. In one instance, I observed an adult male supporting a child swimmer who seemed to be in distress. The Adult swimmer was back paddling with one arm as he held the child in the other arm. Please refer to the photographic record for full information.

12-25-2016: 0826HRS: I approached and observed the sign out station. When a participant finished the race the woman manning the station would collect the number stick, which course they had completed, as well as their first and last name. On the sign out table there was a stack of the prearranged 2017 schedule of "Peaman" events coming.

Llanes, Amanda   
 Officer

90  
 Badge No.

1-14-17  
 Date / Time



INVESTIGATION # 17-0567-HA	DISTRICT North Kona	LEAD INVESTIGATOR Matthew Gutierrez	KEY REPORT <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
DATE / TIME REPORTED 12/25/2016 8:00:00 AM	LOCATION Kailua Bay	CLASSIFICATION OWNWB: No Marine Parade Permit	CONNECTING REPORT(S)

## Report (Continued)

12-25-2016: Approximately 0915 HRS: The race appeared to be done. PAGETT then assembled the participants. He thanked them for coming, and gave a special thanks to the volunteers who helped coordinate the event. PAGETT also mentioned thanks to Big Island Honda for sponsoring the event, and then ended the event with a gift giveaway. Soon after, Officer HOOPII and I contacted the woman manning the check out station who relayed to us that, according to the sign out sheet, approximately 135 people had participated in the races.

### PHOTO/VIDEO

Photos, as well as videos were taken as evidentiary support in this case. More specifically, video was taken of PAGETT's welcoming speeches, him explaining the different courses, and of portions of the swimmers race. Photos were taken of the participants signing out at the end of the races. Please refer to the photographic record for full information.

### DISPOSITION

In view of the above information, I recommend this investigation remain continuing and routed to the lead investigator Officer Matthew GUTIERREZ for his information and final disposition.

ROUTE REPORT TO OFFICER MATTHEW GUTIERREZ

INVESTIGATION CONTINUING

Llanes, Amanda  
Officer

90  
Badge No.

1-14-17  
Date / Time

INVESTIGATION # 17-0567-HA	DISTRICT North Kona	LEAD INVESTIGATOR Matthew Gutierrez	KEY REPORT <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
DATE / TIME REPORTED 12/25/2016 8:00:00 AM	LOCATION Kailua Bay	CLASSIFICATION OWNWB: No Marine Parade Permit	CONNECTING REPORT(S)

Report Type: ☐ Continuation of Report ☒ Supplemental ☐ Follow Up  
 Date/Time Written: 01-14-2017/1700 Hours  
 Written By: Hoopii, Destiny

## Report

### ASSIGNMENT

On 12-25-2016: I was assigned with other DOCARE Officers to make checks at the Kailua Pier, after it was learned that an unpermitted event was going to be taking place at the Kailua Pier around 0800 Hours. I was assigned to make contact with the event holder and notify him that a permit was needed to conduct a "marine parade" type of event at the Pier.

It was also learned that prior to this date, a male party, identified as Sean "Peaman" PAGETT, had a meeting with DOBOR and DOCARE regarding obtaining a permit and the issues surrounding the event. After this meeting, DOBOR learned that the event scheduled for 12-25-2016, was still going to take place without permits or insurance.

### OFFICER'S OBSERVATIONS

At approximately 0700 Hours: I had observed a small group of adults standing by at the gate of the Kailua Pier, shortly moving over towards the stored canoes on King Kamehameha Resort Property, as it appeared that a canoe practice was taking place this morning. It should be noted that as these parties were walking by, I overheard a few of them involved in a conversation regarding shutting down the Peaman Races. These parties left from the small beach on the north side of the pier. They did not appear to be affiliated with the unpermitted event.

At approximately 0710 Hours: I had observed a heavy influx of vehicles parking and turning around within the roadway (Kaahumanu Place). As people exited these vehicles, they gathered in an area on the pier near the cubby hole shelf on the south side of the entrance to the pier. Some parties were observed to be removing their clothing, having only swim suits on, storing their belongings on the shelf. The storage shelf was noticed to clutter and fill up quickly with more and more people arriving at the pier. The parties were noticed to be gathering at the entrance/steps to the small beach access on the south side of the pier and near the first green tent on the pier. They all appeared to be waiting for someone or something, which was believed they would be attending the Peaman event. While posted at the entrance to the pier, multiple parties approached myself and Officer Len LOSALIO and inquired if we were there to shut the Peaman Race down.

At approximately 0725 Hours, a silver pickup truck was noticed to enter Kaahumanu Place, parking in the loading/unloading zone adjacent to the sea wall. The male party, identified as PAGETT, was noticed to be removing items from within the truck and from the bed of the truck, as others in the area lent a hand. Items that were removed from the vehicle were carried to the green tented area, where three plastic tables were set up. One table was under the first tent (later noted to be the table participants would sign out at) and two tables put together lengthwise further in, under the second tent (later noted to be the table where food, water and presents would be at). While setting up the tables, PAGETT was observed being contacted by multiple persons wishing him a Merry Christmas and also wishing him a Happy Birthday.

### PAGETT CONTACTED

At approximately 0740 Hours: After returning from my vehicle, I had observed PAGETT speaking with Officer LOSALIO. As I approached, PAGETT was relating to Officer LOSALIO that he had spoken to DOBOR District Manager, William "Bill" TAYLOR about utilizing a part of the pier for his tables he was using for his race, as long as he does not impede other users from using the pier. PAGETT related that the event was not going to be more than 45 minutes long, at which time they were going to give away prizes, clean up and

Hoopii, Destiny  
Officer

#128  
Badge No.

01-14-17 / 1700 HRS  
Date / Time

INVESTIGATION # 17-0567-HA	DISTRICT North Kona	LEAD INVESTIGATOR Matthew Gutierrez	KEY REPORT <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
DATE / TIME REPORTED 12/25/2016 8:00:00 AM	LOCATION Kailua Bay	CLASSIFICATION OWNWB: No Marine Parade Permit	CONNECTING REPORT(S)

## Report (Continued)

they would be done for the day. PAGETT also stated that being that it was holiday (Christmas), there was only gonna be a few people present. He stated that his races usually consist of less than 100 people participating and watching. He also continued to state that he had spoken to his attorney and they believe that they didn't need a permit for their event and that he (PAGETT) understands he will receive a ticket for the event.

At this point, I informed PAGETT the reason he was being spoken to, which he stated "yes". I informed PAGETT if the event takes place without a proper permit and insurance that he would be in violation of the Hawaii Administrative Rules. He continued to state that he understands, but he still feels that the permit process does not apply to him and that he would rather contest it in court. I informed him again that if they event takes place, he would be in violation.

### FURTHER OBSERVATIONS

At approximately 0800 Hours: PAGETT was observed to be standing on a portion of the sea wall, nearest the beach area, announcing the event, gathering people close to the steps to the beach. PAGETT initially began welcoming everyone to a Peaman Event, then shortly after, he was observed to move down into the sanded beach area. PAGETT was observed to be giving some directions to people standing on the beach area, the sea wall and from the pier area. PAGETT was the only person observed to be giving any instructions.

PAGETT was observed to enter the water then shouted loudly for the race to begin. PAGETT was observed to be a participant in the race, swimming with other participants. Approximately 70-80 persons were noticed to start swimming in the same direction. While observing the race, two separate swimmers were noted to be in the lane being used by the racing participants. At one point, one of the swimmers was noticed to stop and swim vertically as the large crowd approached him. As the crowd had passed the swimmer continued his swim in the opposite direction.

As the participants were coming back from their course, they were observed to approach the first green tent, handing over an orange Popsicle stick to a female party at the table. This female was observed to collect the stick, obtain their information as she wrote their information into a book, which was the sign out sheet. The female continued to take each participants name as they handed her their stick. It should be noted that after the race had concluded, I had approached this female and asked how many people participated in the race, which she was observed to flip thru the book and stated "135 people completed the race". It was noted that this was more than the stated amount PAGETT had mentioned earlier. There was over 100 spectators watching the races.

After the races had concluded and all participants had signed out, PAGETT again gathered the crowd under the green tents, announcing that they were going to be drawing names for a raffle giveaway, for the prizes that were presented on the tables and containers nearby. PAGETT was noticed to randomly read names from the bowl of names. After running out of names, he informed the crowd that whoever did not receive a prize or wanted a prize to come up to the table and grab one.

At approximately 0935 Hours: After the prizes had been received, PAGETT and his helpers started packing up their gear, walking them over to the front of the pier. PAGETT was later contacted by Officers and issued a citation.

### DISPOSITION

Due to the above mentioned information, I recommend this report remain continuing and routed to the Lead Investigating Officer, Matthew GUTIERREZ, for his review, information, and final disposition.

**ROUTE REPORT TO OFFICER MATTHEW GUTIERREZ**

**INV CONTINUING**

Hoopii, Destiny  
Officer

#120  
Badge No.

01.14.17 / 1700 HRS  
Date / Time

State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

INVESTIGATION # 17-0587-HA	DISTRICT North Kona	LEAD INVESTIGATOR Matthew Gutierrez	KEY REPORT <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
DATE / TIME REPORTED 12/25/2016 8:00:00 AM	LOCATION Kailua Bay	CLASSIFICATION OWNWB: No Marine Parade Permit	CONNECTING REPORT(S)

Report Type: ☐ Continuation of Report ☒ Supplemental ☐ Follow Up  
 Date/Time Written: 12-30-16/1100 Hrs.  
 Written By: Losalio, Len

## Report

### ASSIGNMENT AND ARRIVAL

On December 25, 2016, at 0600 hrs, I was assigned to meet up with fellow DOCARE's at Kailua pier to monitor, assist with issue citation to the events host, Sean PAGET and shut down an unpermitted event. My assignment was to monitor the event and provide uniformed back up for law enforcement action.

### OBSERVATIONS

At approximately 0720 Hrs, I observed a silver Toyota Tacoma pickup truck park on the outside of the pier entry gate. A individual fitting the description of the events host, Sean PAGETT, came out of the passenger door, wearing a bright green t-shirt and started to set up a table with items under the large awning on the pier. He and another person had set up two sections of tables, a smaller check in table manned by a female and another larger table with what appeared to be toys and prizes for participants, with food and drinks.

### SUSPECT IDENTIFIED AND CONTACTED

Suspect is identified as:

Sean PAGETT [REDACTED]  
 [REDACTED]  
 [REDACTED]

At approximately 0740 Hrs, PAGETT approached myself and Officer HO'OPI'I. He was very cordial and communicated very well about meeting with DOBOR Bill TAYLOR. PAGETT also was fully aware that during today's event, he could be getting a citation for not having a permit for this event.

### CITATION ISSUED TO SUSPECT

At approximately 0945 Hrs, Ofcr GUTIERREZ and I made contact with PAGETT. Upon completion of the contact, Ofcr GUTIERREZ issued a citation to PAGETT.

### DISPOSITION

In view of the above information, I recommend this investigation remain continuing and routed to the lead investigative Officer, Ofcr GUTIERREZ, for his information and final disposition.

### ROUTE REPORT TO OFCR GUTIERREZ

### INVESTIGATION CONTINUING

Losalio, Len  
 Officer

181  
 Badge No.

01-13-2017 / 1200Hrs  
 Date / Time

INVESTIGATION # 17-0567-HA	DISTRICT North Kona	LEAD INVESTIGATOR Matthew Gutierrez	KEY REPORT <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
DATE / TIME REPORTED 12/25/2016 8:00:00 AM	LOCATION Kailua Bay	CLASSIFICATION OWNWB: No Marine Parade Permit	CONNECTING REPORT(S)

Report Description: OWNWB: No Marine Parade Permit

Date/Time Taken: 12-25-2016

Taken By: Gutierrez, Matthew

Scene: Kailua Pier

Equipment: Iphone 5

Weather Conditions: Clear

Lighting: Sun

Focus:

1 Depicts PAGETT setting up finish line



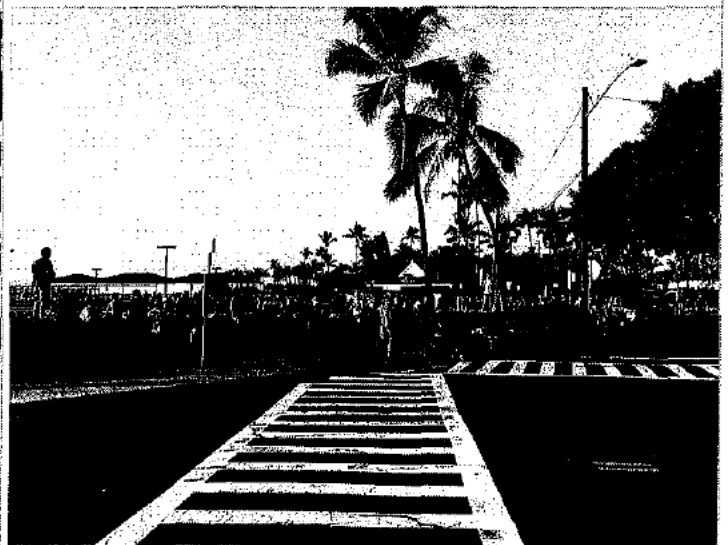
2 Depicts Cones that read Peaman



3 Depicts participants and spectators arriving



4 Depicts spectators at the pier.



INVESTIGATION # 17-0567-HA	DISTRICT North Kona	LEAD INVESTIGATOR Matthew Gutierrez	KEY REPORT <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
DATE / TIME REPORTED 12/25/2016 8:00:00 AM	LOCATION Kailua Bay	CLASSIFICATION OWNWB: No Marine Parade Permit	CONNECTING REPORT(S)

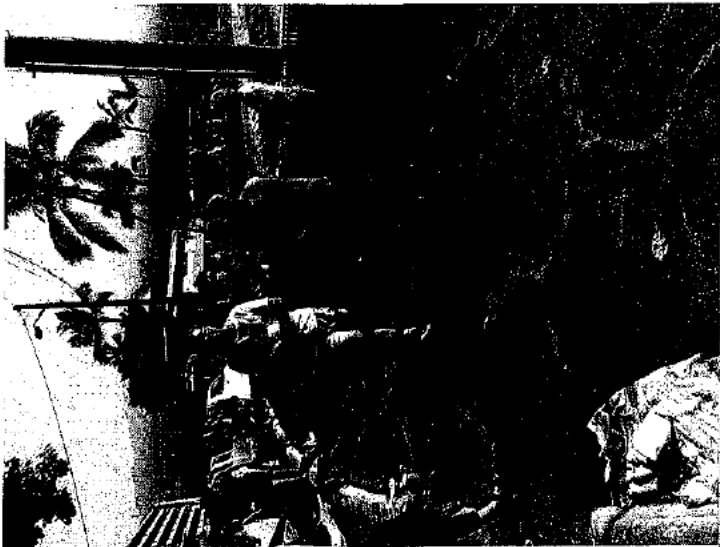
**5** Depicts participants in the water waiting to start.



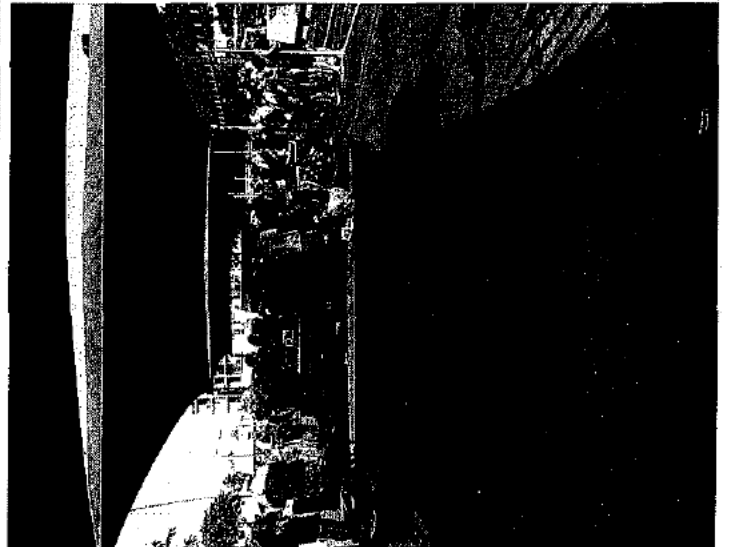
**6** Depicts the sign out table



**7** Depicts participant crossing finish line.



**8** Depicts the raffle give away



INVESTIGATION # 17-0567-HA	DISTRICT North Kona	LEAD INVESTIGATOR Matthew Gutierrez	KEY REPORT [X] Yes [ ]
DATE / TIME REPORTED 12/25/2016 8:00:00 AM	LOCATION Kailua Bay	CLASSIFICATION OWNWB: No Marine Parade Permit	CONNECTING REPORT(S)

**Report Description:** OWNWB: No Permit For Marine Parade

**Date/Time Taken:** 12-25-2016

**Taken By:** Amanda Llanes

**Scene:** Kailua Pier

**Equipment:** Iphone

**Weather Conditions:** Clear

**Lighting:** Sunny

**Focus:** Auto

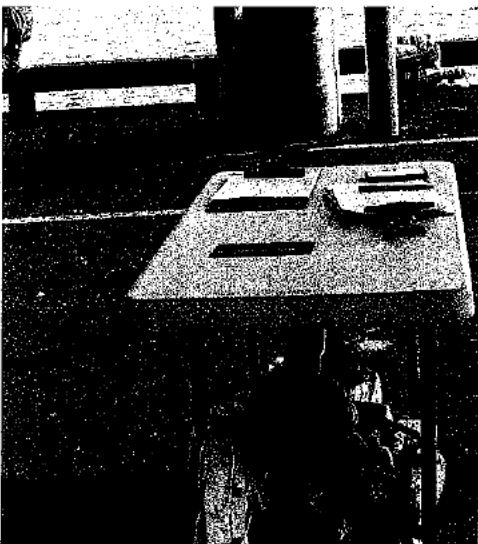
## 1 Peaman Participants Gathering



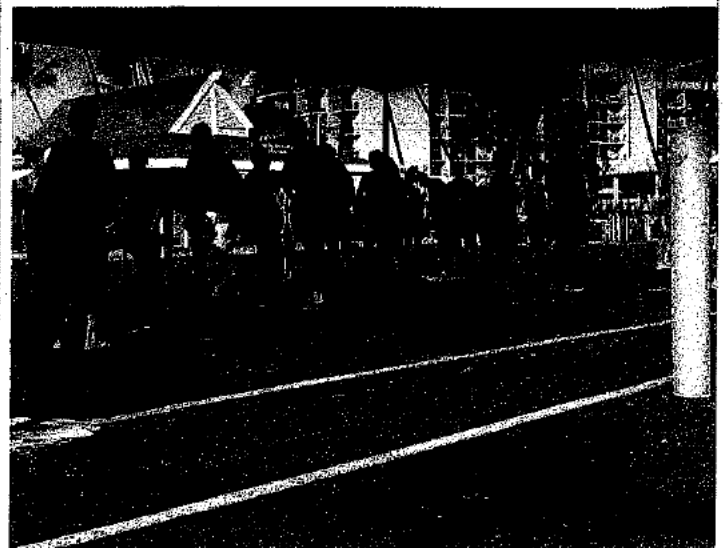
## 2 Swim Race Start Point



## 3 Sign Out Table



## 4 Line of Participants signing out





Big Island Running Company's Calendar of Big Island Runs and Races

Sun Dec 25 – Sat Dec 31, 2016 (Hawaii Time)

	Sun 12/25	Mon 12/26	Tue 12/27	Wed 12/28	Thu 12/29	Fri 12/30	Sat 12/31
7am							<div>Hilo Group Run at BIRC @</div> <div>Kona Group Run at BIRC @</div>
8am	<div>Doc Ferran Hall of Fame Biathlon @ Kailua-Kona Pier 8:03am - 10:03am</div>						
9am							
10am							
11am							
12pm							
1pm							
2pm							
3pm							
4pm							
5pm			<div>Tuesday Trot 5k Fun Run/Walk and Group Run at BIRC - Kona @ Big Island</div>	<div>Hilo Group Run at BIRC @ 303 Kamehameha Ave. Hilo, HI 96720, USA</div>	<div>Kona Group Run at BIRC @ Big Island Running Company 75-5807 Alii Dr.</div>		
6pm							

# DOCARE COMPLAINT & SUMMONS

In the DISTRICT/FAMILY COURT

of the 3RD JUDICIAL CIRCUIT, STATE OF HAWAII

LNR 067230 Drvr lic [REDACTED] STATE H I JUVENILE ☐

NAME PAGETT Last [REDACTED]

Current/Mailing Address [REDACTED]

City, State, Zip KAILUA-KOA 96745

Complexion [REDACTED]

Place of Employment School or Branch of Service [REDACTED] Job Title, Yr. in school or Military Rank [REDACTED]

Parent's name if juvenile or Registered owner of vehicle/vessel: [REDACTED]

Phone number (Days): [REDACTED] (Eves): [REDACTED]

Did on/for about this 25th day of DECEMBER 2016 at about 08 08 PM

did operate/command Vehicle/Vessel: [REDACTED]

Vehicle/Vessel Make/Name [REDACTED] Type [REDACTED] Color [REDACTED] Yr. [REDACTED]

at (location): KAILUA BAY

and did commit the offense of: NO MARINE PARADE PERMIT

SECTION: 13-244-19 HRS HARD OTHER [REDACTED]

EVIDENCE TAKEN: Yes [REDACTED] No [REDACTED]

DESCRIPTION OF EVIDENCE [REDACTED]

Receipt of this citation is acknowledged (Your signature is not an admission of guilt) X SEAN P. PAGETT

The undersigned alleges that the person named above committed the offense herein set forth, contrary to law.

Date of Issue 12-25-16 Time 09 58 Hrs.

Print Rank, First Initial & Last Name CREDIT M. BUIERREZ

Complainant's Signature [REDACTED] Badge/ID No. [REDACTED]

Bail Forfeiture by Mail Permitted: ☐ Yes ☒ No

A Postmarked BEFORE court date Payment Amount COURT B Postmarked ON court date Payment Amount COURT

SUMMONS Your court appearance date is:

DATE: 02-09-17 TIME: 8:30 AM COURTROOM: KN

☒ District Court ☐ Family Court of KOA 9/03

COURT

IT WAS LEARNED THAT A PLANNED EVENT WILL  
TAKING PLACE ON 12-25-2016 AT KAILUA  
DIER, OFFICER HOOPER CONTACTED  
SEAN PAGETT AND ADVISED HIM THAT  
A PERMIT WAS NECESSARY TO HOLD  
A MARINE PARADE EVENT.  
PAGETT STATED THAT HE UNDERSTOOD  
A PERMIT IS NEEDED BUT IT DOES  
NOT APPLY TO HIM OFFICER HOOPER  
PAGETT VERBALLY PROVIDE  
INSTRUCTIONS OF THE RACE WOULD  
BE A LARGE GROUP AFTER  
COMPLETING THE RACE PAGETT  
CONDUCTED IT RATHER FOR  
PRIZES FOR THE PARTICIPANTS  
PAGETT WAS CALLED OUT  
AND ISSUED A CITATION FOR  
NO MARINE PARADE EVENT  
PLEASE REFER TO REPORT  
17-0567-ND FOR FULL  
INFORMATION

The undersigned alleges that the person named herein committed the offense set forth, contrary to law.

[REDACTED] Complainant's Signature 122 Badge Number

Subscribed and sworn before me on 12-28-16 date

Signed [REDACTED] STATE OF HAWAII, Land and Natural Resources

**State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement**

INVESTIGATION # 17-0567-HA	District North Kona	Lead Investigator Gutierrez, Matthew	Report Status In Progress	Key Report <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Date/Time Reported 12/26/2016 08:00AM	Location Kailua Bay	Classification OWNWB: No Marine Parade Permit		Connecting Reports

**Property Report**

1. CLASSIFICATION OWNWB: No Marine Parade Permit			2. PROPERTY TYPE Evidence		
3. COMPLAINANT'S NAME Officer: Gutierrez, Matthew		4. SEX	5. RACE	6. AGE	7. BIRTH DATE
9. ADDRESS		10. PLACE EMPLOYED/SCHOOL ATTENDING DLNR/DOCARE		11. RES. PHONE	12. BUS. PHONE
13. LOCATION OF INCIDENT/INTERSECTING STREET Kailua Bay			14. DATE/TIME OCCURRED 12/25/2016 08:00AM		15. DATE/TIME REPORTED 12/25/2016 08:00AM
16. PROPERTY OF		17. SEX	18. RACE	19. AGE	20. BIRTH DATE
22. ADDRESS		23. PLACE EMPLOYED/SCHOOL ATTENDING		24. RES. PHONE	25. BUS. PHONE
26. EVIDENCE RECOVERED BY Gutierrez, Matthew			27. DATE/TIME RECOVERED 12/25/2016 08:00AM		

**INSTRUCTIONS:** 1) Insert a synopsis of the crime or incident. 2) Itemize and describe property including values, serial numbers and engravings. 3) Indicate how evidence marked for identification. 4) Use Continuation Page to identify any witnesses or to list additional facts.

**28. SYNOPSIS:  
INFORMATION**

12-25-2016: Sean PAGETT was issued a citation for OWNWB: No Marine Parade Permit. For full information please refer to the attached

Item No.	Quantity	Description	Value	Engraving and Serial Number
1	1	Memorex DVD-R Disc containing events that accured on December 25, 2016	\$0.00	0
#####	#####	##### NO MORE ITEMS #####	#####	#####

<b>29. CHAIN OF CUSTODY:</b>				
Item No.	From	To	Date	Time
#1	M. Gutierrez #122	D. Vitoria	01-21-17	0800
30. REPORT WRITTEN BY Gutierrez, Matthew		31. BADGE No. 122	32. DATE/TIME WRITTEN 1-13-17 1400hrs	33. SUPERVISOR APPROVING Vitoria, Dale
35. DISPOSITION 61 ( ) Auction 63 ( ) Ret. to Finder 98 ( ) Records Only 62 ( ) Ret. to Owner 65 ( ) Destroyed by 99 ( ) Others		36. EVIDENCE CUSTODIAN		37. DATE/TIME

**State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement**

<b>INVESTIGATION #</b> 17-0567-HA	<b>District</b> North Kona	<b>Lead Investigator</b> Gutierrez, Matthew	<b>Report Status</b> In Progress	<b>Key Report</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Date/Time Reported</b> 12/25/2016 08:00AM	<b>Location</b> Kailua Bay	<b>Classification</b> OWNWB: No Marine Parade Permit		<b>Connecting Reports</b>

**Property Report**

<b>1. CLASSIFICATION</b> OWNWB: No Marine Parade Permit				<b>2. PROPERTY TYPE</b> Evidence	
<b>3. COMPLAINANT'S NAME</b> Officer: Gutierrez, Matthew		<b>4. SEX</b>	<b>5. RACE</b>	<b>6. AGE</b>	<b>7. BIRTH DATE</b>
<b>9. ADDRESS</b>		<b>10. PLACE EMPLOYED/SCHOOL ATTENDING</b> DLNR/DOCARE		<b>11. RES. PHONE</b>	<b>12. BUS. PHONE</b>
<b>13. LOCATION OF INCIDENT/INTERSECTING STREET</b> Kailua Bay				<b>14. DATE/TIME OCCURRED</b> 12/25/2016 08:00AM	<b>15. DATE/TIME REPORTED</b> 12/25/2016 08:00AM
<b>16. PROPERTY OF</b>		<b>17. SEX</b>	<b>18. RACE</b>	<b>19. AGE</b>	<b>20. BIRTH DATE</b>
<b>22. ADDRESS</b>		<b>23. PLACE EMPLOYED/SCHOOL ATTENDING</b>		<b>24. RES. PHONE</b>	<b>25. BUS. PHONE</b>
<b>26. EVIDENCE RECOVERED BY</b> Llanes, Amanda				<b>27. DATE/TIME RECOVERED</b> 12/25/2016 12:00AM	

**INSTRUCTIONS:** 1) Insert a synopsis of the crime or incident. 2) Itemize and describe property including values, serial numbers and engravings. 3) Indicate how evidence marked for identification. 4) Use Continuation Page to identify any witnesses or to list additional facts.

**28. SYNOPSIS:  
INFORMATION**

12-25-2016: Sean PAGETT was issued a citation for OWNWB: No Marine Parade Permit. For full information please refer to the attached

Item No.	Quantity	Description	Value	Engraving and Serial Number
1	1	Memorex DVD-R Disc containing events that accrued on December 25, 2016		
#####	#####	##### NO MORE ITEMS #####	#####	#####

<b>29. CHAIN OF CUSTODY:</b>				
<b>Item No.</b>	<b>From</b>	<b>To</b>	<b>Date</b>	<b>Time</b>
1	Amanda Llanes	O. Viloria	01-21-17	0800
<b>30. REPORT WRITTEN BY</b> Amanda Llanes	<b>31. BADGE No.</b> 90	<b>32. DATE/TIME WRITTEN</b> 1-13-17	<b>33. SUPERVISOR APPROVING</b> Viloria	<b>34. BADGE No.</b> 244
<b>35. DISPOSITION</b> 61 ( ) Auction 62 ( ) Ret. to Owner 63 ( ) Ret. to Finder 64 ( ) Destroyed by		<b>36. EVIDENCE CUSTODIAN</b>		<b>37. DATE/TIME</b>

authorization has been secured from the United States Coast Guard. Examples of conditions which are deemed to introduce extra or unusual hazards to the safety of life include, but are not limited to: an inherently hazardous competition, the customary presence of commercial or pleasure craft in the area, any obstruction of navigable channels which may reasonably be expected to result, and the expected accumulation of spectator craft.

- (2) Where the events are to be held regularly or repeatedly in a single area by an individual or organization, the chairperson may, subject to conditions set from time to time by the department, grant a permit for the series of events for a fixed period of time, not to exceed one year.
- (3) The application shall be submitted no less than thirty days prior to the start of the proposed event.
- (4) The application shall include the following details:
  - (A) Name and address of sponsoring organization.
  - (B) Name, address and telephone number of person or persons in charge of the event.
  - (C) Nature and purpose of the event.
  - (D) Information as to general public interest.
  - (E) Estimated number and type of watercraft participating in the event.
  - (F) Estimated number and type of spectator watercraft.
  - (G) Number of boats being furnished by sponsoring organization to patrol event.
  - (H) Time schedule and description of events.
  - (I) A section of a chart or scale drawing showing the boundaries of the event,

various water courses or areas to be utilized by participants, officials, and spectator craft.

(c) An authorization by the chairperson does not exempt a person holding an event from compliance with applicable federal law. [Eff 2/24/94, comp

] (Auth: HRS §200-24) (Imp: HRS §§200-22, 200-24)

§13-244-20 Stolen or lost vessels. (a) Police reports pursuant to section 200-27, Hawaii Revised Statutes. The police chief of each political subdivision of the State shall transmit to the department a copy of every investigation report hereafter submitted by subordinate officers which relate to theft, loss or recovery of vessels required to be registered and numbered pursuant to section 200-31, Hawaii Revised Statutes.

(b) Owner reports to department. The owner of a vessel numbered in accordance with the laws of the State which has been stolen, lost or embezzled may notify the department of the theft or embezzlement, but in the event of an embezzlement the owner may make the report to the department only after having procured the issuance of a warrant for the arrest of the person charged with the embezzlement. Every owner who has given such notice shall notify the department of a recovery of the vessel. [Eff 2/24/94, comp

] (Auth: HRS §200-24) (Imp: HRS §§200-22, 200-24)

§13-244-21 Reporting vessels found. Any person who finds a vessel which is adrift or has been lost shall report the whereabouts of such vessel to the owner, to any police officer or to the department at the earliest possible time. [Eff 2/24/94, comp

] (Auth: HRS §200-24) (Imp: HRS §§200-22, 200-24, 200-30)

FILED

2017 AUG 15 PM 4: 26

DOUGLAS S. CHIN # 6465  
Attorney General of Hawai'i

DAVID D. DAY # 9427  
Deputy Attorney General  
Department of the Attorney  
General, State of Hawai'i  
465 King Street, Suite 300  
Honolulu, Hawai'i 96813  
Telephone: (808) 587-2992

L. MOCK CHEW, CLERK  
THIRD CIRCUIT COURT  
STATE OF HAWAII

Attorneys for Defendant  
Department of Land and Natural Resources,  
State of Hawai'i

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF HAWAII

SEAN W. PAGETT,	)	CIVIL NO. 17-1-127K
	)	Declaratory Judgment
Plaintiff,	)	
	)	JUDGMENT
vs.	)	
	)	
DEPARTMENT OF LAND AND NATURAL	)	(No Trial Date Set)
RESOURCES, STATE OF HAWAII,	)	
	)	
Defendant.	)	
	)	
	)	

JUDGMENT

Pursuant to Rules 54(a) and 58 of the Hawai'i Rules of Civil Procedure, final judgment is hereby entered in favor of Defendant Department of Land and Natural Resources, State of Hawai'i and against Plaintiff Sean W. Pagett. Plaintiff's sole claim for a declaratory judgment against Defendant Department of Land and Natural Resources, State of Hawai'i is dismissed without prejudice pursuant to the ORDER (1) GRANTING IN PART AND DENYING IN

698973\_1.DOC

I hereby certify that this is a full, true and correct  
copy of the original on file in this office.

  
Clerk, Third Circuit Court, State of Hawaii

Exhibit "E"



PART DEPARTMENT OF LAND AND NATURAL RESOURCES, STATE OF HAWAII'S  
MOTION TO DISMISS FOR LACK OF SUBJECT-MATTER JURISDICTION OR,  
ALTERNATIVELY, FOR SUMMARY JUDGMENT, FILED JUNE 14, 2017; AND (2)  
DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT, FILED JUNE 14, 2017.

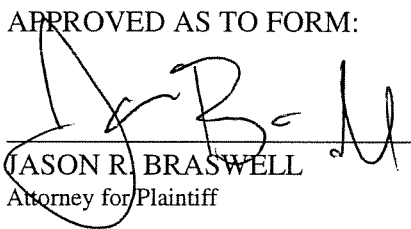
This Judgment disposes of the sole claim asserted in this case. Any claims not identified  
are hereby dismissed without prejudice.

There are no remaining claims, parties, or issues.

DATED: Kealahou, Hawai'i, AUG 14 2017.

MELVIN H. TUNO (SEAL)  
JUDGE OF THE ABOVE-ENTITLED COURT

APPROVED AS TO FORM:

  
JASON R. BRASWELL  
Attorney for Plaintiff

---

SEAN W. PAGETT vs. DEPARTMENT OF LAND AND NATURAL RESOURCES, STATE OF  
HAWAII; CIVIL NO. 17-1-127K; JUDGMENT

U.S. Department of  
Homeland Security

United States  
Coast Guard



# Permitting of Regattas & Marine Parades



**COMDTINST M16751.3**

March 2013

**Exhibit "F"**

5. Enclosures (1) and (2) provide sample marine event delegation and designation letters.

- E. State Coordination. District Commanders are authorized and encouraged to enter into agreements with State authorities under 33 CFR § 100.10, which allows States to regulate certain marine events on the navigable waters of the U.S. when within their capabilities. Pursuant to 33 CFR § 100.10, such agreements should reserve the right to regulate any particular regatta or marine parade when the Coast Guard deems such action to be in the “public interest” to the District Commander. Close coordination with local boating authorities is highly encouraged to ensure adequate control and safety of everyone in and around all marine events. This coordination may be outlined in a new or existing memorandum of understanding for recreational boating safety with a State. Enclosure (3) is a sample letter forwarding an application for marine event to the appropriate State authority. Reference (c) provides a guide for preparation of Coast Guard – State Recreational Boating Safety Memoranda of Agreement.
- F. Events Requiring Permits. District Commanders shall use a risk-informed approach to define what constitutes an “extra or unusual hazard to the safety of life,” and to determine which marine events require issuance of Permits for Marine Events, Form CG-4424, in their districts. Not every marine event requires a permit. The Coast Guard has discretion under References (a) and (b) to determine which events create “extra or unusual hazards to the safety of life upon the navigable waters of the U.S.,” but that discretion must be used in a standardized manner within each district and nationwide. District Commanders must, therefore, provide as detailed guidance as possible within the bounds of their discretion to subordinate units for processing Applications for Marine Events, Form CG-4423. Records of historic marine events held in the district's Area of Responsibility (AOR) and a review of marine casualty data may be useful in establishing such guidance. Examples of marine events requiring permits could include, but are not limited to:

**EXAMPLE:** Events involving more than 50 participating vessels or more than 50 swimmers. In many cases this would be an example of where a triggering event (boat race or swim race) was, itself, also a marine event;

**EXAMPLE:** Events that generate or expect more than 200 spectator vessels;

**EXAMPLE:** Events involving participating vessels traveling at speeds of greater than 30 knots;

**EXAMPLE:** Events that will cause participating vessels or spectator vessels to cross a designated shipping lane, or otherwise block or cause substantial interference with navigation on a body of water;

**EXAMPLE:** Events that, due to their unique nature, present such a substantial threat to the safety of human life that specific operational restrictions and safety protocols, within the bounds of the Coast Guard’s limited authority, must be delineated via a Permit for Marine Event, Form CG-4424; or

**EXAMPLE:** Controversial events, such as organized protest activities occurring in the maritime environment, which could intentionally or unintentionally cause substantial interference with navigation.

**NOTE:** The specific numbers used in the above examples (i.e., number of participating vessels, number of spectator vessels, and vessel speeds) are examples and may or may not be the appropriate number for a specific district's AOR. Nothing in the above examples is intended to restrict the District Commander's discretion in establishing risk-informed standards specific to their AOR.

G. Events Not Requiring Permits. It is the responsibility of the District Commander or Designated Officers to determine whether an activity poses an extra or unusual hazard to the safety of human life. If a Permit for Marine Event, Form CG-4424, issued under Reference (b) is not required for a marine event, but the event creates other safety concerns, other tools, such as those afforded by References (e) through (i), may be appropriate. The decision to use authorities granted to the Coast Guard by the Ports and Waterways Safety Act (33 U.S.C. § 1221, et seq.), the Magnusson Act (50 U.S.C. § 191, et seq.), and other related statutes does not automatically imply the activity is a marine event that poses an extra or unusual hazard to the safety of life.

H. Fireworks.

1. As a triggering event, fireworks may result in concentration of traffic on the water. That concentration of traffic may, in itself, be a marine event. The Coast Guard should not issue permits for the fireworks displays themselves as marine events. However, as a triggering event, fireworks may result in an associated concentration of traffic on the water (marine event). For that reason, fireworks event sponsors should submit an Application for Marine Event, Form CG-4423, for spectator zones or other anticipated impacts the fireworks display may have on navigation in a nearby waterway. Designated Officers must gauge the totality of the situation, including the location relative to shipping channels, the number of waterborne spectators expected, etc. to determine what portions of the activity, if any, must be addressed in a Coast Guard permit. Only in cases where the associated activities create an extra or unusual hazard to the safety of life on the water will the marine event require a permit, and, in no case, should the permit grant permission for, or place conditions on, the triggering event itself.
2. Establishment of a safety or security zone under Reference (h) to mitigate safety concerns from the triggering event (fireworks) does not automatically create a requirement for the associated marine event to be issued a permit. Safety or security zones created to enhance the safety of a marine event should not direct traffic. Refer to Chapter 1.J. of Reference (j) for guidance on the establishment of all limited access areas. If a permit is issued for marine events which occur in association with a fireworks display, Designated Officers should issue permits for only that portion of the event that constitutes the marine event, or, more specifically, that portion of the event that occurs on the water that interferes with navigation such that it introduces an extra or unusual hazard to the safety of life. Reference (k) provides guidance on additional marine safety measures to be considered in conjunction with fireworks displays. Reference (k), however, does not imply that fireworks displays require permits in order to take other marine safety measures.

I. Relationships Between Authorities.

1. Designated Officers should use care to distinguish between authorities outlined in Reference (b) for effective control over marine events and those contained in other authorities, such as safety zones (see Reference (h)) and other Ports and Waterways Safety authorities outlined in 33 CFR Subchapter P. While several authorities may be applied in combination, they are distinct tools

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF BOATING AND OCEAN RECREATION

Permit for Marine/Ocean Event No.: **16-241**

Date Approved: **August 25, 2016**

Name of Event: **WAIKIKI ROUGHWATER SWIM**  
Event Description: **Swimming Contest**  
Event Location: **San Souci Beach Ocean Waters to Duke Kahanamoku Beach Ocean Waters**  
Dates of Event: **September 5, 2016**  
Time of Event: **9:00 am to 1:00 pm**  
Event Sponsor: **WAIKIKI ROUGHWATER SWIM, INC.**  
Sponsor Address: [REDACTED]  
Sponsor Contact: [REDACTED] Phone No.: [REDACTED] Email: [REDACTED]  
In Charge Name/Title: [REDACTED] In Charge Contact No.: **same as above**

Information, requirements, or authorization for this event are stipulated below:

1. The application for the event permit was received on **06/06/16**.
2. This permit authorizes **WAIKIKI ROUGHWATER SWIM, INC.** to conduct the **WAIKIKI ROUGHWATER SWIM** contest with **0** water craft, **1,000** participants and safety provisions of **3 JET SKI'S TO BE OPERATED BY ALOHA SURF LIFESAVING AND 10 LIFEGUARDS ON RESCUE BOARDS.**
3. **WAIKIKI ROUGHWATER SWIM, INC.** shall take all action as necessary to ensure public health and safety and to prevent harm to the environment.
4. All applicable Federal, State, City and County regulations shall be observed.
5. Additional Restrictions: **(A) THIS PERMIT DOES NOT AUTHORIZE THE USE OF SAN SOUCI BEACH PARK. PLEASE CONTACT CITY PARKS AT 768-3440. (B) THIS PERMIT DOES NOT GIVE AUTHORIZATION FOR USE OF DUKE KAHANAMOKU BEACH. PLEASE CONTACT DLNR-LAND DIVISION AT 587-0439. (C) THIS PERMIT DOES GIVE AUTHORIZATION FOR USE OF 3 JET SKI'S LISTED ABOVE TO BE OPERATED FOR SAFETY PURPOSES ONLY. THE LIFEGUARDS MUST BE VISIBLE TO THE PUBLIC DURING THE EVENT. THE JET SKI OPERATORS SHALL FOLLOW THE HAWAII ADMINISTRATIVE RULES AND WEAR A LIFE JACKET WHEN OPERATING THE JET SKI'S IN STATE OCEAN WATERS. (D) THE EVENT WILL BE ARRANGED IN SUCH A MANNER THAT IT WILL NOT INCONVENIENCE THE PUBLIC FROM USING OR OBTAINING ACCESS TO ADJACENT BEACH AREAS.**

( ) Sponsor shall hold the State of Hawaii harmless from any liability.

(x) Sponsor shall provide a certificate of insurance naming the State of Hawaii as additional insured. (On File/Exp Date: 07/01/2017)

Your application for the above event is approved. You are reminded that your organization is responsible for safety in the event area and that this permit does not relieve you of such responsibility. Vessel operators and/or participants shall be briefed and their boats equipped as required by law.

Temporary flag buoys or other marker devices are authorized in the appropriate ocean waters. The markers are not considered "aids to navigation" when used for the special purposes in boundaries, a course, or other restrictions to participants or spectators. Any temporary markers shall be removed, and the restrictions and controls terminated immediately upon completion of the event.

This permit grants the sponsor use of the ocean waters only, to hold the described event at the prescribed ocean water location, on stated date and time it does not, however, entitle the holder to the exclusive use of the described location. This permit does not authorize right-of-entry to parks or private property or other facilities. Sponsor is responsible for obtaining a separate permit for land use through the appropriate property manager such as the City and County of Honolulu Parks Permits office; Division of State Parks; Division of Land Management; Division of Boating and Ocean Recreation; DOT-Harbors; private property owner; etc.

The water areas within the event area used under this permit are for the non-exclusive use of persons participating in the event while it is in progress. The sponsoring organization is responsible for informing the public in advance concerning safety controls that will be in effect for public and/or participants' protection.

If the event is canceled by the sponsor, the sponsor must immediately advise the appropriate Division of Boating and Ocean Recreation office: Hawaii 808-327-3690, Kauai 808-241-3111, Maui 808-243-5824, Oahu 808-832-3520 and also contact the USCG (United States Coast Guard) Operations Watch at 1-800-552-6458 or 808-842-2600.

Approved by:

State of Hawaii/DLNR-Division of Boating & Ocean Recreation

  
Meghan Statts

Oahu District Manager

Phone 808-832-3520

c: **USCG D14-(B), USCG (DPW), USCG Sector Honolulu (OPCEN); DOCARE;**  
**City and County of Honolulu: HPD, Parks Permits, Ocean Safety; BOR-OA, LAND DIVISION**

**Exhibit "G"**

16-241

State of Hawaii Department of Land and Natural Resources Division of Boating and Ocean Recreation		APPLICATION FOR APPROVAL OF MARINE/OCEAN WATERS EVENT		Date Submitted:
<p>1. Submit the original form only. Please complete on typewriter or print in black ink (no permit reproduction).</p> <p>2. This application must reach the District Office at least 30 days prior to the event.</p> <p>3. Attach a section of a chart or a scale drawing showing boundaries and/or courses and markers contemplated.</p> <p>4. Submit a copy of your entry requirements, and any special rules pertaining to equipment, rigs, or procedures.</p> <p>5. Non-government sponsors shall provide a certificate of insurance naming the State of Hawaii as an additional insured.</p> <p>6. Submit completed application to: Department of Land &amp; Natural Resources, Division of Boating and Ocean Recreation, Oahu District Office, 4 Sand Island Access Road, Honolulu, Hawaii, 96819, PH: (808) 832-3520 FAX: (808) 587-1877.</p>				
1. NAME OF EVENT	2. DATE(S) OF EVENT			
Waikiki Roughwater Swim	Sep. 5, 2016			
3. LOCATION	4. TIME (from, to)			
Sans Souci Beach to Hihia Hawaiian Village	0900 - 1300 hrs			
5. NAME AND ADDRESS OF SPONSORING ORGANIZATION (Include ZIP & phone number)				
Maui's Beach Water Swim, Inc.				
6. NO. OF CONTESTANTS	8a. NO. OF VESSELS	7. SIZE OF BOATS		
1000	None	N/A		
8. TYPES OF VESSELS	9a. NO. OF SPECTATORS			
N/A	v			
9. NO. OF SPECTATOR CRAFT	10a. NO. OF DAYS OF EVENT			
1	1			
10. DESCRIPTION OF EVENT				
Open Ocean Swim				
11. WILL THIS EVENT INTERFERE OR IMPEDE THE NATURAL FLOW OF COMMERCIAL TRAFFIC?				
[X] NO [ ] YES (explain - may require Regatta Regulation issued by MSO-Honolulu)				
12. WHAT EXTRA OR UNUSUAL HAZARD (to participants or non-participants) WILL BE INTRODUCED INTO THE EVENT AREA?				
None				
13. HAVE ANY OBJECTIONS BEEN RECEIVED FROM OTHER INTERESTED PARTIES?				
[X] NO [ ] YES (explain)				
14. LIST VESSELS OR EQUIPMENT PROVIDED BY SPONSORING ORGANIZATION FOR SAFETY PURPOSES, IF ANY. (Provide description and/or identification number)				
15. DOES THE SPONSORING ORGANIZATION DEEM THEIR PATROL ADEQUATE FOR SAFETY PURPOSES? [X] YES [ ] NO (explain YES/NO)				
16. PERSON IN CHARGE	17. WHERE WILL "PERSON IN CHARGE" BE DURING THE EVENT?			
	On the water			
18. HOW CAN "PERSON IN CHARGE" BE CONTACTED DURING THE EVENT?				
Telephone Number: [redacted]				
Cell Phone Number: [redacted]				
19. PERSON TO BE CONTACTED FOR FURTHER DETAILS, INCLUDE TELEPHONE NUMBER(S)				
[redacted]				
20. SIGNATURE				
The undersigned has full authority to represent the sponsoring organization.				
21. TITLE				
[redacted]				
22. ADDRESS (include ZIP and Phone No. (a))				
[redacted]				
23. IS A COAST GUARD/COAST GUARD AUXILIARY PATROL REQUESTED FOR SEARCH AND RESCUE ASSISTANCE? [ ] NO [ ] YES (*Not a requirement for approval of this permit)				
If YES, contact: COMMANDER (OPCEN) USCG Group Honolulu Sand Island Access Road, Honolulu, HI 96850 Phone: (808) 541-2450				

Please e-mail permit/permits to [redacted]

INS. EXP. 7-1-2017



**DISTANCE OF RACE COURSE:**  
2.384 MILES OR 3.84 KILOMETERS

**HILTON RAINBOW  
TOWER**

**SHERATON WAIKIKI  
HOTEL**

**NEW OTANI HOTEL**

**FINISH**

**START**

842 meters

2305 meters

677 meters

Must pass outside both corners



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF BOATING AND OCEAN RECREATION

Permit for Marine/Ocean Event No.: **16-288**

Date Approved: **November 2, 2016**

Name of Event: **NUUANU YMCA TURKEY SWIM**  
Event Description: **Swimming Contest**  
Event Location: **Ala Moana Beach Park Ocean Waters**  
Dates of Event: **November 26, 2016**  
Time of Event: **7:00 am to 11:00 am**  
Event Sponsor: **YMCA OF HONOLULU**  
Sponsor Address: [REDACTED]  
Sponsor Contact: [REDACTED] Phone No.: [REDACTED] Email: [REDACTED]  
In Charge Name/Title: [REDACTED]

In Charge Contact No.: **same**

Information, requirements, or authorization for this event are stipulated below:

1. The application for the event permit was received on **10/28/16**
2. This permit authorizes **YMCA OF HONOLULU** to conduct the **YMCA TURKEY SWIM** with **0** water craft, **300** participants and safety provisions of **4 LIFEGUARDS ON SURFBOARDS ONLY AND 2 ON THE BEACH. (USE OF JET SKI'S IS STRICTLY PROHIBITED)**
3. **YMCA OF HONOLULU** shall take all action as necessary to ensure public health and safety and to prevent harm to the environment.
4. All applicable Federal, State, City and County regulations shall be observed.
5. Additional Restrictions: **(A) THIS PERMIT DOES NOT AUTHORIZE THE USE OF ALA MOANA BEACH PARK. PLEASE CONTACT THE CITY AND COUNTY PARKS AT 768-3440. (B) THIS PERMIT DOES NOT AUTHORIZE THE USE OF ANY MOTORIZED VESSELS OR JET SKI'S DURING THE EVENT.**

( ) Sponsor shall hold the State of Hawaii harmless from any liability.

(x) Sponsor shall provide a certificate of insurance naming the State of Hawaii as additional insured. **(On File/Exp Date: 10/01/2017)**

Your application for the above event is approved. You are reminded that your organization is responsible for safety in the event area and that this permit does not relieve you of such responsibility. Vessel operators and/or participants shall be briefed and their boats equipped as required by law.

Temporary flag buoys or other marker devices are authorized in the appropriate ocean waters. The markers are not considered "aids to navigation" when used for the special purposes in boundaries, a course, or other restrictions to participants or spectators. Any temporary markers shall be removed, and the restrictions and controls terminated immediately upon completion of the event.

This permit grants the sponsor use of the ocean waters only, to hold the described event at the prescribed ocean water location, on stated date and time it does not, however, entitle the holder to the exclusive use of the described location. This permit does not authorize right-of-entry to parks or private property or other facilities. Sponsor is responsible for obtaining a separate permit for land use through the appropriate property manager such as the City and County of Honolulu Parks Permits office; Division of State Parks; Division of Land Management; Division of Boating and Ocean Recreation; DOT-Harbors; private property owner, etc.

The water areas within the event area used under this permit are for the non-exclusive use of persons participating in the event while it is in progress. The sponsoring organization is responsible for informing the public in advance concerning safety controls that will be in effect for public and/or participants' protection.

If the event is canceled by the sponsor, the sponsor must immediately advise the appropriate Division of Boating and Ocean Recreation office: Hawaii 808-327-3690, Kauai 808-241-3111, Maui 808-243-5824, Oahu 808-832-3520 and also contact the USCG (United States Coast Guard) Operations Watch at 1-800-552-6458 or 808-842-2800.

Approved by:

State of Hawaii/DLNR-Division of Boating & Ocean Recreation

  
Meghan Statts  
Oahu District Manager  
Phone 808-832-3520

c: **USCG D14-(B), USCG (DPW), USCG Sector Honolulu (OPCEN); DOCARE;**  
**City and County of Honolulu: HPD, Parks Permits, Ocean Safety; BOR-OA**

16-288

State of Hawaii Department of Land and Natural Resources Division of Boating and Ocean Recreation			APPLICATION FOR APPROVAL OF MARINE/OCEAN WATERS EVENT		Date Submitted: 10/20/16
<p>1. Submit the original form only. Please complete on typewriter or print in black ink (no permit reproduction).</p> <p>2. This application must reach the District Office at least 30 days prior to the event.</p> <p>3. Attach a section of a chart or a scale drawing showing boundaries and/or courses and markers contemplated.</p> <p>4. Submit a copy of your entry requirements, and any special rules pertaining to equipment, rigs, or procedures.</p> <p>5. Non-government sponsors shall provide a certificate of insurance naming the State of Hawaii as an additional insured.</p> <p>6. Submit completed application to: Department of Land &amp; Natural Resources, Division of Boating and Ocean Recreation, Dahu District Office, 4 Sand Island Access Road, Honolulu, Hawaii, 96819, Ph: (808) 832-3520 Fax: (808) 587-1977.</p>					
1. NAME OF EVENT NUUANU YMCA TURKEY SWIM		2. DATE(S) OF EVENT NOV 20, 2016		12. WHAT EXTRA OR UNUSUAL HAZARD (to participants or non-participants) WILL BE INTRODUCED INTO THE EVENT AREA? NONE	
3. LOCATION		4. TIME (from, to) 7am-11am		13. HAVE ANY OBJECTIONS BEEN RECEIVED FROM OTHER INTERESTED PARTIES? ( ) NO ( ) YES (explain)	
5. NAME AND ADDRESS OF SPONSORING ORGANIZATION (include ZIP & phone number)		ALA MOANA		14. LIST VESSELS OR EQUIPMENT PROVIDED BY SPONSORING ORGANIZATION FOR SAFETY PURPOSES, IF ANY. (Provide description and/or identification number) 4 lifeguards on surfboards, 2 on land, \$ a first aid tent	
6. NO. OF CONTESTANTS 250		6a. NO. OF VESSELS 0		15. DOES THE SPONSORING ORGANIZATION DEEM THEIR PATROL ADEQUATE FOR SAFETY PURPOSES? ( ) YES ( ) NO (explain YES/NO) Lifeguards will be following swimmers ensuring proper surveillance	
7. TYPES OF VESSELS 0		7. SIZE OF BOATS N/A		16. HOW CAN "PERSON IN CHARGE" BE CONTACTED DURING THE EVENT? Telephone Number: [redacted] Email Address: [redacted]	
8. NO. OF SPECTATOR CRAFT 0		8a. NO. OF SPECTATORS 250		17. WHERE WILL "PERSON IN CHARGE" BE DURING THE EVENT? ON THE BEACH	
9. DESCRIPTION OF EVENT 1K & 2K OPEN WATER SWIM		9a. NO. OF DAYS OF EVENT 1		18. PERSON TO BE CONTACTED FOR FURTHER DETAILS, INCLUDE TELEPHONE NUMBER: Cell Phone Number: [redacted] Other: [redacted]	
10. WILL THIS EVENT INTERFERE OR IMPED THE NATURAL FLOW OF COMMERCIAL TRAFFIC? ( ) NO ( ) YES (explain - may require Regatta Regulation issued by MSD-Honolulu)		21. ADDRESS (include ZIP and Phone No. (a)) [redacted]		22. IS A COAST GUARD/COAST GUARD AUXILIARY PATROL REQUESTED FOR SEARCH AND RESCUE ASSISTANCE? ( ) NO ( ) YES (Not a requirement for approval of this permit)	
11. COMMANDER (OFFICER) USCG Group Honolulu Sand Island Access Road, Honolulu, HI 96850 Phone: (808) 541-2450		23. IS A COAST GUARD/COAST GUARD AUXILIARY PATROL REQUESTED FOR SEARCH AND RESCUE ASSISTANCE? ( ) NO ( ) YES (Not a requirement for approval of this permit)		24. TITLE [redacted]	

INS. EXP. 10-1-2017

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF BOATING AND OCEAN RECREATION

Permit for Marine/Ocean Event No.: 17-107

Date Approved: April 25, 2017

Name of Event: **SOUTH SHORE CLASSIC**  
Event Description: **Swimming Contest**  
Event Location: **Queen's Surf Beach Park Ocean Waters and Return**  
Dates of Event: **May 7, 2017**  
Time of Event: **12:00pm to 6:00pm**  
Event Sponsor: **KAMEHAMEHA SWIM CLUB**  
Sponsor Address: [REDACTED]  
Sponsor Contact: [REDACTED] Phone No.: [REDACTED]  
In Charge Name/Title: [REDACTED] In Charge Contact No.: same

Email: [REDACTED]

Information, requirements, or authorization for this event are stipulated below:

1. The application for the event permit was received on 03/07/17.
2. This permit authorizes **KAMEHAMEHA SWIM CLUB** to conduct the **SOUTH SHORE CLASSIC** with 0 water craft, 250 participants and safety provisions of **OFF DUTY LIFEGUARDS ON 10-15 PADDLEBOARDS AND 2 JET SKI'S OPERATED BY ALOHA SURF LIFESAVING ONLY.** [REDACTED]
3. **KAMEHAMEHA SWIM CLUB** shall take all action as necessary to ensure public health and safety and to prevent harm to the environment.
4. All applicable Federal, State, City and County regulations shall be observed.
5. Additional Restrictions: (A) THIS PERMIT DOES NOT AUTHORIZE THE USE OF QUEEN'S SURF BEACH PARK. PLEASE CONTACT CITY PARKS AT 768-3440. (B) THIS PERMIT DOES GIVE AUTHORIZATION FOR USE OF 2 JETSKI'S TO BE OPERATED BY ALOHA SURF LIFESAVING. THE LIFEGUARD MUST BE VISIBLE TO THE PUBLIC DURING THE EVENT. (C) THE EVENT WILL BE ARRANGED IN SUCH A MANNER THAT IT WILL NOT INCONVENIENCE THE PUBLIC FROM USING OR OBTAINING ACCESS TO ADJACENT BEACH AREAS. (D) **MOTORIZED VESSELS ARE PROHIBITED AT ALL TIMES. (E) THE JET SKI OPERATORS SHALL FOLLOW THE HAWAII ADMINISTRATIVE RULES AND WEAR A LIFE JACKET WHEN OPERATING THE JET SKI'S IN STATE OCEAN WATERS.**

( ) Sponsor shall hold the State of Hawaii harmless from any liability.

(x) Sponsor shall provide a certificate of insurance naming the State of Hawaii as additional insured. (On File/Exp Date: 01/01/2018)

Your application for the above event is approved. You are reminded that your organization is responsible for safety in the event area and that this permit does not relieve you of such responsibility. Vessel operators and/or participants shall be briefed and their boats equipped as required by law.

Temporary flag buoys or other marker devices are authorized in the appropriate ocean waters. The markers are not considered "aids to navigation" when used for the special purposes in boundaries, a course, or other restrictions to participants or spectators. Any temporary markers shall be removed, and the restrictions and controls terminated immediately upon completion of the event.

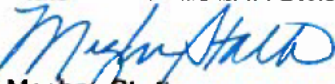
This permit grants the sponsor use of the ocean waters only, to hold the described event at the prescribed ocean water location, on stated date and time it does not, however, entitle the holder to the exclusive use of the described location. This permit does not authorize right-of-entry to parks or private property or other facilities. Sponsor is responsible for obtaining a separate permit for land use through the appropriate property manager such as the City and County of Honolulu Parks Permits office; Division of State Parks; Division of Land Management; Division of Boating and Ocean Recreation; DOT-Harbors; private property owner; etc.

The water areas within the event area used under this permit are for the non-exclusive use of persons participating in the event while it is in progress. The sponsoring organization is responsible for informing the public in advance concerning safety controls that will be in effect for public and/or participants' protection.

If the event is canceled by the sponsor, the sponsor must immediately advise the appropriate Division of Boating and Ocean Recreation office: Hawaii 808-327-3690, Kauai 808-241-3111, Maui 808-243-5824, Oahu 808-832-3520 and also contact the USCG (United States Coast Guard) Operations Watch at 1-800-552-6458 or 808-842-2600.

Approved by:

State of Hawaii/DLNR-Division of Boating & Ocean Recreation



Meghan Staffs  
Oahu District Manager  
Phone 808-832-3520

c: USCG D14-(B), USCG (DPW), USCG Sector Honolulu (OPCEN); DOCARE;  
City and County of Honolulu: HPD, Parks Permits, Ocean Safety; BOR-OA



17-107

State of Hawaii Department of Land and Natural Resources Division of Boating and Ocean Recreation		APPLICATION FOR APPROVAL OF MARINE/OCEAN WATERS EVENT		Date Submitted: 3-2-17
<p><b>Instructions</b></p> <p>1. Submit the original form only. Please complete on typewriter or print in black ink (no permit reproduction).</p> <p>2. This application must reach the District Office at least 30 days prior to the event.</p> <p>3. Attach a section of a chart or a scale drawing showing boundaries and/or course and markers contemplated.</p> <p>4. Submit a copy of your entry requirements, and any special rules pertaining to equipment, rigs, or procedures.</p> <p>5. Non-government sponsors shall provide a certificate of insurance naming the State of Hawaii as an additional insured.</p> <p>6. Submit completed application to: Department of Land &amp; Natural Resources, Division of Boating and Ocean Recreation, Oahu District Office, 4 Sand Island Access Road, Honolulu, Hawaii, 96818, Ph: (808) 832-3520 Fax: (808) 587-1977.</p>				
1. NAME OF EVENT	2. DATE(S) OF EVENT			
South Shore Classic	5/7/17			
3. LOCATION	4. TIME (from, to)			
Queens surf Beach/Kapalani Park	12-6			
5. NAME AND ADDRESS OF SPONSORING ORGANIZATION (include ZIP & phone number)				
[REDACTED]				
6. NO. OF CONTESTANTS	6a. NO. OF VESSELS	7. SIZE OF BOATS		
250	1-2 J/24's, 10 Double Bows	Variable Bows/55ft		
8. TYPES OF VESSELS				
9. NO. OF SPECTATOR CRAFT				
9a. NO. OF SPECTATORS				
100				
10. DESCRIPTION OF EVENT	10a. NO. OF DAYS OF EVENT			
4 swimming races 1/2 - 2 mi.	1			
11. WILL THIS EVENT INTERFERE OR IMPIDE THE NATURAL FLOW OF COMMERCIAL TRAFFIC?				
<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES (explain - may require Regatta Regulation issued by MSD - Honolulu)				
12. WHAT EXTRA OR UNUSUAL HAZARD (to participants or non-participants) WILL BE INTRODUCED INTO THE EVENT AREA?				
n/a				
13. HAVE ANY OBJECTIONS BEEN RECEIVED FROM OTHER INTERESTED PARTIES?				
<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES (explain)				
MAR 7 17AM 6:1808 ADH				
14. LIST VESSELS OR EQUIPMENT PROVIDED BY SPONSORING ORGANIZATION FOR SAFETY PURPOSES, IF ANY. (Provide description and/or identification number)				
1-2 J/24's 10+ Double Bows				
15. DOES THE SPONSORING ORGANIZATION DEEM THEIR PATROL ADEQUATE FOR SAFETY PURPOSES? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO (explain YES/NO)				
It is a well marked course, and we are using a professional lifeguard service that will be the first number of lifeguards and boats for the entire morning and evening. The lifeguards will be there and be fully trained.				
16. PERSON IN CHARGE				
17. WHERE WILL "PERSON IN CHARGE" BE DURING THE EVENT?				
At beach with lifeline backline				
18. HOW CAN "PERSON IN CHARGE" BE CONTACTED DURING THE EVENT?				
Telephone Number [REDACTED] Email Address [REDACTED]				
Cell Phone Number [REDACTED] Other: [REDACTED]				
19. PERSON TO BE CONTACTED FOR FURTHER DETAILS, INCLUDE TELEPHONE NUMBER(S)				
[REDACTED]				
20. SIGNATURE				
The undersigned has full authority to represent the sponsoring organization.				
21. TITLE				
[REDACTED]				
22. ADDRESS (include ZIP and Phone No. (a))				
[REDACTED]				
23. IS A COAST GUARD/COAST GUARD AUXILIARY PATROL REQUESTED FOR SEARCH AND RESCUE ASSISTANCE? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES (Not a requirement for approval of this permit)				
If YES, contact: COMMANDER (OPCEN) USCG Group Honolulu Sand Island Access Road, Honolulu, HI 96850 Phone: (808) 541-2450				



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF BOATING AND OCEAN RECREATION

Permit for Marine/Ocean Event No.: **17-117**

Date Approved: **April 25, 2017**

Name of Event: **PO'POIA SWIM RACE**  
Event Description: **Swimming Contest**  
Event Location: **Kailua Beach Park Ocean Waters**  
Dates of Event: **May 27, 2017**  
Time of Event: **8:00am to 9:30am**  
Event Sponsor: **KAILUA MASTERS SWIM CLUB**  
Sponsor Address: [REDACTED]  
Sponsor Contact: [REDACTED] Phone No.: [REDACTED]  
In Charge Name/Title: [REDACTED]

Email: [REDACTED]  
In Charge Contact No.: same

Information, requirements, or authorization for this event are stipulated below:

1. The application for the event permit was received on **04/11/17**.
2. This permit authorizes **KAILUA MASTERS SWIM CLUB** to conduct the **PO'POIA SWIM RACE** with **0 water craft, 300 participants** and safety provisions of **3 LIFEGUARDS ON PADDLE BOARDS AND 2 JET SKI'S TO BE OPERATED BY ALOHA SURF LIFESAVING.** [REDACTED]
3. **KAILUA MASTERS SWIM CLUB** shall take all action as necessary to ensure public health and safety and to prevent harm to the environment.
4. All applicable Federal, State, City and County regulations shall be observed.
5. Additional Restrictions: **(A) THIS PERMIT DOES NOT AUTHORIZE THE USE OF THE KAILUA BEACH PARK. PLEASE CONTACT THE CITY AND COUNTY OF HONOLULU PARKS PERMITS OFFICE AT 768-3440. (B) THE EVENT WILL BE ARRANGED IN SUCH A MANNER THAT IT WILL NOT INCONVENIENCE THE PUBLIC FROM USING OR OBTAINING ACCESS TO ADJACENT BEACH AREAS. (C) THIS PERMIT DOES AUTHORIZE THE USE OF 2 JET SKI'S TO BE OPERATED FOR WATER SAFETY ONLY BY ALOHA SURF LIFESAVING. THE JET SKI OPERATOR SHALL FOLLOW THE HAWAII ADMINISTRATIVE RULES AND WEAR A LIFE JACKET WHEN OPERATING THE JET SKI'S IN STATE OCEAN WATERS.**

( ) Sponsor shall hold the State of Hawaii harmless from any liability.

(x) Sponsor shall provide a certificate of insurance naming the State of Hawaii as additional insured. (On File/ Exp Date: **05/28/2017**)

Your application for the above event is approved. You are reminded that your organization is responsible for safety in the event area and that this permit does not relieve you of such responsibility. Vessel operators and/or participants shall be briefed and their boats equipped as required by law.

Temporary flag buoys or other marker devices are authorized in the appropriate ocean waters. The markers are not considered "aids to navigation" when used for the special purposes in boundaries, a course, or other restrictions to participants or spectators. Any temporary markers shall be removed, and the restrictions and controls terminated immediately upon completion of the event.

This permit grants the sponsor use of the ocean waters only, to hold the described event at the prescribed ocean water location, on stated date and time it does not, however, entitle the holder to the exclusive use of the described location. This permit does not authorize right-of-entry to parks or private property or other facilities. Sponsor is responsible for obtaining a separate permit for land use through the appropriate property manager such as the City and County of Honolulu Parks Permits office; Division of State Parks; Division of Land Management; Division of Boating and Ocean Recreation; DOT-Harbors; private property owner, etc.

The water areas within the event area used under this permit are for the non-exclusive use of persons participating in the event while it is in progress. The sponsoring organization is responsible for informing the public in advance concerning safety controls that will be in effect for public and/or participants' protection.

If the event is canceled by the sponsor, the sponsor must immediately advise the appropriate Division of Boating and Ocean Recreation office: Hawaii 808-327-3690, Kauai 808-241-3111, Maui 808-243-5824, Oahu 808-832-3520 and also contact the USCG (United States Coast Guard) Operations Watch at 1-800-552-6458 or 808-842-2600.

Approved by:  
State of Hawaii/DLNR-Division of Boating & Ocean Recreation

  
Meghan Statts  
Oahu District Manager  
Phone 808-832-3520

c: USCG D14-(B), USCG (DPW), USCG Sector Honolulu (OPCEN); DOCARE;  
City and County of Honolulu: HPD, Parks Permits, Ocean Safety; BOR-OHK ✓



State of Hawaii Department of Land and Natural Resources Division of Boating and Ocean Recreation			APPLICATION FOR APPROVAL OF MARINE/OCEAN WATERS EVENT		Date Submitted: 4/7/17
<b>Instructions</b> 1. Submit the original form only. Please complete on typewriter or print in black ink (no permit reproduction). 2. This application must reach the District Office at least 30 days prior to the event. 3. Attach a section of a chart or a scale drawing showing boundaries and/or courses and markers contemplated. 4. Submit a copy of your entry requirements, and any special rules pertaining to equipment, rigs, or procedures. 5. Non-government sponsors shall provide a certificate of insurance naming the State of Hawaii as an additional insured. 6. Submit completed application to: Department of Land & Natural Resources, Division of Boating and Ocean Recreation, Oahu District Office, 4 Sand Island Access Road, Honolulu, Hawaii, 96819, Ph: (808) 832-3520 Fax: (808) 587-1977.					
1. NAME OF EVENT	2. DATE(S) OF EVENT				
Popoia Swim Race	May 27, 2017				
3. LOCATION	4. TIME (from, to)				
Kalua Beach Park Open Waters	8:00-9:30 am				
5. NAME AND ADDRESS OF SPONSORING ORGANIZATION (include ZIP & phone number)					
[Redacted]					
6. NO. OF CONTESTANTS	6a. NO. OF VESSELS	7. SIZE OF BOATS			
300	2	N/A			
8. TYPES OF VESSELS Only vessels used for life saving					
See block 14					
9. NO. OF SPECTATOR CRAFT	8a. NO. OF SPECTATORS		10a. NO. OF DAYS OF EVENT		
0	0		1		
10. DESCRIPTION OF EVENT					
Swim race					
11. WILL THIS EVENT INTERFERE OR IMPED THE NATURAL FLOW OF COMMERCIAL TRAFFIC?					
<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES (explain - may require Regatta Regulation issued by MSO-Honolulu)					
12. WHAT EXTRA OR UNUSUAL HAZARD (to participants or non-participants) WILL BE INTRODUCED INTO THE EVENT AREA?					
None					
13. HAVE ANY OBJECTIONS BEEN RECEIVED FROM OTHER INTERESTED PARTIES?					
<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES (explain)					
14. LIST VESSELS OR EQUIPMENT PROVIDED BY SPONSORING ORGANIZATION FOR SAFETY PURPOSES, IF ANY. (Provide description and/or identification numbers)					
Aloha Surf Lifesaving					
3 lifeguards on paddleboards + 2 jetskis					
15. DOES THE SPONSORING ORGANIZATION DEEM THEIR PATROL ADEQUATE FOR SAFETY PURPOSES?					
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO (explain YES/NO)					
18. PERSON IN CHARGE	17. WHERE WILL PERSON IN CHARGE BE DURING THE EVENT?				
[Redacted]	on beach at event				
18. HOW CAN PERSON IN CHARGE BE CONTACTED DURING THE EVENT?					
Telephone Number: [Redacted]					
Cell Phone Number: [Redacted] Other: [Redacted]					
19. PERSON TO BE CONTACTED FOR FURTHER DETAILS, INCLUDE TELEPHONE NUMBER					
[Redacted]					
20. [Redacted]					
The undersigned has full authority to represent the sponsoring organization.					
22. ADDRESS (include ZIP and Phone No.(s))					
[Redacted]					
23. IS A COAST GUARD/COAST GUARD AUXILIARY PATROL REQUESTED FOR SEARCH AND RESCUE ASSISTANCE? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES (Not a requirement for approval of this permit)					
If YES, contact: COMMANDER (OPCEN) USCG Group Honolulu Sand Island Access Road, Honolulu, HI 96850 Phone: (808) 541-2450					

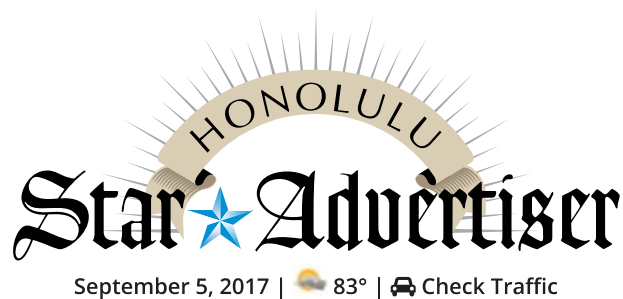
17-117

INS. Exp. 5-28-17









## Top News

# Swimmer in Waikiki Roughwater Swim found unresponsive

By [Star-Advertiser staff](#)

Posted September 04, 2017

September 4, 2017

Updated September 4, 2017 12:56pm



CRAIG T. KOJIMA / [CKOJIMA@STARADVERTISER.COM](mailto:CKOJIMA@STARADVERTISER.COM)

Paramedics and lifeguards attend to a participant in the Waikiki Roughwater Swim who was found unresponsive

Emergency Medical Services transported a swimmer to the hospital after he was found unresponsive in waters off of Kaimana Beach.

**Exhibit "H"**

The swimmer described to be in his 60s to 70s is a participant in the 48th annual Waikiki Roughwater Swim. The 2.384 mile-race starts at Kaimana Beach and ends at Hilton Hawaiian Village.

Lifeguards hired by event organizers brought him to shore at about 9 a.m.

ADVERTISING



Ocean Safety lifeguards and two companies of the Honolulu Fire Department responded and performed CPR on the swimmer. EMS also performed advanced life-saving procedures until he regained a pulse.

He was transported to a hospital in critical condition.

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## Lifeguards assisted about 75 swimmers at the Waikiki Roughwater - Honolulu, Hawaii news, sports & weather

*Mackenzie Stasko*

2-3 minutes

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Facing four to six-foot surf, hundreds of swimmers charge into the water off Kaimana Beach for the 2.3 mile trek off Waikiki.

"It was really nice, it was glassy, the current was with the course so it was an awesome swim," Andy Starn of Niu Valley said.

The iconic competition welcomes swimmers of all abilities and ages. Some are experienced Olympians, others are amateurs.

"It was hard, and I thought I'm 60, but I thought I better do it sooner rather than later," Laura Winslow, a swimmer said.

City lifeguards assisted about 75 swimmers and lifeguards hired by event organizers rescued a man in his 60s or 70s.

He was brought to the beach and treated.

His pulse was restored and he was taken to a hospital in critical condition.

It's another indicator that this swim is physically challenging.

In 2014, a man suffered a heart attack and drowned.

Last year, ocean currents were so strong, more than 300 swimmers had to be rescued.

“Last year was a really brutal current, so this year was actually a bit nicer. It always is a nice race but you feel it by the end. I was ready to be done,” Sandie Easton of Honolulu said.

They do it for the love of the sport and despite the challenge and possible danger say they'll be back again next year.

“People do this kind of stuff because they want to be in the ocean and they love it. That's what it's about but I think with any activity comes challenges and risks, but that's what makes living in Hawaii awesome,” Starn said.

“Outside of all the elbowing at the beginning, I'd say it's a really safe race and I'd recommend for people to train and do it,” Easton said.

“It was a very enjoyable swim. I'll come back again, but I'll need a couple of years to recover though, I think,” Christopher Flanigan from Sydney, Australia said.

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## Lifeguards assist more than 300 during Waikiki Roughwater Swim

By Web Staff (<http://khon2.com/author/khonterriinefuku/>)

Published: September 5, 2016, 1:49 pm | Updated: September 5, 2016, 6:12 pm



Lifeguards were busy Monday assisting hundreds of swimmers during Monday's Waikiki Roughwater Swim.

Ocean safety officials said they brought in more than 300 swimmers who were either too tired to finish the 2.348-mile course or make it to shore on their own.

Officials said waves were one to three feet and there was a strong current in the water.

Race director Kaia Hedlund said they had more than a hundred people patrolling the water to ensure the safety of roughly 700 participants — including roughly 90 volunteers, more than a dozen professional lifeguards, and the Outrigger Canoe Club.

“When they were setting the buoys, they said the currents were totally neutral, and then right before the race, our safety guys told us there’s actually a pretty bad current in the beginning and in the end,” explained Hedlund.

Chris and Courtney Davis swam the course with their seven-year-old son, Brahman, the race’s youngest swimmer.

“We’re really proud of him. It was really hard out there,” Chris Davis said. “It felt like you were on a treadmill. You were never moving. You could look at the same piece of coral, swim for 10 minutes and see the exact same piece of coral underneath you. It’s discouraging.

“There’s boatloads of people getting pulled out. There’s people clinging, like multiple people clinging to one board,” he added “We just kept trying to keep (Brahman’s) head down and him not thinking about why everyone else is getting out.”

Emergency Medical Services treated a 32-year-old woman who was injured during the swim. Hedlund said she cut her shoulder on the reef. Paramedics took her to the emergency room in serious condition.

EMS also treated a 15-year-old girl who was short of breath and a woman who experienced cramping, but neither were taken to the hospital.

Hedlund said the contest’s water safety experts decide whether the race should be canceled, as it was in 2015 due to strong surf and currents.

This year, however, “we warned people. We tell them it’s going to be tough,” she said. “Some people said, ‘It’s going to be hard, I’m not going to swim,’ and it was hard. It was quite hard, but you should prepare to do this race.”

