

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

September 28, 2018

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

PSF No.: 18MD-104

MAUI

Amend Prior Board Approval of September 22, 2017, Agenda Item D-8:
"Issuance of a Right-of-Entry Permit to TEAM Unlimited, LLC for the 2017 Xterra Off-Road Triathlon World Championship, Kapalua, Lahaina, Maui, Tax Map Key (2) 4-2-004: Seaward of 014, 015 and 016."

The Purpose of the Amendment is to Adjust the Right of Entry Rental Amount from \$13,068.00 to \$7,034.00.

Issuance of a Right-of-Entry Permit to TEAM Unlimited, LLC for the 2018 Xterra Off-Road Triathlon World Championship, October 27 & 28, 2018, Kapalua, Lahaina, Maui, Tax Map Key (2) 4-2-004: Seaward of 014, 015 and 016.

APPLICANT:

TEAM Unlimited, LLC.

LEGAL REFERENCE:

Section 171-55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kapalua, Lahaina, Maui, Tax Map Key Numbers: (2) 4-2-004: Seaward of 014, 015 and 016, as shown on the attached map labeled Exhibit A.

AREA:

October 27, 2018: 5,000 square feet, more or less.
October 28, 2018: 65,340 square feet, more or less.

ZONING:

State Land Use District: Conservation

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Unencumbered

CHARACTER OF USE:

Run and Swim portions of the off-road triathlon race purposes.

TERM OF RIGHT-OF-ENTRY:

Two-day event: October 27 and 28, 2018.

CONSIDERATION:

\$8,068.00 (See REMARKS Section for discussion)

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Item No. 51, that states "Permits, licenses, registrations, and right-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing."

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>x</u>	NO <u> </u>
Registered business name confirmed:	YES <u>x</u>	NO <u> </u>
Applicant in good standing confirmed:	YES <u>x</u>	NO <u> </u>

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Obtain all required permits for the ocean portion of the event scheduled for October 27 & 28, 2018 from the Department of Land and Natural Resources, Division of Boating and Ocean Recreation.
- 2) Obtain written concurrence from the County of Maui's Department of Parks and Recreation for the use of Fleming Beach Park, for the portions of the event which will transit through the park area on both days.

REMARKS:

The Xterra Triathlon World Championship at Kapalua is the world's premier off-road triathlon, combining a 1.5 kilometer (1-mile) swim that starts at D.T. Fleming Beach (public lands), a bike ride and a 10.5 kilometer (6.5-mile) trail run that includes a stretch across D.T. Fleming Beach (public lands). See exhibits A, B, C and D for graphic illustration of portions of the race event that will encumber public lands. Photos in Exhibit D depict the 2016 event.

This two-day event will consist of the following: Day 1 consists of only the trail run. Day 2 is the triathlon that includes another trail run, as well as the bike ride and ocean swim. The swim is a one mile rough water swim at D.T. Fleming Beach which includes a short beach sprint, mid race, and "M" shaped water course to give spectators a chance to pick out their friends and family from the field. Public lands provide the entire venue for the swim stage of the event and a portion of the trail run event. For previous events, the applicant has requested, and was granted rights of entry (ROE) for the use of 5,000 sf for the event. However, in 2017, based on staff's observations of the 2016 event, staff determined that the actual race event encumbered at least 65,340 sf (1.5 acres) of public lands for a significant duration of time with improvements that restricts active use of public lands to event participants. See attached photos of the 2016 event (Exhibit D). Therefore, staff recommended that the ROE area be increased to 1.5 acres for each of the event's two days. At the standard cost of \$.10 per square foot per day, the total cost of the ROE was calculated to be \$13,068.00. At its meeting on September 22, 2017, under agenda item D-8, the Board approved the ROE pursuant to staff's recommendation.

After being notified of the approval of the ROE, Applicant contested the new ROE rent amount, and submitted a letter detailing their position. A copy of Applicant's letter dated November 30, 2017 is attached as Exhibit E. Applicant noted that the photos taken by staff showing the intensive use of the beach area is representative of only the second day of the event, particularly with respect to the ocean swim portion of the triathlon. Applicant provided photos purportedly of the trail run portion on the first day that appears to show a much less intensive use of the beach area. Applicant also provided three

alternatives options for the ROE charge other than what the Board approved. The first option was the previously used 5,000 sf per day resulting in the \$1,000 rental amount. The second option was a complete waiver of the ROE rent. Applicant attempted to justify the waiver as it was previously granted in 2008-2010 as the event promoted Hawaii tourism. The third option offered by the Applicant was 5,000 sf for the first day and 1.5 acres for the second day, resulting in a rental amount of \$7,034.00. Staff believes that neither option 1 nor 2 is appropriate as option 1 does not account for the greater area used on the second day of the event. Additionally, the complete waiver was granted during the recession where the State was desperate to stimulate economic recovery. Staff does not believe such a waiver is appropriate in the current economic climate. Option 3 seems to be a reasonable compromise that appears to be reflective of the actual use of public lands.

In regards to the 2017 event staff requests that the Board amend its approval of the ROE to adjust the rental amount from the approved \$13,068.00 to \$7,034.00. However, for the 2017 event, Applicant tendered payment in the amount of \$6,000.00 pending the outcome of their request for the Board to reconsider the rental amount. Therefore, the rental amount for the 2018 is \$8,068.00 (\$7,034.00 plus the outstanding \$1,034.00 from the 2017 event). In response, Applicant has provided an additional letter dated September 12, 2018 attached as Exhibit F. Staff recommends against any additional reduction in rent requested by Applicant. Applicant's commercial activity is similar to other events that are charged the same rent of \$.10 per square foot per day, in that these events contribute to the State's economy and provide exposure for the tourism industry.

The State of Hawaii's Department of Land and Natural Resources, Division of Boating and Ocean Recreation (DOBOR) has previously indicated no objections to this event and the Applicant will be required to obtain a permit from DOBOR for the ocean portion of the competition. Staff is also requiring the Applicant to obtain written concurrence from the County of Maui's Department of Parks and Recreation. This requirement is due to the fact that the event will impact public access and use of the park which is managed and maintained by the County of Maui. Staff is anticipating a large number of spectators to utilize the park and its facilities during the run and swim portion of the events. Therefore, it would be prudent that County Park officials be informed of the event and properly prepared for additional park users.

RECOMMENDATION: That the Board

1. Amend its prior action of September 22, 2017 under agenda item D-8 by adjusting the rental amount from \$13,068.00 to \$7,034.00, with all other terms and conditions of the approval remaining the same.
2. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is

therefore exempt from the preparation of an environmental assessment.

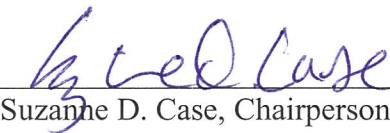
3. Authorize the issuance of a right-of-entry permit to TEAM Unlimited, LLC covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time; and
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Ian Hirokawa
Special Projects Coordinator

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

September 14, 2018

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

JEFFREY. T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

EXEMPTION NOTIFICATION

regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title:	TEAM Unlimited, LLC. for the 2017, XTERRA Off – Road Triathlon World Championships.
Project / Reference No.:	18MD-104
Project Location:	Portion of Government lands of Honolua, Lahaina, Maui, Tax Map Key Numbers: (2) 4-2-004: Seaward of 014, 015 and 016.
Project Description:	Swim and Run portion of off-road triathlon race.
Chap. 343 Trigger(s):	Use of State Land
Exemption Class No. and Description:	In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Item No. 51, that states "Permits, licenses, registrations, and right-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing."
Cumulative Impact of Planned Successive Actions in Same Place Significant:	No, this event occurs at this location annually, not on a routine or regular basis (e.g., daily or weekly).
Action May Have Significant Impact on Particularly Sensitive Environment:	The requested area is a portion of State beach visited by tourists and residents, and is used extensively for recreational activity. In addition, based on the analysis below, staff believes there would be no significant impact to sensitive environmental or ecological receptors.
Agencies Consulted:	DLNR: Office of Conservation and Coastal Lands, Division of Conservation and Resources Enforcement, Division of Aquatic

Resources, and Division of Boating and Ocean Recreation

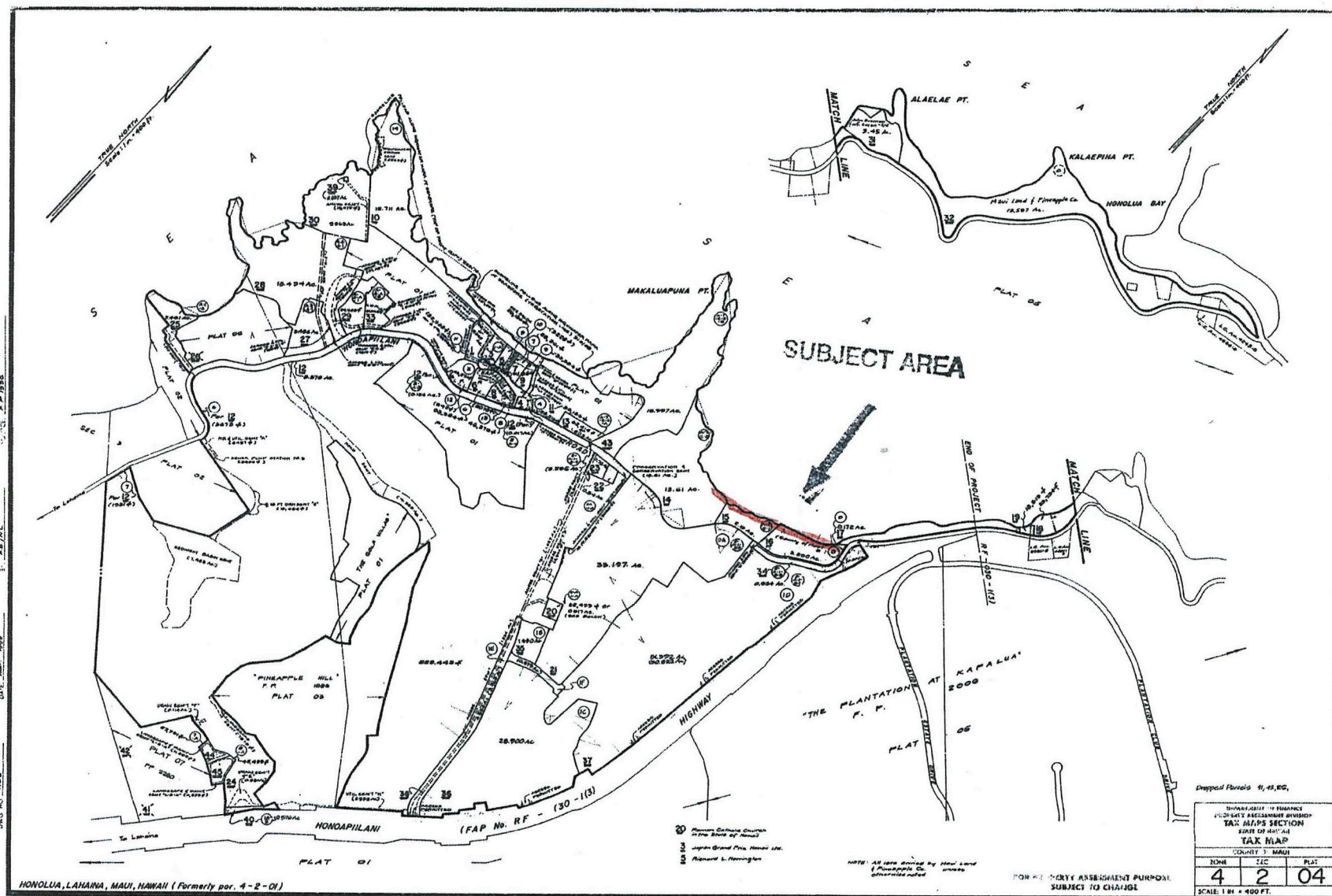
Analysis:

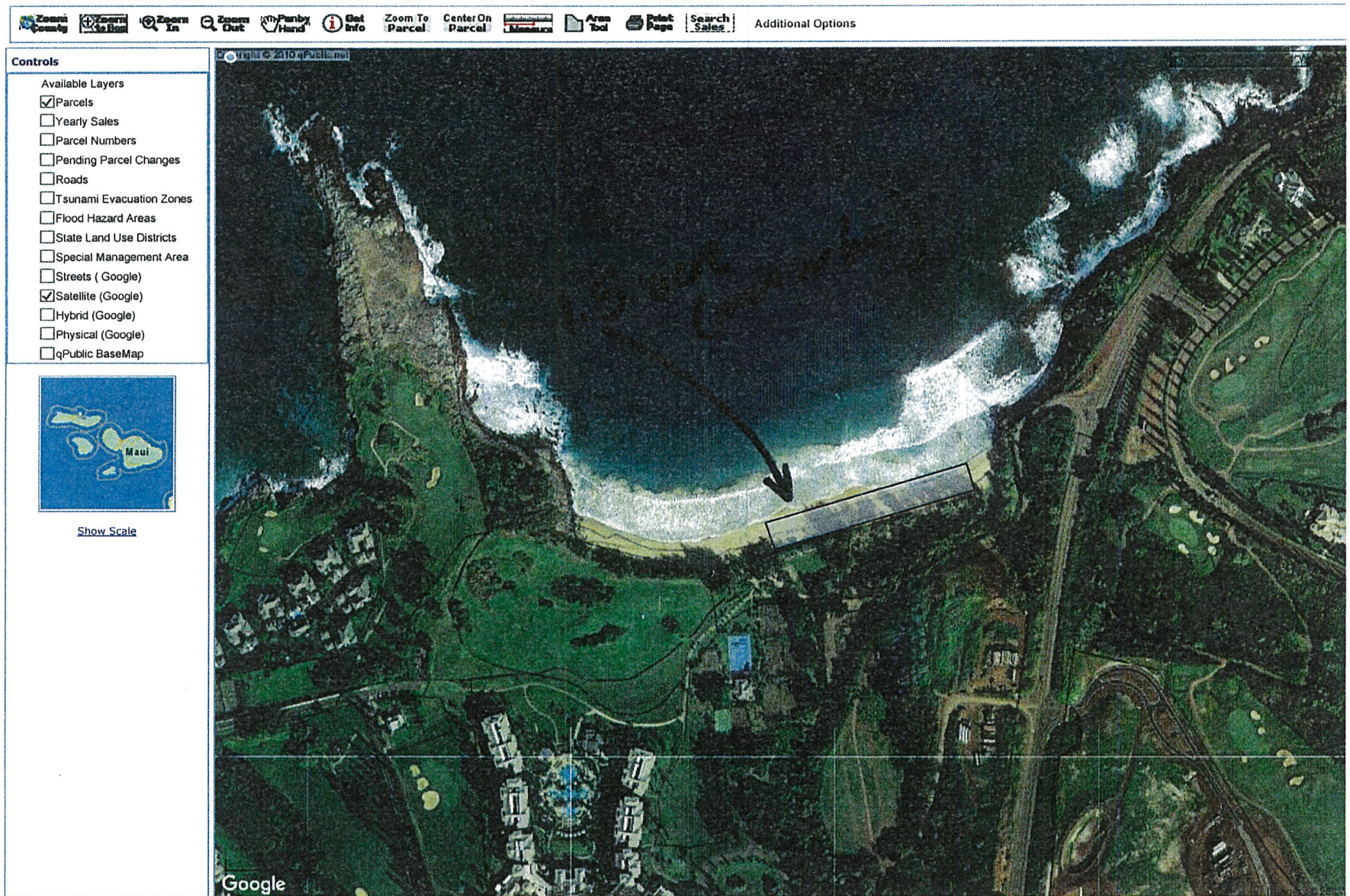
The Board has permitted similar events in the past. The proposed activity is of a similar type and scope of beach activities that periodically occurred and continues to occur on this and other beach areas across the State. Such activities have resulted in no known significant impacts, whether immediate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

Recommendation:

It is anticipated this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

EXHIBIT A





Maui County makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. The assessment information is from the last certified taxroll. All data is subject to change.

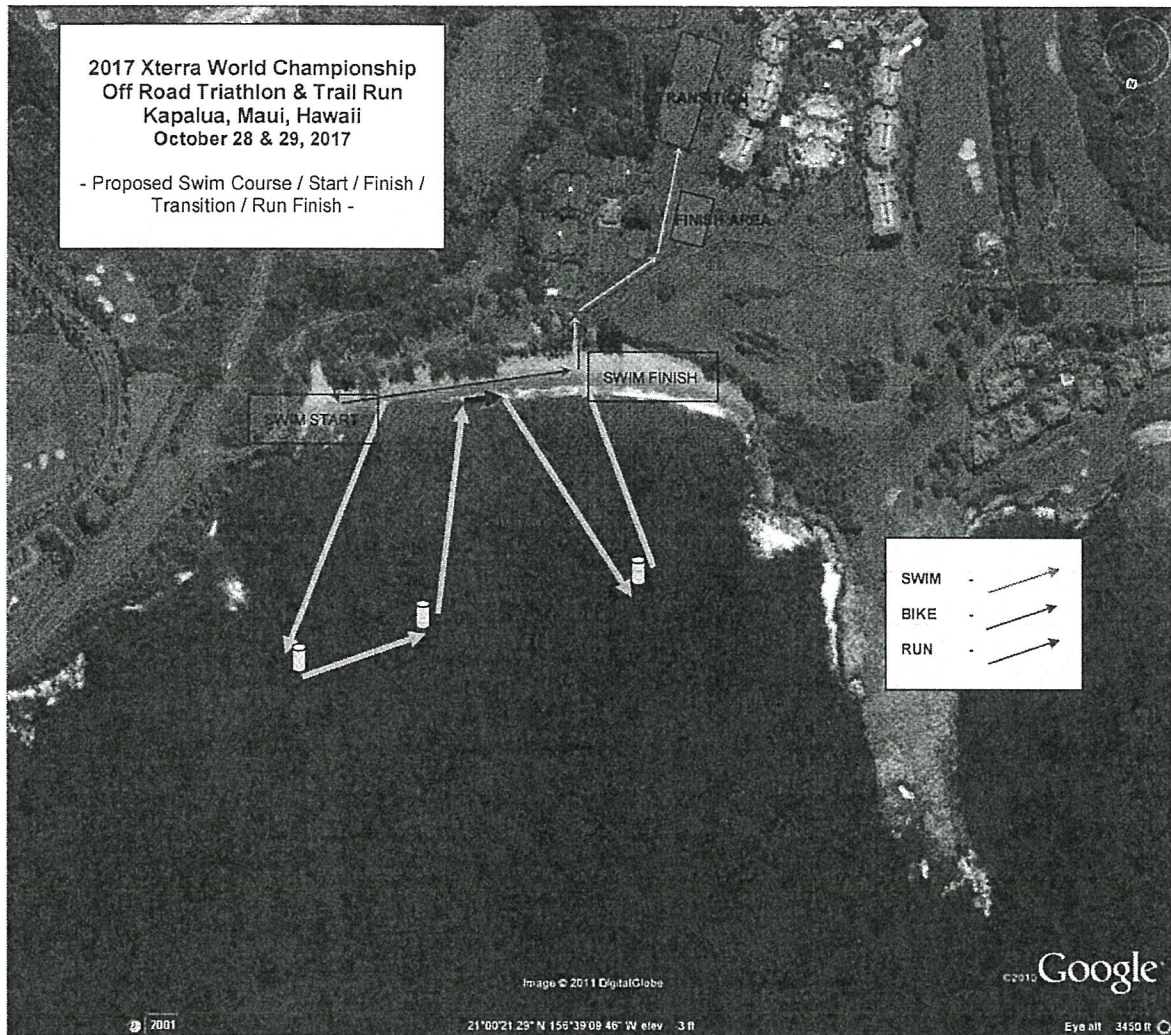


EXHIBIT "C"

EXHIBIT "D"



Swimmers come in
run around flags
@ mid-point then
go back out

EXHIBIT "D"

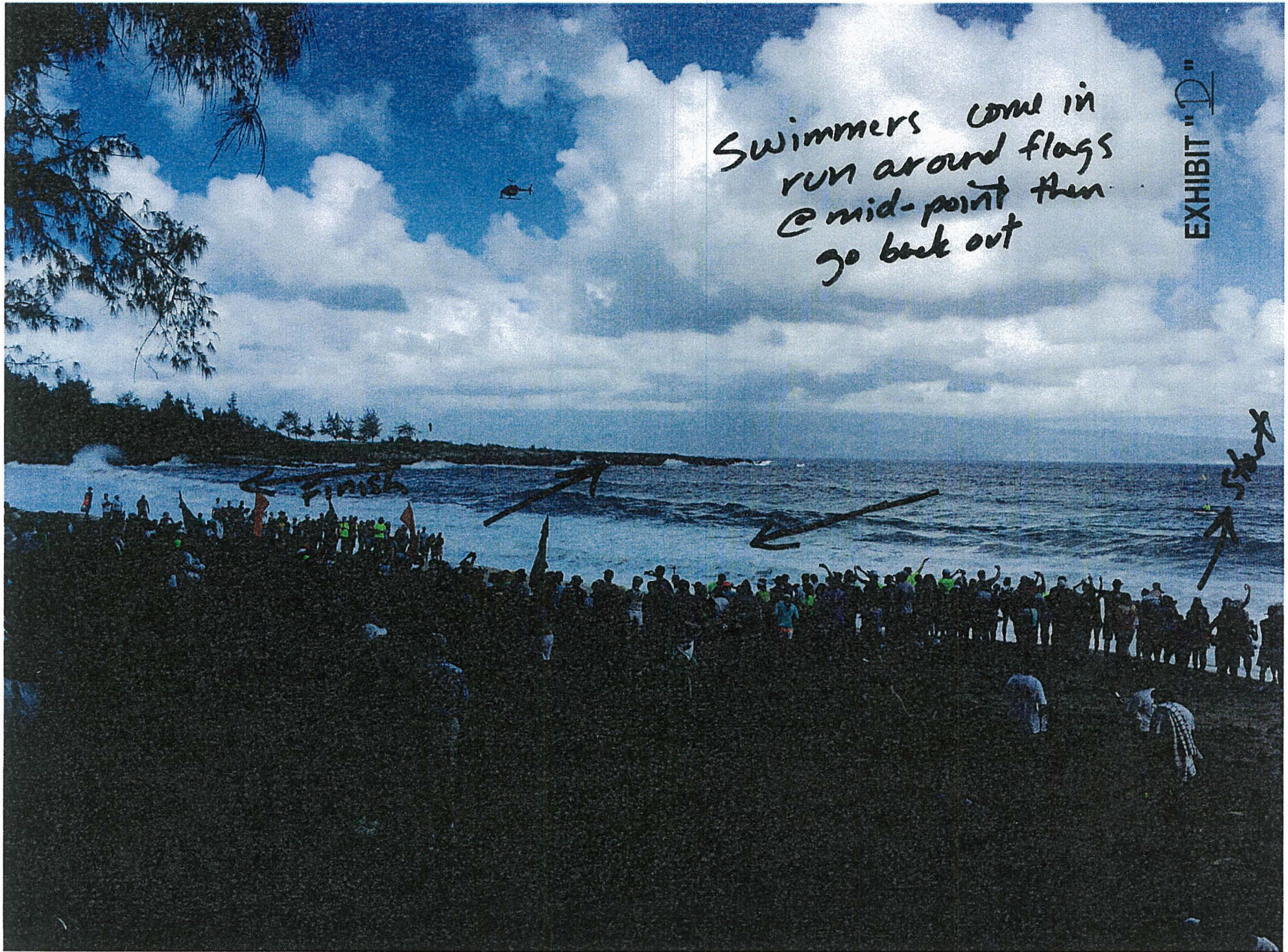


EXHIBIT "D"

Swim event
mid-point



Swim event finish





November 30, 2017

Aloha, to whom it may concern;

This letter proposal is to be the written contest to the decision for Issuance of a Right-of-Entry Permit to TEAM Unlimited, LLC for the 2017 Xterra Off-Road Triathlon World Championship, Kapalua, Lahaina, Maui, Tax Map Key (2) 4-2-004: Seaward of 014, 015 and 016, #8 from the MEETING OF THE BOARD OF LAND AND NATURAL RESOURCES, dated FRIDAY, SEPTEMBER 22, 2017, KALANIMOKU BUILDING, LAND BOARD CONFERENCE ROOM 132 , 1151 PUNCHBOWL STREET HONOLULU, HAWAII 96813 – **specifically to contest the assigned calculation of fee imposed.**

General Description:

The XTERRA World Championship was created in Maui 1996, and has been annually operated on the island for 22 years. A DLNR Land Management ROE has been approved for every event. The event's race structure has never changed. So this is not a new subject or an unknown production.

The item in question regards the minimal use of D.T. Fleming Beach for the race weekend. As outlined in the original applications, the use of the beach is broken down between the 2 days – Saturday and Sunday.

Saturday is the XTERRA Trail Runs (only). Participants finish the race by running the length of the beach, generally below the highwater mark, to get back to the Ritz Carlton property and the event finish area. (see diagram)

Sunday is the Off Road Triathlon – consisting of an open water swim, mountain bike ride and 10K trail run on the same course as the trail run on the previous day. On this day the beach is used as the beginning of the swim / start area and then duplicates the run finish of the previous day.

The only difference between the Saturday and Sunday use, is on Sunday the beach is used for the swim start between 8:30 and 10:00 am – this is what Mr. Ornellas photographed for the 2017 ROE Application and developed the new, 2017 use calculation of 65,340 sq/ft.

Otherwise, all other uses are running of the length of the beach as outlined in the diagram, pictures from the event and all previous State Land ROE's. The beach is open and available for public use during the run on both days.

Previous ROE's used the calculation of the beach run at 5000 sq/ft x \$.10 per sq/ft = \$500.00 (2016 attached).

EXHIBIT "E"



Summary #1

In the exacting calculations as expressed by Mr. Ornellas the correct equation is;
Saturday – beach run only – 5000 sq/ft - \$.10 per sq/ft = \$500
Sunday – swim start and beach run – 65,340 sq/ft - \$.10 per sq/ft = \$6,534.00
Total = \$ 7,034.00

Summary #2

As the ROE has been calculated over the last 6 events, the approximate one hour use of the beach area for the swim start is negated for the overwhelming predominate use as running course and the fee remains the same;

Saturday – beach run only – 5000 sq/ft - \$.10 per sq/ft = \$500
Sunday – beach run only – 5000 sq/ft - \$.10 per sq/ft = \$500
Total = \$1,000.00

Summary #3

The XTERRA World Championship event has been, and currently is, sponsored by the Hawaii Tourism Authority for the purpose of production of a one television show which is syndicated in the USA to network affiliate stations and FOX Sports Network, reaching over 9 million viewers across the country. Additionally, it is carried overseas by ESPN international and European syndication. It is one of the largest annual TV productions on Maui. The XTERRA World Championship successfully promotes Hawaii throughout the USA and the world.

In the past when this very same contest to DLNR State Land Management ROE fees surfaced (2008 thru 2010 attached), the then DLNR Board ruled to waive all fees, as the production consistently and legitimately promoted the State of Hawaii (confirmed by annual HTA sponsor reports).

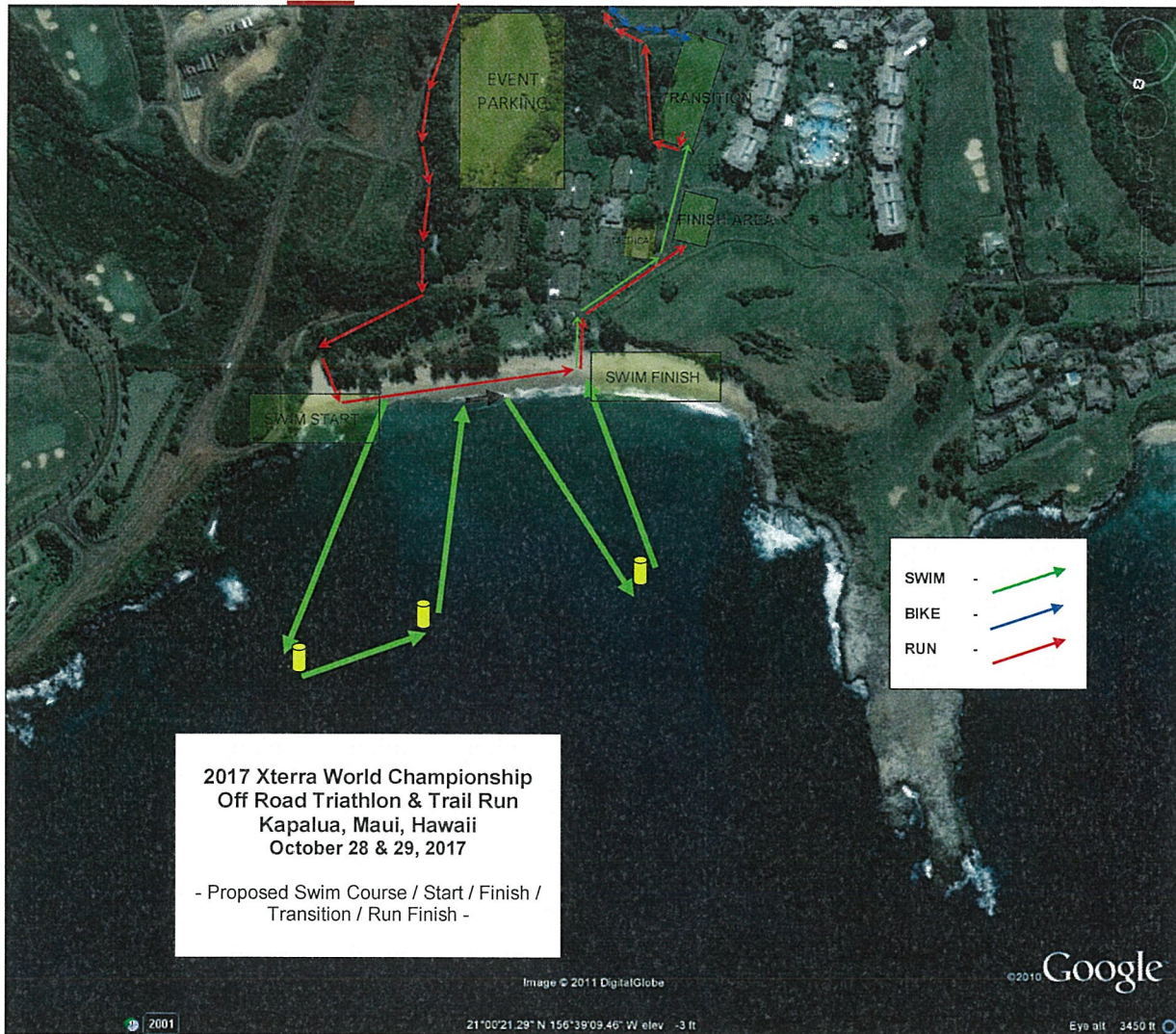
We appreciate all Board Members taking the time to hear this contest and must realize that we as a company had no idea ahead of the original Sept 22/17 Board Meeting, that our ROE fees were to be recalculated for this 2017 event and therefore did not schedule a presence or written contest at that time.

We appreciate Mr. Ornellas allowing this written contest to be presented to the December DLNR Board meeting.

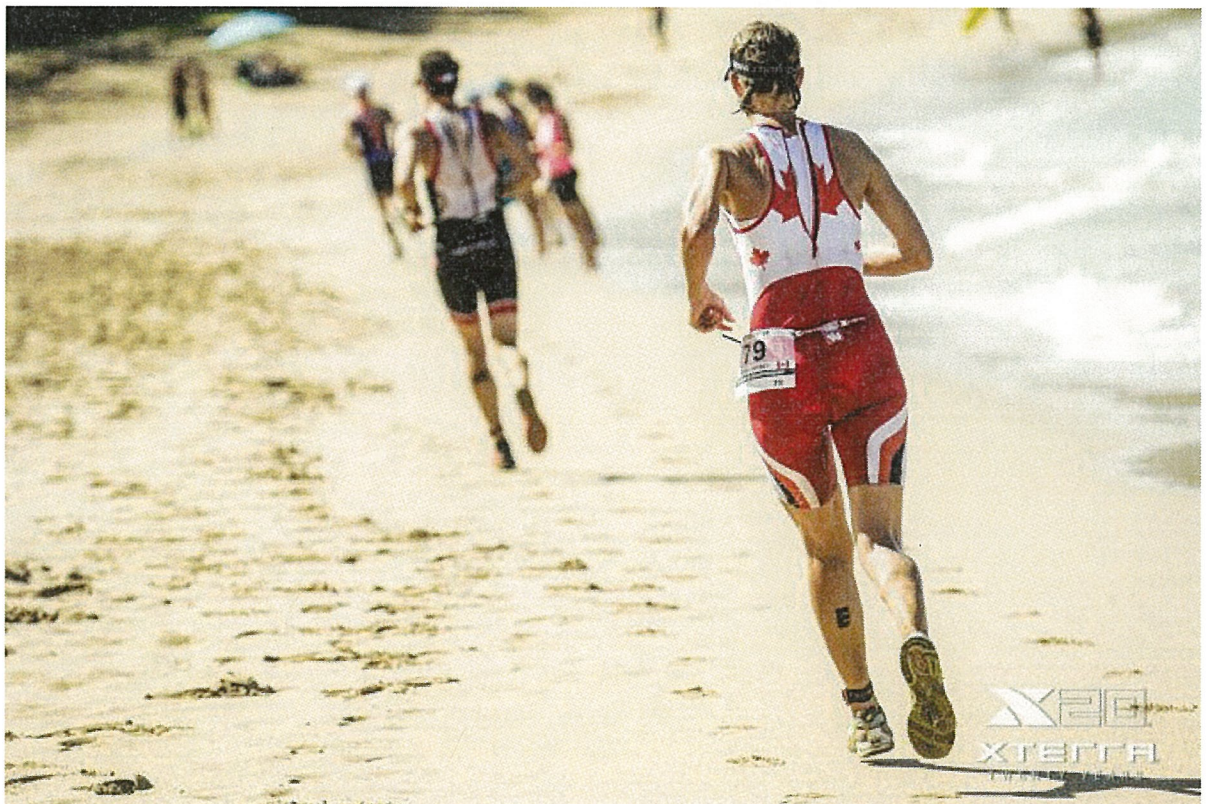
Sincerely,

A handwritten signature in black ink that reads 'Ted Kozlo'.

Ted Kozlo
Director of Events
TEAM Unlimited, LLC.
Xterra USA Series









DAVID Y. IGE
GOVERNOR OF
HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

October 14, 2016

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

JEFFREY T. PEARSON
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAIHOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

ROE #4203
PSF#15MD-159

RIGHT-OF- ENTRY PERMIT

Ted Kozlo, Event Producer
TEAM Unlimited, LLC
720 Iwilei Road, Suite 290
Honolulu, Hawaii 96817

Dear Mr. Kozlo:

SUBJECT: Issuance of Right-of-Entry Permit to Mr. Ted Kozlo of TEAM Unlimited, LLC, for the 2016 X-Terra Off Road Triathlon, World Championships at Honolua, Lahaina, Maui, TMK: (2) 4-2-004: Seaward of 014, 015 and 016.

We are pleased to advise you that on October 23, 2015, under Item No. D-8, the Board of Land and Natural Resources approved your request for a right-of-entry permit to utilize portions of State land for the X-Terra Off Road Triathlon, World Championships at Fleming Beach on the island of Maui.

This years' event is scheduled for October 22 & 23, 2016. TEAM Unlimited, LLC is hereby granted a right-of-entry permit to utilize a portion of State / Public Land at the above stated location, consisting of approximately 5,000 square feet for both days, subject to the following terms and conditions:

- This right-of-entry shall be effective for two days, from 6:00 a.m. October 22 to 7 p.m. October 23, 2016.
- Payment of \$1,000.00 rental fee, based on two days of use of the subject area:
(Day one, 5000 square feet x \$.10 per square feet x 1 day = \$500.00),
(Day two, 5,000 square feet x \$.10 per square feet x 1 day = \$500.00).
Total = \$1,000 (one thousand dollars)

Please note that if the staging areas situate on the shoreline, for ingress and egress of race participants into nearshore waters, significantly exceeds the estimated amount of 5,000 square feet per day, then additional charges may

DAVID Y. IGE
GOVERNOR OF
HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

October 06, 2017

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

JEFFREY T. PEARSON
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

ROE # _____
PSF#17MD-119

RIGHT-OF- ENTRY PERMIT

Mr. Ted Kozlo, Event Producer
c/o TEAM Unlimited, LLC
720 Iwilei Road, Suite 290
Honolulu, Hawaii 96817

Dear Mr. Kozlo:

SUBJECT: Issuance of Right-of-Entry Permit to TEAM Unlimited, LLC c/o Mr. Ted Kozlo; for the 2017 X-Terra Off Road Triathlon, World Championships at Kapalua, Lahaina, Maui, TMK: (2) 4-2-004: Seaward of 014, 015 and 016.

We are pleased to advise you that on September 22, 2017, under Item No. D-8, the Board of Land and Natural Resources approved your request for a right-of-entry permit to utilize portions of State land for the X-Terra Off-Road Triathlon, World Championships at Fleming Beach on the island of Maui.

This years' event is scheduled for October 28 & 29, 2017. TEAM Unlimited, LLC is hereby granted a right-of-entry permit to utilize a portion of State / Public Land at the above stated location, consisting of approximately 65,340 square feet for both days, subject to the following terms and conditions:

- This right-of-entry shall be effective for two days, from 6:00 a.m. October 28 to 7 p.m. October 29, 2017.
- Payment of \$13,068.00 rental fee, based on \$0.10 per sq. ft. per day for use of the subject area:
$$65,340 \text{ square feet} \times \$0.10 \text{ per square feet} \times 2 \text{ day} = \$13,068.00$$
- **TEAM Unlimited, LLC** shall procure at its own expense, and maintain during the entire period of this right-of-entry, from an insurance company or companies

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

October 2, 2008

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING

FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

ROE #2701

Mr. Ted Kozlo, Xterra Director of Events
Team Unlimited, Inc.
720 Iwilei Road, Suite 290
Honolulu, Hawaii 96817

Dear Mr. Kozlo:

Subject: Right-of-Entry Permit to Access Unencumbered Public Lands, Team Unlimited Inc.,
TMK (2) 2-1-004:049 and 2-1-005:024, 034, 055, 77, 090, Maluaka, Mohopili, Mooiki,
Mooloa, Moouku, Nau, Kanahena, Kualapa, Kalihi, Papaka, Honuaula, Makawao, Maui

Pursuant to the Land Board's delegation of authority to me to issue rights-of-entry, I am authorized to waive rent for rights-of-entry to any uses that provide the State of Hawaii with substantial, out-of-State marketing exposure, through television, movies or other media. As your event meets this requirement, I hereby waive the rental fee of \$2,174.00 mentioned in the right-of-entry letter dated September 22, 2008.

All other terms and conditions contained in such letter shall remain in full force and effect.

Should you have any questions regarding this matter, please call Daniel Ornellas of Maui District Land Office at (808) 984-8103. Thank you.

Sincerely,

Laura H. Thielen
Chairperson

cc: Donne Dawson, Manager, Hawaii Film Office
Georja Skinner, CID Administrator/DBEDT
Marsha Wienert, State Tourism Liaison/DBEDT
Daniel Ornellas, District Land Agent/DLNR-Maui
Central Files
District Files



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2350, Honolulu, Hawaii 96804
Web site: www.hawaii.gov/dbedt

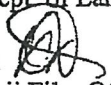
LINDA LINGLE
GOVERNOR
THEODORE E. LIU
DIRECTOR
MARK K. ANDERSON
DEPUTY DIRECTOR

Telephone: (808) 586-2355
Fax: (808) 586-2377

via fax: 587-0390

September 28, 2009

To: Laura H. Thielen
Chairperson, Dept. of Land and Natural Resources

From: Donne Dawson 
Manager, Hawaii Film Office/DBEDT

Subject: Request to Waive Right of Entry (ROE) Fee for the 14th Annual XTERRA World Championship on Maui

The Hawaii Film Office (HFO) is working with Team Unlimited, Inc., who will be videotaping the 14th Annual XTERRA World Championship in Makena, Maui. The HFO has worked with the production for the past 13 years on permitting this event. The event will take place from October 24-25. The XTERRA World Championship will be aired as a one-hour sports special via national syndication. The special will air in 80 key markets nation-wide and drawing an audience of 2 million viewers. Please see the attached Press Release for additional information.

The publicity and public relations value of the cable television broadcast to mainland viewers will be very advantageous to Hawaii's film and tourism industries. Due to this national exposure (and initial economic contribution) for Hawaii and Maui, it is our recommendation to waive the ROE fee(s).

We appreciate your consideration. Upon approval of the waiver, the attached ROE will need to be reformatted for your signature by the DLNR staff. Please contact the Hawaii Film Office if you have any further questions.

Attachments: Press Release
ROE Permit

DD/ba

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

October 9, 2009

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAIHOLEWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

ROE #3781

Mr. Ted Kozlo, Xterra Director of Events
Team Unlimited, Inc.
720 Iwilei Road, Suite 290
Honolulu, Hawaii 96817

Dear Mr. Kozlo:

SUBJECT: Right-of-Entry to Access Unencumbered Public Lands, Maluaka, Mohopili, Mooiki, Mooloa, Moouku, Nau, Kanahena, Kualapa, Kalihi, Papaka, Honuaula, Makawao, Maui, ax Map Keys: (2) 2-1-004:049 and 2-1-005: 024, 034, 055, 077, 090.

We are in receipt of your request for a Right-of-Entry Permit to conduct the Xterra 2009 World Championships during the month of October, 2009. You have requested access for the purpose of completing various sections of the bike and run course between Ulupalakua Ranch and the Makena Resort property. The course outlined in the attached map, labeled "Exhibit A," is to be accessed "only by registered athletes, production staff, media and medical personnel." The event and related set up and clean up activities are scheduled to take place from October 10, 2009 to October 27, 2009.

Pursuant to the authority granted by the Board of Land and Natural Resources at its meeting of September 28, 2001 (Item D-4), Team Unlimited, Inc. and/or its contractors, consultants and/or persons acting for or on its behalf, are hereby granted a Right-of-Entry Permit to utilize approximately 459,134 square feet of "dirt road" on the subject unencumbered public lands subject to the following terms and conditions:

1. This right-of-entry shall be effective Saturday, October 10, 2009 to Tuesday, October 27, 2009.
2. All equipment and use of the subject premises by Team Unlimited, Inc. and/or its contractors, consultants and/or persons acting for or on its behalf shall be contained to the subject area as described on your map labeled "Exhibit A".

Pursuant to the Land Board's delegation of authority to me to issue rights-of-entry, I am authorized to waive rent for rights-of-entry to any uses that provide the State of Hawaii with substantial, out-of-State marketing exposure, through television, movies or other media. As your event meets this requirement, I hereby waive the rent.

We have already received a copy of your Certificate of Liability Insurance that was submitted with your request. Should you agree to the above terms and conditions, please sign in the space provided below and return to my Maui District Land Office, 54 High Street Room 101, Wailuku, Hawaii 96793 or fax (808) 984-8111.

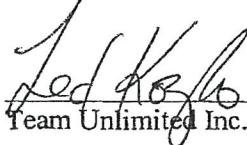
If you have any questions, please call Daniel Ornellas at our Maui District Land Office at (808) 984-8103.

Sincerely,



Laura H. Thielen
Chairperson

ACCEPTED:



-TED KORB
Team Unlimited Inc.

By Its: DIRECTOR OF EVENTS

Date: 10/09, 2009

cc: District Files
Central Files
Maui DOCARE
Maui State Parks
Maui DOBOR

LINDA LINGLE
GOVERNOR
THEODORE E. LIU
DIRECTOR



DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM


HAWAII FILM OFFICE

No. 1 Capitol District Bldg., 250 South Hotel St., 5th Fl., Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Website: www.hawaiiifilmoffice.com

Telephone: (808) 586-2670
Fax: (808) 586-2572
E-mail: info@hawaiiifilmoffice.com

September 27, 2010

To: Laura H. Thielen
Chairperson, Dept. of Land and Natural Resources

From: Georja Skinner 
Administrator, Hawaii Film Office/DBEDT

Subject: Request to Waive Right of Entry (ROE) for the 15th Annual XTERRA World Championship on Maui

The Hawaii Film Office (HFO) is working with Team Unlimited, Inc. who will be videotaping the 15th Annual XTERRA World Championship in Makena, Maui. The HFO has worked with the production for the past 14 years on permitting this event. The event will take place from October 23-24, 2010. The XTERRA World Championship will be aired as a one-hour sports special via national syndication. The special will air in 80 key markets nation-wide and drawing an audience of 2 million viewers.

The publicity and public relations value of the cable television broadcast to mainland viewers will be very advantageous to Hawaii's film and tourism industries. Due to this national exposure (and initial economic contribution) for Hawaii and Maui, it is our recommendation to waive the ROE fee(s).

We appreciate your consideration. Upon approval of the waiver, the attached ROE will need to be reformatted for your signature by the DLNR staff. Please contact the Hawaii Film Office if you have any further questions.

Attachments: ROE Permit

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

October 8, 2010

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

PAUL J. CONRY
ACTING FIRST DEPUTY

LENORE N. OHYE
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT

ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Mr. Ted Kozlo
Xterra Director of Events
Team Unlimited, Inc.
720 Iwilei Road, Suite 290
Honolulu, HI 96817

Dear Mr. Kozlo:

SUBJECT: 2010 XTERRA World Championship Swimming, Biking and Running Events at Maluaka, Mohopili, Mooiki, Mooloa, Moouku, Nau, Kanahena, Kualapa, Kalihi, Papaka, Honuaula, Makawao, Maui, Tax Map Keys: (2) 2-1-004:049, 2-1-005:024, 034, 055, 077, 090 and seaward of the Makena Beach & Golf Resort property.

We are in receipt of your request for a right-of-entry permit to conduct the 2010 XTERRA World Championship. Briefly, the XTERRA is an off road triathlon/multisport event consisting of 1K open ocean swim event, a 30K off-road mountain bike ride and a 10K trail run. Between Ulupalakua Ranch lands to Makena Beach & Golf Resort property, various sections of the bike and run course are on State unencumbered lands. There will be no pre-riding or inspection of the race course. On October 23th there will be a 5K/10K off-road running race. On October 24th is the main triathlon competition. Race start time is 9:00 am. Finish time is approximately 2:00 pm. There will be approximately 500 participants. There will be no public access to the race course, only production staff and registered athletes. Course Marshals will be in place through out the course to insure athletes stay on course. Access agreements have been obtained from Makena Beach & Golf Resort and Ulupalakua Ranch.

According to Mr. Kozlo, Xterra, the bike and run events will be on existing 4x4 jeep roads. For the swim event which occurs seaward of the Makena Beach & Golf Resort property, Mr. Kozlo will be obtaining a marine event permit from my Maui Division of Boating & Ocean Recreation office.

15. It is understood that Team Unlimited, Inc. and/or its contractors, consultants and/or persons acting for or on its behalf has inspected the right-of-entry area and knows the conditions thereof and fully assumes all risks incidental to its use.
16. No open fires of any type shall be permitted on the right-of-entry area and/or the surrounding State lands.
17. Team Unlimited, Inc. and/or its contractors, consultants and/or persons acting for or on its behalf will be responsible for providing its own security (if required) for the permit area during this event.

At your option, you may hire an officer of the Division of Conservation and Resources Enforcement (DOCARE). Please deal directly with the DOCARE office by contacting 984-8110 to make the necessary arrangements.

18. All disputes or questions arising under this right-of-entry shall be referred to the Chairperson of the Board of Land and Natural Resources for a determination and resolution of the dispute or question. The Chairperson's decision shall be final and binding on the parties herein.
19. This right-of-entry is revocable and terminable at anytime for any reason in the sole and absolute discretion of the Chairperson.
20. This right-of-entry or any rights hereunder shall not be sold, assigned, conveyed, leased, let, mortgaged or otherwise transferred or disposed.
21. The Department of Land and Natural Resources reserves the right to impose additional, but responsible terms and conditions as it deems necessary while this right-of-entry is in force.

By memorandum dated September 27, 2010, Ms. Georja Skinner, Administrator for the Hawaii Film Office is requesting I waive the right-of-entry fee because your event – the 15th Annual XTERRA World Championship will be aired as a one-hour sports special via national syndication. The special will air in 80 key markets nation-wide and drawing an audience of 2 million viewers. The publicity and public relations value of the cable television broadcast to mainland viewers will be very advantageous to Hawaii's film and tourism industries.

Therefore, pursuant to the Land Board's delegation of authority to me to issue rights-of-entry, I am authorized to waive rent for rights-of-entry to any uses that provide the State of Hawaii with substantial, out-of-State marketing exposure, through television, movies or other media. As your event meets this requirement, I hereby waive the rent.


We have already received a copy of your Certificate of Liability Insurance that was submitted with your request. Should you agree to the above terms and conditions, please sign in the space provided below and submit the following to the Land Division Office:

Mr. Ted Kozlo
October 8, 2010
Page 6

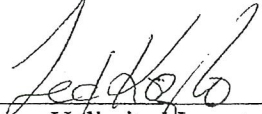
A. Copy of the signed acceptance below

If you have any questions, please contact Ms. Charlene Unoki at the District Land Office at 587-0426. Thank you.

Sincerely,


for Laura H. Thielen
Chairperson

ACCEPTED:


Team Unlimited Inc. LLC.

By Its: Director of Events

Date: 10/13, 2010

cc: District Files
Central Files
DOCARE
DOBOR
Hawaii Film Office



WORLD CHAMPIONSHIP

September 12, 2018

To: State of Hawaii, Board of Land & Natural Resources, Land Division

RE: PSF18MD-104

Aloha,

Thank you for the opportunity to provide a written contest to be presented at the September 28, 2018 BLNR meeting.

This letter is a response to the Issuance of a Right-of-Entry Permits to TEAM Unlimited, LLC for the 2017 and 2018 XTERRA Off-Road Triathlon World Championship event, Kapalua, Lahaina, Maui, Tax Map Key (2) 4-2-004: Seaward of 014, 015 and 016, #8 PSF18MD-104 submission for the MEETING OF THE BOARD OF LAND AND NATURAL RESOURCES, on FRIDAY, SEPTEMBER 28, 2018, KALANIMOKU BUILDING, LAND BOARD CONFERENCE ROOM 132 , 1151 PUNCHBOWL STREET HONOLULU, HAWAI'I 96813 – **specifically to contest the assigned calculation of fee imposed.**

General Description:

The XTERRA World Championship was created in Maui 1996, and has been annually operated on the island for 23 years. A DLNR Land Management ROE has been obtained for every event.

As outlined in the original applications, XTERRA uses D.T. Fleming Beach for a few hours on Saturday and Sunday of each event weekend.

On Saturday we host the XTERRA Kapalua Trail Runs. Participants finish the race by running the length of the beach, generally below the highwater mark, to access the finish area at The Ritz-Carlton property. It should be noted that 60% of our trail run participants are local Maui residents.

On Sunday we host the XTERRA World Championship Off Road Triathlon – consisting of an open water swim, mountain bike ride and 11K trail run on the same course as the trail run on the previous day. The beach is used as the beginning of the swim / start area and then duplicates the run finish of the previous day.

On both days, the beach is open for public use during the runs and use is calculated by TEAM Unlimited at 5,000 square feet or less as we generally run the below the high tide mark. On Sunday only, a portion of the beach is used for the swim start between 8:30 and 10:00 am. and is calculated at 65,340 square feet by BLNR.

We had contested the original 2017 ROE fee calculation of \$13,068 and offered several options including a revised calculation, which was accepted in PSF18MD-104 for use in 2017 and 2018 ROEs as follows:

Saturday – beach run only – 5000 sq/ft - \$.10 per sq/ft = \$500

Sunday – swim start and beach run – 65,340 sq/ft - \$.10 per sq/ft = \$6,534.00

Total = \$ 7,034.00

We respectfully ask the Board to reduce the fee calculation in consideration of:

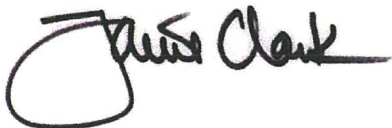
1. The minimal nature of XTERRA's beach usage over the weekend (available for public use all day Saturday and during peak beach hours on Sunday – 10am to sundown) and local residents comprise 60% of XTERRA usage on Saturday.
2. Economic impact - calculated at \$6.68 million in direct expenditures, 81 jobs, and \$0.78 million in state tax revenue (DBEDT formula). XTERRA provides a direct benefit to the State and the way of life of our island residents.
3. Media generated by the event provides ongoing beneficial tourism marketing messaging valued at over \$6.1 million and including a one-hour television show airing nationally and internationally. The state may currently be doing well with tourism, but as we all know, that can turn quickly due to natural disasters, labor strikes, war, airline seat availability and other factors beyond the state's control. XTERRA media covers a period of approximately 2 years from the date of the event.

We ask for a 50% reduction in calculated fees as an offset to the positive impacts that the event provides, and the minimal impact the event has on public beach access.

2017 ROE	$\$7,034 \times 50\% = \$3,517$
2018 ROE	$\$7,034 \times 50\% = \$3,517$
Total	\$7,034
Less prepayment in 2017	\$6,000
Total due 2017 and 2018	\$1,034

Thank you for the opportunity to present this information for consideration at the September 28, 2018 BLNR meeting.

Sincerely,



Janet Clark
President
XTERRA World Tour