

Mauna Kea Recreational Users Group

Public Land for Public Use
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Wayne Blyth

April 23, 2010

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Hiking

Reference: "Special Use Permit Procedures for the Rock Island Riders, for its Mauna Kea 200 ATV/Dirt Bike Event within the Waiakea, Upper Waiakea and Mauna Kea Forest Reserves" DLNR-DOFAW Letter to Ed Ung from Roger Imoto dated February 8, 2010. Copy attached.

Chris Seymour
Bicycling

Dennis Vierra
OHV

Pat Reppun
Equestrian

Dear Chairperson Thielen:

MEMBER
ORGANIZATIONS

Big Island Gun Dogs

Hawaii Hunting Association

Pig Hunters of Hawaii

Rock Island Riders

Big Island
Mountain Bike Association

The Mauna Kea Recreational Users Group was formed to unite the recreational users of public lands and maintain the public's right of access and ensure maximum opportunity for responsible public use of Hawaii lands. This communication's purpose is to bring to your attention our concerns over actions taken by members of your department that have effectively deprived citizens of reasonable access to, and lawful use of public land. In addition to providing an illustration of overreaching authority and unsupported rule-making "on the fly" by the department, the financial consequence of imposing arbitrary bureaucratic mandates is also addressed.

The Mauna Kea 200 is an annual off-road vehicle race that has been conducted on the Island of Hawaii since 1976. It derives its name both from the United States bicentennial that was celebrated in the year of its inception and the course length in miles. The event has a reputation for its challenge and has received worldwide publicity. In its 30 plus year history, the race has attracted some of the nation's top riders.

The Mauna Kea 200 is promoted by the Rock Island Riders, an organization composed of local off-road riding enthusiasts. The club is a not-for-profit organization, and the race is supported primarily by members' sweat equity. Entry fees charged are used to offset out-of-pocket race expenses. The course is run in the Waiakea and Mauna Kea Forest Reserves, and has been conducted under DLNR supervision since 1983.

Race preparation requires a six-month planning effort. A major task consists of clearing vegetative overgrowth from the plantation grid roads in the Waiakea Timber Management Area, which also provide a no-cost benefit to other users of the forest reserve. Additional tasks include placement of temporary course route markers, all of which are removed at the conclusion of the race. In its prior 33 year history there has been no complaint of damage to any natural resource.

On February 8, responding to a January 6 letter from the Rock Island Riders, the Hilo office of the DLNR Division of Forestry and Wildlife presented race promoters with a four-page list of compliance requirements (attached letter) for the 2010 Mauna Kea 200. Included were mandates previously not required nor expected, and with which DOFAW certainly should have been aware that a local club, with the limited resources of the Rock Island Riders, could not comply. The most egregious examples of heavy-handed DOFAW demands and bureaucratic micro-management are summarized below (italicized):

- 1. Submission of a Letter of Request to DOFAW indicating the proposed race route 120 days prior to the event. Why does it take 4 months to evaluate a race route, particularly since the majority of it has been used for over 3 decades?*
- 2. Advance payment of a \$2,500 "restoration fee" deposit. Where does a local club come up with such money? Where is the statute or administrative rule on which such a mandatory deposit is based? HRS 198D-12 specifies a maximum fine of that amount for a first conviction of Statewide Trail and Access System rules violation, and a portion of the race is run on the Mauna Kea multi-use access road R1, which coincidentally has been designated part of the Na Ala Hele Trails System. Does this required payment represent a peremptory fine for an anticipated but not committed nor judged trails system violation?*
- 3. Hiring of two off-duty DOCARE officers, although their service is specifically not guaranteed in the stated requirement. What is the basis for this requirement that was not necessary in past events?*

4. *A 100 percent increase in liability insurance coverage from one to two million dollars. What is the basis for the increase?*

5. *Issuance of the required Special Use Permit only 20 days preceding the event. If DOFAW requires 4 months to evaluate a route used previously why can it only issue a permit 3 weeks in advance of the race? It is impossible to conduct the advanced planning necessary and make requisite commitments under such uncertainty.*

6. *Violation of any permit condition removes subsequent applicant eligibility for two years from the date of the last permit. An innocent oversight violation of any condition in the four pages of micro-management minutia would create an ineligibility period of three years, actually, when the previously described 120 and 20 day requirements are factored. What is the authorizing statute or rule that supports such punitive action?*

7. *Requiring "permission" vouchers from "land owners or agencies" that include HELCO, State Highways, County Police, "local Mountain Biking Club", and "Pig Hunters Association". No such named user organizations exist and no contact information was provided. If any of these entities were uninterested, unidentifiable or otherwise unresponsive, how could the Rock Island Riders possibly comply?*

Additional examples of poor execution in the preparation of the document and its attempt to manipulate every aspect of a previously successful event are readily apparent. Two questions arise; why were these excessive requirements added and why were they approved by DOFAW management?


A meeting was held on February 10, 2010 between DOFAW management and the Rock Island Riders in an attempt to ameliorate the turmoil initiated by the new compliance requirements presented. The arrogant and confrontational demeanor of the DOFAW staff member who we believe composed, but did not sign, the referenced letter was unprofessional and counter productive. The meeting ended without resolution of substance. A revised letter received the following day failed to provide significant relief. With time of the essence and little prospect of reaching a reasonable agreement, the Rock Island Riders felt there was no alternative but to announce the cancellation of the Mauna Kea 200 for 2010.

The Mauna Kea Recreational Users Group was formed to represent legitimate and responsible users of public land such as the Rock Island Riders and the world class Mauna Kea 200 event they sponsor. Such users are growing increasingly resentful at the arbitrary and capricious actions of public servants who use their positions to deprive fellow citizens of their rightful recreational activities. It is for this reason that we have brought this matter to your attention.

There are many good people in DLNR who do an excellent job of serving the public. Unfortunately there are some, as in this case, whose concept of public service is flawed and who exceed their rightful authority. The Mauna Kea 200 would have been held in about five weeks on Memorial Day weekend. The irresponsible actions that caused the event cancellation has cost the economy of the State of Hawaii an estimated \$750,000. Financial loss at any time is unfortunate, but is particularly troubling in our current economic environment. This was, sadly, entirely avoidable.

We believe your investigation will find the Rock Island Riders to be one of the most responsible organizations on the island, and that a large number of people are extremely concerned and disappointed at the perceived abuse. We hope you will take appropriate corrective action to improve the quality of service provided by your department that the public deserves. This will hopefully enable the Mauna Kea 200 to resume in 2011 and ensure public access to public lands.

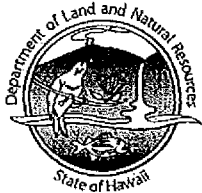
Sincerely,



Wayne Blyth
Chairman

cc: Mr. Paul Conry, DOFAW
Senator Russell Kokubun, State Senate
Senator Dwight Takamine, State Senate
Representative Jerry Chang, State House of Representatives
Representative Clift Tsuji, State House of Representatives
Representative Mark Nakashima, State House of Representatives
Mayor Billy Kenoi, County of Hawaii
Councilman Donald Ikeda, Hawaii County Council
Councilman Dominic Yagong, Hawaii County Council
Ed Ung, Rock Island Riders
Chuck Johnston, Hawaii Fishing News

LINDA LENGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

February 8, 2010

Mr. Ed Ung
Rock Island riders
P.O. Box 1072
Keaau, HI 96749

Dear Mr. Ung,

Subject: Special Use Permit Procedures for the Rock Island Riders, for its Mauna Kea 200 ATV/Dirt Bike Event within the Waiakea, Upper Waiakea and Mauna Kea Forest Reserves

In reference to your letter of January 6, 2010, requesting a preliminary permit to lay out and prepare the course for our approval, I have prepared this summary of work that needs to be accomplished before a Special Use Permit is issued for this event.

I. Rock Island Riders (RIR) Submits a Letter of Request to Administer the Event and Attaches the Proposed Routes to the Division of Forestry and Wildlife (DOFAW) for Review

- A. Submit to DOFAW 120 days prior to the event.
- B. RIR is to use the same routes that are located on existing roads as last year. There will be no more new routes.
- C. Supply a name and local telephone number of one contact person who can be reached at any time around the clock during this period.

II. DOFAW Staff Reviews the Letter of Request and Proposed Routes

- A. Specific sections and roads that may conflict with other resources are reviewed by DOFAW Staff. Changes are made accordingly and reviewed with RIR.
- B. If routes are not satisfactory, adjustments must be made.

III. DOFAW Issues a Pre-Work Permit and Waiver to RIR Prior to the Event for Brush Clearing and Event Preparation

- A. RIR shall utilize only existing roadways that are approved by DOFAW for its event.

Routes in the Waiakea and Upper Waiakea F.R. that are not located on plantation grid roads will not be used unless approved by DOFAW.

If roads are impassable, short detours approved by DOFAW is allowed. There will be no additional detours after 60 days prior to the event.

RIR will not cut or create new sections of roadways.

- B. RIR will submit to DOFAW a list of names of all participants that would be engaged in brush clearing work and event preparation.

Additional names of participants can be submitted, if needed. No more additional participants after 60 days prior to the event.

The names of participants will be kept at the front office and used to check off participating workers as they come in for permits.

Each participant will acquire a permit with the attached special conditions and sign a waiver agreement.

All field participants must have a permit, conditions, and waiver in their possession.

- C. No use of heavy equipment.
- D. This pre-work permit does not allow RIR to ride outside of the approved proposed route areas.
- E. This pre-work permit does not allow RIR permission to implement or administer the Mauna Kea 200 ATV/Dirt Bike Event.

IV. RIR Collect and Submit Pre-Event Documents for DOFAW Review and Approval

- A. Submit documents to DOFAW 60 days prior to the event.
- B. Payment of a \$ 2500.00 refundable deposit for restoration fees of the area. After the event, DOFAW will inspect the area with RIR to ensure all ribbon, past year ribbon, signs, litter, and equipment is removed from the area and any resource rehabilitation work that needs to be completed.

- C. Hire two off duty DOCARE officers for the event. Budget restrictions and immediate change of assignments, does not guarantee DOCARE presence at the event.
- D. Certificate of Liability Insurance. Department of Land and Natural Resources (DLNR) shall be added to the Rock Island Riders liability insurance coverage as an additional insured for this event, for \$2,000,000 at no cost to the Department of Land and Natural Resources.

Submit to DOFAW 30 days prior to the event.

- E. RIR agrees to indemnify and hold the DLNR harmless from any and all expenses incurred as a result of any action, claim, suit, or judgment arising from injury to person or property resulting from or related to this event. Each RIR participating in brush clearing and event preparation will acquire a permit and sign a waiver agreement.
- F. Submit to DOFAW, permission from other landowners or agencies for use of their jurisdictional areas for the event. Some landowners that may be affected are State Parks, Conservation and Resource Enforcement, Pohakuloa Training Area, Hawaiian Electric Co., Hawaiian Home Lands, State Highways, Hawaii County Police, and local Mountain Biking Club and Pig Hunters Association.
- G. Submit a separate Plan of Operations for the entire event.
- H. Submit a separate Risk Assessment and Emergency Plan for the event.
- I. Submit a separate Fire Contingency Plan for the event. Identify locations of spotters in areas with high concentrations of ignitable fuels, management at fueling stations, and a method of immediate fire containment and call out procedure.
- J. RIR will post signs at all the affected Hunter Check In Stations concerning the pre-work activities, including the station located on Saddle Rd. at mile marker 8.

V. DOFAW Reviews Documents and Final Route Location

- A. The more time we have to review the material the better, and then we can assist and help you meet the necessary safety criteria.
- B. The final approved route map will be signed by DOFAW.
- C. If any of the above requirements are not met, the requested Special Use Permit will not be issued and RIR must make proper arrangements with officials to cancel the event.

VI. DOFAW Issues a Special Use Permit for the Mauna Kea 200 ATV/Dirt Bike Event

- A. A Special Use Permit is issued 20 days prior to the event.
- B. If extreme fire danger is encountered within Mauna Kea Forest Reserve, the event will need to be cancelled during the proposed event dates. DOFAW will be monitoring the conditions and will be informing RIR of possible closures.
- C. RIR reviews the SUP and accepts the required conditions in the permit.
- D. RIR administers the event.

VII. RIR Ensures All Ribbon, Past Year Ribbon, Signs, Litter, and Equipment is Removed from the Area and Resource Rehabilitation Work has been Completed.

- A. RIR will have 30 days to meet this condition.
- B. DOFAW and RIR will inspect the area together at the end of this time.
- C. DOFAW returns RIR deposit of \$2500.00 if this condition is met.
- D. DOFAW retains the deposit and performs the required clean up.

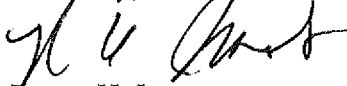
VIII. RIR and DOFAW have a Critique of the Event

- A. RIR contact person will meet with DOFAW 45 days after the event.
- B. The event is reviewed and improvements, suggestions, and doing things differently are made.

IX. If RIR Violates Any of the Conditions of the Pre-Work or Special Use Permits, RIR Shall Not be Eligible to Apply for another Permit until the Expiration of Two Years from the Date of the Last Permit.

Should you agree to the above terms and conditions, please start working on the required pre-work documents that's needed before a Special Use Permit can be issued. If you have any questions, please contact Irving Kawashima at our Forestry and Wildlife Office at (808) 974-4221.

Sincerely,



Roger H. Imoto
Branch Manager