



LATE

Protect America's Climbing

February 21, 2013

Hawaii State Capitol
415 South Beretania St.
Honolulu, HI 96813

RE: Access Fund Testimony in Support of SB 1007

Dear WAM Committee Members,

I, R.D. Pascoe, Policy Director for the Access Fund, am writing in support of Senate Bill 1007. The Access Fund is the only national advocacy organization whose mission keeps climbing areas open and conserves the climbing environment. A 501(c)3 non-profit supporting and representing over 2.3 million climbers nationwide in all forms of climbing—rock climbing, ice climbing, mountaineering, and bouldering—Access Fund is the largest US climbing organization with over 11,000 members and affiliates. We currently hold memorandums of understanding with the Bureau of Land Management, National Park Service, and Forest Service to help define rules for how climbing will be managed on federal land.¹ The Access Fund works with public land managers and local climbers across the country to develop and implement management strategies to alleviate concerns over liability and resource conservation. Many of our members regularly climb in Hawaii. For more information about the Access Fund, visit www.accessfund.org.

TESTIMONY

Outdoor recreation is an important economic force nationally and for individual states. According to the Outdoor Industry Association's report *The Outdoor Recreation Economy 2012*² outdoor recreation provides: 6.1 million direct American jobs; \$646 billion in direct consumer spending each year; \$39.9 billion in federal tax revenue; and \$39.7 billion in state/local tax revenue. According to OIA's *State Recreation Economy Reports*,³ in Hawaii outdoor recreation generates: \$67 billion in consumer spending; 65K direct Hawaiian jobs; \$2.1 billion in wages and salaries; and, \$478 million on state and local tax revenue.

In addition to its economic value, outdoor recreation connects people to the natural world in a healthy and positive manner. People who recreate care deeply for the places they use and are often the best stewards. Often recreationists find new or undeveloped locations to recreate and develop voluntary trails. In most federal agencies, these are called "social trails" and they are not managed unless they are causing undue impacts to natural or cultural resources. The topography and foliage of the Hawaiian Islands force recreationists to establish voluntary or social trails that are impossible for the state to manage.

SB 1007 simply clarifies what trails the State is responsible for and provides reasonable immunity for the voluntary trails that are continually being developed and used by a variety of different recreationists. Thus, DNLR will be able to open most public lands to recreation without the specter of being found liable for trails they have no role in developing or maintaining.

Please feel free to utilize the Access Fund as a resource as SB 1007 moves forward.

Best Regards,

A handwritten signature in black ink, appearing to read 'R.D. Pascoe', with a stylized flourish at the end.

R.D. Pascoe
Policy Director
Access Fund

¹ http://www.accessfund.org/site/c.tmL5KhNWLrH/b.5000797/k.40E2/Collaboration_with_federal_agencies.htm

² http://www.outdoorindustry.org/research/economicimpact.php?action=detail&research_id=167

³ <http://www.outdoorindustry.org/advocacy/recreation/economy.html>

LATE

To: Chair Ige, Vice Chair Kidani, and members of the Senate Ways and Means Committee

Re: Senate Bill 1007 decision making by WAM on Friday, February 22nd in room 221 at 9:00 AM

From: Steven Clark

Testimony in SUPPORT of SB 1007

I am writing to support Senate Bill 1007 which clarifies the definition of “improved public lands” under Act 82, Session Laws of Hawaii 2003, to limit liability for public entities based on their duty to warn of dangers on public lands. Across Hawaii, recreationists display their desires to explore the natural wonders and beauty of the islands, whether they find State maintained trails or not. Hikers, hunters, climbers, and other users frequently choose to establish their own networks of trails to access every hidden gem they find across the islands, in both remote and not-so-remote locations. Currently, unclear language creates some confusion as to when and where the State should be liable for warning of dangers upon public land; and when users of “voluntary trails” must be held accountable for their own safety.

The Na Ala Hele trail network welcomes and invites residents and visitors alike to explore the breathtaking, abundant, and awe-inspiring natural beauty of the Hawaiian islands. On these trails, clearly the state has a duty to warn of dangers since the State actively takes responsibility for the safety of these trails by maintaining them and inviting people to use them. However, when individuals choose to establish side trails off of State maintained trails, or entirely new trails apart from existing networks, the State cannot be expected to warn of dangers that it probably doesn't even know about. Since “voluntary trails” are currently considered to be part of “improved public lands” for which the State takes responsibility, the State has the impossible tasks of monitoring trails that have not yet been created and warning of dangers of which they have no knowledge.

The massive \$15 million judgment against the State as a result of Brem, et al. v. State of Hawaii, Civil No. 07-1-0176, Fifth Circuit Court, State of Hawaii should be a sufficient wake-up call to the people of Hawaii. Deficient and ambiguous liability laws need to be bolstered and amended. When people choose to explore dangerous wilderness areas, they must be held accountable for their own decisions and actions.

In the minds of Hawaiian voters, Brem will serve as a landmark settlement which will motivate one of two outcomes: an overprotective 'nanny state' that continues to close down public lands and that is tasked with warning the public about every danger that anyone discovers in the wilderness; or a paradigm shift toward a more reasonable level of personal responsibility for the inherent risks of exploring nature, and a shift away from the overly litigious mentality that has plagued Hawaii as of late. Please pass this bill to ensure the latter outcome and protect the taxpayers of Hawaii from any more catastrophic lawsuits. Thank you for the opportunity to provide this testimony.

Sincerely,
Steven Clark

LATE

To: Chair Ige, Vice Chair Kidani, and members of the Senate Ways and Means Committee

Re: Senate Bill 1007 decision making by WAM on Friday, February 22nd in room 221 at 9:00 AM

From: Yoshio M Akaha

Testimony in SUPPORT of Senate Bill 1007

I am writing to support SB 1007, which amends and clarifies the definition of "improved public lands" for the limitation of liability for public entities based on the duty to warn of dangers on public lands. I just want to hike. If this is the bill that can create legislation that will redirect the State's and DLNR's position away from the draconian stance that the only way to prevent suit is to close access to lands upon which there is any elevated risk of injury. Humans are innately curious and like to explore. Hikers and other outdoor enthusiasts will continue to take risks while exploring terrain in many locations on O'ahu in the pursuit of reward. I believe it ridiculous to expect the State to post warnings in all of these places when new spots of interest are discovered regularly. Please pass Senate Bill 1007 to resolve this situation. I would like to continue my rewarding outdoor lifestyle without being a nuisance to authorities. Thank you for allowing me to present this testimony.

Sincerely,
Yoshi Akaha

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Honolulu, HI
96822