

REPORT TO THE TWENTY-SIXTH LEGISLATURE
2011 REGULAR SESSION

RELATING TO PUBLIC LAND LIABILITY
and
RECOMMENDATIONS OF THE
TASK FORCE ON BEACH AND WATER SAFETY



Prepared By The:
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Na Ala Hele Trail and Access Program
In Response To Section 4 Of Act 82, Session Laws Of Hawaii 2003,
as Amended By Act 152, Session Laws Of Hawai'i, 2007,
as Amended By Act 81, Session Laws Of Hawai'i, 2009
and
DEPARTMENT OF LAND AND NATURAL RESOURCES
In Conjunction With The
Task Force On Beach and Water Safety
In Response to Act 190, Session Laws Of Hawai'i, 1996,
as Amended By Act 101, Session Laws Of Hawai'i, 1999,
as Amended By Act 170, Session Laws Of Hawai'i, 2002,
as Amended By Act 152, Session Laws Of Hawai'i, 2007
as Amended By Act 81, Session Laws Of Hawai'i, 2009

December 2010

RELATING TO PUBLIC LAND LIABILITY

Purpose

This report was prepared in conjunction with Section 4 of Act 82, Session Laws of Hawaii (SLH) 2003. Act 82, SLH 2003, established a risk assessment working group that is comprised of state and county officials, and a person knowledgeable in warning signs. The report provides recommendations to the Board of Land and Natural Resources (Board) on appropriate warning signs, devices, and systems used to alert the public of potential hazardous conditions on improved or unimproved public lands.

Past Actions

Members of the Risk Assessment Working Group (RAWG) completed statewide public informational meetings to gather information on the proposed design of the signs. In 2006, the Department of Land and Natural Resources (Department) promulgated Hawaii Administrative Rules (Chapter 13-8) for the Design and Placement of Warning Signs on Improved Public Lands. Between 2006 and 2008, the Board approved warning signs for numerous locations throughout the State.

Application

A process for natural hazard evaluation and warning sign design was created to warn the public of potential danger to five natural occurring conditions: flashfloods, falling rocks, submerged objects in streams, cliffs, and on-site specific locations – hazardous trees. Chapter 13-8 further clarifies the design and placement of signs, warning the public of dangerous natural conditions on public lands. Sixty-three public locations across the State have been evaluated for potentially hazardous natural conditions. In general, these areas are located in state and county parks, and Na Ala Hele Trails.

The Department's Na Ala Hele Program funds are used to produce, install and maintain the warning signs along Na Ala Hele Trails statewide. The Department's Division of Forestry and Wildlife is also tracking staff time and operation costs. A list of the location, number, and installation of the warning signs is attached to this report.

The Department will continue to implement Act 82, SLH 2003, to warn the public of the potential hazardous conditions along departmental managed recreational areas. Public safety is a priority.

Therefore, it is recommended that the 2014 “sunset” date on Act 82, SLH 2003, as amended by Act 81, SLH 2009, be repealed and that Act 82, SLH 2003, be codified into the Hawaii Revised Statutes as permanent law.

Location, Number and Type of Act 82 Installed Signs:
Na Ala Hele Program Trails

Oahu

Judd Trail/Jackass Ginger Pool	2 Warning Flash Flood 1 Danger – No Diving
Kulana’ahane Trail	1 Warning Flash Flood 1 Warning Hazardous Cliffs
Kealia Trail	2 Warning Falling Rocks
Maakua Gulch	1 Warning Flash Flood 1 Warning Falling Rocks
Manoa Cliff Trail	3 Hazardous Cliffs
Manoa Falls	2 Warning Flash Flood 2 Warning Falling Rocks
Pauoa Flats Trail	1 Warning Hazardous Cliffs
Poamoho Trail	1 Warning Hazardous Cliffs
Waimano Trail	2 Warning Flash Flood 2 Warning Hazardous Cliffs
Wiliwilinui Trail	1 Warning Hazardous Cliffs

Kauai

Nounou East Trailhead	1 Warning Hazardous Cliff
Nounou West Trailhead	1 Warning Hazardous Cliff
Keahua Arboretum	1 Warning Flash Flood 1 Danger – No Diving or Jumping
Awaawapuhi Trailhead	1 Warning Hazardous Cliff

Hawaii

Mauumae Trail	9 Warning Flash Flood 2 Area Closed
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Pololu Trail
2 Warning Falling Rocks
3 Warning Hazardous Cliffs
1 Warning Flash Flood
1 End of Trail

Muliwai Trail
8 Warning Falling Rocks
14 Warning Flash Flood
9 Warning Hazardous Cliffs

Maui

Kula Forest Reserve
23 Warning Falling Trees

Keanae Arboretum
3 Danger – No Diving or Jumping
3 Warning Flash Floods

Ohai Loop Trail and Overlook
2 Warning Hazardous Cliffs

RECOMMENDATIONS OF THE TASK FORCE ON BEACH AND WATER SAFETY

BACKGROUND

This report has been prepared pursuant to Act 190, Session Laws of Hawai'i (SLH) 1996, mandating annual reporting by the Task Force on Beach and Water Safety.

Act 190, SLH 1996, established a process for the State and Counties to provide both meaningful and legally adequate warnings to the general public of extremely dangerous natural conditions in ocean areas adjacent to their respective public beach parks. The Act recognized a duty to warn specifically of dangerous shorebreak or strong current in the ocean fronting a beach park, if either condition exists, is extremely dangerous, is typical for that beach park, and poses a risk of serious injury or death. Act 190, SLH 1996, clarified that the State and Counties have no duty to warn of dangerous natural conditions at beaches, beach/coastal accesses or areas that are not public beach parks.

Act 190, SLH 1996, provided for a process, including record keeping, to replace vandalized, removed or illegible warning signs. In addition, Act 190, SLH 1996, called for the formation of a Task Force on Beach and Water Safety to advise the Chairperson of the Board of Land and Natural Resources prior to the Chairperson making a decision on the design and placement of warning signs erected pursuant to this Act. The Task Force on Beach and Water Safety was convened after water safety officer participants were solicited via their respective County Mayors and formally appointed by Governor Benjamin Cayetano pursuant to Act 190, SLH 1996. Other Task Force members were seated by their government position as provided in the Act and had their appointment continued in August 2002.

Act 101, SLH 1999, amended Act 190, SLH 1996, extended its mandate through June 30, 2003. Act 170, SLH 2002, subsequently amended Act 101, SLH 1999, by extending its mandate through June 30, 2007. The 2007 Legislature passed out legislation that was signed into law as Act 152, SLH 2007, which among other things, removed the sunset date for Act 190, SLH 1996, making it permanent.

TASK FORCE ON BEACH AND WATER SAFETY MEMBERS

The members of the Task Force on Beach and Water Safety were as follows:

Laura H. Thielen, (Task Force Chairperson), Chairperson, Board of Land and Natural Resources

Ted Liu, Director, Department of Business, Economic Development, and Tourism

Chris Measures, Chair, Department of Oceanography, University of Hawai'i

Marian Feenstra, Chief, Aquatics Division, Department of Parks and Recreation, County of Maui

David Kalani Vierra, Ocean Safety Bureau, Kaua'i Fire Department, County of Kaua'i

Ralph Goto, Director, Ocean Safety & Lifeguard Services Division, Department of Emergency Services, City and County of Honolulu

Clint Coloma, Battalion Chief, Fire Department, County of Hawai'i

Designees were:

Daniel S. Quinn (for the Chairperson, Department of Land and Natural Resources), Administrator, Division of State Parks, Department of Land and Natural Resources

Richard Grigg (for the Chair, Department of Oceanography, University of Hawaii) Marine Biologist, Department of Oceanography, University of Hawai'i

In October 2007, Laura Thielen was confirmed as the Chairperson of the Board of Land and Natural Resources. By virtue of that position, Ms. Thielen is now the Task Force Chairperson. All other members of the Task Force were reappointed, with the exception of Larry Davis who was replaced by Clint Coloma, Battalion Chief, as the ocean safety responsibilities for the County of Hawaii have been transferred from the Department of Parks and Recreation to the Fire Department.

ACCOMPLISHMENTS

Since late 1996, as reported previously, the Task Force on Beach and Water Safety has accomplished the following:

- Designed signs to warn of “strong current” and “dangerous shorebreak”;
- Prepared guidelines for permanent sign placement;
- Placed “strong current” and “dangerous shorebreak” signs, where warranted, at State and County beach parks;
- Designed signs to warn of other extremely dangerous natural conditions in the ocean adjacent to a public beach park:

high surf
sudden drop-off
man-o-war
sharp coral
rip currents

waves break on ledge
slippery rocks
jellyfish
shark sighted

- Prepared guidelines for temporary sign placement

SUMMARY OF TASK FORCE ACTIVITIES

There has been no activity since the 2009 report.