

REPORT TO THE TWENTY-SEVENTH LEGISLATURE  
2013 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

In response to:  
Section 4 of Act, 82, Session Laws of Hawai'i 2003,  
As Amended by Act 152, Session Laws of Hawai'i 2007,  
As Amended by Act 81, Session Laws of Hawai'i 2009  
and

In conjunction with the  
Task Force on Beach and Water Safety and 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

October 2012

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REGULAR SESSION OF 2013**

**RELATING TO PUBLIC LAND LIABILITY  
and  
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**Purpose**

This report addresses the reporting requirements of Act 82, Session Laws of Hawaii (SLH) 2003 (Act 82), and Act 190, SLH 1996 for activities conducted in 2012.

**Relating To Public Land Liability**

This portion of the report is prepared in compliance with Section 4 of Act 82. Act 82 established a Risk Assessment Working Group (RAWG) that is comprised of state and county officials, and a person knowledgeable in signs. Recommendations are periodically made to the Board of Land and Natural Resources (Board) authorizing the strategic placement of warning signs, devices, and systems on improved public lands. The signs are designed to warn the public of the potential exposure to inherent risks and hazards associated with natural conditions on public lands.

**Application**

In response to natural hazard evaluation, a process was created for warning sign design and placement, and was created to warn the public of potential danger related to exposure to five natural occurring conditions: flashfloods, falling rocks, submerged objects in streams, cliffs, and at a site specific geographic location – falling trees. Chapter 13-8-9 to 13-8-11, Hawaii Administrative Rules (HAR), directs the Department of Land and Natural Resources (Department) to design and place warning signs to warn the public of the potential danger and risks of the natural conditions on public lands. Locations across the State are evaluated for potentially hazardous natural conditions and related exposure in state and county parks and along Na Ala Hele trails.

**Past Actions**

Members of RAWG completed statewide public informational meetings to gather information on the proposed design of the signs based on guidelines by the American National Standards Institute. With public input in 2006, the Department adopted Chapter 13-8, HAR, for the Design and Placement of Warning Signs on Improved Public Lands. Between the period of 2006 and 2012, RAWG and Board have approved warning and management signs for numerous locations throughout the State. The Department maintains and updates the placement and condition of warning signs and devices. This report covers 2012 activities.

**New signage in 2012**

In July of 2012, the Department determined the need for a new Act 82 sign based on the previously approved sign design: Warning - Hazardous Cliff. This new design was due to fatalities related to exposure to a cliff; the new sign is increasing the magnitude of the warning

for this condition to a “danger” at a prescribed location at Opaeka’a Falls & Wailua River State Park on Kauai.

The new sign reads as follows and was approved by RAWG and the Board in July 13, 2012, and relies on the previous approved pictograph for this condition and exposure.

**DANGER**

**Hazardous Cliff!**

**You could fall and be  
Seriously injured or killed!**

**Act 82 Signage installed in 2012**

**1. Features managed or under the jurisdiction of the Department's Division of Forestry and Wildlife, Na Ala Hele Program**

These sign locations were circulated to RAWG in September 2012 and comments were directed by RAWG towards specific aspects of the data and installation. These sign locations are still pending Board approval.

**Hawaii**

- Manuka Loop Trail: 4- Warning Hazardous Cliff  
1- Notice End of Trail
- Mauumae Trail: 7 -Warning Flash Flood  
2- Notice Area Closed
- Muliwai Trail: 11- Warning Falling Rocks  
1- Danger Falling Rocks  
26 -Warning Flash Flood  
9- Warning Hazardous Cliffs
- Onomea: 4 -Warning Falling Rocks  
5- Warning Hazardous Cliffs  
8 -Warning Flash Flood
- Pololu Trail: 3 -Warning Falling Rocks  
3- Warning Hazardous Cliffs  
2- Warning Flash Flood  
1 -Notice End of Trail

**Maui**

- Kula Forest Reserve 42 -Warning Falling Trees  
Waipoli Road:
- Ohai Loop Trail/Overlook: 2 Warning Hazardous Cliff

**2. Features managed or under the jurisdiction of the Departments' Division of State Parks and Land Division**

## **Kauai:**

This new sign and location was circulated to the RAWG and approved by the Board on July 13, 2012:

- Opaeka'a Falls,  
Wailua River State Park: 2 – Danger - Hazardous Cliff

## **Maui:**

These sign locations were circulated to the RAWG and in March of 2012 the Board approved the sign locations at the following locations:

- Waiianapapana: 6 - Notice – Area Closed
- Pua'a Ka'a State Wayside: 2 - Warning- Flash Flood  
2 - Danger - No Diving or Jumping  
1- Notice - End of Trail
- 'Iao Valley State Monument: 3 - Danger – Falling Rocks  
2 - Danger - No Jumping or Diving  
4 - Warning – Flash Flood  
1 – Notice – Area Closed

## **Oahu**

This sign was circulated to RAWG and approved by the Board in July, 2012

- Sacred Falls State Park:  
**(Closed)** 1- Danger Flash Flood

Due to exposure and an incident related to rockfall, the following signs were installed in June 2012 and are still pending RAWG and Board approval.

- Ka'ena Point State Park (boundary)  
and Unencumbered State  
Land in Mokuiea: 4- Notice – Area Closed  
4 – Danger – Falling Rocks

## **Hawaii**

The following sign locations were circulated to RAWG in September 2012 and are pending Board approval:

- Wailuku River State Park

- Boiling Pots Section:           2- Warning – Flash Flood  
  4 - Danger – No diving or Jumping  
  4- Warning – Hazardous Cliff  
  2- Danger – Flash Flood  
  1- Notice - Area Closed
  
- Lave Tree State Monument: 5-Warning - Hazardous Cliff  
  5- Notice - Area Closed

**3. Features Managed by the Statewide Counties**

As no new signs were proposed by a county, no activity was necessary during 2012.

**Recommendation:**

**Act 82 be codified into the Hawaii Revised Statutes as permanent law.**

Due to an increasing amount of interest by the resident and visiting public in recreational pursuits in the natural environment and the proliferation of information being posted on the Internet and other social medium, there continues to be a need to inform the public on exposure to natural hazards and as such – notification is a priority with the Department and the Counties.

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

## **Recommendations Of The Task Force On Beach And Water Safety**

This report has been prepared pursuant to Act 190, SLH 1996, (Act 190) as amended by Act 101, SLH 1999, as amended by Act 170, SLH 2002, as amended by Act 152, SLH 2007, as amended by Act 81, SLH 2009, mandating annual reporting by the Task Force on Beach and Water Safety.

### **Application**

Act 190 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 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.

### **Past Actions**

Act 190 provided for a process, including record keeping, to replace vandalized, removed or illegible warning signs. In addition, Act 190 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. Act 101, SLH 1999, amended Act 190 by extending 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 making it permanent. Since inception, the Task Force on Beach and Water Safety has accomplished the following: Prepared guidelines for temporary and permanent sign placement and designed and approved installation of signs to warn of exposure to: strong current, dangerous shore-break, high surf, waves break on ledge, sudden drop-off, slippery rocks, man-o-war, jellyfish, sharp coral, shark sighted and rip currents

As no new signs were proposed, no activity was necessary during 2012.