

To: Members of the House Committee on Water and Land & Committee on Ocean, Marine Resources, and Hawaiian Affairs

Re: Senate Bill 1007 decision making by WAL/OHM on Monday, March 11th in room 325 at 9:30 AM

From: Sue Donaldson

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,

Sue Donaldson
Honolulu, HI 96815