

PRESS RELEASE (11/09/2011)

COURT GRANTS CLASS ACTION STATUS IN HALEAKALA TRAIL PUBLIC ACCESS CASE

On Tuesday, Judge Cardoza in the Maui court granted class action status to a large number of Hawaii residents in a case seeking to reopen the original route to the top of Haleakala Crater. The defendants in the case include the Hawaii Department of Land and Natural Resources and the Haleakala Ranch Company, which owns land in the Makawao-Olinda area bisected by the trail. Both defendants opposed the class action motion.

Subsequent to the hearing David Brown, a plaintiff in the case and the executive director of Public Access Trails Hawaii, announced, "For over seventy years Haleakala Ranch has been denying the public their right to public access over this historically important trail. The court's ruling today confirms that the Ranch's actions are harming not just a small group of people but the public at large.

The class members, who, as a result of the ruling essentially become passive participants in the suit, consist of "all pedestrians, non-motorized bicyclists and equestrians who, as members of the public, have been, or continue to be, denied access to Haleakala Trail."

Tom Pierce, Attorney for the plaintiffs, explained, "Under the law the members of the public are the beneficiaries of public trust assets, such as streams, beaches and trails. When a private party is permitted to take or diminish a public trust asset, it constitutes a breach of the public trust. Therefore, when Haleakala Ranch denies access to Haleakala Trail, it harms the public. When the State of Hawaii fails to compel access, it has breached its obligation to the public."

Plaintiffs' court documents included a 2006 letter from the DLNR encouraging Haleakala Ranch to open the trail: "Due to the past decade of unprecedented population growth on Maui, public demand for access to trail related recreation is increasing. The past few years, NAH has created two new trails on Maui in response to this need. Our Maui [Na Ala Hele] staff and Advisory Council have evaluated the [Haleakala Trail] and determined that this feature has considerable value for public recreation – both pedestrian and equestrian."

According to plaintiffs' previously filed complaint, the trail -- parts of which cross land owned by Haleakala Ranch -- was first used by Hawaiians, but after the arrival of

Captain Cook, was adopted by westerners as the preferred and primary thoroughfare to the Haleakala summit. In post contact times, the trail was used extensively through the 1800s and early 1900s until Haleakala Highway was opened in 1935. There was even a guide service, in operation for 30 years that led thousands of tourists up to the Haleakala summit on horseback.

The plaintiffs' complaint also identifies a number of historical documents showing the expenditure of government money on Haleakala Trail, including the Kingdom of Hawaii and the Territory of Hawaii. The government efforts culminated in 1904 and 1905 when thousands of dollars were appropriated by the Territory of Hawaii to survey and improve the trail. A 1905 Maui News press release announced, "It will be of general interest to the people of the Islands to learn that the Haleakala trail is now completed to the top of the crater. . . . Come one; come all: and view this the grandest sight of Maui."

Earlier this year, the DLNR and other state defendants filed a motion to dismiss the plaintiffs' complaint but the motion was denied by the court.

PATH is a 501(c)(3) public charity. Its mission is "building community ties by connecting people and places through trails, urban paths and bikeways." PATH's website is pathmaui.org, and the organization also maintains Facebook and Twitter accounts. PATH is requesting financial support from the public to save Haleakala Trail, as well as general supporters and members. Charitable donations may be made to 2525 Kahekili Highway, Wailuku, HI 96793. To contact the organization, send an email to pathmaui@gmail.com.

PHOTOS:

Below is one of the photographs attached to the plaintiffs' court filings, which depicts one of the many rock cairns (*ahu*) and "fingerposts" place on Haleakala Trail in 1905. A Maui News article, dated November 4, 1905, described the trail improvements:

Contractor J. Duggan of Honolulu had the Contract to open the trail[,] cleared out the loose stones and cut and cleared away the bush to a width of twenty feet. The finger boards are set one fifth of a mile apart and give the distance on each. And in between each finger board post is a plain guide post so that any one should find his way without difficulty. . . .

Come one; come all: and view this the grandest sight of Maui.

END

