

**Testimony of Philip Pearce
Public Member, U.S. Access Board**

**Expanding Access to Federal Lands for People with Disabilities
July 24, 2008**

**House Subcommittee on National Parks, Forests and Public Lands
Committee on Natural Resources**

Thank you Mr. Chairman. Good morning. I am pleased to present testimony on behalf of the Architectural and Transportation Barriers Compliance Board – better known as the Access Board. I am Philip Pearce, a public member from College Station, TX and the chairman of the Board's ad hoc committee on Outdoor Developed Areas. Accompanying me today are Bill Botten, an Accessibility Specialist and James Raggio, the Board's General Counsel.

We are pleased to come before the subcommittee to update you on the progress of the Board's guidelines for Outdoor Developed Areas. From our early efforts to enforce the Architectural Barriers Act of 1968 to our on-going efforts to write accessibility guidelines under the Americans with Disabilities Act, the Access Board's objective has always been the same: to improve access for persons with disabilities throughout our nation.

The Access Board, the National Park Service, U.S. Forest Service, and the other federal land management agencies have a long history of working together to improve access. These agencies have provided invaluable input to our efforts to make outdoor developed areas more accessible to persons with disabilities. The Department of the Interior is a member of the Access Board. Staff from the Access Board and our federal partners are continually collaborating on ways to make public lands more accessible. Access Board members and staff have visited several national parks, forests, and beaches to gain first hand knowledge of the unique challenges of providing access in this dynamic environment.

Now, let me address our current rulemaking for outdoor developed areas. When we use the term "outdoor developed areas" we are referring to facilities such as trails, beach access routes, and camping and picnic areas. The Access Board acknowledges that these areas are often very unique and that ultimately our accessibility guidelines must strike a fine balance between the need to provide access to persons with disabilities, protect the natural environment, preserve historic structures, and take into account feasibility.

As the Board has worked its way through the many issues surrounding access to outdoor developed areas, we have sought to promote thoughtful deliberation among all affected parties. In July 1993, the Board convened a Recreation Access Advisory Committee, and the following year their report became the basis of an Advance Notice of Proposed Rulemaking. The comments we received from the Advance Notice revealed that there was a lack of consensus on several issues including how to make trails accessible.

Consequently, the Access Board formed a regulatory negotiation committee to resolve the issues. The regulatory negotiation committee met for two years and produced a consensus based report on recommendations for accessibility requirements for a variety of outdoor developed areas. This report formed the basis of the Board's Notice of Proposed Rulemaking which was published in the Federal Register in June 2007 for public comment.

The Access Board's original rulemaking plan called for issuing a proposed rule under both the Americans with Disabilities Act (for public accommodations and state and local governmental entities) and the Architectural Barriers Act (for federal agencies). However, the Board decided to proceed more methodically. The 2007 proposed rule was issued based solely on our rulemaking authority under the Architectural Barriers Act. The proposed rule addressed outdoor developed areas that are designed, built, or altered by federal agencies. The Board decided to limit this rulemaking initially to facilities covered by the Architectural Barriers Act in order to gain a better understanding of the rule's impact on federal parks, forests, and seashores prior to making the provisions applicable to outdoor developed areas in the private sector and for state and local governments covered by the Americans with Disabilities Act.

Let me give you two examples of key provisions that were included in the proposed rule. The trail guidelines are based on an "exception approach". For example, when designing a trail, a designer should assume it can be fully accessible. When unique conditions such as extreme terrain or environmental issues are present, departures from the technical provisions are permitted. After the condition is no longer present, the technical provisions are again applied.

Another key provision in the trails section is the requirement when signage is provided. Information such as running slope, cross slope, trail width and the type of surface a user can expect is helpful for users. Providing standardized information will enable all users and especially persons with disabilities the opportunity to choose appropriate hikes for their ability and skill level. Providing just the "wheelchair symbol" (the International Symbol of Accessibility) may not convey enough information in this situation. This topic generated significant comment in the proposed rule.

The Board held three public hearings on the proposed guidelines in Denver, Washington, DC, and Indianapolis and heard from 40 witnesses. In addition, written comments were received from more than 80 organizations, agencies, and individuals. We are pleased with the wide variety of comments and general support for the proposed rule that has been received. While we are still in the process of considering the comments and drafting the final rule, I can share the following observations.

Commenters have pointed to the strong need for the guidelines, encouraged the Board to promptly complete this rulemaking, and to follow-up with similar guidelines for non-federal entities. Commenters also urged the Board to develop supplementary technical assistance and training materials to assist individuals in using the final guidelines.

Board staff and I have met several times with our federal partners since the comment period closed to discuss many of the issues identified through public comment. Staff has begun drafting provisions for a final rule. The final rule is being written applying “plain language” concepts so that it is easy to read and understood. Once the final rule is completed, we intend to develop similar proposals for the private sector and state and local governmental agencies covered by the Americans with Disabilities Act.

As we have traveled the country, the Board has been pleased to learn that many state and local governments and some private sector entities have already begun to use portions of the proposed rule to increase access for persons with disabilities. We believe that the rulemaking on outdoor developed areas will better assist in creating and enhancing outdoor recreational opportunities for persons with disabilities. The Access Board plans to submit a final rule along with a regulatory assessment to the Office of Management and Budget in the spring of 2009. Thank you for the opportunity to testify before you today, and I would be happy to answer any questions you may have.