

DAVID Y. IGE  
GOVERNOR



**STATE OF HAWAII**  
**DEPARTMENT OF TRANSPORTATION**  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

JADE T. BUTAY  
DIRECTOR

Deputy Directors  
LYNN A. S. ARAKI-REGAN  
DEREK J. CHOW  
ROSS M. HIGASHI  
EDWIN H. SNIFFEN

IN REPLY REFER TO:

January 15, 2021 (February 12, 2021)

Suzanne D. Case, Chairperson  
c/o Board of Land and Natural Resources  
1151 Punchbowl Street, Room 130  
Honolulu, Hawaii 96813

Dear Chair Case and Board Members:

Subject: Request for Acquisition of Lands to the Department of Transportation, Highways Division, for Highway Purposes, Relating to Kuhio Highway, Emergency Repairs, Vicinity of MP 21.7, Wailapa Stream, Federal Aid Project No. ER-14(1), at Kahili, Hanalei, Island of Kauai, State of Hawaii, Tax Map Key Nos. (4) 5-2-021: Portion of 010, and (4) 5-1-005: Portion of 014.

KAUAI

APPLICANT:

State of Hawaii, Department of Transportation, Highways Division (DOT).

LEGAL REFERENCE:

Sections 107-10, 171-30, and Chapter 264, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of lands relating to Kuhio Highway, Emergency Repairs, Vicinity of MP 21.7, Wailapa Stream, Federal Aid Project No. ER-14(1), at Kahili, Hanalei, Island of Kauai, State of Hawaii, as shown and described on the enclosed map labeled as Exhibit A.

AREA:

Parcels:

Parcel 1 = 7,755 square feet

Parcel 2 = 5,279 square feet

Tax Map Key Nos.:

(4) 5-2-021: 010

(4) 5-1-005: 014

**ITEM M-9**

ZONING:

Tax Map Key No. (4) 5-2-021: 010	Agricultural
Tax Map Key No. (4) 5-1-005: 014	Agricultural

CURRENT USE STATUS:

Tax Map Key No. (4) 5-2-021: 010	Occupied and encumbered by encumbrances that will not be affected by the project
Tax Map Key No. (4) 5-1-005: 014	Occupied and encumbered by encumbrances that will not be affected by the project

Current ownership is as follows:

<u>Parcels:</u>	<u>Tax Map Key Nos.:</u>
Parcel 1 Fee owner = Wilfred and Renee Horie, et al	(4) 5-2-021: 010
Parcel 2 Fee owner = Bradley and Lauren Magers, et al	(4) 5-1-005: 014

COMPENSATION:

The compensation for Parcel 1 was determined by an appraisal report prepared by an independent appraiser. The compensation for Parcel 2 will be determined by a compensation estimate prepared by our in-house staff appraiser. Compensation to landowners may exceed the appraisal to the extent allowed by §171-30 (e), Hawaii Revised Statutes.

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

Chapter 343, Hawaii Revised Statutes Environmental Impact Statement requirements for the proposed action is exempt by Governor's 4<sup>th</sup> Supplemental Proclamation of March 28, 2006 as shown in Exhibit B.

REMARKS:

The DOT completed the construction of Kuhio Highway, Emergency Repairs, Vicinity of MP 21.7, Wailapa Stream, Federal Aid Project No. ER-14(1) but did not finalize all of its land acquisitions for the project. As of September 1, 2018, the Department of the Attorney General has mandated the DOT to obtain Board approval for all acquisitions in accordance with §171-30, Hawaii Revised Statutes.

Suzanne D. Case, Chairperson  
January 15, 2021  
Page 3

RECOMMENDATION:

That the Board:

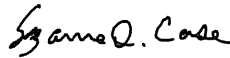
- A. Authorize the acquisition of the subject lands subject to an appropriate conveyance document, as reviewed and approved by the Department of the Attorney General and by the Department of Transportation.
- B. Authorize the acquisition even in the event of a change in the ownership of those parcels described herein and on the enclosed map labeled Exhibit A, under the terms and conditions cited above which are by this reference incorporated herein.

Sincerely,



JADE T. BUTAY  
Director of Transportation

APPROVED FOR SUBMITTAL:



---

SUZANNE D. CASE, Chairperson

Enclosure



OFFICE OF THE GOVERNOR  
STATE OF HAWAII

**PROCLAMATION**

By the authority vested in me as Governor by the Constitution and laws of the State of Hawaii, in order to provide relief for disaster damages, losses, and suffering, and to protect the health, safety, and welfare of the people, I, LINDA LINGLE, Governor of the State of Hawaii, hereby determine, designate and proclaim as follows:

**WHEREAS**, a disaster occurrence of periods of heavy rains and flooding beginning Monday, February 20, 2006, through Friday February 24, 2006 caused localized flooding and lingering saturated ground conditions, and periods of heavy rains and flooding beginning Wednesday, March 1, 2006 and which are forecast to continue through Friday, March 3, 2006, which has caused extensive damage to private and public property in the counties of Maui and the City and County of Honolulu, State of Hawaii, and is projected to cause extensive damage to the county of Kauai, State of Hawaii, thereby endangering the health, safety, and welfare of the people; and

**WHEREAS**, this occurrence of a severe, sudden, and extraordinary event has caused damages, losses, and suffering of such character and magnitude to have affected the health, welfare, and living conditions of a substantial number of persons, and to have affected the economy of the State, and is of such a nature as to warrant rehabilitative assistance from the State; and

**WHEREAS**, this occurrence has caused losses due to damage or destruction of real and personal property, has devastated large tracts of lands, and is causing the necessity for immediate relocation of persons from the devastation; and

**WHEREAS**, the Legislature of the State of Hawaii has appropriated from the general revenues of the State, monies as may be necessary for expenditure by or under the direction of the Governor for the immediate relief of the conditions created by the disaster; and

**WHEREAS**, in expending such monies, the Governor may allot any portion to any agency, office, or employee, federal, state, or county for the most expeditious and efficient relief of the conditions created by the disaster; and

**WHEREAS**, pursuant to section 127-11, Hawaii Revised Statutes, the Governor is authorized to determine whether a major disaster has occurred and authorize the expenditure of funds thereunder; and

**WHEREAS**, pursuant to section 121-30, Hawaii Revised Statutes, the Governor may order the Hawaii National Guard, or any part thereof, into active service for assistance to civil authorities in disaster relief, civil defense, averting any imminent public danger and threat, and to insure the compliance with the civil laws of the State of Hawaii; and

**WHEREAS**, pursuant to section 209-2, Hawaii Revised Statutes, the Governor is authorized to make a determination whether a disaster has occurred, thereby making available housing relief, under part II of chapter 209, Hawaii Revised Statutes, and commercial and personal loans under part III of chapter 209, Hawaii Revised Statutes, for disaster relief and rehabilitation; and

**WHEREAS**, section 127-10, Hawaii Revised Statutes, provides that when sections 127-1 to 127-9, Hawaii Revised Statutes are not in effect, the Governor may exercise any and all powers contained in chapter 128, Hawaii Revised Statutes, in order to provide other disaster relief and that all provisions of the law provided in chapter 128, Hawaii Revised Statutes, during such period are made applicable to other disaster relief, including without limitation, provisions making or authorizing appropriations or expenditures; and

**WHEREAS**, pursuant to Act 35, Regular Session Laws of Hawaii 1961, sections 127-1 to 127-9, Hawaii Revised Statutes, have been indefinitely suspended and are not in effect, the provisions of Chapter 128, Hawaii Revised Statutes, are applicable to other disaster relief; and

**WHEREAS**, pursuant to section 127-10, Hawaii Revised Statutes, other disaster relief includes, but is not limited to the preparation for and the carrying out of all functions, other than functions for which military forces are primarily responsible, to minimize and repair injury and damage resulting from disasters caused by fire, flood, tidal wave, volcanic eruption, earthquake, or other natural causes and major disasters caused by acts of man, including but not limited to, massive oil spills, nuclear accidents, airplane crashes and civil disturbances; and

**WHEREAS**, pursuant to section 128-8(4), Hawaii Revised Statutes, the Governor is authorized to suspend any law which impedes or tends to impede or is detrimental to the expeditious and efficient execution of, or conflict with, disaster relief or other emergency functions; and

**WHEREAS**, pursuant to section 128-9(8), Hawaii Revised Statutes, the Governor is further authorized to relieve hardship and inequities or obstructions to the public health, safety, and welfare found by the Governor to exist in the laws by suspending laws in whole or in part, or by alleviating the provisions of laws on such terms and conditions as the Governor may impose; and

**WHEREAS**, pursuant to section 128-10(10), Hawaii Revised Statutes, the Governor may suspend chapter 103D and sections 103-50, 103-53, 103-55, 105-1 to 105-10, and 464-4, Hawaii Revised Statutes, and I find that these provisions, in whole or in part, impede or tend to impede the expeditious discharge of emergency disaster relief functions for this occurrence and that compliance therewith is impracticable due to existing conditions; and

**WHEREAS**, pursuant to section 128-10(5), Hawaii Revised Statutes, the Governor is further authorized to order and direct government agencies, officers, and employees, state or local, to take such action and employ such measures for law enforcement, medical, health, fire fighting, traffic control, warnings, and signals, engineering, rescue, construction, emergency housing, and other welfare, hospitalization, transportation, water supply, public information, training, and other civil defense and emergency functions as may be necessary, and utilize the services, materials, and facilities of the agencies and officers; and

**WHEREAS**, pursuant to section 128-10(11), Hawaii Revised Statutes, the Governor may appoint, employ, train, equip, and maintain, with compensation, or on a volunteer basis without compensation and without regard to chapters 76, 78, and 88, such agencies, officers, and other persons as the Governor deems necessary to carry out emergency disaster relief functions; determine to what extent any law prohibiting the holding of more than one office or employment applies to the agencies, officers, and other persons; and subject to section 128-15, provide for and effect the interchange of personnel, by detail, transfer, or otherwise, between the State and any political subdivision, or among any agencies or departments of the State; and

**WHEREAS**, pursuant to section 128-10(15), Hawaii Revised Statutes, the Governor may take any and all steps necessary or appropriate to carry out the purposes of chapter 128 and to provide for civil defense and other emergency functions; and

**NOW, THEREFORE**, I LINDA LINGLE, Governor of the State of Hawaii, hereby determine that a major disaster and catastrophe contemplated by sections 127-11, 121-30, 209-2, 128-8(4), 128-9(8), 128-10(5), 128-10(10), 128-10(11), 128-10(15), and parts II and III of chapter 209, Hawaii Revised Statutes, have occurred on the above dates and in the above areas in the State of Hawaii, and do hereby proclaim these areas to be disaster areas for the purpose of authorizing the expenditure of State monies as appropriated for the speedy and efficient relief of the damages, losses, and suffering resulting from the disaster, and hereby authorize and invoke the following measures under the Hawaii Revised Statutes:

1. Section 127-11, **major disaster fund**.
2. Part II of chapter 209, **housing relief**.
3. Part III of chapter 209, **commercial and personal loans**.
4. Sections 128-8(4), 128-9(8), and 128-10(10), and in order to provide emergency disaster relief, I hereby suspend as allowed by federal law, the following statutes:
  - a. Chapter 89, **collective bargaining in public employment**.
  - b. Chapter 89C, **public officers and employees excluded from collective bargaining**.



- c. Section 102-2, **contracts for concessions in government buildings; bid requirements.**
  - d. Section 103-50, **building design to consider needs of persons with disabilities.**
  - e. Section 103-53, **contracts with the State or counties; tax clearances, assignments.**
  - f. Section 103-55, **wages, hours, and working conditions of employees of contractors performing services.**
  - g. Chapter 103D, **procurement code.**
  - h. Sections 105-1 to 105-10, **use of government vehicles, limitations.**
  - i. Sections 142-2 to 142-12, as these sections may apply to the arrival of dogs used by search and rescue teams approved by the State of Hawaii, Department of Defense.
  - j. Section 464-4, **public works required to be supervised by certain professionals.**
5. Section 121-30, Hawaii Revised Statutes, **active service of the National Guard;** and I hereby order the National Guard into active service effective immediately, and the Adjutant General of the Hawaii National Guard is DIRECTED AND AUTHORIZED to activate such units of the Hawaii National Guard as may be necessary to assist and aid civilian authorities in disaster relief and in averting any imminent public danger and threat and to insure the compliance with the civil laws of the State of Hawaii.
6. Section 128-10(5), Hawaii Revised Statutes, and in order to provide emergency disaster relief, I hereby direct all state and county agencies and officers to cooperate with and extend their services, materials, and facilities as may be required to assist in all efforts to eliminate the danger.

I FURTHER DECLARE that a disaster emergency relief period shall commence February 20, 2006 and continue until such an appropriate time for termination, as I will determine. I will set a date after which no further applications for assistance under the law shall be accepted, which date I may extend for a reasonable time for good cause.

Done at the State Capitol State of Hawaii, this 2nd day of March, 2006.

  
LINDA LINGLE  
Governor of Hawaii



APPROVED:



MARK J. BENNETT  
Attorney General  
State of Hawaii

OFFICE OF THE GOVERNOR  
STATE OF HAWAII

**SUPPLEMENTARY PROCLAMATION**

By the authority vested in me as Governor by the Constitution and laws of the State of Hawaii, in order to provide relief for disaster damages, losses, and suffering, and to protect the health, safety, and welfare of the people, I, LINDA LINGLE, Governor of the State of Hawaii, hereby determine, designate and proclaim as follows:

**WHEREAS**, it has become necessary to supplement my Proclamation of March 2, 2006, relating to the periods of heavy rains and flooding beginning Monday, February 20, 2006 through Friday, February 24, 2006, which caused localized flooding and lingering saturated ground conditions, and also relating to periods of heavy rains and flooding beginning Wednesday, March 1, 2006 through Friday, March 3, 2006, which also caused localized flooding and lingering saturated ground conditions and extensive damage to private and public property in the counties of Kauai, Maui and the City and County of Honolulu, State of Hawaii; and

**WHEREAS**, each county within the State of Hawaii has now been subjected to additional periods of heavy rains and flooding beginning Wednesday, March 8, 2006 through Sunday, March 12, 2006, which have also caused further localized flooding, saturated ground conditions, and damage to private and public property in the counties of Hawaii, Kauai, Maui, and the City and County of Honolulu, State of Hawaii; and

**WHEREAS**, additional victims and properties damaged as a result of these continued periods of heavy rains and flooding have been identified in the counties of Hawaii, Kauai, Maui, and the City and County of Honolulu, State of Hawaii; and

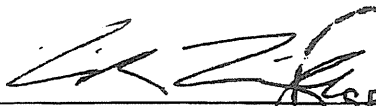
**WHEREAS**, many victims and properties identified by way of my Proclamation of March 2, 2006 have been further damaged as a result of these continued periods of heavy rains and flooding; and

WHEREAS, in order to provide additional relief and assistance, it has become necessary to supplement my Proclamation of March 2, 2006, to include these additional areas and periods of heavy rains and flooding; and

NOW, THEREFORE, I LINDA LINGLE, Governor of the State of Hawaii, hereby determine that a major disaster and catastrophe contemplated by sections 127-11, 121-30, 209-2, 128-8(4), 128-9(8), 128-10(5), 128-10(10), 128-10(11), 128-10(15), and parts II and III of chapter 209, Hawaii Revised Statutes, has occurred during the above periods in the counties of Hawaii, Kauai, Maui and the City and County of Honolulu, State of Hawaii, and in order to provide additional relief and assistance, do hereby proclaim these areas to be disaster areas for the purpose of authorizing the expenditure of State moneys as appropriated for the speedy and efficient relief of the damages, losses, and suffering resulting from the disaster.


FURTHER, all provisions and requirements of my Proclamation of March 2, 2006 remain in full force and effect and are made applicable for this Supplementary Proclamation.

Done at the State Capitol State of  
Hawaii, this 12<sup>th</sup> day of March,  
2006.

  
LINDA LINGLE  
Governor of Hawaii

SEAL

APPROVED:

  
LISA M. GINOZA  
Acting Attorney General  
State of Hawaii

OFFICE OF THE GOVERNOR  
STATE OF HAWAII

**2<sup>ND</sup> SUPPLEMENTARY PROCLAMATION**

By the authority vested in me as Governor by the Constitution and laws of the State of Hawaii, in order to provide relief for disaster damages, losses, and suffering, and to protect the health, safety, and welfare of the people, I, LINDA LINGLE, Governor of the State of Hawaii, hereby determine, designate and proclaim as follows:

**WHEREAS**, it has become necessary to supplement my Proclamations of March 2, 2006, and March 12, 2006 relating to the periods of heavy rains and flooding beginning Monday, February 20, 2006 through Friday, February 24, 2006, which caused localized flooding and lingering saturated ground conditions, and relating to periods of heavy rains and flooding beginning Wednesday, March 1, 2006 through Friday, March 3, 2006, which also caused localized flooding and lingering saturated ground conditions and extensive damage to private and public property in the counties of Kauai, Maui and the City and County of Honolulu, State of Hawaii, and also relating to periods of heavy rains and flooding beginning Wednesday, March 8, 2006 through Sunday, March 12, 2006, which have also caused further localized flooding, saturated ground conditions, and damage to private and public property in the counties of Hawaii, Kauai, Maui, and the City and County of Honolulu, State of Hawaii; and

**WHEREAS**, the City and County of Honolulu and the County of Kauai were again subjected to heavy rains and flooding beginning Monday, March 13, 2006 through Tuesday, March 14, 2006, which have caused further localized flooding, saturated ground conditions, and damage to private and public property; and

**WHEREAS**, the National Weather Service has forecast continuing periods of heavy rains and flooding through Sunday, March 19, 2006, which are anticipated to cause further localized flooding, saturated ground conditions, and damage to private and public property in the counties of Hawaii, Kauai, Maui, and the City and County of Honolulu, State of Hawaii; and

**WHEREAS**, additional victims and properties damaged as a result of these continued periods of heavy rains and flooding have been identified in the county of Kauai and the City and County of Honolulu, State of Hawaii and additional victims and properties are anticipated as a result of the forecast periods of heavy rains and flooding in the counties of Hawaii, Kauai, Maui, and the City and County of Honolulu, State of Hawaii; and

**WHEREAS**, in order to provide additional relief and assistance, it has become necessary to supplement my Proclamations of March 2, 2006, and March 12, 2006 to include these additional periods of heavy rains and flooding; and

**WHEREAS**, the periods of heavy rains and flooding have caused increased water levels in reservoirs in the State of Hawaii, which has lead to the failure of at least one dam on Kauai, erosion, and fear of dam failure in other reservoirs; and

**WHEREAS**, pursuant to Section 128-8(2), Hawaii Revised Statutes, the Governor, in the event of a civil defense emergency period, may designate as public nuisances acts, practices, conduct, or conditions which are dangerous to the public health or safety or to property; and

**WHEREAS**, pursuant to Section 128-8(2), Hawaii Revised Statutes, the Governor, in the event of a civil defense emergency period, may authorize that public nuisances be summarily abated, and if need be that the property be destroyed, by any police officer or any authorized person; and


**NOW, THEREFORE**, I, LINDA LINGLE, Governor of the State of Hawaii, hereby determine that a major disaster and catastrophe contemplated by sections 127-11, 121-30, 209-2, 128-8(4), 128-9(8), 128-10(5), 128-10(10), 128-10(11), 128-10(15), and parts II and III of chapter 209, Hawaii Revised Statutes, has occurred during the above periods in the counties of Hawaii, Kauai, Maui and the City and County of Honolulu, State of Hawaii, and in order to provide additional relief and assistance, do hereby supplement my Proclamations of March 2, 2006, and March 12, 2006, to include the period of heavy rains and flooding beginning March 13, 2006 and forecast to continue through Sunday, March 19, 2006 in the counties of Hawaii,

Kauai, Maui, and the City and County of Honolulu, State of Hawaii for the purpose of authorizing the expenditure of State moneys, as appropriated, for the speedy and efficient relief of the damages, losses, and suffering resulting from the disaster.

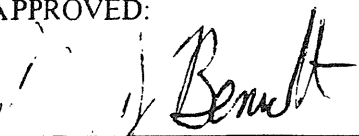
FURTHER, pursuant to Section 128-8(2), Hawaii Revised Statutes, I find that the dangerous conditions of certain reservoirs in the State of Hawaii and erosion, and fear of dam failure in certain reservoirs constitute a public nuisance which are dangerous to the public health or safety or to property and hereby authorize that the Director of Civil Defense or the Vice Director of Civil Defense to direct that any public nuisances be summarily abated, and if need be that the property be destroyed, by any police officer or any authorized person in order to protect the public health and safety.

FURTHER, all provisions and requirements of my Proclamations of March 2, 2006, and March 12, 2006, remain in full force and effect and are made applicable for this Supplementary Proclamation.

Done at the State Capitol State of Hawaii, this 14<sup>th</sup> day of March, 2006.

  
LINDA LINGLE  
Governor of Hawaii

APPROVED:

  
MARK J. BENNETT  
Attorney General  
State of Hawaii

OFFICE OF THE GOVERNOR  
STATE OF HAWAII

**3<sup>rd</sup> SUPPLEMENTARY PROCLAMATION**

By the authority vested in me as Governor by the Constitution and laws of the State of Hawaii, in order to provide relief for disaster damages, losses, and suffering, and to protect the health, safety, and welfare of the people, I, LINDA LINGLE, Governor of the State of Hawaii, hereby determine, designate and proclaim as follows:

**WHEREAS**, it has become necessary to supplement my proclamation of March 2, 2006, relating to the periods of heavy rains and flooding beginning Monday, February 20, 2006 through Friday, February 24, 2006, which caused localized flooding and lingering saturated ground conditions, and relating to periods of heavy rains and flooding beginning Wednesday, March 1, 2006 through Friday, March 3, 2006, which also caused localized flooding and lingering saturated ground conditions and extensive damage to private and public property in the counties of Kauai, Maui and the City and County of Honolulu, State of Hawaii, and to supplement my proclamation of March 12, 2006, relating to periods of heavy rains and flooding beginning Wednesday, March 8, 2006 through Sunday, March 12, 2006, which caused further localized flooding, saturated ground conditions, and damage to private and public property in the counties of Hawaii, Kauai, Maui, and the City and County of Honolulu, State of Hawaii, and to supplement my proclamation of March 14, 2006 relating to heavy rains and flooding beginning Monday, March 13, 2006 through Sunday, March 19, 2006, which have caused, and is causing further localized flooding, saturated ground conditions, and damage to private and public property in the counties of Hawaii, Kauai, Maui, and the City and County of Honolulu; and

**WHEREAS**, the National Weather Service has forecast continuing periods of heavy rains and flooding through Sunday, March 26, 2006, which are anticipated to cause further localized flooding, saturated ground conditions, and damage to private and public property in the counties of Hawaii, Kauai, Maui, and the City and County of Honolulu, State of Hawaii; and

**WHEREAS**, additional victims and properties damaged as a result of these continued



periods of heavy rains and flooding have been identified and are anticipated as a result of the forecast periods of heavy rains and flooding in the counties of Hawaii, Kauai, Maui, and the City and County of Honolulu, State of Hawaii; and

**WHEREAS**, in order to provide additional relief and assistance, it has become necessary to supplement my Proclamations of March 2, 2006, March 12, 2006, and March 14, 2006 to include these additional periods of heavy rains and flooding; and

**WHEREAS**, the periods of heavy rains and flooding have caused and is causing increased water levels in reservoirs in the State of Hawaii, which has lead to the failure of at least one dam on Kauai resulting in a tragic loss of life and property, erosion, and fear of dam failure in other reservoirs which may lead to further loss of life and property; and

**WHEREAS**, pursuant to Section 128-8(2), Hawaii Revised Statutes, the Governor, in the event of a civil defense emergency period, may designate as public nuisances acts, practices, conduct, or conditions which are dangerous to the public health or safety or to property; and

**WHEREAS**, pursuant to Section 128-8(2), Hawaii Revised Statutes, the Governor, in the event of a civil defense emergency period, may authorize that public nuisances be summarily abated, and if need be that the property be destroyed, by any police officer or any authorized person; and

**WHEREAS**, pursuant to Section 128-6(8), Hawaii Revised Statutes, the Governor may direct or control as may be necessary for civil defense the conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, before, and after any disaster; and

**WHEREAS**, pursuant to Section 128-6(8), Hawaii Revised Statutes, the Governor may direct or control as may be necessary for civil defense traffic control; and

**WHEREAS**, pursuant to Section 128-6(8), Hawaii Revised Statutes, the Governor may

direct or control as may be necessary for civil defense the congregation of the public in stricken or danger areas or under dangerous conditions; and

**WHEREAS**, pursuant to Section 128-6(8), Hawaii Revised Statutes, the Governor may direct or control as may be necessary for civil defense the evacuation and reception of the civilian population; and

**WHEREAS**, pursuant to section 128-10(5), Hawaii Revised Statutes, the Governor is further authorized to order and direct government agencies, officers, and employees, state or local, to take such action and employ such measures for law enforcement, medical, health, fire fighting, traffic control, warnings, and signals, engineering, rescue, construction, emergency housing, and other welfare, hospitalization, transportation, water supply, public information, training, and other civil defense and emergency functions as may be necessary, and utilize the services, materials, and facilities of the agencies and officers; and

**NOW, THEREFORE**, I, LINDA LINGLE, Governor of the State of Hawaii, hereby determine that a major disaster and catastrophe contemplated by sections 127-11, 121-30, 209-2, 128-8(4), 128-9(8), 128-10(5), 128-10(10), 128-10(11), 128-10(15), and parts II and III of chapter 209, Hawaii Revised Statutes, has occurred during the above periods in the counties of Hawaii, Kauai, Maui and the City and County of Honolulu, State of Hawaii, and in order to provide additional relief and assistance, do hereby supplement my Proclamations of March 2, 2006, March 12, 2006, and March 14, 2006 to include the period of heavy rains and flooding beginning March 14, 2006 and forecast to continue through Sunday, March 26, 2006, in the counties of Hawaii, Kauai, Maui, and the City and County of Honolulu, State of Hawaii for the purpose of authorizing the expenditure of State moneys, as appropriated, for the speedy and efficient relief of the damages, losses, and suffering resulting from the disaster.


**FURTHER**, pursuant to Sections 128-6(8) and 128-10(5), Hawaii Revised Statutes, as may be necessary for civil defense, I direct State and County civil defense authorities, and all State and County agencies, officers, and employees that may be directed thereby to assist, to take appropriate measures to protect the health and safety of the public by directing and controlling

vehicular traffic during, before, and after any disaster; traffic; the congregation of the public in stricken or danger areas or under dangerous conditions; the evacuation and reception of the civilian population.

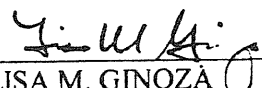
FURTHER, pursuant to Section 128-8(2), Hawaii Revised Statutes, I continue to find that the dangerous conditions of certain reservoirs in the State of Hawaii and erosion, and fear of dam failure in certain reservoirs constitute a public nuisance which are dangerous to the public health or safety or to property and hereby authorize the Director of Civil Defense or the Vice Director of Civil Defense to direct that any public nuisances be summarily abated, and if need be that the property be destroyed, by any police officer or any authorized person in order to protect the public health and safety.

FURTHER, all provisions and requirements of my Proclamations of March 2, 2006, March 12, 2006, and March 14, 2006 remain in full force and effect and are made applicable for this Supplementary Proclamation.

Done at the State Capitol State of Hawaii, this 18 day of March, 2006.

  
LINDA LINGLE  
Governor of Hawaii

APPROVED:

  
LISA M. GINOZA  
First Deputy Attorney General  
State of Hawaii

OFFICE OF THE GOVERNOR  
STATE OF HAWAII

**4<sup>th</sup> SUPPLEMENTARY PROCLAMATION**

By the authority vested in me as Governor by the Constitution and laws of the State of Hawaii, in order to provide relief for disaster damages, losses, and suffering, and to protect the health, safety, and welfare of the people, I, LINDA LINGLE, Governor of the State of Hawaii, hereby determine, designate and proclaim as follows:

**WHEREAS**, it has become necessary to supplement my proclamations of March 2, 2006, March 12, 2006, March 14, 2006 and March 18, 2006 relating to continuous periods of heavy rains and flooding beginning Monday, February 20, 2006 through Sunday, March 26, 2006, which caused localized flooding, saturated ground conditions, and damage to private and public property in the counties of Hawaii, Kauai, Maui, and the City and County of Honolulu; and

**WHEREAS**, heavy rains and flooding continuing from Sunday, March 26, 2006, have severely impacted each county in the State of Hawaii and the National Weather Service forecasts continuing periods of heavy rains and flooding through Sunday, April 2, 2006, which also are expected to continue the following week possibly through Sunday, April 9, 2006, and which are anticipated to cause further localized flooding, saturated ground conditions, and damage to private and public property in the counties of Hawaii, Kauai, Maui, and the City and County of Honolulu, State of Hawaii; and

**WHEREAS**, additional victims and properties damaged as a result of these continued periods of heavy rains and flooding have been identified and are anticipated as a result of the forecast periods of heavy rains and flooding in the counties of Hawaii, Kauai, Maui, and the City and County of Honolulu, State of Hawaii; and

**WHEREAS**, in order to provide additional relief and assistance, it has become necessary to supplement my Proclamations of March 2, 2006, March 12, 2006, March 14, 2006, and March

18, 2006 to include these additional periods of heavy rains and flooding; and

**WHEREAS**, the periods of heavy rains and flooding have also caused and continue to cause saturated ground conditions which has degraded the stability and lateral support of many hillsides and areas of land leading to mud and rock slides in the State of Hawaii with a continuing risk of additional mud and rock slides; and

**WHEREAS**, the periods of heavy rains and flooding have caused and continue to cause increased water levels in reservoirs throughout in the State of Hawaii, which has lead to the failure of at least one dam on Kauai resulting in a tragic loss of life and property, erosion, and fear of dam failure in other reservoirs which may lead to further loss of life and property; and

**WHEREAS**, the saturated ground conditions, degraded stability and lateral support of hillsides and areas of land, and the increased water levels in the reservoirs throughout the State of Hawaii are increasing the risk of erosion and fear of dam failure in the reservoirs of the State of Hawaii; and

**WHEREAS**, I have found in my proclamations of March 14, 2006 and March 18, 2006, that the dangerous conditions of certain reservoirs in the State of Hawaii and erosion, and fear of dam failure in certain reservoirs constitute a public nuisance which are dangerous to the public health or safety or to property and authorized the Director of Civil Defense or the Vice Director of Civil Defense to direct that any public nuisances be summarily abated, and if need be that the property be destroyed, by any police officer or any authorized person in order to protect the public health and safety; and

**WHEREAS**, officials have been engaged in inspecting all reservoirs in the State in order to identify any reservoir that may pose a danger to the public and take appropriate actions to protect the public health and safety; and

**WHEREAS**, that portion of State Highway 56, more commonly known as "Kuhio Highway," in the Wailapa Stream area between mile marker 21 and 22 in the County of Kauai,

State of Hawaii, was severely damaged as a result of the failure of the Ka Loko Reservoir; and

**WHEREAS**, Kuhio Highway is the only public route which provides transportation through the Wailapa Stream area of the County of Kauai, which, due to the damage caused by the failure of ka Loko Reservoir, forced the closure of State Highway 56 Kuhio Highway, and has left Kuhio Highway severely crippled restricting access through the area, preventing or severely restricting direct access into the Kilauea, Kalihiwai, Princeville, Hanalei, Wainiha, and Haena areas of the County of Kauai, State of Hawaii; and

**WHEREAS**, efforts are underway to protect, preserve, repair, restore, and rebuild, with any necessary improvements and mitigation efforts, the damaged portion of Kuhio Highway; and

**WHEREAS**, in order to provide additional relief and assistance in the repair and restoration the portion of Kuhio Highway damaged as a result of the failure of the Ka Loko Reservoir, it has become necessary to supplement my Proclamations of March 2, 2006, March 12, 2006, March 14, 2006, and March 18, 2006 to authorize and invoke additional measures under the Hawaii Revised Statutes; and

**WHEREAS**, pursuant to section 128-8(4), Hawaii Revised Statutes, the Governor is authorized to suspend any law which impedes or tends to impede or is detrimental to the expeditious and efficient execution of, or conflict with, disaster relief or other emergency functions; and

**WHEREAS**, pursuant to section 128-9(8), Hawaii Revised Statutes, the Governor is further authorized to relieve hardship and inequities or obstructions to the public health, safety, and welfare found by the Governor to exist in the laws by suspending laws in whole or in part, or by alleviating the provisions of laws on such terms and conditions as the Governor may impose; and

**NOW, THEREFORE**, I, LINDA LINGLE, Governor of the State of Hawaii, hereby determine that a major disaster and catastrophe contemplated by sections 127-11, 121-30, 209-2, 128-8(4), 128-9(8), 128-10(5), 128-10(10), 128-10(11), 128-10(15), and parts II and III of chapter 209, Hawaii Revised Statutes, has occurred during the above periods in the counties of Hawaii, Kauai, Maui and the City and County of Honolulu, State of Hawaii, and in order to provide additional relief and assistance, do hereby supplement my Proclamations of March 2, 2006, March 12, 2006, March 14, 2006, and March 18, 2006, to include the period of heavy rains and flooding continuing from Sunday, March 26, 2006 and forecast or expected to continue through Sunday, April 9, 2006, in the counties of Hawaii, Kauai, Maui, and the City and County of Honolulu, State of Hawaii for the purpose of authorizing the expenditure of State moneys, as appropriated, for the speedy and efficient relief of the damages, losses, and suffering resulting from the disaster.

FURTHER, I continue to find that the saturated ground conditions, degraded stability and lateral support of hillsides and areas of land, and the increased water levels in the reservoirs throughout the State of Hawaii are increasing the risk of erosion and fear of dam failure in the reservoirs of the State of Hawaii constituting a public nuisance which are dangerous to the public health or safety or to property and hereby authorize and direct the Director of Civil Defense or the Vice Director of Civil Defense to continue all efforts and measures to complete the inspection of all reservoirs in the State in order to identify any reservoir that poses a danger to the public and take appropriate actions to protect the public health and safety.

FURTHER, Pursuant to Sections 109-4, 128-8(4), 128-9(8), and 128-10(10), Hawaii Revised Statutes, I hereby suspend, as allowed by federal law, the following statutes to the extent necessary to repair, restore, and rebuild, with any necessary improvements and mitigation efforts, that portion of State Highway 56, more commonly known as "Kuhio Highway," in the Wailapa Stream area between mile marker 21 and 22 that was damaged as a result of the failure of the Ka Loko Reservoir in the County of Kauai, State of Hawaii:

1. Chapter 104, **wages and hours of employees on public works.**
2. Chapter 205, **land use commission**

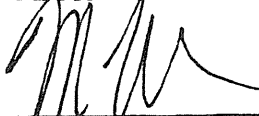
4. Chapter 264, highways
5. Chapter 269, public utilities commission
6. Chapter 341, environmental quality control
7. Chapter 342B, air pollution
8. Chapter 342D, water pollution
9. Chapter 342E, non-point source pollution management and control
10. Chapter 343, environmental impact statements
11. Chapter 343D, environmental disclosure
12. Chapter 344, state environmental policy

FURTHER, all provisions and requirements of my Proclamations of March 2, 2006, March 12, 2006, March 14, 2006, and March 18, 2006, remain in full force and effect and are made applicable for this Supplementary Proclamation.

Done at the State Capitol State of  
Hawaii, this 28<sup>th</sup> day of March,  
2006.

  
LINDA LINGLE  
Governor of Hawaii

APPROVED:

  
MARK J. BENNETT  
Attorney General  
State of Hawaii