

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 prevent the danger or threat of 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, there has arisen an immediate danger or threat of failure of the Wainiha Stream Bridge No. 2 which would result in the closure of a significant portion of Kuhio Highway for some time causing damage to persons within the Wainiha and Ha'ena area of the County of Kauai; and

WHEREAS, the closure of Kuhio Highway for a significant period of time has the potential to cause extensive personal injury and property damage within the County of Kauai, thereby endangering the health, safety, and welfare of the people, and the economy of the State; and

WHEREAS, to alleviate the danger of the collapse of Wainiha Stream Bridge No. 2, certain protective measures must be immediately implemented to significantly reduce the danger of bridge failure and potential long term closures of Kuhio Highway; and

WHEREAS, Kuhio Highway is the only public route which provides transportation through the Wainiha Stream area of the County of Kauai, which, due to the imminent threat of a bridge failure, would force the closure of Kuhio Highway at any time, thereby blocking access through the area, preventing direct access into the Wainiha and Ha'ena area, and isolating residents and businesses in the Wainiha and Ha'ena area of the County of Kauai; and

WHEREAS, efforts are underway to eliminate the risk of the failure of the Wainiha Stream Bridge No. 2 in order to keep Kuhio Highway open for use by residents in the Wainiha and Ha'ena area; and

WHEREAS, this danger or threat has the potential to cause, damages, losses, and suffering of such character and magnitude as to severely affect and impact (a) the health, safety, welfare, and living conditions of a substantial number of persons, and (b) the economy of the State; and

WHEREAS, the damages, losses, and suffering potentially attributable to the failure of Wainiha Stream Bridge No. 2 are of such a nature as to warrant rehabilitative assistance from the State; and

WHEREAS, §127-10, Hawaii Revised Statutes, provides that when §127-1 to §127-9, Hawaii Revised Statutes (pertaining to disaster relief), are not in effect, the Governor may exercise any and all of the Governor's powers that relate to disasters resulting from enemy attacks, as contained in chapter 128, Hawaii Revised Statutes, in order to provide other disaster relief; and

WHEREAS, because §127-1 to §127-9, Hawaii Revised Statutes, have been indefinitely suspended, the Governor may exercise any and all of the Governor's powers contained in chapter 128, Hawaii Revised Statutes, in order to provide other disaster relief, and during the applicable civil defense emergency period, the provisions set forth in chapter 128, Hawaii Revised Statutes, are made applicable to other disaster relief; and

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

WHEREAS, pursuant to §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 §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 §128-10(10), Hawaii Revised Statutes, the Governor may suspend chapter 103D and §103-50, §103-50.5, §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 civil defense and other emergency functions, including the performance of emergency disaster relief functions, or that compliance therewith is impracticable due to existing conditions,

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, hereby determine that a danger or threat of disaster contemplated by chapters 127 and 128, Hawaii Revised Statutes, currently exists within the Wainiha and Ha'ena area of the County of Kauai, and:

I. Proclamation of disaster. Do hereby proclaim this area to be a disaster area for the purpose of authorizing the expenditure of State monies as appropriated for the speedy and efficient measures to avoid damages, losses, and suffering that will result with the failure of the Wainiha Stream Bridge No. 2;

II. Exercise of emergency relief powers. Do hereby declare that all preconditions for exercising the powers and authority granted to me under §127-11, §128-8(4), §128-9(8), §128-10(5), and §128-10(10), Hawaii Revised Statutes, have been found and satisfied, and that I hereby exercise such powers and authority in relation to this disaster; and

III. Implementation of specific measures. In order to provide the expeditious and efficient performance, execution, and implementation of measures to avert the danger or threat of disaster, pursuant to and in accordance with §128-8(4), §128-9(8), and §128-10(10), Hawaii Revised Statutes, I hereby suspend, as allowed by federal law, the following sections to the extent necessary to reduce the danger of the failure of and to repair or replace the Wainiha Stream Bridge No. 2 in order to keep Kuhio highway open for use by residents and visitors in the Wainiha and Ha'ena area of the County of Kauai:

1. Chapter 6E, **historic preservation.**
2. Chapter 46, **counties.**
3. Section 84-15, **contracts.**
4. Chapter 102, **concessions on public property.**
5. Chapter 103, **expenditures of public money and public contracts.**
6. Chapter 103D, **procurement code.**
7. Chapter 104, **wages and hours of employees on public works.**
8. Sections 105-1 to 105-10, **government vehicles.**
9. Chapter 183C **Conservation District.**
10. Chapter 205, **land use commission.**
11. Chapter 205A, **coastal zone management.**
12. Chapter 264, **highways.**
13. Chapter 269, **public utilities commission.**
14. Chapter 286, **highway safety.**
15. Chapter 341, **environmental quality control.**
16. Chapter 342B, **air pollution control.**
17. Chapter 342D, **water pollution.**
18. Chapter 342E, **nonpoint source pollution management and control.**

19. Chapter 342F, **noise pollution.**
20. Chapter 342G, **integrated solid waste management.**
21. Chapter 342H, **solid waste pollution.**
22. Chapter 342J, **hazardous waste.**
23. Chapter 343, **environmental impact statements.**
24. Chapter 344, **State environmental policy.**
25. Title 12, **conservation and resources, including chapters 171 through and including 200D.**
26. Chapter 444, **contractors.**
27. Chapter 445, **county licenses.**
28. Chapter 448E, **electricians and plumbers.**
29. Chapter 464, **professional engineers, architects, surveyors and landscape architects.**
30. Section 464-4, **public works required to be supervised by certain professionals.**

IV. Pursuant to and in accordance with §128-10(5), Hawaii Revised Statutes, I hereby direct, in order to provide emergency disaster relief, all state agencies and officers to cooperate with and extend their services, materials, and facilities as may be required to assist in all efforts to (1) eliminate or significantly reduce the potential danger of the failure of Wainiha Stream Bridge No. 2 and (2) keep Kuhio Highway open for use by residents and visitors through the Wainiha and Ha'ena area of the County of Kauai.

I FURTHER DECLARE for the Wainiha and Ha'ena area of the County of Kauai, State of Hawaii, a civil defense emergency period in order to implement such measures as may be necessary to eliminate or significantly reduce the danger or threat of bridge failure of the Wainiha Stream Bridge No. 2 and to keep Kuhio Highway open for use by residents and visitors through the Wainiha and Ha'ena area, shall commence on September 22, 2004, and shall continue until an appropriate time for termination as I will determine.

Done at the State Capitol State of Hawaii, this 22nd day of September 2004.



LINDA LINGLE
Governor of Hawaii

APPROVED:



MARK J. BENNETT
*Attorney General
State of Hawaii*