OFFICE OF THE GOVERNOR
STATE OF HAWAII

4th 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**
3. Chapter 205A, **coastal zone management**

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 28th day of March, 2006.

LINDA LINGLE
Governor of Hawaii

APPROVED:

MARK J. BENNETT
Attorney General
State of Hawaii