

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 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, on or about March 24, 2006, the City and County of Honolulu's existing Beachwalk sewer force main ruptured;

WHEREAS, beginning on or about March 24, 2006, and continuing for several days thereafter raw wastewater, totaling tens of millions of gallons, was diverted into the Ala Wai Canal and flowed into the ocean, degrading water quality at Waikiki and other beaches in the area;

WHEREAS, in order to avert another catastrophic diversion of wastewater, the City and County of Honolulu intends to complete installation, by emergency procurement provisions, of a temporary construction bypass of the Beachwalk force main;

WHEREAS, in order to avert another catastrophic diversion of wastewater, the City and County of Honolulu began construction immediately, but will not be able to complete the installation of the temporary construction bypass of the Beachwalk force main by January 31, 2007;

WHEREAS, the City and County of Honolulu intends to use the temporary construction bypass as a backup force main that would remain in place for up to five to six years, until permanent and redundant force mains are in place;

WHEREAS, the rupture of the Beachwalk sewer force main and wastewater diversion created extraordinary conditions that may, if repeated, endanger the health and safety of the people in the City and County of Honolulu, and harm the economy of Hawaii, and therefore emergency action is necessary;

WHEREAS, certain existing laws may delay the City and County's ability to avert another catastrophic diversion of wastewater by installing the temporary construction bypass and therefore are inconsistent with assuring the public health and safety;

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

WHEREAS, because sections 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;

WHEREAS, in accordance with section 127-10, Hawaii Revised Statutes, "other disaster relief" means "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;"

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 be detrimental to or conflict with, the expeditious and efficient execution of civil defense or other emergency functions;

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;

WHEREAS, pursuant to section 128-10(9), Hawaii Revised Statutes, the Governor is further authorized to provide for the repair and maintenance of public property, whenever adequate provision therefor is not otherwise made and to make temporary restoration of public utilities and other vital facilities in the event of an attack or other disaster;

WHEREAS, pursuant to section 128-10(10), Hawaii Revised Statutes, the Governor may suspend chapter 103D and section 103-50, section 103-53, section 103-55, section 105-1 to section 105-10 and section 464-4, Hawaii Revised Statutes, if the Governor finds 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 is impracticable due to existing conditions; and

WHEREAS, pursuant to section 128-10(15), Hawaii Revised Statutes, the Governor is further authorized to take any and all steps necessary or appropriate to carry out the civil defense and other emergency functions,

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, continues in the City and County of Honolulu, State of Hawaii, and:

I. Proclamation of disaster. Do hereby proclaim the City and County of Honolulu to be a disaster area and hereby authorize and invoke the following measures under Hawaii Revised Statutes;

II. Exercise of emergency relief powers. Do hereby declare that all preconditions for exercising the powers and authority granted to me under section 127-10, section 128-8(4), section 128-9(8), section 128-10(5), section 128-10(6), section 128-10(9), section 128-10(10), and section 128-10(15), 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 disaster relief and other emergency functions, pursuant to and in accordance with section 128-8(4), section 128-9(8), section 128-10(5), section 128-10(6), section 128-10(9), section 128-10(10), and section 128-10(15), Hawaii Revised Statutes, I hereby suspend, as allowed by federal law and as they apply to the political subdivision of the City and County of Honolulu in the installation of the temporary construction bypass of the Beachwalk force main, the following sections of State law to the extent necessary to significantly reduce the danger of another catastrophic diversion of wastewater by facilitating the prompt completion of installation of the temporary construction bypass of the Beachwalk force main:


1. Chapter 6E, **historic preservation, except for those provisions regarding burial sites.**
2. Chapter 46, **county organization and administration.**
3. Chapter 174C, **state water code.**
4. Chapter 205A, **coastal zone management.**
5. Chapter 264, **highways.**
6. Chapter 342B, **air pollution control.**
7. Chapter 342D, **water pollution, along with the administrative rules adopted under its authority, provided that this suspension does not authorize further discharges of wastewater into State waters.**
8. Chapter 342F, **noise pollution.**
9. Chapter 343, **environmental impact statement.**
10. Chapter 286, **highway safety.**
11. Chapter 180C, **soil erosion and sediment control.**
12. Chapter 183, **forest reserves, water development, zoning.**

13. Chapter 195, **natural areas reserves system.**

IV. Pursuant to and in accordance with section 128-10(5), Hawaii Revised Statutes, I hereby direct, in order to provide emergency functions, 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 reduce significantly the potential danger of another catastrophic diversion of wastewater.

V. I FURTHER DECLARE that for the City and County of Honolulu, State of Hawaii, the civil defense emergency relief period in order to implement such measures as may be necessary to reduce significantly the danger of another catastrophic diversion of wastewater, which began on May 24, 2006, shall be extended from January 31, 2007, through July 31, 2007.

Done in the City and County of Honolulu,
State of Hawaii, this 24th day of January, 2007.



LINDA LINGLE
Governor of Hawaii

APPROVED AS TO FORM:



Mark J. Bennett
Attorney General, State of Hawaii