

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 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**, In 2004, the Department of Transportation was forced to take immediate action to replace the Wainiha Stream Bridge No. 2 which was severely damaged and posed an immediate danger or threat of failure, the result of which would have meant 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**, since 2004, the Department of Transportation has been monitoring the condition of Wainiha Stream Bridges No. 1 and 3 (hereafter "Bridges") on the Island of Kauai which were also in need of repair and/or replacement; and

**WHEREAS**, the Department of Transportation has been developing the conceptual design for the replacement of the Wainiha Stream Bridges Nos. 1, 2, and 3 together with the northshore community since 2004; and

**WHEREAS**, the design of the permanent repairs has been delayed by the need to balance safety requirements with concerns regarding historic preservation and community preferences for maintaining the horizontal alignment and single lane nature of the Bridges; and

**WHEREAS**, because the Department of Transportation has hired a structural engineer to perform an inspection of the Bridges in an effort to monitor the condition of the Bridges and protect the health and safety of the public; and

**WHEREAS**, the inspection of the Bridges indicate significant structural deterioration and damage to the Bridges including, but not limited to, significant section loss of greater than twenty-five percent of tension rods, many loose or missing tension rods, severe corrosion of tension rods and structural girders and compression struts, and other irreparable damage; and

**WHEREAS**, the inspection of the Bridges indicate that the existing damage is such that there is an immediate danger or threat of failure of the Bridges; and

**WHEREAS**, a recent inspection report for the inspection of Wainiha Stream Bridge No. 3 indicates that the damage is such that the bridge is no longer safe and recommends that the Bridge be closed to vehicular traffic until such time as load testing can be performed and used to determine what vehicular loads the Bridge can support; and

**WHEREAS**, Kuhio Highway is the only public route which provides transportation through the Wainiha Stream area of the County of Kauai; and

**WHEREAS**, the closure of a significant portion of Kuhio Highway for some time will cause damage to persons within the Wainiha and Ha'ena area of the County of Kauai by preventing access to and through the Wainiha Stream area of the County of Kauai and isolating the residents and businesses in the Wainiha and Ha'ena area of the County of Kauai; and

**WHEREAS**, the Department of Transportation is preparing to further restrict the weight on the Bridges in an effort to allow some use of the Bridges and access to the area by the public, but which also prevents the passage of emergency and maintenance vehicles; and

**WHEREAS**, the Department of Transportation has taken measures to ensure that the access to the bridges are patrolled to prevent any person from operating any vehicle in violation of the weight restrictions for the Bridges; 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 the Bridges, 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 bridge failures, 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 areas, and isolating residents and businesses in the Wainiha and Ha'ena areas of the County of Kauai; and

**WHEREAS**, efforts are underway to eliminate the risk of the failure of the Bridges in order to keep Kuhio Highway open for use by residents in the Wainiha and Ha'ena areas; 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 the Bridges are of such nature as to warrant rehabilitative assistance from the State; and

**WHEREAS**, prompt, expeditious action is necessary to deal with the temporary bridge repairs to assure the safety of the public; 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

**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 areas 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 Bridges by installing temporary bridges to be used by the public until the Department of Transportation has completed ongoing efforts to replace the Bridges, which will now include removal of the temporary bridges upon completion;

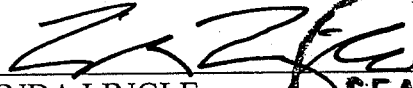
II. Exercise of emergency relief powers. Do hereby declare that all preconditions for exercising the powers and authority granted to me under §127-11, §128-8(4), and §128-10(10), Hawaii Revised Statutes, have been found and satisfied, and that I hereby exercise such powers and authority in relation to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


III. Implementation of specific measures. In order to provide expeditious and efficient performance, execution, and implementation of measures to avert the danger or threat of disaster 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 statutes to the extent necessary to reduce the danger of the failure of the Bridges and to repair, restore, and install temporary bridges, with any necessary improvements and mitigation efforts, in order to keep Kuhio Highway open for use in the Wainiha and Ha'ena areas of the County of Kauai, State of Hawaii:

1. Chapter 46, **counties**
2. Chapter 89, **Collective bargaining in public employment**
3. Chapter 103, **expenditures of public money and public contracts**
4. Chapter 103D, **procurement code**
5. Chapter 183C, **conservation district**
6. Chapter 205, **land use commission**
7. Chapter 205A, **coastal zone management**
8. Chapter 264, **highways**
9. Chapter 269, **public utilities commission**
10. Chapter 341, **environmental quality control**
11. Chapter 342B, **air pollution**
12. Chapter 342D, **water pollution**
13. Chapter 342E, **non-point source pollution management and control**
14. Chapter 343, **environmental impact statements**
15. Chapter 343D, **environmental disclosure**
16. Chapter 344, **state environmental policy**

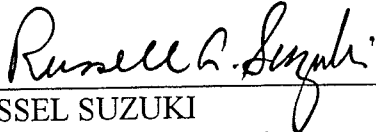
IV. Pursuant to and in accordance with §128-10(5), Hawaii Revised Statutes, I hereby direct, in order to provide emergency disaster relief, all state agencies and officers to cooperate with and extend their services, materials, and facilities as may be required to assist in all efforts to (1) eliminate or significantly reduce the potential danger of the failure of the Bridges to keep Kuhio Highway open for use by residents through the Wainiha and Ha'ena areas of the County of Kauai.

Done at the State Capitol State of Hawaii, this 29<sup>th</sup> day of October, 2007.

  
LINDA LINGLE  
*Governor of Hawaii*



APPROVED:

  
RUSSEL SUZUKI  
*Acting Attorney General  
State of Hawaii*