OFFICE OF THE GOVERNOR
STATE OF HAWAII

5th 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, 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, March 18, 2006, and March 28, 2006, relating to continuous periods of heavy rains and flooding beginning Monday, February 20, 2006 through Sunday, April 9, 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, the periods of heavy rains and flooding have caused 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; and

WHEREAS, the periods of heavy rains and flooding have caused increased water levels in reservoirs throughout 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 have increased the risk of erosion, seepage, piping, 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, March 18, 2006, and March 28, 2006, that the dangerous conditions of certain reservoirs in the State of Hawaii, 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 I 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, the reservoir known as the Kailua Reservoir and Dam, located in Waimanalo, Oahu, State of Hawaii, was severely damaged as a result of the heavy rains and flooding thereby endangering the public health and safety, and efforts are underway to abate the public nuisance that exists by reason of the current state of the Kailua Reservoir; and

WHEREAS, additional reservoirs and dams have been identified as having been damaged or affected as a result of the heavy rains and flooding which may endanger the public health and safety; and

WHEREAS, efforts are anticipated to be required to abate any public nuisance found to exist by reason of reservoirs damaged as a result of the heavy rains and flooding in order to protect the public health and safety; and

WHEREAS, in order to provide additional relief and assistance in the abatement of the nuisance that exists by reason of the current state of the Kailua Reservoir and other damaged reservoirs that may pose an immediate risk to the public health and safety, it has become necessary to supplement my Proclamations of March 2, 2006, March 12, 2006, March 14, 2006, March 18, 2006, and March 28, 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 conflicts 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, pursuant to Sections 128-8(4), 128-9(8), and 128-10(10), Hawaii Revised Statutes, hereby suspend, as allowed by federal law, the following statutes and county ordinances to the extent necessary to abate the public nuisance that exists by reason of any reservoir severely damaged as a result of the heavy rains and flooding, to include any efforts to repair, restore, rebuild, breach, or remove, with any necessary improvements and mitigation efforts, the Kailua Reservoir located in Waimanalo, Oahu, State of Hawaii, and any other reservoir found in the State of Hawaii to be severely damaged and endangering the public health and safety:

1. Chapter 46, **county organization and administration** to the extent that any county ordinance or regulation impedes or tends to impede or is detrimental to the expeditious and efficient execution of, or is in conflict with, disaster relief or other emergency functions necessary to abate the public nuisance that exists by reason of any reservoir severely damaged as a result of the heavy rains and flooding
2. Chapter 104, **wages and hours of employees on public works**
3. Chapter 174C, **state water code**
4. Chapter 205, **land use commission**
5. Chapter 205A, **coastal zone management**
6. Chapter 264, **highways**

7. Chapter 269, **public utilities commission**

8. Chapter 341, **environmental quality control**

9. Chapter 342B, **air pollution**

10. Chapter 342D, **water pollution**

11. Chapter 342E, **non-point source pollution management and control**

12. Chapter 343, **environmental impact statements**

13. Chapter 343D, **environmental disclosure**

14 Chapter 344, **state environmental policy**

FURTHER, all provisions and requirements of my Proclamations of March 2, 2006, March 12, 2006, March 14, 2006, March 18, 2006, and March 28, 2006, remain in full force and effect and are made applicable for this Supplementary Proclamation.

Done at the State Capitol State of Hawaii, this 24th day of April, 2006.

LINDA LINGLE
Governor of Hawaii

SEAL

APPROVED:

MARK J. BENNETT
Attorney General
State of Hawaii