

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

March 22, 2013

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No.: 13MD-036

Maui

Set Aside to State of Hawaii, Department of Transportation, Highways Division for Construction and Roadway Maintenance Purposes, at Honomanu, Koolau, Hana, Maui, Tax Map Key: (2) 1-1-001: Por. of 010 (765 sq. ft.) and Por. of 044 (6,071 sq. ft.).

APPLICANT:

State of Hawaii, Department of Transportation, Highways Division

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands of Honomanu situated at Koolau, Hana, Maui, identified by Tax Map Key: (2) 1-1-001: Por. of 010 and Por. of 044, as shown on the attached maps labeled Exhibits A and B.

AREA:

TMK: (2) 1-1-001: 010 (765 sq. ft., more or less).  
TMK: (2) 1-1-001: 044 (6,071 sq. ft. more or less).

ZONING:

State Land Use District: Conservation (Sub zone: Limited)  
County of Maui CZO: Agriculture

EXHIBITS:

Exhibit A: Tax Map 1-1-01

Exhibit B: Overview photo of the project area with TMK overlay.

Exhibit C: Department of Transportation Right-of-Way Map which identifies the project area.

Exhibit D: Governor's Proclamation dated March 3, 2012.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

TMK: (2) 1-1-001:010 currently vacant and unencumbered.

TMK: (2) 1-1-001:044 encumbered by Revocable Permit 7263 to Alexander & Baldwin, Inc. for Water Permit purposes (formerly General Lease # S-3695)

PURPOSE:

Construction and roadway maintenance purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the Division of Land Management Environmental Impact Statement Exemption List, approved by the Environmental Council and dated April 28, 1986, the subject project is considered to be exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 5 that states: Routine and emergency repair and restoration of existing structures and facilities on state lands involving negligible or no expansion or change of use beyond that previously existing. Inasmuch as the Chapter 343 environmental requirements apply to Applicant's use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Process and obtain subdivision at Applicant's own cost; and

- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

The State of Hawaii, Department of Transportation is requesting the set aside of portions of two state parcels currently under the jurisdiction of the Department of Land and Natural Resources. Damages occurred to a portion of Hana Highway in the area of Mile Post No.14, located on the east side of Honomanu Bay in early March of 2012. Heavy rains caused mudslides created hazardous conditions at this section of the highway. Although immediate measures were taken to clear the roadway of the mudslides, it was temporary in nature. The Department of Transportation would like to construct necessary long term repairs to the subject area, and obtain a set aside for continued maintenance and repairs of the road as needed.

The set aside request includes a portion of TMK: (2) 1-1-001:044 totaling 6,071 square feet, currently encumbered by Revocable Permit No. S-7263 to Alexander & Baldwin, Inc. and East Maui Irrigation Company Limited for the right, privilege, and authority for the development, diversion and use of water purposes. The permittee has advised that it has no objection in light of the public safety need of the highway as a main transportation route for traffic traveling to and from the east side of Maui.

A section in the amount of 765 square feet of TMK: (2) 1-1-001:010 has also been requested for the same roadway and maintenance purposes. This parcel is currently unencumbered.

By means of a Governor's Proclamation dated March 3, 2012, the Department of Transportation, Highways Division was authorized to commence with construction and emergency road repairs. This proclamation was provided due to storm damages to the highway and concerns for public safety. Hana Highway serves as the main route for public access to the east side of the island.

The Maui District Land Division office has issued an immediate right of entry permit to the Department of Transportation, Highways Division for construction and emergency repairs.

There are no other pertinent issues or concerns regarding this request.

RECOMMENDATION:

That the Board, subject to Applicant fulfilling the Applicant Requirements above:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to the State of Hawaii, Department of Transportation, Highways Division under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
  - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
  - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
  - C. Review and approval by the Department of the Attorney General; and
  - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Daniel Ornellas, District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson





Hāna Hwy

Honomanu Bay

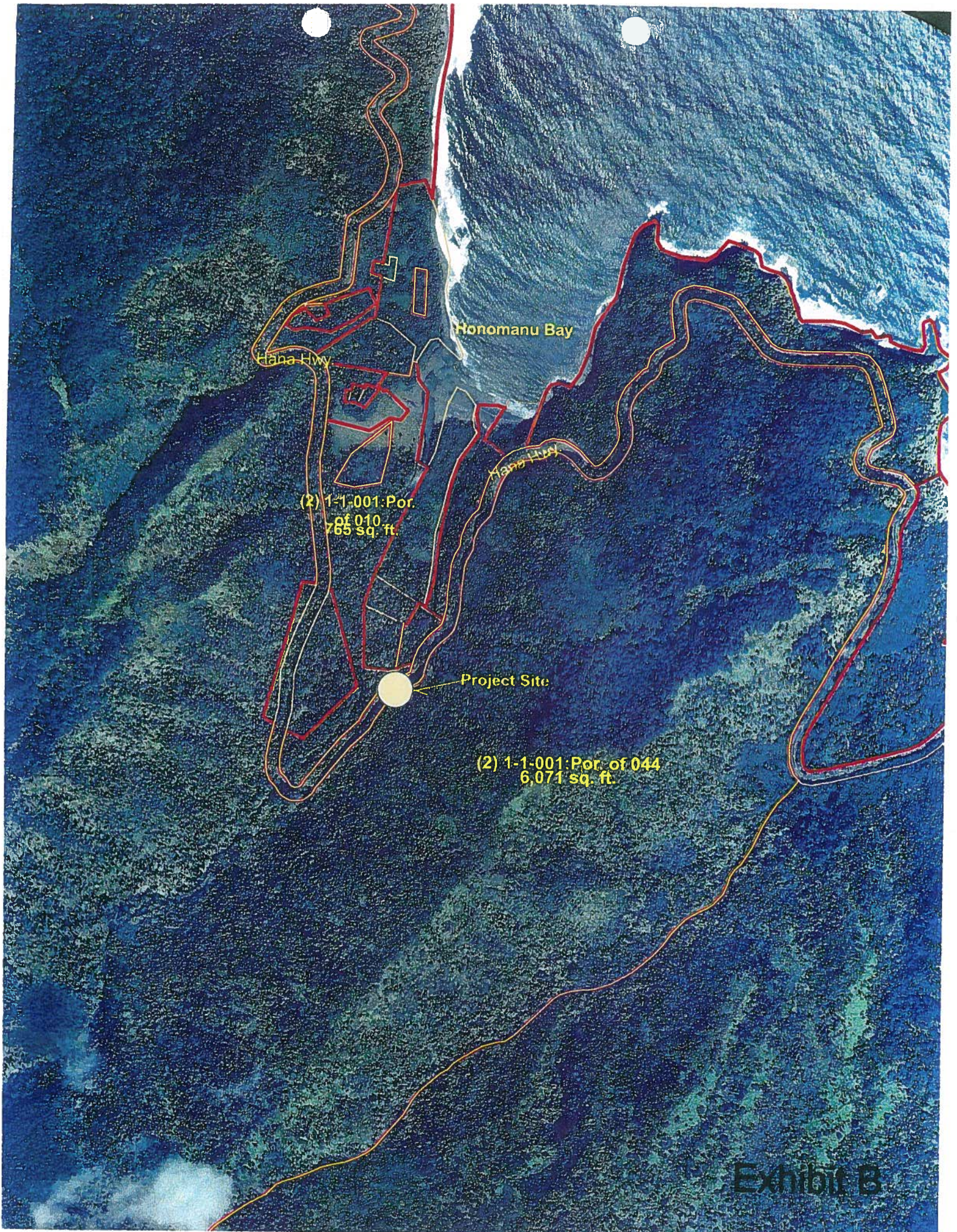
Hāna Hwy

(2) 1-1-001: Por.  
of 010  
765 sq. ft.

Project Site

(2) 1-1-001: Por. of 044  
6,071 sq. ft.

Exhibit B







OFFICE OF THE GOVERNOR  
STATE OF HAWAI'I

**PROCLAMATION**

By the authority vested in me as Governor by the Constitution and laws of the State of Hawai'i, in order to prevent the danger of disaster damages, losses, and suffering, and to protect the health, safety, and welfare of the people, I, NEIL ABERCROMBIE, Governor of the State of Hawai'i, hereby determines, designates and proclaims as follows:

**WHEREAS**, heavy rains inundated the island of Kauai on Sunday, February 26, 2012;  
and

**WHEREAS**, due to the heavy rains, a fifteen foot diameter steel culvert collapsed beneath Kuhio Highway in the vicinity of milepost 22.5 in the Kilauea area of Kauai; and

**WHEREAS**, the collapse of the steel culvert resulted in significant erosion of the soil foundation beneath and adjacent to Kuhio Highway; and

**WHEREAS**, Kuhio Highway is the only route that provides transportation to the north end of the island of Kauai; and

**WHEREAS**, isolating the residents and businesses in the north end of Kauai could endanger the health, safety, and welfare of the people, and the economy of the State; and

**WHEREAS**, the environmental permitting, design and construction of a permanent bypass road around the distressed portion of the highway is expected to take more than four years to complete; and

**WHEREAS**, the damage, losses, and suffering potentially attributable to the imminent failure of Kuhio Highway are of such nature as to warrant rehabilitative assistance from the State; and



**WHEREAS**, due to the inherent threat to public safety, immediate actions must be taken to perform emergency slope stabilization repairs; and

**WHEREAS**, I find that these state of affairs and circumstances are of such a grave nature as to affect the health and safety of the public and that these circumstances require the invocation of provisions of Chapter 128, Hawaii Revised Statutes, that are effective only during a period of civil defense emergency; and

**WHEREAS**, the Legislature of the State of Hawai'i has appropriated from the general revenues of the State, monies as may be necessary for expenditure by or under the direction of the Governor for the immediate relief of the conditions created by the emergency; and

**WHEREAS**, in expending such monies, the Governor may allot any portion to any agency, office, or employee, federal, state, or county, for the most expeditious and efficient relief of the conditions created by the emergency; and

**WHEREAS**, section 127-10, Hawaii Revised Statutes, provides that when sections 127-1 to 127-9, Hawaii Revised Statutes, are not in effect, the Governor may exercise any and all powers contained in chapter 128, Hawaii Revised Statutes, in order to provide other disaster relief and that all provisions of the law provided in chapter 128, Hawaii Revised Statutes, during such period are made applicable to other disaster relief, including without limitation, provisions making or authorizing appropriations or expenditures; and

**WHEREAS**, pursuant to Act 35, Regular Session Laws of Hawaii 1961, sections 127-1 to 127-9, Hawaii Revised Statutes, have been indefinitely suspended and are not in effect, the provisions of chapter 128, Hawaii Revised Statutes, are applicable to other disaster relief; and

**WHEREAS**, pursuant to section 127-10, Hawaii Revised Statutes, other disaster relief includes, but is not limited to, 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 massive oil spills, nuclear accidents, airplane crashes and civil disturbances; 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 and to result from the operation of federal programs or measures taken under chapter 128, 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 section 128-10(10), Hawaii Revised Statutes, the Governor may suspend chapter 103D and sections 103-50, 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 emergency disaster relief functions for this occurrence and that compliance therewith is impracticable due to existing conditions; and

**WHEREAS**, pursuant to section 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 section 128-10(6), Hawaii Revised Statutes, the Governor is further authorized to take possession of, use, manage, control, and reallocate any public property,

state or county, real or personal, required by the Governor for the purposes of this chapter, including, without limitation, airports, parks, playgrounds, and schools, and other public buildings; and

**WHEREAS**, pursuant to section 128-10(15), Hawaii Revised Statutes, the Governor may take any and all steps necessary or appropriate to carry out the purposes of chapter 128 and to provide for civil defense and other emergency functions.

**NOW, THEREFORE**, I, NEIL ABERCROMBIE, Governor of the State of Hawaii, hereby determines that a danger or threat of disaster contemplated by chapters 127 and 128, Hawaii Revised Statutes, currently exists within the Kilauea area of the County of Kauai, State of Hawai'i; 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 highway by designing and constructing temporary slope stabilization measures beneath the pavement until the Department of Transportation has completed ongoing efforts to construct a bypass road, which upon completion will include closure of the affected portion of Kuhio Highway to vehicular travel; and

II. Exercise of emergency relief powers. Do hereby declare that all preconditions for exercising the powers and authority granted to me under sections 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 sections 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 highway pavement and embankment, and to

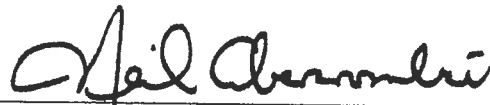


repair and install temporary slope stabilization measures, with any necessary improvements and mitigation efforts, in order to keep Kuhio Highway open for use in the Kilauea area of the County of Kauai, State of Hawai'i:

1. Chapter 6E, **historic preservation**
2. Chapter 46, **county organization and administration**
3. Chapter 89, **collective bargaining in public employment**
4. Chapter 89C, **public officers and employees excluded from collective bargaining**
5. Section 103-53, **contracts with the State or counties; tax clearances**
6. Chapter 103D, **procurement code**
7. Chapter 104, **wages and hours of employees on public works**
8. Sections 105-1 to 105-10, **use of government vehicles, limitations**
9. Chapter 174C, **state water code**
10. Chapter 183, **forest reserves, water development, zoning**
11. Chapter 183C, **conservation district**
12. Chapter 183D, **wildlife**
13. Chapter 195D, **conservation of aquatic life, wildlife, and land plants**
14. Chapter 205, **land use commission**
15. Chapter 205A, **coastal zone management**
16. Section 209-9, **rental or sale of essential commodities during a state disaster; prohibition against price increases**
17. Chapter 264, **highways**
18. Chapter 269, **public utilities commission**
19. Chapter 341, **environmental quality control**
20. Chapter 342B, **air pollution**
21. Chapter 342D, **water pollution**
22. Chapter 342E, **non-point source pollution management and control**
23. Chapter 342F, **noise pollution**
24. Chapter 343, **environmental impact statements**
25. Chapter 344, **state environmental policy**

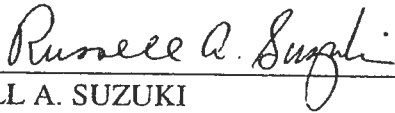
IV. Pursuant to and in accordance with section 128-10(5), Hawaii Revised Statutes, I hereby direct, in order to provide emergency disaster relief, all state agencies and officers to cooperate with and extend their services, materials, and facilities as may be required to assist in all efforts to eliminate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

Done at the State Capitol, Honolulu,  
State of Hawaii, this 3rd day of  
March, 2012.



NEIL ABERCROMBIE  
Governor of Hawai'i

APPROVED:



RUSSELL A. SUZUKI  
Acting Attorney General of Hawai'i



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
LAND DIVISION

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

February 25, 2013

## EXEMPTION NOTIFICATION

regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Set Aside to State of Hawaii, Department of Transportation, Highways Division for Construction and Roadway Maintenance Purposes of Hana Highway in the area of Mile Post Number 14.

Project / Reference No.: MA# 13MD-036

Project Location: Honomanu, Hana, Maui

Project Description: Construction, emergency repairs and maintenance of damages to Hana Highway caused by landslides and heavy rain, which occurred in March of 2012.

Chap. 343 Trigger(s): Use of State Land

Exemption Class No. and Description: #1  
In accordance with the Division of Land Management Environmental Impact Statement Exemption List, approved by the Environmental Council and dated April 28, 1986, the subject project is considered to be exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 5 that states: Routine and emergency repair and restoration of existing structures and facilities on state lands involving negligible or no expansion or change of use beyond that previously existing.

Consulted Parties: State of Hawaii, Department of Transportation, Highways Division was consulted as a source authority having jurisdiction or expertise in this matter, and concurs that the



exemption identified above is applicable to and appropriate for the proposed project.

Recommendation:

It is anticipated this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment. To the extent Chapter 343 applies to the proposed project, the Department of Transportation, Highways Division, shall be responsible for complying with all Chapter 343 Environmental Assessment requirements.

  
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William J. Aila Jr., Chairperson

3/5/13  
\_\_\_\_\_  
Date