

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Engineering Division
Honolulu, Hawaii 96813

July 13, 2007

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

Request for Authorization for the Geological Survey, United States Department of the Interior (USGS) and its agents, employees, and consultants, to enter upon private property for the purposes of investigating, installing, operating and maintaining remote sensing gages and related instrumentation equipment, conducting inspections and hydrologic and hydraulic calculations on and around streams, dams, and reservoirs located within the State of Hawaii pursuant to Hawaii Revised Statutes Chapter 179 and Authorize the Chairperson to negotiate and execute agreements with the USGS for FY 2007 & 2008

The purpose of Chapter 179 of the Hawaii Revised Statutes, Flood Control And Flood Water Conservation, is to provide for the coordination by the State of all federal and state flood control projects undertaken in Hawaii and for such technical or financial assistance to its political subdivisions as may be desirable or necessary to assure maximum benefits to the people of the State from the expenditure of state funds for flood control purposes

Chapter 179 empowers the Board of Land and Natural Resources, to render technical and financial assistance to State and County agencies for flood control projects and related flood control activities. The Early Flood Alert Monitoring systems for flood prone watersheds were established as a related flood control activity for mitigating lives at risk from heavy storm events. These systems are typically installed under a joint funding agreements between the USGS, State Civil Defense Agency, and DLNR, and ongoing maintenance agreements for these systems are jointly funded by the DLNR and a federal grant from the USGS. Related studies, calculations and investigations to support and supplement these activities may also be conducted by the USGS.

RECOMMENDATION:

That the Board of Land and Natural Resources approve the following:


1. Request and Authorize the Geological Survey, United States Department of the Interior (USGS) and its agents, employees, and consultants, to enter upon private property for the purposes of investigating, installing, operating and maintaining remote sensing gages and related instrumentation equipment, conducting inspections and hydrologic and hydraulic calculations on and around streams, dams and reservoirs (including those that have failed); and
2. Authorize and direct the Chairperson, to negotiate and execute support agreements, memoranda of understanding, or other documents and agreements as needed to facilitate assistance from USGS.

Respectfully submitted,



ERIC T. HIRANO
Chief Engineer

APPROVED FOR SUBMITTAL:


for Allan A. Smith, Interim Chairperson

ITEM L-4

CHAPTER 179
FLOOD CONTROL AND FLOOD WATER CONSERVATION

Sections

- 179-1 Declaration of purpose
- 179-2 Definitions
- 179-3 Statewide flood control agency and program
- 179-4 Powers, duties, and jurisdiction of the board

§179-1 Declaration of purpose. It is declared:

- (1) That floods caused by heavy rainstorms and abnormal tidal action are detrimental to the health, safety, and general welfare of the people of the State, resulting in jeopardy to and the loss of life and property, disruption of commerce, and interruption of transportation and communications; that the reduction of flood damage is therefore of primary importance to the people of the State; and the conservation and beneficial use of flood water is an essential adjunct to rainfall drainage and flood control.
- (2) It is the purpose of this chapter to provide for the coordination by the State of all federal and state flood control projects undertaken in Hawaii and for such technical or financial assistance to its political subdivisions as may be desirable or necessary to assure maximum benefits to the people of the State from the expenditure of state funds for flood control purposes.
- (3) Nothing in this chapter shall prevent any political subdivision through its proper officials from requesting federal aid on its own initiative and at its own expense without having to secure state approval. [L 1961, c 34, §1; am L 1963, c 148, pt of §1; Supp, §87C-1; HRS §179-1]

Cross References

Participation in federal flood insurance program, see chapter 126. For county provisions, see §46-11.

§179-2 Definitions. The following terms, whenever used and referred to in this chapter, shall have the following respective meanings, unless a different meaning clearly appears in the context:

"Abnormal tidal action" includes high seas or surf, hurricane floods, and tsunami or seismic waves.

"Board" means the board of land and natural resources.

"Department" means the department of land and natural resources.

"Drainage" means the collection and conveyance of surface or subsurface water, storm runoff, or any other water to a disposal area, or into a watercourse or standing body of water to reduce damage to lands which are not necessarily adjacent to the watercourse or standing body of water, or to reclaim lands for beneficial use.

"Drainage facilities" means any manmade construction undertaken for drainage purposes and shall include conduits, ditches, canals, dikes, embankments, dams, reservoirs, and other appropriate facilities.

"Drainage measures" includes drainage facilities, land treatment, statutory and building code requirements relating to drainage, and any other measures intended to accomplish drainage purposes.

"Flood" means the temporary inundation of usable lands caused by the overflow of an adjacent natural watercourse or standing body of water.

"Flood control", "flood water control", and "flood prevention", mean the minimizing of flood damage, by appropriate protective, preventive, and corrective measures.

"Flood control measures" includes flood control works, land treatment, master planning and zoning to establish encroachment zones along watercourses and adjacent to standing bodies of water, training of flood fighting units, flood disaster plans and operations, and any other measures relating to flood control, flood water conservation and flood damage.

"Flood control plan", "general flood control plan", and "plan" mean the report entitled General Flood Control Plan for Hawaii (Volume II of Flood Control and Flood Water Conservation in Hawaii), published by the board in January, 1963.

"Flood control program" when referring to a specific watershed or subwatershed, means all existing or planned flood control measures relating to such area; when referring to the statewide flood control program means the general flood control plan and all activities of the board and department pursuant to this chapter.

"Flood control project", "federal flood control project", and "state flood control project" mean, respectively: (1) specific flood control works which comprise all or a portion of the works needed to complete a specific flood control program; (2) a flood control project authorized and implemented pursuant to the Federal Flood Control Act of 1936 or the Watershed Protection and Flood Prevention Act of 1958, as amended or supplemented, and (3) a flood control project sponsored and financed by the State and authorized and implemented pursuant to section 179-4(3).

"Flood control works", "works of improvement", "works", or "flood control facilities" mean any manmade construction undertaken to confine storm runoff within a natural watercourse, conserve such runoff, or lessen the energy and effect of abnormal tidal action, and shall include conduits, ditches, canals, levees, dikes, embankments, dams, reservoirs, breakwaters, groins, seawalls, and other appropriate facilities.

"Flood water conservation" means the confinement, storage, and beneficial utilization of storm runoff by the construction, operation, maintenance, and supervision of drainage and flood control facilities.

"Political subdivision" means any of the several counties under existence in the State by virtue of the laws of Hawaii or any legally organized district or political incorporation thereof.

"Standing body of water" means a fresh water pond, lake, or reservoir, or the Pacific Ocean along an extended shoreline or a tidal inlet such as a bay, harbor, pond, or estuary.

"United States" means the United States of America, including the agencies, instrumentalities, officers, agents, or employees thereof.

"Watercourse" or "natural watercourse" means any river, stream, gulch, gully, valley floor, or any other naturally formed channel having a bed and sides or banks in which water flows either perennially or intermittently.

"Natural watercourse" shall also include a drainage ditch in existence after seven years from installation but shall not include a ravine, swale, or similar depression within which water flows only during rainfall. [L 1961, c 34, §2; am L 1963, c 148, pt of §1; Supp, §87C-2; HRS §179-2]

Revision Note

Definitions rearranged.

§179-3 Statewide flood control agency and program.

- (a) The board of land and natural resources, whose functions include under the existing laws of Hawaii, the management and administration of water resources of the State, is hereby designated as the state agency responsible for the accomplishment of the purposes of this chapter.
- (b) All flood control and flood water conservation and related activities, and any attendant powers and duties, heretofore assigned to other state departments or agencies, but not including flood disaster operations, shall be transferred to the board upon the enactment of this law.
- (c) It is declared that the general flood control plan is to be regarded as a general guide for the orderly and coordinated implementation of the statewide flood control program and the specific existing and planned flood control programs comprising the plan to be financed by state funds. This declaration is not to be construed so as to constitute approval of the specific flood control programs included in the plan. Nor shall this declaration be construed so as to prohibit the development of lands bordering watercourses or standing bodies of water. The board may, from time to time, modify the plan to the extent that it finds such to be necessary or desirable. [L 1961, c 34, §3; am L 1963, c 148, pt of §1; Supp, §87C-3; HRS §179-3]

§179-4 Powers, duties, and jurisdiction of the board. In addition to those powers and responsibilities of the board of land and natural resources established by existing law, the board is authorized to implement the declared purposes of this chapter with regard to flood control and flood water conservation in the following manner:

- (1) Coordinate the programs and activities of all agencies of the State, in conformance with the objectives of the statewide flood control program.
- (2) Compile, evaluate, interpret, and disseminate information for technical use and for the general information and education of the people of the State.
- (3) Render technical assistance to the political subdivisions and other agencies of the State only upon request of the affected agencies in matters of master planning, zoning, qualifying for, and constructing federal and state flood control projects, the training of flood fighting units, and related flood control activities.
- (4) With regard to federal flood control projects:
 - (A) Review plans submitted by federal agencies for state approval and make appropriate recommendations to the governor;
 - (B) Formulate and recommend to the legislature a general policy for state participation with the political subdivisions in the assurances of local cooperation required by federal flood control acts;
 - (C) Review requests from political subdivisions for financial assistance in meeting local participation requirements and make appropriate recommendations to the legislature; and
 - (D) Execute and administer agreements with political subdivisions to implement state assurances of participation in federal flood control projects.
- (5) For meritorious proposed projects which do not meet feasibility standards for federal flood control projects:
 - (A) Formulate state feasibility criteria and project funding procedures;
 - (B) Study, evaluate, and determine the feasibility of proposed projects in accordance with established criteria and make recommendations to the legislature;
 - (C) Execute and administer agreements with political subdivisions to assure compliance with the conditions of state projects; and
 - (D) Design, prepare plans and specifications, obtain bids, let contracts, and supervise the construction of state flood control works.
- (6) With regard to projects initiated and financed entirely by political subdivisions, render coordination and aid only if requested by the respective agencies.
- (7) With regard to state ownership of drainageways, coordinate the resolution of drainageway maintenance problems with the appropriate state agency or agencies.
- (8) With regard to multiple jurisdiction of drainageways, the board shall coordinate the resolution of drainageway maintenance problems with all affected political subdivisions.
- (9) With regard to certain streambeds, streambanks, and drainageways whose ownership is not claimed nor determined, the board shall coordinate the resolution of streambed, streambank, and drainageway maintenance problems with the appropriate state agency or agencies.
- (10) The board may promulgate rules to implement this chapter. [L 1961, c 34, §4; am L 1963, c 148, pt of §1; Supp, §87C-4; HRS §179-4; am L 1986, c 121, §3]

Cross References

County maintenance of streams and drainageways, see §46-11.5.