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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,  
DEPARTMENT OF HEALTH, STATE  
OF HAWAII,

Plaintiffs,

v.

DEPARTMENT OF TRANSPORTATION,  
STATE OF HAWAII

Defendant.

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

OCT 06 2005

at 8 o'clock and 30 min. M  
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CIVIL ACTION NO.

CV 05 00636 HG

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CONSENT DECREE  
WITH APPENDICES A - G

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1 The United States of America, on behalf of the United States Environmental Protection  
2 Agency ("EPA"), has filed a Complaint in this matter alleging that the Hawai`i Department of  
3 Transportation ("HDOT") has violated provisions of the Clean Water Act ("Act"), 33 U.S.C.  
4 §§1251- 1387, and the regulations promulgated pursuant to the Act, including the conditions and  
5 limitations of the Hawai`i General Construction Activities Storm Water Permit, HAR 11-55  
6 Appendix C; the Hawai`i General Industrial Activities Storm Water Permit, HAR 11-55  
7 Appendix B; HDOT's Honolulu International Airport NPDES permit, Permit No. HI0021440;  
8 and HDOT's Municipal Separate Storm Sewer System NPDES permit ("MS4") for Oahu, Permit  
9 No. HI0021245 (to be reissued as No. HIS000001). The State of Hawai`i, on behalf of the  
10 Hawai`i Department of Health ("DOH"), joined in the Complaint to bring claims against  
11 Defendants for violations of State law.

12 The Parties recognize, and the Court by entering this Consent Decree finds, that this  
13 Consent Decree has been negotiated by the Parties in good faith and will avoid litigation between  
14 the Parties and that this Consent Decree is fair, reasonable, and in the public interest.

15 NOW, THEREFORE, before the taking of any testimony, upon the pleadings, without  
16 adjudication or admission of any issue of fact or law, and upon consent and agreement of the  
17 Parties, it is hereby ADJUDGED, ORDERED, AND DECREED as follows:

18 **I. GENERAL PROVISIONS**

19 1. Jurisdiction and Venue. This Court has jurisdiction over the subject matter of this  
20 action and over the parties pursuant to 33 U.S.C. §§1319 & 1365 and pursuant to 28 U.S.C.  
21 §§ 1331, 1345, 1355 & 1367. The Complaint states claims upon which relief may be granted  
22 under 33 U.S.C. §1319 and under applicable provisions of State law. Venue is proper in this  
23 District under 33 U.S.C. § 1319(b) and under 28 U.S.C. §§ 1391(b) and (c) & 1395(a), because  
24 the defendant may be found here and because the transactions and occurrences giving rise to the  
25 Complaint occurred here. For purposes of the Decree, HDOT consents to and will not contest  
26 the Court's exercise of personal jurisdiction over HDOT or venue in this District.



1 c. BMP Program Plan (“BMPPP”) shall mean a programmatic chapter under  
2 the Storm Water Management Program Plan (“SWMPP”) that meets the terms and  
3 conditions of the MS4 permit and the requirements of Section V of this Consent Decree  
4 (Injunctive Relief).

5 d. “Clean Water Act” or “Act” shall mean the Federal Water Pollution  
6 Control Act, as amended, 33 U.S.C. §§ 1251–1387.

7 e. “Connection Permit” shall mean a permit issued by HDOT for physical  
8 connections into its Oahu MS4.

9 f. “Critical deficiencies” for purposes of Paragraph 10.g.(2) shall mean those  
10 deficiencies that pose an immediate threat for the discharge of pollutants to the storm  
11 drain system, surface waters, or State waters. Critical deficiencies include, but are not  
12 limited to, the following examples:

13 (1) Any observed discharge, or evidence of discharge, of untreated  
14 storm water or non-storm water to the storm drain system, surface waters, or State  
15 waters generated by the construction activity.

16 (2) Absence of linear barriers and/or perimeter controls required by the  
17 BMP Plan.

18 (3) There are identified storm drain inlets, surface waters, or State  
19 waters within or adjacent to the project site in close proximity to disturbed soil  
20 areas without control measures in place that pose an immediate threat of untreated  
21 storm water discharges.

22 (4) Work in an active stream channel or other surface water body  
23 without proper implementation of required BMPs.

24 (5) Presence of any spilled oil or hazardous materials near to  
25 unprotected storm drain inlet, surface waters, or State waters.

1 g. "Day" shall mean a calendar day unless otherwise specified to be a  
2 working day. "Business Day" shall mean a day other than a Saturday, Sunday, State or  
3 Federal legal holiday. In computing a prescribed period of time, the day of the event shall  
4 not be included. If a stated time period expires on a Saturday, Sunday, State or Federal  
5 legal holiday, it shall be extended to include the next working day.

6 h. "Discharge Permit" shall mean a permit issued by HDOT for discharges  
7 into its Oahu MS4.

8 i. "DOH" shall mean the Hawai'i Department of Health and any of its  
9 successor departments, agencies, or instrumentalities.

10 j. "Encroachment permit project" shall mean a construction project  
11 undertaken by a third party within one of HDOT's rights-of-way and that requires the  
12 issuance by HDOT of a "Permit to Perform Work Upon State Highways".

13 k. "EPA" shall mean the United States Environmental Protection Agency and  
14 any of its successor departments, agencies, or instrumentalities.

15 l. "General Construction Activities Storm Water Permit" refers to the permit  
16 issued by DOH for Construction Activities, HAR 11-55 Appendix C.

17 m. "General Industrial Activities Storm Water Permit" refers to the permit  
18 issued by DOH for Industrial Activities, HAR 11-55 Appendix B.

19 n. "High Priority Watersheds" shall mean those depicted at Appendix A  
20 which is incorporated herein by reference.

21 o. "Industrial Activity" shall have the meaning set forth in 40 C.F.R. §  
22 122.26(b)(14)(i)-(xi), excluding 40 C.F.R. § 122.26(b)(14)(x).

23 p. "Inspection" for purposes of Paragraph 10.k.(2) shall mean, at a minimum,  
24 (1) Visual inspection of the inlet(s) and/or point of connection to the  
25 MS4 for evidence of the presence of pollutants or other illegal discharges;  
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1 (2) Visual inspection of the tributary area for potential sources of  
2 pollutants exposed to stormwater and the presence of BMPs, if any, employed to  
3 prevent the discharge of those pollutants to the MS4; and

4 (3) Discussion with a facility representative to ensure that they know  
5 the difference between allowable discharges to the MS4 and pollutant discharges  
6 which are not allowed to be discharged to the MS4.

7 q. "Major deficiencies" for purposes of Paragraph 10.g.(2) shall mean those  
8 deficiencies that are significant problems which could result in the discharge of pollutants  
9 to the storm drain system, surface waters, or State waters. Major deficiencies include, but  
10 are not limited to, the following examples:

11 (1) No Best Management Practices (BMP) Plan or NPDES permit (if  
12 required).

13 (2) Linear barriers and/or perimeter controls in areas tributary to a  
14 water body or drain inlet are installed as required by the BMP Plan, but are not  
15 functional. This includes silt fences that are not anchored properly, have  
16 collapsed, been driven over or overwhelmed by accumulated sediment.

17 (3) Hazardous materials or waste is stored within the project without  
18 containment or implementation of BMPs.

19 (4) Oil, fuel, or brake or transmission fluid spills covering more than  
20 one square yard and/or adjacent to protected storm drain inlets, surface waters, or  
21 State waters.

22 (5) Any discharge of sediment or other deleterious material resulting  
23 from dewatering operations conducted without implementation of required BMPs  
24 for dewatering.

25 (6) Sediment tracking more than 50 feet from project ingress/egress  
26 location(s).

1 (7) Expansion of the active disturbed soil area limit without written  
2 approval.

3 (8) Soil stabilization and sediment controls are not installed in  
4 accordance with applicable construction site BMP Plan.

5 (9) Sediment controls are installed in accordance with the BMP Plan,  
6 but there is a large unstabilized disturbed soil area with insufficient controls  
7 downgradient to prevent the discharge of untreated storm water to the storm drain  
8 system, surface waters, or State waters if a rain event generates runoff.

9 (10) Dust from project site visibly blowing off the site and into storm  
10 drain conveyances or adjacent surface water bodies.

11 r. "Master Consultant" shall mean the consultant or consultants procured by  
12 HDOT in order to provide various functions in support of the requirements of this  
13 Consent Decree.

14 s. "Minor deficiencies" for purposes of Paragraph 10.g.(2) shall mean those  
15 deficiencies that do not pose a threat for discharge of untreated storm water or pollutants  
16 to the storm drain system, surface waters, or State waters, but are not in strict  
17 conformance with the SWPPP or BMP Plan. Minor deficiencies include, but are not  
18 limited to, the following examples:

19 (1) BMP Plan does not reflect current operations and an amendment is  
20 recommended.

21 (2) BMPs are not deficient, but are not consistent with the BMP Plan.

22 (3) Linear barriers and/or perimeter controls are installed as required  
23 by the BMP Plan, but require minor maintenance. For example, a silt fence which  
24 is not anchored properly throughout the entire length or an inlet protection device  
25 with some accumulated silt.

1 (4) Soil stabilization or sediment controls are installed as required by  
2 the BMP Plan, but not properly maintained.

3 (5) Site inspections by project staff are not being conducted at the  
4 required frequencies.

5 (6) Non-storm water or waste management BMPs improperly  
6 maintained.

7 (7) Oil, fuel, or brake or transmission fluid spills covering less than  
8 one square yard and not adjacent to storm drain inlets, surface waters, or State  
9 waters.

10 (8) Evidence of active wind erosion on unstabilized slopes/stock piles.

11 (9) Minor tracking less than 50 feet from project ingress/egress  
12 locations.

13 (10) Major deficiencies which are corrected prior to the inspector  
14 leaving the site.

15 t. "MS4 Permit" refers to the NPDES permit issued by DOH to HDOT  
16 Highways Division for discharges from HDOT's municipal separate storm sewer system  
17 on the Island of Oahu and designated as Permit No. HI0021245 and to be reissued as No.  
18 HIS000001.

19 u. "Notice of Intent" shall mean a request for coverage under a General  
20 Permit.

21 v. "Parties" means the United States, on behalf of EPA; the State, on behalf  
22 of DOH; and HDOT.

23 w. "Responsible Officer" shall mean an official of HDOT in charge of storm  
24 water program functions for either the Highways Division or the Airports Division, or any  
25 other person who performs similar policy or decision making functions for HDOT and is  
26 authorized as set forth at 40 C.F.R. § 122.22.



1 Activities Storm Water permit, HAR 11-55 Appendix B; and the Hawai'i General Construction  
2 Activities Storm Water permit, HAR 11-55 Appendix C.

3 **III. APPROVAL PROCESS**

4 5. Approval of Deliverables. After review of any plan, report, or other item that is  
5 required to be submitted pursuant to this Consent Decree, EPA and DOH shall in writing: (a)  
6 approve the submission; (b) approve the submission upon specified conditions; (c) approve part  
7 of the submission and disapprove the remainder; or (d) disapprove the submission.

8 a. If the submission is approved pursuant to Paragraph 5.(a), HDOT shall  
9 take all actions required by the plan, report, or other document, in accordance with the  
10 schedules and requirements of the plan, report, or other document, as approved. If the  
11 submission is conditionally approved or approved only in part, pursuant to Paragraph  
12 5.(b) or (c), HDOT shall, upon written direction of EPA and DOH, take all actions  
13 required by the approved plan, report, or other item that EPA and DOH determine are  
14 technically severable from any disapproved portions, subject to HDOT's right to dispute  
15 only the specified conditions or the disapproved portions, under Section X of this Decree  
16 (Dispute Resolution).

17 b. If the submission is disapproved in whole or in part pursuant to Paragraph  
18 5.(c) or (d), HDOT shall, within 30 business days or such other time as agreed to in  
19 writing, correct all deficiencies and resubmit the plan, report, or other item, or  
20 disapproved portion thereof, for approval, in accordance with the preceding Paragraphs.  
21 If the resubmission is approved in whole or in part, HDOT shall proceed in accordance  
22 with the preceding Subparagraph.

23 6. Any Stipulated Penalties applicable to the original submission, as provided in  
24 Section VIII of this Decree, shall accrue during the 30-day period or other period specified for  
25 resubmission, but shall not be payable unless the resubmission is untimely or is disapproved in  
26 whole; provided that, if the original submission was so deficient as to constitute a material breach

1 of HDOT's obligations under this Decree, the Stipulated Penalties applicable to the original  
2 submission shall be due and payable notwithstanding any subsequent resubmission.

3 7. If a resubmitted plan, report, or other item, or portion thereof, is disapproved in  
4 whole or in part, EPA and DOH may again require HDOT to correct any deficiencies, in  
5 accordance with the preceding Paragraphs, or may itself correct any deficiencies, subject to  
6 HDOT's right to invoke Dispute Resolution and to the right of EPA and DOH to seek Stipulated  
7 Penalties as provided in the preceding Paragraphs.

#### 8 **IV. CERTIFICATION OF REPORTS AND SUBMISSIONS**

9 8. Except as otherwise expressly provided in this Consent Decree, any report or  
10 other document submitted by HDOT pursuant to this Decree that makes any representation  
11 concerning compliance or noncompliance with any requirement of this Decree, the Act or its  
12 implementing regulations, or any applicable permit, shall be certified by a Responsible Officer of  
13 HDOT. The certification shall be in the following form:

14 I certify under penalty of law that I have examined and am familiar with the  
15 information submitted in this document and all attachments and that this  
16 document and its attachments were prepared either by me personally or under my  
17 direction or supervision in a manner designed to ensure that qualified and  
18 knowledgeable personnel properly gather and present the information contained  
19 therein. I further certify, based on my personal knowledge or on my inquiry of  
20 those individuals immediately responsible for obtaining the information, that the  
21 information is true, accurate and complete. I am aware that there are significant  
22 penalties for submitting false information, including the possibility of fines and  
23 imprisonment for knowingly and willfully submitting a materially false statement.

#### 20 **V. INJUNCTIVE RELIEF**

##### 21 Highways Division Oahu District MS4

##### 22 Compliance with December 2003 SWMPP and Additional Requirements

23 9. Upon entry of this Consent Decree, HDOT shall fully and completely implement  
24 its December 2003 Storm Water Management Program Plan ("SWMPP"). In addition, HDOT  
25 shall also comply with the additional requirements set out below at Paragraphs 9.a - 9.g. For  
26 each of these additional requirements, HDOT shall make and submit the necessary modifications  
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1 to its SWMPP and implement those modifications upon submittal. HDOT shall make additional  
2 modifications as requested by EPA and DOH, in accordance with Section III (Approval Process).

3 a. Debris Removal Best Management Program

4 (1) Within 60 days of entry of this Consent Decree HDOT shall  
5 modify, and implement accordingly, the Street Sweeping Schedule as set out as  
6 Table II-1 of the December 2003 SWMPP so as to provide for the sweeping of all  
7 state highway segments on Oahu (shoulders and medians) at least as frequently as  
8 set forth in this Paragraph. A list of roadway segments and their respective  
9 minimum sweeping frequencies is set out at Appendix B and incorporated herein  
10 by reference. HDOT may propose revisions to this modified Street Sweeping  
11 schedule when it submits the revised SWMPP in accordance with Paragraph 10.f  
12 below.

13 (2) Within 60 days of entry of this Consent Decree, HDOT shall  
14 modify, and implement accordingly, the Storm Drainage Structure Inspection  
15 Schedule as set out as Table II-2 of the December 2003 SWMPP so as to provide  
16 for the inspection and necessary cleaning, as provided for at Pages DR3-1 and  
17 DR3-2, of all state highway storm drainage system gutters, swales, open channels/  
18 ditches, culverts, drain inlets, catch basins, manholes, outfalls, and other  
19 accessible discharge points that are appurtenant to all state highway segments on  
20 Oahu according to the requirements of this Paragraph. The minimum inspection  
21 and cleaning frequencies required by this Subparagraph are set out at Appendix C  
22 and incorporated herein by reference. HDOT may propose revisions to this  
23 modified Storm Drainage Structure Inspection Schedule when it submits the  
24 revised SWMPP per Paragraph 10.f, below.

25 (3) Within two years of entry of this Consent Decree, HDOT shall  
26 develop and implement a comprehensive asset management system for the Oahu  
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1 District's storm drain system and related appurtenances, including maintenance  
2 equipment, to ensure appropriate debris removal and system maintenance. The  
3 asset management system shall include justification of its priorities on the basis of  
4 potential impacts to water quality and shall, at a minimum, include identification  
5 of the number and location of all drain inlets and outfalls. HDOT shall use this  
6 asset management system to establish priorities and to schedule and track  
7 appropriate system maintenance and debris removal program activities, such as  
8 street sweeping, catch basin cleaning, and green waste and accumulated soil  
9 removal. The asset management system shall be included in the modified  
10 SWMPP upon its completion.

11 b. Construction Activities BMP Program

12 (1) Within 90 days after entry of this Decree, HDOT shall provide a  
13 copy of the current edition of the City and County of Honolulu's "Best  
14 Management Practices Manual for Construction Sites in Honolulu" ("CCH  
15 Manual"), to all appropriate staff involved in construction, including contractors  
16 and in-house employees (including employees of the Maintenance Section who  
17 are either directly or indirectly involved in the implementation of activities under  
18 either the SWMPP and/or this Consent Decree), those involved in work done  
19 pursuant to encroachment permits, and those involved in erosion control projects.  
20 For the purposes of this Subparagraph, it shall be sufficient for HDOT to provide  
21 to the offices listed in Appendix G, at a minimum, the number of CCH Manuals  
22 specified in Appendix G. Within 90 days after entry of the Consent Decree, any  
23 Contractor (either professional consultant or construction contractor) involved  
24 with construction at HDOT facilities or within State Highways rights-of-way shall  
25 be required to obtain the CCH Manual.

1 (2) HDOT shall provide annual training on the Construction BMP  
2 Program Plan to all staff with construction storm water responsibilities, including  
3 construction engineers, maintenance staff, and plan reviewers. This training shall  
4 be specific to HDOT activities (including the proper installation and maintenance  
5 of approved BMPs), policies, and procedures. The first annual training shall be  
6 conducted by no later than September 15, 2005 or within 30 days after entry of  
7 this Decree, whichever is later.

8 (3) Beginning 30 days after entry of this Decree, HDOT shall not  
9 allow construction to commence on any contract, in-house, or encroachment  
10 permit project unless and until it (a) has verified that the project has received from  
11 DOH a Notice of General Permit Coverage under the Hawai'i General  
12 Construction Activities Storm Water permit (unless the project will disturb less  
13 than one acre of land) and has satisfied any other applicable requirements of the  
14 Hawai'i NPDES permit program, and (b) has reviewed the applicable Site-  
15 Specific BMP Plan to verify that it fully meets all requirements of the following,  
16 to the extent that they are applicable: (i) HDOT's Standard Provisions (Sections  
17 107.17 and 209); (ii) Water Pollution and Erosion Control Notes; (iii) NPDES  
18 Requirements for Permit Projects Within State Highway Right-of-Way Notes; (iv)  
19 the General Construction Activities Storm Water NPDES permit; and (v) any  
20 other applicable requirements of the Hawai'i NPDES permit program. For  
21 encroachment permit projects, HDOT shall only be responsible for the activities  
22 described in Subparagraphs 9.b.(1) and 9.b.(3) above, for work that occurs within  
23 HDOT rights-of-way.

24 (4) Within 10 business days after entry of this Decree, HDOT shall  
25 submit for approval a checklist that its reviewers shall use in evaluating the BMP  
26 plans pursuant to this Paragraph. Upon approval, HDOT shall provide copies of  
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1 this checklist to applicants for encroachment permits and to contractors for their  
2 use in developing construction Site-Specific BMP Plans for HDOT-contracted  
3 construction projects.

4 (5) Upon entry of this Decree, prior to the initiation of ground-  
5 disturbing activities at any Site, except for activities associated with the  
6 installation of BMPs at a Site, no other construction activities may commence  
7 until an HDOT engineer (or an engineer retained by HDOT) or qualified inspector  
8 reviews and becomes familiar with the projects' site-specific BMP plan and  
9 inspects the Site to determine whether the BMPs required by the BMP plan have  
10 been installed correctly and in the correct locations. The engineer or qualified  
11 inspector who conducts this inspection shall document that the BMPs required by  
12 the BMP plan have been installed correctly and in the correct locations prior to the  
13 commencement of any other ground-disturbing activity.

14 c. Chemical Applications BMP Program. Within 60 days after entry of this  
15 Decree, HDOT shall develop and implement a specific training program, for all potential  
16 appliers (bulk and hand-held) of fertilizers, pesticides, and herbicides, in the proper  
17 application of those substances. HDOT shall not permit the application of fertilizers,  
18 pesticides, or herbicides unless the applier has first received this training.

19 d. Erosion Control BMP Program. Within 180 days after entry of this  
20 Decree, HDOT shall submit for approval a plan for the completion of high priority  
21 erosion control projects on all of the sites listed in Appendix D which is incorporated  
22 herein by reference. This plan shall include for each site, at a minimum: the proposed  
23 erosion control methodology to be utilized; construction schedule; cost estimate;  
24 completion criteria; and a schedule for post-completion inspection and maintenance. All  
25 erosion control projects to be done under this Subparagraph shall be completed by no  
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1 later than two years after entry of this Decree. HDOT shall continue to perform  
2 maintenance activities on completed projects as necessary.

3 e. Maintenance Facilities BMP Program

4 (1) Within 90 days after entry of this Decree, HDOT shall develop and  
5 implement, for each maintenance baseyard located on Oahu, a site-specific  
6 SWPCP that includes, among other things, a detailed site plan, site description,  
7 and facility layout, description of potential pollutant sources, site-specific BMPs,  
8 inspection procedures, and spill cleanup procedures. An individual at each facility  
9 (e.g., yard foreman) shall be charged with ensuring implementation of the  
10 SWPCP. This individual shall be trained to conduct inspections and identify areas  
11 for BMP improvement. To ensure consistency and provide assistance and  
12 oversight, HDOT shall identify an individual, also trained to conduct inspections  
13 and identify areas for BMP improvement and independent of any specific  
14 baseyard, who shall conduct inspections of all six baseyards at least quarterly.

15 (2) HDOT shall develop and implement a formal storm water  
16 awareness training program for Oahu District Maintenance supervisors and staff  
17 that identifies potential sources of pollution, general BMPs that can be used to  
18 reduce or eliminate such sources, and specific BMPs for the District's facilities  
19 and activities. The training shall incorporate elements of the public education  
20 campaign being implemented by the City and County of Honolulu and shall  
21 educate staff that they serve a role in protecting water quality. Maintenance  
22 supervisors and staff shall be made aware of the NPDES permit, the overall  
23 SWMPP, the SWPCP for their baseyard, and the applicable BMPPP(s). HDOT  
24 shall conduct the first round of this training by no later than September 15, 2005  
25 or within 30 days after entry of this Decree, whichever is later.

26 f. New Development and Significant Redevelopment BMP Program Plan

1 (1) Within 90 days of the commencement of services by the Master  
2 Consultant, or within 180 days of entry of this Decree, whichever comes first,  
3 HDOT shall develop and implement specific criteria establishing when permanent  
4 post-construction BMPs must be included in project design to address storm water  
5 impacts and pollutants of concern. These criteria shall take into consideration,  
6 among other things, potential water quality impacts anticipated from the  
7 permanent post-construction conditions. Permanent post-construction BMPs to be  
8 considered shall include those designed to treat storm water runoff and other  
9 structural type devices.

10 (2) Upon approval of the criteria established under Paragraph 9.f.(1),  
11 above, HDOT shall not advertise any construction project or award any  
12 construction contract unless and until the project design has been reviewed to  
13 ensure that appropriate permanent post-construction BMPs have been included in  
14 the project design and are included in the bid package. No project shall proceed  
15 without the inclusion of appropriate permanent post-construction BMPs unless  
16 there is specific documentation demonstrating that such post-construction BMPs  
17 are not practicable. For the purposes of this Paragraph and for a period not to  
18 exceed 60 days after approval of the criteria, matters concerning the timing or  
19 scheduling of a project may be considered as a reason that post-construction  
20 BMPs are not practical for inclusion in the project design. Project documents for  
21 projects that will include installation of permanent post-construction BMPs shall  
22 also include appropriate requirements for their future continued maintenance.

23 (3) Upon approval of the criteria established under Paragraph 9.f.(1),  
24 HDOT shall not issue any encroachment, discharge, or connection permit for any  
25 project that requires NPDES permit coverage under the General Construction  
26 Activities Storm Water Permit unless and until the project design has been  
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1 reviewed to ensure that appropriate permanent post-construction BMPs have been  
2 included in the project design and are included in the permit application package.  
3 No encroachment, discharge, or connection permit shall be issued without the  
4 inclusion of appropriate permanent post-construction BMPs unless there is  
5 specific documentation demonstrating that such post-construction BMPs are not  
6 practicable. Permit documents for applications that will include installation of  
7 permanent post-construction BMPs shall also include appropriate requirements for  
8 their future continued maintenance.

9 g. Illicit Connection / Illegal Discharge Elimination Program

10 (1) HDOT shall complete follow-up investigations on all industrial,  
11 commercial, and high-density residential parcels discharging to HDOT's MS4 that  
12 are indicated in the December 2000 Storm Water Questionnaire Survey of Parcels  
13 Adjacent to Highway Rights-of-Way ("Questionnaire Survey"). Follow-up  
14 investigations shall be ranked as follows: parcels identified in the Questionnaire  
15 Survey as priorities 1-4 shall be considered as Tier 1 parcels; parcels identified as  
16 priorities 5-16 shall be considered as Tier 2 parcels; and parcels identified as  
17 priorities 17-30 shall be considered as Tier 3 parcels. Each such investigation  
18 shall be deemed completed upon either (a) the issuance of a discharge or  
19 connection permit, or (b) sufficient documentation to support a conclusion that no  
20 discharge or connection permit is necessary because (i) there is no physical  
21 connection present, or (ii) the only potential discharges from non-industrial  
22 activities are by overland sheet flow. Tier 1 investigations shall be completed  
23 within 18 months after entry of this Decree. All Tier 2 and Tier 3 investigations  
24 shall be completed within 3 years after entry of this Decree.

25 (2) Within 60 days after entry of this Decree, HDOT shall transmit to  
26 DOH full electronic and paper copies of its survey parcel database, sorted by SIC  
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code. HDOT shall provide electronic and paper updates to this list, reflecting outcomes of the investigations discussed above, on an annual basis in its Annual Report.

SWMPP Revisions

10. HDOT shall revise and submit for approval its Oahu District Storm Water Management Program Plan (“SWMPP”) to incorporate the requirements set out at Paragraphs 9.a - 9.g, above, and at Paragraphs 10.a - 10.k, below. Unless specified otherwise, HDOT shall submit the revised SWMPP within 240 days of the commencement of services by the Master Consultant, or within one year of entry of this Decree, whichever comes first. Upon its submittal, HDOT shall fully and completely implement all parts of the revised SWMPP, which shall supersede the December 2003 SWMPP. HDOT shall make additional modifications as requested by EPA and DOH, in accordance with Section III (Approval Process).

a. Storm Water Management Program Structure. HDOT shall revise its SWMPP to include a formal storm water management program structure for the Oahu District MS4 program that includes, at a minimum, designated storm water contacts for each Highways Division branch, program, and field office, as appropriate. An organization chart to reflect this structure shall also be developed and submitted. For each designated contact, HDOT shall include a description of the position’s roles and responsibilities for the storm water program. HDOT shall hold monthly meetings with these contacts to discuss implementation and evaluation of the storm water program. HDOT shall maintain copies of the sign-in sheets for these meetings in accordance with Paragraph 52, below, and these shall be made available to EPA and DOH upon request.

b. Measurable Goals. HDOT shall revise its SWMPP to include a combination of both direct and indirect objective, quantitative standards (“measurable goals”) that can be used to measure progress under each specific program element in its SWMPP. In its SWMPP, HDOT shall incorporate the specific measurable goals

1 identified in other parts of this Consent Decree in addition to developing other  
2 appropriate measurable goals.

3 c. Training and Education

4 (1) HDOT shall revise its SWMPP to establish a training program  
5 such that all HDOT staff and management involved in storm water management  
6 activities shall receive at least annual storm water training in the requirements of  
7 each program element for which they have responsibility. This training program  
8 shall include, at a minimum, for each program element: (a) identification and  
9 qualifications of the trainers; (b) training in, at a minimum for each program  
10 element, the following topic areas: review of applicable measurable goals; the  
11 selection and implementation of appropriate BMPs; and review of storm water  
12 regulations, permits, and the terms of this Consent Decree; and (c) appropriate  
13 documentation of training activities.

14 (2) To the extent that HDOT utilizes contractors, with the exception of  
15 general contractors used to construct contract construction projects, to implement  
16 any SWMPP activities, HDOT shall require that such contractors receive training  
17 equivalent to that included in HDOT's training program in all applicable areas.

18 (3) No less than annually, HDOT shall offer appropriate storm water  
19 runoff management training to general contractors and subcontractors used to  
20 construct HDOT's contract construction projects. Such training shall emphasize  
21 sediment and erosion control requirements and BMPs (Chapter 2 in the CCH  
22 manual), but shall additionally cover, in appropriate detail, requirements and  
23 BMPs for all of the other Contractor Activities covered in Chapter 1 of the CCH  
24 Manual.

25 (4) Prior to the issuance of any Notice to Proceed, or the equivalent, to  
26 any contractor on any contract construction project, HDOT shall hold a  
27

1 preconstruction meeting with the project's prime contractor during which the  
2 requirements of the General Construction Activities Storm Water Permit shall be  
3 discussed, as well as (a) Standard Provisions (Sections 107.17 and 209); (b)  
4 "Water Pollution and Erosion Control Notes"; and (c) the applicable requirements  
5 of this Consent Decree.

6 d. Monitoring of Program Effectiveness. HDOT shall revise its SWMPP to  
7 include a discussion of specific activities to be undertaken in order to assess BMP  
8 effectiveness, including an evaluation of success in achieving measurable goals and a  
9 discussion of available and applicable water quality monitoring data. Assessments of  
10 program effectiveness shall be conducted at least annually and be reported in HDOT's  
11 End-of-Year Reports.

12 e. Reporting. HDOT shall revise its SWMPP to include a description of  
13 reporting procedures and activities, including schedules and proposed content of semi-  
14 annual and annual reports such that, at a minimum, the following is reported for each  
15 storm water program element (BMP Program) in each Mid-Year and End-of-Year Report:

16 (1) Requirements: description of what HDOT was required to do  
17 (permit requirements, EPA or DOH orders for compliance, or other commitments  
18 set forth in the SWMPP and this Consent Decree);

19 (2) Past Year Activities: description of activities over the reporting  
20 period including, where applicable, progress accomplished toward meeting  
21 specific measurable goals or other specific performance requirements and  
22 including, when requirements were not fully met, a detailed explanation as to why  
23 HDOT did not meet its commitments for the reporting period;

24 (3) Future Activities: description of planned activities including,  
25 where applicable, specific activities to be undertaken during the next reporting  
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1 period toward accomplishing specific measurable goals or other specific  
2 performance requirements;

3 (4) Resources: report on the status of HDOT's resource base for  
4 implementing both this Consent Decree and HDOT's NPDES permit during the  
5 applicable reporting period, together with an estimate of the resources over and  
6 above those required in the current reporting period that will be required in the  
7 next reporting period.

8 f. Debris Removal Best Management Practices Program. HDOT shall revise  
9 its SWMPP to develop procedures and a schedule for inspections of:

10 (1) all state highways on Oahu for the purpose of identifying whether  
11 sweeping or brooming of roadways, shoulders, or medians is needed, and

12 (2) all state highway storm drainage system catch basins, gutters and  
13 open ditches, trenches, and storm drains on Oahu for the purpose of identifying  
14 whether cleaning of such structures is needed.

15 In both cases identified in the preceding Subparagraphs, the need for sweeping, brooming, or  
16 structure cleaning shall, in addition to other criteria, be determined based upon material  
17 accumulation rates and potential threat of discharges to waters of the United States that may have  
18 an effect on water quality. The schedule shall provide that each highway mile and storm  
19 drainage feature is inspected at least once annually, but that highway segment drainages and their  
20 associated storm features that are located in High Priority Watersheds shall be inspected at least  
21 semiannually. The adopted procedures shall also provide for the identification of other highway  
22 segments (in addition to those located in High Priority Watersheds) and their associated storm  
23 drainage features that may require more frequent sweeping, brooming, or structure cleaning  
24 based upon material accumulation rates and potential threat of discharges to waters of the United  
25 States that may have an effect on water quality. The procedures shall establish debris  
26 accumulation thresholds above which sweeping, brooming, or structure cleaning must occur.

1 g. Construction Activities BMP Program.

2 (1) HDOT shall revise the following documents to require use of the  
3 CCH Manual and the City and County of Honolulu's "Rules for Soil Erosion  
4 Standards and Guidelines," April 1999: (a) Standard Provisions (Sections 107.17  
5 and 209); (b) "Water Pollution and Erosion Control Notes"; and (c) "NPDES  
6 Requirements for Permit Projects Within State Highway Right-of-Way Notes."  
7 These revised documents shall be used, to the extent applicable, on all contract,  
8 in-house, and encroachment permit construction projects on Oahu. HDOT shall  
9 incorporate these revised documents, either explicitly or by reference, into its  
10 revised SWMPP.

11 (2) HDOT shall revise its SWMPP to specify mandatory minimum  
12 project inspection and enforcement requirements for use at all construction sites  
13 as follows:

14 (a) In addition to inspections required by the Hawai'i General  
15 Construction Activities Storm Water permit, and as otherwise required  
16 under the Hawai'i NPDES permit program, all in-house and contract  
17 construction projects shall be inspected at least monthly by a qualified  
18 construction inspector who is independent (i.e., not involved in the  
19 projects' day-to-day planning, design, or implementation) of the  
20 construction projects to be inspected. HDOT may use more than one  
21 qualified construction inspector for these inspections. HDOT, in  
22 consultation with DOH, shall develop and implement a standard  
23 inspection form, and reporting procedures for use in these inspections.  
24 The inspection form shall include, at a minimum, a checklist for the proper  
25 installation of BMPs specified in the BMP plan, and the reporting  
26 procedures shall include, at a minimum, notification of critical deficiencies

1 to the Director of HDOT and DOH. Upon three successive monthly  
2 inspections that indicate, in total, no critical or major deficiencies or less  
3 than six minor deficiencies with no more than three minor deficiencies in  
4 one month in a project's BMPs or other storm water management  
5 activities, HDOT may decrease the inspection frequency for such project  
6 to quarterly. However, if while under a quarterly inspection frequency, an  
7 inspection of a project conducted pursuant to this Paragraph indicates at  
8 least one critical or major deficiency or a total of three or more minor  
9 deficiencies in the project's BMPs or other storm water management  
10 activities, the inspection frequency shall immediately return to no less than  
11 monthly. HDOT shall further develop and implement written procedures  
12 for appropriate corrective actions and follow-up inspections when an  
13 inspected project is not in full compliance with this Consent Decree, the  
14 HDOT MS4 permit, the Hawai'i General Construction Activities Storm  
15 Water permit, or any other applicable requirements under the Hawai'i  
16 NPDES permit program. The corrective action procedures shall at a  
17 minimum require that (i) any critical deficiencies shall be corrected or  
18 addressed before the close of business on the day of the inspection at  
19 which the deficiency is identified, and (ii) any major deficiencies shall be  
20 corrected or addressed as soon as possible, but in no event later than five  
21 business days after the inspection at which the deficiency is identified or  
22 before the next forecasted precipitation, whichever is sooner.

23 (b) All encroachment permit construction projects shall be  
24 inspected at least once during the life of the project, and any project of the  
25 types listed immediately below shall be inspected at least annually if it  
26 continues longer than one year's duration:  
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- 1                                   1)     Housing/commercial development improvements
- 2                                   which include large roadway and utility improvements or any
- 3                                   grading within HDOT's rights-of-way;
- 4                                   2)     Utility main installation (waterlines, sewerlines,
- 5                                   underground electrical lines, etc.);
- 6                                   3)     Landscape/irrigation installation (e.g. median
- 7                                   beautification projects); and
- 8                                   4)     Drainline connections.

9 All inspections shall be conducted by a qualified construction inspector. HDOT may use more  
10 than one qualified construction inspector for these inspections. HDOT, in consultation with  
11 DOH, shall develop and implement a standard inspection form and reporting procedures for use  
12 in these inspections. The inspection form shall include, at a minimum, a checklist for the proper  
13 installation of BMPs specified in the BMP plan, and the reporting procedures shall include, at a  
14 minimum, notification of any critical deficiencies to the Director of HDOT and DOH. HDOT  
15 shall further develop and implement written procedures for appropriate corrective actions and  
16 follow-up inspections when an inspected project is not in full compliance with this Consent  
17 Decree, the HDOT MS4 permit, or the Hawai'i General Construction Activities Storm Water  
18 permit.

19                   h.     Erosion Control Best Management Practices Program. HDOT shall revise  
20 its SWMPP as follows:

- 21                                   (1)     HDOT shall include water quality impacts as a priority in selecting
- 22                                   projects for erosion control improvements, ensuring that erosional areas with the
- 23                                   potential for significant water quality impact, but with limited public safety
- 24                                   concerns, are also considered a high priority for remediation. Erosional areas with
- 25                                   the potential for significant water quality impact shall include areas where there is
- 26                                   evidence of rilling or gullyng or other evidence of significant sediment transport
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- 28

1 and that are located within High Priority Watersheds. HDOT shall identify and  
2 implement erosion control projects based on water quality concerns while  
3 continuing to address high profile public safety projects.

4 (2) HDOT shall require the prompt implementation of temporary  
5 erosion control measures (e.g., erosion control blankets or fabrics, gravel bags,  
6 and silt fence/fiber rolls) on the erosional areas with the potential for significant  
7 water quality impact identified in the preceding Subparagraph if a permanent  
8 solution is not immediately possible.

9 (3) HDOT shall modify the list of approved erosion and sediment  
10 control BMPs to include, at a minimum, at least all of those contained in the CCH  
11 Manual. The revised SWMPP shall also provide for the implementation of  
12 alternative erosion and sediment control BMPs where appropriate.

13 (4) HDOT shall undertake a program to evaluate the erosional  
14 potential of storm drain system outlets that discharge downslope of the roadbed.  
15 Where discharge points are observed to be creating erosional conditions, HDOT's  
16 program shall require installation of velocity dissipaters or other BMPs to reduce  
17 the risk of continued erosion at these locations.

18 i. Maintenance Facilities BMP Program. HDOT shall develop and  
19 implement a written set of maintenance BMPs for routine and emergency in-house  
20 activities. Activity-specific BMPs shall be organized as a manual and be created in a  
21 format that facilitates its use by field staff. It shall be distributed to all field staff and  
22 shall complement the overall goals of the BMPPP.

23 j. New Development and Significant Redevelopment BMP Program Plan.  
24 HDOT shall revise its SWMPP to add the following additional permanent post-  
25 construction BMPs to the current list in Section 3 of the New Development and  
26 Significant Redevelopment BMP Program Plan (Section VIII M of the December 2003  
27  
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1 SWMPP): infiltration basins, infiltration trenches, media filters, Continuous Deflective  
2 Separation (CDS) units, and similar technologies.

3 k. Illicit Connection / Illegal Discharge Elimination Program. HDOT shall  
4 revise its SWMPP as follows:

5 (1) HDOT shall develop procedures for identifying and responding to  
6 possibly illicit connections and illegal discharges. These procedures shall include,  
7 but not be limited to, specific time deadlines for responding to identified  
8 discharges. Such identification and response procedures shall be coordinated with  
9 the inspection procedures required under the revised Debris Removal Best  
10 Management Practices Program set forth in Paragraph 10.f, above.

11 (2) HDOT shall develop a program to conduct inspections of industrial  
12 and commercial holders of connection and discharge permits to its MS4. This  
13 industrial/commercial inspection program shall include scheduling inspections  
14 such that each industrial facility is inspected at least once every five years. Any  
15 industrial facility that does not have NPDES permit coverage under the Hawai'i  
16 NPDES permit program shall be reported to DOH no later than 30 days after the  
17 inspection date. Commercial dischargers are to be ranked according to relative  
18 risk of discharge of contaminated runoff to HDOT's MS4. The highly ranked  
19 commercial facilities shall be inspected at least once every 5 years. This  
20 industrial/commercial inspection program shall be updated as appropriate to  
21 reflect the outcomes of the investigations discussed in the preceding  
22 Subparagraph.

23 11. Highways Division Construction Activities on Other Islands. On a statewide  
24 basis HDOT shall implement all of the revised construction program activities requirements  
25 pursuant to Paragraphs 9.b, 10.g.(1), and 10.g.(2)(a), above, and all of the revised New  
26 Development and Significant Redevelopment project activities requirements pursuant to

1 Paragraphs 9.f and 10.j, above, on all HDOT construction projects (including contract and in-  
2 house projects) that are subject to NPDES storm water permit requirements, except that  
3 references in Paragraph 10.g.(1) to the CCH "Rules for Soil Erosion Standards and Guidelines"  
4 (April 1999) shall be modified to require use and adoption of each county's comparable and  
5 applicable standards. The time deadlines contained in the referenced Paragraphs shall apply on  
6 the Other Islands under this Paragraph.

7 Airports Division

8 Airport Tenant Inspections and Enforcement

9 12. Within 90 days after entry of this Decree, HDOT shall submit to EPA and DOH a  
10 written program of procedures for airport tenant inspection and enforcement that shall be used at  
11 Honolulu International, Lihue, and Kahului airports, in accordance with the requirements of this  
12 Paragraph. HDOT shall implement the procedures upon their submission to and approval by  
13 EPA and DOH. HDOT shall make modifications as requested EPA and DOH, in accordance  
14 with the requirements of Section III (Approval Process). This tenant inspection and enforcement  
15 program shall provide, at a minimum, for the following:

16 a. HDOT shall develop procedures and schedules for inspections of all  
17 airport tenants, including all those located away from the airports proper (e.g., on Aolele  
18 and Ualena Streets in Honolulu). At each airport, HDOT shall rank each tenant for its  
19 relative potential either to contribute pollutants to storm water runoff or to have a non-  
20 storm water discharge either into the airport storm sewer system or otherwise into waters  
21 of the United States. Rankings shall be made on a low/medium/high threat basis.  
22 Tenants that have separate NPDES permit coverage shall always be ranked as high threat.  
23 At least once each calendar year, HDOT shall review its tenant lists and these rankings  
24 and update them as necessary. This updated list shall be submitted as part of HDOT's  
25 Annual Report.

26 b. HDOT shall inspect each tenant/facility in each ranking class as follows:  
27  
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1 (1) High ranked tenants, other than those that have separate NPDES  
2 permit coverage, shall be inspected at least quarterly.

3 (2) High ranked tenants that have separate NPDES permit coverage  
4 shall be inspected at least annually. HDOT shall submit a copy of each report of  
5 these inspections to DOH within 30 days of the date of the inspection.

6 (3) Medium ranked tenants shall be inspected at least annually.

7 (4) Low ranked tenants shall be inspected at least biennially.

8 (5) HDOT shall inspect each of its airport maintenance baseyards at  
9 least quarterly. HDOT shall submit a copy of each report of these inspections to  
10 DOH within 30 days of the date of the inspection.

11 c. Procedures for inspection of airport tenants and maintenance yards shall  
12 require a written record of the inspection such as either a checklist or form. At a  
13 minimum, such checklist or form shall for each inspection identify: facility name,  
14 address, contact name, contact telephone number, and SIC code; inspection date;  
15 inspector name; BMPs evaluated; inspection findings; and recommended follow-up  
16 actions. Copies of all inspection reports shall be maintained for a minimum of 5 years  
17 and shall be made available to EPA or DOH upon request.

18 d. Procedures for enforcement against tenants with inadequate BMPs or non-  
19 storm water discharges shall include identification of a range of enforcement responses  
20 available to HDOT, clear guidelines for selection of an enforcement response appropriate  
21 to the tenant deficiency at issue, guidelines for escalating the initial enforcement response  
22 for multiple or repeated violations, and follow-up inspections to ensure the problems have  
23 been corrected.

24 e. HDOT shall develop procedures for training of HDOT and contract  
25 management staff charged with implementing or overseeing airport tenant inspection and  
26 enforcement activities.

1           13.    Resources. HDOT shall take all actions to ensure that it has adequate resources,  
2 including contracting resources, to comply with all requirements of both this Consent Decree and  
3 its NPDES permits. Such actions shall include, but not be limited to, accurately assessing  
4 resource needs, communicating these needs to the Director of HDOT, making timely budget  
5 requests of the legislature, and notifying the legislature of the terms and requirements of this  
6 Consent Decree and HDOT's NPDES permits. The human resources necessary to carry out the  
7 requirements of this Consent Decree and HDOT's NPDES permits may be comprised of either  
8 HDOT employees or contractors or both.

9           14.    Reporting. For the first year after entry of this Consent Decree, HDOT shall  
10 submit quarterly reports to EPA and DOH that shall include the following information for the  
11 past quarter. The first quarterly report shall be due 60 days after the end of the first complete  
12 quarter following entry of this Consent Decree. All other reports shall be submitted no later than  
13 45 days after the last day of each calendar quarter. After submittal of the fourth quarterly report  
14 referenced above HDOT shall, for the duration of this Decree, submit semiannual reports.  
15 Semiannual reports shall be due on August 31<sup>st</sup> and February 28<sup>th</sup> and shall cover the six month  
16 periods ending on June 30<sup>th</sup> and December 31<sup>st</sup>, respectively. HDOT may submit separate  
17 quarterly and semiannual reports for the Airports and Highways Divisions. All reports shall, at a  
18 minimum, include the following information:

19           a.    Oahu District MS4 Activities

20               (1)   Storm Water Contact Coordination Meetings

21                 The number, dates, and names of attendees of each monthly Storm  
22                 Water Contact Coordination meetings;

23               (2)   Debris Removal Program Activities

24                 (a)    Specific highway segments (with dates) inspected for  
25                 sweeping needs;

26                 (b)    Specific highway segments swept, frequency of sweeping,  
27                 and the total amount of debris removed;

28                 (c)    Specific (by Milepost or other identifier) storm drainage  
                  system catch basins, gutters and open ditches, trenches, and sewers  
                  inspected, by specific highway segment and date;

                  (d)    Specific (by Milepost or other identifier) storm drainage  
                  system catch basins, gutters and open ditches, trenches, and sewers  
                  cleaned, the date(s) of cleaning, and the nature and total amount of debris  
                  removed;

1 (e) Number and dates of debris removal program trainings,  
types of trainings, and attendees participating in each; and

2 (f) Activities undertaken toward development and utilization  
of the asset management system;

3 (3) Construction Program Activities

4 (a) Total number of contract projects in the planning or design  
stages and total number of projects for which permanent post-construction  
BMP review was completed;

5 (b) Total number of contract project contracts put out to bid,  
total number awarded, total number of contract project NPDES permit  
verifications and BMP plans reviewed, and total number of pre-  
construction BMP verification inspections;

6 (c) Total number of in-house project NPDES permit  
verifications and BMP plans reviewed and total number of pre-  
construction BMP verification inspections;

7 (d) Total number of active construction projects and the total  
number of storm water inspections, specifying project type (contract, in-  
house, permit); and

8 (e) Number and dates of construction program trainings, types  
of trainings, and attendees participating in each;

9 (4) Chemical Applications Program Activities

10 Number and dates of chemical applications program trainings, types of trainings,  
and attendees participating in each;

11 (5) Erosion Control Program Activities

12 (a) Number of erosional problem areas with a potential for  
significant water quality impact identified, the number stabilized  
(permanently or temporarily) or otherwise remediated, and a revised  
schedule for stabilizing or otherwise remediating the remaining areas; and

13 (b) Number and dates of erosion control program trainings,  
types of trainings, and attendees participating in each;

14 (6) Maintenance Facility Program Activities

15 (a) Dates and locations and a summary of findings of  
maintenance facility oversight inspections; and

16 (b) Number and dates of maintenance facility trainings, types  
of trainings, and attendees participating in each;

17 (7) New Development and Significant Redevelopment Program

18 Activities

19 (a) Number of project designs reviewed for appropriate  
inclusion of permanent post-construction BMPs; and

20 (b) Number and dates of New Development and Significant  
Redevelopment Program Activities trainings, types of trainings, and  
attendees participating in each;

21 (8) Illicit Connection / Illegal Discharge Elimination Program

22 Activities

23 (a) Total number of completed follow-up investigations of  
discharging industrial, commercial, and high-density residential parcels;

24 (b) Total number of inspections of industrial and commercial  
dischargers to HDOT's right-of-way; and

25 (c) Number and dates of IC/ID Program Activities trainings,  
types of trainings, and attendees participating in each;

26 b. Statewide Highway Construction Activities

1 (1) Total number of contract projects in the planning or design stages  
2 and total number of projects for which permanent post-construction BMP review  
was completed;

3 (2) Total number of contract project contracts put out to bid, total  
4 number awarded, total number of contract project NPDES permit verifications  
and BMP plans reviewed, and total number of pre-construction BMP verification  
inspections;

5 (3) Total number of in-house project NPDES permit verifications and  
6 BMP plans reviewed and total number of pre-construction BMP verification  
inspections;

7 (4) Total number of active construction projects and the total number  
of storm water inspections, specifying project type (contract and in-house); and

8 (5) Number and dates of construction program trainings, types of  
trainings, and attendees participating in each;

9 c. Airports Division

10 (1) A listing of each tenant, its relative pollutant risk ranking, date(s)  
on which it was inspected by HDOT, and types of enforcement response actions  
taken against any tenant, including dates and any required follow-up activities;  
and

11 (2) Number and dates of tenant inspection and enforcement program  
12 trainings, types of trainings, and attendees participating in each.

13 15. Responsibility for Acts of Contractors or Agents. HDOT shall be responsible for  
14 ensuring that work is performed in accordance with the requirements of this Decree, even if that  
15 work is performed by contractors, subcontractors, or agents. HDOT shall provide a copy of this  
16 Decree to all Managers, employees, contractors, subcontractors, and agents whose duties might  
17 reasonably include compliance with any provision of this Decree, as well as to any contractor  
18 specifically retained to perform work required under this Decree. Defendant shall condition any  
19 such contract upon performance of the work in conformity with the terms of this the Decree. In  
20 any action to enforce this Consent Decree, HDOT shall not raise as a defense the failure by any  
21 of its Managers, employees, agents, contractors, or subcontractors to take any actions necessary  
22 to comply with the provisions of this Decree.

23 **VI. CIVIL PENALTY**

24 16. Civil Penalty. Within 30 days after entry of this Consent Decree, HDOT shall pay  
25 a civil penalty of \$1,000,000.00, plus interest from the date the penalty is due. Interest shall be  
26 calculated in accordance with 28 U.S.C. § 1961. Interest shall continue to accrue until payment  
27 is made. The Civil Penalty payment shall be allocated with \$600,000, plus accrued interest, if  
28

1 any, being paid to the United States and \$400,000, plus accrued interest, if any, being paid to  
2 DOH.

3 17. Method of Payment.

4 a. Payment shall be made by FedWire Electronic Funds Transfer (“EFT”) to  
5 the U.S. Department of Justice in accordance with instructions to be provided to HDOT,  
6 following lodging of the Consent Decree, by the Financial Litigation Unit of the U.S.  
7 Attorney’s Office for the District of Hawai`i. At the time of payment, HDOT shall  
8 simultaneously send written notice of payment and a copy of any transmittal  
9 documentation (which should reference DOJ case number 90-5-1-1-07488 and the civil  
10 action number of this case) to the United States in accordance with Section XIV  
11 (Notification).

12 b. Payment shall be made by cashier’s or certified check made payable to the  
13 State of Hawai`i. At the time of payment, Defendant shall simultaneously send written  
14 notice of payment and a copy of any transmittal documentation (which should reference  
15 the civil action number of this case) to the Parties in accordance with Section XIV  
16 (Notification).

17 **VII. SUPPLEMENTAL ENVIRONMENTAL PROJECTS**

18 18. HDOT shall implement a Supplemental Environmental Project (“SEP”),  
19 consisting of an Audit and Environmental Management System (“EMS”)(“the EMS SEP”), to be  
20 performed in accordance with the provisions of Appendix E to this Consent Decree, which is  
21 attached hereto and incorporated into this Decree by reference. In implementing the SEP, HDOT  
22 shall spend not less than \$1,062,500 in Eligible SEP costs. Eligible SEP costs include the costs  
23 of planning and implementing the SEP, but do not include any costs associated with corrective  
24 actions needed for compliance actions identified under the EMS.

25 19. HDOT shall implement a SEP consisting of “Erosion and Sediment Control for  
26 Highways” Compliance Assistance Workshops for contractors of professional services and for  
27

1 contractors of construction services on the islands of Hawai'i (in Hilo and Kona), Kauai, Maui,  
2 and Oahu (in Honolulu and Kapolei)("the Compliance Assistance Workshops SEP"). These  
3 Compliance Assistance Workshops shall be developed and implemented in accordance with the  
4 provisions of Appendix F to the Consent Decree which is attached hereto and incorporated into  
5 this Decree by reference. In implementing the SEP, HDOT shall spend not less than \$60,000 in  
6 Eligible SEP costs. Eligible SEP costs are limited to the costs to perform the tasks described in  
7 Appendix F, and do not include any costs associated with developing the workshop curriculum.

8 20. With regard to each SEP, HDOT certifies the truth and accuracy of each of the  
9 following:

10 a. that, as of the date of executing this Decree, HDOT is not required to  
11 perform or develop the SEP by any federal, state, or local law or regulation and is not  
12 required to perform or develop the SEP by agreement, grant, or as injunctive relief  
13 awarded in any other action in any forum;

14 b. that the SEP is not a project that HDOT was planning or intending to  
15 construct, perform, or implement other than in settlement of the claims resolved in this  
16 Decree;

17 c. that HDOT has not received, and is not negotiating to receive, credit for  
18 the SEP in any other enforcement action; and

19 d. that HDOT will not receive any reimbursement for any portion of the SEP  
20 from any other person.

21 21. EMS SEP Completion Report. Within 30 days after HDOT concludes that the  
22 EMS SEP has been fully implemented in accordance with the requirements of this Decree,  
23 HDOT shall submit to the Parties in accordance with Section XIV of this Consent Decree  
24 (Notification) a SEP Completion Report. The SEP Completion Report shall contain the  
25 following information:

26 a. A detailed description of the SEP as implemented;





- 1           b.     for each failure in developing a SWPCP for any location in accordance  
2 with applicable permits and guidance documents: \$800 per violation;
- 3           c.     for failure to install a BMP specified by the Site-Specific BMP Plan or  
4 permit: \$2,000 per day per violation;
- 5           d.     for each failure to properly install or maintain appropriate BMPs in  
6 accordance with applicable plans, permits, and guidance documents: \$1,500 per day per  
7 violation;
- 8           e.     for failure to conduct the inspections required by Paragraphs 9.a.(2),  
9 9.b.(5), 9.e.(1), 10.f, 10.g.(2), 10.k.(2), 11, and 12 above: \$1,000 for each of the first ten  
10 violations; \$2,500 for each of the next ten violations; and \$5,000 for each subsequent  
11 violation;
- 12          f.     for failure to provide reports required pursuant to Paragraphs 10.e and 14:  
13 \$500 per day for the first ten days of each violation; \$1,000 per day for the next ten days  
14 of each violation; and \$2,500 per day for each subsequent day of violation;
- 15          g.     for each failure to timely submit or re-submit plans for approval in  
16 accordance with Section III (Approval Process): \$500 for each day of violation;
- 17          h.     for each failure to conduct or document the training required by  
18 Paragraphs 9.b.(2), 9.c, 9.e, 10.c, 11, and 12.e above: \$1,000;
- 19          i.     for failure to pay the civil penalty or accrued interest: \$1,000 for each day  
20 that the payment is late;
- 21          j.     for failure to timely submit the documents required by the SEP pursuant to  
22 Section VII of this Decree and Appendix E: \$500 per day per violation;
- 23          k.     for failure to timely submit a draft workshop outline as described in  
24 Appendix F: \$500 per day;
- 25          l.     for each failure to offer a workshop: \$5,000; and
- 26  
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1 m. for each failure to timely submit the documents required by the SEP  
2 pursuant to Section VII of this Decree and Appendix F: \$500 per day per violation.

3 31. EMS SEP Compliance: If HDOT's total Eligible SEP Costs are less than  
4 \$1,062,500 in connection with the performance of the EMS SEP described in Appendix E to this  
5 Consent Decree, or if the SEP has not been satisfactorily completed, HDOT shall be liable for  
6 stipulated penalties as set forth below. If HDOT has halted or abandoned the completion of the  
7 SEP, such penalties shall accrue from the date of abandonment or the date set for completion of  
8 the SEP, whichever is earlier.

9 a. If the SEP has been satisfactorily completed but HDOT's total Eligible  
10 SEP Costs are less than \$1,062,500, HDOT shall pay stipulated penalties at the rate of  
11 100% for every one dollar that HDOT's total Eligible SEP Costs are less than  
12 \$1,062,500.

13 b. If the SEP has not been satisfactorily completed, HDOT shall pay  
14 stipulated penalties at the rate of 150% for every one dollar that HDOT's total Eligible  
15 SEP Costs are less than \$1,062,500. If the SEP has not been satisfactorily completed but  
16 HDOT's total Eligible SEP Costs for the SEP are equal to or exceed \$1,062,500, HDOT  
17 shall not be liable for any stipulated penalties for the SEP if HDOT has made good faith  
18 and timely efforts to complete the SEP and certifies with supporting documentation, no  
19 later than the date that HDOT is required to submit a SEP Completion Report, that it has  
20 spent at least \$1,062,500 in Eligible SEP Costs. If HDOT does not provide the  
21 certification and the documentation required by this Subparagraph, or if the  
22 documentation provided does not support HDOT's certification, HDOT shall be deemed  
23 to be in violation of this Consent Decree and shall pay stipulated penalties of \$25,000.

24 32. Compliance Assistance Workshops SEP Compliance: If HDOT's total Eligible  
25 SEP Costs are less than \$60,000 in connection with the performance of the Compliance  
26 Assistance Workshops SEP described in Appendix F to this Consent Decree, or if the SEP has  
27

1 not been satisfactorily completed, HDOT shall be liable for stipulated penalties as set forth  
2 below. If HDOT has halted or abandoned the completion of the SEP, such penalties shall accrue  
3 from the date of abandonment or the date set for completion of the SEP, whichever is earlier.

4 a. If the SEP has been satisfactorily completed but HDOT's total Eligible  
5 SEP Costs are less than \$60,000, HDOT shall pay stipulated penalties at the rate of 100%  
6 for every one dollar that HDOT's total Eligible SEP Costs are less than \$60,000.

7 b. If the SEP has not been satisfactorily completed, HDOT shall pay  
8 stipulated penalties at the rate of 150% for every one dollar that HDOT's total Eligible  
9 SEP Costs are less than \$60,000. If the SEP has not been satisfactorily completed but  
10 HDOT's total Eligible SEP Costs for the SEP are equal to or exceed \$60,000, HDOT  
11 shall not be liable for any stipulated penalties for the SEP if HDOT has made good faith  
12 and timely efforts to complete the SEP and certifies with supporting documentation, no  
13 later than the date that HDOT is required to submit a SEP Completion Report, that it has  
14 spent at least \$60,000 in Eligible SEP Costs. If HDOT does not provide the certification  
15 and the documentation required by this Subparagraph, or if the documentation provided  
16 does not support HDOT's certification, HDOT shall be deemed to be in violation of this  
17 Consent Decree and shall pay stipulated penalties of \$25,000.

18 33. Accrual of Stipulated Penalties. Stipulated Penalties under this Section shall  
19 begin to accrue on the day after performance is due or on the day a violation occurs, whichever is  
20 applicable, and shall continue to accrue until performance is satisfactorily completed or until the  
21 violation ceases. Stipulated Penalties shall accrue simultaneously for separate violations of this  
22 Consent Decree. Penalties shall accrue regardless of whether HDOT has been notified of a  
23 violation but need not be paid until a demand is made. HDOT shall pay any Stipulated Penalty  
24 within 30 days of receiving written demand therefor.

25 34. Demand. The United States or DOH, or both, may seek Stipulated Penalties  
26 under this Section. Where both sovereigns seek Stipulated Penalties for the same violation of  
27

1 this Consent Decree, HDOT shall pay 60% of total Stipulated Penalties to the United States and  
2 40% to DOH. Where only one sovereign demands Stipulated Penalties for a violation, it shall  
3 make that demand on its own behalf, and HDOT shall pay the full amount of the Stipulated  
4 Penalties due for the violation to that sovereign.

5 35. Waiver of Stipulated Penalties. The United States or DOH may, in the  
6 unreviewable exercise of its discretion, reduce or waive Stipulated Penalties otherwise due that  
7 sovereign under this Consent Decree. The determination by one sovereign not to seek Stipulated  
8 Penalties, or subsequently to waive or reduce the amount it seeks, shall not preclude the other  
9 sovereign from seeking Stipulated Penalties.

10 36. Payment. HDOT shall, as directed by the United States in its demand, pay  
11 Stipulated Penalties owing to the United States by EFT in accordance with Section VI (Civil  
12 Penalty), Paragraph 17.a, above, or by certified or cashier's check in the amount due, payable to  
13 the "U.S. Department of Justice," referencing DOJ No. 90-5-1-1-07488 and United States  
14 Attorney's Office file number [\* \_\_\_\_\_], and delivered to the office of the United States  
15 Attorney, District of Hawai'i, Room 6-100, PJKK Federal Building, 300 Ala Moana Boulevard,  
16 Honolulu, Hawai'i 96850. Any payment of Stipulated Penalties shall be accompanied by a  
17 transmittal memorandum referencing DOJ No. 90-5-1-1-07488 and United States Attorney's  
18 Office file number [\* \_\_\_\_\_] and stating that payment of Stipulated Penalties is being  
19 made. HDOT shall pay any Stipulated Penalties owing to DOH according to the provisions of  
20 Section VI (Civil Penalty), Paragraph 17.b.

21 37. Interest. If HDOT fails to pay Stipulated Penalties according to the terms of this  
22 Consent Decree, HDOT shall be liable for interest on such penalties, as provided for in 28 U.S.C.  
23 § 1961, accruing as of the date payment became due.

24 38. No Effect on Obligation to Comply. The payment of Stipulated Penalties shall  
25 not alter in any way HDOT's obligation to comply with the requirements of this Decree.



1           41.    Definition of Force Majeure. A “Force Majeure” event is any event beyond the  
2 control of HDOT, its contractors, or any entity controlled by HDOT that delays the performance  
3 of any obligation under this Consent Decree despite HDOT’s best efforts to fulfill the obligation.  
4 “Best efforts” includes anticipating any potential Force Majeure event and addressing the effects  
5 of any such event (a) as it is occurring, and (b) after it has occurred, to prevent or minimize any  
6 resulting delay to the greatest extent possible. In no case shall any of the following circum-  
7 stances give rise to a claim of Force Majeure: unanticipated or increased costs or expenses  
8 associated with implementation of this Decree or changed financial circumstances; failure to  
9 apply for a required permit or approval, or to provide in a timely manner all information required  
10 to obtain a permit or approval, that is necessary to meet the requirements of this Decree; failure  
11 by HDOT to approve contracts; failure by HDOT to secure federal funding; or failure by HDOT  
12 to fill all staffing positions.

13           42.    Required Notification. HDOT shall notify EPA and DOH orally or by electronic  
14 or facsimile transmission as soon as possible, but not later than 72 hours after the time HDOT  
15 first knew of, or in the exercise of reasonable diligence under the circumstances should have  
16 known of, any event that might delay completion of any requirement of this Decree, whether or  
17 not the event is a Force Majeure event. HDOT shall make the oral notification to the United  
18 States required by this Paragraph by calling Kathi Moore, the Chief of the Clean Water  
19 Compliance Office; in the event that HDOT is unable to reach Kathi Moore, such notification  
20 may be effective if HDOT leaves a detailed message explaining that notice is being provided  
21 pursuant to this Paragraph. HDOT shall make oral notification to DOH by calling Denis Lau, the  
22 Chief of the Clean Water Branch. The United States and DOH may designate alternative  
23 representatives to receive oral notification at their discretion by sending HDOT a written  
24 designation in accordance with Section XIV (Notification). Within 7 days of providing oral  
25 notice, HDOT shall provide written notice by facsimile with hard copy to follow to EPA and  
26 DOH. The written notice HDOT submits pursuant to this Paragraph shall indicate whether  
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1 HDOT claims that the delay should be excused due to a Force Majeure event. The written notice  
2 shall describe in detail the basis for HDOT's contention that it has experienced, or may  
3 experience, a Force Majeure delay (if it intends to make such a claim); the anticipated length of  
4 the delay; the precise cause or causes of the delay; and the measures taken or to be taken to  
5 prevent or minimize the delay and the timetable by which those measures will be implemented.  
6 Failure to comply with the procedures of this Paragraph shall preclude HDOT from asserting any  
7 claim of Force Majeure.

8 43. Procedures for Extension. If the United States agrees that a Force Majeure event  
9 has occurred or will occur, the United States may agree to extend the time for HDOT to perform  
10 the affected requirements for the time necessary to complete those obligations. An extension of  
11 time to perform the obligations affected by a Force Majeure event shall not, by itself, extend the  
12 time to perform any other obligation. Where the United States agrees to an extension of time, the  
13 appropriate modification shall be made pursuant to Section XV of this Consent Decree  
14 (Modification).

15 44. Dispute Resolution. If the United States does not agree that a Force Majeure  
16 event has occurred, or does not agree to the extension of time sought by HDOT, the United  
17 States' position shall be binding, unless HDOT invokes Dispute Resolution under Section X of  
18 this Consent Decree. In any such dispute, HDOT bears the burden of proving, by a prepon-  
19 derance of the evidence, that each claimed Force Majeure event is a Force Majeure event; that  
20 HDOT gave the notice required by Paragraph 42, above; that the Force Majeure event caused any  
21 delay HDOT claims was attributable to that event; and that HDOT exercised best efforts to  
22 prevent or minimize any delay caused by the event.

23 **X. DISPUTE RESOLUTION**

24 45. Exclusive Remedy. Unless otherwise expressly provided for in this Decree, the  
25 dispute resolution procedures of this Section shall be the exclusive mechanism to resolve  
26 disputes between HDOT and the United States and DOH arising under this Decree. However,  
27

1 the procedures set forth in this Section shall not apply to actions by the United States or DOH to  
2 enforce obligations of HDOT that have not been disputed in accordance with this Section. The  
3 procedures set forth in this Section shall not apply to disputes between DOH and the United  
4 States.

5 46. Informal Dispute Resolution. Any dispute subject to dispute resolution under this  
6 Consent Decree shall first be the subject of informal negotiations. The dispute shall be  
7 considered to have arisen when HDOT sends the United States and DOH a written Notice of  
8 Dispute. Such Notice of Dispute shall state clearly the matter in dispute. The period of informal  
9 negotiations shall not exceed 20 days from the date the dispute arises, unless that period is  
10 modified by written agreement of the United States, DOH, and HDOT. If the Parties cannot  
11 resolve a dispute by informal negotiations, then the position advanced by the United States (after  
12 consultation with DOH) shall be considered binding unless, within 30 days after the conclusion  
13 of the informal negotiation period, HDOT invokes formal dispute resolution procedures set forth  
14 in Paragraph 47, below.

15 47. Formal Dispute Resolution.

16 a. Within 30 days after the conclusion of the informal negotiation period,  
17 HDOT may invoke formal dispute resolution procedures by serving on the United States  
18 and DOH a written Statement of Position regarding the matter in dispute. The Statement  
19 of Position shall include, but may not be limited to, any factual data, analysis, or opinion  
20 supporting HDOT's position and any supporting documentation relied upon by HDOT.

21 b. The United States and DOH shall serve their Joint Statement of Position  
22 within 45 days of receipt of HDOT's Statement of Position. The Joint Statement of  
23 Position shall include, but may not be limited to, any factual data, analysis, or opinion  
24 supporting that position and any supporting documentation relied upon by the United  
25 States. The Joint Statement of Position shall be binding on HDOT, unless HDOT files a  
26 motion for judicial review of the dispute in accordance with Paragraph 48, below.



1 Stipulated Penalties with respect to the disputed matter shall continue to accrue from the first day  
2 of noncompliance, but payment shall be stayed pending resolution of the dispute as provided in  
3 Paragraph 40, above. If HDOT does not prevail on the disputed issue, Stipulated Penalties shall  
4 be assessed and paid as provided in Section VIII (Stipulated Penalties).

5 **XI. INFORMATION COLLECTION AND RETENTION**

6 50. The United States, DOH, and their representatives, including attorneys,  
7 contractors, and consultants, shall have the right of entry into any facility covered by this Consent  
8 Decree, at all reasonable times, upon presentation of credentials, to:

- 9 a. monitor the progress of activities required under this Consent Decree;
- 10 b. verify any data or information submitted to the United States or DOH in  
11 accordance with the terms of this Consent Decree;
- 12 c. obtain samples and, upon request, splits of any samples taken by HDOT or  
13 its representatives, contractors, or consultants;
- 14 d. obtain documentary evidence, including photographs and similar data; and
- 15 e. assess HDOT's compliance with this Consent Decree.

16 51. Upon request, HDOT shall provide EPA and DOH, or their authorized  
17 representatives, splits of any samples taken by HDOT. Upon request, EPA and DOH shall  
18 provide HDOT splits of any samples taken by EPA or DOH.

19 52. Until five years after the termination of this Consent Decree, HDOT shall retain,  
20 and shall instruct its contractors and agents to preserve, all non-identical copies of all documents,  
21 records, or other information (including documents, records, or other information in electronic  
22 form) in its or its contractors' or agents' possession or control, or that come into its or its  
23 contractors' or agents' possession or control, and that relates in any manner to HDOT's perfor-  
24 mance of its obligations under this Consent Decree. This information-retention requirement shall  
25 apply regardless of any contrary institutional policies or procedures. At any time during this  
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1 information-retention period, the United States or DOH may request copies of any documents,  
2 records, or other information required to be maintained under this Paragraph.

3 53. At the conclusion of the information-retention period provided in the preceding  
4 Paragraph, HDOT shall notify the United States and DOH at least 90 days prior to the destruction  
5 of any documents, records, or other information subject to the requirements of the preceding  
6 Paragraph and, upon request by the United States or DOH, HDOT shall deliver any such  
7 documents, records, or other information to EPA or DOH. HDOT may assert that certain  
8 documents, records, or other information is privileged under the attorney-client privilege or any  
9 other privilege recognized by federal law. If HDOT asserts such a privilege, it shall provide the  
10 following: (a) the title of the document, record, or information; (b) the date of the document,  
11 record, or information; (c) the name and title of each author of the document, record, or  
12 information; (d) the name and title of each addressee and recipient; (e) a description of the  
13 subject of the document, record, or information; and (f) the privilege asserted by HDOT.  
14 However, no documents, records, or other information created or generated pursuant to the  
15 requirements of this Consent Decree shall be withheld on grounds of privilege.

16 54. HDOT may also assert that information required to be provided under this Section  
17 is protected as Confidential Business Information ("CBI") under 40 C.F.R. Part 2. As to any  
18 information that HDOT seeks to protect as CBI, HDOT shall follow the procedures set forth in  
19 40 C.F.R. Part 2.

20 55. This Consent Decree in no way limits or affects any right of entry and inspection,  
21 or any right to obtain information, held by the United States or DOH pursuant to applicable  
22 federal or State laws, regulations, or permits, nor does it limit or affect any duty or obligation of  
23 HDOT to maintain documents, records, or other information imposed by applicable federal or  
24 State laws, regulations, or permits.

25 **XII. EFFECT OF SETTLEMENT**



1           61.    Headings. Headings in this Decree are provided for convenience only and shall  
2 not affect the substance of any provision.

3           62.    Costs of Suit. The Parties shall bear their own costs of this action, including  
4 attorneys' fees, except that the United States and DOH shall be entitled to collect the costs  
5 (including attorneys' fees) incurred in any action necessary to collect any portion of the civil  
6 penalty or any Stipulated Penalties due but not paid by HDOT.

7 **XIV. NOTIFICATION**

8           63.    When written notification or communication is required by the terms of this  
9 Decree, such notification or communication shall be addressed to the following individuals at the  
10 addresses specified below (or to such other addresses as may be thereafter designated by written  
11 notice to the parties):

12 As to the United States:

13 Chief, Environmental Enforcement Section  
14 Environment & Natural Resources Division  
15 U.S. Department of Justice  
16 Box 7611, Ben Franklin Station  
17 Washington, D.C. 20044-7611  
18 Re: DOJ #90-5-1-1-07488

19 and

20 Kathi Moore (WTR -7)  
21 Chief, CWA Compliance Office  
22 U.S. EPA, Region 9  
23 75 Hawthorne St.  
24 San Francisco, CA 94105  
25 (415) 972-3505  
26 kathi.moore@epa.gov

27 As to EPA:

28 Kathi Moore (WTR -7)  
Chief, CWA Compliance Office  
U.S. EPA, Region 9  
75 Hawthorne St.  
San Francisco, CA 94105  
(415) 972-3505  
kathi.moore@epa.gov

1 As to DOH:  
2 Denis Lau  
3 Chief, Clean Water Branch  
4 Hawai'i State Department of Health  
5 919 Ala Moana Blvd., Room 301  
6 Honolulu, Hawai'i 96814  
7 (808) 586-4309  
8 dlau@eha.health.state.hi.us

9 and

10 Kathleen S. Ho  
11 Deputy Attorney General  
12 Health and Human Services Division  
13 Department of the Attorney General  
14 State of Hawai'i  
15 465 South King Street, Room 200  
16 Honolulu, Hawai'i 96813  
17 (808) 587-3062  
18 kathleen.s.ho@hawaii.gov

19 As to HDOT:

20 Rodney K. Haraga  
21 Director, Department of Transportation  
22 869 Punchbowl Street  
23 Honolulu, Hawai'i 96813  
24 (808) 587-2150  
25 rodney.haraga@hawaii.gov

26 and

27 Jeffery S. Kato  
28 Deputy Attorney General  
Land and Transportation Division  
Department of the Attorney General  
State of Hawai'i  
465 South King Street, Room 300  
Honolulu, Hawai'i 96813  
(808) 587-2994  
jeffery.s.kato@hawaii.gov

64. Notifications to or communications with HDOT, DOH, EPA, or the United States shall be deemed submitted:

a. when required to be sent by mail, on the date they are postmarked and sent by certified mail, return receipt requested;



1 a. If the United States and DOH agree that the Decree may be terminated, the  
2 Parties shall submit, for the Court's approval, a joint stipulation terminating the Decree.

3 b. If the United States and DOH do not agree that the Decree may be  
4 terminated, HDOT may invoke Dispute Resolution under Section X of this Decree.  
5 However, HDOT shall not seek Dispute Resolution of any dispute regarding termination,  
6 under Paragraph 47 of Section X, until 60 days after service of its Request for  
7 Termination.

8 **XVI. INTEGRATION**

9 68. This Consent Decree and its Appendices constitute the final, complete, and  
10 exclusive agreement and understanding among the Parties with respect to the settlement  
11 embodied in the Decree and supersede all prior agreements and understandings, whether oral or  
12 written, concerning the settlement embodied herein. Other than the Appendices, which are  
13 attached to and incorporated in this Decree, and submittals that are subsequently submitted and  
14 approved pursuant to this Decree, no other document, nor any representation, inducement,  
15 agreement, understanding, or promise, constitutes any part of this Decree or the settlement it  
16 represents, nor shall it be used in construing the terms of this Decree.

17 **XVII. APPENDICES**

18 69. The following appendices are attached to and incorporated into this Consent  
19 Decree:

20 "Appendix A" is the Definition of High Priority Watersheds;

21 "Appendix B" is the Highway Segments and Sweeping Frequencies

22 "Appendix C" is the Drainage System Inspection and Cleaning Schedule

23 "Appendix D" is the High Priority Areas for Erosion Control Measures

24 "Appendix E" is the EMS SEP

25 "Appendix F" is the Compliance Assistance Workshops SEP

26 "Appendix G" is the list of DOT Facilities with CCH Manuals

1 **XVIII. ENTRY AND FINAL JUDGMENT**

2 70. Authority to Sign Decree. The undersigned representatives of HDOT certify that  
3 they are authorized to enter into and to execute this Decree and to legally bind HDOT to the  
4 terms and conditions of the Decree and that they meet the requirements for authorized signatory  
5 found in 40 C.F.R. § 122.22. The undersigned representatives of DOH and the United States  
6 each certifies that he or she is authorized to enter into and to execute this Decree and to legally  
7 bind the Party that he or she represents to the terms and conditions of the Decree.

8 71. Counterparts. This Consent Decree may be signed in counterparts, and its validity  
9 shall not be challenged on that basis.

10 72. Designation of Agent for Service. HDOT shall identify on the attached signature  
11 page the name and address of an agent who is authorized to accept service of process by mail on  
12 HDOT's behalf with respect to all matters arising under or relating to this Decree. HDOT agrees  
13 to accept service in that manner and to waive the formal service requirements of Fed. R. Civ. P. 4  
14 and 5 and any applicable local rules of this Court, including, but not limited to, service of  
15 summons.

16 73. Public Notice. This Consent Decree shall be lodged with the Court for a period of  
17 not less than 30 days for public notice and comment in accordance with 28 C.F.R. § 50.7. The  
18 United States reserves the right to withdraw or withhold its consent if the comments regarding  
19 the Consent Decree disclose facts or considerations indicating that the Consent Decree is  
20 inappropriate, improper, or inadequate. HDOT agrees not to oppose entry of this Consent Decree  
21 by the Court or to challenge any provision of the Decree, unless the United States has notified  
22 HDOT in writing that it no longer supports entry of the Decree.

23 74. Final Judgment. Upon approval and entry of this Consent Decree by the Court,  
24 this Consent Decree shall constitute a final judgment of the Court as to the United States, DOH,  
25 and HDOT. The Court finds that there is no just reason for delay and therefore enters this  
26 judgment as a final judgment under Fed. R. Civ. P. 54 and 58.



1 We hereby consent to entry of the foregoing Consent Decree, subject to the Notice and Comment  
2 Provisions of 28 C.F.R. § 50.7 and Paragraph 73 of this Decree:

3  
4 FOR THE UNITED STATES OF AMERICA

5  
6 Date: 9/27/05

  
KELLY A. JOHNSON  
Acting Assistant Attorney General  
Environment and Natural Resources Division  
U.S. Department of Justice  
Washington, D.C. 20530

7  
8  
9  
10 Date: 9/27/05

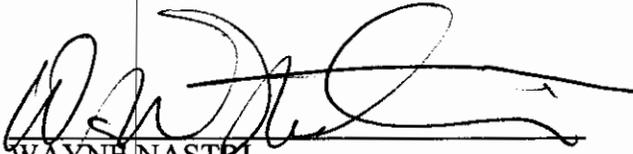
  
ANGELA O'CONNELL  
CYNTHIA HUBER  
Senior Attorneys  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Washington, D.C. 20044-7611  
(202) 514-5273

1 We hereby consent to entry of the foregoing Consent Decree, subject to the Notice and Comment  
2 Provisions of 28 C.F.R. § 50.7 and Paragraph 73 of this Decree:

3  
4 Date: 28 SEP 05

  
\_\_\_\_\_  
GRANTA Y. NAKAYAMA  
Assistant Administrator  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency  
Ariel Rios Building, 2241-A  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

5  
6  
7  
8  
9  
10 Date: 14 SEP 05

  
\_\_\_\_\_  
WAYNE NASTRI  
Regional Administrator  
U.S. Environmental Protection Agency, Region 9  
75 Hawthorne Street  
San Francisco, California 94105

11  
12  
13  
14 OF COUNSEL:

15 LAURIE KERMISH  
16 Assistant Regional Counsel  
17 U.S. EPA, Region 9  
18 75 Hawthorne Street  
19 San Francisco, California 94105  
20 (415) 972-3917  
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FOR THE HAWAI'I DEPARTMENT OF  
HEALTH

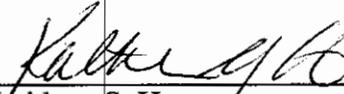
Date: AUG 15 2005



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Chiyome Leinaha Fukino, M.D.  
Director of Health  
State of Hawai'i  
1250 Punchbowl Street  
Honolulu, Hawai'i 96813

APPROVED AS TO FORM:



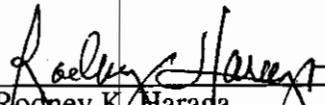
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Kathleen S. Ho  
Deputy Attorney General

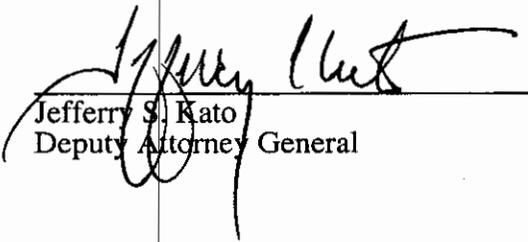
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FOR DEFENDANT, HAWAII DEPARTMENT  
OF TRANSPORTATION

Date: SEP - 1 2005

  
\_\_\_\_\_  
Rodney K. Haraga  
Director, Department of Transportation  
869 Punchbowl Street  
Honolulu, Hawai'i 96813

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Jeffery S. Kato  
Deputy Attorney General

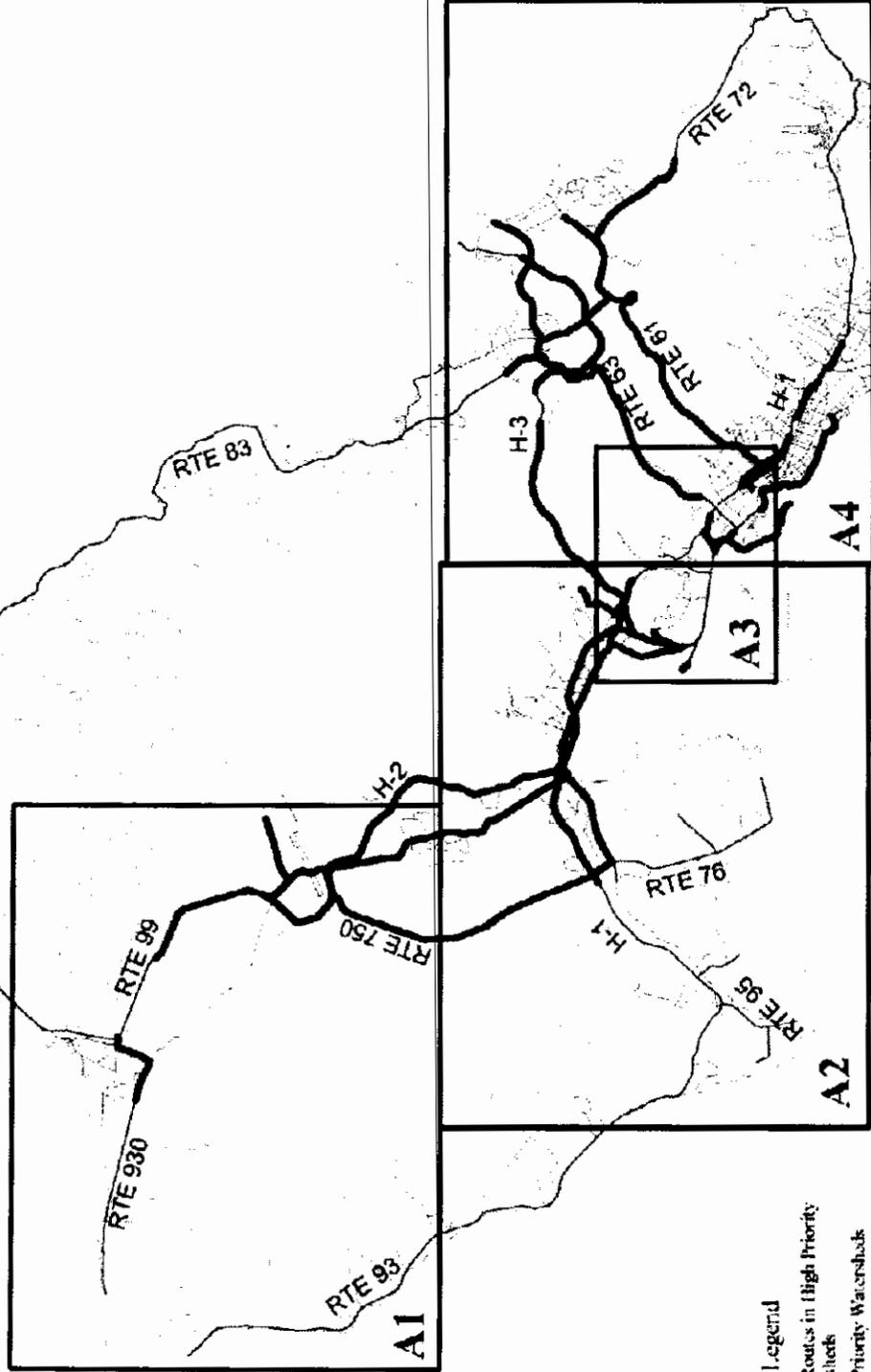
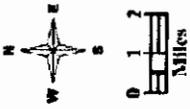
Route No.	Route Name	Overall							
		Start MP	Map	End MP	Map	Start MP	Map	End MP	Map
H-1	H-1 Fwy.	0.00 (Palalai I/C)	A2	27.16 (Ainakoa Ave.)	A4	5.11 (EB Off-Ramp to Ft. Weaver Rd., Kunia Rd.)	A2	15.22 (Kam. Hwy. O/P)	A3
						18.28 (0.2 mi after EB Off-Ramp to Dillingham Blvd.)	A3	19.36 (Gulick Ave. O/P)	A3
						20.80 (Liliha St. O/P)	A3	22.59 (Piikoi St. U/P)	A4
						23.18 (Punahou St. O/P)	A4	24.43 (EB Off-Ramp to King St.)	A4
						24.83 (Kapiolani I/C at Kapahulu Ave.)	A4	25.55 (10th Ave. U.P.)	A4
H-2	H-2 Fwy.	0.00 (Waiawa I/C)	A2	8.33 (Wilikina Dr.)	A1	0.00 (Waiawa I/C)	A2	8.33 (Wilikina Dr.)	A1
H-3	H-3 Fwy.	0.00 (Halawa I/C)	A3	15.32 (MCBH-Kaneohe)	A4	0.00 (Halawa I/C)	A3	6.47 (End H3 Tunnel, Kaneohe Bound)	A4
						7.47 (One Mile After H-3 Tunnel Exit, Kaneohe Bound)	A4	13.66 (0.25 mile After Kailua Separation)	A4
H-201	Moanalua Fwy.	0.00 (Rte. 78/ Halawa I/C)	A3	4.09 (Middle St. I/C)	A3	0.00 (Rte. 78/ Halawa I/C)	A3	1.50 (Ala Kapuna Rd. O/P)	A3
61	Pali Hwy., Kalaniana'ole Hwy., Kailua Rd.	0.00 (Vineyard Blvd.)	A3	10.60 (Kawainui Br.)	A4	0.00 (Vineyard Blvd.)	A3	10.60 (Kawainui Br.)	A4
63	Kalihi St., Likelike Hwy.	0.00 (Nimitz Hwy.)	A3	8.28 (Kahekili Hwy.)	A4	1.42 (Kalihi St. North of Kam. Shopping Center)	A3	8.28 (Kahekili Hwy.)	A4
64	Sand Island Pkwy. and Access Rd.	0.00 (S.I. Park)	A4	2.60 (Nimitz Hwy.)	A3	0.00 (S.I. Park)	A4	1.40 (Begin Bascule Bridge)	A3
						1.53 (End Bascule Bridge)	A3	2.60 (Nimitz Hwy.)	A3
65	Kaneohe Bay Dr., Mokapu Blvd.	0.00 (Kam. Hwy.)	A4	4.15 (Kalaheo Ave.)	A4	0.00 (Kam. Hwy.)	A4	4.15 (Kalaheo Ave.)	A4
72	Kalaniana'ole Hwy.	0.00 (Kailua Rd.)	A4	18.46 (Ainakoa Ave.)	A4	0.00 (Kailua Rd.)	A4	3.35 (Poalima St.)	A4
76	Ft. Weaver Rd., Kunia Rd.	0.00 (Iroquois Gate)	A2	6.64 (H-1)	A2	6.01 (Farr. Hwy.)	A2	6.64 (H-1)	A2

Route No.	Route Name	Overall							
		Start MP	Map	End MP	Map	Start MP	Map	End MP	Map
78	Moanalua Fwy.	0.00 Aiea I/C	A3	0.74 (Rte. H-201/ Halawa I/C)	A3	0.00 Aiea I/C	A3	0.74 (Rte. H-201/ Halawa I/C)	A3
80	Kamehameha Hwy.	0.00 (Wiilikina Dr.)	A1	1.88 (Kamananui Rd.)	A1	0.00 (Wiilikina Dr.)	A1	1.88 (Kamananui Rd.)	A1
83	Kamehameha Hwy., Kahekili Hwy., Likelike Hwy.	0.00 (Weed Circle)	A1	43.92 (Pali Hwy.)	A4	39.59 (Haiku Rd.)	A4	43.92 (Pali Hwy.)	A4
92	Nimitz Hwy., Ala Moana Blvd.	0.00 (Pearl Harbor Main Gate)	A3	9.26 (Kalakaua Ave.)	A4	0.00 (Pearl Harbor Main Gate)	A3	0.24 (On Ramp from O'Malley Blvd.- Hickam Main Gate)	
						3.52 (Middle St.)	A3	4.28 (Mokaeua St.)	A3
						5.27 (Rd. to Chevron Oil)	A3	9.26 (Kalakaua Ave.)	A4
93	Farrington Hwy.	0.00 (Palalai I/C)	A2	19.53 (Kaena Pt.)	A1				
95	Kalaeloa Blvd., Malakole St.	0.00 (Palalai I/C)	A2	2.68 (Access Rd. Leading to Storage Yard)	A2				
98	Vineyard Blvd.	0.00 (Olomea St. @ H- 1 Offramp)	A3	1.76 (Ramp to H-1 EB)	A4	0.34 (Pua Lane)	A3	1.76 (Ramp to H-1 EB)	A4
99	Kamehameha Hwy., Kamananui Rd., Wiilikina Dr., Farrington Hwy.	0.00 (Weed Circle)	A1	23.83 (Pearl Harbor I/C)	A3	2.50 (2.50 Miles Mauka of Weed Circle)	A1	23.31 (Above H-1 Fwy. and EB Nimitz/Hickam Off- Ramp)	A3
750	Kunia Rd.	0.00 (H-1)	A2	8.05 (Wiilikina Dr.)	A1	0.00 (H-1)	A2	8.05 (Wiilikina Dr.)	A1
901	Ft. Barrette Rd.	0.00 (Barbers Pt. Rd.)	A2	1.38 (Makakilo O/P)	A2				
930	Farrington Hwy., Kaukonahua Rd.	0.00 (Kaena Pt.)	A1	7.92 (Weed Circle)	A1	5.52 (Puuiki St.)	A1	7.92 (Weed Circle)	A1
7012	Whitmore Ave.	0.00 (Kam. Hwy.)	A1	1.90 (Naval Comm. Sta.)	A1	0.00 (Kam. Hwy.)	A1	1.90 (Naval Comm. Sta.)	A1
7101	Farrington Hwy.	0.00 (Kunia Rd.)	A2	3.00 (Kam. Hwy. - Pearl City)	A2	0.00 (Kunia Rd.)	A2	3.00 (Kam. Hwy. - Pearl City)	A2
7110	Farrington Hwy.	0.00 (Kunia Rd.)	A2	0.62 (Old Ft. Weaver Rd.)	A2				
7141	Iroquois Rd.	0.00 (Ft. Weaver Rd.)	A2	1.51 (West Loch)	A2				
7239	Ulune St., Halawa Valley Rd.	0.00 (Kahuapaani St.)	A3	0.32 (Iwaiwa St.)	A3	0.00 (Kahuapaani St.)	A3	0.32 (Iwaiwa St.)	A3

Route No.	Route Name	Overall							
		Start MP	Map	End MP	Map	Start MP	Map	End MP	Map
7241	Kahuapaani St., Halawa Hts. Rd.	0.00 (Salt Lake Blvd.)	A3	2.32 (Camp Smith)	A2	0.00 (Salt Lake Blvd.)	A3	2.32 (Camp Smith)	A2
7310	Puuloa Rd.	0.00 (Kam./Nimitz Hwy.)	A3	1.03 (Moanalua Fwy.)	A3				
7345	Jarrette White Rd.	0.00 (Moanalua Fwy.)	A3	0.55 (Tripler Hospital)	A3				
7350	Bouganville Dr.	0.00 (Radford Dr.)	A3	0.59 (Salt Lake Blvd.)	A3	0.00 (Radford Dr.)	A3	0.59 (Salt Lake Blvd.)	A3
7351	Radford Dr.	0.00 (Kam. Hwy.)	A3	0.23 (Bouganville Dr.)	A3	0.00 (Kam Hwy.)	A3	0.23 (Bouganville Dr.)	A3
7401	Kamehameha Hwy.	0.00 (Middle St.)	A3	0.10 (100' East of Kalihi Stream Bridge)	A3	0.00 (Middle St.)	A3	0.10 (100' East of Kalihi Stream Bridge)	A3
7413	Liliha St.	0.00 (King St.)	A3	0.35 (H-1 Liliha St. O/P)	A3	0.00 (King St.)	A3	0.35 (H-1 Liliha St. O/P)	A3
7415	Middle St.	0.00 (Kaua St.)	A3	0.51 (Kam. Hwy.)	A3	0.00 (Kaua St.)	A3	0.51 (Kam. Hwy.)	A3
7601	Old Waialae Rd.	0.00 (Kapiolani Blvd.)	A4	0.41 (King St.)	A4				

Based on Oahu 303d High Priority Watersheds and DOT Highways and Conveyances, as prepared by DOH-EPO.

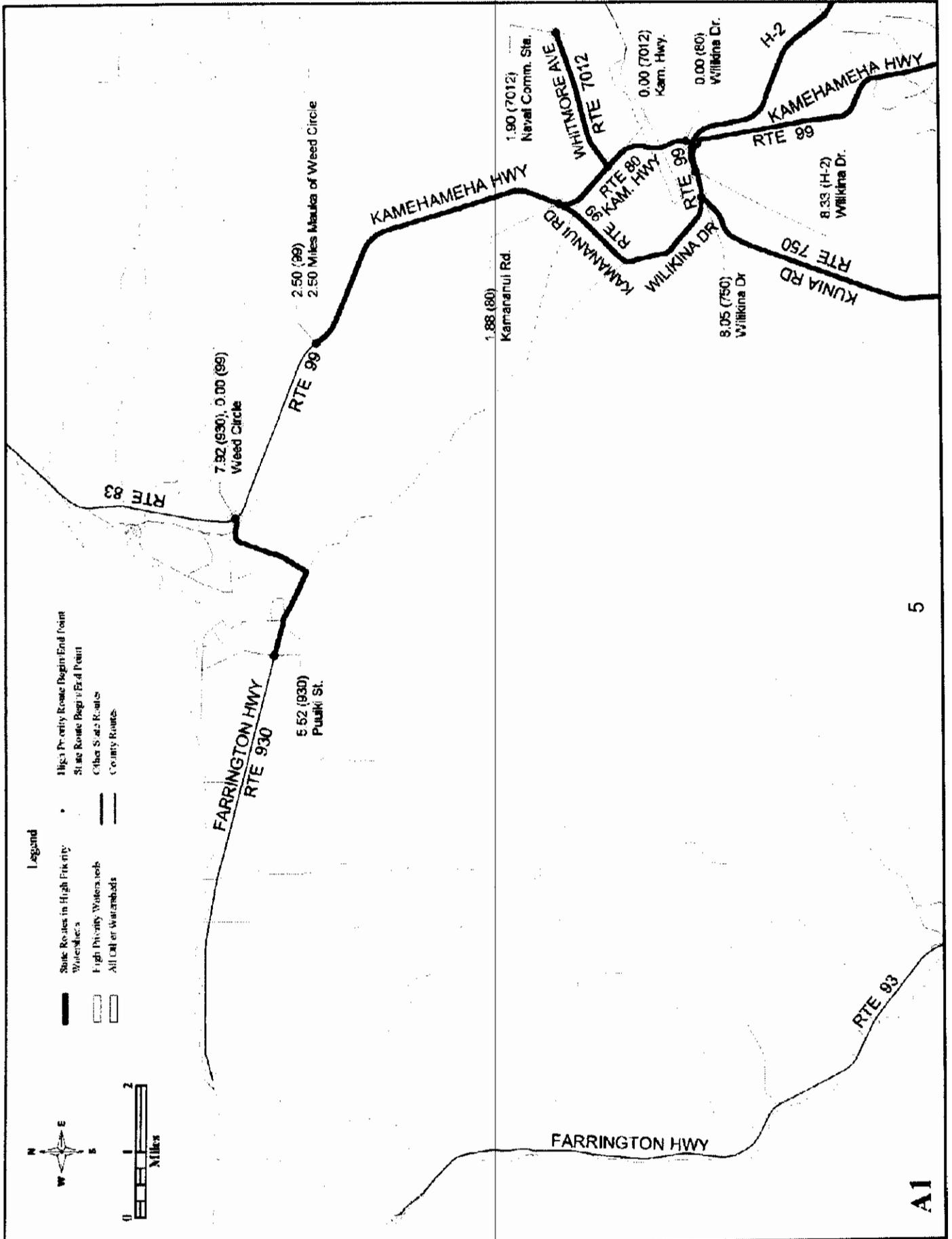
**Appendix A**  
**HDOH Highways Division**  
**Oahu District MS4**  
**State Routes and High Priority Watersheds**



- Legend**
- State Routes in High Priority Watersheds
  - ▭ High Priority Watersheds
  - ▭ All Other Watersheds
  - ▭ Other State Routes
  - ▭ County Routes

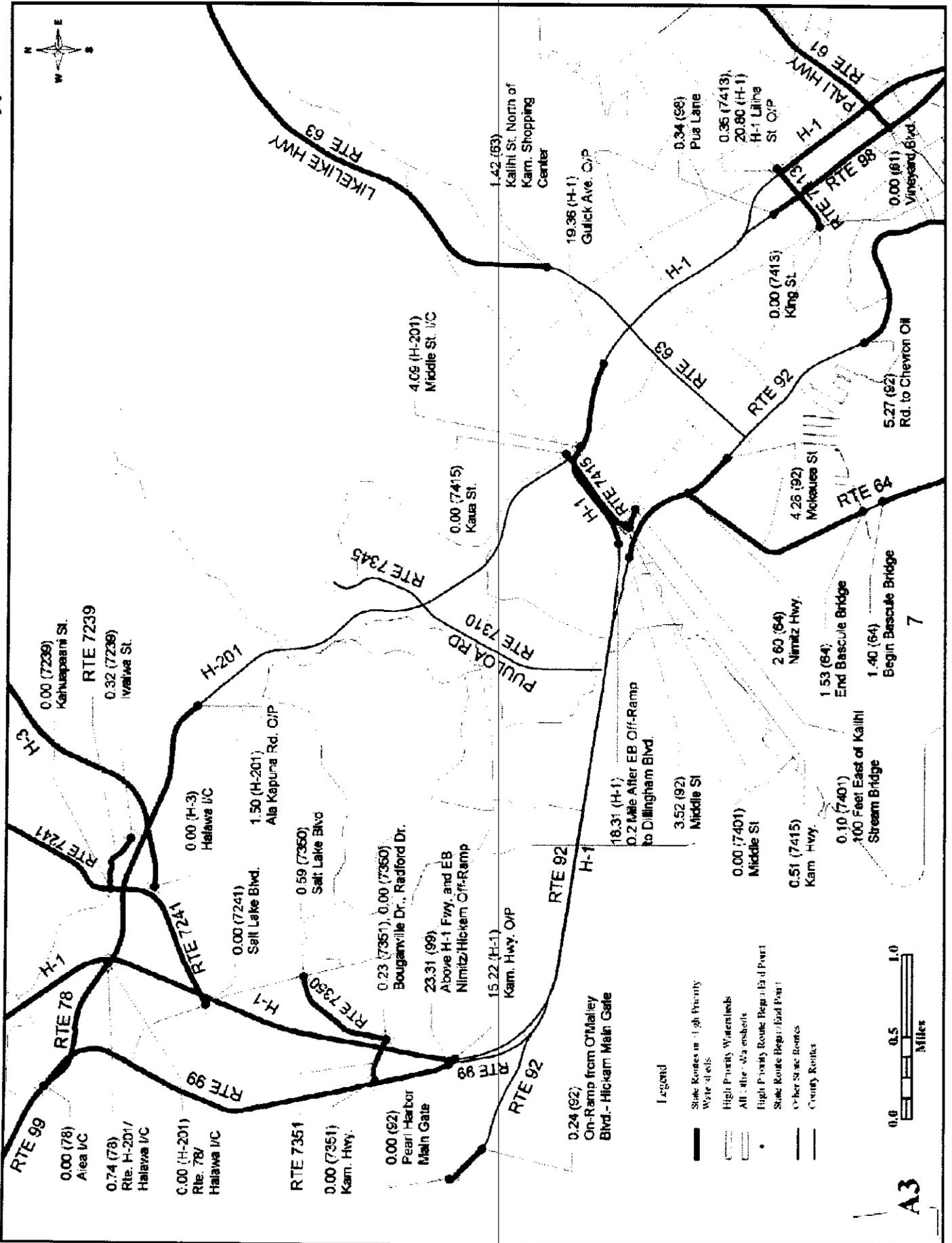
**Index Map**

Appendix A





Appendix A





Appendix B  
Street Sweeping

08/22/05

Route No.	Route Name	Overall Segment Requiring Sweeping				High Priority Watersheds (To Be Swept Every 5 Weeks)																					
		Start MP	Map	End MP	Map	Start MP	Map	End MP	Map																		
H-1	H-1 Fwy.	0.00 (Palalai I/C)	B2	27.16 (Ainako Ave.)	B4	5.11 (EB Off-Ramp to Ft. Weaver Rd., Kunia Rd.)	B2	15.22 (Kam. Hwy. O/P)	B3	0.00 (Palalai I/C)	B2	5.11 (EB Off-Ramp to Ft. Weaver Rd., Kunia Rd.)	B2	Start MP	Map	End MP	Map	Start MP	Map	End MP	Map						
						18.31 (0.2 mi after EB Off-Ramp to Dillingham Blvd.)	B3	19.36 (Gulick Ave. O/P)	B3	15.22 (Kam. Hwy. O/P)	B3	18.31 (0.2 mi after EB Off-Ramp to Dillingham Blvd.)	B3	19.36 (Gulick Ave. O/P)	B3	20.80 (Liliha St. O/P)	B3	20.80 (Liliha St. O/P)	B3	23.18 (Punahou St. O/P)	B4	24.83 (Kapiolani I/C at Kapahulu Ave.)	B4	27.16 (Ainako Ave.)	B4		
						20.80 (Liliha St. O/P)	B3	22.59 (Piikoi St. U/P)	B4	24.43 (Off-Ramp to King St.)	B4	24.83 (Kapiolani I/C at Kapahulu Ave.)	B4	25.55 (10th Ave. U/P)	B4	8.33 (Waialua I/C)	B2	8.33 (Waialua I/C)	B2	8.33 (Waialua I/C)	B2	8.33 (Waialua I/C)	B2	8.33 (Waialua I/C)	B2	8.33 (Waialua I/C)	B2
						23.18 (Punahou St. O/P)	B4	24.43 (Off-Ramp to King St.)	B4	25.55 (10th Ave. U/P)	B4	25.55 (10th Ave. U/P)	B4	25.55 (10th Ave. U/P)	B4	6.47 (Halawa I/C)	B3	6.47 (Halawa I/C)	B3	6.47 (Halawa I/C)	B3	6.47 (Halawa I/C)	B3	6.47 (Halawa I/C)	B3	6.47 (Halawa I/C)	B3
H-2	H-2 Fwy.	0.00 (Waialua I/C)	B2	8.33 (Wilikina Dr.)	B1	0.00 (Waialua I/C)	B2	8.33 (Wilikina Dr.)	B1	0.00 (Waialua I/C)	B2	8.33 (Wilikina Dr.)	B1	0.00 (Waialua I/C)	B2	8.33 (Wilikina Dr.)	B1	0.00 (Waialua I/C)	B2	8.33 (Wilikina Dr.)	B1						
						6.47 (End Kaneohe Bound H-3 Tunnel)	B4	13.66 (0.25 mile After Kailua Separation)	B4	13.66 (0.25 mile After Kailua Separation)	B4	13.66 (0.25 mile After Kailua Separation)	B4	13.66 (0.25 mile After Kailua Separation)	B4	13.66 (0.25 mile After Kailua Separation)	B4	13.66 (0.25 mile After Kailua Separation)	B4	13.66 (0.25 mile After Kailua Separation)	B4	13.66 (0.25 mile After Kailua Separation)	B4	13.66 (0.25 mile After Kailua Separation)	B4		
H-3	H-3 Fwy.	0.00 (Halawa I/C)	B3	15.32 (MCBH-Kaneohe)	B4	0.00 (Halawa I/C)	B3	15.32 (MCBH-Kaneohe)	B4	0.00 (Halawa I/C)	B3	15.32 (MCBH-Kaneohe)	B4	0.00 (Halawa I/C)	B3	15.32 (MCBH-Kaneohe)	B4	0.00 (Halawa I/C)	B3	15.32 (MCBH-Kaneohe)	B4						
						7.47 (One Mile After H-3 Tunnel Exit, Kaneohe Bound)	B4	13.66 (0.25 mile After Kailua Separation)	B4	13.66 (0.25 mile After Kailua Separation)	B4	13.66 (0.25 mile After Kailua Separation)	B4	13.66 (0.25 mile After Kailua Separation)	B4	13.66 (0.25 mile After Kailua Separation)	B4	13.66 (0.25 mile After Kailua Separation)	B4	13.66 (0.25 mile After Kailua Separation)	B4	13.66 (0.25 mile After Kailua Separation)	B4	13.66 (0.25 mile After Kailua Separation)	B4		
H-201	Moanalua Fwy.	0.00 (Rte. 78/ Halawa I/C)	B3	4.09 (Middle St. I/C)	B3	0.00 (Rte. 78/ Halawa I/C)	B3	4.09 (Middle St. I/C)	B3	0.00 (Rte. 78/ Halawa I/C)	B3	4.09 (Middle St. I/C)	B3	0.00 (Rte. 78/ Halawa I/C)	B3	4.09 (Middle St. I/C)	B3	0.00 (Rte. 78/ Halawa I/C)	B3	4.09 (Middle St. I/C)	B3						
						0.00 (Vineyard Blvd.)	B3	10.60 (Kawainui Br.)	B4	0.00 (Vineyard Blvd.)	B3	10.60 (Kawainui Br.)	B4	0.00 (Vineyard Blvd.)	B3	10.60 (Kawainui Br.)	B4	0.00 (Vineyard Blvd.)	B3	10.60 (Kawainui Br.)	B4	0.00 (Vineyard Blvd.)	B3	10.60 (Kawainui Br.)	B4		
61	Kalaniana'ole Hwy., Kailua Rd.	0.00 (Vineyard Blvd.)	B3	10.60 (Kawainui Br.)	B4	0.00 (Vineyard Blvd.)	B3	10.60 (Kawainui Br.)	B4	0.00 (Vineyard Blvd.)	B3	10.60 (Kawainui Br.)	B4	0.00 (Vineyard Blvd.)	B3	10.60 (Kawainui Br.)	B4	0.00 (Vineyard Blvd.)	B3	10.60 (Kawainui Br.)	B4						
						0.00 (Vineyard Blvd.)	B3	10.60 (Kawainui Br.)	B4	0.00 (Vineyard Blvd.)	B3	10.60 (Kawainui Br.)	B4	0.00 (Vineyard Blvd.)	B3	10.60 (Kawainui Br.)	B4	0.00 (Vineyard Blvd.)	B3	10.60 (Kawainui Br.)	B4	0.00 (Vineyard Blvd.)	B3	10.60 (Kawainui Br.)	B4		

Street Sweeping

Route No.	Route Name	Overall Segment Requiring Sweeping			High Priority Watersheds (To Be Swept Every 5 Weeks)					
		Start MP	End MP	Map	Start MP	End MP	Map	Start MP	End MP	Map
63	Kalihi St., Likelike Hwy.	0.00 (Nimitz Hwy.)	8.28 (Kahakili Hwy.)	B3	1.42 (Kalihi St. North of Kam. Shopping Ctr.)	8.28 (Kahakili Hwy.)	B3	0.00 (Nimitz Hwy.)	1.42 (Kalihi St. North of Kam. Shopping Ctr.)	B3
64	Sand Island Pkwy. and Access Rd.	0.00 (S.I. Park)	2.60 (Nimitz Hwy.)	B3	0.00 (S.I. Park)	1.40 (Begin Bascule Bridge)	B4	1.40 (Begin Bascule Bridge)	1.53 (End Bascule Bridge)	B3
65	Kaneohe Bay Dr., Mokuapu Blvd.	0.00 (Kam. Hwy.)	4.15 (Kalaheo Ave.)	B4	0.00 (Kam. Hwy.)	4.15 (Kalaheo Ave.)	B4			
72	Kalaniana'ole Hwy.	0.00 (Kaliua Rd.)	18.46 (Ainako Ave.)	B4	0.00 (Kaliua Rd.)	3.35 (Poalima St.)	B4	13.26 (Lunalilo Hm. Rd.)	18.46 (Ainako Ave.)	B4
76	Fl. Weaver Rd., Kunita Rd.	0.00 (Iroquois Gate)	6.64 (H-1)	B2	6.01 (Farr. Hwy.)	6.64 (H-1)	B2	0.00 (Iroquois Gate)	6.01 (Farr. Hwy.)	B2
78	Moanalua Fwy.	0.00 (Aiea I/C)	0.74 (Rte. H-201)	B3	0.00 (Aiea I/C)	0.74 (Rte. H-201/Halawa I/C)	B3			
80	Kamehameha Hwy.	0.00 (Wilikina Dr.)	1.88 (Kamananui Rd.)	B1	0.00 (Wilikina Dr.)	1.88 (Kamananui Rd.)	B1			
83	Kamehameha Hwy., Kahakili Hwy., Likelike Hwy.	0.00 (Weed Circle)	43.92 (Pali Hwy.)	B1	39.92 (Kahuhipa Rd.)	43.92 (Pali Hwy.)	B4	0.00 (Weed Circle)	39.92 (Kahuhipa St.)	B1
92	Nimitz Hwy., Ala Moana Blvd.	0.00 (Pearl Harbor Main Gate)	9.26 (Kalakaue Ave.)	B3	0.00 (Pearl Harbor Main Gate)	4.28 (Mokauae St.)	B3	0.24 (On-Ramp from O'Malley Blvd. - Hickam Main Gate)	3.52 (Middle St.)	B3
					5.27 (Rd. to Chevron Oil)	9.26 (Kalakaue Ave.)	B4	4.28 (Mokauae St.)	5.27 (Rd. to Chevron Oil)	B3

Street Sweeping

08/22/05

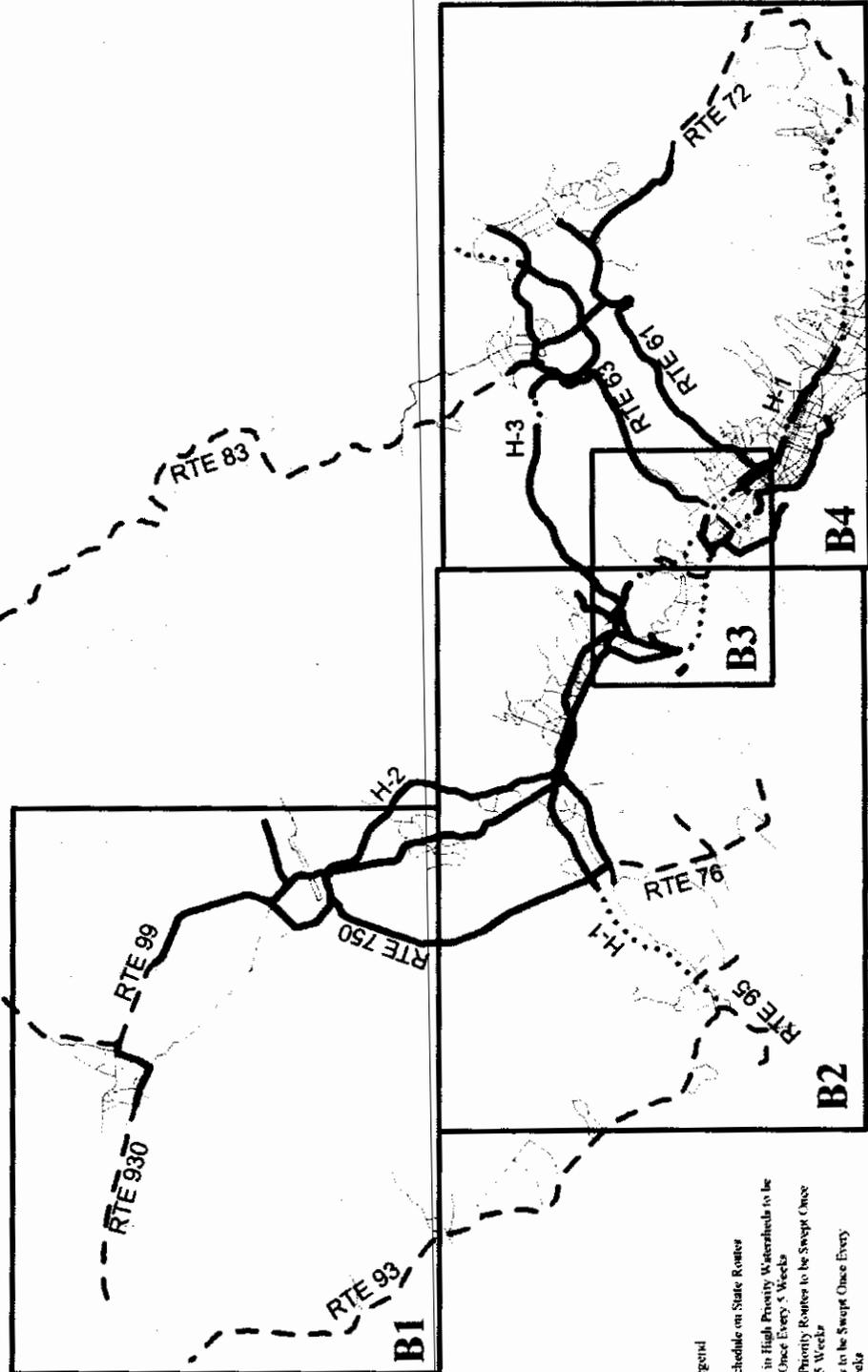
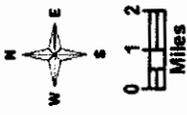
Route No.	Route Name	Overall Segment Requiring Sweeping				High Priority Watersheds (To Be Swept Every 5 Weeks)							
		Start MP	End MP	Map	Map	Start MP	End MP	Map	Map				
93	Farrington Hwy.	0.00 (Palalal I/C)	19.53 (Kaena Pt.)	B2	B1					0.00 (Palalal I/C)	19.53 (Kaena Pt.)	B2	B1
95	Kalaeloa Blvd., Malakole St.	0.00 (Palalal I/C)	2.68 (Access Rd. Leading to Storage Yard)	B2	B2					0.00 (Palalal I/C)	2.68 (Access Rd. Leading to Storage Yard)	B2	B2
98	Vineyard Blvd.	0.00 (Olomea St. @ H-1 EB Off-Ramp)	1.76 (Ramp to H-1 EB)	B3	B3	0.34 (Pua Lane)	1.76 (Ramp to H-1 EB)	B3	B4	0.00 (Olomea St. @ H-1 EB Off-Ramp)	0.34 (Pua Lane)	B3	B3
99	Kamehameha Hwy., Kamananui Rd., Wilikina Dr., Farrington Hwy.	0.00 (Weed Circle)	23.83 (Pearl Harbor I/C)	B1	B3	2.50 (2.5 Miles Mauka of Weed Circle)	23.31 (Above H-1 Fwy. and EB Nimitz/Hickam Off-Ramp)	B1	B3	0.00 (Weed Circle)	23.83 (Pearl Harbor I/C)	B3	B1
750	Kunia Rd.	0.00 (H-1)	8.05 (Wilikina Dr.)	B2	B1	0.00 (H-1)	8.05 (Wilikina Dr.)	B2	B1				
901	Ft. Barrette Rd.	0.00 (Barbers Pt. Rd.)	1.38 (Makakilo O/P)	B2	B2					0.00 (Barbers Pt. Rd.)	1.38 (Makakilo O/P)	B2	B2
930	Farrington Hwy., Kaukonahua Rd.	0.00 (Kaena Pt.)	7.92 (Weed Circle)	B1	B1	5.52 (Puuliki St.)	7.92 (Weed Circle)	B1	B1	0.00 (Kaena Pt.)	5.52 (Puuliki St.)	B1	B1
7012	Whitmore Ave.	0.00 (Kam. Hwy.)	1.90 (Naval Comm. Sta.)	B1	B1	0.00 (Kam. Hwy.)	1.90 (Naval Comm. Sta.)	B1	B1				
7101	Farrington Hwy.	0.00 (Kunia Rd.)	3.00 (Kam. Hwy. - Pearl City)	B2	B2	0.00 (Kunia Rd.)	3.00 (Kam. Hwy. - Pearl City)	B2	B2				
7110	Farrington Hwy.	0.00 (Kunia Rd.)	0.62 (Old Ft. Weaver Rd.)	B2	B2					0.00 (Kunia Rd.)	0.62 (Old Ft. Weaver Rd.)	B2	B2
7141	Iroquois Rd.	0.00 (FL Weaver Rd.)	1.51 (West Loch)	B2	B2					0.00 (FL Weaver Rd.)	1.51 (West Loch)	B2	B2
7239	Ulune St., Halawa Valley Rd.	0.00 (Kahuapaani St.)	0.32 (Iwaiwa St.)	B3	B3	0.00 (Kahuapaani St.)	0.32 (Iwaiwa St.)	B3	B3				
7241	Kahuapaani St., Halawa Hts. Rd.	0.00 (Salt Lake Blvd.)	2.32 (Camp Smith)	B3	B3	0.00 (Salt Lake Blvd.)	2.32 (Camp Smith)	B3	B2				

Street Sweeping

08/22/05

Route No.	Route Name	Overall Segment Requiring Sweeping				High Priority Watersheds (To Be Swept Every 5 Weeks)							
		Start MP	Map	End MP	Map	Start MP	Map	End MP	Map				
7310	Puuloa Rd.	0.00 (Kam./Nimitz Hwy.)	B3	1.03 (Moanalua Fwy.)	B3					0.00 (Kam./Nimitz Hwy.)	B3	1.03 (Moanalua Fwy.)	B3
7345	Jarrette White Rd.	0.00 (Moanalua Fwy.)	B3	0.55 (Tripler Hospital)	B3					0.00 (Moanalua Fwy.)	B3	0.55 (Tripler Hospital)	B3
7350	Bouganville Dr.	0.00 (Radford Dr.)	B3	0.59 (Salt Lake Blvd.)	B3	0.00 (Radford Dr.)	B3	0.59 (Salt Lake Blvd.)	B3				
7351	Radford Dr.	0.00 (Kam. Hwy.)	B3	0.23 (Bouganville Dr.)	B3	0.00 (Kam. Hwy.)	B3	0.23 (Bouganville Dr.)	B3				
7401	Kamehameha Hwy.	0.00 (Middle St.)	B3	0.10 (100' East of Kalihi Stream Bridge)	B3	0.00 (Middle St.)	B3	0.10 (100' East of Kalihi Stream Bridge)	B3				
7413	Liliha St.	0.00 (King St.)	B3	0.35 (H-1 Liliha St. O/P)	B3	0.00 (King St.)	B3	0.35 (H-1 Liliha St. O/P)	B3				
7415	Middle St.	0.00 (Kaua St.)	B3	0.51 (Kam. Hwy.)	B3	0.00 (Kaua St.)	B3	0.51 (Kam. Hwy.)	B3				
7601	Old Waiatae Rd.	0.00 (Kapiolani Blvd.)	B4	0.41 (King St.)	B4					0.00 (Kapiolani Blvd.)	B4	0.41 (King St.)	B4

**Appendix B**  
**HDOT Highways Division**  
**Oahu District MS4**  
**Sweeping/Brooming of State Routes**



- Legend**
- Street Sweeping Schedule on State Routes
  - Routes in High Priority Watersheds to be Swept Once Every 5 Weeks
  - Other Priority Routes to be Swept Once Every 5 Weeks
  - Routes to be Swept Once Every 15 Weeks
  - High Priority Watersheds
  - All Other Watersheds
  - County Router

**Index Map**





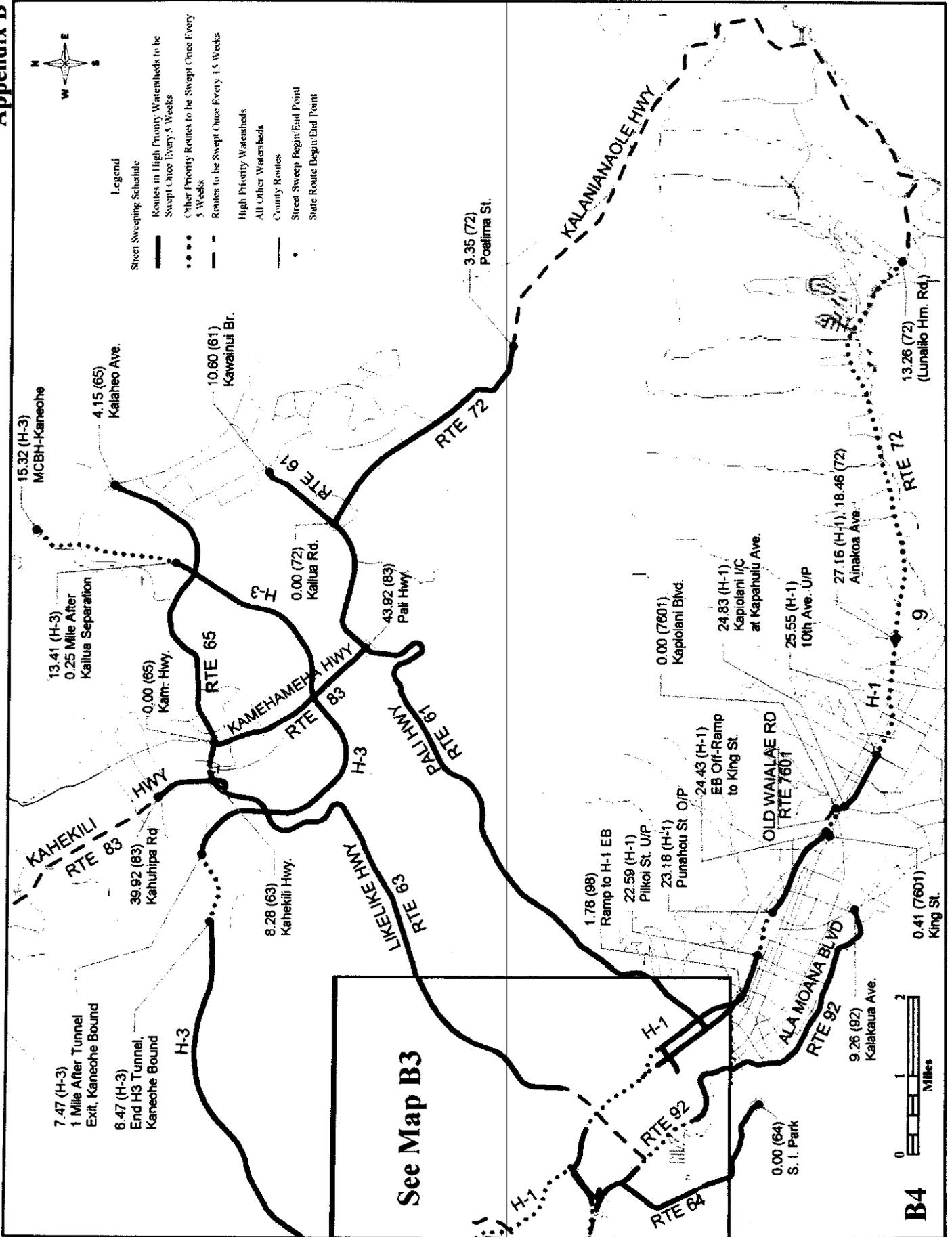


# Appendix B



### Legend

- Street Sweeping Schedule
- Routes in High Priority Watersheds to be Swept Once Every 5 Weeks
  - Other Priority Routes to be Swept Once Every 5 Weeks
  - Routes to be Swept Once Every 15 Weeks
- High Priority Watersheds
- All Other Watersheds
- County Routes
- Street Sweep Begin/End Point
  - State Route Begin/End Point



See Map B3

B4

## APPENDIX C

### DRAINAGE SYSTEM INSPECTION & CLEANING

1. This requirement becomes effective upon commencement of service contract, or 60 days post-entry, whichever comes first.
2. For drainage system structures (including, but not limited to, gutters, swales, open channels/ditches, culverts, drain inlets, catch basins, manholes, outfalls, and other accessible discharge points) located in High Priority Watersheds and within HDOT's rights-of-way:
  - a. Complete inventory of, and inspect for sediment, trash, litter, and other gross solids, within one (1) year of effective date.
  - b. Clean, in accordance with SWMPP DR3-1, within one (1) year of effective date.
  - c. Re-inspect, and clean as appropriate and in accordance with SWMPP DR3-1, at least semiannually thereafter.
3. For drainage system structures (including, but not limited to, gutters, swales, open channels/ditches, culverts, drain inlets, catch basins, manholes, outfalls, and other accessible discharge points) not located in High Priority Watersheds, or located within High Priority Watersheds but outside of HDOT's rights-of-way:
  - a. Complete inventory of, and inspect for sediment, trash, litter, and other gross solids, within two (2) years of effective date.
  - b. Clean, in accordance with SWMPP DR3-1, within two (2) years of effective date.
  - c. Re-inspect, and clean as appropriate and in accordance with SWMPP DR3-1, at least annually thereafter.
4. For the purposes of this Appendix the word "culverts" shall mean "accessible points including culvert manholes, entrances, and outfalls."

**APPENDIX D**

**AREAS FOR INSTALLATION OF TEMPORARY EROSION CONTROL MEASURES IN HIGH PRIORITY WATERSHEDS**

	<b>Route</b>	<b>Route No.</b>	<b>Direction of Travel</b>	<b>From Mile Post</b>	<b>To Mile Post</b>	<b>Length (feet)</b>	<b>Height (feet)</b>
1.	Interstate H-2	H-2	Wahiawa Bound	0.48	0.80	1690	30
2.	Interstate H-2	H-2	Wahiawa Bound	0.99	1.20	1109	30
3.	Interstate H-2	H-2	Honolulu Bound	1.02	1.21	1003	15
4.	Interstate H-2	H-2	Waianae Exit	0.51	1.71	1056	35
5.	Kamehameha Hwy.	99	Wahiawa Bound	11.28	11.50	1162	50
6.	Kamehameha Hwy.	99	Honolulu Bound	11.95	12.16	1109	50
7.	Kunia Rd.	750	Waipahu Bound	7.02	7.20	950	5 - 25
8.	Kunia Rd.	750	Waipahu Bound	6.54	6.79	1320	2 - 15
9.	Kunia Rd.	750	Wahiawa Bound	6.54	6.79	1320	2 - 15
10.	Kunia Rd.	750	Wahiawa Bound	6.96	7.14	950	5 - 25

## APPENDIX E

### COMPLIANCE-FOCUSED ENVIRONMENTAL MANAGEMENT SYSTEMS ("EMSs")

1. Purpose. The purpose of this supplemental environmental project ("SEP") is to develop and implement EMSs that conform to the standards identified below for the operations and facilities of the Airports, Harbors, and Highways Divisions of the HDOT including, at a minimum, those facilities specifically identified in Attachment 1.

2. Initial Auditor(s). No later than 60 days after entry of the Consent Decree to which this Appendix is attached ("Consent Decree"), HDOT shall provide to EPA and to DOH ("the Parties") in writing:

(a) the name, affiliation, and address of the Initial Auditor(s) selected by HDOT to conduct an Initial EMS Review and Evaluation;

(b) evidence that each Initial Auditor(s) satisfies the qualification requirements and proficiency criteria of ISO 14012 "Guidelines for environmental auditing - Qualification criteria for environmental auditors" (First Edition, 1996-10-01) and that the team conducting the Initial EMS Review and Evaluation, in composite, has a working knowledge of HDOT's operations and the facilities identified in Attachment 1, or similar operations, and of the federal and state environmental requirements which apply to HDOT's operations and these facilities;

(c) evidence that each Initial Auditor(s) has the necessary expertise to develop and implement the Compliance, Best Management Practices and Pollution Prevention ("P2") Checklists required below; and

(d) evidence that each Initial Auditor(s) has the necessary training experience to conduct the training sessions required below.

3. If EPA (after consultation with DOH) determines that the proposed Initial Auditor(s) does not meet the qualifications set forth in the previous Paragraph or that past or existing relationships with the Initial Auditor(s) could affect the Initial Auditor(s)' ability to exercise the independent judgment and discipline required to conduct the review, EPA may disapprove such Initial Auditor(s) and HDOT shall propose another Initial Auditor(s) for approval by EPA (after consultation with DOH) within 30 days of HDOT's receipt of EPA's determination. If, at any time, HDOT wishes to contract with a new Initial Auditor(s), HDOT shall notify the United States and DOH in writing and provide an explanation for the change and shall propose another Initial Auditor(s) to EPA for approval. Any subsequent Initial Auditor(s) must satisfy the qualification requirements of the preceding Paragraph.

4. HDOT shall not, in any way, through its own actions or through the actions of others, interfere with the ability of the Initial Auditor(s) to carry out his or her review of the elements and terms described in this Appendix in an independent fashion.

5. Initial EMS Review and Evaluation. Upon approval of the Initial Auditor(s), HDOT shall direct the Initial Auditor(s) to conduct and complete an Initial EMS Review and Evaluation (commonly referred to as a "gap" analysis) for HDOT's operations at the Harbors (including Honolulu Harbor), Airports (including Honolulu Airport), and Highways Divisions, including a representative sampling of the facilities identified in Attachment 1. The Initial EMS Review and Evaluation shall include an evaluation of the current compliance status, management practices, and pollution prevention ("P2") opportunities at the Divisions, as well as an assessment of any existing EMS, environmental practices, compliance, or P2 programs at the facilities. The Initial Auditor(s) shall review and evaluate any current EMS using the elements set forth in Paragraph 15 below, to identify where systems or subsystems have not been adequately developed or implemented.

6. The HDOT staff, especially the Operations staff, shall be actively involved in the Initial EMS Review and Evaluation. A primary purpose of this Initial EMS Review and Evaluation shall be to collect information for development of the Compliance, Best Management Practices, and Pollution Prevention Checklists and the training sessions required in Paragraphs 9 and 11 below.

7. Any violations of federal, state, or local environmental laws, regulations, or permits or of any other enforceable agreement requiring environmental compliance identified during the Initial EMS Review and Evaluation shall be disclosed and corrected in accordance with Paragraphs 15.F.5 and 36.

8. The Initial EMS Review and Evaluation shall be completed no later than 120 days after approval of the Initial Auditor(s). The results of the Initial EMS Review and Evaluation shall be documented in a report prepared by the Initial Auditor(s) and provided to HDOT, including all Deputy Directors and the Director. This report shall be made available to EPA and DOH upon request.

9. The Compliance, Best Management Practices and Pollution Prevention Checklists ("the Checklists"). No later than 120 days after approval of the Initial Auditor(s), the Initial Auditor(s) shall develop and submit to EPA for review and approval pursuant to Part III of the Consent Decree (Approval Process):

- (a) Compliance Checklist(s) of federal, state, local requirements, as described in Paragraph 15.D.2. The Compliance Checklist(s) shall also include the legal citation for any legal requirement, a calendaring system to identify when compliance obligations are due and forms to assist in the facility evaluations.

(b) Best Management Practices Checklist(s) which shall provide a schedule of activities, prohibitions of practices, maintenance procedures, structural controls, local ordinances, and other management practices to prevent or reduce the discharge, release, or emission of pollutants; and

(c) Pollution Prevention ("P2") Checklist(s) which shall provide opportunities for preventing, reducing, recycling, reusing, and minimizing waste and emissions, including procedures to encourage material substitutions.

10. Each of the above Checklists shall require ongoing updates and supplementation and shall be tailored to the different operations of HDOT's Harbors, Airports, and Highways Divisions. The Checklists are compliance assistance tools developed by HDOT for use by HDOT. The Checklists are not intended to create rights, substantive or procedural, enforceable by any party in litigation with any regulatory agencies, including, but not limited to, DOH or EPA. EPA and DOH do not vouch for the completeness of the Checklists. The Checklists do not operate in lieu of complying with any legal requirements.

11. Training Course. No later than 120 days after approval of the Initial Auditor(s), the Initial Auditor(s) shall develop and submit to EPA for review and approval pursuant to Part III of the Consent Decree (Approval Process) a detailed training course outline and schedule with all materials for the first two training sessions for each of HDOT's Divisions. The training course and materials shall address, at a minimum, the following:

(a) The training course shall be a multi-session course designed to allow HDOT personnel involved in the course to participate in a session and then return to their respective facilities to apply what has been learned in order to implement the EMSs as defined herein;

(b) The implementation of the Checklists at each facility shall be an integral part of the training and implementation of the EMS; and

(c) The training shall focus, in part, on *measuring environmental results*. As an integral part of the training sessions, HDOT shall develop baseline information for the different environmental aspects of operations, including water usage, wastewater (including stormwater runoff), chemical usage, and energy usage for its facilities. A baseline shall be developed for environmental compliance by implementing the compliance checklist at each facility at the beginning of the training. Goals shall be established for environmental improvement. The difference between the baseline and the information developed during the internal evaluation provides an indicator of the environmental improvement resulting from the EMS.

(d) One follow up training workshop may be conducted as part of the EMS SEP after the EMS Manual has been submitted in accordance with Paragraph 16 below.

12. No later than 30 days after approval of the detailed training course outline and the materials for the first two training sessions, the Initial Auditor(s) shall start training sessions for each of the Divisions. The training courses shall be completed no later than 180 days from the date of the initial training session.

13. Action Plan for EMS Development. No later than 120 days after approval of the Initial Auditor(s), the Initial Auditor(s) shall develop and submit to EPA for review and approval pursuant to Part III of the Consent Decree (Approval Process), an Action Plan describing in a comprehensive manner how the Initial Auditor(s) shall work with the Divisions and facilities to facilitate their development of EMSs for the operations at each of the Divisions and the facilities identified in Attachment 1. The comprehensive EMSs shall, at a minimum, address the 12 key elements set forth in Paragraph 15 below. The Action Plan shall also, at a minimum, include the development of an EMS Manual for each Division that complies with Paragraphs 9, 10, 11, 13, 14, and 35 of this Appendix. The Action Plan shall describe the process by which the Checklists and training course will be integrated to develop and implement the EMSs. As part of the HDOT's facilities' EMS, HDOT shall develop and implement procedures for oversight of the facilities of tenants, contractors, and other users of the ports, airports, and highways subject to the jurisdiction of HDOT. The Action Plan shall include a schedule for implementing the Action Plan and final development of the EMS Manual(s), as required by Paragraph 16, and the Evaluation Report, as required by Paragraph 17.

14. Action Plan's Emphasis on Harbors Division. The Action Plan shall require that the Compliance and Best Management Practices Checklists be implemented at the Harbors Division as a priority. As a mandatory condition for certifying that the SEP has been fully implemented in accordance with Paragraph 21 of the Consent Decree (SEP Completion Report), the Harbors Division shall:

- (a) apply the Compliance and Best Management Practices Checklists to the Honolulu Harbor, including tenants and other users;
- (b) certify that any compliance violations at the Harbors Division's facilities identified in Attachment 1 that have been discovered by the HDOT, Initial Auditor, or the Final Auditor during the initial review, development, implementation, and final audit of the EMS(s) shall have been corrected or are the subject of a compliance schedule as required by Paragraphs 15.F.5 and 36; and
- (c) as part of the HDOT's facilities' EMS, develop and implement procedures for oversight of the facilities of tenants and other users of the ports subject to the jurisdiction of HDOT.

15. The Elements of the EMS. Following the completion of the training course, HDOT shall complete the EMS Manuals. The EMS Manuals shall be organized to clearly address the following issues:

**A. Environmental Policy**

1. This policy, upon which the EMS is based, must clearly communicate management commitment to achieving compliance with applicable federal, state, and local environmental statutes, regulations, enforceable agreements, and permits (hereafter, "environmental requirements"), minimizing the risks to the environment from unplanned contaminant releases, and continual improvement in environmental performance. Further, the policy should address management's commitment to coordinate activities of HDOT to ensure that there is effective oversight to address the potential and actual environmental impacts resulting from the tenants, contractors, and other users of the ports, highways, and airports subject to the jurisdiction of HDOT. The policy should also state management's intent to seek adequate personnel and other resources for the EMS so that there is dedicated personnel identified to ensure the ongoing implementation of the EMS and that environmental responsibilities are not viewed as collateral duties to the staffs numerous other responsibilities. As evidence of management commitment, the Division Directors of the Harbors, Airports, and Highway Divisions shall personally review and certify as to the status of the EMSs for each of their respective facilities and the Division on a biannual basis. The certification shall be submitted to EPA. The Director of HDOT shall review the status of the EMS annually.

**B. Organization, Personnel, and Oversight of EMS**

1. Describes, organizationally, how the EMS is implemented and maintained.
2. Includes organization charts that identify units, line management, and other individuals having environmental performance, risk reduction, and regulatory compliance responsibilities.
3. Identifies and defines specific duties, roles, responsibilities, and authorities of key environmental program personnel in implementing and sustaining the EMS (e.g., could include position descriptions and performance standards for all environmental department personnel, and excerpts from others having specific environmental program and regulatory compliance responsibilities).
4. Includes ongoing means of communicating environmental issues and information to all organization personnel, on-site service providers, tenants, and contractors, and for receiving and addressing their concerns.

**C. Accountability and Responsibility**

1. Specifies accountability and environmental responsibilities of organization's managers, on-site service providers, tenants, and contractors for environmental protection practices, assuring compliance, required reporting to regulatory agencies, and corrective actions implemented in their area(s) of responsibility.
2. Describes incentive programs for managers and employees to perform in accordance with compliance policies, standards, and procedures.
3. Describes potential consequences for departure from specified operating procedures, including HDOT liability for civil/administrative penalties imposed as a result of noncompliance.

**D. Environmental Requirements**

1. Describes process for identifying, interpreting, and effectively communicating environmental requirements to affected organization personnel, on-site service providers, tenants, and contractors, and then ensuring that facility activities conform to those requirements (i.e., ongoing compliance monitoring). Specifies procedures for prospectively identifying and obtaining information about changes and proposed changes in environmental requirements, and incorporating those changes into the EMS.
2. Includes a compliance checklist of federal, state, local requirements and best industry practices. These requirements shall incorporate, but are not limited to, the terms in permits, orders, and enforceable agreements. The requirements addressed by the Compliance Checklist are based on the Clean Water Act, 33 U.S.C. §§ 1311–1346 (including compliance with the Storm Water and SPCC requirements of the Act); the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6921–6939e; and the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. §§ 11001–11023. This Compliance Checklist shall be updated periodically and used for routine compliance audits, as appropriate. All compliance violations identified by the Compliance Checklist, or otherwise in conjunction with the EMS, shall be corrected in accordance with the terms of Paragraphs 15.F.5 and 36.
3. Establishes and describes processes to ensure communication with regulatory agencies regarding environmental requirements and regulatory compliance.

**E. Assessment, Prevention, and Control**

1. Identifies an ongoing process for assessing operations, for the purposes of preventing and controlling or minimizing reasonably foreseeable releases or discharges, ensuring environmental protection, and maintaining compliance with

statutory and regulatory requirements. This section shall describe monitoring and measurements, as appropriate, to ensure sustained compliance. It shall also include identifying operations and waste streams where equipment malfunctions and deterioration, operator errors or deliberate malfeasance, and discharges or emissions may be causing, or may lead to: (a) releases of hazardous waste or other pollutants to the environment, (b) a threat to human health or the environment, or c) violations of environmental requirements.

2. Describes process for identifying operations and activities where documented standard operating practices ("SOPs") are needed to prevent potential violations or unplanned pollutant releases, and defines a uniform process for developing, approving, and implementing the SOPs.
3. Describes a system for conducting and documenting routine, objective, self-inspections by department supervisors and trained staff, especially at locations identified by the process described in Paragraph 15.E.1, to check for malfunctions, deterioration, worker adherence to SOPs, and unauthorized releases.
4. Describes process for ensuring input of environmental requirements (or concerns) in planning, design, and operation of ongoing, new, and/or changing buildings, processes, equipment, and maintenance activities.

**F. Environmental Incident and Noncompliance Investigations**

1. Describes standard procedures and requirements for internal and external reporting of potential violations and release or discharge incidents or other non-compliance.
2. Establishes procedures for investigation and prompt and appropriate correction of potential violations. The investigation process includes root-cause analysis of identified problems to aid in developing the corrective actions.
3. Describes a system for development, tracking, and effectiveness verification of corrective and preventative actions.
4. Each of these procedures shall specify self-testing of such procedures, where practicable.
5. Provide prompt notice of all violations to the regulatory agency and correct all compliance violations identified by the EMS for facilities identified in Attachment 1 within 21 days, unless a legal requirement requires more prompt correction. If it is determined that the violation cannot be corrected within 21 days, a compliance

schedule should be submitted to the HDOT EMS manager and to the applicable regulatory agency.

**G. Environmental Training, Awareness, and Competence**

1. Identifies other specific education and training required for organization personnel, as well as process for documenting training provided.
2. Describes program to ensure that organization employees are aware of its environmental policies and procedures, environmental requirements, and their roles and responsibilities within the environmental management system.
3. Describes program for ensuring that personnel responsible for meeting and maintaining compliance with environmental requirements are competent on the basis of appropriate education, training, and/or experience. In particular, training shall be conducted to address any compliance violations identified by the EMS.
4. Identifies training on how to recognize operations and waste streams where equipment malfunctions and deterioration, operator errors or deliberate malfeasance, and discharges or emissions may be causing, or may lead to: (a) releases of hazardous waste or other pollutants to the environment, (b) a threat to human health or the environment, or c) violations of environmental requirements.

**H. Environmental Planning and Organizational Decision-Making**

1. Describes how environmental planning will be integrated into organizational decision-making, including plans and decisions on capital improvements, product and process design, training programs, and maintenance activities.
2. Requires establishing written targets, objectives, and action plans by at least each operating organizational subunit with environmental responsibilities, as appropriate, including those for contractor operations conducted at the facility, and how specified actions will be tracked and progress reported. Targets and objectives must include actions which reduce the risk of noncompliance with environmental requirements and minimizing the potential for unplanned releases.

**I. Maintenance of Records and Documentation**

1. Identifies the types of records developed in support of the EMS (including audits and reviews), who maintains them and where, and protocols for responding to inquiries and requests for release of information.

2. Specifies the data management systems for any internal waste tracking, environmental data, and hazardous waste determinations.
3. Specifies document control procedures.

**J. Pollution Prevention/Best Management Practices Program**

1. Describes an internal program for preventing, reducing, recycling, reusing, and minimizing waste and emissions, including procedures to encourage material substitutions. HDOT shall evaluate P2 opportunities which shall include an identification of the opportunities, an evaluation of whether those opportunities are technically feasible, a calculation of the cost and a quantitative assessment of the pollution reduction. The Pollution Prevention and Best Management Practices Checklists will serve as a basis for this program.
2. To the extent that the training and development of the EMS Manual for a Division has been completed for the identified facilities and available funding from the SEP remains, the Division can select additional SEP projects arising out of the training, so long as such projects are consistent with the terms and conditions of the EPA Supplemental Environmental Projects Policy (May 1, 1998) and approved by EPA. If there are remaining funds available for a Division, another Division can apply to the HDOT EMS manager for use of the funds to conduct one of the approved SEP projects.

**K. Continuing Program Evaluation and Improvement**

1. Describes program for periodic (at least annually) evaluation of the EMS, including incorporating the results of the assessment into program improvements, revisions to the manual, and communicating findings and action plans to affected employees, on-site service providers, tenants, and contractors.
2. Describes a program for periodic audits (at least annually) of facility compliance with environmental requirements. Audit results are reported to upper management and potential violations are addressed through the process described in Paragraphs 15.F.5 and 36. In addition, an audit by an independent auditor will be conducted every four years.

**L. Public Involvement/Community Outreach**

1. Describes a program for ongoing community education and involvement in the environmental aspects of the organization's operations and general environmental awareness.

16. Submission of the EMS Manual. No later than 60 days after completion of the training course, HDOT shall submit to EPA complete EMS Manuals addressing the EMS provisions in Appendix E herein that relate to the facilities identified in Attachment 1 for review and approval in accordance with Part III (Approval Process) of the Consent Decree. A copy of the complete EMS Manuals shall be provided to DOH. Upon approval of the EMS Manual(s), HDOT shall immediately commence implementation of the EMS(s) in accordance with the schedule that shall be provided in the EMS Manual(s).

17. Evaluation Report. No later than 90 days after the EMS Manuals are approved, HDOT shall submit to EPA and to DOH an Evaluation Report describing the activities associated with the development of the EMS at the facilities identified in Attachment 1. The Evaluation Report shall include the following:

- (a) the implementation status of each of the twelve EMS elements identified in Paragraph 15;
- (b) baseline information for the different environmental aspects including water usage, wastewater (including stormwater runoff), hazardous waste, and energy usage;
- (c) a completed Compliance Checklist for each of the identified environmental requirements;
- (d) a corrective action schedule for any identified non-compliance; and
- (e) an identification of P2 opportunities, including an evaluation of whether those opportunities are technically feasible, a calculation of their cost and a quantitative assessment of the projected pollution reduction.

18. Final Auditor. HDOT shall provide for a third party (Final Auditor) to perform a Final Audit of the EMSs at each of HDOT's Divisions and facilities identified in Attachment 1. HDOT's contract with the Final Auditor shall require the Final Auditor to review and to evaluate the implementation of the systems, policies, and procedures described in the EMS Manuals, using the criteria set forth in Paragraphs 24 and 25 of this Appendix, as criteria for the evaluation. No later than 60 days after the EMS Manuals are approved HDOT shall provide to the EPA and DOH in writing:

- (a) the name, affiliation, qualifications and address of an independent auditor who was not involved in the Initial EMS Review and Evaluation ("the Final Auditor") selected by HDOT to perform an audit of HDOT's operations at each of its Divisions and the facilities identified in Attachment 1;

(b) evidence that the selected Final Auditor satisfies the independence and proficiency criteria contained in the ISO 14012 "Guidelines for environmental auditing - Qualification criteria for environmental auditors" (First edition, 1996-10-01).

(c) evidence that the Final Auditor has the necessary expertise to evaluate all the terms and conditions described in Paragraphs 9, 10, 11, 13, 14, 15, and 35, including expertise and competence in the regulatory programs under federal, state, and local environmental laws; and

(d) a schedule, including milestones, for conducting the review.

19. The Final Auditor must be capable of exercising the same independent judgment and discipline that a certified public accounting firm would be expected to exercise in auditing a publicly held corporation.

20. If EPA (after consultation with DOH) determines that the proposed Final Auditor does not meet the qualifications set forth in the previous Paragraph or that past or existing relationships with the Final Auditor could affect the Auditor's ability to exercise the independent judgment and discipline required to conduct the review, EPA may disapprove such Auditor and HDOT shall propose another Final Auditor for approval by EPA within 30 days of HDOT's receipt of EPA's determination. If, at any time, HDOT wishes to contract with a new Final Auditor because the approved Auditor is unable to fulfill the remaining tasks under the Final Audit of the EMSs, or for any other reason, HDOT shall notify EPA and DOH in writing and provide an explanation for the change and shall propose another Final Auditor to EPA for approval. Any subsequent Final Auditor must satisfy the qualification requirements outlined in Paragraphs 18 and 19 above.

21. HDOT shall not, in any way, through its own actions or through the actions of others, interfere with the ability of the Final Auditor to carry out his or her review of the elements and terms described in this Appendix in an independent fashion.

22. HDOT shall identify any and all site-specific training requirements for the Final Auditor and shall ensure that the requirements are met prior to conducting the audit.

23. The EMS Final Audit Plan. HDOT shall require the Final Auditor to prepare an EMS Final Audit Plan, for purposes of implementing the EMS Final Audit as described in Paragraphs 24 and 25 below, with an implementation schedule. The draft EMS Final Audit Plan shall be submitted no later than 45 days after the EPA's approval of the Final Auditor to EPA for review and approval pursuant to Part III of the Consent Decree (Approval Process). A copy of the draft EMS Final Audit Plan shall also be submitted to DOH.

24. HDOT shall require the Final Auditor to conduct an EMS Final Audit to evaluate the adequacy of EMS implementation, from top management down, throughout each

major organizational unit at the facilities, and to identify where further improvements should be made to the EMS. The Final Auditor shall include a comprehensive audit, with personal visit(s) by the Final Auditor, to determine conformance with the items identified in Paragraph 25 for all facilities identified in Attachment 1 located on Oahu. For all of the other facilities identified in Attachment 1, the HDOT EMS Manager shall have discretion as to: a) whether there will be personal visit(s) by the Final Auditor; and b) the extent of the evaluation needed to establish conformance with the elements identified in Paragraph 25 herein. For example, audits for these other facilities may be conducted by, at a minimum, reviewing the applicable portion of the EMS manual used by the facility and all records documenting EMS activities, in addition to conducting telephone interviews, as deemed appropriate. Notwithstanding the discretion related to the Final Audit, as described in this paragraph, HDOT shall implement an EMS, as developed in accordance with Appendix E, for all of the facilities identified in Attachment 1. The EMS Final Audit shall be conducted in accordance with ISO 14011 (First edition, 1996-10-01), using ISO 14010 (First edition, 1996-10-01) as supplemental guidance.

25. The Final Auditor shall assess conformance with the elements specified in Paragraphs 9, 10, 11, 13, 14, 15, and 35 and with the EMS Manuals, and shall determine the following for the Divisions and for each of the facilities:

- (a) Whether there is a defined system, subsystem, program, or planned task for the respective EMS element;
- (b) To what extent the system, subsystem, program, or task has been implemented and is being maintained;
- (c) Adequacy of each Facility's internal self-assessment procedures for programs and tasks composing the EMS;
- (d) Whether HDOT is effectively communicating environmental requirements to affected parts of the organization, contractors, tenants, users, and on-site service providers;
- (e) Whether further improvements should be made to the EMS;
- (f) Whether there are observed deviations from HDOT's written requirements or procedures;
- (g) Whether continuous improvement is occurring;
- (h) Any violations of federal, state, or local environmental laws, regulations, or permits, or of any other enforceable agreement requiring environmental compliance at the facilities. Any identified violation shall be disclosed and corrected in accordance with Paragraphs 15.F.5 and 36;

- (i) Whether the Checklists have been effectively implemented at the facilities;
- (j) Whether there is sufficient information to measure environmental results as described in Paragraph 11(c); and
- (k) The extent to which the EMS includes effective procedures for oversight of the facilities of tenants, contractors, and other users of the ports, airports, and highways subject to the jurisdiction of HDOT.

26. The EMS Final Audit shall not be initiated until at least 30 days after HDOT submits the Evaluation Report as described in Paragraph 17 above. The EMS Final Audit shall be completed no later than 90 days after HDOT submits the Evaluation Report.

27. Designated representatives from EPA, DOH, and other environmental regulatory agencies may participate in the Final EMS Audit as observers. HDOT shall make timely notification to designated regulatory contacts regarding audit scheduling in order to make arrangements for observers to be present. HDOT personnel may also participate in the on-site audits as an observer(s), but may not interfere with the independent judgement of the Final Auditor.

28. EMS Final Audit Report. HDOT shall direct the Final Auditor to independently prepare an EMS Final Audit Report and concurrently submit the report to HDOT, DOH and EPA within 60 days of completion of the EMS Final Audit. The EMS Final Audit Report shall present the Audit Findings and shall, at a minimum, contain the following information:

- (a) Audit scope, including the period of time covered by the audit;
- (b) The date(s) the on-site portion of the audit was conducted;
- (c) Identification of audit team members;
- (d) Identification of HDOT representatives and regulatory agency personnel observing the audit;
- (e) The distribution for the EMS Final Audit Report;
- (f) A summary of the audit process, including any obstacles encountered;
- (g) Detailed Audit Findings, including the basis for each Finding and each Area of Concern identified;

(h) Identification of any Audit Findings corrected or Areas of Concern addressed during the audit, and a description of the corrective measures and when they were implemented;

(i) Certification by the Final Auditor that the EMS Final Audit was conducted in accordance with the provisions of this Decree;

(j) An identification of any violations of federal, state, or local environmental laws, regulations, or permits, or of any other enforceable agreement requiring environmental compliance at the facilities and any root cause analysis describing the reason for the violations;

(k) The extent to which the Checklists have been effectively implemented at the facilities;

(l) The extent to which the facilities are able to measure environmental results as described in Paragraph 11(c) above; and

(m) How the EMS SEP has applied to contractors, tenants, and other users in accordance with Paragraph 35.

29. If the Final Auditor believes that additional time is needed to analyze available information or to gather additional information, HDOT may request that EPA grant the Final Auditor such additional time as needed to prepare and submit the EMS Final Audit Report. EPA's decision whether to grant additional time shall be final and unreviewable.

30. Corrective Action Plan. Upon receiving the EMS Final Audit Report, HDOT shall conduct a root cause analysis of the identified Audit Findings, as appropriate, and shall investigate all Areas of Concern. No later than 60 days after receiving the EMS Final Audit Report, HDOT shall submit to EPA for review and approval pursuant to Part III of the Consent Decree (Approval Process), a Corrective Action Plan for expeditiously bringing the facilities into full conformance with the EMS provisions in Paragraphs 9, 10, 11, 13, 14, 15, and 35, the EMS Manual(s), and fully addressing all Areas of Concern from the EMS Final Audit Report. A copy of the Corrective Action Plan shall be submitted to DOH. The Corrective Action Plan shall include the result of any root cause analysis, specific deliverables, responsibility assignments, and an implementation schedule.

31. Upon EPA approval of the Corrective Action Plan, in whole or in part, HDOT shall begin implementation of the Corrective Action Plan immediately in accordance with the implementation schedule set forth therein. HDOT shall submit status reports regarding implementation to EPA and to DOH on a quarterly basis, beginning no later than 30 days from EPA's approval of the Corrective Action Plan, in whole or in part, until all approved portions of the Corrective Action Plan have been completed.

32. SEP Completion Report and Corrective Action Plan Completion. Within 30 days after all items in the Corrective Action Plan have been completed, HDOT shall submit to EPA and to DOH:

(a) a SEP Completion Report in accordance with Paragraphs 21 through 23 of the Consent Decree. The SEP Completion Report is subject to Part X (Dispute Resolution) of the Consent Decree. Any disputes concerning the SEP Completion Report are the only disputes arising out of this Appendix that are related to the satisfactory performance of the EMS SEP; and

(b) a written Correction Action Plan Completion Certification to EPA signed by the Director of HDOT.

33. Funding of EMS SEP. HDOT's total expenditure for the EMS SEP shall not be less than \$1,062,500. No part of this expenditure shall include federal funds, including low interest federal loans, federal contracts, or federal grants. Each of the Divisions shall use its share of these dollars to implement an EMS at each of the identified facilities within its Division. SEP funds not spent within four years from the effective date of this Consent Decree shall revert to the U.S. Treasury, unless an extension is agreed to by HDOT and the United States.

34. Eligible SEP Expenses. The Initial Auditor(s)' costs associated with the Initial EMS Review and Evaluation, preparation of the training materials, time for instruction, follow up with facilities on EMS related activities, including, but not limited to, implementing the Checklists and one follow up training session, shall be eligible SEP expenses. Technical support for conducting the projects identified through Paragraph 15.J.2 above may be eligible SEP expenses. Finally, costs associated with the Final Auditor for preparing the EMS Final Audit Plan, conducting the EMS Final Audit, and preparing the EMS Final Audit Report and for technical assistance associated with implementing the Final Auditor's recommendations, not associated with correcting a compliance violation, shall be eligible SEP expenses. No costs associated with HDOT employees participating in training, implementing the EMS or other expenses associated with the EMS (including any costs associated with corrective actions needed for compliance actions identified under the EMS) shall be considered eligible SEP expenses. Also, any costs associated with the injunctive relief required by this Consent Decree shall not be eligible SEP expenses.

35. The Relationship of the EMS SEP to the Contractors, Tenants, and Users. The Checklists shall be used by HDOT personnel, in part, to evaluate the environmental performance of its contractors, tenants, and users. Contractors, tenants, and users of the Harbors, Airports, and Highways Divisions may be invited to attend the training sessions, but they will not be allowed to use SEP funds to discuss their EMS outside the training sessions with the Initial Auditor(s). HDOT shall require contractors to implement the EMS for all activities conducted on HDOT property, as part of future contractual requirements.

36. Violations Discovered in Connection with the Implementation of the EMSs. All violations of federal, state, or local environmental requirements at HDOT facilities identified in Attachment 1 discovered by HDOT, the Initial Auditor, or the Final Auditor during the initial review, development, implementation, and final audit of the EMS(s) shall:

(a) be disclosed to EPA and corrected in accordance with Paragraph 15.F.5 of this Appendix; and

(b) meet the “voluntary discovery” condition of the “Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations” (“the Audit Policy”), 65 Fed. Reg. 19618 (April 11, 2000).

37. Retention of Rights. Notwithstanding the activities associated with this SEP, the United States and DOH retain its enforcement rights to address any violations.

38. Confidential Business Information (“CBI”). HDOT may, if appropriate, assert that portions of the EMS Manual or reports or other submissions required by this Appendix contain CBI, pursuant to 40 C.F.R. Part 2, Subpart B. Documents or information determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies the documents or information when submitted to EPA, or if EPA has notified HDOT that the documents or information is not confidential under the standards of 40 C.F.R. Part 2, Subpart B, the public may be given access to such documents or information without further notice to HDOT.

ATTACHMENT 1  
DOT FACILITY LIST

I. Airports Division.

- a. Hawaii District, Hilo International Airport, DOT Maintenance Baseyard
- b. Hawaii District, Kona International Airport at Keahole, DOT Maintenance Baseyard
- c. Hawaii District, Waimea-Kohala Airport, DOT Maintenance Baseyard
- d. Kauai District, Lihue Airport, DOT Maintenance Baseyard
- e. Oahu District, Honolulu International Airport, DOT Maintenance Baseyard
- f. Oahu District, Dillingham Airfield, DOT Maintenance Baseyard
- g. Oahu District, Kalaeloa Airport, DOT Maintenance Baseyard
- h. Maui District, Kahului Airport, DOT Maintenance Baseyard
- i. Maui District, Kapalua Airport, DOT Maintenance Baseyard
- j. Maui District, Lanai Airport, DOT Maintenance Baseyard
- k. Maui District, Molokai Airport, DOT Maintenance Baseyard

II. Highways Division

- a. Hawaii District, Hilo Baseyard
- b. Hawaii District, Honokaa Baseyard
- c. Hawaii District, Waimea Baseyard
- d. Hawaii District, North Kona Baseyard
- e. Hawaii District, South Kona Baseyard
- f. Hawaii District, Kau Baseyard
- g. Kauai District, Lihue Baseyard
- h. Kauai District, Waimea Baseyard
- i. Oahu District, Kakoi Street Baseyard
- j. Oahu District, Keehi Baseyard
- k. Oahu District, Kaneohe Baseyard
- l. Oahu District, Haaula Baseyard
- m. Oahu District, Wahiawa Baseyard
- n. Oahu District, Waiane Baseyard
- o. Oahu District, Pearl City Baseyard
- p. Oahu District, H-3 Tunnel Maintenance Shop
- q. Maui District, Kahului Baseyard
- r. Maui District, Keanae Baseyard
- s. Maui District, Lanai Baseyard
- t. Maui District, Molokai Baseyard

III. Harbors Division

- a. Hawaii District, Hilo Harbor DOT Maintenance Facility
- b. Hawaii District, Kawaihae Harbor DOT Maintenance Shop

- c. Kauai District, Nawiliwili Harbor DOT Maintenance Facility
- d. Kauai District, Port Allen Harbor DOT Maintenance Shop
- e. Oahu District, Honolulu Harbor DOT Maintenance Facility
- f. Oahu District, Kalaeloa Barbers Point Harbor
- g. Maui District, Kahului Harbor DOT Maintenance Facility

## APPENDIX F

### COMPLIANCE ASSISTANCE WORKSHOPS

1. HDOT shall provide “Erosion and Sediment Control for Highways” Compliance Assistance Workshops for professional contractors and construction contractors at each of the following six (6) locations: Hilo, Hawaii; Kona, Hawaii; Kauai; Maui; Honolulu, Oahu; and Kapolei, Oahu.
2. HDOT shall provide the cost for one DOH representative to attend each workshop, including transportation to and from Oahu and accommodations as required.
3. HDOT shall provide separate courses for professional contractors and construction contractors. In addition, HDOT shall invite inspectors from each County to attend each workshop.
4. HDOT shall publicize the workshops by giving a minimum of thirty (30) days notice to the applicable organizations.
  - a. The notice shall include the date, time, location, and outline of the workshop.
  - b. The applicable organizations include, but are not limited to, the following organizations:
    - i. American Council of Engineering Companies of Hawaii (ACECH), American Society of Civil Engineers (ASCE) Hawaii Section, Hawaii Society of Professional Engineers (ASPE), Hawaii Water Environment Association (HWEA), and Institute of Transportation Engineers (ITE) for professional contractors.

ii. Building Industry Association of Hawaii (BIA-Hawaii) and General Contractors Association of Hawaii (GCA), and the Contractor's Associations on the islands of Maui, Kauai, and Hawaii for construction contractors.

5. Each course shall take one day (minimum of 6 hours of instruction).

6. Within thirty (30) days from the date of entry of the Consent Decree, HDOT shall submit draft course outlines to EPA and DOH for approval pursuant to Section III of this Consent Decree. The course outlines shall, at a minimum, accomplish the following:

a. These one day courses shall provide participants with a thorough understanding of the principles of erosion and sediment control and how they uniquely apply to highway projects. The regulatory requirements shall also be discussed. The emphasis of both courses shall be selecting, designing, implementing, and evaluating the effectiveness of Best Management Practices and Erosion and Sediment Control Plans.

b. The following topics shall be covered in the course:

- Erosion and Sediment Control Process
- Regulatory Requirements
- Overview and Development of erosion control plans
- Stabilization Methods
- Structural Erosion Control Methods
- Design Issues and Considerations
- Inspection and Monitoring Requirements

c. Upon completion of the course, the attendees should be able to:

- Understand the erosion and sediment control process and the factors which influence erosion and sedimentation.

- Comprehend the regulatory issues which relate to erosion control for highways.
- Follow the basic procedures for developing erosion control plans.
- Describe the stabilization methods used in highway applications.
- Describe the structural erosion control measures used in highway applications.
- Perform basic design calculations for erosion control measures.
- Understand inspection and monitoring requirements.

7. Within ninety (90) days from the date of entry of the Consent Decree, HDOT shall commence offering the first workshop. All twelve (12) workshops shall be completed by HDOT no later than fifteen (15) months from the date of entry of the Consent Decree.
8. HDOT shall document attendance at the workshops with sign-in or registration sheets. These sheets, along with copies of the notice described in Paragraph 4 and the list of associated recipients, shall be submitted in HDOT's End-of-Year Reports.

## APPENDIX G

### LIST OF CCH MANUAL LOCATIONS HIGHWAYS DIVISION

1. Construction & Maintenance Branch
  - a. Construction Section (4 Employees, 1 Manual)
  - b. Environmental Section (2 Employees, 1 Manual)
  - c. Maintenance Section (4 Employees, 1 Manual)
2. Planning Branch
  - a. Advance Planning Section (7 Employees, 1 Manual)
  - b. Highway Planning Survey Section (18 Employees, 2 Manuals)
  - c. System Planning Section (6 Employees, 1 Manual)
3. Materials Testing & Research Branch
  - a. Research & Technology Transfer Section (7 Employees, 1 Manual)
  - b. Geotechnical & Pavement Design Section (9 Employees, 1 Manual)
  - c. Bituminous Materials Section (9 Employees, 1 Manual)
  - d. Structural Material Section (8 Employees, 1 Manual)
4. Design Branch
  - a. Bridge Design Section (14 Employees, 1 Manual)
  - b. Highway Design Section (25 Employees, 2 Manuals)
  - c. Hydraulic Design Section (9 Employees, 3 Manuals)
5. Traffic Branch
  - a. Traffic Design Service Section (7 Employees, 1 Manual)
  - b. Traffic Operation Section (10 Employees, 1 Manual)
6. Oahu District
  - a. Field Offices
    - i. Halawa - Upper (14 Employees, 1 Manual)
    - ii. Halawa - Lower (13 Employees, 1 Manual)
    - iii. Kilihau (14 Employees, 1 Manual)
    - iv. Kaneohe (12 Employees, 1 Manual)
    - v. Pearl City (10 Employees, 1 Manual)
    - vi. Salt Lake (14 Employees, 1 Manual)
  - b. Maintenance Section
    - i. NPDES (4 Employees, 1 Manual)

- ii. Facility Engineering (5 Employees, 1 Manual)
  - iii. Field Engineering (7 Employees, 1 Manual)
  - iv. Equipment Service & Repair Unit (2 Employees, 1 Manual)
  - v. Highway Electrical Unit (13 Employees, 1 Manual)
  - vi. Highway Maintenance Unit (108 Employees, 7 Manuals)
  - c. Tunnel Section (40 Employees, 3 Manuals)
7. Hawaii District
- a. Design Section (7 Employees, 1 Manual)
  - b. Construction Section (19 Employees, 1 Manual)
  - c. Maintenance Section (17 Employees, 1 Manual)
8. Maui District
- a. Engineering Section (5 Employees, 1 Manual)
  - b. Construction Section (8 Employees, 1 Manual)
  - c. Survey Unit (4 Employees, 1 Manual)
  - d. Maintenance Section (11 Employees, 1 Manual)
9. Kauai District
- a. Construction/Maintenance Section (20 Employees, 2 Manuals)

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ANGELA O'CONNELL  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA, )  
DEPARTMENT OF HEALTH, STATE )  
OF HAWAII, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
DEPARTMENT OF TRANSPORTATION, )  
STATE OF HAWAII )  
 )  
Defendant. )  
\_\_\_\_\_ )

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

OCT 06 2005

at 8 o'clock and 20 min. M  
SUE BEITIA, CLERK

CV05 00636 HGKSC  
CIVIL ACTION NO.  
CERTIFICATE OF SERVICE

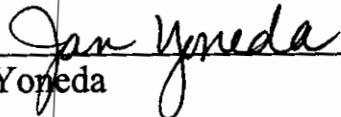
CERTIFICATE OF SERVICE

I, hereby certify that a true and correct copy of the following documents were mailed on October 6, 2005, to be served upon the persons listed on the attached service list in the manner indicated:

Complaint;  
Notice of Lodging of Consent Decree; and  
Consent Decree (for lodging purposes)

I declare under penalty of perjury that the foregoing is true and correct.

DATED: October 6, 2005, at Honolulu, Hawaii.

  
\_\_\_\_\_  
Jan Yoneda

SERVICE LIST

Sent via U.S. Postal Service:

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Director, Department of  
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869 Punchbowl Street  
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IN THE UNITED STATES DISTRICT COURT  
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UNITED STATES OF AMERICA, )  
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Plaintiffs, )  
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v. )  
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STATE OF HAWAII )  
 )  
Defendant. )  
\_\_\_\_\_

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

OCT 06 2005

at 8 o'clock and 36 min. a.m.  
SUE BEITIA, CLERK

36  
CIVIL ACTION NO. **KSC**  
NOTICE OF LODGING

The United States of America (“United States”), by the authority of the Attorney General and through the undersigned attorney, and on behalf of the Administrator of the United States Environmental Protection Agency, hereby serves notice that the United States is lodging with the Court a Complaint and a Consent Decree that resolves all claims raised in the Complaint.

Under the terms of the Consent Decree and pursuant to 28 C.F.R. 50.7, the United States is allowing the public a 30-day period to comment on the Consent Decree. Accordingly, the United States respectfully requests that the Consent Decree not be entered prior to the expiration of the public comment period.

At the expiration of that period and after the United States has reviewed any public comments that are received, the United States will either request that the Court enter the Consent Decree, or advise the Court that public comments have been received that warrants the United States’ withdrawal from the Consent Decree.

United States et al. v. Department of Transportation, State of Hawaii - Notice of Lodging

Respectfully submitted,

9/29/05

Date:

  
ANGELA O'CONNELL

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