

## **APPENDIX D**

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**U.S. Department of Transportation Maritime  
Administration Record of Categorical Exclusion  
Determination**



U.S. Department  
of Transportation  
**Maritime  
Administration**

400 Seventh Street, S.W.  
Washington, D.C. 20590

March 31, 2005

James B. Ellis II, Esq.  
Blank Rome LLP  
600 New Hampshire Avenue, NW  
Washington, DC 20037

Dear Mr. Ellis:

Please be advised that, pursuant to paragraph XI of the Letter Commitment dated January 21, 2005, the Maritime Administration (MARAD) has determined that the proposed Title XI loan guarantee for the financing of two passenger/vehicle ferries for Hawaii Superferry, Inc., is categorically excluded from further review under the National Environmental Policy Act. This action (copy enclosed) satisfies the requirements of paragraph XI.

Paragraph X (iii) of the Letter Commitment contains as a condition that "... the periods of all applicable State and Federal statutes of limitation have run on the rights of plaintiffs to block the project." MARAD has determined that this condition is inapposite and unnecessary and the condition is hereby eliminated.

Sincerely,

A handwritten signature in cursive script that reads "Jean E. McKeever".

Jean E. McKeever  
Associate Administrator for Shipbuilding



**MARITIME ADMINISTRATION**  
**RECORD OF CATEGORICAL EXCLUSION DETERMINATION<sup>1</sup>**

**Proposed Action:** HAWAII Super Ferry Inc., application for loan guarantee (ship financing guarantee) to acquire two passenger and vehicle ferries for use in an existing trade route in and around the Hawaiian Islands.

**Number(s) of the Categorical Exclusion(s) Being Applied:** MAO 600-1 (1) and (7).

**Discussion :** The proposed action fits within a class of actions that is listed in Appendix 1, of MAO 600-1, "**MARITIME ADMINISTRATION ACTIONS WHICH ARE NOT NORMALLY MAJOR ACTIONS SIGNIFICANTLY AFFECTING THE ENVIRONMENT**" (i.e., Categorical Exclusions)

Applicable categorical exclusions 1 and 7 state:

1. *Administrative procurements (e.g., general supplies), contracts for personal services, personnel actions, project amendments which do not significantly alter the environmental impact of an action; and operating or maintenance subsidies, ship financing guarantees, deferred tax programs, etc., not resulting in a change in the effect on the environment.*
  
7. *Project or program actions for which applicable environmental documentation has been prepared previously and environmental circumstances have not subsequently changed.*

The proposed action was reviewed by this office in December 2004 and it was determined that the action was considered a "Major Federal Action" pursuant to 40 CFR 1508.18(a) because 78.5% of the project would be funded Title XI loan guarantees totaling \$143.6 million. The proposed action is considered "Major" as it is partly funded, assisted, and approved by MARAD.

Based on the information available at that time, there appeared to have been very little, if any, NEPA or state environmental work performed related to the proposed ferry service that would be adequate for MARAD's responsibilities under NEPA.

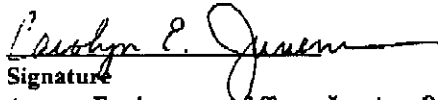
However, since that time, the State of Hawaii Department of Transportation completed a review of the proposed action pursuant to Chapter 343, Hawaii Revised Statutes, and Chapter 11-200, Hawaii Administrative Rules, and determined that the proposed action is exempt from further review.

**Determination:**

Based on our review of information conveyed to us and in our possession (or attached) concerning the proposed action as stated above, the NEPA Program Manager, has determined that the proposed action is categorically excluded from further NEPA review.

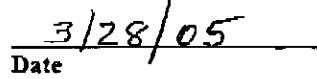
**Recommendation:**

MAR-820 recommends that the loan guarantee contract contains the requirement that Hawaiian High Speed Ferry (HSF) Corporation comply with all applicable environmental laws and regulations.



Signature

Agency Environmental Team Leader, Office of  
Environmental Activities



Date

<sup>1</sup> May be incorporated in its entirety into other environmental review records.