

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

June 28, 2013

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

PSF No.: 13KD-071  
LOD No. S-28,050  
Kauai

After-the-Fact Consent to Assign Grant of Non-Exclusive Easement, Kenneth M. Rowell, Assignor, to Shirley A. Jensen, Trustee of the Kenneth M. Rowell and Ellen A. Rowell Trust, Assignee, Wailua, Kawaihau, Kauai, Tax Map Keys: (4) 4-1-002:007 and (4) 4-1-009:002.

APPLICANT:

Shirley A. Jensen, Trustee of the Kenneth M. Rowell and Ellen A. Rowell Trust, as Assignee.

LEGAL REFERENCE:

Section 171-36(a)(5), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Wailua Rice and Kula Lots situated at Wailua, Kawaihau, Kauai, identified by Tax Map Keys: (4) 4-1-002:007 and (4) 4-1-009:002, as shown on the attached map labeled Exhibit A.

AREA:

.488 acres, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

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

CHARACTER OF USE:

Right, privilege, and authority to construct, improve, maintain use, and repair a right-of-way for access purposes through those State lands identified as Tax Map Keys: (4) 4-1-002:007 as (4) 4-1-009:002 to landlocked parcel identified as Tax Map Key: (4) 4-1-002:011.

TERM OF EASEMENT:

Perpetual.

AMOUNT PAID FOR EASEMENT:

\$4,800.00

CONSIDERATION:

Not Applicable. Applicant is the Trustee for her parents Trust.

RECOMMENDED PREMIUM:

Not applicable. The Grant of Non-Exclusive Easement instrument does not provide for a premium on assignment.

DCCA VERIFICATION:

Not applicable, Assignor/Assignee is a landowner and, as such, is not required to register with DCCA.

REMARKS:

The Land Board meeting on October 11, 1985, under Item F-11, the board issued a perpetual, non-exclusive easement for access purposes to Antone Arruda.

The Land Board meeting on November 8, 1991, under agenda item F-17, the board approved amendment to prior board action of October 11, 1985, agenda item F-11, amending the Grantee's name from Antone Arruda to Kenneth Rowell.

On November 8, 2011 applicant notified KDLO staff that her father, Kenneth Rowell had passed away in July, 2009 and wanted to continue the easement to their property.

On November 9, 2011, staff sent a letter to applicant to complete the application form for consent to assignment and a copy of her father's death certificate.

On April 15, 2013, staff received completed application, affidavit – death of trustee and copy of death certificate. Exhibit B.

On May 22, 2013, staff received a copy of Agreement of Sale – Satisfaction Warranty Deed from Grantor: Antone R. Arruda to Grantee: Kenneth M. Rowell and Ellen A. Rowell. Recorded with the Bureau of Conveyances, Doc. No. 94-163833.

Also received on the same date a Trust Transfer Deed from Grantors: Kenneth M. Rowell and Ellen A. Rowell, husband and wife as joint tenants hereby grant to: Kenneth M. Rowell and Ellen A. Rowell, Trustees of the Kenneth M. Rowell and Ellen A. Rowell Revocable Trust. Recorded with the Bureau of Conveyances, Doc. No. 2006-062780.

Based on staff's present knowledge, Applicant is in compliance with all easement terms and conditions without default.

Staff is recommending the easement document to "run with the land". Newer easements now issued by the State have such a provision. All that is required is the grantee is required to inform his successor of our liability insurance requirement.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

**RECOMMENDATION:**

That the Board;

- A. Consent to the assignment of Land Office Deed No. S-28,050 from Kenneth Rowell, as Assignor, to Shirley A. Jensen, Trustee for the Kenneth M. Rowell and Ellen A. Rowell Trust, as Assignee, subject to the following:
  1. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time;
  2. Review and approval by the Department of the Attorney General; and
  2. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- B. Amend Land Office Deed No. S-28,050, under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  1. "The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (4) 4-1-002:011; provided however: (1) it is specifically understood and agreed that the easement shall immediately cease to run with the land upon the termination or abandonment of the easement."

2. Review and approval by the Department of the Attorney General;  
and
3. Such other terms and conditions as may be prescribed by the  
Chairperson to best serve the interests of the State.

Respectfully Submitted,



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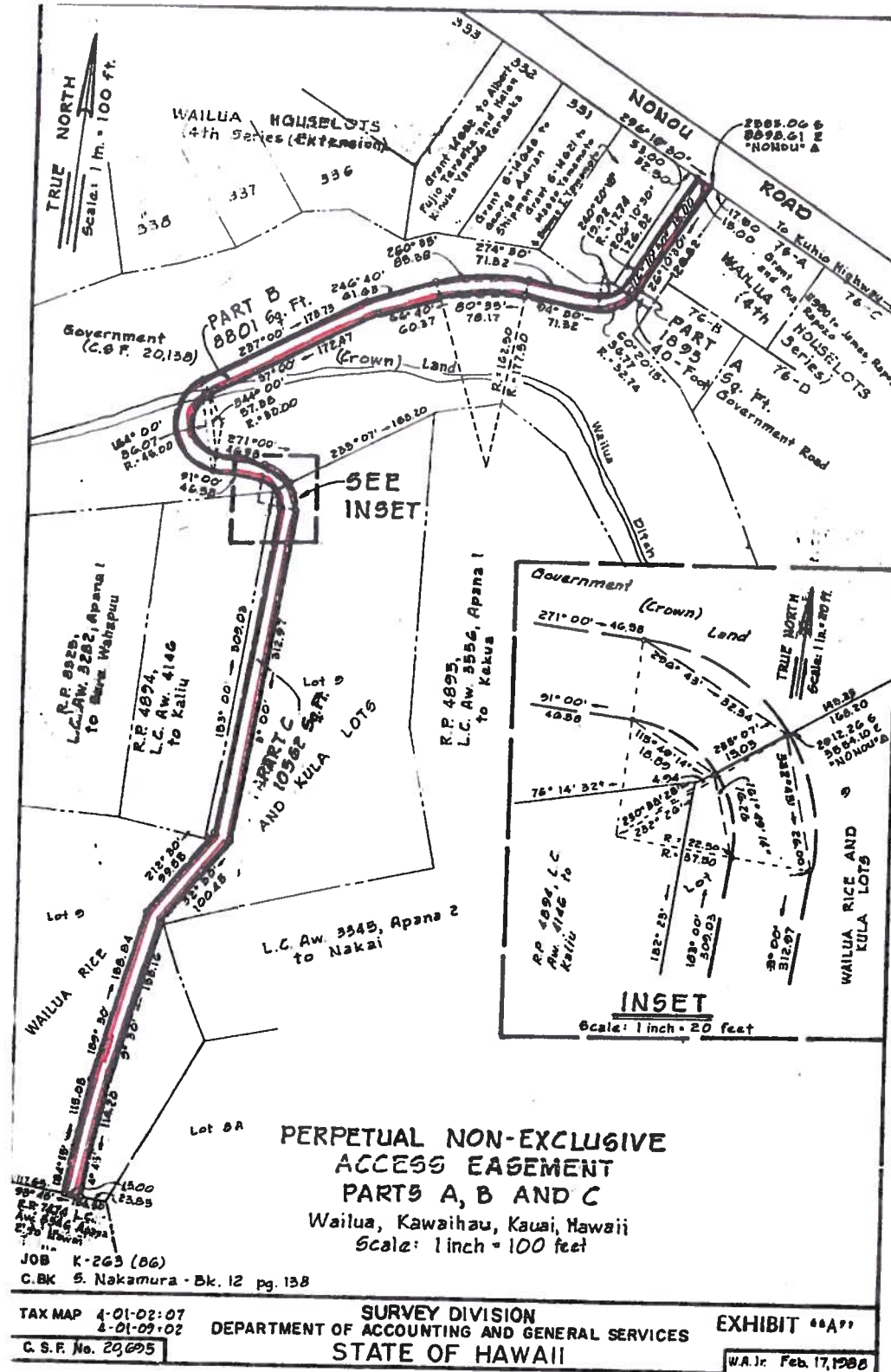
Marvin Mikasa  
Land Agent *M*

APPROVED FOR SUBMITTAL:



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William J. Aila, Jr., Chairperson



RECORDING REQUESTED BY: )  
 Curtis W. Morris )  
 LAMB MORRIS & LOBELLO, LLP )  
 )  
 San Dimas, CA 91773-1255 )  
 )  
 MAIL TAX STATEMENTS TO: )  
 Shirley A. Jensen, Trustee )  
 )  
 Hesperia, CA 92345 )

Recording requested by and mailed to

Space above this line for recorder's use

### AFFIDAVIT - DEATH OF TRUSTEE

State of California )  
 ) ss.  
 County of San Bernardino )

Shirley A. Jensen, of legal age, being first duly sworn, deposes and says:

That Kenneth M. Rowell, the decedent mentioned in the attached certified copy of Certificate of Death, is the same person as Kenneth M. Rowell, named as one of the Trustees in that certain Declaration of Trust dated February 15, 2006, executed by Kenneth M. Rowell and Ellen A. Rowell as Settlers.

At the time of the demise of the decedent, the decedent was the record owner, as Trustee, of real property identified as Apana 2 of Land Commission Award 3346, Royal Patent 7474 to Nawai, situated on the Northerly side of Opaekaa Stream at Wailua, Kawaihau, Puna, Island and County of Kauai, State of Hawaii and identified by TAX MAP KEY 4-1-2-11 (4), which property is described in a deed which was signed by Kenneth M. Rowell and Ellen A. Rowell as Grantors on March 30, 2006, and recorded as Document No. 2006-062480 on April 4, 2006, in Official Records of the State of Hawaii, Bureau of Conveyances, and is described on legal description attached hereto and made a part hereof.

I, Shirley A. Jensen, am the successor Trustee of the same trust under which said decedent held title as trustee pursuant to the deed described above, and am designated and empowered pursuant to the terms of said trust to serve as Trustee thereof.

There is no federal estate tax due as the result of the death of the decedent mentioned in Paragraph 1 above.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Executed Aug 20, 09, 2009, at Hesperia, California.

Shirley A. Jensen  
 Shirley A. Jensen

MAIL TAX STATEMENTS AS DIRECTED ABOVE

**EXHIBIT "B"**

**CALIFORNIA JURAT WITH AFFIANT STATEMENT**

- See Attached Document (Notary to cross out lines 1-6 below.)
- See Statement Below (Lines 1-5 to be completed only by document signer[s], not Notary)

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State of California  
 County of San Bernardino

Subscribed and sworn to (or affirmed) before me on this  
20<sup>th</sup> day of August, 2009, by

(1) Shirley A. Jensen  
Name of Signer

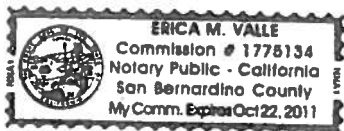
proved to me on the basis of satisfactory evidence  
 to be the person who appeared before me ( ) (x)

(and

(2) \_\_\_\_\_  
Name of Signer

proved to me on the basis of satisfactory evidence  
 to be the person who appeared before me.)

Signature [Signature]  
Signature of Notary Public



Print Notary Seal Above

**OPTIONAL**

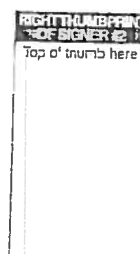
*Though this information below is not required by law, it may prove  
 valuable to persons relying on the document and could prevent  
 fraudulent removal and reattachment of this form to another document.*

Further Description of Any Attached Document

Title or Type of Document: Affidavit - Death of Trustee

Doc No: 2006-062400  
 Document Date: 8/20/09 Number of Pages: 1

Signer(s) Other Than Names Above: None



**CERTIFICATION OF VITAL RECORD**

## COUNTY OF SAN BERNARDINO

DEPARTMENT OF PUBLIC HEALTH  
351 N. MT. VIEW AVENUE, SAN BERNARDINO, CALIFORNIA 92415-0010

**CERTIFICATE OF DEATH** 3200936006115

STATE F&S NUMBER		STATE OF CALIFORNIA		LIC. BLK. 44 (01)		LIC. CHANGES BY (01/01/2013)		LIC. ALTERATIONS (01/01/2013)		LOCAL REGISTRATION NUMBER	
1 NAME OF DECEDENT - FIRST & LAST <b>KENNETH M. ROWELL</b>			2 MIDDLE <b>M.</b>			3 LAST FAMILY <b>ROWELL</b>					
4 SEX <b>M</b>											
5 BIRTH STATE/FOREIGN COUNTRY <b>UTAH</b>											
6 SOCIAL SECURITY NUMBER <b>[REDACTED]</b>											
7 MARITAL STATUS - (See 10 Date) <b>WIDOWED</b>											
8 EDUCATION - (See 10 Date) <b>BACHELOR</b>											
9 OCCUPATION - (Type of work for which he or she does NOT USE LISTED) <b>CHEMIST</b>											
10 RACE <b>WHITE</b>											
11 CLASSIFICATION <b>57</b>											
12 USUAL RESIDENCE											
12a CITY <b>HESPERIA</b>			12b COUNTY PROVINCE <b>SAN BERNARDINO</b>			12c ZIP CODE <b>92345</b>			12d STATE/FOREIGN COUNTRY <b>CALIFORNIA</b>		
13 INFORMANT'S NAME & RELATIONSHIP <b>SHIRLEY JENSEN, DAUGHTER</b>											
14 NAME OF SPOUSE - FIRST											
15 NAME OF FATHER - FIRST <b>STRATTON</b>											
16 NAME OF MOTHER - FIRST <b>HATTIE</b>											
17 DATE OF DEATH <b>07/11/2009</b>											
18 PLACE OF DEATH <b>CENTRAL AVENUE, BREA 92821</b>											
19 TYPE OF DEATH <b>BU</b>											
20 SIGNATURE OF EMBALMER <b>ELEANOR RICHARDSON</b>											
21 PLACE OF FUNERAL ESTABLISHMENT <b>TODD MEMORIAL CHAPEL</b>											
22 LICENSE NUMBER <b>FD110</b>											
23 SIGNATURE OF LOCAL REGISTRAR <b>MAXWELL OHIKHUARE, MD</b>											
24 DATE REGISTERED <b>07/10/2009</b>											
25 PLACE OF DEATH											
25a LOCALITY <b>SAN BERNARDINO</b>						25b CITY <b>VICTORVILLE</b>					
26 CAUSE OF DEATH											
27 ICD-10 CODE <b>MINS</b>											
28 YRS <b>YRS</b>											
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**CERTIFIED COPY OF VITAL RECORDS**

STATE OF CALIFORNIA }  
COUNTY OF SAN BERNARDINO } SS      DATE ISSUED      Jul 13, 2009

This is a true and exact reproduction of the document officially registered and placed on file in the VITAL RECORDS SECTION, SAN BERNARDINO DEPARTMENT OF PUBLIC HEALTH

*Margaret M. Beed, MD*  
MARGARET BEED, MD  
COUNTY HEALTH OFFICER  
REGISTRAR OF VITAL STATISTICS

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