

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

March 28, 2014

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

PSF#13MD-104

Maui

Consent to Assign General Lease No. S-5310, Kevin J. O'Donnell and Frederick Frelinghuysen, Administrators of the Estate of Peter H.B. Frelinghuysen, as Assignor, to Adaline H. Frelinghuysen, Rodney P. Frelinghuysen, Frederick Frelinghuysen, and Beatrice Frelinghuysen van Roijen, as Assignee, Kalena, Kipahulu, Hana, Maui, Tax Map Key:(2) 1-6-007:010.

APPLICANT:

Kevin J. O'Donnell and Frederick Frelinghuysen, Administrators of the Estate of Peter H.B. Frelinghuysen, as Assignor;  
Adaline H. Frelinghuysen, Single, as to a Twenty-Five Percent (25%) Interest,  
Rodney P. Frelinghuysen, Married, Spouse of Virginia Robinson, as to a Twenty-Five Percent (25%) Interest,  
Frederick Frelinghuysen, Married, Spouse of Mary E. Voyatzis, as to a Twenty-Five Percent (25%) Interest, and  
Beatrice Frelinghuysen Van Roijen, Married, Spouse of Peter van Roijen, as to a Twenty Five Percent (25%) Interest, Together as Tenants In Common, as Assignee.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Kalena, situated at Kipahulu, Hana, Maui, identified by Tax Map Key: (2) 1-6-007:010, as shown on the attached map labeled Exhibit A.

AREA:

2.057 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:

General Agriculture purposes.

EXHIBITS:

Exhibit #1- NRCS Conservation Plan which was approved by the  
Chairperson on April 9, 2007.

Exhibit #2- Cooperative Agreement between Hana Soil & Water  
Conservation District and Peter Frelinghuysen.

Exhibit #3- Letter regarding the estate of Peter H.B. Frelinghuysen from Attorney Joseph  
M. Lemond.

Exhibit #4- Morris County Surrogate's Court Judgment / Probate letter.

Exhibit A- Tax map of the subject property.

TERM OF LEASE:

35 years, commencing on June 30, 1993 and expiring on June 29, 2028.

Rental re-openings at the 10<sup>th</sup>, 20<sup>th</sup> and 30<sup>th</sup> years of lease.

ANNUAL RENTAL:

\$5,780.00

DCCA VERIFICATION:

Assignor/Assignee are natural persons and, as such, are not required to register with  
DCCA.

REMARKS:

On October 24, 1975 under item number F-11, the Board of Land and Natural Resources approved the issuance of a month-to-month Revocable Permit to Peter H.B. Frelinghuysen for agriculture and pasture purposes. Mr. Frelinghuysen utilized and managed the property under said Revocable Permit No. S-5174 for the next 18 years in accordance with the board approved designated character of use.

In 1988, Act 237 SLH 1988 became law. Act 237 authorized certain revocable permits to be converted to long-term leases without the need for public auction under some circumstances. Pursuant to Land Board action of June 28, 1991 under agenda item F-8, Mr. Frelinghuysen was offered a long term thirty-five (35) year lease for the continued use of the subject area.

General Lease S-5310 to Peter Frelinghuysen commenced on June 30, 1993 for a term of thirty five (35) years, with re-opening at the 10<sup>th</sup>, 20<sup>th</sup>, and 30<sup>th</sup> years. Rent was established at \$3,500.00 annually for the first ten years period, inclusive of a 25% premium rental amount. Subsequently, an amended Land Board approval of August 26, 1994, item F-8, reduced the rent requirement for the premium rent from ten (10) years to only the first four (4) years of the lease period.

A waiver of the fire insurance requirement for General Lease S-5310 was approved by a Land Board action of August 23, 1996, under agenda item D-28.

Staff has been informed that Peter H.B. Frelinghuysen passed away on May 23, 2011. The administrators of his estate have now requested an assignment of General Lease No. S-5310. Pursuant to Mr. Frelinghuysen's last will and testament, his interest in General Lease No. S-5310 was devised to Adaline H. Frelinghuysen (25%), Rodney P. Frelinghuysen (25%), Frederick Frelinghuysen (25%) and Beatrice Frelinghuysen van Roijen (25%). The family would like to continue the use of the leased land that began in 1975. They jointly own a residence near the subject property and reside there at various times throughout the year. Members of the family have overseen use and management of lands owned either separately or jointly, in the Kipahulu area since the late 1970's.

The primary manager for the general agriculture operations will be Frederick Frelinghuysen. He currently oversees the family's estate in New Jersey wherein there are substantial farming and ranching operations. Frederick has broad experience regarding the general management and financial responsibilities to successfully continue the farming and pasture operations under the subject lease agreement.

The applicant is not proposing to change the current use and is in compliance with all lease terms and conditions. Rent is paid up to date. Liability insurance will be provided by the new tenant. There is an amount of \$8,000.00 in deposit as a required bond. Also, in the past

two (2) years, no Notice of Default letters were issued.

The form of Leases that the Department of the Attorney General uses has changed over the years since the issuance of General Lease S-5310. For that reason, staff in including a recommendation below that in addition to the assignment, the lease instrument be amended and restated to incorporate the current terms and conditions used by the Department of the Attorney General.

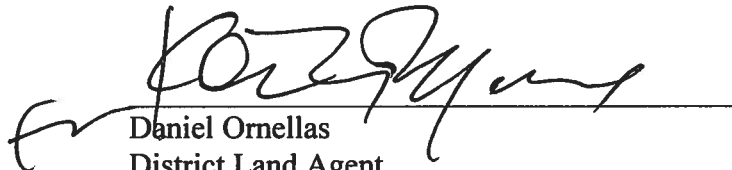
The Assignees has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

RECOMMENDATION:

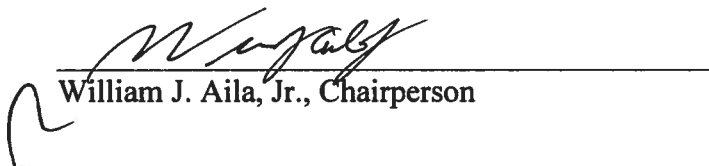
That the Board consent to the assignment of General Lease No. S-5310 from Peter H.B. Frelinghuysen, as Assignor, to Adaline H. Frelinghuysen, Single, as to a Twenty-Five Percent (25%) Interest, Rodney P. Frelinghuysen, Married, Spouse of Virginia Robinson, as to a Twenty-Five Percent (25%) Interest, Frederick Frelinghuysen, Married, Spouse of Mary E. Voyatzis, as to a Twenty-Five Percent (25%) Interest, and Beatrice Frelinghuysen van Roijen, Married, Spouse of Peter Van Roijen, as to a Twenty Five Percent (25%) Interest, Together as Tenants In Common, 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
3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

  
Daniel Ornellas  
District Land Agent

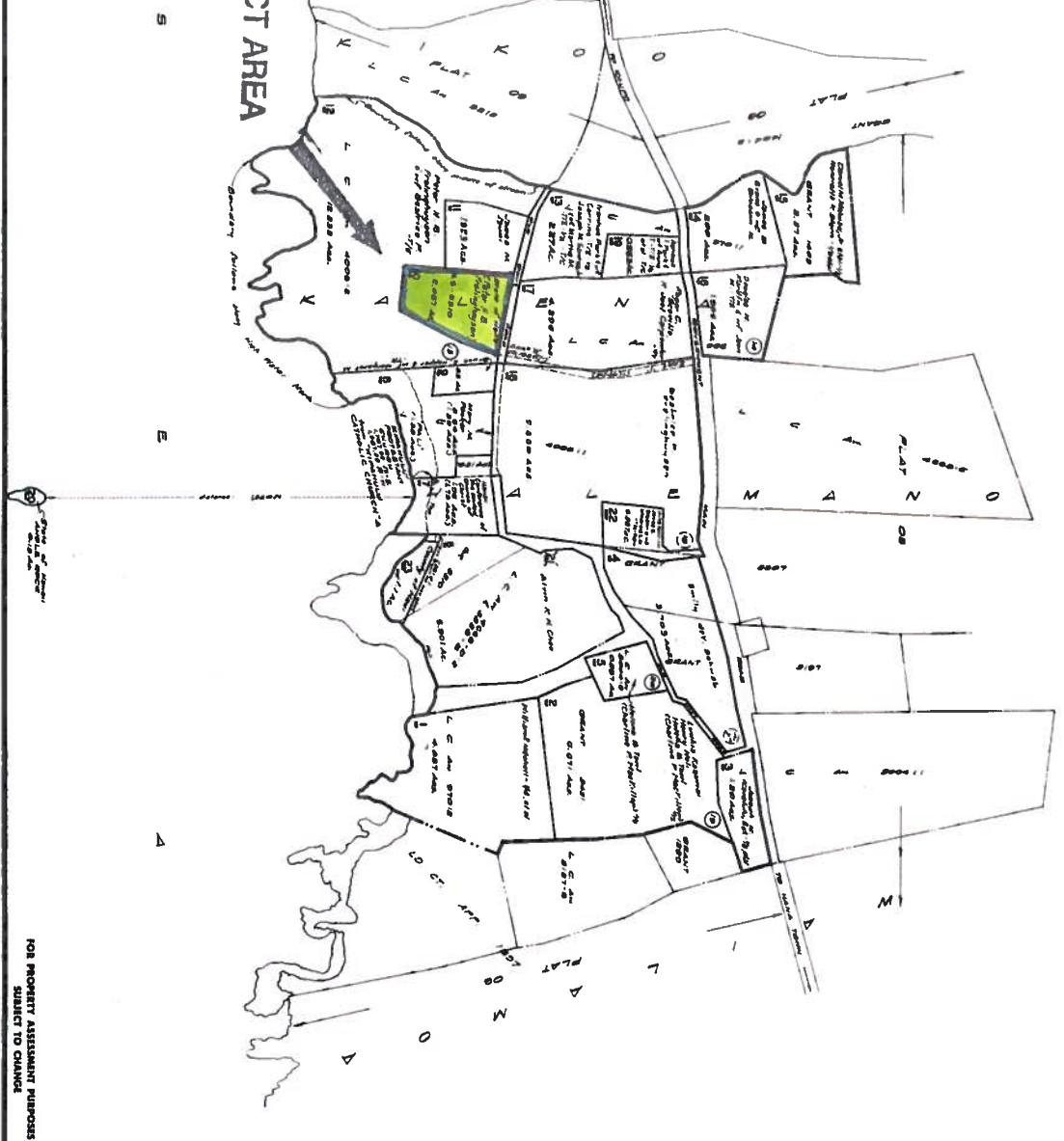
APPROVED FOR SUBMITTAL:

  
William J. Aila, Jr., Chairperson

111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200

FOR KALENA HALEMANO, KIPAHUULU HANA, MAUI

**SUBJECT AREA**



FOR PROPERTY ASSESSMENT PURPOSES SUBJECT TO CHANGE

Department of Taxation  
TAX MAPS BRANCH  
STATE OF HAWAII  
SECOND TAXATION DISTRICT  
MAUI

ZONE	1
SECTION	6
BLK.	07

SCALE 1 IN. = 500 FT.



WAILUKU SERVICE CENTER  
 210 IMI KALA ST STE 209  
 WAILUKU, HI 96793  
 (808)244-3100 ext. 107

RECEIVED  
 MAUI DISTRICT  
 LAND DIVISION

Ranae Ganske-Cerizo  
 DC

2007 MAR 27 PM 12:18

2007 APR 11 PM 12:08

RECEIVED  
 MAUI DISTRICT  
 LAND DIVISION

## Conservation Plan

PETER H FRELINGHUYSEN

NEW YORK, NY 10017

### Objective(s)

Peter Frelinghuysen has a lease with the state of Hawaii, Department of Land and Natural Resources for approximately 2.0 acres of land. The property (TMK: (2) 1-6-007:010) is located in Kipahulu, Maui. At the time of the site visit, the property was densely covered with non-native vegetation (java plum, philadendren, blue gum trees, and robusta williamena). Mr. Frelinghuysen plans to leave the property in its current condition. Recommended management practices include conservation cover and pest management.

### Conservation Cover (327)

Establish perennial vegetative cover on land temporarily removed from agricultural production.

Tract	Field	Planned Amount	Month	Year	Applied Amount	Date
1123	Field-1	2 ac	9	2007		
1123	Field-1	2 ac	9	2008		
1123	Field-1	2 ac	9	2009		
1123	Field-1	2 ac	9	2010		
1123	Field-1	2 ac	9	2011		
1123	Field-1	2 ac	9	2012		
1123	Field-1	2 ac	9	2013		
1123	Field-1	2 ac	9	2014		
1123	Field-1	2 ac	9	2015		
1123	Field-1	2 ac	9	2016		
1123	Field-1	2 ac	9	2017		
1123	Field-1	2 ac	9	2018		
1123	Field-1	2 ac	9	2019		
1123	Field-1	2 ac	9	2020		
1123	Field-1	2 ac	9	2021		
1123	Field-1	2 ac	9	2022		
1123	Field-1	2 ac	9	2023		
1123	Field-1	2 ac	9	2024		
1123	Field-1	2 ac	9	2025		
1123	Field-1	2 ac	9	2026		
1123	Field-1	2 ac	9	2027		
1123	Field-1	2 ac	9	2028		
	Total:	2 ac				


EXHIBIT " 1 "

**Pest Management (595)**

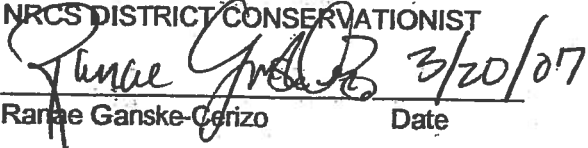
Manage infestations of weeds, insects and disease to reduce adverse effects on plant growth, crop production and material resources.

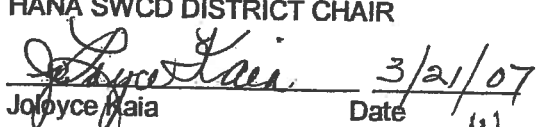
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1123	Field-1	2 ac	9	2011		
1123	Field-1	2 ac	9	2012		
1123	Field-1	2 ac	9	2013		
1123	Field-1	2 ac	9	2014		
1123	Field-1	2 ac	9	2015		
1123	Field-1	2 ac	9	2016		
1123	Field-1	2 ac	9	2017		
1123	Field-1	2 ac	9	2018		
1123	Field-1	2 ac	9	2019		
1123	Field-1	2 ac	9	2020		
1123	Field-1	2 ac	9	2021		
1123	Field-1	2 ac	9	2022		
1123	Field-1	2 ac	9	2023		
1123	Field-1	2 ac	9	2024		
1123	Field-1	2 ac	9	2025		
1123	Field-1	2 ac	9	2026		
1123	Field-1	2 ac	9	2027		
1123	Field-1	2 ac	9	2028		
	Total:	2 ac				

**CERTIFICATION OF PARTICIPANTS**

  
 PETER H FRELINGHUYSEN Date

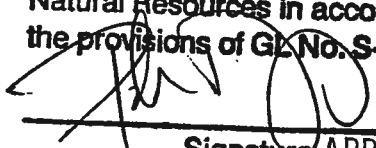
**CERTIFICATION OF:**

NRCS DISTRICT CONSERVATIONIST  
  
 Ranae Ganske-Cerizo Date

HANA SWCD DISTRICT CHAIR  
  
 Joloyce Maia Date

These plans have been approved by the  
 Chairperson of the Board of Land and  
 Natural Resources in accordance with  
 the provisions of GL No. S-5310.

**EXHIBIT " 1 "**

  
 Signature APR 9 2007

COOPERATIVE AGREEMENT

Between Hana SOIL & WATER CONSERVATION DISTRICT and

Peter Frelinghuysen  
(Name)

\_\_\_\_\_  
(Company/DBA)

Local contact:  
Carol Best

Telephone: home \_\_\_\_\_ business \_\_\_\_\_ cell \_\_\_\_\_ fax \_\_\_\_\_

Mailing Address: New York, NY 10017

E-Mail: \_\_\_\_\_

Property Address: HC 169 Hana, HI 96713

Own or Lease: lease Community: Kipahulu

I am interested in conserving the soil and water resources on the land described below and desire assistance in developing a complete conservation plan. I agree to follow the plan to the best of my ability.

Tax Key: Zone 1 Section 6 Plat 007 Parcel 010

Total Area is 2.057 acres, which is divided by land use as follows:

Cropland \_\_\_\_\_ Grazing \_\_\_\_\_  
Forest \_\_\_\_\_ Orchard \_\_\_\_\_  
Other \_\_\_\_\_

As the cooperator, I agree that I shall not file any claim, action and/or lawsuit against the Hana Soil & Water Conservation District (SWCD) for costs or damages arising from any Natural Disasters, such as winds or floods, and shall indemnify and save harmless the Hana SWCD from any and all liability loss, damage, injury and/or death resulting approval of this conservation plan.

By initialing the box(es) below, I grant permission to  
 be on a mail list to receive information (notice on events, programs, SWCD Annual Reports)  
 feature article (relating to conservation practices and/or farm bill projects) in the SWCD Annual Report

We, the Directors of the Soil and Water Conservation District, agree to help you develop a conservation plan with available technical assistance from the USDA Natural Resources Conservation Service (NRCS) for your land in accordance with its needs for the use intended. We also agree to assist you in carrying out your plan by providing such information and technical assistance as we have available.

This agreement will remain in effect until cancelled by either party.

Peter Frelinghuysen  
(Cooperator)  
Jo Lynn Kain

3/11/09  
(Date)  
3/21/07

EXHIBIT "2"



25 INDEPENDENCE BOULEVARD  
WARREN, NEW JERSEY 07059-6747

# HEROLD LAW

PROFESSIONAL ASSOCIATION  
ATTORNEYS AT LAW

TEL 908 • 647 • 1022  
FAX 908 • 647 • 7721  
www.heroldlaw.com

TEL EXT 136  
jlemond@heroldlaw.com

February 24, 2013

## VIA FEDERAL EXPRESS

Isaac Hall, Esq.

Wailuku, HI 96793

### Estate of Peter H.B. Frelinghuysen

Dear Isaac:

As you are aware, we are counsel to the executors of the Estate of Peter H.B. Frelinghuysen. Please note the following in connection with the Assignment of the Maui Lease from the Estate to Beatrice Frelinghuysen van Roijen, Rodney P. Frelinghuysen, Adaline H. Frelinghuysen and Frederick Frelinghuysen.

1. Peter H.B. Frelinghuysen died a resident of Morris County, New Jersey, on May 23, 2011.
2. The Last Will and Testament of Peter H.B. Frelinghuysen dated September 28, 2010 (the "Will"), was admitted to probate on June 6, 2011, by a "Judgment Admitting Will and/Codicil(s) to Probate Self-Proving" issued by the Honorable John Pecoraro, Surrogate of the Morris County, New Jersey, Surrogate's Court ("Probate Judgment") (see attached **Exhibit A**).
3. The application for probate ("Probate Application") lists Peter H.B. Frelinghuysen's five (5) children as his heirs at law and next of kin, namely, Peter Frelinghuysen, Beatrice Frelinghuysen van Roijen, Rodney P. Frelinghuysen, Adaline H. Frelinghuysen and Frederick Frelinghuysen (see attached **Exhibit B**). Peter H.B. Frelinghuysen was survived by all of his children.

4. The Probate Judgment incorporates the Probate Application and the Probate Application is part of the record on file with the Surrogate's Court. Thus the Probate Judgment, by incorporation of the Probate Application, identifies Peter Frelinghuysen, Beatrice Frelinghuysen van Roijen, Rodney P. Frelinghuysen, Adaline H. Frelinghuysen and Frederick Frelinghuysen as Peter H.B. Frelinghuysen's surviving children, and confirms that none of Peter H.B. Frelinghuysen's children predeceased him.
5. The disposition of the Maui Lease is governed by the residuary clause in Article EIGHTH of the Will which provides as follows:

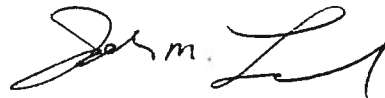
"ARTICLE EIGHTH  
Disposition of Residuary Estate

"My remaining residuary estate shall be distributed to my descendants who survive me per stirpes (excluding my son, Peter Frelinghuysen, and excluding any of his descendants), or if none, to the Trustees then acting under The Frelinghuysen 1997 Charitable Remainder Unitrust Agreement, executed by me as Grantor and my daughter, ADALINE FRELINGHUYSEN OGILVIE-LAING (now Adaline H. Frelinghuysen), as Trustee on July 25, 1997."

6. In accordance with Article EIGHTH of the Will, the Maui Lease is to be devised to Beatrice Frelinghuysen van Roijen, Rodney P. Frelinghuysen, Adaline H. Frelinghuysen and Frederick Frelinghuysen.

Please do not hesitate to call me if you have any questions with respect to this matter.

Very truly yours,



Joseph M. Lemond

cc: Mr. Frederick Frelinghuysen  
Kevin J. O'Donnell, Esq.

encs

# Morris County Surrogate's Court

Administration & Records Bldg.  
Morristown, New Jersey 07963-0900  
Tel # (973) 285-6500  
Fax # (973) 829-8599

**John Pecoraro**  
Surrogate

**Christopher Luongo, Esq.**  
Deputy Surrogate



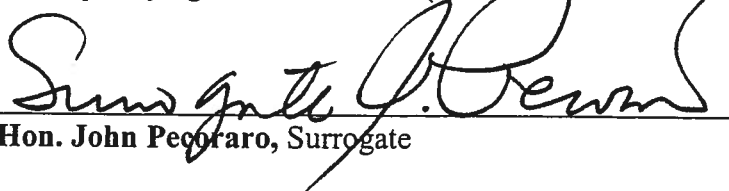
-----X  
In the Matter of the Estate of  
**PETER H.B. FRELINGHUYSEN**, Deceased  
(aka: PETER H.B. FRELINGHUYSEN, JR. and  
P.H.B. FRELINGHUYSEN)  
-----X

## JUDGMENT ADMITTING WILL AND/OR CODICIL(S) TO PROBATE SELF-PROVING

On reading and filing the application of **KEVIN J. O'DONNELL** and **FREDERICK FRELINGHUYSEN** for the probate of the last Will and Testament dated **September 28th, 2010** having no Codicils of **PETER H.B. FRELINGHUYSEN**, deceased, and applying for Letters Testamentary thereon; and the Surrogate having inquired into the circumstances and certification having been made as to self-proof of the Will and/or Codicil(s) and being satisfied of the genuineness of the Will and/or Codicil(s) produced, the validity of its execution and competency of the decedent **PETER H.B. FRELINGHUYSEN**, and it further appearing that the said decedent died on **May 23rd, 2011**, more than ten days ago, and that no caveat has been filed against the probate of the Will and/or Codicil(s);

It is thereupon on **June 6th, 2011** adjudged that the instrument(s) offered for probate in this matter be and the same hereby is established as the Last Will and/or codicil(s) of the said **PETER H.B. FRELINGHUYSEN**, decedent and the same be and hereby is admitted to probate.

It is further adjudged that Letters Testamentary thereon be issued to **KEVIN J. O'DONNELL** and **FREDERICK FRELINGHUYSEN** the executor(s) named in the said Will and/or Codicil(s) upon **KEVIN J. O'DONNELL** and **FREDERICK FRELINGHUYSEN** qualifying as such executor(s).

  
Hon. John Pecoraro, Surrogate

Book: \_\_\_\_\_

Page: \_\_\_\_\_