

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

May 22, 2015

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

PSF No.:13KD-015

Kauai

Grant of Perpetual, Non-Exclusive Easement to A. Laurel Bennett, Trustee of the A. Laurel Bennett Trust for Access and Utilities Purposes, Waioli, Hanalei, Kauai, Tax Map Keys: (4) 5-5-008:002 and (4) 5-6-002:001.

APPLICANT:

A. Laurel Bennett, Trustee of the A. Laurel Bennett Trust.

LEGAL REFERENCE:

Section 171-13 and 55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Waioli situated at Waioli, Hanalei, Kauai, identified by Tax Map Key: (4) 5-5-008:002 and (4) 5-6-002:001, as shown on the attached maps labeled Exhibit A.

AREA:

19,028 square feet, more or less.

ZONING:

TMK: (4) 5-5-008:002
State Land Use District: agricultural/conservation
County of Kauai CZO: agricultural/open

TMK: (4) 5-6-002:001
State Land Use District: conservation
County of Kauai CZO: open

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Encumbered by Grant of Non-Exclusive Easement bearing Land Office Deed No. S-28,292 to Glenn I. Kobayashi, Christine Y. Kobayashi and Joseph N. Kobayashi for access and utility purposes.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain and repair a right-of-way over, under and across State-owned land for access and utility purposes.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

Access purposes: Gratis since the subject easement is to an existing Kuleana.

Utility purposes: One-time payment to be determined by independent or staff appraisal establishing fair market rent, subject to review and approval by the Chairperson.

ANNUAL RENT:

Not applicable.

RENTAL REOPENING:

Not applicable.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Sections 11-200-8(a)(1) & (4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated December 4, 1991, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation." See Exhibit B.

DCCA VERIFICATION:

Not applicable. The Applicant as a landowner is not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Obtain a title report to ascertain ownership, where necessary, at Applicant's own cost and subject to review and approval by the Department;

REMARKS:

A. Laurel Bennett, Trustee of the A. Laurel Bennett Trust (Applicant) is the owner of a parcel of land located at Waioli, Hanalei, Kauai designated at Tax Map Key: (4) 5-5-008:003 (Parcel 3). Parcel 3 is further described as Land Commission Award 8124 (L C Aw. 8124) acquired from the konohiki in 1841 by the claimant Helepala, and adjudicated by the Land Commissioners on September 4, 1851. Parcel 3 is therefore an award of kuleana status. See Exhibit C.

Applicant has requested an easement for access and utility purposes to inure to the benefit of Parcel 3 over State lands identified as TMK: (4) 5-5-008:002 and (4) 5-6-002:001. The requested access and utility easement is an extension of (and inclusive of) easements A and B granted by the Board under Land Office Deed No. S-28,292. A copy of C.S.F. Map No. 22,726 from that grant is included in Exhibit A. The requested easement extends over Easements A, B, D and E. Easements A thru E are depicted in the maps attached as Exhibit A.

Applicant has received approval for an After-The-Fact Conservation Use Permit from the Department of Land and Natural Resources, Office of Conservation and Coastal Lands (OCCL) for access and utility easement over State-owned land identified as TMK (4) 5-5-008:002 and (4) 5-6-002:001. See Exhibit D.

Staff recommends perpetual easements for kuleana lots. Land Office Deed No. S-28,292, which serves a kuleana parcel in the same area, is a perpetual, non-exclusive easement. Applicant's parcel is also a kuleana, as reported by staff abstractor. See Exhibit C. Applicant's easement will overlap a portion of the easement corridor under Land Office Deed No. S-28,292. Under applicable law, the access part of the easement is to be granted to the kuleana owner without charge. However, the applicant is required to pay for the utility part of the easement.

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.

Comments were solicited from the agencies identified below with the results indicated.

State Agencies:

DOH	No response by suspense date
DLNR - DOFAW	No comments
DLNR – Historic Preserv.	Archeological survey be done
DLNR - OCCL	CDUP on file
OHA	No response by suspense date

County Agencies

County Planning	No objections
Public Works	No comments
Dept. of Water	No response by suspense date

Staff has no objections to the request.

Staff believes that the recommended action qualifies for an exemption from the preparation of an environmental assessment because the easement alignment or portions of it have been used by residents of this area for some time, such as the Kobayashi family under LOD S-28,292. Such use has resulted in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. As such, staff believes that the proposed use would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (4) 5-5-008:003, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
3. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual non-exclusive easement to the A. Laurel Bennett Trust covering the subject area for access and utility purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current perpetual easement document form, as may be amended from time to time;


- B. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (4) 5-5-008:003, 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; and (2) if and when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify Grantor of such transaction in writing, and shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document;
- C. Review and approval by the Department of the Attorney General; and
- D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Marvin Mikasa
District Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

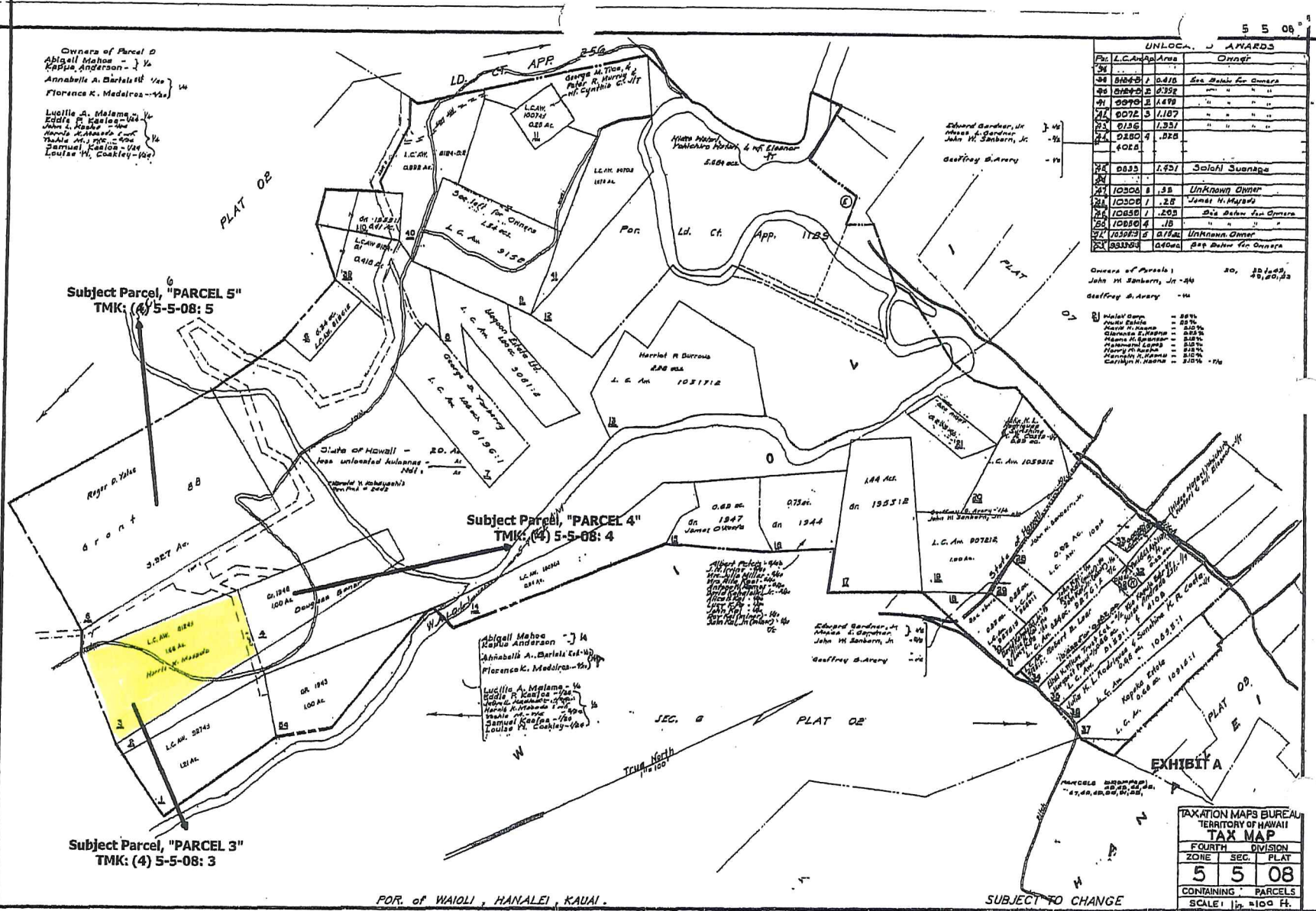


REGISTERED

DEC 29 1938
JAN 11 1939
FEB 13 1939
JUL 7 1939
AUG 8 1939
SEP 1 1940
OCT 1 1940
NOV 1 1941
DEC 1 1941
JAN 1 1942
FEB 1 1942
MAR 1 1942
APR 1 1942
MAY 1 1942
JUN 1 1942
JUL 1 1942
AUG 1 1942
SEP 1 1942
OCT 1 1942
NOV 1 1942
DEC 1 1942
JAN 1 1943
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DEC 1 1943
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NOV 1 1946
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FEB 1 1947
MAR 1 1947
APR 1 1947
MAY 1 1947
JUN 1 1947
JUL 1 1947
AUG 1 1947
SEP 1 1947
OCT 1 1947
NOV 1 1947
DEC 1 1947

3090
Tax Maps Bureau - Survey Dept. - Ld. Ct. App. 1129
P.K. & L.L.C. Nov. 1934

Any No.
Source
By



Owners of Parcel 0

Abigail Mahoe - 1/2
Kapua Anderson - 1/2
Annabelle A. Barilek - 1/2
Florence K. Medeiros - 1/2

Lucille A. Malama - 1/2
Scilla P. Kalia - 1/2
John L. Kooko - 1/2
George K. Kalia - 1/2
Thalia M. Kooko - 1/2
Samuel K. Kalia - 1/2
Louise M. Cookley - 1/2

Plat	L.C. Am.	Area	Owner
55			
56	0184-0	0.810	See below for owners
56	0184-0	0.758	"
56	0179-0	1.189	"
56	0172-3	1.107	"
56	0156	1.357	"
56	0280-4	1.258	"
56	4001		"
56	0833	1.957	Soloni Swanaga
56	10300-8	3.38	Unknown Owner
56	10300-7	2.28	James H. Mahoe
56	10830-7	2.05	See below for owners
56	10850-4	1.8	"
56	10300-3	0.172	Unknown Owner
56	03300-0	0.400	See below for owners

Owners of Parcel 1
John H. Sanborn, Jr - 30, 35, 40, 45, 50, 55, 60, 65, 70, 75, 80, 85, 90, 95

Owners of Parcel 2

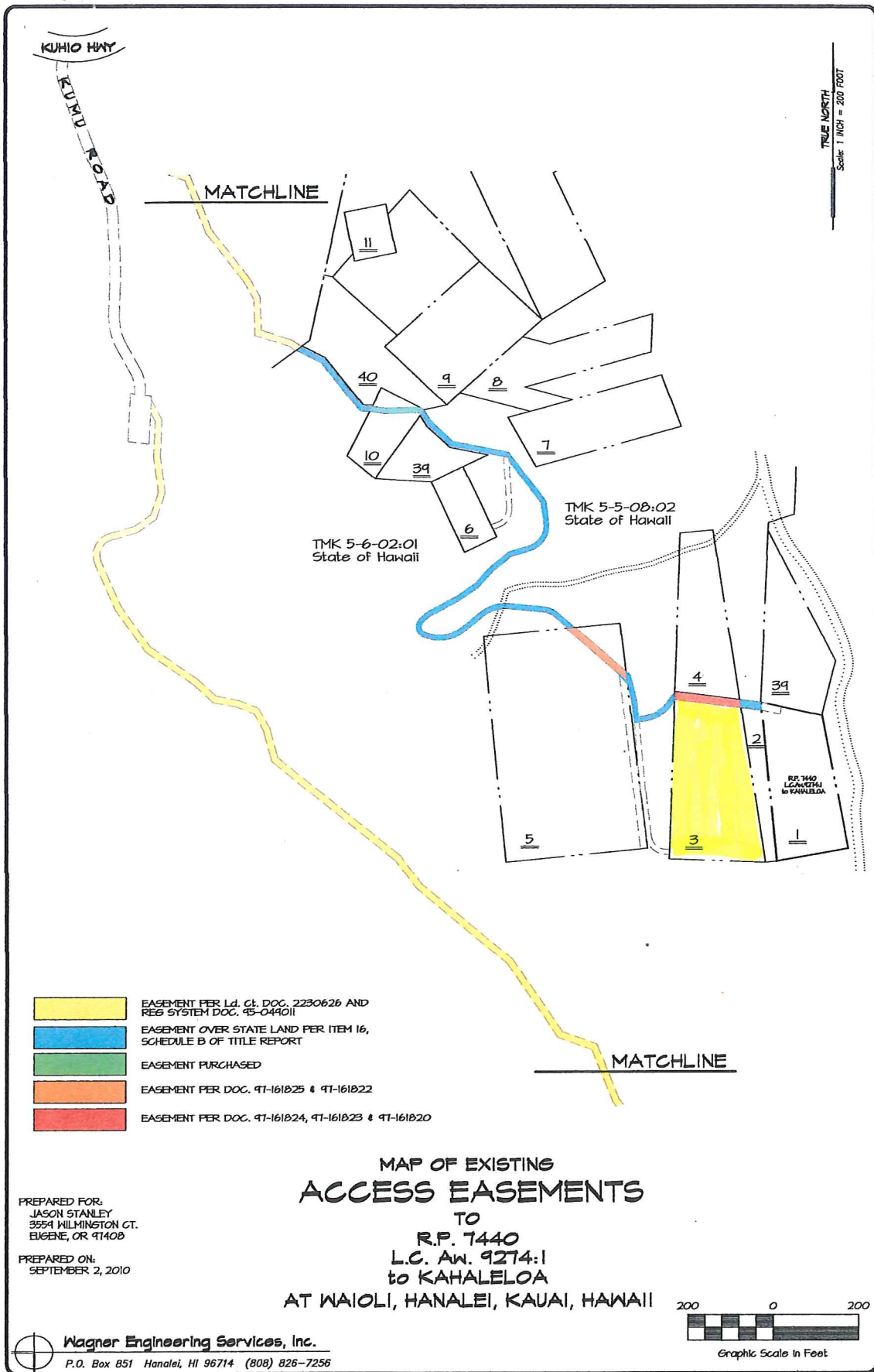
- John H. Sanborn, Jr - 30%
- Edward Gardner, Jr - 25%
- John H. Sanborn, Jr - 25%
- John H. Sanborn, Jr - 20%
- John H. Sanborn, Jr - 15%
- John H. Sanborn, Jr - 10%

TAXATION MAPS BUREAU
TERRITORY OF HAWAII
TAX MAP
FOURTH DIVISION
ZONE SEC. PLAT
5 5 08
CONTAINING PARCELS
SCALE: 1 in. = 100 ft.
PRINTED

SUBJECT TO CHANGE

PORT OF WAIOLI, HANAIEI, KAUAI.

EXHIBIT "A"



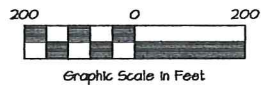
- EASEMENT PER L.I. CL. DOC. 2230626 AND REG SYSTEM DOC. 95-044011
- EASEMENT OVER STATE LAND PER ITEM 16, SCHEDULE B OF TITLE REPORT
- EASEMENT PURCHASED
- EASEMENT PER DOC. 97-161825 & 97-161822
- EASEMENT PER DOC. 97-161824, 97-161823 & 97-161820

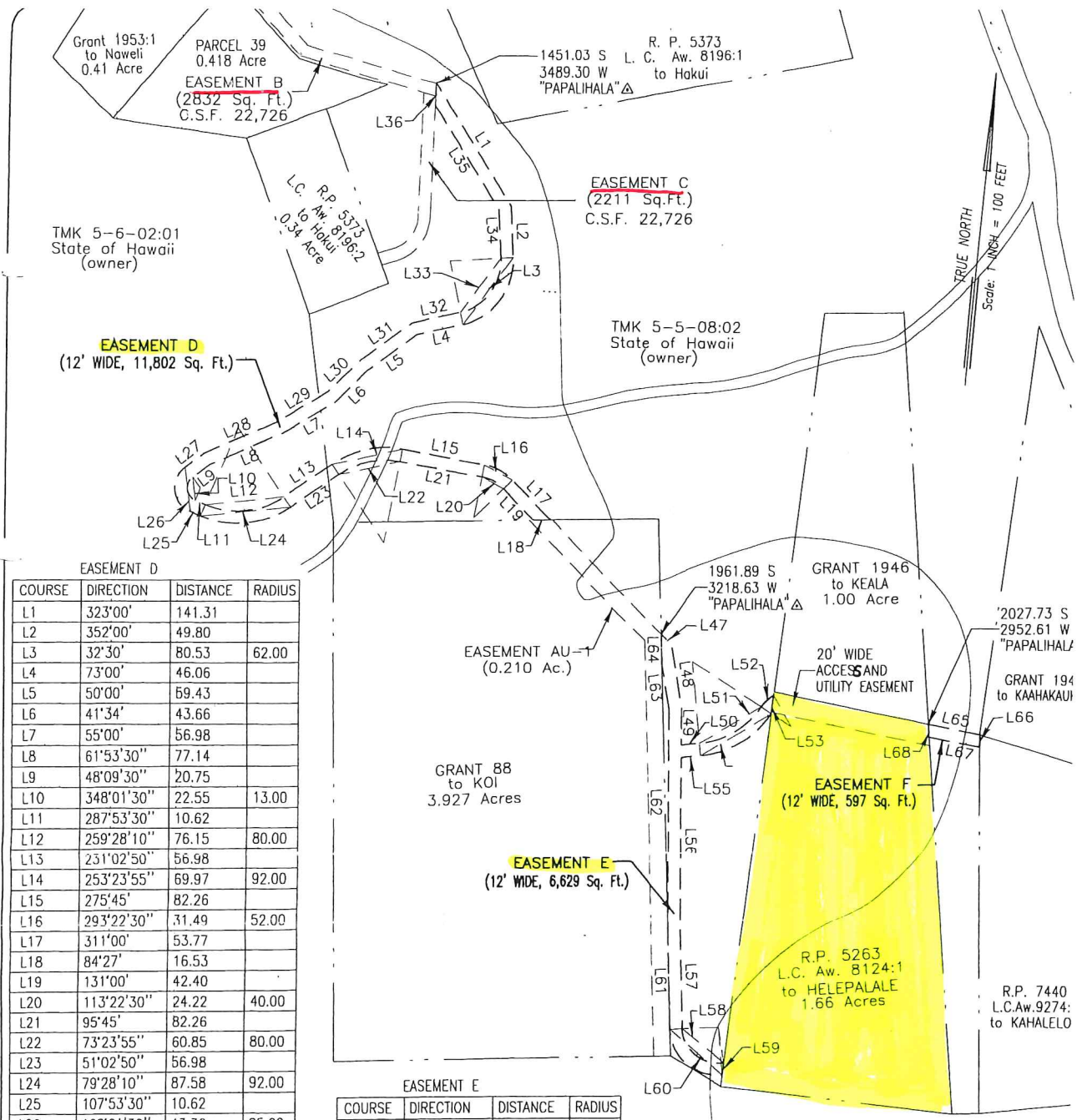
PREPARED FOR:
 JASON STANLEY
 3559 WILMINGTON CT.
 EUGENE, OR 97408

PREPARED ON:
 SEPTEMBER 2, 2010

**MAP OF EXISTING
 ACCESS EASEMENTS
 TO
 R.P. 7440
 L.C. Aw. 9274:1
 to KAHALELOA
 AT WAIOLI, HANALEI, KAUAI, HAWAII**

 **Wagner Engineering Services, Inc.**
 P.O. Box 851 Hanalei, HI 96714 (808) 826-7256





EASEMENT D

COURSE	DIRECTION	DISTANCE	RADIUS
L1	323°00'	141.31	
L2	352°00'	49.80	
L3	32°30'	80.53	62.00
L4	73°00'	46.06	
L5	50°00'	59.43	
L6	41°34'	43.66	
L7	55°00'	56.98	
L8	61°53'30"	77.14	
L9	48°09'30"	20.75	
L10	348°01'30"	22.55	13.00
L11	287°53'30"	10.62	
L12	259°28'10"	76.15	80.00
L13	231°02'50"	56.98	
L14	253°23'55"	69.97	92.00
L15	275°45'	82.26	
L16	293°22'30"	31.49	52.00
L17	311°00'	53.77	
L18	84°27'	16.53	
L19	131°00'	42.40	
L20	113°22'30"	24.22	40.00
L21	95°45'	82.26	
L22	73°23'55"	60.85	80.00
L23	51°02'50"	56.98	
L24	79°28'10"	87.58	92.00
L25	107°53'30"	10.62	
L26	168°01'30"	43.36	25.00
L27	228°09'30"	22.19	
L28	241°53'30"	77.87	
L29	235°00'	54.85	
L30	221°34'	43.13	
L31	230°00'	62.76	
L32	253°00'	48.50	
L33	212°30'	64.94	50.00
L34	172°00'	46.70	
L35	143°00'	120.41	
L36	177°00'	21.46	

EASEMENT E

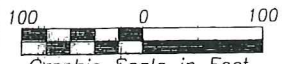
COURSE	DIRECTION	DISTANCE	RADIUS
L47	311°11'	14.48	
L48	345°51'50"	62.98	
L49	354°40'	36.22	
L50	259°40'	17.72	
L51	234°06'30"	69.03	80.00
L52	222°08'15"	16.45	35.00
L53	1°34'25"	18.20	
L54	54°06'30"	79.11	92.00
L55	79°40'	18.77	
L56	354°40'	166.02	
L57	353°09'	101.31	
L58	304°42'19"	52.38	35.00
L59	2°00'	12.34	
L60	126°44'52"	68.07	47.00
L61	173°09'	101.47	
L62	174°40'	213.52	
L63	165°51'50"	44.56	
L64	173°09'	29.64	

EASEMENT F

COURSE	DIRECTION	DISTANCE
L65	277°04'09"	50.09
L66	354°23'	12.30
L67	97°04'09"	49.33
L68	171°00'	12.49

PREPARED FOR:
 THOMAS THOMPSON
 P.O. BOX 255087
 SACRAMENTO, CA 95865-5067

SEPTEMBER 10, 2003



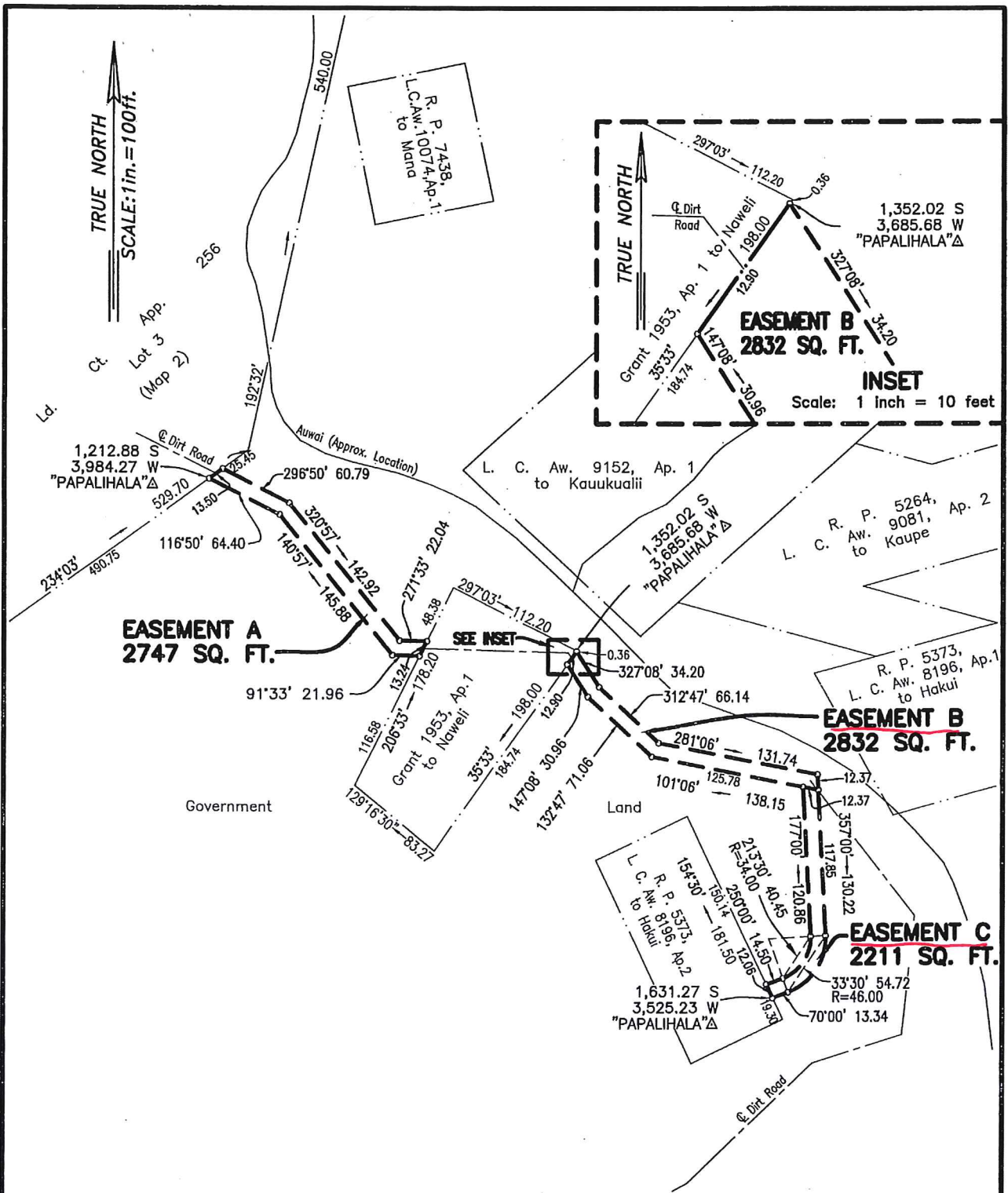
Wagner Engineering Services, Inc.
 P.O. Box 851 Hanalei, HI 96714 (808) 826-7256

MAP DESIGNATING
EASEMENT D, E, and F
 FOR ACCESS AND UTILITY PURPOSES
 AFFECTING
T.M.K. (4) 5-5-08:02
 AND
T.M.K. (4) 5-6-02:01
 AT WAIOLI, HANAIEI, KAUAI, HAWAII



THIS MAP WAS PREPARED BY ME OR
 UNDER MY SUPERVISION

Ronald J. Wagner
 RONALD J. WAGNER
 Licensed Professional Land Surveyor
 Certificate No. 5074



**PERPETUAL NON-EXCLUSIVE
ACCESS AND UTILITY EASEMENTS
EASEMENTS A, B AND C**

WAIOLI, HANALEI, KAUAI, HAWAII

Scale: 1 inch = 100 feet

JOB K-60(98)

C. BK.

TAX MAP 5-5-08:por.2
5-6-02:por.1

C.S.F. NO. 22,726

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

J.F.A. July 8, 1998

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

W. ROY HARDY
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

EXEMPTION NOTIFICATION

From the preparation of an environmental assessment under the authority of Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Grant of Perpetual, Non-Exclusive Easement to A. Laurel Bennett Trust for Access and Utility Purposes

Project Number: PSF No. 13KD-015

Project Location: por. of Waioli, Hanalei, Kauai, Tax Map Key: (4) 5-5-008:por. 2 and (4) 5-6-002:por. 1.

Project Description: Access and Utility Purposes

Chap. 343 Trigger(s): Use of State Land

Consulted Parties: Office of Conservation and Coastal Lands

Exemption Class No. In accordance with the "Exemption List for the State of Hawaii, Department of Land and Natural Resources, as Reviewed and Concurred Upon by the Environmental Council (Docket 91-EX-2, December 4, 1991), the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No.1, "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing [HAR § 11-200-8(a)(1)]."

Exemption Item No.: and Description: In accordance with the Division of Land Management Environmental Impact Statement Exemption List, approved by the Environmental Council and dated April 28, 1986, the subject project is considered to be exempt from the preparation of an environmental assessment pursuant to:

Exemption Class No.1, "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that

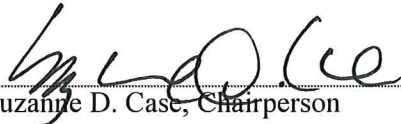
EXHIBIT " B "



previously existing." and

Exemption Class No. 4, which states, "Minor alterations in the conditions of land, water or vegetation."

Exemption Item Description Operations, repairs or maintenance of existing structures, facilities,
From Agency Exemption List equipment or topographical features, involving negligible or no
expansion or change of use beyond that previously existing.

Recommendation: It is anticipated that this request will probably have minimal or no
significant effect on the environment and is presumed to be exempt
from the preparation of an environmental assessment.


Suzanne D. Case, Chairperson

 
Date

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

December 23, 2010

WILLIAM J. AILA, JR.
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
INTERIM FIRST DEPUTY

WILLIAM M. TAM
INTERIM DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

10427 (K)

MEMORANDUM

TO: Charlene E. Unoki, Assistant Administrator

THROUGH: ~~Russell Y. Tsuji, Administrator~~

FROM: Sose Sauvao, Assistant Abstractor 

SUBJECT: Kuleana Status of Original Title(s) to Tax Map Key Parcels (4) 5-5-08: 003, 004, and 005

We have been requested to confirm the kuleana status of the original source of titles to the subject tax map key parcels (4) 5-5-08: 003, 004 and 005, designated as "Parcels 3, 4 and 5", respectively, as shown colored red on the tax map attached hereto as Exhibit A.

As shown thereon the source of titles to the subject parcels are identified as follows:

- "Parcel 3", (4) 5-5-08: 003 being all of L.C. Aw. 8124: 1;
- "Parcel 4", (4) 5-5-08: 004 being all of Grant 1946; and
- "Parcel 5", (4) 5-5-08: 005 being all of Grant 88.

Records filed in our office reveal that only "Parcel 3", being all of apana 1 of Land Commission Award 8124, acquired from the konohiki in 1841 by the claimant Helepalala, and adjudicated by the Land Commissioners on September 4, 1851, is an award of kuleana status.

Parcels 4 and 5, being portions of the Government Ahupuaa of Waioli sold to Keala under Royal Patent Grant No. 1946 (Parcel 4) dated January 17, 1856, and to Koi under Royal Patent Grant No. 88 (Parcel 5) dated July 28, 1848 are not kuleana.

If you have any questions, please feel free to call me at 587-0383.

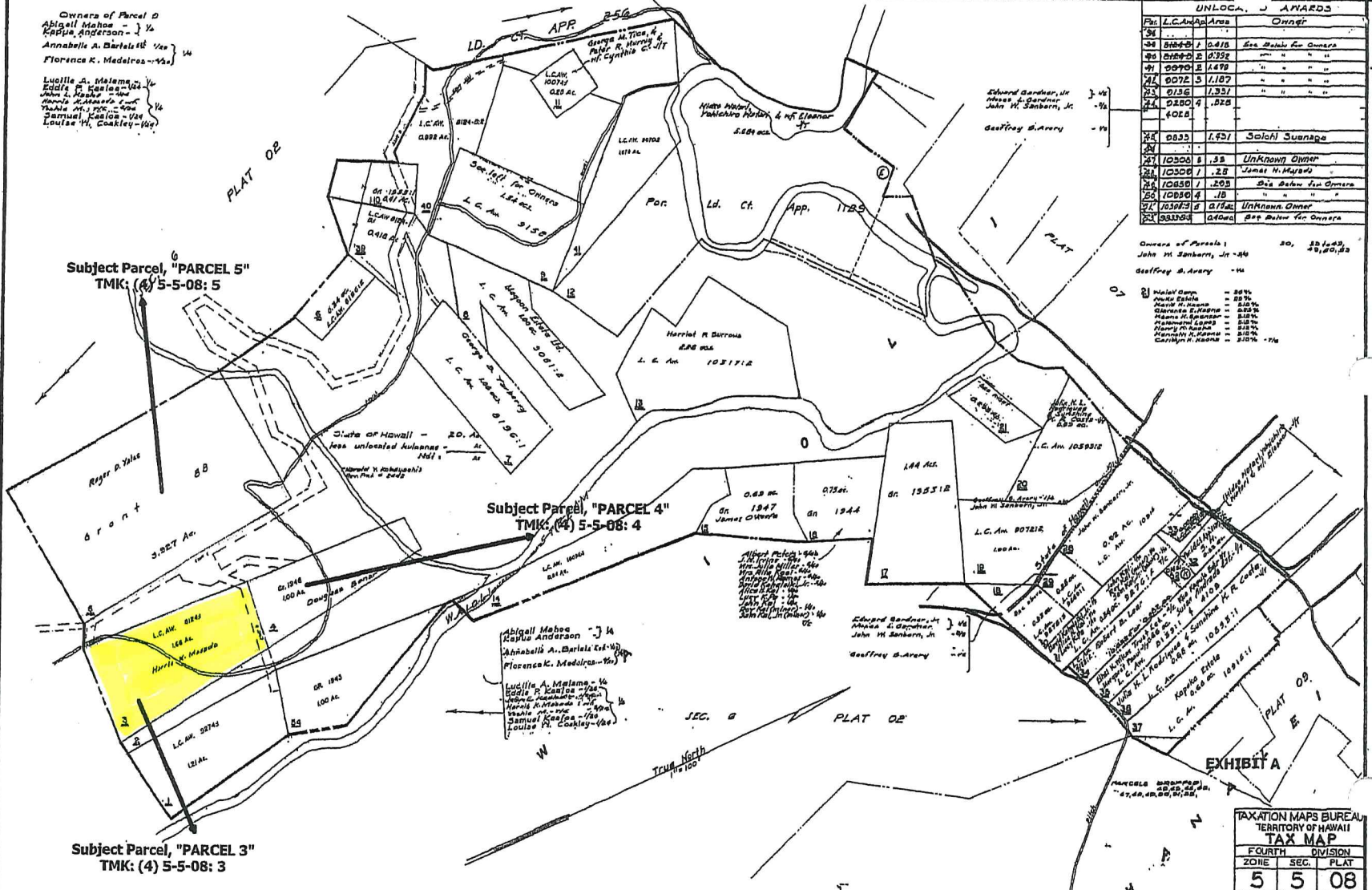
Enclosure

EXHIBIT " c "

3090
 Tax Maps Bureau, Survey Dept., & Ld. Ct. App. HFS
 E.K. & L.C.
 Date: 1956
 No. 3090
 Source
 By

Owners of Parcel 0
 Abigail Mahoe - 1/4
 Kappa Anderson - 1/4
 Annabelle A. Barleta - 1/8
 Florence K. Medeiros - 1/8

Luellie A. Malama - 1/4
 Eddie P. Kaioas - 1/4
 John A. Malama - 1/8
 Harold K. Malama - 1/8
 Samuel Kaioas - 1/8
 Louise H. Cookley - 1/8



UNLOC. AWARDS		
Plat	L.C. Am.	Area
24	10445	1.0418
25	10445	1.0418
26	10445	1.0418
27	10445	1.0418
28	10445	1.0418
29	10445	1.0418
30	10445	1.0418
31	10445	1.0418
32	10445	1.0418
33	10445	1.0418
34	10445	1.0418
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52	10445	1.0418
53	10445	1.0418
54	10445	1.0418
55	10445	1.0418
56	10445	1.0418
57	10445	1.0418
58	10445	1.0418
59	10445	1.0418
60	10445	1.0418

Owners of Parcels:
 John M. Sanborn, Jr. - 1/4
 Geoffrey S. Arery - 1/4

1) Malani Owen - 80%
 Marie P. Owen - 80%
 Marie H. Owen - 80%
 Elizabeth Esterson - 80%
 Marie H. Esterson - 80%
 Elizabeth Esterson - 80%
 Marie H. Esterson - 80%
 Elizabeth Esterson - 80%
 Marie H. Esterson - 80%

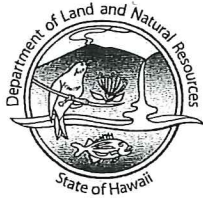
TAXATION MAPS BUREAU		
TERRITORY OF HAWAII		
TAX MAP		
FOURTH	DIVISION	PLAT
ZONE	SEC.	PLAT
5	5	08
CONTAINING PARCELS		
SCALE: 1" = 100' FT.		

FOR. OF WAIOLI, HANAIEI, KAUAI.

SUBJECT TO CHANGE

PRINTED

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ESTHER KIA'AINA
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

TO: Central
FROM: KDLO

No.: 13KD-015

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

REF:OCCL:TM

Correspondence: KA 14-108; 109 & 110

JAN 17 2014

MEMORANDUM

TO: Kaua'i Land District Office

JAN 16 2014

FROM: Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

SUBJECT: Grant of Term, Non-Exclusive Easement for Access and Utility Purposes for Uluwehi, Inc., Ursula Lamberson, and **A. Laurel Benett Trust** Located at Wai'oli, Hanalei, Kaua'i, TMK: (4) 5-5-008:002 & (4) 5-6-002:001

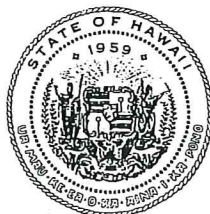
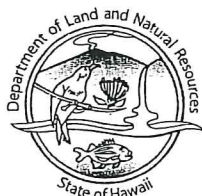
The Office of Conservation and Coastal Lands (OCCL) has reviewed the subject information and note that After the Fact authorization was gained via Conservation District Use Permit (CDUP) KA-3573 for the subject access/utility easement. We have attached CDUP KA-3573 and note that our files do not contain 'a land survey map prepared by a licensed land surveyor showing the alignment of the access and utility easement through parcel 2 for Parcel 3, 4, and 5' pursuant to condition #8.

Prior to going forward to the Board of Land and Natural Resources, the OCCL requests that the applicants for the easement comply with condition #8. A half-size survey map is sufficient for our files.

Should you have any questions regarding this memorandum, contact Tiger Mills of our Office at ~7-0382.

EXHIBIT "D"

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
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STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES AND
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

REF:OCCL:DH

ATF CDUA: KA-3573

Acceptance Date: November 22, 2010
180-Day Exp. Date: May 21, 2011

A. Laurel Bennett Trust

Uluwehi, Inc.

Ursula Lamberson Revocable Trust

C/o Laurel Bennett

Kapaa, Hawaii, 96746-8907

MAY 19 2011

Dear Ms. Bennett,

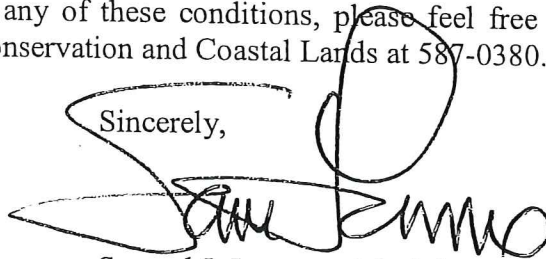
This is to inform you that on May 17, 2011, the Chairperson of the Department of Land and Natural Resources approved your After-The-Fact (ATF) Conservation District Use Application (CDUA) KA-3573 for an access and utility easement over State-owned land on Subject Parcel TMK: (4) 5-5-008:002, located in Waioli Valley, Hanalei District, Island of Kauai, subject to the following terms and conditions:

- 1) The applicant shall comply with all applicable statutes, ordinances, rules, regulations, and conditions of the Federal, State and County governments;
- 2) The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury or death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
- 3) The applicant shall comply with all applicable Department of Health administrative rules. Particular attention should be paid to Hawaii Administrative Rules (HAR) Section 11-60:1-33, "Fugitive Dust" and to Chapter 11-46, "Community Noise Control;"
- 4) In issuing this permit, the Department has relied on the information and data that the applicant has provided in connection with this permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;

- 5) The applicant understands and agrees that this permit does not convey any vested rights or exclusive privilege;
- 6) Where any polluted run-off, interference, nuisance, or harm may be caused, or hazard established by the use, the applicant shall be required to take measures to minimize or eliminate the polluted run-off, interference, nuisance, harm, or hazard;
- 7) The applicant acknowledges that the approved work shall not hamper, impede or otherwise limit the exercise of traditional, customary or religious practices in the immediate area, to the extent such practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law;
- 8) The applicant will need to apply and receive a Land Disposition from the Land Division prior to CDUA approval. In addition, owners will need to submit a land survey map prepared by a licensed land surveyor showing the alignment of the access and utility easement through Parcel 2 for Parcels 3, 4, and 5;
- 9) Other terms and conditions as may be prescribed by the Chairperson; and
- 10) Failure to comply with any of these conditions shall render this Conservation District Use Permit null and void.

Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign two copies. Retain one and return the other within thirty (30) days. Should you have any questions on any of these conditions, please feel free to contact Dawn Hegger, Senior Planner, Office of Conservation and Coastal Lands at 587-0380.

Sincerely,



Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

Receipt acknowledged:



Date: 6-1-11

c: Kauai Board Member
KDLO
County of Kauai, Department of Planning
Hanalei-Haena Community Association