

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

March 8, 2019

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

PSF No: 13KD-017

KAUAI

Amend Prior Board Action of May 22, 2015, Agenda Item D-5, Grant of Term, Non-Exclusive Easement to Ursula Lamberson, Trustee of the Ursula Lamberson Revocable Trust, for Access and Utility Purposes, Waioli, Hanalei, Kauai, Tax Map Keys: (4) 5-5-008:002 and (4) 5-6-002:001.

The purpose of the amendment is to: 1) change the easement area referenced in the prior Board action from 11,082 square feet, more or less, to 17,378 square feet, more or less, as determined by survey, and 2) change the Grantee from Ursula Lamberson, Trustee of the Ursula Lamberson Revocable Trust, to Mona Yarberry.

BACKGROUND:

At its meeting of May 22, 2015, agenda item D-5, the Board of Land and Natural Resources (Board) approved a Grant of Term, Non-Exclusive Easement to Ursula Lamberson, Trustee of the Ursula Lamberson Revocable Trust, for Access and Utility Purposes, Waioli, Hanalei, Kauai, Tax Map Keys: (4) 5-5-008:002 and (4) 5-6-002:001. (Exhibit 1)

At its meeting of February 26, 2016, agenda item D-5, the Board approved to amend its prior action of May 25, 2015, agenda item D-5, to specify the term of the easement as fifty-five (55) years.

REMARKS:

Upon requesting the assistance of the Department of the Attorney General to prepare the easement document, it was noted that the easement area referenced in the Board action of May 22, 2015, item D-5, was not consistent with the area shown on the survey map provided. As a result, it is necessary to amend the Land Board's prior action of May 22, 2015, item D-5, to change the easement area referenced in the Board approval from 11,082 square feet, more or less, to 17,378 square feet, more or less.

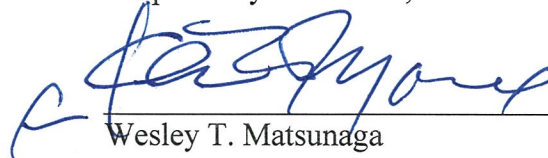
The grant of easement will consist of Easement A (2,747 square feet), Easement B (2,832 square feet), Easement D (11,799 square feet), for a total of 17,378 square feet. (Exhibit 2)

Further, during processing of the grant of easement document, staff learned that the Lamberson private property identified as Tax map Key: (4) 5-5-008:005 (Parcel 5) was sold to a Mona Yarberry. (Exhibit 3). Although the Board's May 22, 2015 approval authorized the approval of the grant of easement to continue to be applicable in the event of a sale of Parcel 5, for a clear record, staff is requesting a change in the Grantee from Ursula Lamberson, Trustee of the Ursula Lamberson Revocable Trust, to Mona Yarberry, as the new owner of Parcel 5.

RECOMMENDATION: That:

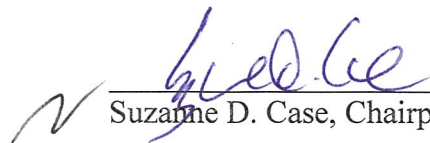
1. The Board amend its prior Board actions of May 22, 2015, under agenda item D-5, by:
 - A. Changing the easement area referenced in the approved submittal from 11,082 square feet, more or less, to 17,378 square feet, more or less;
 - B. Changing the Grantee of the easement from Ursula Lamberson, Trustee of the Ursula Lamberson Revocable Trust, to Mona Yarberry; and
2. Except as amended hereby, all terms and conditions listed in the Board's approvals of May 22, 2015, agenda item D-5, and February 26, 2016, agenda item D-5, shall remain the same.

Respectfully Submitted,



Wesley T. Matsunaga
District Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

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-017

Kauai

Grant of Term, Non-Exclusive Easement to Ursula Lamberson, Trustee for Ursula Lamberson Revocable Trust for Access and Utilities Purposes, Waioli, Hanalei, Kauai, Tax Map Keys: (4) 5-5-008:002 and (4) 5-6-002:001.

APPLICANT:

Ursula Lamberson, Trustee for Ursula Lamberson Revocable 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:

11,082 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

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

May 22, 2015 Go.

D-5
EXHIBIT 1

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-28292 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:

Applicant is the owner of Tax Map Key: (4) 5-5-008:005, which is further identified as being a portion of the Government Ahupuaa of Waioli sold to Keala under Royal Patent Grant No. 1946 dated January 17, 1856. Therefore, staff is recommending the consideration be a one-time payment to be determined by independent appraisal establishing fair market value, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, 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 expansion or change of use beyond that previously existing"

DCCA VERIFICATION:

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

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine one-time payment;
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
- 3) Obtain a title report to ascertain ownership, where necessary, at Applicant's own cost and subject to review and approval by the Department;

REMARKS:

Ursula Lamberson, Trustee for Ursula Lamberson Revocable Trust (Applicant) is the owner of Tax Map Key: (4) 5-5-008:005 (Parcel 5), which is further described as a portion of the Government Ahupuaa of Waioli sold to Koi under Royal Patent Grant No. 88 dated July 28, 1848. See Exhibit C.

Applicant requested an easement for access and utility purposes to inure to the benefit of Parcel 5 over State lands identified as TMK: (4) 5-5-008:002 and (4) 5-6-002:001. 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. See Exhibit D. 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.

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) 5-5-008:005, 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 term, non-exclusive easement to Ursula Lamberson, Trustee, Ursula Lamberson Revocable 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 term, non-exclusive 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) 5-5-008:005, 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 the 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

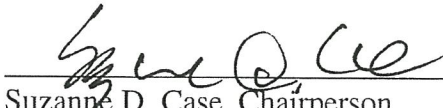
- D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Marvin Mikasa
District Land Agent

APPROVED FOR SUBMITTAL:



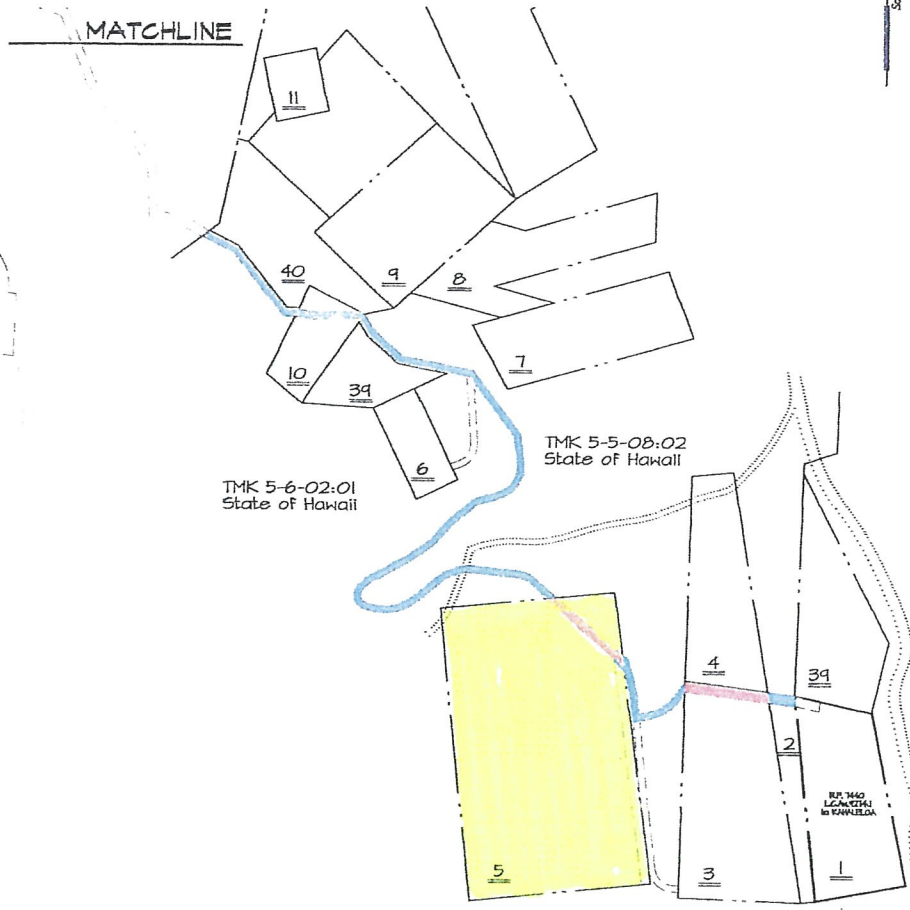
Suzanne D. Case, Chairperson








POR. of WAIOLI, HANALEI, KAUAI.

KUHIO HWY
KUMU ROAD

TRUE NORTH
Scale: 1 INCH = 200 FEET



-  EASEMENT PER Ld. Ct. 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

MATCHLINE

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

PREPARED FOR:
JASON STANLEY
3554 WILMINGTON CT.
EUGENE, OR 97408

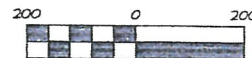
PREPARED ON:
SEPTEMBER 2, 2010



Wagner Engineering Services, Inc.

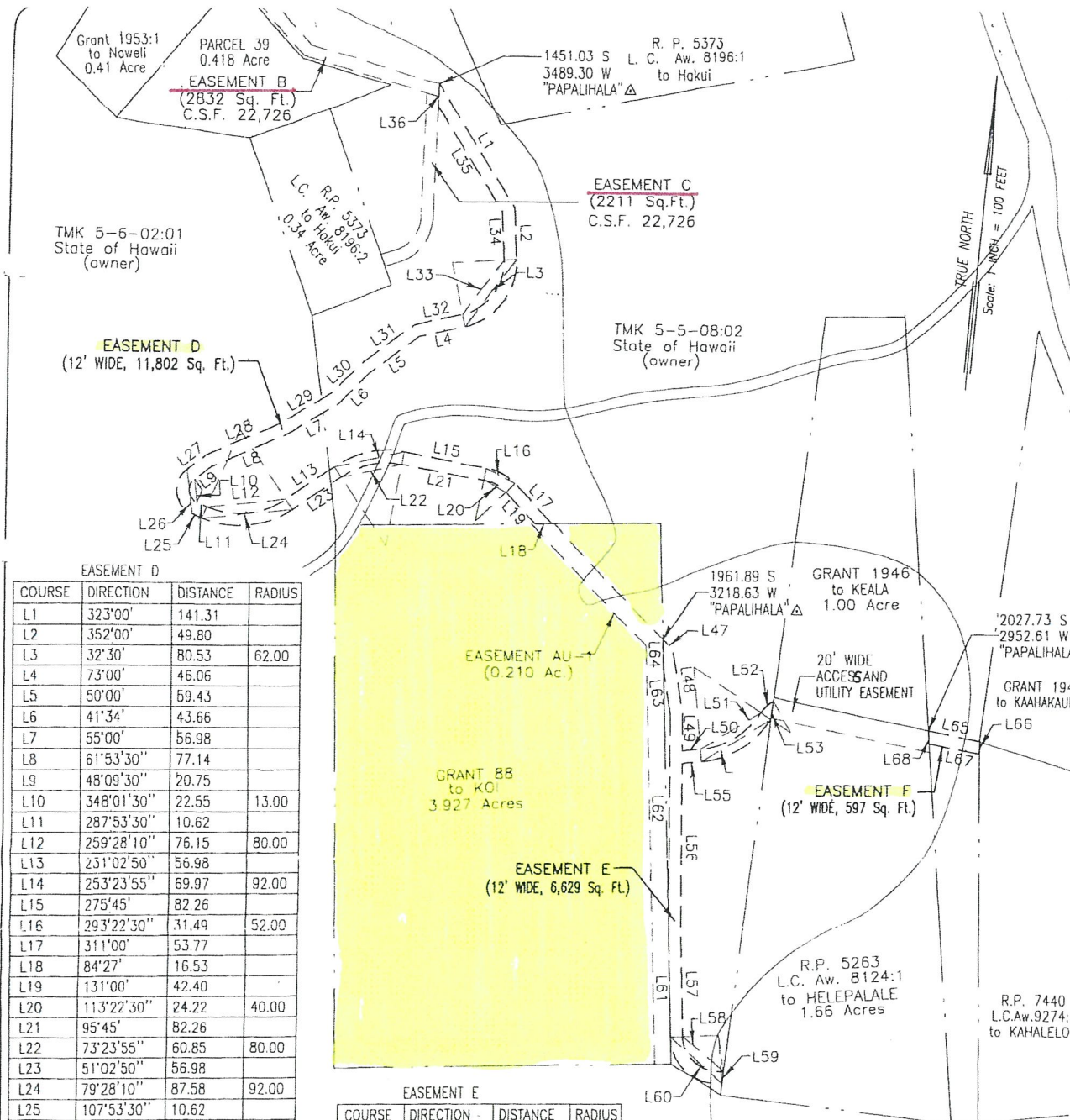
P.O. Box 851 Hanalei, HI 96714 (808) 826-7256

TMK (4) 5-5-08 & 5-6-02



Graphic Scale in Feet

Project No. 44841



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	251°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	

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	

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 255067
SACRAMENTO, CA 95865-5067

SEPTEMBER 10, 2003

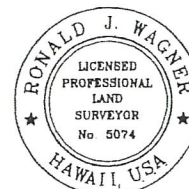
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Graphic Scale in Feet

Wagner Engineering Services, Inc.

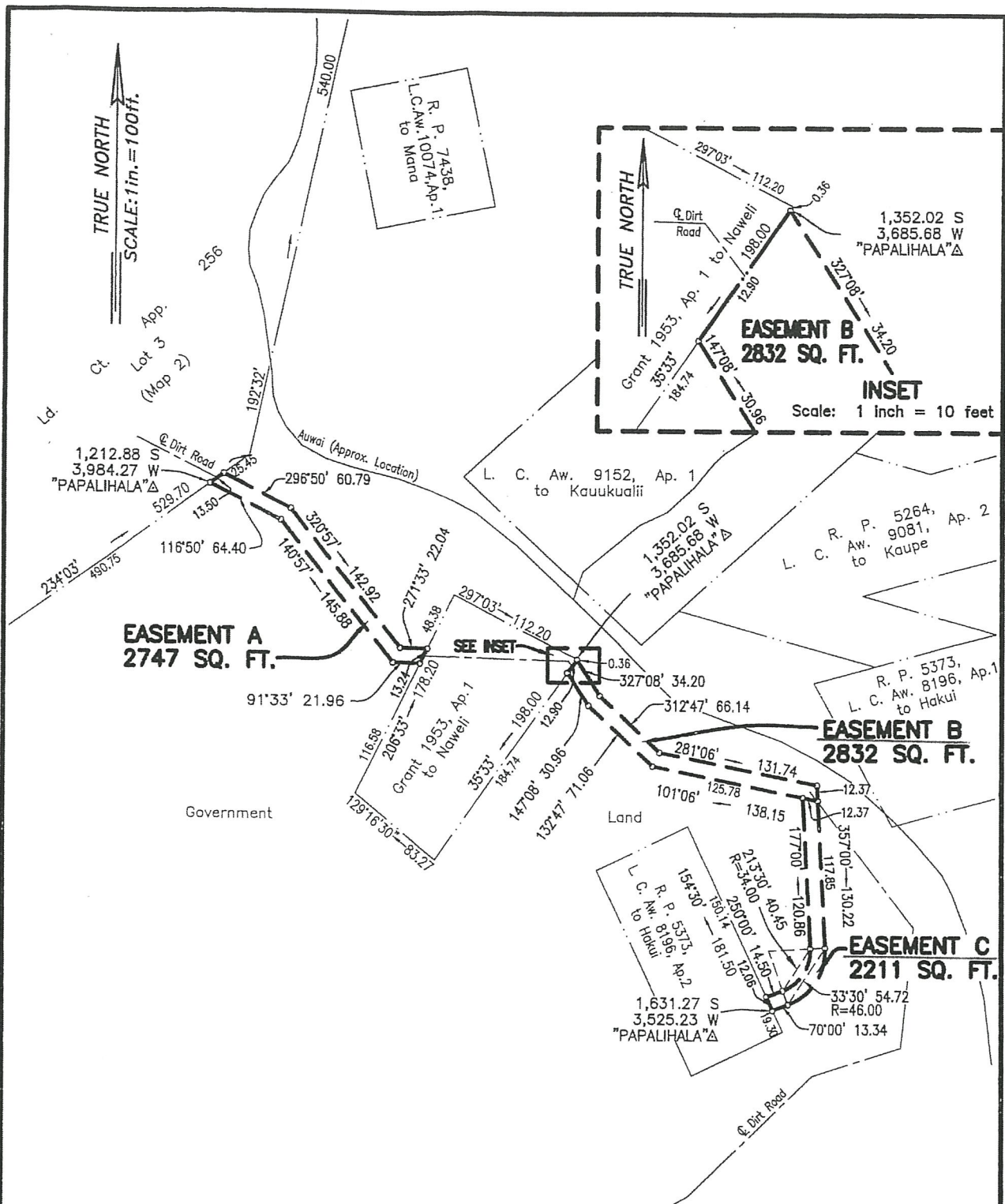
P.O. Box 851 Hanalei, HI 96714 (808) 826-7256

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



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 Term, Non-Exclusive Easement to Ursula Lamberson, Trustee, Ursula Lamberson Revocable Trust for Access and Utility Purposes

Project Number: PSF No. 13KD-017

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.: In accordance with the Division of Land Management Environmental
and Description: 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 previously existing." and

EXHIBIT " B "


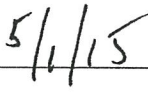
Exemption Class No. 4, which states, "Minor alterations in the conditions of land, water or vegetation."

Exemption Item Description From Agency Exemption List	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.
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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.
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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
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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 kulena 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.**

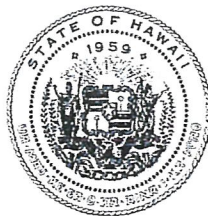
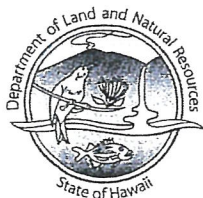
If you have any questions, please feel free to call me at 587-0383.

Enclosure

EXHIBIT "C"

POR. OF WAIOLI, HANALEI, KAUAI.

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

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

TO: Central
FROM: KDLO

No.: 19KD-015

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

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

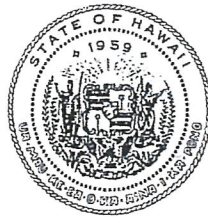
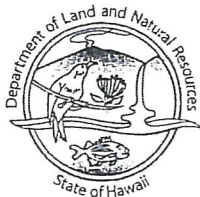
The Office of Conservation and Coastal Lands (OCCL) has reviewed the subject information and note that After the Fact authorization was gained via Conservation District Use Permit (CDUP) KA-3573 for the subject access/utility easement. We have attached CDUP KA-3573 and note that our files do not contain '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

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ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

2011 JUN -9 A 9:27

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
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

MAY 19 2011

Kapaa, Hawaii, 96746-8907

Dear Ms. Bennett,

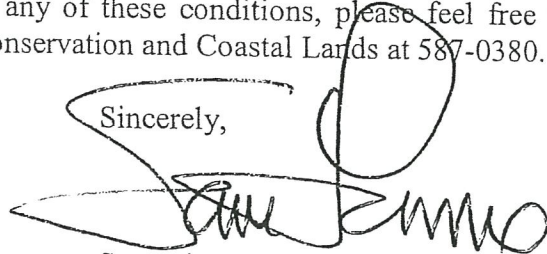
This is to inform you that on May 17, 2011, the Chairperson of the Department of Land and Natural Resources approved your After-The-Fact (ATF) Conservation District Use Application (CDUA) KA-3573 for an access and utility easement over State-owned land on Subject Parcel TMK: (4) 5-5-008:002, located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



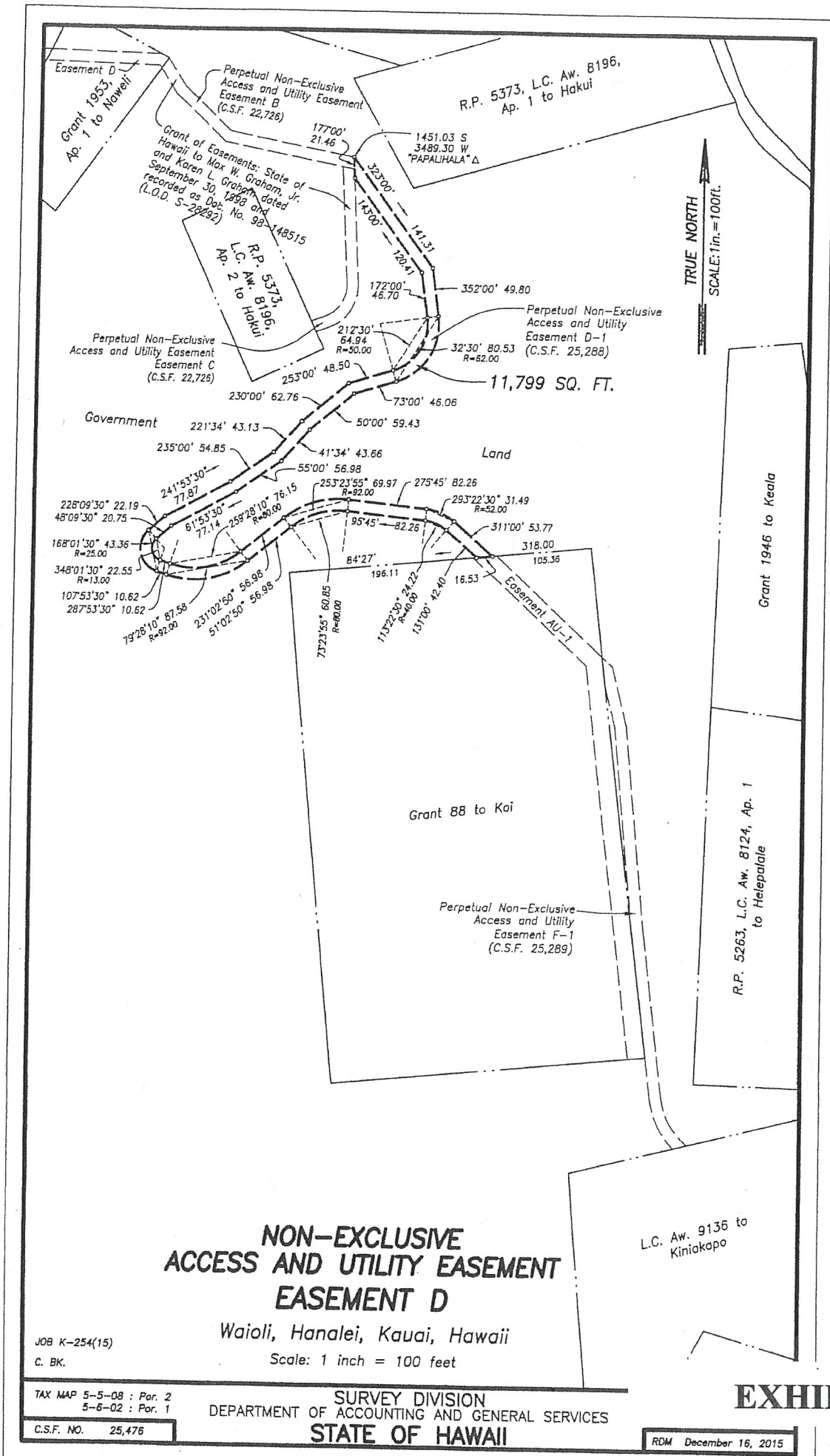
Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

Receipt acknowledged:



Date: 6-1-11

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





STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

July 12, 2018 8:01 AM

Doc No(s) A-67670153



1 1/1 ICL
B-33191690

/s/ LESLIE T. KOBATA
REGISTRAR

Conveyance Tax: \$100.00

LAND COURT SYSTEM

REGULAR SYSTEM

After Recordation, Return by: Mail (X) Pickup ()

Mona Yarberry

Hanalei, Kauai, Hawaii 96714

TITLE GUARANTY OF HAWAII HAS
FILED THIS DOCUMENT FOR RECORD
AS AN ACCOMMODATION ONLY. THIS
DOCUMENT HAS NOT BEEN
REVIEWED OR IN ANY WAY EXAMINED
AS TO ITS EFFECT ON REAL PROPERTY.

TG: 500303C

This document contains 10 pages

TYPE OF DOCUMENT:

LIMITED WARRANTY DEED

PARTIES TO DOCUMENT:

GRANTOR: URSULA LAMBERSON, Trustee of The Ursula Lamberson
Revocable Trust dated June 5, 1997
c/o Hayashi/Wayland

Carmel, California 93923
GRANTEE: MONA YARBERRY, unmarried

Hanalei, Kauai, Hawaii 96714

PROPERTY DESCRIPTION:

Kumu Road
Hanalei, Kauai, Hawaii 96714
(4) 5-5-008-005

EXHIBIT 3

LIMITED WARRANTY DEED

KNOW ALL PEOPLE BY THESE PRESENTS:

URSULA LAMBERSON, Trustee of The Ursula Lamberson Revocable Trust dated June 5, 1997, whose mailing address is c/o Hayashi/Wayland, Carmel, California 93923, hereinafter called the "Grantor", in consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration paid to the Grantor by MONA YARBERRY, unmarried, whose mailing address is Hanalei, Kauai, Hawaii 96714, hereinafter called the "Grantee", the receipt of which is hereby acknowledged, does hereby grant and convey unto the Grantee, as tenant in severalty, the property described in Exhibit "A" attached hereto and incorporated herein by reference.

AND the reversions, remainders, rents, issues and profits thereof, together with all improvements, tenements, rights, easements, entitlements, development rights, privileges and appurtenances to the same belonging or appertaining or held and enjoyed therewith, and all of the estate, right, title and interest of Grantor both at law and in equity therein and thereto.

TO HAVE AND TO HOLD the same unto Grantee, her heirs, devisees, personal representatives, and assigns, absolutely and in fee simple.

SUBJECT, HOWEVER, to: (i) existing county, state and federal laws, rules and regulations, including zoning ordinances and other land use regulations and restrictions applicable to the Property; and (ii) the easements, exceptions, conditions, covenants, encumbrances and other provisions contained or referenced in this Limited Warranty Deed.

In consideration of the premises, Grantor does hereby covenant with Grantee that Grantor is the owner of the Property in fee simple; that the Property is free and clear of and from all liens and encumbrances made, suffered or incurred by Grantor, excepting the lien of real property taxes assessed for the current fiscal year but not yet due, and further excepting any and all exceptions, reservations and encumbrances created by or referred to in this Deed; that Grantor has good right to sell and convey the Property; and that Grantor will WARRANT AND DEFEND the same unto Grantee against the lawful claims and demands of all persons based upon encumbrances made, suffered or incurred by Grantor, except as aforesaid.

AND GRANTEE does hereby acknowledge and agree that, except for Grantor's limited warranty of title set forth hereinabove, Grantee is not relying on any written, oral, implied or other representations, statements or warranties by Grantor or any agent of Grantor or any real estate broker or agent. Except as expressly set forth herein, Grantor shall have no liability to Grantee for, and Grantee hereby releases Grantor from, any liability (including contractual and/or statutory actions for contribution or indemnity) for, concerning or regarding: (i) the nature or condition of the Property, including the suitability thereof for any activity or use; (ii) any improvements, materials or substances located thereon; or (iii) the compliance of the Property with any laws, rules, ordinances or regulations of any government or other body. Grantor has not made, does not make


and expressly disclaims, any warranties, representations, covenants or guarantees, expressed or implied, or arising by operation of law, as to the development potential, marketability, merchantability, quality or condition of the Property or its suitability or fitness for any particular purpose or use. Grantee affirms that, prior to the date hereof, Grantee has: (i) investigated and inspected the Property and become familiar and satisfied with the condition of the Property; and (ii) made her own determination as to: (a) the development potential, marketability, merchantability, quality and condition of the Property, including but not limited to, the possible presence of toxic or hazardous substances, materials or wastes or other actual or potential environmental contaminants, soils or archeological conditions, or endangered species; and (b) the suitability or fitness for any particular purpose or use of the Property. Grantee hereby accepts the Property in its present condition on an "AS IS", "WHERE IS" and "WITH ALL FAULTS" basis and acknowledges that without this acceptance, this conveyance would not be made. Grantee hereby expressly assumes all risks, liabilities, claims, damages and costs, including any liability under or with respect to environmental laws and any hazardous waste, toxic substances or other environmental conditions which may exist on the Property (and agrees that Grantor shall not be liable for any consequential, indirect, or punitive damages), resulting or arising from or related to the Property, or the acquisition, development, ownership, use, zoning, condition, location, maintenance, capacity, water quality, water quantity, or operation thereof, except where such risks, liabilities, claims, damages and/or costs result from any fraudulent concealment or willful misconduct of Grantor. Grantee acknowledges that any physical, legal, environmental or other condition of the Property that Grantee discovers or desires to correct or improve prior to or after the date hereof shall be at Grantee's sole risk and expense, except where such risks, liabilities, claims, damages and/or costs result from any fraudulent concealment or willful misconduct of Grantor.

By her signature affixed hereto, URSULA LAMBERSON hereby affirms and certifies that she is the Trustee of the Ursula Lamberson Revocable Trust dated June 5, 1997, which Trust has not been revoked and is in full force and effect and that she, as Trustee, has the power and authority to execute this Limited Warranty Deed and consummate this transaction.

This conveyance and the respective covenants of Grantor and Grantee shall be binding on and inure to the benefit of Grantor and Grantee, respectively. The terms "Grantor" and "Grantee" as and when used herein, or any pronouns used in place thereof, shall mean and include the singular or plural number, individuals, partnerships, trustees and corporations, and each of their respective heirs, personal representatives, successors and assigns. All covenants and obligations undertaken by two or more persons shall be deemed to be joint and several unless a contrary intention is clearly expressed herein.

This Limited Warranty Deed may be executed in counterparts. Each counterpart shall be executed by one or more of the parties hereinbefore named and the several counterparts shall constitute one instrument to the same effect as though the signatures of all the parties are upon the same document.

IN WITNESS WHEREOF, the Grantor and Grantee have caused these presents to be duly executed on this 6th day of July 2018.



URSULA LAMBERSON, Trustee

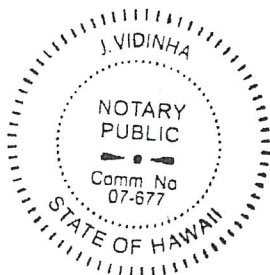
Grantor

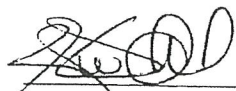
STATE OF HAWAII)
) SS:
COUNTY OF KAUAI)

On this 6th day of July 2018, before me appeared URSULA LAMBERSON, to me personally known, who, being by me duly sworn or affirmed, did say that she executed the foregoing LIMITED WARRANTY DEED dated July 6, 2018, which document consists of ten (10) pages, as her free act and deed, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

I certify under **PENALTY OF PERJURY** under the laws of the State of Hawaii that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

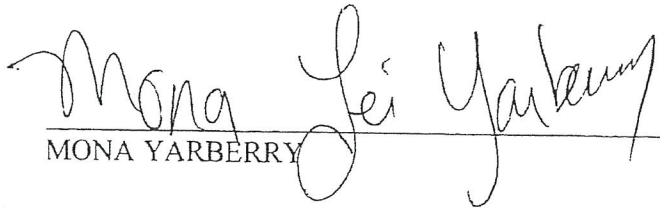




Name of Notary: J. VIDINHA

Notary Public, Fifth Circuit
State of Hawaii.

My commission expires: 04/28/2021


MONA YARBERRY

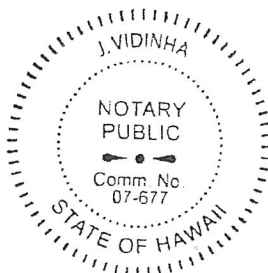
Grantee

STATE OF HAWAII)
) SS:
COUNTY OF KAUAI)

On this 6th day of July 2018, before me appeared MONA YARBERRY, to me personally known, who, being by me duly sworn or affirmed, did say that she executed the foregoing LIMITED WARRANTY DEED dated July 6, 2018, which document consists of ten (10) pages, as her free act and deed, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

I certify under **PENALTY OF PERJURY** under the laws of the State of Hawaii that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.





Name of Notary: J. VIDINHA

Notary Public, Fifth Circuit
State of Hawaii.

My commission expires: 04/28/2021

EXHIBIT "A"

All of that certain parcel of land (being all of the land(s) described in and covered by Royal Patent Grant Number 88 to Koi) situate, lying and being approximately 3,300 feet south of Kuhio Highway at Waioli, District of Hanalei, Island and County of Kauai, State of Hawaii, and thus bounded and described:

Beginning at a 1-1/2" pipe at the northeast corner of this lot and located within the Government Land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PAPALIHALA" being 1,849.29 feet south and 3,221.23 feet west and running by azimuths measured clockwise from true South:

- | | | | |
|----|----------|--------|--|
| 1. | 353° 09' | 528.13 | feet along Government Land to a 1-1/2" pipe; |
| 2. | 84° 27' | 330.00 | feet along Government Land to a 1-1/2" pipe; |
| 3. | 174° 27' | 528.00 | feet along Government Land to a 1-1/2" pipe; |
| 4. | 264° 27' | 318.00 | feet along same to the point of beginning and containing an area of 3.927 acres, more or less. |

TOGETHER WITH a non-exclusive easement for road and utility purposes over and across Tax Map Key (4) 5-6-002-002 as granted by that certain Grant of Easement dated August 5, 1994, recorded as Document No. 95-049010, as amended by that certain Amendment to Grant of Easement dated February 22, 2017, recorded on April 19, 2017 as Document No. A-63180313. Said easement being described as follows:

EASEMENT "A-1" (REVISED)
(16-feet wide for Access and Utility Purposes)

Land situated at Waioli, Hanalei, Kauai, Hawaii

Being portion of Lot 3 of Land Court Application
256 as shown on Map 2

Beginning at the north end of this easement on the east side of Lot 6 of Land Court Application 256 as shown on Map 2, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PAEPAE" being 1,718.96 feet north and 984.78 feet east, thence running (8.00 feet on each side of the described centerline) by azimuths measured clockwise from true South:

1.	331° 05'	37.29	feet;
2.	2° 27'	82.55	feet;
3.	353° 06'	86.56	feet;
4.	18° 50'	61.08	feet;
5.	55° 20'	50.82	feet;
6.	74° 29'	62.52	feet;

Thence along a curve to the left, with a radius of 45.00 feet,
the chord azimuth and
distance being:

7.	24° 55'	68.35	feet;
8.	335° 30'	116.54	feet;
9.	324° 00'	116.51	feet;
10.	304° 00'	136.57	feet;
11.	312° 00'	59.83	feet;
12.	281° 00'	58.22	feet;
13.	292° 00'	44.08	feet;
14.	331° 20'	49.03	feet;
15.	344° 40'	72.35	feet;
16.	308° 40'	368.68	feet;
17.	323° 27'	79.47	feet;
18.	309° 45'	274.82	feet;
19.	325° 40'	206.66	feet;
20.	289° 45'	84.77	feet;
21.	337° 53'	135.26	feet;
22.	321° 58'	147.68	feet;
23.	329° 49'	44.20	feet;
24.	358° 27'	81.46	feet;
25.	286° 49'	79.09	feet;
26.	303° 04'	24.17	feet to the southeast end of this parcel of land on the southeast side of Lot 3,

Land Court Application 254
and containing an area of
0.969 acre, more or less.

TOGETHER ALSO WITH a non-exclusive easement for road and utility purposes over and across Tax Map Key (4) 5-5-008-012 as granted by that certain Grant of Easement dated November 16, 2016, recorded on December 1, 2016 as Document No. A-61790218.

BEING THE PREMISES ACQUIRED BY LIMITED WARRANTY DEED

GRANTOR: KEAWAIHI LLC, a Hawaii limited liability company
GRANTEE: URSULA LAMBERSON, as Trustee of The Ursula Lamberson Revocable Trust dated June 5, 1997
DATED: April 23, 2003
RECORDED: Document No. 2003-078449

SUBJECT, HOWEVER, to the following:

1. Mineral and water rights of any nature.
2. Free flowage of stream.
3. The terms and provisions contained in the following:

INSTRUMENT: ORDER APPROVING SETTLEMENT AGREEMENTS AND RETAINING JURISDICTION TO ENFORCE SETTLEMENT AGREEMENTS
DATED: January 23, 1995; and filed January 25, 1995 in the Circuit Court of the Fifth Circuit, St
FILED: Land Court Document No. ate of Hawaii, in Civil No. 32
RECORDED: Document No. 95-049009

4. IRREVOCABLE RIGHT OF ACCESS dated August 5, 1994, recorded as Document No. 95-049014, in favor of NANCY SUMAKO KOBAYASHI, also known as Nancy Katayama Kobayashi, GLENN ICHIRO KOBAYASHI, JOSEPH NIRO KOBAYASHI, CHRISTINE YOSHIKO KOBAYASHI, ELIZABETH YASUKO ITO, and CATHERINE SACHIKO GINOZA, of an irrevocable right of access over and through the Grantor's property to the East Waioli Ditch Intake and to the State lands beyond, etc.
5. GRANT OF EASEMENT dated November 3, 1997, recorded as Document No. 97-161822, in favor of JOSEPH D. THOMSON, a single man, of a non-exclusive 20-foot wide easement for roadway and utility purposes only benefitting the Grantee's parcel (Tax Map Key (4) 5-5-008-001).

Said Grant was re-recorded as Document No. 97-161825.

6. GRANT OF EASEMENT (ACCESS AND UTILITY) dated October 5, 2004, recorded as Document No. 2004-210177, in favor of A. LAUREL BENNETT, Trustee of the A. Laurel Bennett Trust, of a non-exclusive easement described as follows: All of that certain parcel of land, being an EASEMENT AU-1, for access and utility purposes, 16 feet wide, affecting Grant 88 to Koi at Waioli, Hanalei, Kauai, Hawaii and more particularly described as follows:

Beginning at the southeast corner of this parcel at the southeast corner of Grant 88 to Koi, the coordinates of which referred to Government Survey Triangulation Station "PAPALIHALA" being 2,374.09 feet south and 3,169.11 feet west and running by azimuths measured clockwise from true South:

- | | | | |
|----|----------|--------|--|
| 1. | 84° 27' | 16.00 | feet along the
Government Land of
Waioli; |
| 2. | 173° 09' | 408.67 | feet over and across
Grant 88 to Koi; |
| 3. | 131° 11' | 164.02 | feet over and across
Grant 88 to Koi; |
| 4. | 264° 27' | 21.97 | feet along the
Government Land of
Waioli; |
| 5. | 311° 11' | 155.10 | feet over and across
Grant 88 to Koi; |
| 6. | 353° 09' | 363.99 | feet along the
Government Land of
Waioli to the point
of beginning and
containing an area
of 0.210 acre, more
of less. |

Said above GRANT OF EASEMENT was amended by FIRST AMENDMENT TO GRANT OF EASEMENT dated May 10, 2005, recorded as Document No. 2005-095404.

7. The terms and provisions contained in the following:

INSTRUMENT: RIGHT-OF-ENTRY AGREEMENT
DATED: May 21, 2010
RECORDED: Document No. 2010-092874
PARTIES: URSULA LAMBERSON, Trustee for the Ursula Lamberson Trust, "Owner" and BOARD OF WATER SUPPLY, COUNTY OF KAUAI, a political subdivision of the State of Hawaii, "Board"

8. Claims arising out of customary and traditional rights and practices, including without limitation those exercised for subsistence, cultural, religious, access or gathering purposes, as provided for in the Hawaii Constitution or the Hawaii Revised Statutes.

END OF EXHIBIT "A"