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

January 27, 2011

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

PSF No.: 10MD-161

Maui

Grant of Perpetual, Non-Exclusive Easement to William Wade Latham for Waterline Purposes, Koolau, Keanae, Hana, Maui, Tax Map Key: (2) 1-1-003: Portion of 092.

APPLICANT:

William Wade Latham, Single, Tenant in Severalty.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Koolau, situated at Keanae, Hana, Maui, identified by Tax Map Key: (2) 1-1-003: Portion of 092, as shown on the attached map labeled Exhibit (A) and the GIS Overview photo labeled Exhibit (B).

AREA:

550 Square Feet, more or less. (110 ft. x 5 ft. =550 sq. ft.)

ZONING:

State Land Use District: Agriculture
County of Maui CZO: Agriculture

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES ____

NO x

CURRENT USE STATUS:

Encumbered by Revocable Permit No. S-7568, William Wade Latham, Permittee, for Agriculture purposes.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove water transmission pipeline over, under and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by independent or staff appraisal establishing fair market rent, 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. 3 that states "Construction and location of single, new small facilities or structures and the alteration and modification of same and installation of new, small, equipment and facilities and the alteration and modification of same including but not limited to: (d) " Water, sewage, electrical, gas, telephone, and other essential public utility services extensions to serve such structures or facilities"...

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 initial one-time payment;
2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
3) Waterline shall be placed above ground along the embankment/ berm of the existing

taro patches to avoid disturbance of any possible historic sites (Area of Potential Effect). Per a pre-consultation with the Division of Historic Preservation, subsurface placement of the waterline may trigger an Environmental Impact Statement and the requirement of a monitor while conducting subsurface work due to the historical and cultural significance of the Keanae area.

REMARKS:

Mr. Latham is requesting to utilize a portion of State land at TMK: (2) 1-1-:003:092 for the placement of a 3/4 inch waterline to provide water from the County of Maui's public water system to his private property located at TMK: (2) 1-1-003:025. Parcel 092 is currently leased to Mr. Latham via month-to-month revocable permit (S-7568) for agriculture purposes. Mr. Latham's property is a Kuleana parcel.

Mr. Latham has obtained authorization via a waterline easement from the adjacent private property owner Ms. Pearl Pahukoa, Successor Trustee of parcel (2) 1-1-003:011. This agreement was executed on November 5, 2009 and recorded with the State of Hawaii Bureau of Conveyances on January 20, 2010, under Document No. 2010-008492.

The 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 following agencies:

Agency	Comments
Dept. of Health	No comment received
Dept. of Hawaiian Home Lands	No comment received
DLNR – Historic Preservation	Comments attached as Exhibit – E
Commission on Water Resource Management	No objection response
County of Maui – Public Works	No comment received
County of Maui – Planning	No comment received
County of Maui – Dept. of Water Supply	No comment response received
Office of Hawaiian Affairs	No comment received

To ensure no adverse affect to significant historic properties at parcel 092, which contains one known historic complex, identified by State inventory of Historic Places 50-50-07-3933, the Keanae Peninsula Lo'I Complex, Ms. Donham recommends that if the applicant or other permit holder plans to mechanically clear lands, or grade roads or other areas, or fill within the leased properties, the State Historic Preservation Division (SHPD) shall be notified in advance, and be provided with a description of the proposed work. If warranted, an inspection of the subject parcel shall occur, and the SHPD will recommend mitigation measures to ensure that historic sites are not adversely affected. Exhibit E.

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. Refer to the attached Chapter 343, HRS Exemption Notification form labeled Exhibit C.

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: (2) 1-1-003:025, 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 William Wade Latham covering the subject area for waterline 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: (2) 1-1-003:025, 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 Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document;

   C. Mr. Latham shall notify the State Historic Preservation Division (SHPD) prior to mechanically clearing land, grading roads, or other areas, or placing fill within the subject property. SHPD shall be provided with a description of the proposed work prior to the execution of any of the previously stated alterations of the subject property. If warranted SHPD will conduct an inspection of the parcel and recommend mitigation measures to ensure that historic sites are not adversely affected.

   D. Review and approval by the Department of the Attorney General; and

   E. Such other terms and conditions as may be prescribed by the Chairperson

to best serve the interests of the State.

Respectfully Submitted,

Larry Pacheco
Land Agent

APPROVED FOR SUBMITTAL:

William J. Aila, Interim Chairperson

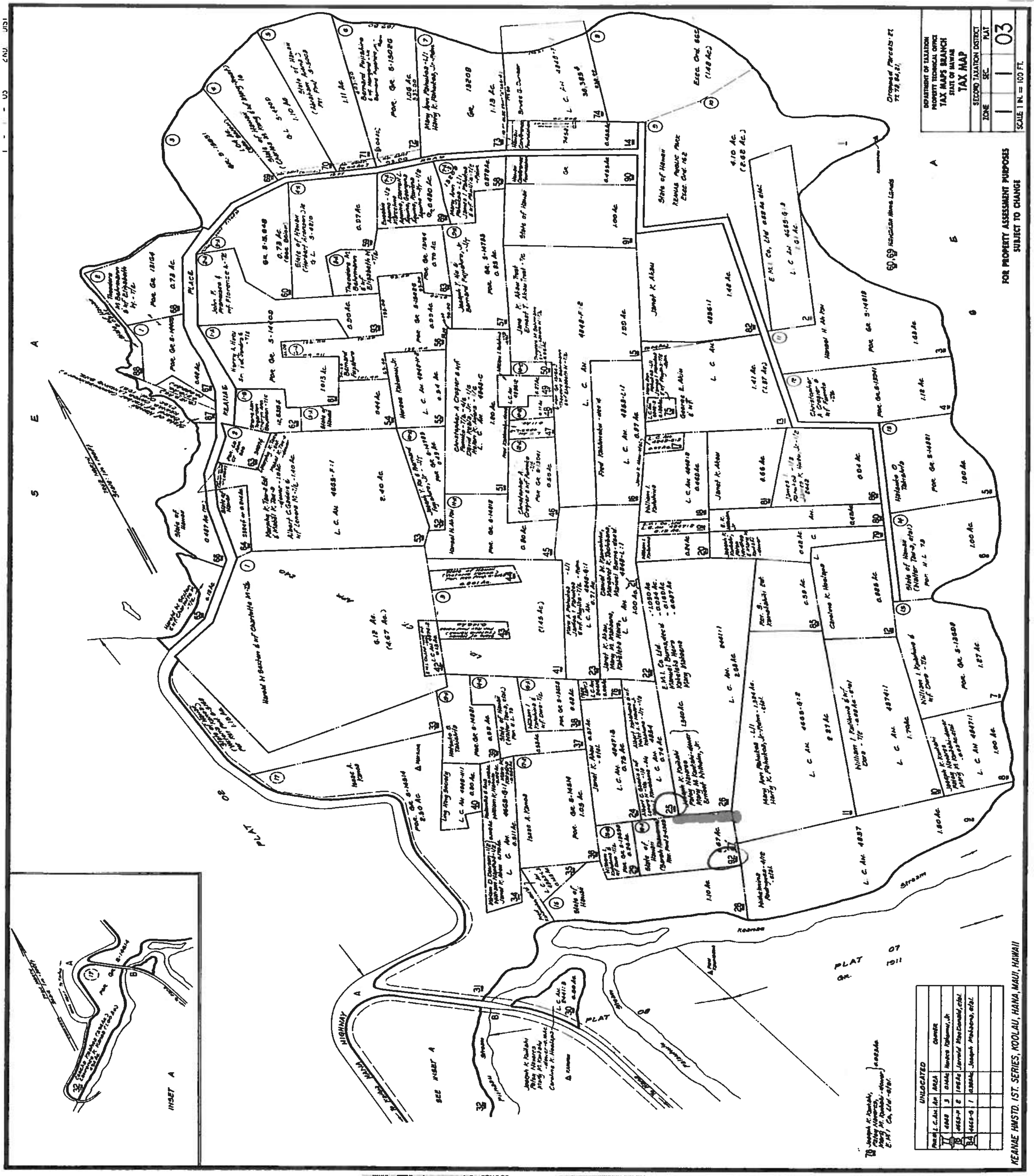
DEPARTMENT OF TAXATION
PROPERTY TECHNICAL OFFICE
TAX MAPS BRANCH
STATE OF HAWAII
TAX MAP
SECOND TAXATION DISTRICT
ZONE SEC. PLAT
1 1 03
SCALE 1 IN. = 100 FT.
FOR PROPERTY ASSESSMENT PURPOSES
SUBJECT TO CHANGE
KEANAE HMSTD. 1ST. SERIES, KOOLAU, HANA, MAUI, HAWAII
UNLOCATED
INSET A
SEE INSET A
HIGHWAY
PLAT 07
PLAT 08
SEA
Stream
Keanae
State of Hawaii

EXHIBIT A

Access & Utility Waterline Easement
Wiiliam Latham - PSF# 10MD-161
Overview Not to Scale
Property Owner: William Latham
(2) 1-1-003:025
Pearl Pahukoa (Trustee)
(2) 1-1-003:011
State of Hawaii
RP-7568
to William Latham
(2) 1-1-003:092
Proposed Waterline and Access Easement
Area: 110' x 5' = 550 sq. ft
Exhibit B

LINDA LINGLE
GOVERNOR OF HAWAII

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

November 1, 2010

EXEMPTION NOTIFICATION

regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title:	William Wade Latham
Project / Reference No.:	10MD-161
Project Location:	Koolau, Keanae, Hana, Maui. TMK: (2) 1-1-003: Por. of 092
Project Description:	Non-Exclusive Perpetual Easement for Access & Utility (Waterline) Purposes.
Chap. 343 Trigger(s):	Use of State Land
Exemption Class 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. 3 that states: "Construction and location of single, new small facilities or structures and the alteration and modification of same and installation of new, small, equipment and facilities and the alteration and modification of same including but not limited to (d) Water, sewage, electrical, gas, telephone, and other essential public utility services extensions to serve such structures or facilities."...
Consulted Parties:	DLNR- Engineer Curtis Powers: Advised that he has no objections to the subject E.A. Exemption as long as Maui County Dept. of Water Supply "water system standards 2002" are complied with.

EXHIBIT "C"

DLNR- Historic Preservations Cultural Historian Hinano Rodrigues: Indicated that if the waterline is placed above ground the above EA exemption should apply for this request. If the desired waterline is placed underground, a monitor would be required, and it may also trigger the requirement of an environmental impact statement. Due to the historical significance of the Keanae peninsula, the Area of Potential Effect is of great concern. If subsurface work is conducted, a monitor should be present.

Recommendation: The placement of an above ground 3/4 inch waterline will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

_____
William J. Aila, Interim Chairperson

_____
Date

Proposed ¾ inch waterline for William Wade Latham.

Not to Scale

Exhibit (D)

NEIL ABERCROMBIE
GOVERNOR OF HAWAII

RECEIVED
MAUI DISTRICT
LAND DIVISION
2010 DEC 29 PM 1:14

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

GUY 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

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION
601 KAMOKILA BOULEVARD, ROOM 555
KAPOLEI, HAWAII 96707

December 22, 2010

LOG NO: 2010.1369
DOC NO: 1012MD42
Archaeology

TO: Larry Pacheco, Land Agent
DLNR Land Division
54 High Street, Room 101
Wailuku, Hawaii 96793

FROM: Theresa K. Donham, Acting Archaeology Branch Chief
State Historic Preservation Division

SUBJECT: Chapter 6E-8 Historic Preservation Review –
Request for a Perpetual Non-Exclusive Access & Utility (Waterline) Easement for William Latham
Ko'olau Ahupua'a, Hāna District, Island of Maui
TMK: (2) 1-1-003:092 (por.)

Thank you for the opportunity to comment on the aforementioned project, which we received on December 14, 2010. This proposed easement is for a waterline connection between Mr. Latham's parcel 025 and the County of Maui's public water system via Ms. Pahukoa's parcel 011. The connection will entail a ¾" wide waterline placed on the ground surface (total affected area 550 square feet). Mr. Latham's parcel has been confirmed as a Kuleana parcel.

Parcel 092 contains one known historic complex, State Inventory of Historic Places 50-50-07-3933, the Ke'anae Peninsula Lo'i Complex.

Based on the intent of this lease, it does not appear that the proposed use of the parcel will have an adverse affect on the historic sites. If the applicant proposed to develop of mechanically clear any of the properties then those actions could impact known or unknown sites.

We recommend that the following conditions be attached to the permit, to ensure no adverse effect to significant historic properties:

> If the applicant or other permit holder plans to mechanically clear lands, or grade roads or other areas, or fill within the leased properties, the State Historic Preservation Division (SHPD) shall be notified in advance, and be provided with a description of the proposed work. If warranted, an inspection of the subject parcel shall occur, and the SHPD will recommend mitigation measures to ensure that historic sites are not adversely affected.

If you have questions about this letter please contact Morgan Davis at (808) 243-5169 or via email to: morgan.e.davis@hawaii.gov.

EXHIBIT "E"