

WALDEMAR "WALLY" & DARLENE ROGERS

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2016 FEB -5 AM 9: 43

WATER USE PERMIT APPLICANT PRO SE

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAI'I

Surface Water Use Permit Applications,	)	Case No. CCH-MA15-01
Integration of Appurtenant Rights and	)	
Amendments to the Interim Instream Flow	)	TESTIMONY OF WALDEMAR "WALLY"
Standards, Nā Wai 'Ehā Surface Water	)	ROGERS; EXHIBITS "2271-ROGERS-1" -
Management Areas of Waihe'e, Waiehu,	)	"2271-ROGERS-5"
'Īao, & Waikapū Streams, Maui	)	
	)	
	)	

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TESTIMONY OF WALDEMAR ROGERS

1. This testimony is provided in support of Surface Water Use Permit Application ("SWUPA") No. 2271, filed with the Commission on Water Resource Management on April 23, 2009, for a parcel in Waikapū, Tax Map Key ("TMK") No. (2) 3-5-012:012. I have lived on this land since I inherited it from my father, Edmund Rogers around 1970.

2. The deed to this land contains a reservation of appurtenant rights. I understand that because of this reservation, the appurtenant water rights may be extinguished. Nevertheless, as stated in my application, I reserve the right to claim appurtenant water rights. Therefore, in the event of a legal determination that these appurtenant rights were not extinguished, I am providing further information regarding water use at the time of the Māhele.

3. My domestic water use is also a protected public trust purpose.

4. Based on the information set forth below, if appurtenant rights survived the deed's reservation, I request recognition of appurtenant rights for TMK No. (2) 3-5-012:012 in the amount of 87,000 gallons per day. I request a Surface Water Use Permit for my current reasonable-beneficial use for TMK No. (2) 3-5-012:012 of 600 gallons per day, which was the existing use as of April 30, 2008.

#### **QUANTIFICATION OF APPURTENANT RIGHTS**

5. TMK No. (2) 3-5-012:012 is comprised of portions of three Land Commission Awards ("LCAs"): 'āpana 2 of LCA No. 460 to Puupahoehoe, confirmed by Royal Patent (RP) No. 2165; 'āpana 2 of LCA No. 3105 to Kaaa, confirmed by RP No. 3154; and 'āpana 1 of LCA No. 3108 to Konohia, confirmed by RP No. 2814. I am attaching various Māhele documents that confirm water use on TMK No. (2) 3-5-012:012 at the time of the Māhele.

6. Attached as "2271-ROGERS-1" is a true and correct copy of LCA No. 460 to Puupahoehoe, as well the native testimony supporting the award (both the original and the English translation).

7. Attached as "2271-ROGERS-2" is a true and correct copy of LCA No. 3105 to Kaaa, as well as the native testimony (both the original and English translation) supporting the award.

8. Attached as "2271-ROGERS-3" is a true and correct copy of LCA No. 3108 to Konohia, as well as the foreign testimony (original in English) supporting the award.

9. Attached as "2271-ROGERS-4" is a true and correct copy of the map from the Office of Hawaiian Affairs' Kīpuka Database, showing the boundaries for TMK No. (2) 3-5-012:012 (in blue), and which I have marked to show the boundaries for the kuleana parcels (in red, purple, and green).

10. A true and correct copy of the County tax map for TMK No. 3-5-012:012 is also attached as “2271-ROGERS-5.”

11. The documents in 2271-ROGERS-2, referring to LCA No. 3105, establish that ‘āpana 2 was cultivated in wetland taro: the native testimony describes ‘āpana 2 as a paukū kalo containing 10 lo‘i kalo.

12. The documents in 2271-ROGERS-3, referring to LCA No. 3108, confirm that ‘āpana 1 was cultivated in wetland taro: the LCA itself labels the ‘āpana as “aina kalo,” and the foreign testimony notes there were “two moos of kalo” in ‘āpana 1.

13. With respect to the documents in 2271-ROGERS-1, referring to LCA No. 460, the native testimony describes ‘āpana 1 and ‘āpana 2 (the relevant parcel), as follows: “there were numerous taro patches and a kula in Pilipili.” The adjacency of my portion of ‘āpana 2 of LCA No. 460 with ‘āpana 2 of LCA No. 3105 and ‘āpana 1 of LCA No. 3108, both of which were lo‘i kalo lands, suggests my portion of ‘āpana 2 of LCA No. 460 was also lo‘i kalo land, as opposed to kula land.

14. My land, TMK No. (2) 3-5-012:012, is 0.29 acre.

15. Based on the Māhele documents in 2271-ROGERS-1, 2271-ROGERS-2, and 2271-ROGERS-3, if appurtenant rights survive the deed’s reservation of rights, the quantification of the appurtenant rights is the amount of water sufficient to grow kalo on 0.29 acres using traditional methods.

16. It is my understanding that, on average, taking into account fallow lo‘i and uncultivated areas such as banks between lo‘i, healthy wetland kalo requires between 100,000 and 300,000 gallons of water per acre per day (“gad”), and that areas with greater proportions of lo‘i in cultivation will require an amount closer to the upper end of this range.

17. Thus, in my best estimation, the water right appurtenant to TMK No. (2) 3-5-012:012 is 87,000 gallons per day ("gpd") (0.29 acre x 300,000 gad).

**AMOUNT REQUESTED UNDER PERMIT**

18. I use water from the North Waikapū kuleana 'auwai that runs along Waikō Road. Water is diverted into the 'auwai from the stream through a traditional po'owai (intake made with stones) near Ione Shimizu's house. The water continues makai in pipes and ditches until it passes my sister Zelig Rogers Harders' property, where I divert some water via a simple garden hose to irrigate the crops in my home (non-commercial) garden and lawn. Although the diverted water does not return to the stream, it seeps into the ground and re-charges the aquifer.

19. I believe that the 2002 State of Hawai'i Water System Standard for Maui County of 600 gpd per single family home is sufficient for my existing domestic water uses.

**Reasonable-Beneficial Analysis**

20. In the event of a legal determination that my appurtenant rights were extinguished, my existing use is still "reasonable-beneficial," defined as: "the use of water in such a quantity as is necessary for economic and efficient utilization, for a purpose, and in a manner which is both reasonable and consistent with the state and county land use plans and public interest." HRS § 174C-3.

21. The quantity I am requesting is necessary for the economic and efficient irrigation of my home garden, which includes tangerine trees, papaya, avocado, which I feed to my 'ohana and neighbors, and puakenikeni, which we use to make lei for special occasions. My use of the stream water is economic and efficient, as I use only the amount needed to irrigate my garden and lawn, and I implement measures to minimize water loss, including using garden hoses, which reduce evaporation and leakage.

22. My use of stream water to irrigate my garden is also consistent with the state and county land use plans and the public interest. My land is classified by the State as urban, and zoned by the County as agricultural. My water use on my land for domestic cultivation is in the public interest and fulfills a public trust purpose.

### **Alternatives Analysis**

23. If my land has appurtenant rights to stream water in the nature of an easement that was conveyed at the time of the Māhele, I am not required to provide an alternatives analysis to show that I have no practicable alternative source of water. My appurtenant right is for stream water, not for water from any other source, and my exercise of this right enjoys maximum protection and first priority under the law. Nonetheless, the Alternatives Analysis set forth in my SWUPA remains applicable, true, and correct.

24. As detailed in my SWUPA, I have always used a reasonable amount of 'auwai water to maintain my non-commercial garden of fruits and flowers, along with other community members along this traditional 'auwai. Other alternatives, such as municipal water, reclaimed wastewater, water from other ditch systems, desalinized water, and groundwater, are not practicable alternatives to the 'auwai water from Waikapū Stream. Requiring me to pay for these alternatives instead of diverting the small amount of stream water via the 'auwai that runs alongside my land would impose an unfair and impracticable cost on me and my family, given that I am a small, domestic water user who has always used the water from this source.

### **SUMMARY**

25. In sum: (1) my domestic water use is a protected public trust purpose; (2) if appurtenant rights survived the deed's reservation for TMK No. (2) 3-5-012:012, the exercise of such rights is also a protected public trust purpose, and I am entitled to 87,000 gallons per day;

(3) at this time, I request a permit for my current and existing uses on the property of 600 gallons per day, and this modest amount will be used to irrigate my non-commercial garden and lawn, which is a reasonable-beneficial use of stream water, for which there is no practicable alternative.

I, Waldemar "Wally" Rogers, do declare under penalty of law that the foregoing is true and correct.

Dated: Waikapū, Hawai'i, Waldemar "Wally" Rogers - 28 JAN 16

Waldemar "Wally" Rogers  
WALDEMAR "WALLY" ROGERS  
WATER USE PERMIT APPLICANT PRO SE

483

see 212 V D

Heleu 3402 Poupou Waikapu Maui

Apana 4. Ii. Makailima. Waikapu. Maui.  
Chomaka ma ke kiki mauka wa o keia apana  
ma ke kahawai a e holo

Hema 111° Iikina 5.58 Ith ma ke Kahawai.

Akau 74° Iikina 4.20 " " "

Akau 20° Iikina 1.54 " " " alaila holo ma

ka pali a hiki i ke kiki mua = 1.70 Ith.

Apana 5. Pahale Ii. Puhau. Chomaka ma ka ana  
Okaui a e holo.

Hema 69 1/2° Iikina 1.86 Ith ma ke Wiliama

Hema 26° Iimohana 1.18 " " " Keaka

Akau 63° Iimohana 1.95 " " " "

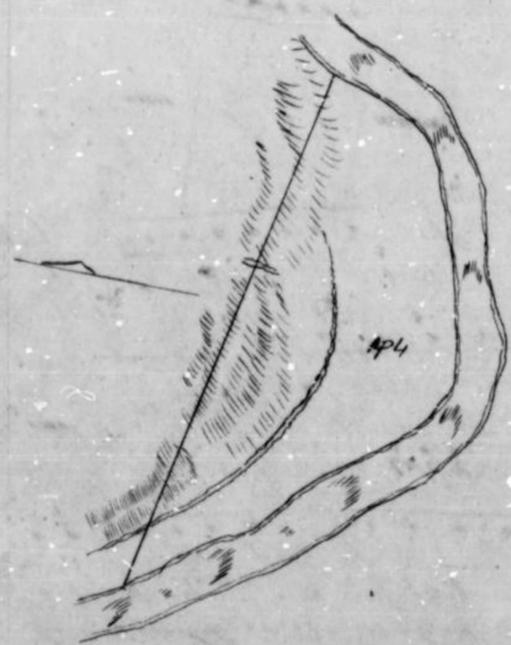
Akau 31° Iikina 96 " " " " a hiki i ke kiki

mua = 2/10 Ith.

Wailuku Aug. 10. 1853

C. Bailey  
Maanaina.

31-18  
1.70  
20  
2.27



From Page 212 V8 onwards.

Uku pau loa 63-00

W. L. Lee  
G. M. Robertson  
J. Kaulahau  
J. H. Smith

Honolulu August 29. 1853.

Heleu 460 Pūpūhōhōe Waikapu Maui

Apana 3. Ii. Hoopahelo. Waikapu. Maui.  
Chomaka ke ana ma ke kahawai, kiki Iimohana  
mauka wa, a e holo.

Akau 31° Iikina 3.00 Ith. ma ke pali

Akau 6 1/2° Iikina 3.65 " " "

Hema 65° Tikina 4.00 Ah. ma ka pali.  
Hema 75° Hemehana 8.88. Kahawai a hiki ma ke kiki  
ma = 1 47/100 Eka

Hailuku Aug 10 1853.

C. Bailey  
Mea ana ana.



From Page 4. V8 Awards

Ukupaoua

\$2.00

W. L. Lu  
G. M. Robertson  
J. Kakaulaha  
J. H. Smith

Honolulu Augate 29. 1853

Lot 8908 Kahiapaiole

Manowai, Molekai.

Manowai ili. Kapiuoka, Molekai.  
Apana 1. Chormaka ana ma ke kiki Hik. via ana a e holo ana.  
Ak 35 1/2 Ho. 0.41 Kaul. ma ke Kaholo. alaila Ho. 88 1/2 Ho. 0.99 1/2 Kaul. ma  
ke Kihohiki. alaila Ho. 78 Ho. 1.14 Kaul. ma ke Kihohiki. alaila. Ho. 27 1/2  
Ho. 0.34 Kaul. ma ke Kalua. alaila Ho. 61 Ho. 0.32 Kaul. ma ke Kalua  
alaila. Ak 78 Ho. 1.00 Kaul. ma ke Waikolo. alaila. Ak 79 Ho. 0.70 Kaul.  
ma ke Waikolo. alaila. Ak 69 Ho. 0.22 Kaul. ma ke Waikolo. a hiki  
i kahi i hromaka ia. Ma ia Apana 131 Anana.

Apana 2. Chormaka ana ma ke kiki Ho. Ah. manae via  
ana. a e holo ana. Ho. 42 Ho. 3 Kaul. 62 paunka ma ke Kihohiki. alaila.  
Ho. 30 Ho. 25 Kaul. 00 paunka. ma ka pali. alaila. Ak 6 Ho. 10 Kaul. 74  
paunka ma ke Kepano. alaila. Ak 35 1/2 Ho. 16 Kaul. 40 paunka. ma ke  
Kekipi a hiki i kahi i hromaka ia. Ma ia Apana 8 Eka  
403 Anana.

P. W. Meyer  
Surveyor

Dec. 15. 1852  
8E 603  
113 (5317)  
2E 64



an 1/2 in = 1 KAUL.



an 1/2 in = 1 KAUL.

*Waiakapu Hawaii*

Hohepa 3301 no Mahu & Kamotea ili. Ohohe Waiakapu Hawaii  
 Apana 1 C hoomaka ke ana ma ke kuruu Miliwiti Itehi Kama... ka pahi a e holo AK 72° Hi  
 400 Ah e pili ana i ke kahawai AK 45° Hi 100 Ah e pili ana i ke kahawai AK 25° No 76 Ah  
 e pili ana me ke Pakela AK 34° No 55 Ah e pili ana me ke Kahawai AK 42° Hi 120 Ah e  
 pili ana me ke Palima AK 37° Hi 53 Ah e pili ana me ke Palima AK 45° Hi 313 Ah  
 e pili ana me ke Pakela AK 17° No 123 Ah e pili ana me ke Pipinui AK 37° No 756 Ah  
 e pili ana me ke Pipinui AK 73° No 18 Ah e pili ana me ke Kahawai AK 15° Hi 756 Ah e pili  
 ana me ke Palola AK 28° Hi 427 Ah e pili ana me ke Kahawai me ka pahi i ke hoomaka  
 me 7. 1/2 Ah

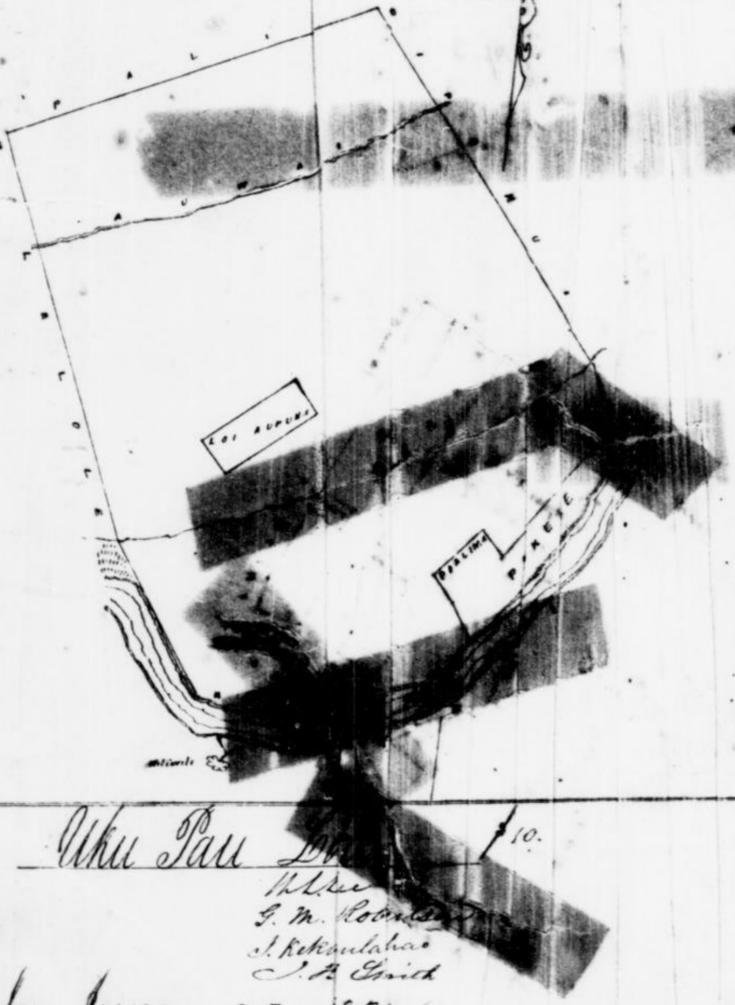
Ua haalele laua i ka Apaa 2

I oi Apuni mai ke kahi ma ke ala ma ke kumu Komoana e ana i  
 AK 57° Hi 226 Ah i ke kahi ma alaila holo AK 57° No 21 Ah AK 32° No 70 Ah  
 AK 57° No 21 Ah AK 32° No 70 Ah i ke kahi i hoomaka me ke Naulahae

April 27 1852

S. Bailey  
 ana ana aia

9.07  
 26  
 867



Uku Pau  
 M. M. K.  
 F. M. K.  
 J. K.  
 J. A. E.

June 25 1852

*Waiakapu Hawaii*

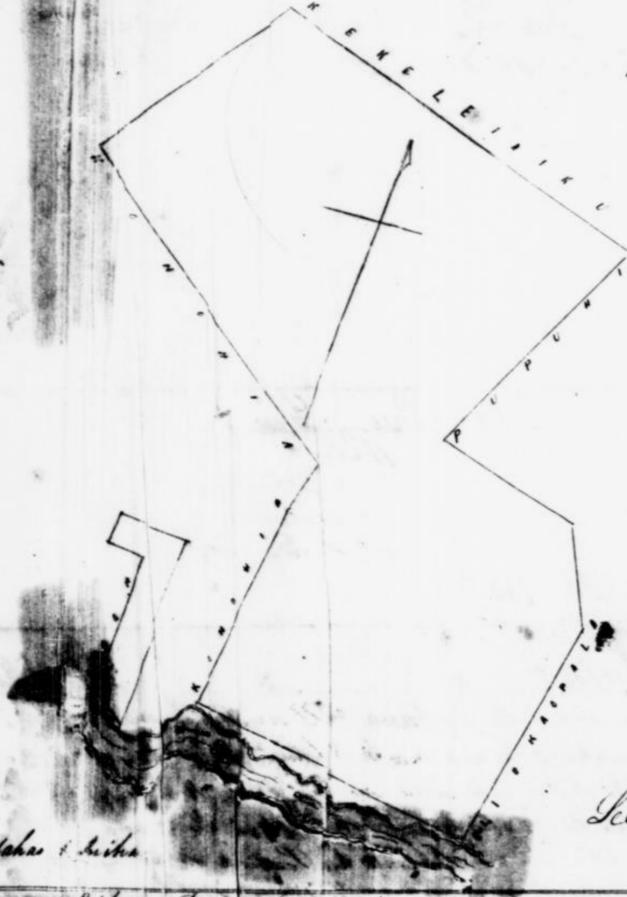
Iulapala no ke ana i ke kuluana 460 no Poupahoe, ma ke ili o Pili-pili Waiakapu  
 Mokuapuni  
 Apana 1 C hoomaka ke ana ma ke kuluana 460 no Poupahoe, ma ke ili o Pili-pili Waiakapu  
 Kapaahi o me ke ana ma ke kuluana 460 no Poupahoe, ma ke ili o Pili-pili Waiakapu  
 460 Ah ma ke Poupahoe, ma ke ili o Pili-pili Waiakapu  
 460 Ah ma ke Poupahoe, ma ke ili o Pili-pili Waiakapu

ma ke Kōhōhia. AK 15 1/2 Hi 100 Ah ma ke Kōhōhia AK 57 No 673 Ah ma ke Kōhōhia AK 57  
 Hi 447 Ah ma ke Kōhōhia a hiki ma kahi i hōmaka i a ona loto via anapuni e hōia  
 Ika 4/100 o ka Ika

Apana 2 e hōmaka i ke ana ma ke Kōhōhia a pili ana me ke Kōhōhia a e hōia  
 AK 4 Hi 363 Ah ma ke Kōhōhia Hi 88 Kom 141 Ah ma ke Kōhōhia AK 4 Kom 2  
 Ah ma ke Kōhōhia AK 4 Hi 68 Ah ma ke Kōhōhia AK 4 Kom 255 ma ke Kōhōhia i ke Kōhōhia  
 AK 57 Hi 78 Ah ma ke Kōhōhia a hiki ma kahi i hōmaka i a onā loto via anapuni e hōia

C. Bailey  
 Ma ana aina

741  
 22  
 763



2 Kōhōhia i kahi

See Page 184, 13. Apana 2

Walu Lau Loa #4.

M. H. H.  
 G. M. Robertson  
 J. K. K.  
 J. K. K.

Honolulu June 25 1852

Heleu 3539 Kapuni

Waikapu Maui

Kulana 3539 Kapuni, Waikapu Maui

Apana 1 ili o Palama e hōmaka ma ke Kōhōhia a hiki ma kahi i hōmaka i a ona loto via anapuni e hōia  
 AK 60 Ah e pili ana me ke Kōhōhia AK 57 No 673 Ah ma ke Kōhōhia AK 57  
 ma ke Kōhōhia AK 57 Hi 447 Ah ma ke Kōhōhia a hiki ma kahi i hōmaka i a onā loto via anapuni e hōia  
 Hi 584 Ah ma ke Kōhōhia AK 57 Hi 68 Ah ma ke Kōhōhia AK 57 Kom 255 ma ke Kōhōhia i ke Kōhōhia  
 ili o Ohia AK 57 Hi 78 Ah ma ke Kōhōhia a hiki ma kahi i hōmaka i a onā loto via anapuni e hōia

16  
 577

Apana 2 ili o Palama e hōmaka ma ke Kōhōhia a hiki ma kahi i hōmaka i a ona loto via anapuni e hōia  
 e hōia AK 57 Hi 447 Ah ma ke Kōhōhia a hiki ma kahi i hōmaka i a onā loto via anapuni e hōia  
 ke J Richardson AK 57 Hi 447 Ah ma ke Kōhōhia a hiki ma kahi i hōmaka i a onā loto via anapuni e hōia  
 ana me J Richardson AK 57 Hi 447 Ah ma ke Kōhōhia a hiki ma kahi i hōmaka i a onā loto via anapuni e hōia  
 Ah e pili ana me J Richardson AK 57 Hi 447 Ah ma ke Kōhōhia a hiki ma kahi i hōmaka i a onā loto via anapuni e hōia  
 ma ke Kōhōhia ma ke Kōhōhia ma ke Kōhōhia

Maui 1, 1852

C. Bailey  
 Ma ana aina

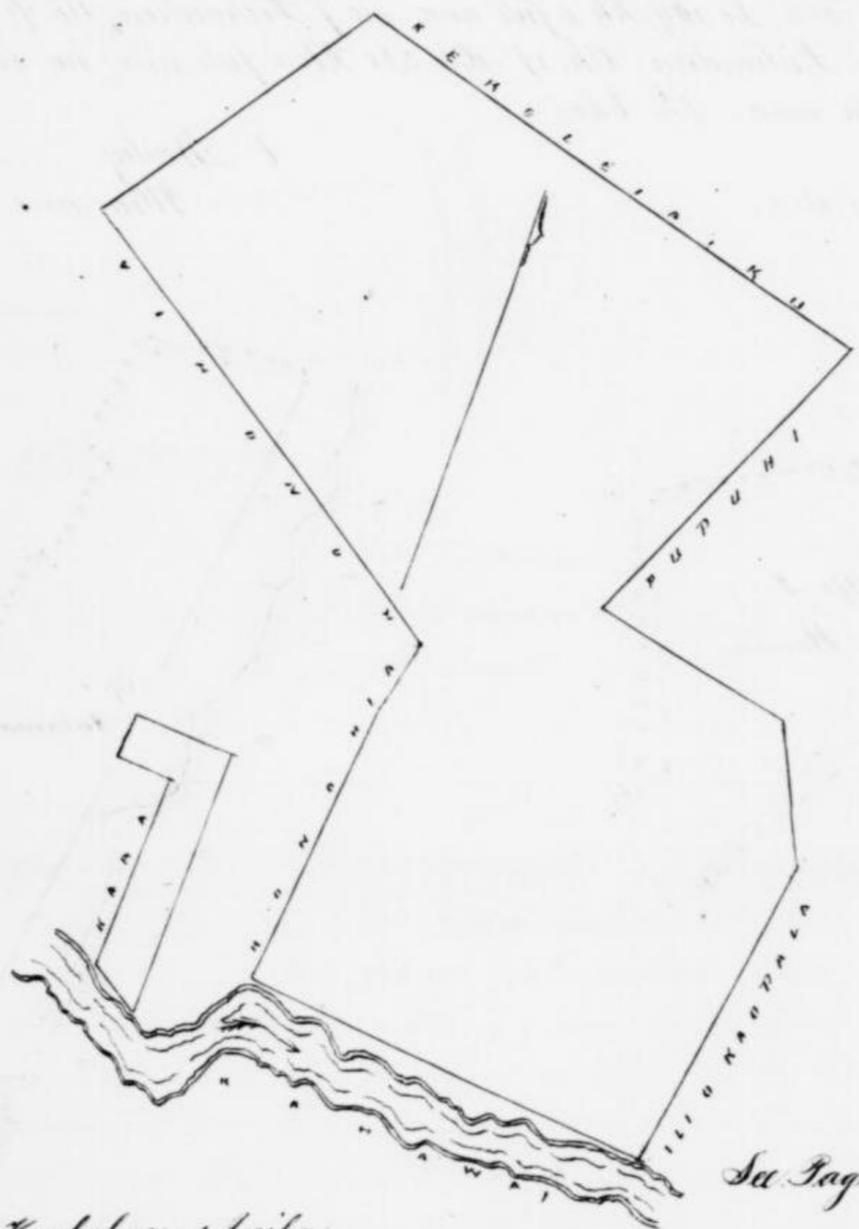


1713 2163

Ih e pili ana me ke Puupuu, He 23' Hik. 116 Ih ma ka ili o Kaeleka, He 4' He  
215 Ih. ma ka ili o Kaeleka, He 9' He 236 Ih ma Kahawai, He 11' He 215 Ih  
ma Kahawai Ah 49<sup>3</sup>/<sub>4</sub> He 210 Ih ma Kahawai, Ah. 6<sup>1</sup>/<sub>2</sub> He 291 Ih. ma ke  
Konehiki, Ah 15<sup>1</sup>/<sub>2</sub> He 111 Ih. ma ke Konehiki, Ah 5<sup>1</sup>/<sub>2</sub> He 693 Ih ma ke Konehiki  
Ah. 3<sup>1</sup>/<sub>2</sub> He 115<sup>1</sup>/<sub>2</sub> Ih ma ke Muiukui, a hiki ma hiki i hoomaka'i, a maloko  
ia anapuni. E hiku Eha <sup>22</sup>/<sub>100</sub> o ka Eha.

Ahana 2. E hoomaka i ke ana ma ke Kahawai e pili ana me ke Konehiki  
a hiki Ah. 4' He 369 Ih. ma ke Konehiki, He 19' He 111 Ih. ma ke Konehiki  
Konehiki, He 11' He 55 Ih. ma ke Konehiki, He 19' He 111 Ih. ma ke Konehiki, He 11' He 55  
216 ma ke Konehiki i ke Kahawai, He 57<sup>3</sup>/<sub>4</sub> He 41 Ih. ma ke Kahawai a hiki ma  
hiki i hoomaka ai a maloko ia anapuni he <sup>22</sup>/<sub>100</sub> Eha.

G. Bailey  
Mea ana aina.



See Page 414 1/3 Awards.

2 Kaulahae - 1 Niha.

Ulu pua'ea

41<sup>11</sup>/<sub>100</sub>

W. L. Lee  
G. M. Robertson  
J. Kaulahae  
J. H. Smith

Honolulu 25, 1852

Relevant portions of the Native Testimony for LCA 460 to Puupahoehoe translated to English:

Eeka on February 12, 1847 testified that there were numerous taro patches and a kula in Pilipili. No one disputed his claim. Kaili testified that he knew of the lands in Pilipili and that there were numerous taro patches and a kula situated there.

**2271-ROGERS-1-P7**

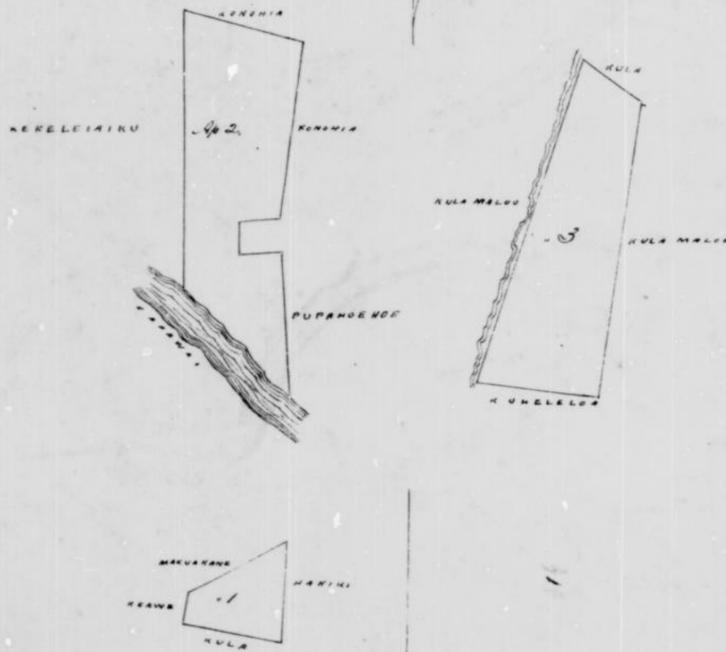
Apana 1. pa'wale - ili o Kaopala, - aole o Pili'pili  
 E hoomaka ma ke kiki Akau, e pili ana me Makuakane, a e holo, Num. 7. Ko. 119 Akh.  
 e pili ana me Hakiki, Ak. 74 3/4. Ko. 116 Akh. e pili ana me Hakiki & Kula, Ak. 12 3/4.  
 Ki. 50. Akh. e pili ana me Keawe, Ak. 65. Ki. 200 Akh. e pili ana me Makuakane, i kahi  
 i hoomaka'i - 1/5 Eka.

Apana 2. ili o Pili'pili, E hoomaka ma ke kiki Akau, oia ke kiki Hakiki, o Ke  
 Kekelai'aku, a e holo, Num. 11. Ki. 214 Akh. e pili ana me Kono'hia, Num. 103. Ko. 314  
 Akh. e pili ana me Kono'hia, Num. 89. Ko. 68 Akh. e pili ana me Pupa'hoehoe, Num. 4.  
 Kono. 55 Akh. e pili ana me Pupa'hoehoe, Num. 89. Ki. 68 Akh. e pili ana me Pupa'hoehoe,  
 Num. 44. Ko. 316 Akh. e pili ana me Pupa'hoehoe, Ak. 11 3/4. Ko. 266 Akh. e pili ana  
 me ke Kaha'wai, Ak. 3 3/4. Ki. 190 Akh. e pili ana me Kekelai'aku, i kahi i hoo-  
 maka'i - 1 Eka.

Apana 3. ili o Pili'pili - he mau loi & kula.  
 E hoomaka ma ke kiki Num. Kema, e pili ana me Kihelotoa, a e holo, Ak. 22 1/4. Ki. 610  
 Akh. e pili ana me ka auwai, Num. 69. Ki. 125 Akh. ma ke Kula, Num. 13. Ko. 534 Akh.  
 e pili ana me ke Kula, Ak. 77 1/2. Ko. 223 Akh. e pili ana me ke Kihelotoa, i kahi i hoo-  
 maka'i - 75 per Eka.

Waikapu, Aug. 14, 1852.

E. Bailey  
Mea ana aina



Uka Pau Lora 15  
 W. H. C.  
 G. M. Robertson  
 J. H. Smith  
 J. T. Kaulaha

Honolulu, Sep. 27, 1852

- Eono lei pualima ileke o ka Apana 1.  
 1 Puni na pualima. M. W. Pualima. K. He o Pulepule. 2. M. Kahawai.  
 2 Puni na pualima. M. He o Pulepule. W. Heina o Konoehia. K. o Kaaa.  
 M. aima o ke Konoehia.  
 3 Puni na pualima. M. W. aima o Mummukau. K. aima o Konoehia -  
 M. aima o Mummukau.  
 4 Puni na pualima. M. K. M. aima o Poupahoeheue. M. Kahawai o  
 Waiahuli.

3234. Opunui.

Julai 13. 1849.

Kakahi Konoehia. Wa ike au i kona aima ma Waikapu, me itula.

6 Apana.

- Apana 1. 7 lei ma ka ili o Kaaiala. Waikapu.  
 " 2. Puhu kati " " Kaaiala " "  
 " 3. " " " " Kaaiala " "  
 " 4. 1 lei " " " Puni " "  
 " 5. Pahale ma " " Kaaiala " "  
 " 6. Mala mala Ahup. Waiahuli itula.

No Kaaiala mai ka apana 2, 35. o ka M. H. 1832. No itula mai  
 ke Kaaiala. No Kaaiala mai ka apana 1, 4. o ka M. H. 1835. Apana 6  
 no Poupahoeheue mai o ka M. H. 1846. Iah ma ka haka. I pualima  
 ma ka Apana 2.

- 1 Puni na aiao. M. o Kaaiala. W. K. aima o Kaaiala. M. aima o Konoehia.  
 2 Puni na aiao. M. He Puni. W. o itawakaipeua. K. o Kaaiala.  
 M. aima o Kaaiala.  
 3 Puni na aiao. M. W. K. kahawai. Waikapu. M. Kati o Waikapu.  
 4 Puni na aiao. Wa puni i ka aima o Kaaiala.  
 5 Puni na aiao. M. K. aima. W. o Kaaiala. K. o Kaaiala. M. o  
 Kaaiala.  
 6 Puni na aiao. M. o Konoehia. K. o Konoehia. M. o Poupahoeheue. M. o Kaaiala.

3105. Kaaa.

Kaaa Konoehia. Wa ike au i kona aima ma Waikapu, 3 Apana.



Relevant portions of the Native Testimony for LCA 3105:

Kamai testified that he knows of Kaaa's land claim and there were 3 'āpana in the 'ili of Pililipi  
2. 'Āpana 2 has 10 lo'i kalo. The land was given to Kaaa by Napuupahoehoe in the time of  
Kamehameha I and is bounded by the Eeka and the konohiki's land and the Waikapū Stream.

**2271-ROGERS-2-P.4**

C. 11.032. George Shaw

471

4. Kaunani. I know the land here claimed it is the Ahu-  
puaa of Kukuiaiki, in Kapahulu, Maui.

The Olo's wife and her Ancestors have been the Konehiki's  
of this land from the days of Kamehameha II. It was the  
King's land until shortly he has given it to the Govt.  
Maunahine, the Olo's wife is Konehiki of it under the Govt  
and when they sell it her title will be gone. She has no  
real title in the land any more than, any other over her of land.

C. 3108. Konehiki

Eike. I know the lands of the Olo. They consist of 6 pieces  
in Waikapu, Kula & Kalipolope, Maui.

N<sup>o</sup> 1 is a kula & one in in Pilipti Waikapu.

" 1. - two Mts of kula.

" 3. - a House lot in Kalipolope.

" 4. - a Potato land & House lot in Kaituku, Kula.

" 5. - a Potato ground.

" 6. -

The lands in Waikapu he got from Mijunpabue-  
he in 1819 and has possessed them in peace ever since.  
The N<sup>o</sup> 3. he got from Palikai in 1827, and Palikai got it  
from Newahua, the owner of the land from the days of Kame-  
hameha II. The other pieces he got from Pilipti in 1828, and  
he got them from Pili before 1829. His title has never been  
disputed.

N<sup>o</sup> 1 is bounded. Maunaka, by Kaa's land. Waikua & Kula  
sides, by Mijunpabue's land. Maalaea, by the Creek of Waik-  
kapu.

N<sup>o</sup> 2. is bounded Maunaka, by the iti of Olo. Waikua, by  
the iti of Pilipti. 3.<sup>d</sup> Kula, by Kaa's land. Maalaea, by Henry's  
land.

N<sup>o</sup> 3. is bounded. Maunaka, by Newahua's land. Mijun-  
pabue, by the sea. Maunaka, by Mijun's land. Waikua, by Newahua's  
land.

N<sup>o</sup> 4. is bounded. Mauka, by Emilia's land. Henua, by the same. Makai, by Kaikaula's land. Makawa, by Puana's land.

N<sup>o</sup> 5. is bounded. Mauka, by Paies land. Henua, by the Crute of Kaikulu. Makai, by Paies land. Makawa, by Kealini's land.

N<sup>o</sup> 6. is bounded. Mauka & Henua sides, by Paies land. Makai, by Emilia's land. Makawa, by the Paahine land.

C. 3017. Maui

This is no land claim, but a letter to Kaunani.

C. 3208. Maui. (resumed)

I Kaunani do know that the Ct. has a piece of land in Amia, Waikutu. Maui, in addition to his lands in Waikapu. It is a piece of high land.

The Ct. rec<sup>d</sup> it from me, in the year 1845, and I rec<sup>d</sup> it from Maubili in 1838. His title was never disputed to my knowledge.

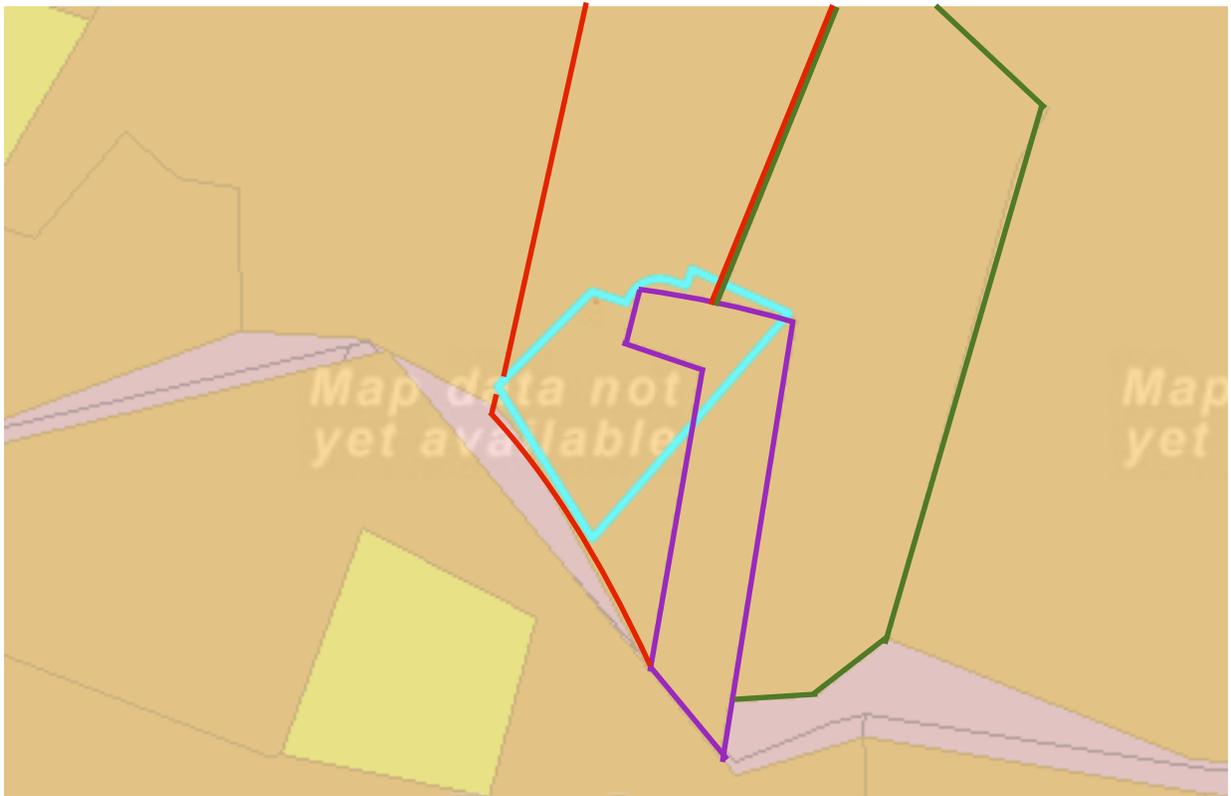
It is bounded. Mauka, by Pa's land. Waika, by Nua's pualina. Makai, by my land. Makawa, by the Crute of Waikutu.

He also has a piece of land in the ili of Paaka, which he rec<sup>d</sup> from Maki-pulaho in 1845, and he rec<sup>d</sup> of some person years before but I don't know who. His title is not disputed.

It is bounded. Mauka, by Nua's pualina. On other three sides, by Maki-pulaho's land.

C. 3523. Hea.

Kaunani do know the lands of the Ct. They consist of 3 pieces



BLUE= TMK 3-5-012:012

RED= LCA 3105

PURPLE= LCA 460

GREEN= LCA 3108

2271-ROGERS-4-P.1

**EXHIBIT 3**  
TMK map with relevant parcel highlighted (zoomed out)



**2322-ROGERS-5-P.1**

WALDEMAR "WALLY" & DARLENE ROGERS

1421 Nuna Place

Waikapū, Hawai'i 96793

(808) 244-0539

WATER USE PERMIT APPLICANT PRO SE

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAI'I

Surface Water Use Permit Applications, ) Case No. CCH-MA15-01  
Integration of Appurtenant Rights and )  
Amendments to the Interim Instream Flow ) WITNESS LIST  
Standards, Nā Wai 'Ehā Surface Water )  
Management Areas of Waihe'e, Waiehu, 'Īao )  
and Waikapū Streams, Maui )  
\_\_\_\_\_ )  
\_\_\_\_\_ )

WITNESS LIST

**PARTY: WALDEMAR "WALLY" & DARLENE ROGERS**

<b>NAME/ ORGANIZATION/ POSITION</b>	<b>SUBJECT MATTER</b>	<b>EXHIBIT(S) TO BE INTRODUCED BY WITNESS</b>
Waldemar "Wally" Rogers	Need for and use of Nā Wai 'Ehā water	2271-ROGERS-1 to - 5

WALDEMAR "WALLY" & DARLENE ROGERS

1421 Nuna Place

Waikapū, Hawai'i 96793

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WATER USE PERMIT APPLICANT PRO SE

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Management Areas of Waihe'e, Waiehu, 'Īao )  
and Waikapū Streams, Maui )  
)  
)

EXHIBIT LIST

PARTY: WALDEMAR "WALLY" & DARLENE ROGERS

EXHIBIT NUMBER	DESCRIPTION	REFERENCES	REC'D INTO EVIDENCE
2271-ROGERS-1	LCA No. 460, Native Testimony, Native Testimony Translation	Testimony of Waldemar "Wally" Rogers	
2271-ROGERS-2	LCA No. 3105, Native Testimony, Native Testimony Translation	Testimony of Waldemar "Wally" Rogers	
2271-ROGERS-3	LCA No. 3108, Foreign Testimony	Testimony of Waldemar "Wally" Rogers	
2271-ROGERS-4	Map from the Office of Hawaiian Affairs' Kīpuka Database, showing the boundaries for TMK No. (2) 3-5-012:012 which I have marked to show the boundaries for the kuleana parcels	Testimony of Waldemar "Wally" Rogers	
2271-ROGERS-5	County tax map for TMK No. 3-5-012:012	Testimony of Waldemar "Wally" Rogers	

