

WARREN SOONG
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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 WARREN SOONG;
Standards, Nā Wai 'Ehā Surface Water) EXHIBITS "2277-SOONG-1" - "2277-
Management Areas of Waihe'e, Waiehu,) SOONG-3"
'Īao, & Waikapū Streams, Maui)
)
)
)

TESTIMONY OF WARREN SOONG

1. This testimony is provided in support of Surface Water Use Permit Application ("SWUPA") No. 2277, filed with the Commission on Water Resource Management on April 23, 2009, for land in Waikapū, now identified as Tax Map Key ("TMK") Nos. (2) 3-5-012:026 and (2) 3-5-012:047. I have lived here for 36 years and the land has been in my family for generations.

2. When I filed the SWUPA, all 1.52 acres of this land was identified as TMK No. (2) 3-5-012:026. Since that time, the land was subdivided and a portion was sold to the Pellegrino 'ohana. My wife and I currently live on a 0.85-acre parcel, now identified as TMK

parcel no. :047, and the Pellegrino 'ohana owns the remaining 0.67 acres, identified as TMK parcel no. :026.

3. Our domestic water use as of April 30, 2008, and our intended water use is a protected public trust purpose.

4. Based on the information set forth below, I request recognition of appurtenant rights for TMK No. (2) 3-5-012:047 in the amount of 255,000 gallons per day. I request a Surface Water Use Permit for the reasonable-beneficial use for TMK No. (2) 3-5-012:047 of 600 gallons per day.

QUANTIFICATION OF APPURTENANT RIGHTS

5. TMK Nos. (2) 3-5-012:026 and :047 are comprised of a portion of Land Commission Award ("LCA") No. 2199 to Pahoā, confirmed by Royal Patent No. 3129. I am attaching various Māhele documents that confirm water use on TMK Nos. (2) 3-5-012:026 and (2) 3-5-012:047 at the time of the Māhele.

6. Attached as "2277-SOONG-1" is a true and correct copy of LCA No. 2199 to Pahoā, as well as the native testimony supporting the award (both the original and the English translation).

7. Attached as "2277-SOONG-2" is a true and correct copy of a screen shot from the Office of Hawaiian Affairs' Kīpuka Database, showing the location of LCA No. 2199 (in yellow). This map has been marked to show the locations of TMK Nos. 3-5-012:026 (green) and (2) 3-5-012:047 (red) in relation to LCA No. 2199.

8. A true and correct copy of the County tax map for TMK Nos. (2) 3-5-012:026 and (3) 3-5-012:047 is also attached as "2277-SOONG-3."

9. As depicted in "2277-SOONG-2," TMK Nos. (2) 3-5-012:026 and :047 fall entirely under LCA No. 2199.

10. The documents in "2277-SOONG-1," referring to LCA No. 2199, confirm that this parcel was cultivated in wetland taro: the native testimony refers to this land as "kalo land" and notes a pō'alima within it.

11. Based on the Māhele documents in "2277-SOONG-1," the quantification of the appurtenant rights is the amount of water sufficient to grow kalo on 1.52 acres using traditional methods.

12. 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.

13. Thus, in my best estimation, the water right appurtenant to TMK No. (2) 3-5-012:026 is 201,300 gallons per day ("gpd") (0.67 acre x 300,000 gad) and the water right appurtenant to TMK No. (2) 3-5-012:047 is 255,000 gallons per day (0.85 acre x 300,000 gad).

AMOUNT REQUESTED UNDER PERMIT FOR TMK No. (2) 3-5-012:047

14. I am not currently diverting water from the 'auwai that runs along Waikō Road to my home on TMK No. (2) 3-5-012:047 due to the higher elevation of this parcel. However, I plan to install a pump to transport the water to my home so that I can water my lawn and home garden of yams, cassava, mango, and papaya.

15. 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 the aforementioned domestic water uses.

Reasonable-Beneficial Analysis

16. 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.” Hawai‘i Revised Statutes § 174C-3.

17. The quantity I am requesting is necessary for the economic and efficient irrigation of my home garden, which includes yams, cassava, mango, and papaya for consumption by myself, ‘ohana, and neighbors, and tī leaves and tropical flowers, which provide my neighbors and I with aesthetic enjoyment. 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.

18. 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

19. Prior to the sale of parcel :026 to the Pellegrinos, I had 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, non-commercial, domestic water user who has always used the 'arwai that runs alongside my land to water my home garden.

20. Because 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.

SUMMARY

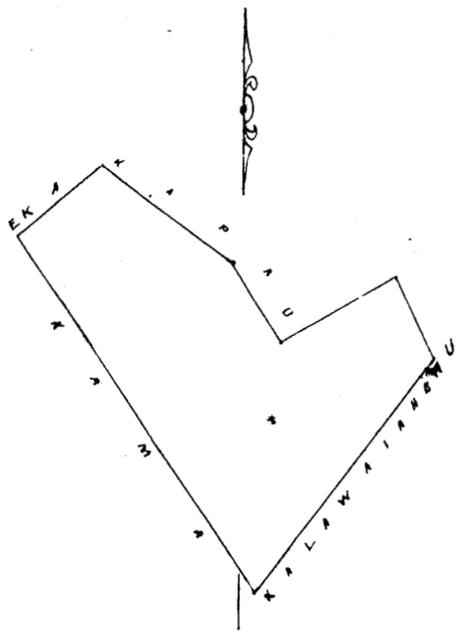
21. In sum: (1) my domestic water use is a protected public trust purpose; (2) the exercise of my appurtenant right is a protected public trust purpose; (3) because I have appurtenant rights for TMK No.(2) 3-5-012:047, I am entitled to 255,000 gallons per day; (4) at this time, I request a permit for my anticipated reasonable-beneficial 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, Warren Soong, do declare under penalty of law that the foregoing is true and correct.

Dated: Waikapū, Hawai'i,

1/30/16


WARREN SOONG
WATER USE PERMIT APPLICANT PRO SE



Uku Pau Loa #5.
 W. H. Lee
 G. M. Robertson
 J. H. Smith

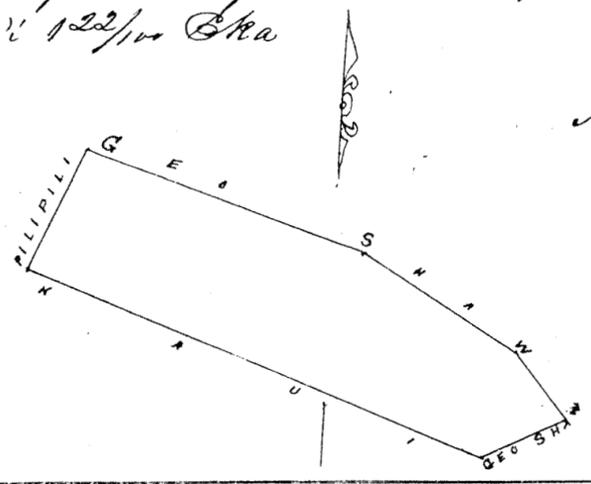
Honolulu June 25 1852 J. H. Kaulahao

Heleu 5282 Hanepuakewa Waikapu Maui

Kulana 5282 no Hanepuakewa iti. Auwaihinu Waikapu Maui
 E hoomaka ma ke Kahi Akaun e pili ana me George Shaw a e holo A^o 74 Sⁱ 400 K^h e pili
 ana me Geo Shaw A^o 60 Sⁱ 247 K^h e pili ana me George Shaw A^o 42 1/2 Sⁱ 108 K^h e pili
 ana me George Shaw A^o 64 1/2 Sⁱ 133 K^h e pili ana me George Shaw A^o 71 1/2 Sⁱ 268 K^h e pili
 ana me Maui A^o 72 Sⁱ 388 K^h e pili ana me Maui A^o 23 1/4 Sⁱ 178 K^h e pili ana me Ka
 ili o Pili pili i Kahi i hoomaka i 122/100 Eka

April 17 1852.

J. Bailey
 Mea ana aina



Uku Pau Loa #5.
 W. H. Lee
 G. M. Robertson
 J. H. Smith

Honolulu June 25 1852 J. H. Kaulahao

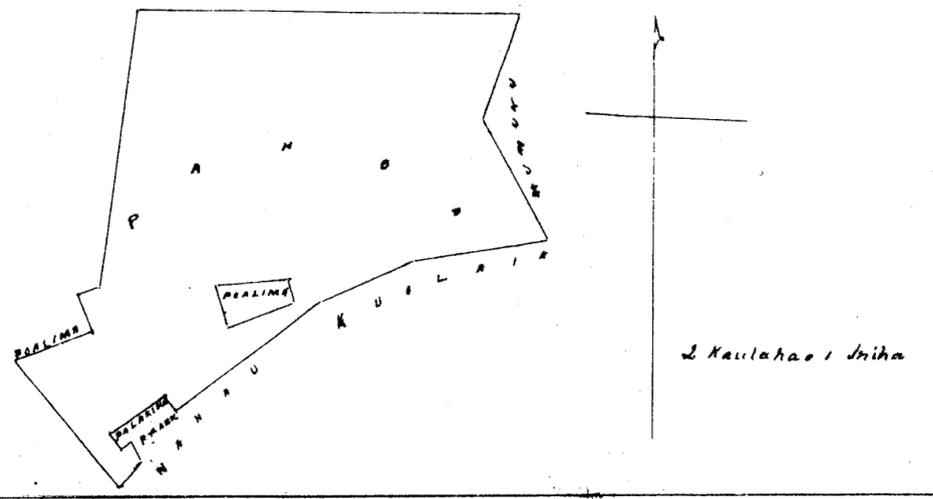
Heleu 2199 Pahoa - Waikapu Maui

Kulana 2199 no Pahoa ma Kahi o Haaiwo Waikapu Moku Puni. Maui
 E hoomaka ma ke Kahi Kikina o Keia Apana e pili ana me Kuolua Kekulei a me me Mounutu a e
 holo A^o 29 Sⁱ 134 K^h ma ka palena. Mounutu A^o 19 1/2 Sⁱ 149 K^h ma ka palena. Mounutu a Kokohe i Ka
 hali Kula A^o 89 1/2 Sⁱ 514 K^h ma ka palena Kula. Waikapu o Frank Sylva A^o 5 Sⁱ 38 K^h ma ka
 palena Kula. Waikapu o Frank Sylva A^o 40 Sⁱ 29 K^h e pili ana me ke Kula. Waikapu o Frank
 Sylva i Ka Poalima Loi A^o 18 1/2 Sⁱ 40 K^h ma ka palena. Ka Poalima A^o 40 Sⁱ 12 K^h ma ka
 palena. Ka Poalima A^o 38 1/2 Sⁱ 227 K^h ma ka palena. Ke Nahau, A^o 37 1/2 Sⁱ 40 K^h ma ke
 Nahau Frank S. A^o 28 1/2 Sⁱ 31 K^h ma ke Nahau Frank S. A^o 54 1/2 Sⁱ 15 K^h ma ke Frank S.
 A^o 35 1/4 Sⁱ 22 K^h ma ke Frank S. A^o 54 1/2 Sⁱ 90 K^h ma ke Frank S. A^o 35 1/4 Sⁱ 22
 K^h ma ke Frank S. i Ke Nahau A^o 54 1/2 Sⁱ 244 K^h me Nahau + Kuolua A^o 65 1/2
 Sⁱ 135 K^h e pili ana me Kuolua A^o 81 Sⁱ 192 K^h ma ke Kuolua a hiki ma Kahi
 i hoomaka a maloke ia anapuni 2 26/100 Eka

Poalima maloke ia apana ma: Kahi Kaulahao Akaun. Eia ana ma
 me apana ma Ke Kahi a i Kela Kahi alaila A^o 88 Sⁱ 157 K^h ma ke Kahi A^o 46 Sⁱ 46 K^h ma A

Keia Poalima alaila holo 14 1/2' 4' 58' Kh A 70' 4' 96' Kh A 15 1/2' K 32' Kh Aema 85' Kora
98' Kh a puni ma ia anapuni 4/10. Ke Kaulahao
C Bailey
Ma ana aina

2.26
36



Uku Pau Loa #6.
W. H. H.
G. M. Robertson
J. H. Smith

Honolulu Oahu June 25 1852 J. H. Kaulahao

Hulu 10160 Mahoe ✓ Waikapu Maui

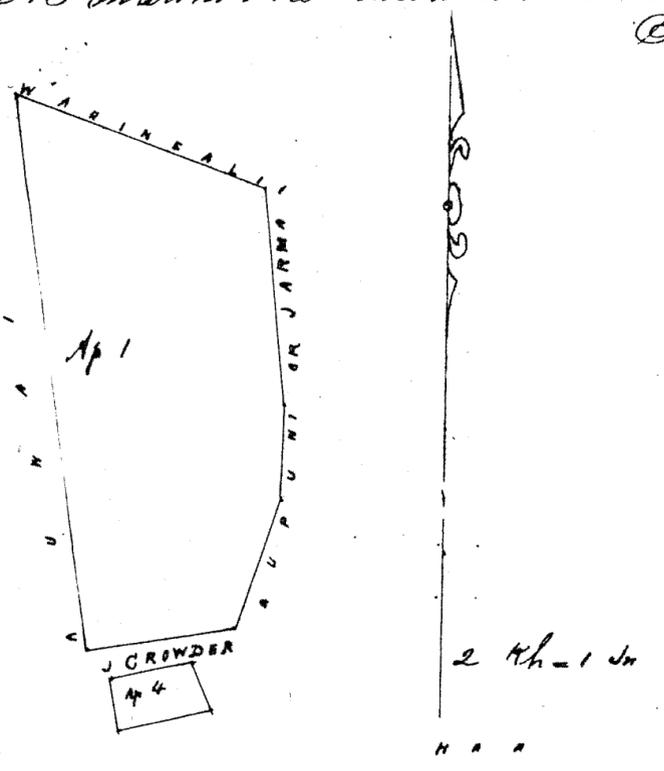
10160 Mahoe Waikapu Maui

Apana 1 Ili. Ahuakolea C hromaka ma Ke auwai Niki Akau e pili ana me Wahimatalii
a e holo Ke 68 1/2' 4' 568' Kh e pili ana me Wahimatalii Ke 4' 4' 296' Kh e pili ana me Aupuni paha Ke 5 1/2'
Ke 121' Kh e pili ana me Aupuni paha Ke 23 1/2' Ke 194' Kh e pili ana me Aupuni paha Ke 85 1/2' Ke 244'
Kh e pili ana me Aupuni paha Ke 5' Ke 758' Kh e pili ana me Ke auwai a me Ke ili. Waikalulu a hiki
ona Kahi i hromaka i 1/99 C Ka

1.99
2.08

Apana 4 Ili. Niki C hromaka ma Ke Kiki Aema a e holo Ke 6 1/2' Ke 12' Kh e pili
ana me Ke Kula Ke 80' Ke 113' Kh e pili ana me Ke Kula Ke 20 1/2' Ke 12' Kh e pili ana me Ke
Kula Ke 79' Ke 130' Kh e pili ana me Ke Kula i Kahi i hromaka i 2/10 Kaulahao

Ua paa ma Apana 273 onabhi. Ke Kuli ana. Haa a ua hoko ia ma
C Bailey
Ma ana aina
April 16, 1852



Uku Pau Loa #5.
W. H. H.
G. M. Robertson
J. H. Smith

2277-SOONG-1-P.2

Hono

Pakea Horohitua. Wahe au 1 apana hale ma ka ike i Kuaiwa, ma Waikapu

No Nahinu wahine a Nohu mai kona aina i ka M. H. 1837. Aole ma huaa, aole pualima maloko. Ma maka a Auwahi iloko, kua M. H. 1839, ma ka moku o Emily W. H., kawa wahine a Tamara kona hoo- lina.

Puni na palena M. kula o Nohu. W. Puhar. H. Mumuku. M. Pempahue.

249. Pakea.

Leka Horohitua. Wa ike au 3 apana ma ka ike i Kuaiwa, ma Waikapu kahaka apana. Ma ma ka Ahupuaa o Waichuli, itala, kahaka apana.

No Kapi mai kona aina ma Waikapu i ka M. H. 1837. No kane wahine mai ka apana ma itala i ka M. H. 1846. he ama kahaka loa ma ma ka kane wahine, aole ma huaa, 1 pualima ma ka ma hale ma Waikapu.

1 Puni na palena o ka aina hale ma Waikapu. M. ama o Palakahi. W. pua no. H. ama o Mumuku. M. ama o Heke.

2 ma Waichuli, itala. Puni na palena. Ma maka ama o Tamara. H. muaka ama o Ahupuaa. M. pua no. Ma kawa ama o Emily.

Case. Leka.

Kama Horohitua. Wa ike au 3 apana, ma ka ike i Mokehahala, ma Kuaiwa, o Waikapu, 1 apana ma Waichuli o itala.

Apana 1 - 16 hi ma ka ike i Mokehahala. Waikapu.

2. Pahala

3. 2 tetrato Kuaiwa

4. kula uale haka - Waichuli - itala

No Pempahue mai kona man apana aina ma Waikapu, ka M. H. 1842. No Emily mai ka apana 4. i ka M. H. 1845. No Pempahue mai ka Emily aina i ka ma o Tamara o ka H. aole ma huaa.

Native Testimony (Pahoa – LCA 2199)
Translation

2199 – Pahoa (Pāhoa)

Eeka (‘E‘eka) Ho‘ohiki ‘ia. Ua ‘ike au 2 ‘āpana ma ka ‘ili o Kuaiwa (Kua‘iwa) ma Waikapū kekahi ‘āpana. A ma ke ahupua‘a ‘o Waiohuli, Kula kekahi ‘āpana.

No Kapu mai kona ‘āina ma Waikapū i ka makahiki 1837. No kāna wahine mai ka ‘āpana ma Kula i ka makahiki 1846. He ‘āina kahiko loa nō na‘e no kāna wahine. ‘A‘ole mea ke‘ake‘a. 1 Po‘alima ma ka ‘āina kalo ma Waikapū

‘Āpana 1 – Penei nā palena o ka ‘āina kalo ma Waikapū. Mauka, ‘āina o Palakiko, komohana pēlā nō, kula ‘āina o Mumuku, makai ‘āina o Hika.

2199 – Pahoa (Pāhoa)

Eeka (‘E‘eka) testified that he knew of 2 parcels of land, one in the subdivision of Kuaiwa (Kua‘iwa) at Waikapū and another parcel in the land division of Waiohuli, Kula.

His land in Waikapū was from Kapu in 1837. The second parcel of land in Kula was from his wife in 1846. The land from his wife is very old. No one has disputed his claim. There is 1 Po‘alima in the taro lands of Waikapū.

Parcel 1 – The boundaries are as follows for the kalo land in Waikapū. Towards the mountainous region is Palakiko’s land, west is the same, kula by Mumuku’s land and towards the ocean by Hika’s land.

2199



13 Records Found.

Clear Results

Crown Lands (0)

TMK (0)

'Ili (0)

Moku (0)

Historic Sites (8)

Land Awards (5)

Export Results

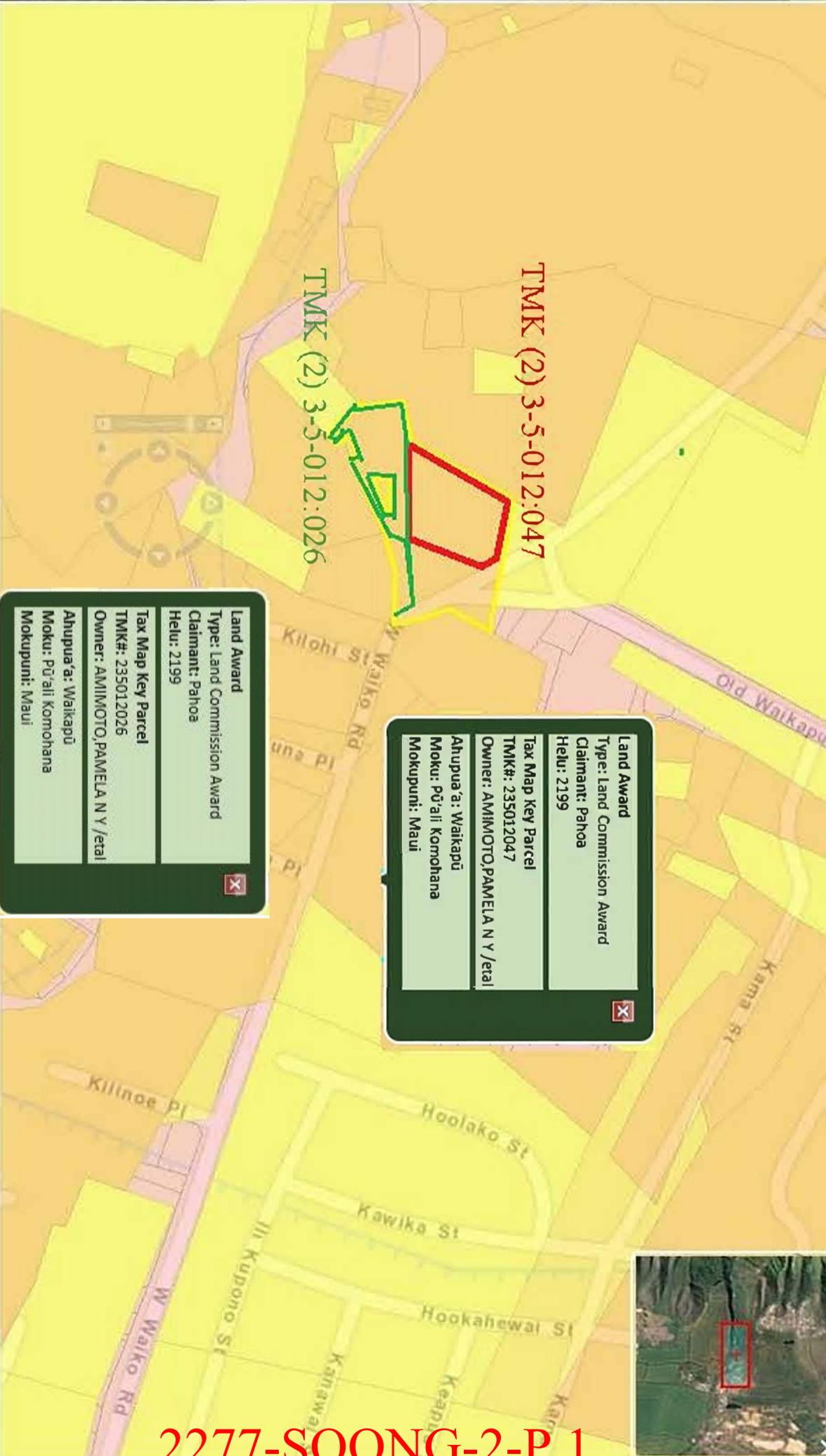
GO TO >	2199
DETAILS >	Pahoa
STREET/BIRD'S EYE >	Land Commission Awa
GO TO >	2199:1
DETAILS >	Kapoi
STREET/BIRD'S EYE >	Grant
GO TO >	2199:2
DETAILS >	Maui

Terrain Street Aerial

Navigate



Search Tools Layers Bookmarks



TMK (2) 3-5-012:047

TMK (2) 3-5-012:026

Land Award
Type: Land Commission Award
Claimant: Pahoa
Helu: 2199
Tax Map Key Parcel
TMK#: 235012047
Owner: AMIMOTO,PAMELA N Y /etal
Ahupua'a: Waikapū
Moku: Pū'ali Komohana
Mokupuni: Maui

Land Award
Type: Land Commission Award
Claimant: Pahoa
Helu: 2199
Tax Map Key Parcel
TMK#: 235012026
Owner: AMIMOTO,PAMELA N Y /etal
Ahupua'a: Waikapū
Moku: Pū'ali Komohana
Mokupuni: Maui



FOR LD. CT. APP. 1315, PILIPILI, WAIKAPU, WAILUKU MAUI (Formerly par. 3-5-04)



FOR PROPERTY ASSESSMENT PURPOSES
 SUBJECT TO CHANGE

DEPARTMENT OF TAXATION
 PROPERTY TECHNICAL OFFICE
 TAX MAPS BRANCH
 STATE OF HAWAII
 TAX MAP

PARCELS DROPPED: 22, 25, 34, 35

ZONE	3
SEC.	5
PLAT	12

SCALE: 1 IN. = 60 FT.

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Standards, Nā Wai 'Ehā Surface Water)
Management Areas of Waihe'e, Waiehu, 'Īao)
and Waikapū Streams, Maui)
_____)
)

WITNESS LIST

PARTY: WARREN SOONG

NAME/ ORGANIZATION/ POSITION	SUBJECT MATTER	EXHIBIT(S) TO BE INTRODUCED BY WITNESS
Warren Soong	Need for and use of Nā Wai 'Ehā water	2277-SOONG-1 to -3

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 and Waikapū Streams, Maui)
)
)

EXHIBIT LIST

PARTY: WARREN SOONG

EXHIBIT NUMBER	DESCRIPTION	REFERENCES	REC'D INTO EVIDENCE
2277-SOONG-1	LCA No. 2199, Native Testimony, Native Testimony Translation	Testimony of Warren Soong	
2277-SOONG-2	Screen shot from the Office of Hawaiian Affairs' Kīpuka Database, showing the location of LCA No. 2199, TMK Nos. 3-5-012:026 and (2) 3-5-012:047	Testimony of Warren Soong	
2277-SOONG-3	Copy of County tax map for TMK Nos. (2) 3-5-012:026 and (2) 3-5-012:047	Testimony of Warren Soong	

