

2016 FEB 11 AM 11:26

**Testimony of
Murray M. Smith
Applicant**



***WATER USE PERMIT APPLICANT PRO SE
COMMISSION ON WATER RESOURCE MANAGEMENT
STATE OF HAWAII***

**CASE NO. CCH-MA 15-01 PERMIT 2290N
NA WAI EHA SURFACE WATER MANAGEMENT AREA**

COMMISSION ON WATER RESOURCE MANAGEMENT
STATE OF HAWAII
Case No. CCH-MA15.01
Opening Brief
SMITH-2290

It is my intention to present substantiating evidence to prove beyond reasonable doubt that LCA 3431 (Kalamaia) received appurtenant (Kuleana) water rights at the time of his Land Commission Award 3431. Local testimony, at the time of the Mehele, copies of which are contained herein, substantiate Kalamaia's legal claim to LCA 3431, and his accepted statement prove he was granted 2.76 ac. for Kalo, Kula and a house lot. Upon his Kalo land he was farming a total of 61 lo'is. Using reasonable and accepted water flow for lo'i ponds we estimate his water usage at the Mahele time to be a minimum of 540,000 gd.

Over the past 2 plus years we have reverted the land contained in this claim back to a similar use as existed over 150 years ago. We are currently growing taro, sweet potatoes, yams, bananas, and papayas for local consumption. Our current water needs are far below what was used in the past.

These crops are consistent with the State and County general plans and land use designations. Additionally, this use has been found to be a consistent beneficial use for the people of Hawaii.

Our current needs for water are 3% of the original Mahele flow or 16,700 gd. Water rights that have been reserved in the past for consolidation and other uses is not consistent with the intent of the original grant. We believe this Commission has the duty to reestablish the appurtenant rights and we request that water rights in the amount requested be so granted.

Kuleana water was granted as appurtenant to the land, but the amount of water so granted was based upon the individual needs. Thus our request is not based on past usage, but the amount we currently need to sustain a viable agricultural use.

Murray M Smith

Murray M. and Carol J. Smith
69 Ke'ahi Lele Place
PO Box 11255
Lahaina, HI 96761

COMMISSION ON WATER RESOURCE MANAGEMENT
STATE OF HAWAII

Surface Water Use Permit Application)
Integration of Appurtenant Rights and)
Amendments to Interim Stream Flow)
Standards, Na Wai Eha Surface Water)
Management areas of Waihe'e, Waiehu)
I'ao and Waikapu Streams, Maui)
_____)

WITNESS LIST

PARTY: MURRAY M SMITH & CAROL J SMITH

NAME/ORGANIZATION/ POSITION	SUBJECT MATERIAL	EXHIBITS TO BE INTRODUCED BY WITNESS
MURRAY M SMITH	TESTIMONY	TESTIMONY

Murray M. and Carol J. Smith
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PO Box 11255
Lahaina, HI 96761

WATER PERMIT APPLICATION PRO SE
COMMISSION ON WATER RESOURCES MANAGEMENT
STATE OF HAWAII

Surface Water Use Permit Application)	Case No. CCH-MA 15-01
Integration of Appurtenant Rights and)	TESTIMONY OF MURRAY M.
Amendments to Interim Stream Flow)	SMITH; EXHIBITS "SMITH
Standards, Na Wai Eha Surface Water)	2290-01 THROUGH 2290-20
Management areas of Waihe'e, Waiehu)	CERTIFICATE OF SERVICE
l'ao and Waikapu Streams, Maui)	

TESTIMONY OF MURRAY M. SMITH
PRELIMINARY

This testimony of SMITH is provided in support of Surface Water Use Permit Application (SWUPA) No. 2290N filed with the Commission on Water Resources Management on April 27,2009 for County TMK No 3-2-017:41 and amended according to the enclosed ADDENDUM Exhibit SMITH-2290-01.

Attached Exhibit SMITH-2290-02, is a true and correct copy of the Deed from David and Donnalee Singer to Murray and Carol Smith, dated October 07,2013. The Deed contains a reference to exclusions recited in the accompanying title report. Exhibit SMITH-2290-03, is a Quitclaim Deed, dated December 05, 2000, reserving all water rights unto the Grantor WAILUKU AGRIBUSINESS CO.,INC*.

I hereby submit this testimony to establish, at the time of the Mahele this parcel was a user of Kuleana water and, that this parcel has or had legal appurtenant water rights. Should it be determined that these rights have been extinguished, this testimony will provide the Water Commission evidence to consider the grant of current water rights for use in a manner consistent with the needs as described herein. I hereby affirm that the information contained herein is certified to be true and correct to the best of

my ability, and that the documents attached hereto are true and correct copies of original documents.

* Exhibit SMITH-2290-03 contains reference to LCA 3431, and other properties not herein identified.

HISTORICAL EVENTS & MAHELE DOCUMENTATION

Attached is Exhibit SMITH-2290-04, a copy of the Maui County Tax Maps and an enlarged copy of the same map. Both of these maps show the TMK 3-2-017:41 being the parcel identified with my SWUPA Application 2290N. Also attached is SMITH-2290-05 indicating that Maui County assigned a separate TMK to LCA 3431.

The Grant deed and the County Tax Maps refer to this parcel as LCA 3431. A copy of LCA 3431 to Kalamaia is attach as Exhibit SMITH 2290-06, and a copy of Royal Patent 6100 as Exhibit SMITH-2290-07. Exhibit SMITH-2290-7A is a copy of a plan and legal description on LCA 3431. These Mahele documents establish that the awardee, Kalamaia, was granted Kuleana Water for his continued use with respect to his ongoing farming operations. Exhibit-2290-08, Foreign Testimony, states “Clts land consists of kale and kula lands joined with a house lot in one piece in the Ili of Kapalaua, PoliPoli, Maui”. It continues, “He acquired it from his parents who possessed it from the days of Kamehameha I. His title is not disputed.” Kalamaia’s claim, in the Native Register, Exhibit SMITH-2290-8A, refers to “61 Lo’i” establishing the existence of Kuleana Water Rights.

In the Addendum to SWUPA 2290N we estimated the amount of water thought used at the time of the Mahele. Upon further research in preparation of this document certain evidence makes it necessary to alter this estimate. There are two main reasons necessitating the change. The first being, the land survey performed at the time of closing escrow, was contested. Based on more accurate data a second survey was performed . The results of this second survey moved the boundary of LCA 3431 approximately 35 feet Mauka. As a result of this adjustment LCA 3431 contained none of the Lo’is shown on Exhibit SMITH-2290-09. A revised exhibit, based on the corrected survey, Exhibit SMITH-2290-10 shows the current accepted boundary. The second need for a revised estimate emanates from knowledge gained through research since the amended filing. The preparer believes that water usage on pre-Mahele land is more accurately projected as follows. Exhibit SMITH-2290-11 shows a recent

aerial survey of the parcel on the upper half of the page, and on the lower half, a replica drawing of LCA 3431 and the adjoining property to the north. The aerial photo shows trees and grass on subject property and Lo'i land on the adjacent property, which is owned by Hoopii. In a statement by Hoopii given to Smith in 2014, Hoopii states that her land has been in continual lo'i use since the Mahele. This being true, it leads this preparer to assume the portion of LCA 3431 land adjacent to the Hoopii's lo'i's was the location of Kalamaia's 61 lo'i's. I substantiate this assumption with the following three reasons. (1) It is more suitable for lo'i's than the upper portion of the property, Additionally, previous Exhibit SMITH-2290-07A shows Kula land adjacent to this upper portion. (2) The old (existing) auwai shown at location 2 on SMITH-2290-11 probably served both lo'i fields as it crossed LCA 3431, and (3) assigning 1.8 acres to 61 lo'i results in an average size of 1200 sf per pond. This is not out of line with existing lo'i sizes in this area that have survived since the Mahele. If the upper (or westerly portion of the parcel) was Kula then the remaining notch on the Makai side would remain for the house lot. This notch on the north boundary is slightly less than 1/4 acre consistent with period sizes. Exhibit SMITH-2290-11A shows a current photo of the Hoopii Lo'i land.

Reppun contained much testimony that the water usage at Mahele time was 300,000 gad for lo'i. This is a reasonable assumption, however there is additional evidence that this number leans toward the conservative side. David C. Penn in his thesis on "Water Needs For Sustainable Taro Culture in Hawaii" (Exhibit SMITH-9920-12) page 2, states "In fields of 870 to 1200 sf water use ranges from 1.47 to 65.5 gsf, (65,000 to almost 3,000,000 gad) with the highest use per unit area in the smallest field". Using the more conservative flow of 300,000 gad I estimate the Kuleana water supplied to LCA 3431 at the time of the Mahele would have been 1.8 ac. (Lo'i land) x 300,000 gad or 540,000 gd total. Kula and Hale being insignificant. It appears that one point of distribution of water was "Point 2" (SMITH-9920-10). There remains evidence of an old auwai at this location. Exhibit SMITH-2290-13 shows the existence of perpetuated Kuleana Ditch Easements that tends to substantiate this concept. Wailuku Agribusiness Co., Inc. a predecessor in interest, obliterated the old system of distribution, and replaced it with a delivery system to better suit their needs. Recognizing their legal responsibility to existing Kuleana users, such as Hoopii, WACI installed a replacement "source" as indicated on SMITH-2290-14 and SMITH-2290-15. If our appurtenant rights are validated we claim this "source" as our replaced source of original Mahele water. In the opinion of the preparer of this report, there is no doubt that this

property was originally granted Kuleana Water that was appurtenant thereto. Current water rights are nebulous at best, therefore we submit the following request.

AMOUNT OF WATER REQUESTED

Exhibits SMITH-9920-16, and SMITH-2290-17 are photographic representation of LCA 3431 when it was purchased by Smith in October, 2013 (notice tree condition). In the ensuing two years we undertook to remove most of the cane grass and trees. We have provided an all weather surface over the existing roadway, and have run a private water line approximately 1/4 mile to provide treated County water to the property. Subsequent to these improvements, we entered into a FARM LEASE agreement with Hafoka, see Exhibit SMITH-2290-18. To date Hafoka has planted approximately 90% of the 1.84 ac. as shown on SMITH-2290-10. Exhibit SMITH-2290-19 is a photograph of the planting as of October, 2015. The economy of growing crops with domestic water for irrigation is a hardship on Hafoka. The amount of water he currently uses is barely enough to maintain a decent crop. The 1.84 ac is planted 70% dry land taro, 25% sweet potatoes, and 5% other. Interspersed therein are bananas, papayas, and others. Our minimum water requirement for a continued viable operation is as follows:

<u>Designation</u>	<u>Acreage</u>	<u>Flow Rate*</u>	<u>Total</u>
Irrigated Row Crops	1.84	6,500	12,000 gd
Macadamia Orchard	0.50	4,400	2,200 gd
Ohana	0.42		<u>1,500 gd</u>
			16,700 gd

* Rates are consistent with Hawaii Water System Standards, Exhibit SMITH-2290-20. Request for Ohana based on oversized parcel.

ALTERNATIVE WATER

Alternate water sources, should not be considered as an acceptable alternative. (1) To adequately provide irrigation from treated County water would be a hardship on Hafoka. He could not efficiently operate the farm under this circumstance. (2) It is a waste of energy to use treated water that can be supplanted with untreated water. (3) In all probability, it is the same source for both the County supply and the Kuleana supply.

REASONABLE BENEFICIAL ANALYSIS

There were reportedly 1/4 million acres of potential farm and crop land in 2000 lying fallow in the State of Hawaii. The Islands need to be more self sufficient raising various food sources. Importing food that can be grown here is not only more costly to the end user, but wasteful of energy to transport these goods. On Island farming also provides a level of security if the transport of goods should be interrupted. The return of water rights will fulfill the original intent of Kuleana water, that is to allow Hawaiian residents the right to provision for themselves.

If it is determined that our Appurtenant Rights have been extinguished, we request that the Commission grant water for our reasonable and beneficial use as stated. We deem this request to be in the best interests of the people of Maui and is consistent with State and County land use plans. The current zoning of the land is agricultural. The current use of County treated water is wasteful and too expensive for proper irrigation of crops.

David C. Penn (SMITH-2290-12) states in his paper on Hawaiian Water needs, "Taro is the spiritual and nutritional center of the Hawaiian culture, and the future of sustainable taro in Hawaii depends on water."

It is critical that water be granted for legitimate diversified agricultural farming.

Submitted this day February 05, 2016



Murray M Smith Jr.

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COMMISSION ON WATER RESOURCE MANAGEMENT
 STATE OF HAWAII

Surface Water Use Permit Application)
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 Management areas of Waihe'e, Waiehu)
 I'ao and Waikapu Streams, Maui)
 _____)

EXHIBIT LIST

PARTY: MURRAY M SMITH & CAROL J SMITH

EX. NO.	DESCRIPTION	REFERENCES	RECD. INTO EVIDENCE
SMITH-2290-01	Addendum to SWUPA 2290N	Alston, Hunt, Floyd & Ing	
SMITH-2990-02	Warranty Deed To SMITH	Maui County Recorders Office	
SMITH-2290-03	Reservation of Water Rights	Maui County Recorders Office	
SMITH-2290-04	TMK Maps	Maui County Tax Office	
SMITH-2290-04-A	Legal Parcel Determination	Maui County Public Works	
SMITH-2290-05	LCA 3431 to Kalamaia	Hawaii Official Records	
SMITH-2290-06	Kalamaia Statement	Hawaii Official Records	
SMITH-2290-07	Royal Patent 6100	Hawaii Official Records	

SMITH-2290-07	Foreign Testimony	Hawaii Official Records
SMITH-2290-08	Kalamaia's Claim	Hawaii Official Records
SMITH-2290-09	SWUPA Exhibit	Murray M Smith
SMITH-2290-10	Amendment to 09	Murray M Smith
SMITH-2290-11	Historical Perspective	Murray M Smith
SMITH-2290-11-A	Current Photograph Hoopii Lo'i	Murray M Smith
SMITH-2290-12	Taro Water Needs	David C Penn
SMITH-2290-13	Auwai Easements	Public Records
SMITH-2290-14	Water Service Area	Public Records
SMITH-2290-15	WSCI Field Exhibit	Public Records
SMITH-2290-16	Photograph 2013 Pcl 3-2-017:041	Murray M Smith
SMITH-2290-17	Photograph 2014 Pcl 3-2-017:041	Murray M Smith
SMITH-2290-18	Farm Lease	Murray M Smith
SMITH-2290-19	Photograph 2015 Pcl 3-2-017:041	Murray M Smith
SMITH-2290-20	Maui County Water Use Tables	Maui Co. Planning Dept.

SMITH, MURRAY AND CAROL
TMK: Formerly 3-2-17-18 (por.), now 3-2-17-41
AMENDMENT TO SWUPA 2290N
PAGE 1 of 5

SMITH, MURRAY AND CAROL
TMK: Formerly 3-2-17-18 (por.), now 3-2-17-41
AMENDMENT TO SWUPA 2290N
PAGE 2 of 5

ADDENDUM

This Surface Water Use Permit Application partially amends SWUPA 2290N filed by Waiehu Aina, LLC on April 27, 2009 for a new water use on TMK No. 3-2-17-18. By Warranty Deed dated October 7, 2013, recorded in the Bureau of Conveyances, State of Hawai'i on October 9, 2013 as Document No. A-50300164, Applicants became the owners of Land Commission Award 3431, which was a portion of TMK 3-2-17-18 and has now been, or is being, assigned TMK No. 3-2-17-41 (the "Parcel"). Applicants submit this partial amendment to SWUPA 2290N to provide documentation establishing the water rights appurtenant to LCA 3431, which documentation the Hearing Officer found, in his August 7, 2013 Findings & Recommendations on the Provisional Determination of Appurtenant Rights in Nā Wai 'Ehā, Maui (at page 69 of Exhibit 7) to have been omitted from SWUPA 2290N.

This Addendum, together with the attachments identified below, is incorporated in this partial amendment to SWUPA 2290N.

ATTACHMENTS (NOT INCLUDED)

Attachment A – Supplemental Responses

Attachment B – TMK Map, with enlarged portion showing parcel location

Attachment C – Photographs, Site Plan, and Other

Attachment D – 7.5-minute series (1:24,000) USGS Topographic Maps showing locations of diversions from Waihe'e River and North Waiehu Stream

Attachment E – Documentation of Applicants' Ownership

- E-1 – Warranty Deed recorded October 9, 2013, Doc. No. A-50300164
- E-2 – Warranty Deed recorded October 9, 2013, Doc. No. A-50300163

Attachment F – Documentation Establishing Appurtenant Rights

ATTACHMENT A

SUPPLEMENTAL RESPONSES

Box 2 (and 17): Source Landowner

Not applicable pursuant to HRS § 174C-51(1)(B), because Applicants do not have a terminable interest in the land which is the source of the permitted water. According to the Water Commission's records, which have not been independently verified, Wailuku Water Company, LLC claims to be the source landowner.

Boxes 4 & 5: Instream Flow Standards

The current Interim Instream Flow Standard ("IIFS") for Waihe'e River is 10 mgd, and the current IIFS for North Waihe Stream is 1.6 mgd. A petition to upwardly amend the IIFS is again pending before the CWRM, on remand from the Hawai'i Supreme Court. There is sufficient water upstream of all diversions to accommodate Applicants' proposed use.

Box 7(a&b): Proposed Stream Diversion

There are, or in recent history were, two sources of water available to the Parcel. The location identified as Diversion #1 on SWUPA 2290N, Attachment B, and depicted in SWUPA 2290N, Attachment C (Attachments B and C to SWUPA 2290N are included in Attachment C hereto) is just Mauka of the Parcel. At that location, there is depicted a pipe crossing Waihe'e ditch, as well as water cascading into Waihe'e Ditch. Until recently, the pipe transported water diverted from North Waihe Stream, which is also the source of the water seen flowing into Waihe'e Ditch. On the Makai side of the ditch, the water from the pipe discharges into a kuleana 'auwai that runs through the Parcel. Applicants understand that Wailuku Water Company has discontinued its diversion of North Waiehu Stream, which has cut off water to all North Waiehu kuleana users. If that water source cannot be restored, Applicants propose to use water from the point in Waihe'e Ditch where the pipe crosses the ditch. The water that does not seep into the ground or evaporate will flow back into the kuleana 'auwai, as shown on the site plan included in Attachment C, and will be available for kuleana users Makai of the Parcel. The amount of water that will be returned to the kuleana 'auwai after flowing through the lo'i on the Parcel will depend, in part, on daily climate conditions.

Box 8: Proposed Flow Measurement Information

The amount of water required for Applicants' proposed new uses is an estimate. Applicants plan to resume cultivation of kalo in lo'i that are currently fallow due to lack of water, and have estimated their water use for wetland kalo cultivation by multiplying the 0.80 acres that they plan to cultivate by 300,000 gallons per acre per day, the amount of water they understand is required to grow healthy kalo. Applicants estimated the water needed to maintain

SMITH, MURRAY AND CAROL
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AMENDMENT TO SWUPA 2290N
PAGE 3 of 5

the macadamia nut orchard on the Parcel by multiplying the acreage planted in macadamia nuts (1.5 acres) by 4,400 gallons per acre per day, which is 80% of the 5,500 gallons per acre per day requirement for macadamia nut trees recommended by the Farmer's Bookshelf, a publication of the Department of Tropical Plant and Soil Sciences at the University of Hawai'i at Manoa.¹ Applicants estimated the water required to satisfy their domestic uses, including cultivation of papaya, by multiplying the 2002 State of Hawai'i Water System Standard for Maui County (3,000 gallons per day) by 0.25 acres, which is the total acreage of the Parcel (2.75 acres) minus: the footprint of a proposed dwelling unit and driveway (0.20 acres); the amount planted in macadamia trees (1.5 acres); and the amount of land they intend to restore to wetland kalo cultivation (0.80 acres).

Box 12: Appurtenant Right

The Parcel has an appurtenant right to water because it was in kalo cultivation at the time of the Māhele of 1848. Attachment F includes true and correct copies of Land Commission Award 3431 to Kalamāia (F-1) and Royal Patent No. 6100 to Kalamāia (F-2), along with the Foreign Testimony in support of Land Commission Award 3431 indicating that "Clts land consists of kalo and kula lands joined with a house lot in one piece in the ili of Kapalāua, Polipoli, Maui" (F-3), and Kalamāia's claim in the Native Register, which refers to "61 loi" (F-4).

Table 1: Land Use Consistency/Efficiency

Boxes 3 & 5 – Applicants seek to cultivate kalo, macadamia nuts, and papaya on land zoned agricultural. Such use is consistent with state and county general plans and land use designations. Additionally, this use is consistent with county land use plans and general policies.

Box 11 – See supplemental response for Box 8.

Table 3: Alternatives Analysis

Because the Parcel has an appurtenant right to stream water, which is in the nature of an easement that was conveyed with the land at the time of the Māhele, Applicants need not demonstrate that they have no practicable alternative source of water. The appurtenant right is for stream water, not water from some other source, and their exercise of this appurtenant right enjoys maximum protection and first priority under the law.

Moreover, even if Applicants did not have an appurtenant right to stream water, there is no potentially available alternative source that is technologically and economically practicable.

Municipal Sources – There is currently no municipal water service to the Parcel. Even if the Maui County Department of Water Supply were willing to install a water meter, the cost of using municipal water for kalo cultivation would be prohibitive.

¹ See <http://www.ctahr.hawaii.edu/fb/macadami/macadami.htm#Water> (site last viewed on December 4, 2013).

Wastewater reuse – Reusing wastewater is impracticable because Applicants would still be required to pay for water, and are small users who do not have the means to hookup to and use that water. The closest wastewater treatment plant is in Kahului.

Ditch system. Applicants propose using water from the existing ditch system that passes by their kuleana land.

Desalinization. Desalinization of brackish water is not a practicable alternative for Applicants because there is no desalinization plant on Maui.

Ground Water. Even if Applicants were able to secure the permits necessary to drill a well and pump ground water, installing and operating such a well would be extremely burdensome. As small users, Applicants do not have the means to install and maintain such infrastructure.

Table 3, Section C: Additional Requirements

1. (a) Applicants' Proposed Use Will Maximize Beneficial Use and is in the Public Interest

Applicants' Parcel has an appurtenant right to water, which Applicants seek to use to grow kalo, macadamia nuts, and papaya. Pursuant to HRS § 174C-2(c), agriculture and the maintenance of proper ecological balance and scenic beauty are "in the public interest." As such, Applicants' proposed use of stream water is for a beneficial use that is in the public interest.

(b) Applicants' Proposed Use is a Protected Public Trust Purpose

The exercise of appurtenant rights is a protected public trust purpose. *In re Waiāhole Ditch Combined Contested Case*, 94 Hawai'i 97, 137 fn.34, 9 P.3d 409, 449 fn.34 (2000) ("*Waiāhole I*").

(c) Applicants' Proposed Use is a "Reasonable-Beneficial Use"

"Reasonable-beneficial use" is 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. Applicants' proposed use of stream water is consistent with state and county land use plans and the public interest. It is also "economic and efficient" because Applicants' will only use the amount they need.

2. Applicants Proposed Use Will Not Interfere With Any Existing Legal Use

Applicants' proposed use will not interfere with existing legal uses. As kuleana users, Applicants' have first priority by law, and the flow of either Waihe'e Stream or North Waiehu Stream is able to accommodate their new use.

SMITH, MURRAY AND CAROL
TMK: Formerly 3-2-17-18 (por.), now 3-2-17-41
AMENDMENT TO SWUPA 2290N
PAGE 5 of 5

3. Applicants' Proposed Use Will Not Interfere with the Rights of the Department of Hawaiian Home Lands

DHHL does not use water from Waihe'e Stream or North Waiehu Stream and has not filed an application to do so. DHHL has outstanding reservations for municipal water meters in Central Maui, but Applicants' use will not interfere with those reservations, which are largely served by ground water sources. Instead, the proposed use will actually help to protect DHHL's rights because all of the water Applicants are requesting will remain in the watershed where it will recharge the aquifer, protecting the health of the aquifer system for DHHL's present and future groundwater uses.

SMITH-2290N-02
(10 Pages)

WARRANTY DEED

This WARRANTY DEED made this 11th day of October, 2013, by and between DAVID SINGER and DONNALEE SINGER, husband and wife, all of whose address is P.O. Box 3017, Wailuku, Maui, Hawaii 96793 (Grantor), for good and valuable consideration paid by MURRAY M. SMITH and CAROL J. SMITH, whose address is PO Box 11255, LANAHA HI 96761 (Grantee), the receipt whereof is hereby acknowledged, does hereby grant, bargain, sell and convey unto the Grantee, as tenants by the entirety, and the Grantee's heirs and assigns, all of:

Lot 22, , consisting of Royal Patent 6100, Land Commission Award 3431 to Kalamaiia, confirmed to be a separate lot by the SEPARATE LOT DETERMINATION letter from the County of Maui, dated June 1, 2010.

TOGETHER WITH all and singular the improvements, rights, tenements, hereditaments, easements, privileges and appurtenances thereunto belonging or appertaining or held and enjoyed in connection therewith.

TO HAVE AND TO HOLD the same unto the Grantee, as aforesaid, in fee simple, forever.

SUBJECT to the Exceptions and Exclusions contained in the Old Republic Title & Escrow Preliminary Report, attached as Exhibit A.

SUBJECT TO the DECLARATION CONCERNING ROADWAY MAINTENANCE, recorded in the bureau of Conveyances as Document No. A-4463054, and

TOGETHER WITH a perpetual and nonexclusive Easement, 12 feet wide, from Malaihi Road, over and across a portion of TMK (2) 3-2-17-18, that is, over and across Lot 3, and over and across Lot 2, the servient tenements.

AND the Grantor does hereby covenant with the Grantee that the Grantor is seized of the Lot 22 herein described in fee simple; that Lot 22 is free and clear of and from all liens and encumbrances, except as specifically set forth herein; the Grantor has good right to sell and convey this Lot 22, as aforesaid; and the Grantor will WARRANT AND DEFEND the same unto the Grantee against the lawful claims and demands of all persons, except as aforesaid.

IT IS AGREED that the terms "Grantor" and "Grantee", as and when used hereinabove or hereinbelow shall mean and include the masculine or feminine, the singular or plural number, individuals, associations, trustees, corporations or partnerships, and their and each of their respective successors in interest, heirs, executors, personal representatives, administrators and permitted assigns, according to the context thereof.

IN WITNESS WHEREOF, the Grantor has executed these presents as of the day and year first above written.

GRANTOR:



DAVID SINGER



DONNALEE SINGER

STATE OF HAWAII)
) ss.
COUNTY OF MAUI)

On this 7 day of Oct, 2013, before me personally appeared **DAVID SINGER**, to me personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such persons executed the foregoing instrument as the free act and deed of such persons, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.




Name: Lydianae J. Presbitero

Notary Public, State of Hawaii

My commission expires: 4/26/2015

NOTARY CERTIFICATION STATEMENT	
Document Identification or Description:	<u>Warranty Deed</u>
Document Date:	<u>10/7/13</u>
No. of Pages:	<u>8</u>
Jurisdiction (in which notarial act is performed):	<u>Warranty Deed Just Court</u>
Signature of Notary	<u>10/7/13</u>
<u>Lydianae J. Presbitero</u>	Date of Notarization and Certification Statement
Printed Name of Notary	(Notary's Stamp or Seal)



STATE OF HAWAII
COUNTY OF MAUI

)
) ss.
)

On this 7 day of Oct, 2013, before me personally appeared **DONNALEE SINGER**, to me personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such persons executed the foregoing instrument as the free act and deed of such persons, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.




Name: Lydianae J. Presbitero

Notary Public, State of Hawaii

My commission expires: 4/20/2015

NOTARY CERTIFICATION STATEMENT	
Document Identification or Description:	<u>Warranty Deed</u>
Document Date:	<u>10/7/13</u>
No. of Pages:	<u>8</u>
Jurisdiction (in which notarial act is performed):	<u>Just Court</u>
Signature of Notary	<u>10/7/13</u>
Printed Name of Notary	<u>Lydianae J. Presbitero</u>


(Notary Stamp or Seal)

EXHIBIT A

ITEM I:

That certain real property located at Waiehu, Wailuku, Maui, State of Hawaii, being Lot 22 consisting of Royal Patent 6100, Land Commission Award 3431 to Kalamaia, being more particularly described as follows:

Situated at Waiehu, Wailuku, Maui, Hawaii
TMK: (2) 3-2-017-018 por

Beginning at a 1/2-inch pipe (set) at the Southwesterly corner of this parcel of land, being a point on the boundary with Grant 5279 to C. Brewer & Co., Ltd. (TMK: (2) 3-2-017:018 por), the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 12,561.64 feet North and 7,483.29 feet West and running by azimuths measured clockwise from true South: thence,

1. 177° 00' 95.70 feet along Grant 5279 to C. Brewer & Co., Ltd. (TMK: (2) 3-2-017:18 port) to a 1/2 inch pipe (set); thence;
2. 266° 45' 161.70 feet along the same to a 1/2-inch pipe (set); thence.
3. 175° 15' 86.46 feet along the same to a 1/2-inch pipe (set); thence.
4. 261° 00' 79.20 feet along the same to a 1/2-inch pipe (set); thence.
5. 345° 30' 86.32 feet along the same to a 1/2-inch pipe (set); thence.
6. 258° 30' 94.39 feet along the same & along Royal Patent 3975, Land Commission Award 3438 to Kumahama (TMK: (2) 3-2-018:027) to a 1/2-inch pipe (set); thence,
7. 272° 15' 478.50 feet along Royal Patent 3975, Land Commission Award 3438 to Kumahana (TMK: (2) 3-2-018:027) and passing over Rebars (set) at 123.94 & 184.20 feet to a 1/2-inch pipe (set); thence,
8. 357° 00' 153.78 feet along Grant 5279 to C. Brewer & Co., Ltd. (TMK: (2) 3-2-017:018 por) to a 1/2-inch pipe (set); thence,
9. 78° 30' 77.22 feet along the same to a 1/2-inch pipe (set) thence;

- | | | | | |
|-----|-----|-----|--------|---|
| 10. | 96° | 30' | 524.04 | feet along the same and passing over Rebars (set) at 149.31 & 157.88 feet to a 1/2-inch pipe (set); thence, |
| 11. | 87° | 30' | 231.66 | feet along the same to the point of beginning and containing an area of 2.754 acres, more or less. |

ITEM II:

Being all of Easement (24 feet wide) for access and utility purposes.

Situating at Waiehu, Wailuku, Maui, Hawaii
TMK: (2) 3-2-017:018 por

Beginning at the Northerly corner of this easement, being 62.79 feet from the Northeasterly corner of Royal Patent 6100, Land Commission Award 3431 to Kalamaia [TMK: (2) 3-2-017:018 por] the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 12,618.69 feet North and 6,660.27 feet West and running by azimuths measured clockwise from true South; thence,

1. Following along Grant 5279 to C. Brewer & Co., Ltd. [TMK: (2) 3-2-017:018 por] along a curve to the right with a radius of 94.00 feet, the direct azimuth and distance being:

301°	45'	25"	43.07	feet; thence,
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2. 315° 00' 116.00 feet along the same; thence,
3. Following the same along a curve to the right with a radius of 114.00 feet, the direct azimuth and distance being:

330°	05'	59.33	feet; thence,
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4. 345° 10' 190.00 feet along the same & along Royal Patent 6124, Land Commission Award 3448, Apana 1 to Kaalapahi [TMK: (2) 3-2-017:018 por]; thence,
5. Following along Royal Patent 6124, Land Commission Award 3448, Apana 1 to Kaalapahi [TMK: (2) 3-2-017:018 por] along a curve to the right with a radius of 114.00 feet, the direct azimuth and distance being:

359°	05'	54.84	feet; thence,
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6. 13° 00' 42.00 feet along the same; thence,
7. Following along the same & along Grant 5279 to C. Brewer & Co., Ltd. [TMK: (2) 3-2-017:018 por] along a curve to the left with a radius of 70.00 feet, the direct azimuth and distance being:

349°	19'	56.24	feet; thence,
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8. 325° 38' 61.00 feet along Grant 5279 to C. Brewer & Co., Ltd. [TMK: (2) 3-2-017:018 por]; thence,
9. Following along the same along a curve to the left with a radius of 20.00 feet, the direct azimuth and distance being:
305° 10' 13.99 feet; thence,
10. 284° 42' 32.00 feet along the same; thence,
11. Following along the same & along Royal Patent 6093, Land Commission Award 3452, Apana 2 to Kaili [TMK: (2) 3-2-017:018 por] along a curve to the left with a radius of 400.00 feet, the direct azimuth and distance being:
276° 58' 107.65 feet; thence,
12. 269° 14' 45.00 feet along Royal Patent 6093, Land Commission Award 3452, Apana 2 to Kaili [TMK: (2) 3-2-017:018 por]; thence,
13. Following along the same & along Royal Patent 3222, Land Commission Award 3435 to Keaohula [TMK: (2) 3-2-017:018 por] along a curve to the right with a radius of 54.00 feet, the direct azimuth and distance being:
306° 09' 64.87 feet; thence,
14. 343° 04' 110.51 feet along Royal Patent 3222, Land Commission Award 3435 to Keaohula [TMK: (2) 3-2-017:018 por]; thence,
15. 345° 30' 165.01 feet along the same, along Poalima & along Konohiki Lands [TMK: (2) 3-2-017:018 por]; thence,
16. Following along Konohiki Lands [TMK: (2) 3-2-017:018 por] along a curve to the left with a radius of 20.00 feet, the direct azimuth and distance being:
296° 59' 29.97 feet; thence,
17. 68° 28' 64.49 feet along Malaihi Road; thence,
18. Following along Konohiki Lands [TMK: (2) 3-2-017:018 por] along a curve to the left with a radius of 20.00 feet, the direct azimuth and distance being:
206° 59' 26.50 feet; thence,
19. 165° 30' 172.40 feet along the same & along Royal Patent 3222, Land Commission Award 3435 to Keaohula [TMK: (2) 3-2-017:018 por]; thence,

20. 163° 04' 110.00 feet along Royal Patent 3222, Land Commission Award 3435 to Keaohula [TMK: (2) 3-2-017:018 por]; thence,
21. Following along the same & along Royal Patent 6093, Land Commission Award 3452, Apana 2 to Kaili [TMK: (2) 3-2-017:018 por] along a curve to the left with a radius of 30.00 feet, the direct azimuth and distance being:
126° 09' 36.04 feet; thence,
22. 89° 14' 45.00 feet along Royal Patent 6093, Land Commission Award 3452, Apana 2 to Kaili [TMK: (2) 3-2-017:018 por]; thence,
23. Following along the same & along Grant 5279 to C. Brewer & Co., Ltd. [TMK: (2) 3-2-017:018 por] along a curve to the right with a radius of 424.00 feet, the direct azimuth and distance being:
96° 58' 114.11 feet; thence,
24. 104° 42' 32.00 feet along Grant 5279 to C. Brewer & Co., Ltd. [TMK: (2) 3-2-017:018 por]; thence,
25. Following along the same along a curve to the right with a radius of 44.00 feet, the direct azimuth and distance being:
125° 10' 30.77 feet; thence,
26. 145° 38' 61.00 feet along the same; thence,
27. Following along the same & along Royal Patent 6124, Land Commission Award 3448, Apana 1 to Kaalapahi [TMK: (2) 3-2-017:018 por] along a curve to the right with a radius of 94.00 feet, the direct azimuth and distance being:
169° 19' 75.52 feet; thence,
28. 193° 00' 42.00 feet along Royal Patent 6124, Land Commission Award 3448, Apana 1 to Kaalapahi [TMK: (2) 3-2-017:018 por]; thence,
29. Following along the same along a curve to the left with a radius of 90.00 feet, the direct azimuth and distance being:
179° 05' 43.29 feet; thence,
30. 165° 10' 190.00 feet along the same & along Grant 5279 to C. Brewer & Co., Ltd. [TMK: (2) 3-2-017:018 por]; thence,

31. Following along Grant 5279 to C. Brewer & Co., Ltd. [TMK: (2) 3-2-017:018 por] along a curve to the left with a radius of 90.00 feet, the direct azimuth and distance being:
- 150° 05' 46.84 feet; thence,
32. 135° 00' 116.00 feet along the same; thence,
33. Following along the same along a curve to the left with a radius of 70.00 feet, the direct azimuth and distance being:
- 125° 45' 04" 22.50 feet; thence,
34. 177° 00' 26.53 feet along Royal Patent 6100, Land Commission Award 3431 to Kalamaia [TMK: (2) 3-2-017:018 por] to the point of beginning and containing an area of 28,317 square feet or 0.650 acre, more or less.

Being a portion of the property described in the following:

DEED

Recorded : February 5, 2013 in the Bureau of Conveyances, State of Hawaii, as Document No. A-47840861

Grantor : DAVID SINGER, Manager of WAIEHU AINA, LLC

Grantee : DAVID SINGER and DONNALEE SINGER, as Tenants by the Entirety

SUBJECT HOWEVER TO THE FOLLOWING:

1. Taxes and assessments, general and special, for the fiscal year 200_ - 200_, as follows:

Tax Map Key	:	2-3-2-017-041	
1st Installment	:	\$0.00	NO TAX DUE
2nd Installment	:	\$0.00	NO TAX DUE
Cost	:	\$-	
Land	:	\$-	
Imp. Value	:	\$-	
Exemption	:	\$-	

Taxes and assessments, general and special, which are a lien, whether due, payable, delinquent or otherwise.

NOTE: An examination of these matters is being done. Upon completion, we will supplement our report accordingly.

2. Covenants, Conditions and Restrictions, but omitting any covenants or restrictions if any, based upon race, color, religion, sex, handicap, familial status, or national origin unless and only to the extent that said covenant (a) is exempt under Title 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons, as provided in an instrument.

Entitled : DECLARATION OF RESTRICTIVE COVENANT
Dated : February 21, 1996
Recorded : February 22, 1996 in the Bureau of Conveyances, State of Hawaii, as
Document No. 96-023921

" WATER RIGHTS
RESERVATION "

SMITH-2290-03
(8 pages)

R-1025

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

DEC 08, 2000 04:00 AM

Doc No(s) 2000-173483

/S/CARL T. WATANABE
ACTING
REGISTRAR OF CONVEYANCES
CONVEYANCE TAX: \$1000.00

LAND COURT SYSTEM

REGULAR BUSINESS

Return by Mail (X) Pickup () To:

RS

MR DAVID SINGER
WAIEHU AINA, LLC
P O BOX 3017
WAILUKU, HI 96793

TG: 159113B
TGE: A0-204-0669
Lynette A. Aipa

(2)

Tax Key: (2) 3-2-017-018

Total No. of Pages: 80

QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS:

That WAILUKU AGRIBUSINESS CO., INC., formerly known as Wailuku Sugar Company, a Hawaii corporation, whose address is 255 E. Waiko Rd., Wailuku, Maui, Hawaii 96793, hereinafter called the "Grantor," for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to Grantor paid by WAIEHU AINA, LLC, a Hawaii limited liability company, whose address is P. O. Box 3017, Wailuku, Maui, Hawaii 96793, hereinafter called the "Grantee," the receipt whereof is hereby acknowledged, (and pursuant to that certain Real Estate Purchase and Sale Agreement acknowledged September 22, 2000, entered into by and between the parties hereto), does hereby give, grant, convey, release and forever quitclaim unto the said Grantee, as a tenant in severalty, all of Grantor's right, title and interest in and to the real property described in Exhibit "A" attached hereto and by this reference incorporated herein (the "Property"); subject, however, to all encumbrances noted on said Exhibit "A".

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; (ii) claims, if any, to the Property arising out of rights customarily and traditionally exercised for subsistence, cultural, religious access or gathering purposes, and such claims or rights, including access, use and/or occupancy rights, as may be attendant or ancillary to kuleana claims on or affecting the Property; (iii) encroachments, easements and other rights or facts which may or would be disclosed by a correct survey or archaeological study of the Property, including, without limitation, easements, trails, rights-of-way, historic property, burial sites and other items of historical, archaeological or religious significance; and (iv) all encumbrances, exceptions, reservations, easements and other items set forth in this Deed.

EXCEPTING AND RESERVING, HOWEVER, unto Grantor, its successors and assigns, all water and water rights (surface and ground water) within or appurtenant to the Property; provided, however, that in the exercise of said rights, Grantor, its successors and assigns, shall not have the right to drill for water and otherwise disturb the surface of the land or any improvements thereon, except as provided in that certain Declaration of Covenants, Conditions, Easements, Reservations and Restrictions entered into by and between the parties hereto dated December 5, 2000, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2000-173482.

EXCEPTING AND RESERVING, FURTHER unto the Grantor, its successors and assigns, all of the rights and easements in favor of the Grantor, and subject to the obligations of the Grantee, in and under said Declaration of Covenants, Conditions, Easements, Reservations and Restrictions.

EXCEPTING AND RESERVING, FURTHER unto Grantor, its successors and assigns forever, as appurtenant to the lands which are located adjacent or in the vicinity of the Property and which are now owned or used or hereafter acquired and used by Grantor, its successors and assigns, the unrestricted (but lawful) right to engage in any type of farming operation, including, but not limited to open burning, percolating, evaporating, fertilizing, milling, generating power, water diversion, plowing, grading, storing, hauling, spraying pesticides, irrigating, crop dusting, and all other activities incidental to the planting, farming, harvesting and processing of agricultural products and by-products, which operations may from time to time cause noxious emissions such as noise, smoke, dust, light, heat, vapor, odor, chemicals, vibration, and other nuisances to be discharged or emitted over and upon the Property. Grantee, its successors and assigns, shall indemnify and hold Grantor, its successors and assigns, harmless from any liability or expense resulting from such claims arising from such nuisance whether made by Grantee or

guests or other persons using the Property. Nothing herein shall allow Grantor to violate any state, county or federal law.

TO HAVE AND TO HOLD the same, together with all buildings and other improvements, rights, easements, privileges and appurtenances thereon or thereunto belonging or in anywise appertaining or held and enjoyed therewith, unto the said Grantee, forever.

For the benefit of Grantor and the Grantor's Land (i.e. land located adjacent to and in the vicinity of lands owned by Grantor or in which Grantor has an interest), Grantor shall have, and at the closing hereof, there shall be reserved to Grantor, its successors and assigns, in addition to other rights reserved herein, the rights and easements described below in this instrument, on the terms and conditions contained in this instrument.

Grantee shall be responsible for obtaining, at its cost and expense, all permits which may from time to time be required for Grantee's use or development of the Property, including the payment or other satisfaction of all fees, costs, charges, exactions and other impositions in connection with such permits, and for compliance, at its cost and expense, with all laws which may from time to time relate or apply to Grantee's use or development of the Property. If Grantor's consent is required for any permits required by Grantee, Grantor shall not unreasonably withhold or delay such consent and will not require Grantee to pay any value for such consent(s).

Grantee acknowledges that Grantor and others use or otherwise divert water from North Waiehu Stream and/or upstream sources of the South Waiehu Stream. Grantor, its successors and assigns, shall have the right to divert and use water from all streams on the Property including North Waiehu and South Waiehu Streams, through the irrigation ditches on the Property, and further shall have the right to divert upstream sources of Mananole Stream, Huluhulupueo Stream and Eleele River for use on or relating to the Grantor's Land. Grantee, for itself and on behalf of its successors and assigns, covenants and agrees that it shall assert no administrative or judicial challenges to any such diversions and use, or otherwise dispute the priority and propriety of any such diversions and use.

Grantee acknowledges that the Property is located adjacent to and in the vicinity of other lands owned by Grantor or in which Grantor and/or Grantor-related entities have an interest (the "Grantor's Land"), and that the Grantor's Land may be used and/or developed for various purposes from time to time as deemed appropriate by Grantor, and the Grantee hereby consents to any such use and/or development of the Grantor's Land; provided that such use and/or development is allowed as a

permitted use either under, HRS 205-4.5 (as to A or B classified lands) or HRS 205-2(d) (as to C, D or E classified lands), and the Rules and Regulations of the Land Use Commission of the State of Hawaii and/or the Agricultural District as set forth in Section 19.30A.050 of the Maui County Code.

Grantor shall have, and is hereby reserved to Grantor, its successors and assigns, perpetual easements over, through and across the Property, and appurtenant to the Grantor's Land or appropriate portions thereof, as necessary to accommodate drainage from or across the Grantor's Land in its currently existing and/or natural pattern and flow to its place of entry upon and from the Property.

Grantee agrees and declares that for itself, its successors and assigns that it does and shall indemnify, defend and hold harmless Grantor, its successors and assigns from and against any and all loss, liability, cost, claim, demand, damage, action, cause of action, suit, administrative proceedings and/or penalties resulting from or otherwise directly or indirectly relating to Grantee's ownership, use, occupancy or development of, or any other act or neglect by Grantee with respect to, the Property. Such indemnity shall include and cover, without limitation, claims relating to the presence or existence of hazardous or nuisance conditions on, under or affecting the Property. Grantee further agrees to and shall indemnify, defend and hold harmless Grantor, its successors and assigns from and against any and all loss, liability, cost, claim, demand, damage, action, cause of action, suit, administrative proceedings and/or penalties resulting or arising from or otherwise directly or indirectly relating to the presence or existence of Hazardous Materials placed on, under or about the Property or migrating to or from the Property, or arising in any manner whatsoever out of any violation of or noncompliance with the Hazardous Materials Laws or other Regulations relating to the Property or any activities thereon.

Grantee confirms and agrees that the Grantee has inspected the Property and that the Property is being conveyed to the Grantee in "AS IS" condition, and without any representations or warranties of any kind with respect to the Property, except as expressly provided in this Deed, all as more particularly set forth in the Real Estate Purchase and Sale Agreement acknowledged September 22, 2000.

It is expressly understood, agreed and declared between Grantor and Grantee that Grantor makes and has made no representations or warranties, express or implied, with respect to the present use and occupancy of the Property or other kuleana or excluded properties within or in the vicinity of the Property, nor with respect to the effect on the Property of any appurtenant or derivative rights relating to the occupancy or use of the

Property, including access thereto and appurtenant water rights or claims. It being agreed and declared that Grantor is not and has not conveyed appurtenant water rights (surface and/or water) to Grantee and Grantor is retaining all appurtenant and other water rights from the Property. Grantee agrees to and has accepted the Property subject to such occupancy and use and appurtenant and/or derivative rights.

This conveyance and the covenants of the Grantor shall be binding upon the Grantor and the Grantor's successors and assigns, and shall run in favor of and inure to the benefit of the Grantee and the Grantee's successors and assigns. The covenants and agreements of the Grantee shall run with the land described in Exhibit "A" attached hereto, shall be binding upon the Grantee and the Grantee's successors and assigns, and shall run in favor of and inure to the benefit of the Grantor and the Grantor's successors and assigns.

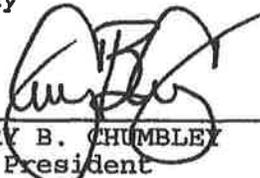
The terms "Grantor" and "Grantee", as and when used herein, or any pronouns used in place thereof, shall mean and include the masculine or feminine, or neuter, the singular or plural number, individuals or corporations, and their and each of their respective successors, heirs, personal representatives, and permitted assigns, according to the context hereof. If these presents shall be signed by two or more Grantors or by two or more Grantees, all covenants of such parties shall for all purposes be joint and several.

IN WITNESS WHEREOF, the Grantor and the Grantee have executed these presents on this 5 day of December, 2000.

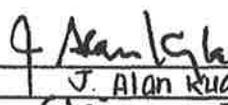
APPROVED AS TO FORM:
MANCINI, ROWLAND & WELCH

EY 

WAILUKU AGRIBUSINESS CO., INC.,
formerly known as Wailuku Sugar
Company

By 

AVERY B. CHUMBLEY
Its President

By 

J. Alan Kugle
Its Chairman

Grantor

WAIIEHU AINA, LLC



DAVID SINGER
Its Manager

Grantee

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 5 day of December, 2000, before me personally appeared AVERY B. CHUMBLEY, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

L.S.



Print Name: Lynette A. Aipa
Notary Public, State of Hawaii.

My commission expires: 11/7/2004

STATE OF HAWAII)
)
) SS.
 COUNTY OF Mau)

On this 5 day of December, 2000, before me personally appeared J. Alan Kagle, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

L.S.

Lynette A. Aipa
Print Name: Lynette A. Aipa
Notary Public, State of Hawaii.

My commission expires: 11/7/2004

STATE OF HAWAII)
)
) SS.
 COUNTY OF MAUI)

On this 5 day of December, 2000, before me personally appeared DAVID SINGER, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

L.S.

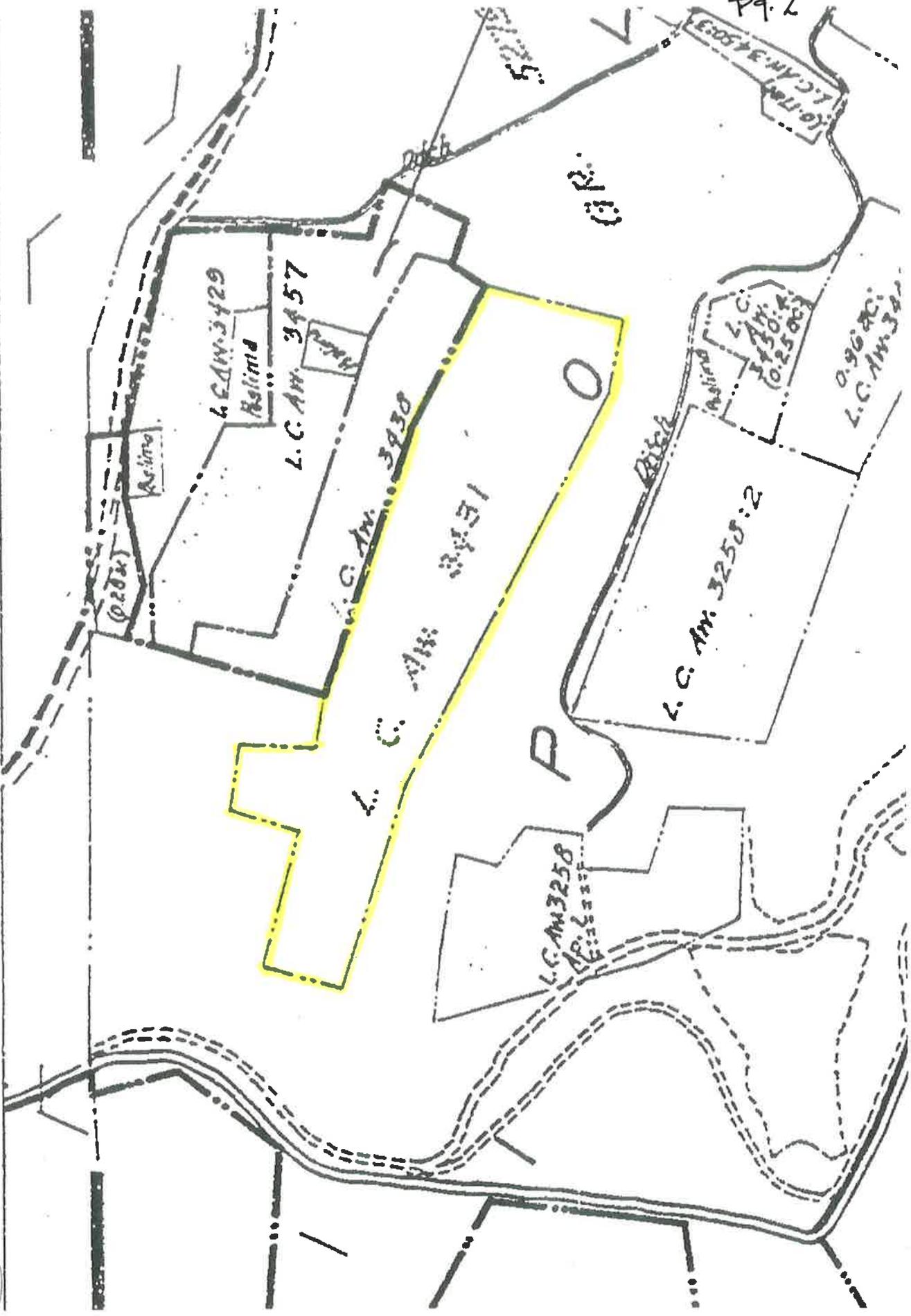
Lynette A. Aipa
Print Name: Lynette A. Aipa
Notary Public, State of Hawaii.

My commission expires: 11/7/2004

EXHIBIT "A"

All of that certain parcel of land (being portion of the land described in and covered by Land Patent Grant Number 5279 to C. Brewer and Company; Royal Patent Number (None), Land Commission Award Number 8559-B, Apana 20 and 21 to Wm. C. Lunalilo; Royal Patent Number 77, Land Commission Award Number 204 to Edwin Miner; Royal Patent Number 6100, Land Commission Award Number 3431 to Kalamaiia; Royal Patent Number 4110, Land Commission Award Number 3219, Apana 1, 2 and 3 to Apapau; Royal Patent Number 3937, Land Commission Award Number 3258, Apana 1 and 2 to Laka; Royal Patent Number 4100, Land Commission Award Number 3252 to Hanae; Royal Patent Numbers 6753 and 6755, Land Commission Award Number 3459, Apana 1, 2, 3, 5 and 6 to Keawe; Royal Patent Number 6438, Land Commission Award Number 3275-K to Mahi; Royal Patent Number 5278, Land Commission Award Number 2487 to Kahue (as to 6.29 acres); Royal Patent Numbers 7690 and 7584, Land Commission Award Number 781 to Alexander M. Birch; various poalima located within the Ahupuaa of Ahikula and Waiehu, Royal Patent Number (None), Land Commission Award Number 8559-B, Apana 20 and 21 to Wm. C. Lunalilo; Royal Patent Number 3218, Land Commission Award Number 5623 to Kualii; Royal Patent Numbers 3228 and 3232, Land Commission Award Number 3275-H to Pulehupo; Royal Patent Number 3223, Land Commission Award Number 3275-F, Apana 1 to Kane; Royal Patent Number 5279, Land Commission Award Number 4149, Apana 1 and 3 to Kapohuli; Royal Patent Number 5189, Land Commission Award Number 3378 to Pepehi; Royal Patent Number 5083, Land Commission Award Number 3379 to Puna; Royal Patent Number 3232, Land Commission Award Number 3275-R, Apana 1, 2 and 4 to Kamaka; Royal Patent Number 4744, Land Commission Award Number 2625, Apana 1 and 3 to Pa; Royal Patent Number 7689, Land Commission Award Number 6935 to A. Moku; Royal Patent Number 6090, Land Commission Award Number 2612 to Pepelao; Royal Patent Number 6700, Land Commission Award Number 2489, Apana 1, 2 and 3 to Kuheleaukea; Royal Patent Number 6089, Land Commission Award Number 2433 to Kahikapa; Royal Patent Number 3327, Land Commission Award Number 2461 to Kanehailua; Royal Patent Number 6616, Land Commission Award Number 2466 to Kahula; Royal Patent Number 3227, Land Commission Award Number 2474, Apana 1 and 2 to Kuhi; Royal Patent Number 5165, Land Commission Award Number 2482 to Kane; Royal Patent Number 6146, Land Commission Award Number 3273 to Waiwaiole; Royal Patent Number 3936, Land Commission Award Number 3213 to Ehu; Royal Patent Number 4715, Land Commission Award Number 3275-C to Mokupanei; Royal Patent Numbers 5143 and 6072, Land Commission Award Number 3275-E, Apana 1 and 5 to Kaleo; Royal Patent Number 3230, Land Commission Award Number 3275-L, Apana 1 and 2 to Kamanehe; Royal Patent Number 3221, Land Commission Award Number 3275-S, Apana 1 and 2 to Kawahaale; Royal Patent Number 5334, Land Commission Award Number 3275-Y, Apana 1 to Kaneiki; Royal Patent Number 3220, Land Commission Award Number 3377 to Puulau; Royal Patent Number 5139, Land Commission

(4)



Mayor
MILTON M. ARAKAWA, A.I.C.P.
Director

MICHAEL M. MIYAMOTO
Deputy Director



RALPH M. NAGAMINE, L.S., P.E.
Development Services Administration

CARY YAMASHITA, P.E.
Engineering Division

BRIAN HASHIRO, P.E.
Highways Division

COUNTY OF MAUI
DEPARTMENT OF PUBLIC WORKS
DEVELOPMENT SERVICES ADMINISTRATION
250 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793

June 1, 2010

Mr. David Singer
P.O. Box 3017
Wailuku, Hawaii 96793

**SUBJECT: SEPARATE LOT DETERMINATION - LOT 22 OF 30
TMK:(2) 3-2-017:018**

Dear Mr. Singer:

This separate lot determination is in connection with the settlement of a federal court action, **WAIIEHU AINA, LLC vs. THE COUNTY OF MAUI, CIVIL NO. CV06-00667 SPK BMK**. Under the terms of the settlement agreement, the County of Maui is to recognize thirty separate lots within TMK:(2) 3-2-017:018. This is a separate lot determination for Lot 22 of 30.

Based upon the information you submitted or information shown on the subject tax map, we recognize Lot 22 consisting of Royal Patent 6100, Land Commission Award 3431 to Kalamaiia. For illustration purposes only, enclosed is a partial copy of the subject tax map approximately showing Lot 22.

Please be advised that we did not make any determinations or validate any information regarding legal access, ownership, metes and bounds, and area of Lot 22.

A request for an additional tax map key parcel number may be made with the Tax Map Section, Real Property Tax Division of the Department of Finance. If you have any questions, please contact the Tax Map Section at 270-7297.

If you have any questions regarding this letter, please call Mr. Glen Ueno of our Development Services Administration at 270-7379.

Sincerely,

MILTON M. ARAKAWA, A.I.C.P.
Director of Public Works

Enclosure

EXHIBIT A

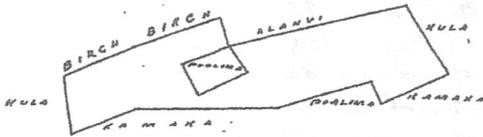
3428 *Kele 3429 Kouape*

Maiehu Maui

Ali Kapalaua. Chomata ke ana ma ke kiki Komohana. Kamata i ke kiki Komohana ana o keia
 Akau 16° Komohana 136 Kaulahas ana Kula,
 Akau 61° Heikina 153 " Birch.
 Akau 66 1/2° Heikina 185 "
 Heima 19 1/2° Heikina 64 " " Poalima
 Heima 63° Komoh. 99 "
 Heima 25° Heikina 73 "
 Akau 58 1/2° Heikina 109 "
 Akau 33 1/2° Komoh. 64 "
 Akau 72 1/4° Heik. 364 " " Alani,
 Heima 32 1/2° Heik. 175 " Kula,
 Heima 60 1/2° Komoh. 145 " Kamata,
 Akau 29° Kom. 54 " Poalima
 Heima 70° Kom. 194 "
 Heima 86 1/2° Kom. 279 "
 Heima 62 1/2° Kom 140 Kk.
 a maloka oia anapuni 1 1/4/100 Eka
 Kamata, a kiki ma kabi i hoomaka'i

Kaliliku Aug. 12. 1852.

*John S. Lewis.
Mea ana aina*



2 No. 1 Sta.

*Wm. Lee
 M. L. Lee
 G. M. Robertson
 J. H. Smith*

Honolulu 27 Oct 1852.

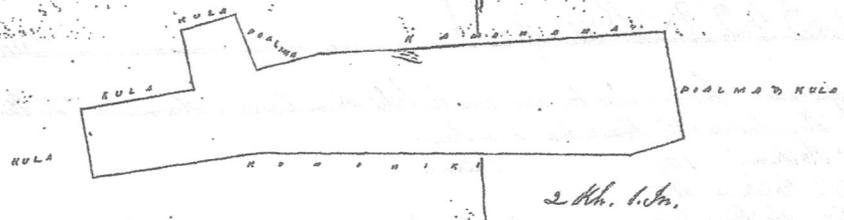
Kele 3431 or 3432 Kalamoia

Maiehu Maui

Ali Kapalaua. Chomata ke ana ma ke kiki ana o keia
 Akau 15° Komohana 145 Kaulahas Kula,
 Akau 76 1/2° Heikina 245 " "
 Akau 14 3/4° Komohana 131 " "
 Akau 71° Heikina 120 " "
 Heima 24 1/2° Heikina 128 " " Poalima
 Akau 71 1/4° Heikina 139 " "
 Akau 82 1/2° Heikina 723 " "
 Heima 13° Heikina 238 " " Kamahana,
 Heima 68 1/2° Komohana 117 " " Komohiti
 Heima 86 1/2° Komohana 794 " "
 Heima 77 1/2° Komohana 351 " "
 i hoomaka'i a maloka oia anapuni 2 1/4/100 Eka
 a kiki i kabi

Kaliliku Aug 12, 1852

*John S. Lewis.
Mea ana aina*



2 Mh. 1 An.

Whe Pau Leaf 6
 W. L. Lee
 S. M. Robertson
 J. Kaulahao
 J. H. Smith

Honolulu 27 Oct. 1852

Hulu 3457 Kaniaka

Waikua Maui

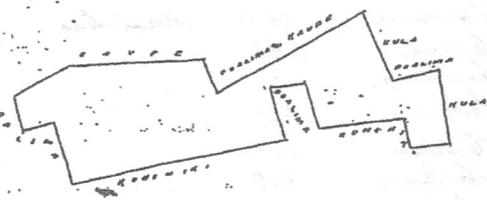
Ili Kapalaawa. E hoomaka ke ana ana ke hiki Komoehana. a keia i pili ana ana ke hiki Komoehana
 Hema. Hanafe.

Akaiu	62 1/2	Hikinau	140.	Kaulahao	Anwai
Akaiu	86 1/2	Hikinau	279.	"	Hanafe
Hema	21 1/4	Hikinau	87.	"	Poalima
Akaiu	60 1/2	Hikinau	354.	"	Poalima & Hanafe
Hema	20 1/2	Hikinau	165.	"	Kula & Poalima
Akaiu	74 1/2	Hikinau	99.	"	Poalima
Hema	7.	Hikinau	463.	"	Kula
Hema	84 1/2	Komoehana	86.	"	Honohiki
Akaiu	7 3/4	Komoehana	61.	"	"
Hema	86 1/4	Komoehana	182.	"	"
Akaiu	13	Komoehana	101.	"	Poalima
Hema	83 1/4	Komoehana	76.	"	"
Hema	16	Hikinau	106.	"	"
Hema	78	Komoehana	462.	"	Honohiki
Akaiu	15 1/2	Komoehana	134.	"	Poalima
Hema	75 1/4	Komoehana	63.	"	Poalima
Akaiu	18	Komoehana	70.	"	"

a hiki ana hiki i hoomaka. a oroloko oia awa ana 15 3/4 Eka

Waikua Aug 12 1852.

John S. Lewis
 Mea ana ana



2 Mh. 1 An.

Whe Pau Leaf 6
 W. L. Lee
 S. M. Robertson
 J. Kaulahao
 J. H. Smith

Honolulu 27 October 1852

HELU 6100

PALAPALA SILA NUI

A ke Alii, mamuli o ka olelo a ka Poe Hoona Kuleana,

NO KA MEA, *Kalamāia* Ua hoololo na Luna Hoona i na kumu Kuleana aina i ka olelo, he kuleana olelo ke
Kuleana Helu *3201*

ma ke Ano Alodio iloko o kahi i oleloia malalo.

Nobaila, ma keia Palapala Sila Nui, ke hoike aku nei o Kamehameha IV, ke Alii nui a ke Akua i kona iokomaikai i hoonoho ai maluna o ko Hawaii Pae Aina, i na kanaka a pau, i keia la nona ihu, o no kona masu hope alii, ua haawi aku oia, ma ke Ano Alodio ia

i kela *Kalamāia* wahi a pau loa ma *Kapalana* *Waiehu*
ma ka moku-puni o *Maui* penei na mokuna:

Thoomaka (Ma ke Kahi) Kama

<i>Maui</i>	<i>13°</i>	<i>Hon</i>	<i>1.45</i>	<i>Kaul</i>	<i>(Ma ke Kaula)</i>
"	<i>76 3/4</i>	<i>PLP</i>	<i>2.45</i>	"	" " "
"	<i>14 3/4</i>	<i>Am</i>	<i>1.31</i>	"	" " "
"	<i>71</i>	<i>PLP</i>	<i>1.20</i>	"	" " "
<i>Kama</i>	<i>24 1/2</i>	"	<i>1.28</i>	"	" " <i>Palma</i>
<i>Maui</i>	<i>71 1/4</i>	"	<i>1.39</i>	"	" " "
"	<i>82 1/2</i>	"	<i>7.23</i>	"	" " <i>Komohana</i>
<i>Kama</i>	<i>13</i>	"	<i>2.33</i>	"	" " <i>Kaula</i>
"	<i>68 1/2</i>	"	<i>1.17</i>	"	" " "
"	<i>86 1/2</i>	<i>Hon</i>	<i>7.94</i>	"	" " "
"	<i>77 1/2</i>	"	<i>3.50</i>	"	" " "

276 Pa

268

THE AIR MAIL

... ..

... ..

Maloko o Kila apana 27 Eke
a oi iki aku, a emi iki mai paha. Ue koe nō i ke Aupuni na mino minerala a me na mōkai a pan.
No Chilamnia
ua sina le i haawiā me ke Aho Aho a no koe ma hōhōna, a me kua waihoā; ua ohi me ka auhau a ke Aho Aho, o
kau like ai mā na sine aloho i kua mānawa i kua mānawa.

A i mā e mā ai, ua kua wai i kua wai, a me ka Sā Nui o ke Hawaii Pae
Aho a kua mā i kua mā

10 o Mar 1907

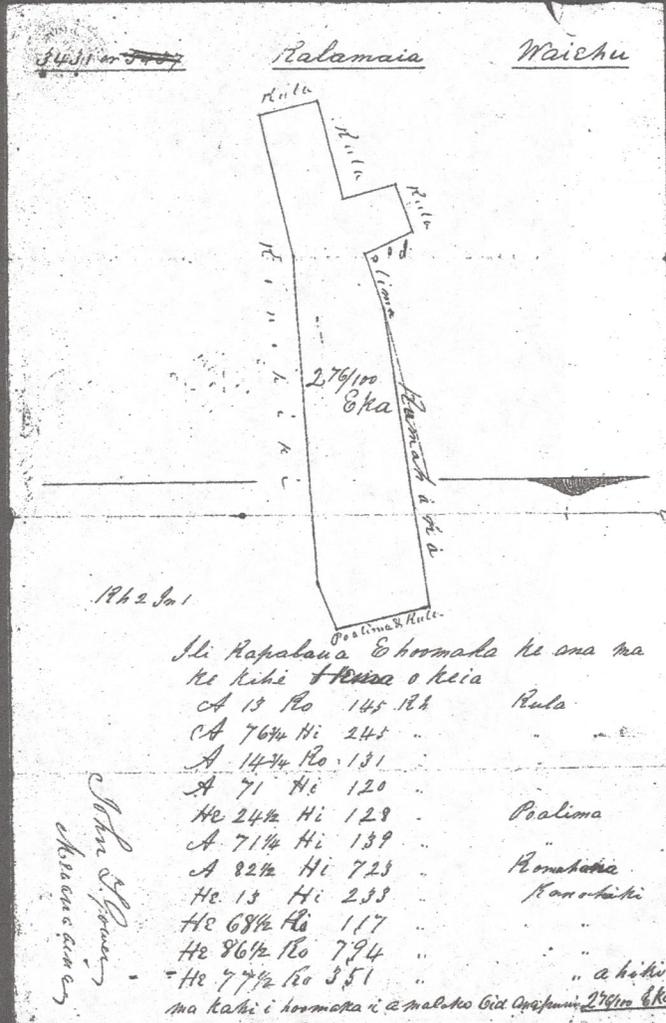
P. M. P.
W. M. P.

Ram. Chamshak

NO. 6100
ROYAL PATENT
L.C. Award No. 3431

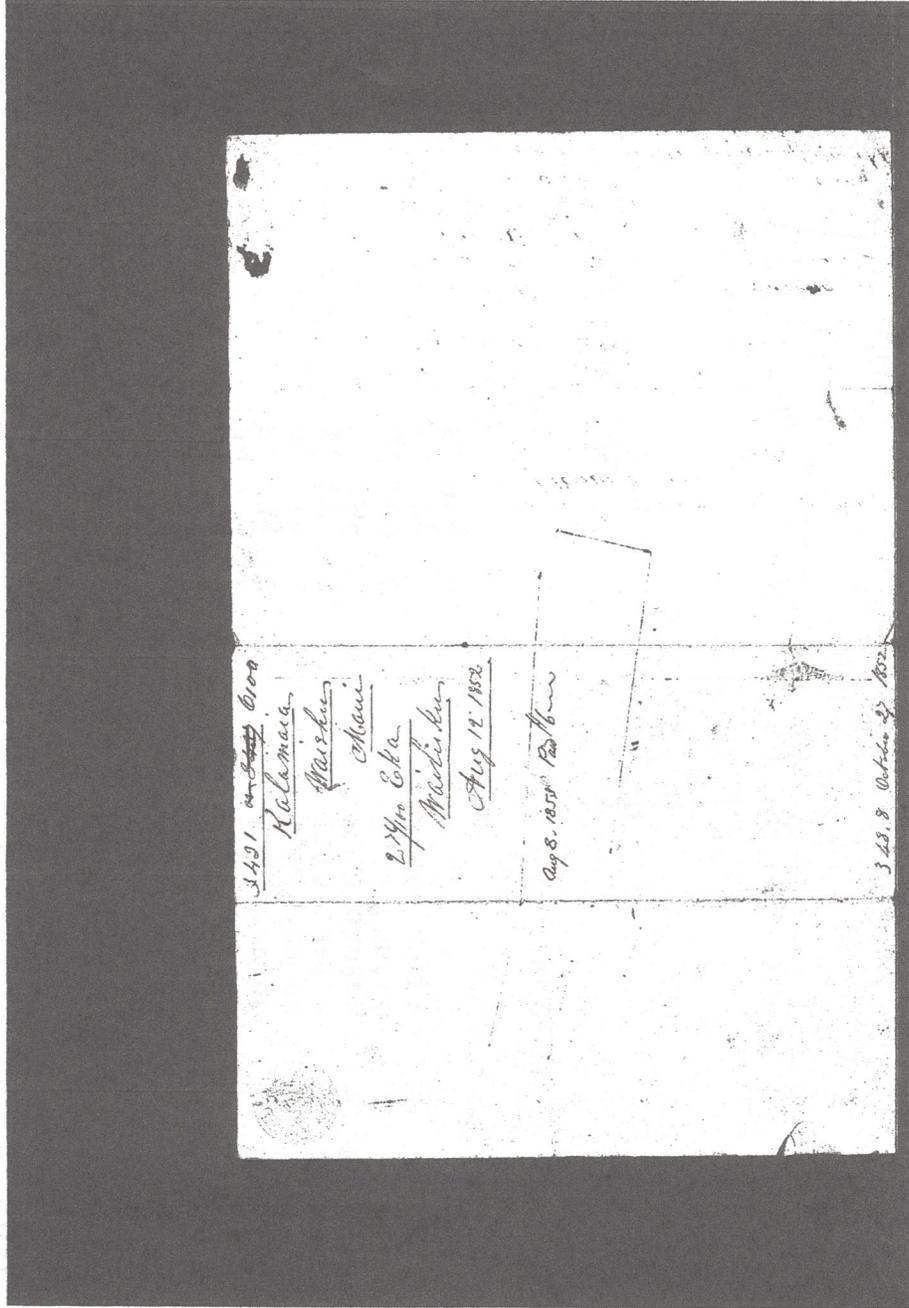
.....
KALAMALA
Weihu -- Maui.

.....
Plan & Description



AD-10-15-10-10-10

SMITH - 2290 - 07A



3491 ~~in~~ 6100

Kalamata

Maribou

Alain

24/10/1952

Maribou

Aug 12 1952

Aug 8 1952

3491 8 Oct 27 1952

KALAMATA - WAIEHU - MAUI

L. C. A. 3431
 R. P. 6100
 Bk. 8, Page 348

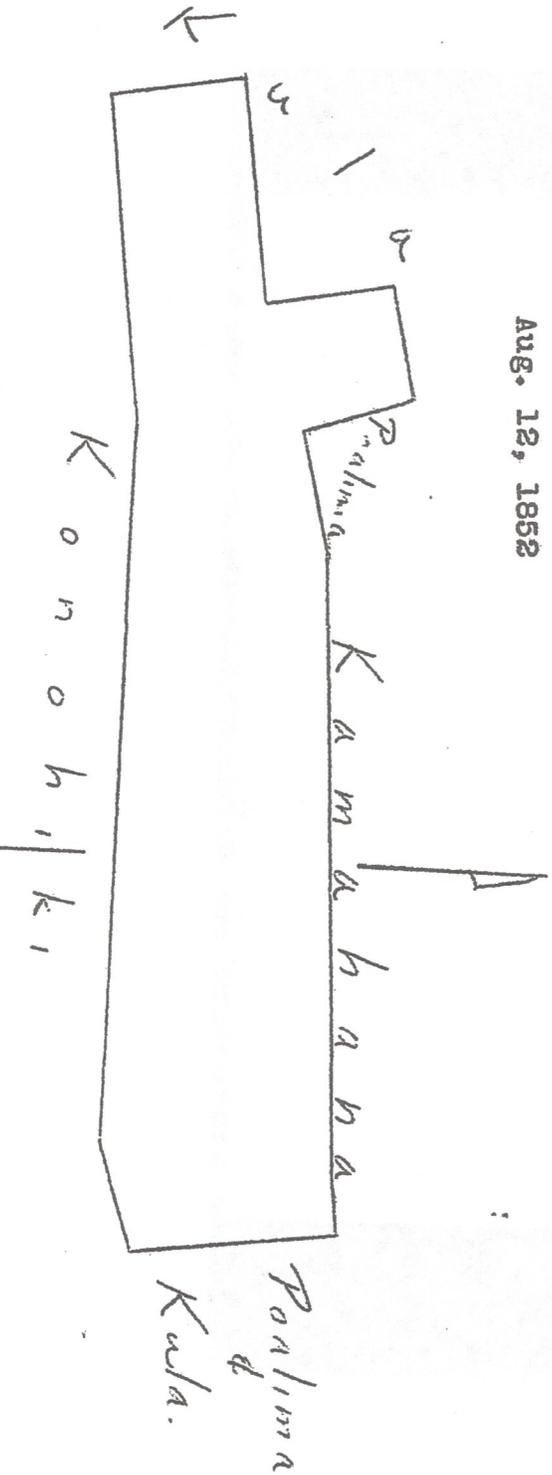
111 o Kapalawa. Beginning at the South corner

N. 130° W.	1.45 chains along Kula	
N. 76 3/4° E.	2.45 chains	"
N. 14 3/4° W.	1.31 chains	"
N. 71° E.	1.20 chains	"
S. 24 1/2° E.	1.28 chains	Poalima
N. 71 1/4° E.	1.39 chains	"
N. 82 1/2° E.	7.23 chains	Kamahana
S. 130° E.	2.33 chains	Konohiki
S. 68 3/4° W.	1.17 chains	"
S. 86 3/4° W.	7.94 chains	"
S. 77 3/4° W.	3.51 chains	"

to the beginning.

Area 2 76/100 Acres

Aug. 12, 1852



P. 243. Kalamaie.

547

The land of the City consists of two and a half acres joined with
a house lot in one piece in the city of Kapaemahu, Waipahoehoe, Hawaii.

The City received it from his parents who possess it from
the days of Kamehameha I. His title is not disputed.

It is bounded, Waikua, by the Duke's Waikua, by Kamehameha's
land, Waikua, by the City of Kapaemahu, Waikua, by the Duke's land.

P. 246. Kapuni.

The City land consists of 2 pieces in the city of Kapaemahu,
Waikua, Hawaii.

No. 1 is a piece of Kala, Kala & Kala in

" 2. " " " " " "

The City received these lands from Ekele in the reign of
Kamehameha II. His title was never disputed. There is one preline
in each piece.

No. 1 is bounded, Waikua, by "Tide" Waikua, by "Kamehameha's
land", by the Duke's Waikua, Waikua, by Kamehameha's land.

No. 2 is bounded, Waikua & Waikua sides, by the Duke's
Waikua, Waikua, by Kamehameha's land, Waikua, by Kamehameha's land.

P. 246. Kapaemahu.

The City land consists of 4 pieces of land.

No. 1 is 3 acres in Kapaemahu, Waikua.

" 2. " 5 " " Waikua " "

" 3. " 5 " " Waikua " "

" 4. " 3 " " Waikua " "

— not in.

3428 Neikai

Aloha iro oukou e na Lusia
 MP Hoona Kuleana, Heikai aku nei au i
 Kou Kuleana Ioi, Kula, aia i Pohaku nei
 24 Ioi e Kula, oia no kahi Kuleana. Aloha
 no hoi me ka Mahalo
 Pohaku nei i Na Neikai.
 Kapoho 25 Dec. 1847

3429 Kaupae

Aloha na Lusia Hoona Ku-
 leana. He onau mea kiihi no hoi na
 MP Hoona Kuleana aia. Heikai aku nei
 au ia oukou, onau o Kaupae wahine
 Kame anake ka iro o Koin Kame. Aki
 onua mai Koin aia Kuleana i Polipoli
 29 Ioi o Kaupae me kona wahi Kula no,
 Malaila no Koin wahi Kula. Me ka
 Mahalo Na Kaupae
 Polipoli 25 Dec 1847

3430 Hehuaihia

Aloha na Lusia Hoona
 Kuleana aia, Heikai aku i Koin wahi
 MP Ioi. Arokahe Koin i Mookahi, i Polipoli
 oia Koin e whaopii aku nei ia oukou
 i na Lusia Hoona Kuleana. Me ka
 Mahalo Na Hehuaihia
 Polipoli Dec. 24. 1847

3431

MP.

Kalaimoie

Aloha oukou a pou loa

o ma Luna Hoona kuleana. Wa hoi
 mai ka Elee ia makou inowai la
 hou ia heua, wai no ia. Eia mai kii
 kuleana loi, Kula mea kama, aia
 ma Kepalawa i Polipiti 61 loi, o kahi
 ia e waihi aku, oei i kii kuleana
 aia i ke ka Mahalo
 Polipiti 25 Dec. 1848. Kalamaie

3432

Kula

Aloha ma Luna Hoona kulea-
 aia aia, aia i Onas 26 loi, 3 pihala,
 lua miu Kahawai i Onas lua 6 loi
 Kula one kahi hale maloula, i Puni-
 opalile 4 loi, i Pahapaha he loko o
 Kahakumaka ka inoa o ia loko, i
 Kauhimana 1 loi, i Pahapahawale
 he wahi kula one ka hale, Onas I
 Onas II, Punopalile 3 Pahapahawale 4
 Waiehu 25 Dec. 1848. Ka Kula

3433

Kuaana

Pohakumii 31 loi, 1 kula
 Aloha o Kuaana e kai aku aia i
 wa loi, wani ka loko maikai o ka
 Elee i ka pihapai mai ia makou
 Aloha wai ma Luna Hoona me ka
 Mahalo. Ka Kuaana
 Kapoho 25 Dec. 1848.

3434

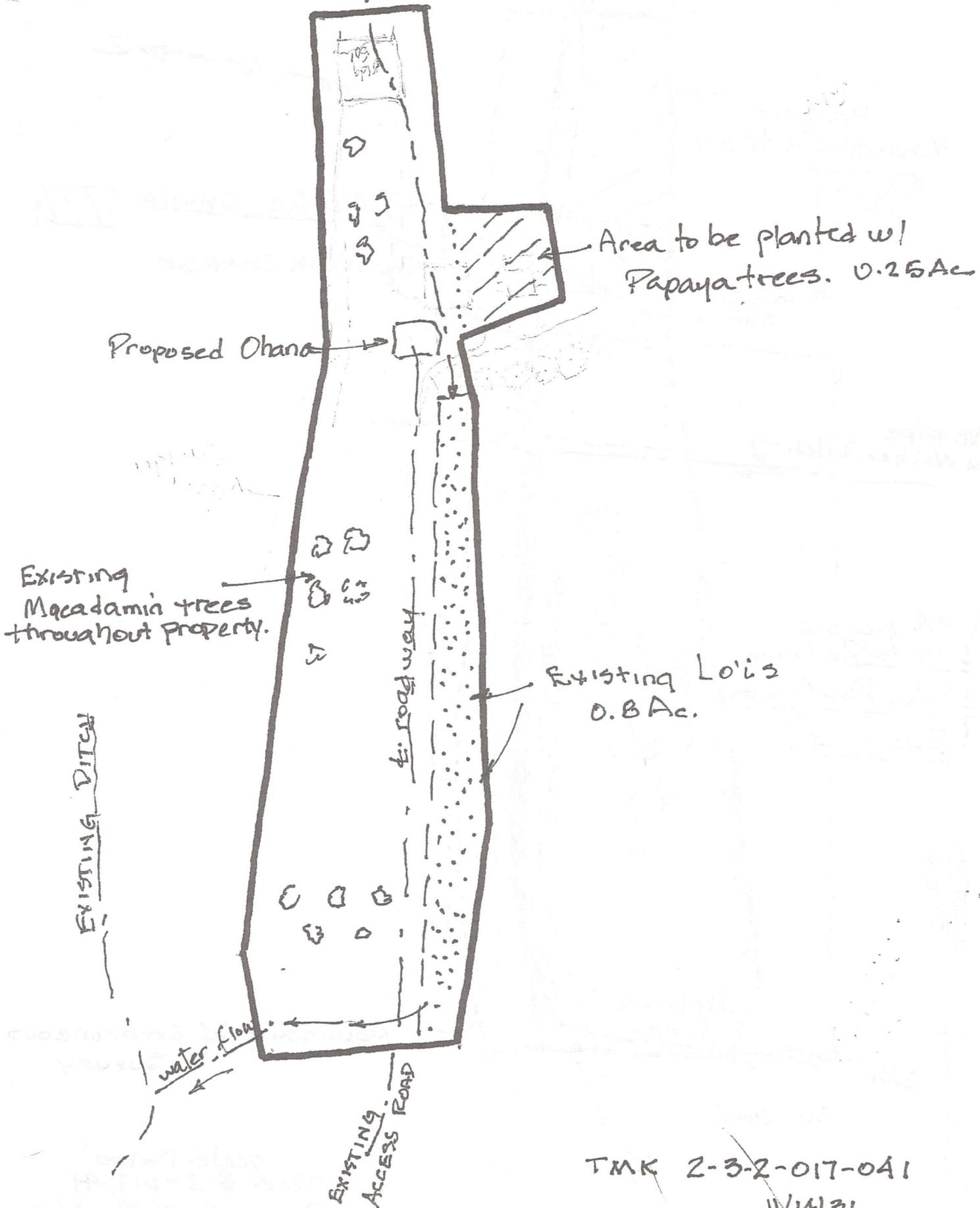
Kaahawale

M

Kaahawale iki, aia ma-

water flow

SMITH-2290.09



TMK 2-3-2-017-041

11/14/21

10

POINTS

EXISTING WATER

Proposed Auwai

SMITH-2290-10

Entry Point



0.4 ac Macadamia trees



0.42 Ac OHANA



Proposed OHANA

EXISTING GARAGE

4" PVC Pipe from Waihee Ditch



1.94 Acres
- 0.10 Ac Roadway
1.84 Ac Row Crops
(EXISTING)

EXIST. Row Crops

EXISTING ROADWAY

water flow

Loi Ponds

EXISTING DITCH

Proposed Auwai

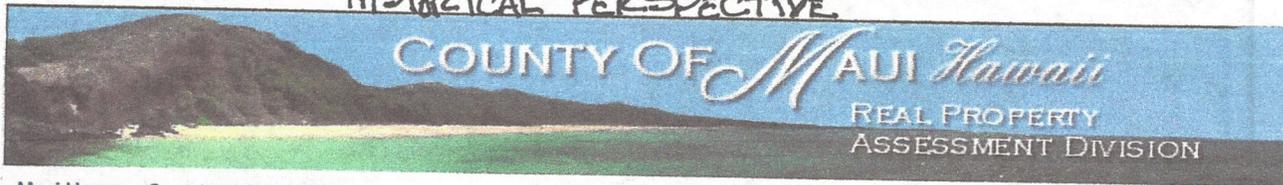
water flow

Exit Point

Boundary of Erroroneous Survey

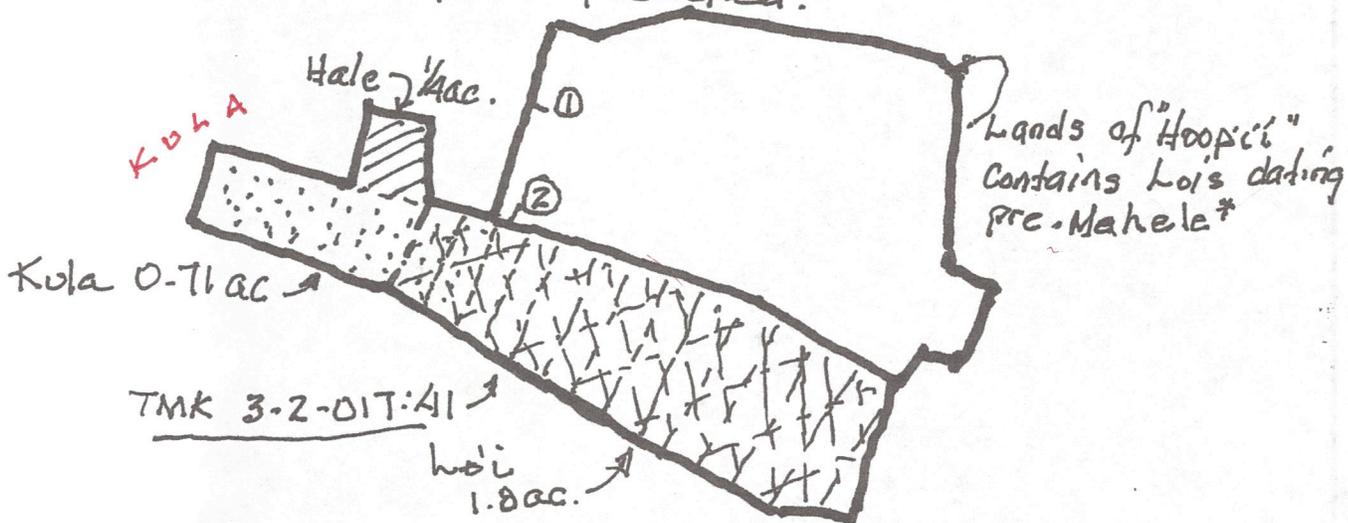
Scale 1"=100'
TKM 3-2-017-41
Drawn 11/14/15

HISTORICAL PERSPECTIVE



Website design and integration by & gPublic.net

- ① & ② Arc existing Awwi entry points to property "Hoopi'i"
- ① IS being fed via underground conduit
- ② Has been physically blocked.



* Testimony by Margaret Hoopi'i 2014

Land of Hoopi'i

SMITH-2290-11A



SMITH-2290-11A

WATER NEEDS FOR SUSTAINABLE TARO CULTURE IN HAWAI'I

DAVID C. PENN

Ph.D. Candidate, Department of Geography
University of Hawai'i, Honolulu, HI 96822

Abstract

Taro is a spiritual and nutritional center of Hawaiian culture, and the future of sustainable taro culture in Hawai'i depends upon water. Water needs for expanded wetland and dryland field systems can be filled if physical and institutional changes are made. Potential for making such changes grows as agroeconomic alternatives for taro-based farming systems expand. While lands historically used for wetland taro cultivation hold strongly protected water rights, their water needs and those of other taro-producing lands continue to be strongly denied.

Sustainable Taro Culture

Taro is a spiritual and nutritional center of Hawaiian culture, and the future of sustainable taro culture in Hawai'i depends upon water. Consider this analogy:

SUSTAINABLE	TARO	CULTURE
HA	WAI	I

WAI (water) is at the center of sustainable taro culture. WAI, god-given and life-giving, feeds TARO, child of the gods. TARO, older brother of Hawaiian people, feeds the family. As in other Pacific areas, taro culture in Hawai'i is filled with family connections. Those who built field and irrigation systems are remembered and honored, and names and practices of individual fields, water sources, and taro cultivars are passed down.

The role of water in taro culture is somewhat unique in Hawai'i; where cultivation of irrigated taro pondfield systems is more extensive than in other Pacific islands. However, irrigation systems also play prominent roles in taro culture of the Solomons, Vanuatu, Tahiti, and elsewhere. Thus, in promoting sustainable taro culture for the Pacific, understanding cycles of traditional irrigation, its disappearance, and its resurgence is an important focus.

Wetland Taro Agriculture

Taro field systems contribute to agricultural and environmental sustainability as well as cultural sustainability. While both wetland and dryland field systems were important and extensive in early Hawai'i, the impression taken from other presentations at this

conference might be that the future of sustainable taro culture in Hawai'i mostly involves dryland planting. However, because of their greater fluidity, diversity, and more obvious connectivity with surrounding environments, I believe that wetland systems are the preferred future for this sustainable culture.

Sustainable Taro Culture in the Pacific - The Farmer's Wisdom

(LISA Project 1992) offers some examples of wetland taro's contributions to agricultural and environmental sustainability:

These taro patches act as traps for silt that would otherwise flow downstream into the ocean (p. 2).

Plantings on dikes between wetland terraces provide food, medicine, mulch, and green manure as well as stabilizing the dikes (p. 2).

... water levels are raised to drown weeds during taro growth. Azzolla or duckweed shades the surface of the water, keeping temperatures as well as weeds down. In addition, a nitrogen-fixing, blue-green algae living in aazzolla leaves can provide a large amount of nitrogen to crops (p. 5).

... a constant flow of water ... will keep soil temperatures lower, and thus decrease disease incidence (p. 10).

Along with these contributions to sustainable agriculture, taro pondfield systems also provide aquatic habitat for other useful organisms and water for other agricultural and domestic uses. On a watershed scale, wetland systems enhance environmental sustainability by maintaining aquatic and riparian habitat, integrity of the hydrologic cycle (especially coastal discharge, stormflow dissipation, and groundwater recharge), instream flow for other water uses, and integrity of the cultural landscape.

Taro Water Needs

Current research in the Department of Geography focuses on quantifying water needs for wetland taro field systems. We monitor hydrological conditions in taro pondfield systems, model system water requirements based on measured interactions between hydrologic conditions

and taro growth, and use modelling results as a baseline for quantifying water rights defined by historical water use regimes. While previous studies and court orders have maintained a minimum water requirement of about 50,000 gad (gallons per acre per day), or 1.14 gsf (gallons per square foot per day), preliminary monitoring results show much greater water use in existing pondfields. In fields from 870 to 12,200 sf, water use ranges from 1.47 to 65.5 gsf, with the highest use per unit area in the smallest field. Commercial farmers using sprinkler irrigation on dryland fields told us they use 20,000-25,000 gad, or 0.46-0.57 gsf. In some areas of Hawai'i island, dryland fields rely solely upon rainfall of 50-100 inches/year (Kona) and 75-200 inches/year (Hamakua), or 0.085-0.34 gsf.

In addition to agronomic and legally-defined water needs, sustainable taro culture incorporates water needs of other cultural practices and cultural use areas and of overall agricultural and environmental sustainability. Water needs for expanded wetland and dryland field systems can be filled if physical and institutional changes are made. Such changes might involve:

1. Restoring ecosystems and agricultural systems to earlier forms and adapting them to contemporary agricultural and engineering practices.
2. Reorienting society to more highly value Hawaiian and agrarian lifestyles and resources.
3. Shifting control over water resources from big companies and government to communities and small water users.

Taro Water Alternatives

The potentials for making physical and institutional changes supporting sustainable taro culture grow as agro-economic alternatives for taro-based farming systems expand. Taro can serve as the foundation of integrated farming systems which fulfill economic, cultural, and environmental rationales for releasing water to supply them. Diversification of wetland systems can include other food crops such as lotus root, *ung choy*, watercress, and water chestnut. Linking aquaculture and livestock operations with taro production can revitalize previously successful Hawaiian farming strategies and can draw on vast Asian experience in exploiting these linkages to increase system productivity and sustainability. Nurseries of aquatic ornamentals, natives, and high-uptake plants may find growing markets as water gardens, wetland habitat restoration, and alternative wastewater treatment and waste bioremediation gain popularity. Coupling of wetland and dryland systems through extension of irrigation systems, along with greater diversification and

multi-cropping of dryland field systems, also deserves attention.

These systems can be created through individual action, partnerships, coalitions, and cooperatives, and supported by administrative, legislative, and judicial initiatives. The two biggest roadblocks to such creation are lack of economic opportunity in agricultural employment and lack of water.

Water Needs Denied

While lands historically used for wetland taro cultivation hold strongly protected water rights, their water needs and those of other taro-producing lands continue to be strongly denied. Competition for water is increasing, and taro water needs have trouble competing against entrenched water allocation patterns and practices that are guided by closed market mechanisms, inconsistent policies, contradictory legislation, and adversarial legal principles. The following synopsis gives examples of how these operate to deny, and sometimes protect, taro water needs throughout the islands.

Kaua'i

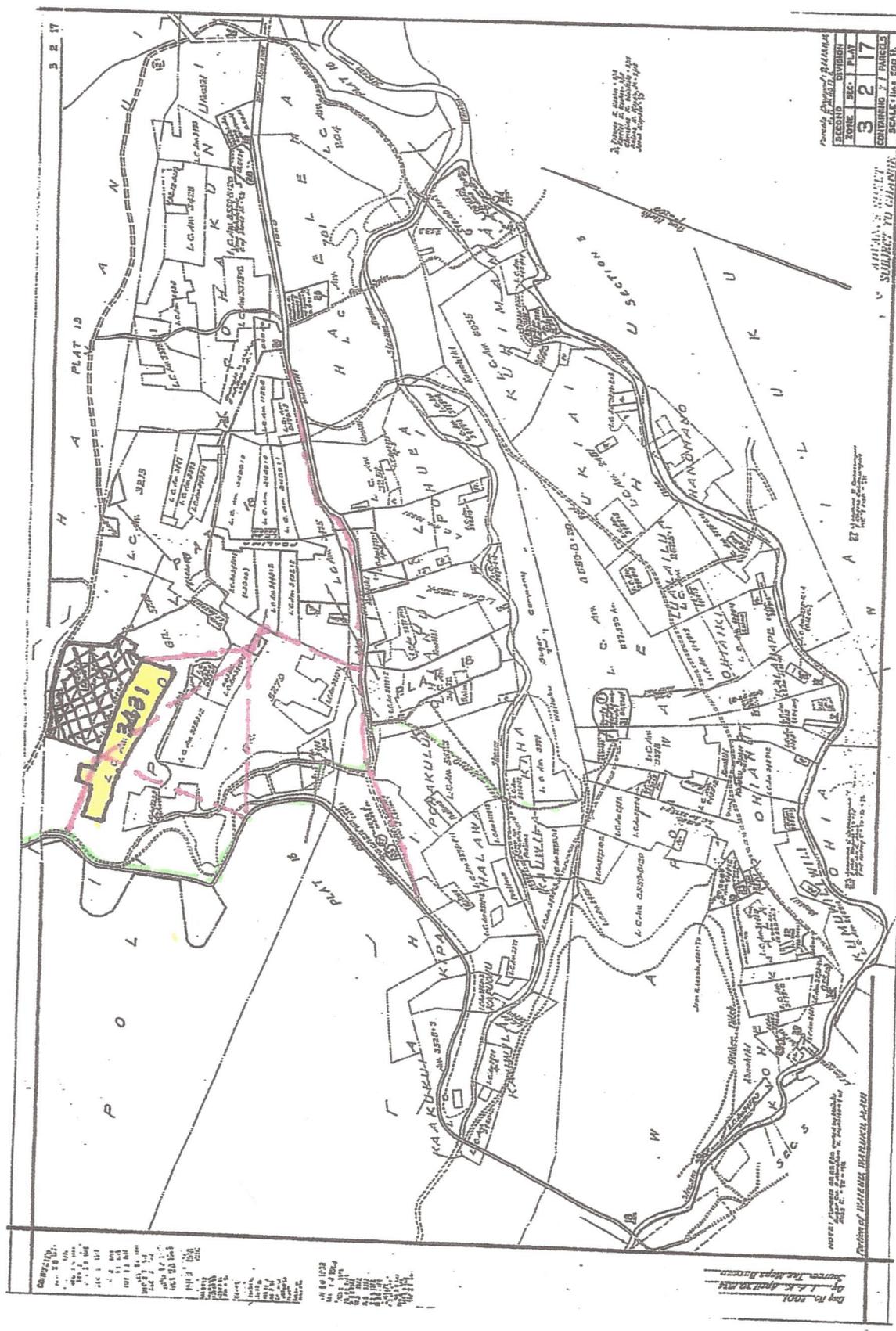
Hanalei. Plans to reactivate diversions from the Hanalei River to service new hydroelectric power plants in a different watershed raised public concerns about water availability for taro farming, wildlife conservation, instream flows, and control of diversions. In a landmark decision, the State Water Commission denied the developer's applications for stream channel alteration and diversion works.

Wainiha. The State of Hawai'i replaced a loose-stone diversion dam with concrete. The concrete dam channelled and accelerated storm waters into the irrigation system, whereas the loose-stone dam would have broken out to minimize storm waters entering the *auwai* (irrigation ditch) and *lo'i* (pondfields). As the *auwai* silted up and was strewn with boulders, the streambed was scoured at the base of the new dam. Stream water levels dropped, the *auwai* bed rose, and it became more and more difficult to divert sufficient water into the irrigation system. Finally, the concrete dam broke and further choked the *auwai*, and the State refused to repair the damage.

Anahola. Private developers want to hook up their waterlines to wells on Hawaiian Home Lands, which are managed by the County Water Supply Department. Homesteaders are concerned about their ability to reclaim water from these sources when it is needed in the future.

MAUI COUNTY TAX MAP
SMITH-2290-13

- EXISTING IRRIG. DITCH
- KULEANA DITCH EASEMENTS
- EXISTING HO'L



TMK MAP SHOWING WATER SOURCE, AOWAI EASEMENTS

SMITH-2290-14

SMITH-2290-14

EXISTING DIVERSION & PIPELINES

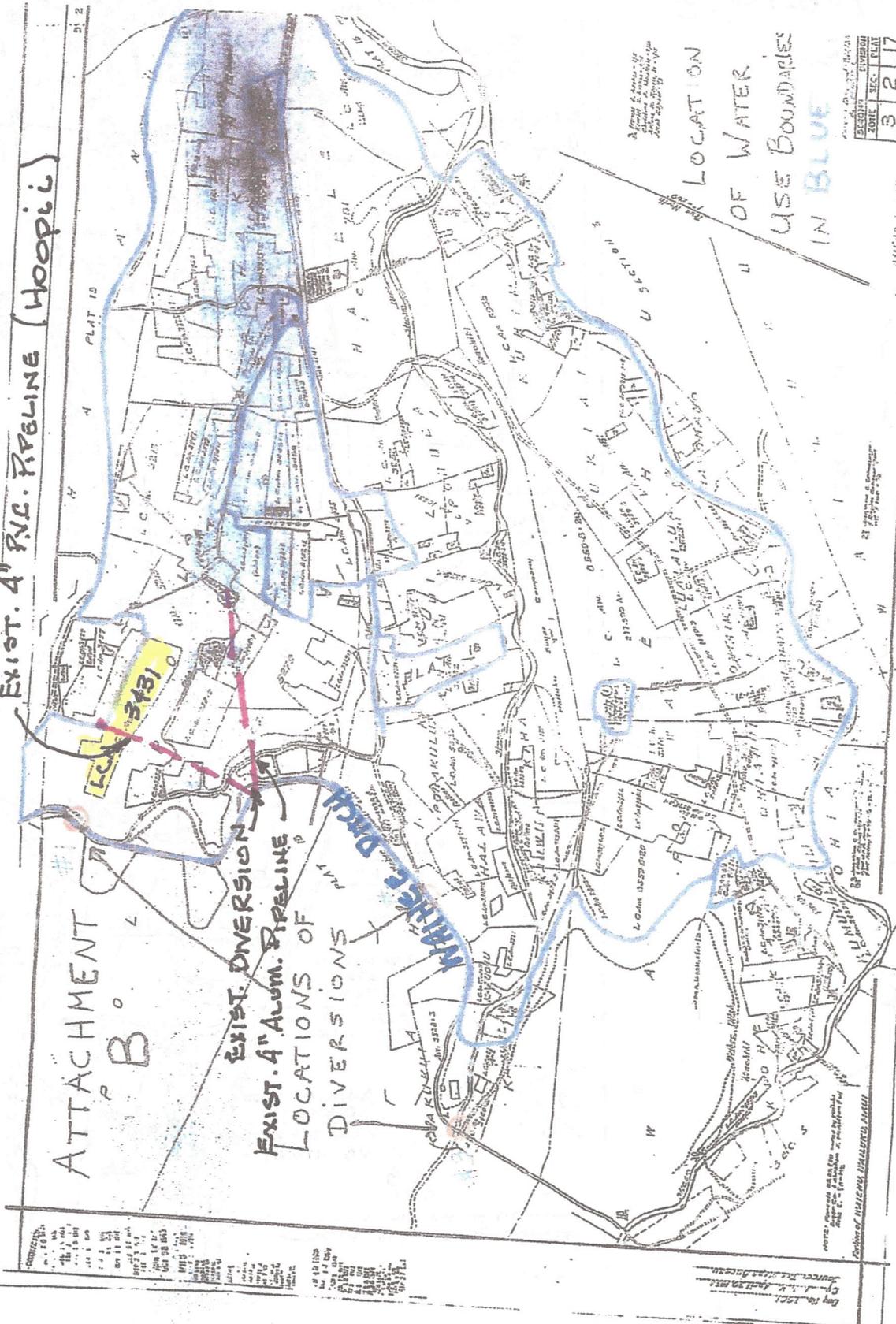
EXIST. 4" P.C. PIPELINE (HOOPER)

ATTACHMENT
B

EXIST. DIVERSION
EXIST. 4" ALUM. PIPELINE
LOCATIONS OF
DIVERSIONS

WATER DITCH

LOCATION
OF WATER
USE BOUNDARIES
IN BLUE



19

CONTRACTOR: ...
 DATE: ...
 SCALE: ...
 SHEET NO. ...
 TOTAL SHEETS ...
 PROJECT NO. ...
 CLIENT: ...
 ENGINEER: ...
 CHECKED: ...
 APPROVED: ...

Drawn by: ...
 Checked by: ...
 Date: ...

SECTION	SECTION	SECTION
3	2	17

SUBJECT TO CHANGE
 DATE: ...

SMITH-2290-16

From: Murray Smith mur_golf@live.com
Subject:

SITE CONDITION 2013

MS



SMITH-2440-17

From: "murray" <murray@jps.net>
Date: November 15, 2013 3:44:58 PM HST
To: murray@jps.net

SITE POST MOWING

1 Attachment, 3.2 MB

Sent from my Verizon Wireless 4G LTE Smartphone.



SMITH 2290-1.7
2 pages

From: Murray Smith mur_golf@live.com
Subject:
1

MS

SITE POST MOWING



Farm Lease
between
Murray/Carol Smith Land Owner
and
Toaila/Kapiolani Hafoka Tenant
Nov 01, 2014

The lease between the above parties shall run for a term of five years. The Hafoka family shall farm the land of Smith, TMK (2) 3-2-017-041 and dedicate full time to the producing of fruits and vegetables. The Hafoka family shall only have the tenant, her mother and father and brother working on the land, and shall have no one else on the land unless receiving approval from Smith in advance. The tenant expects to grow Taro, sweet potatoes and other row crops. Also in certain locations Tenant will plant bananas, papaya, mangos, and avocados. Tenant shall not allow any blocking of views from the proposed Ohana site without Smith prior approval. Tenant shall pay the full cost of water to the land. There shall be no other consideration paid to owner.

This lease shall expire on October 31, 2019.

Tenant shall not use the property in such a way as to violate any law or Maui County ordinances, commit waste or nuisance, or disturb any other nearby resident.

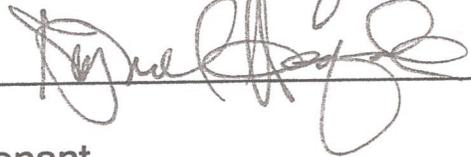
This lease may not be assigned nor the property sublet to a third party.

Tenants agree to: Use the property for legal farming only, maintain the property in a clean and neat condition, including the access road and water system.

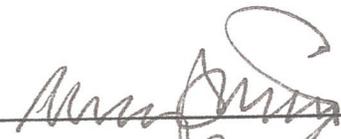
The parties shall endeavor to renew the lease at expiration thereof.

We both fix our signature this 20 day, of November, 2014.





Tenant

- 



Landlord/ Owner

From: Murray Smith mur_golf@live.com
Subject: No Subject
Date: Today at 6:40 AM
To: Murray Smith murray@jps.net

Exhibit

SMITH-2290-19

SITE OCTOBER 2015



WATER SYSTEM STANDARDS



DEPARTMENT OF WATER SUPPLY
COUNTY OF HAWAII



BOARD OF WATER SUPPLY
CITY AND COUNTY OF HONOLULU



DEPARTMENT OF WATER
COUNTY OF KAUAI



DEPARTMENT OF WATER SUPPLY
COUNTY OF MAUI



STATE OF HAWAII
2002

SMITH-2290-20
2 pages

DIVISION 100 - PLANNING

Table 100-18 - DOMESTIC CONSUMPTION GUIDELINES

ZONING DESIGNATION	AVERAGE DAILY DEMAND*			
	HAWAII	KAUAI	MAUI	OAHU
RESIDENTIAL:				
Single Family or Duplex	400 gals/unit	500 gals/unit	600 gals/unit or 3000 gals/acre	500 gals/unit or 2500 gals/acre
Multi-Family Low Rise	400 gals/unit	350 gals/unit	560 gals/unit or 5000 gals/acre	400 gals/unit or 4000 gals/acre
Multi-Family High Rise	400 gals/unit	350 gals/unit	560 gals/unit	300 gals/unit
COMMERCIAL:				
Commercial Only	3000 gals/acre	3000 gals/acre	6000 gals/acre	3000 gals/acre
Commercial/Industrial Mix	--	5000 gals/acre	140 gals/1000 sq. ft.	100 gals/1000 sq. ft.
Commercial/Residential Mix	--	3000 gals/acre	140 gals/1000 sq. ft.	120 gals/1000 sq. ft.
RESORT (To include hotel for Maui only)	400 gals/unit (1)	350 gals/unit	350 gals/unit or 17000 gals/acre	350 gals/unit or 4000 gals/acre
LIGHT INDUSTRY:	4000 gals/acre	4000 gals/acre	6000 gals/acre	4000 gals/acre
SCHOOLS, PARKS:	4000 gals/acre or 60 gals/student	4000 gals/acre or 60 gals/student	1700 gals/acre or 60 gals/student	4000 gals/acre or 60 gals/student
AGRICULTURE:		2,500 gals/acre	5000 gals/acre	4000 gals/acre

* - Where two or more figures are listed for the same zoning, the daily demand resulting in higher consumption use shall govern the design unless specified otherwise.
(1) - Subject to special review and control by the Manager.

SMITH 2290-20

TABLE 4-4: OAHU WATER REQUIREMENTS FORECAST FOR SELECTED CROPS

Crop	Gal/Ac/Day	1980		Estimated		Forecast							
		Actual	MGD	Acres	MGD	Acres	MGD	Acres	MGD	Acres	MGD	Acres	MGD
OTHER VEGETABLES													
BITTERMELON a//	7,500	4	0.03	8	0.08	8	0.06	9	0.07	9	0.07	10	0.07
CARROTS a//	6,700	1	0.00	2	0.01	1	0.01	1	0.01	1	0.01	0	0.00
CORN, SWEET //	905	105	0.08	179	0.16	193	0.17	202	0.18	212	0.19	226	0.20
DAIKON b//	1,611	90	0.14	11	0.02	139	0.22	167	0.27	207	0.33	255	0.41
LOTUS ROOT b//	17,500	2	0.03	4	0.06	4	0.07	4	0.07	4	0.07	5	0.08
PARSLEY a//	6,000	20	0.12	28	0.17	27	0.16	26	0.16	27	0.16	29	0.17
PEAS, CHINESE a//	6,700	6	0.04	7	0.05	8	0.06	10	0.07	11	0.07	12	0.08
POTATO a//	30,000	1	0.02	3	0.08	3	0.08	3	0.08	3	0.09	3	0.09
PUMPKIN a/b//	7,400		0.00	38	0.28	41	0.30	43	0.32	45	0.33	48	0.35
RADISH a//	40,000	1	0.04	3	0.14	3	0.12	3	0.11	2	0.10	2	0.09
SQUASH, ORIENTAL a//	3,333	6	0.02	9	0.03	9	0.03	10	0.03	10	0.03	11	0.04
SWEET POTATO d//	5,000	4	0.02	12	0.06	13	0.06	13	0.07	14	0.07	15	0.08
TARO b//	7,400	10	0.07	15	0.11	17	0.12	17	0.13	18	0.13	19	0.14
DIVERSIFIED AG. TOTAL	6,000	8	0.03	6	0.04	7	0.04	8	0.05	10	0.06	12	0.07
		3,165	29	3,422	32	3,850	38	4,278	40	4,750	45	5,268	50

Notes:
 Acreage forecasts developed by State Department of Agriculture. Water requirements based on the indicated gallons per acre per day.
 Feed and Forage - includes grains, grass, legume crops, and pineapple green chop.
 a// Acreage for Oahu not available. 25% of the State total assumed.
 b// Calculations derived from the State Statistics of Hawaiian Agriculture, 1989, and data from the Department of Agriculture.
 c// Calculations derived from the State 1980 Data Book and data from the Department of Agriculture.
 d// Department of Agriculture. Based on pan evaporation rates of .2 to .25 inches per day (effect of solar radiation and wind) for drip irrigation.
 e// Sugarcane - drip irrigation assumed for 80 percent of acreage.
 f// Decision Analysis Hawaii, Inc., An Economic Development Strategy & Implementation Program for Molokai

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAII

Surface Water Use Permit Applications,) Case No.. CCH-MA15-01
Integration of Appurtenant Rights and)
Amendments to the Interim Instream Flow)
Standards, Na Wai Eha Surface Water)
Management Areas of Waihee, Waiehu, Iao and)
Waikapu Streams, Maui)
_____)

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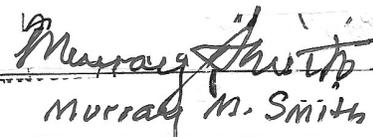
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