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COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAI'I

Surface Water Use Permit Applications, 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	Case No. CCH-MA 15-01 STATE OF HAWAI'I, DIVISION OF STATE PARKS' WITNESS LIST AND EXHIBIT LIST, WRITTEN DIRECT TESTIMONY OF PHYLLIS (HOLLY) MCELDOWNEY, RUSSELL P. KUMABE, AND E. MAHOE COLLINS; EXHIBITS 2304-DLNR-1 to 2304-DLNR-12, CERTIFICATE OF SERVICE HEARING DATE START: JUNE 6, 2016 HEARINGS OFFICER: LAWRENCE MIIKE

The State of Hawai'i, Department of Land and Natural Resources, Division of State Parks (State Parks), by and through its attorneys, hereby submits its witness & exhibit lists in the above-entitled matter.

DATED: Honolulu, Hawai'i, February 5, 2016.

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WITNESS LIST

PARTY: DIVISION OF STATE PARKS

NAME/ ORGANIZATION/ POSITION	SUBJECT MATTER	EXHIBIT(S) TO BE INTRODUCED BY WITNESS
Phyllis (Holly) McEldowney DLNR, STATE PARKS Archaeologist	Grant documents for 'Iao Valley State Park lands re: ownership; Historical and current use of park land and water	2304-DLNR -1 to -11
Russell Kumabe/DLNR, STATE PARKS Planner, Chief of Planning/Devt. Branch	'Iao Valley State Park water sources	2304-DLNR -11 to -12
E. Mahoe Collins DLNR/LAND DIVISION State Abstractor	Translation of deeds of title to 'Iao Valley State Park; Ownership of park lands	2304-DLNR -7

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EXHIBIT LIST

PARTY: DIVISION OF STATE PARKS

EXHIBIT NUMBER	DESCRIPTION	REFERENCE	REC'D IN EVIDENCE
2304-DLNR-1	Excerpts from Re-submitted Application for Provisional Recognition of Appurtenant Rights, Na Wai Eha Surface Water Management Areas, dated November 20, 2014	PHM	
2304-DLNR-2	Executive Order No. 2926, August 21, 1978; C.S.F no. 18,293 description and map (Certified copy - reduced)	PHM	
2304-DLNR-3	Land Commission Award (LCA) 3529, Apana 1 to Hana, January 7, 1854, Royal Patent 4059 (Certified copy; Source: State Archives)	PHM	

EXHIBIT LETTER	DESCRIPTION	REFERENCE (S)	ADM
2304-DLNR-4	May 11, 1899 Deed of Land Commission Award 3529 Apana 1 to Hana; by John W. Kalua to Minister of Interior, Government of the Hawaiian Islands	PHM, EMC	
2304-DLNR-5a	October 17, 1870 Deed of Royal Patent 4059, kuleana awarded to Hana, by Pa(k) to Nakea(k) (certified copy); and English Translation	PHM, EMC	
2304-DLNR-5b	December 12, 1883 Deed of Royal Patent 4059, kuleana awarded to Hana, by Nakea(k) & Wife to Samuela (k) & Helelani (certified copy); and English Translation	PHM, EMC	
2304-DLNR-5c	May 12, 1898 Deed of Royal Patent 4059, Land Commission Award 3529, by Samuela(k) & Helelani (k) to Mele Waiwaiole (certified copy); and English Translation	PHM, EMC	
2304-DLNR-5d	May 13, 1898 Deed of Royal Patent 4059, Land Commission Award 3529, by Mel Waiwaiole & Husband to J.W. Kalua (certified copy); and English Translation	PHM, EMC	
2304-DLNR-6a	July 30, 1907 deed from Wailuku Sugar Company to Territory of Hawaii (certified copy)	PHM	
2304-DLNR-6b	September 11, 1961 deed from Wailuku Sugar Company to State of Hawaii (certified copy)	PHM	
2304-DLNR-6c	September 29, 1964 deed from Wailuku Sugar Company to State of Hawaii (certified copy)	PHM	
2304-DLNR-6d	February 19, 1974 deed County of Maui to State of Hawaii (certified copy)	PHM	
2304-DLNR-6e	July 3, 1975 deed from Wailuku Sugar Company to State of Hawaii (certified copy)	PHM	
2304-DLNR-7	Title History of Land Commission Award 3529, Apana 1 to Hana; by E. Mahoe Collins, dated February 4, 2016	EMC, PHM	

2304-DLNR-8	Part of Map of a Portion of Wailuku, Maui, Survey and Map by M.D. Monsarrat, 1882, two pages (certified copy)	PHM	
2304-DLNR-9	Hawaii Territory Survey map of ʻĪao Valley Water Rights, HTS Plat 1079 (certified copy)	PHM	
2304-DLNR-10	Equity Division Case No. 1634; WAILUKU SUGAR COMPANY v. MARSTON CAMPBELL, and WILLIAM E. BAL; Bill of Complaint filed on August 29, 1908 (certified copy)	PHM	
2304-DLNR-11	Photos of water system supplying loʻi kalo in ʻĪao Valley State Park botanical garden, July 7, 2010 (Source: Dean Uyeno)	PHM, RK	
2304-DLNR-12	Photo of dry loʻi kalo in botanical garden of ʻĪao Valley State Park, January 12, 2016	RK	

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Surface Water Use Permit Applications, 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	Case No. CCH-MA 15-01 WRITTEN DIRECT TESTIMONY OF PHYLLIS (HOLLY) MCELDOWNEY

WRITTEN DIRECT TESTIMONY OF PHYLLIS (HOLLY) MCELDOWNEY

Q: Please state your name and current place of employment.

A: My given name is Phyllis McEldowney, but I'm also known as Holly. I work for the Department of Land and Natural Resources, Division of State Parks.

Q: What is your job title?

A: Principal Archaeologist.

Q: How long have you worked for the Division of State Parks as an archaeologist?

A: 14 years.

Q: Are you authorized to represent the State of Hawai'i, Department of Land and Natural

Resources, Division of State Parks for purposes of this testimony?

A: Yes.

Q: How long have you been an archaeologist?

A: I received my Ph.D. in Archaeology 20 years ago but worked in the field in various capacities and intermittently for 26 years before that.

Q: What do archaeologists working in the Division of State Parks do?

A: Archaeologists within the State Parks Division are part of the Interpretive Program. This program provides services needed to manage State natural and cultural resources found within the Division's jurisdiction and to interpret these resources for the education and benefit of park visitors and users. Conducting field and library research is an important part of providing these services.

The Program also provides technical assistance to the Resource Management and Development Branches of the Division, primarily to insure that potential impacts to the Parks' natural and cultural resources are appropriately considered when management and development decisions are being made and implemented.

Q: Have you researched historical property in Hawai'i before?

A: Yes.

As part of my job as a principal archaeologist, I am frequently tasked with the responsibility of identifying and compiling historical documents pertaining to the Parks and using the information they contain to understand the historical background of the parks, the significance of park resources, and themes to be used when developing interpretive plans, brochures, and other informational projects.

Q: Were you asked to assist in the Division of State Parks' application to the Commission on Water Resource Management's proceedings regarding Na Wai Eha appurtenant rights and the surface water use permit applications on Maui under CCH-MA 15-01?

A: Yes.

Q: Which state park property did the application involve?

A: 'Īao Valley State Monument. It was also known as the 'Īao Valley State Park in the past and is still frequently called this in common usage. The names are often used fairly interchangeably. The titles of the parks are based on official state park nomenclature (e.g., monument, park, historic site, wayside, etc.) developed primarily to give visitors a general idea of what type of facility or property to expect.

Q: Did you do any research on the usage of water in ʻĪao Valley State Park as part of the State Parks application for appurtenant and surface water rights? What, if anything, did you do?

A: Yes. I had previously gathered historical background information on the park for another project so I already knew that a Land Commission Award (LCA) was located within ʻĪao Valley State Park and that there had been a water rights case between Territory of Hawai'i and Wailuku Sugar Company involving this LCA beginning in 1908.

To address the State Parks appurtenant and surface water rights application, I expanded my search of historical documents to the State Archives, the Department of Land and Natural Resources Land Division and State Parks, the Department of Accounting and the General Services State Survey Division, the Library of Congress online newspaper archives called Chronicling America, and the Hawaiian Historical Society.

Q: What did you do regarding the application?

A: I prepared a Re-submitted Application for Provisional Recognition of Appurtenant Rights in the Na Wai Eha surface water management area to the State Water Resource Commission (CWRM). The State Parks' initial application had been rejected due to errors in the tax map key (TMK) no. location and failure to show that the State of Hawaii had grounds for an appurtenant rights claim.

Q: In preparing this written testimony, did you also examine the labeled exhibits on the State Parks Exhibit List under CCH-MA 15-01?

A: Yes. Exhibit 2304-DLNR-1 is a copy of the re-submitted application which I filed with the Water Commission in November of 2014.

Q: Do you recognize the exhibits in the State Parks Exhibit List?

A: Yes. I was the person that found most of the deeds relating to the State Park.

Q: Is Exhibit 2304-DLNR-1 a fair representation of excerpts of the re-submitted DLNR State Parks' application in these proceedings?

A: Yes. It was submitted during the provisional recognition of appurtenant rights phase.

Q: What is in Exhibit 2304-DLNR-1?

A: The cover letter explains the error in TMK. The first figure (internally marked as my Exhibit 1 within State Parks' Exhibit 2304-DLNR-1) is a copy of the original January 7, 1854 Land Commission Award (LCA) no. 3529 to Hana. The description in the LCA includes 3 apana. Only Apana 1 – labeled as a multi-sided figure – is relevant to the

appurtenant rights from LCA 3529 for lands under ʻĪao Valley State Park.

Q: From your research, how does the State of Hawaiʻi own the land for ʻĪao Valley State Park?

A: The ownership of the lands that are part of the park is reflected in Executive Order (EO) No. 2926 which set aside the lands for ʻĪao Valley State Park to the Department of Land and Natural Resources, Division of State Parks, on May 11, 1978.

Q: What amount of area is in the state park?

A: A little over 6 acres.

Q: Is a copy of Executive Order No. 2926 labeled as Exhibit 2304-DLNR-2 on the State Parks Exhibit List for these proceedings?

A: Yes.

Q: What does Executive Order No. 2926 indicate?

A: Executive Order (EO) No. 2926 which set aside state lands for the public purpose of establishing the ʻĪao Valley State Park under the management of the Department of Land and Natural Resources, Division of State Parks, on May 11, 1978.

Q: What lands are set aside in Executive Order No. 2926?

A: EO 2926 lists a May 11, 1899 deed of Royal Patent 4059, LCA 3529, Apana 1 to Hana by a deed from John W. Kalua to the Minister of the Interior, recorded under Liber 194, pages 483-484; Land Office Deed (LOD) 681.

There are also five deeds listed on C.S.F. No. 18,293 of May 11, 1978, which were portions of Grant 3343 to Claus Spreckels. Their recordation numbers and LOD numbers are listed as deeds 2.a. to 2.e. on Exhibit "A" to EO 2926.

Q: Which lands are those deeded by John W. Kalua?

A: The lands are 1.45 acres that are derived from Land Commission Award (LCA) no. 3529, Apana 1 to Hana, awarded on January 7, 1854 and is labeled as Exhibit 2304-DLNR-3.

Q: What is State Parks Exhibit 2304-DLNR-4?

A: The 1899 deed from John W. Kalua of LCA no. 3529, Apana 1 to Hana to the Hawaiian Government.

Q: What evidence is there that kalo was grown on the ʻĪao Valley State Park property at the

time of the Land Commission Award?

A: Land Commission Award (LCA) no. 3529 states that Apana 1 is in the ʻili of Kahua and that the award is said to be "kalo" land.

I also found documents in the State Archives regarding foreign testimony given before the Land Commission prior to confirmation of Hana's application. The testimony was for both Apana 1 and 2 of the LCA.

A transcript from the State Archives (internally marked as my Exhibit 2 and summarized in my Exhibit 4 in State Parks Exhibit 2304-DLNR-1) indicated that Kuahine – testified that two pieces (apana) of Hana's claim are for land in Wailuku, Maui.

The witness, Kuahine, testified that "[Apana] 1 is a kalo land in Kahua" and that "[Apana] 2 is a kalo land in Kahiki."

There is also evidence that kalo was grown in other areas nearby Apana 1. (See my Exhibits 4-8 in State Parks Exhibit 2304-DLNR-1.)

Q: How large are Apana 2 and Apana 3?

A: Apana 2 is 2.53 acres, Apana 3 is 0.46 acre.

Q: What evidence is there that kalo was grown on the ʻĪao Valley State Park property in any other portion of the park that was not part of Apana 1 to Hana?

A: Almost the entire park has been heavily modified, beginning with construction of ʻĪao Valley Road and turnaround area in 1906 to the existing park infrastructure developed subsequently.

Stone wall features believed to represent portions of an agricultural complex have been recorded twice. The first was in an archaeological survey conducted in 1975 prior to construction of the park's upper, elevated access loop and parking area. In 2012, another State Parks archaeologist, Martha Yent, and I conducted a field inspection of areas adjacent to the park's clearly altered areas and steep embankments. We found a series of stone alignments on the river bench ma uka of the confluence of Kinihāpai and Wailuku River. The features resembled those found in 1975. In both cases, some of the features are interpreted to have been irrigated kalo patches based on there being leveled areas of soil faced with downslope retaining walls.

Q: Were your findings on the park property, aside from Apana 1, consistent with other loʻi kalo that you indicated was near the ʻĪao Valley State Park property (your Exhibits 4-8 in Exhibit 2304-DLNR-1)?

A: Yes, the features found were in general, consistent with other loʻi kalo.

Q: What did you find out about the chain of title in LCA 3529, Apana 1 to Hana?

A: State Parks requested assistance from DLNR Land Division's State Abstractor, Ernest (Mahoe) Collins. He recently prepared a report that included the deeds of grant showing a chain of title between LCA 3529, Apana 1 to Hana, and the 1899 deed by John W. Kalua of the same lands to the Minister of the Interior, his successors and assigns (i.e., the Hawaiian Government).

Those intermediate deeds of grant from the award of LCA 3529, Apana 1 to Hana are attached as Exhibit 2304-DLNR-5a to 2304-DLNR-5d.

Q: Is Wailuku Sugar Company mentioned as part of the chain of title for LCA 3529, Apana 1 to Hana?

A: No.

Q: Are the deeds 2.a. to 2.e. listed in EO 2926, the same as Exhibits 2304-DLNR-6a to 2304-DLNR-6e on the State Parks Exhibit List?

A: Yes. The recordation and Land Office Deed (LOD) numbers match those in the EO.

Q: Did the latter five deeds list Wailuku Sugar Company as the grantor of lands to the State (or the State's predecessor in interest)?

A: Generally, yes.

The deed in 2.a. was a 1907 deed from Wailuku Sugar Company to the Territory for a strip of land that was primarily a roadway extension of 'Iao Valley Road. Wailuku Sugar Company did not reserve the water rights in this deed.

The 1961 deed in 2.b. was the largest parcel from Wailuku Sugar Company to the State.

The 1964 deed from Wailuku Sugar Company in 2.c. is for a water tank site adjacent to Apana 1 to Hana. Deed 2.d. is from the County of Maui but mentions a reservation of water rights to Wailuku Sugar Company so the land – part of the park parking lot – so may have been obtained by the County via Wailuku Sugar Company because there is the reservation to that third party on the deed.

Q: What, if anything, did the deeds in 2.a. to 2.e. (Exhibits 2304-DLNR-6a to 2304-DLNR-6e) state regarding water rights?

A: The 1907 deed (2.a.) was from Wailuku Sugar Company, Limited to the Territory of Hawaii, which granted back Wailuku Sugar Company, an easement for flumes and ditches but did not otherwise reserve any water rights to Wailuku Sugar Company.

The 1961 "gift deed" (2.b.) from Wailuku Sugar Company to the State of Hawaii is for the largest grant in the southernmost portion of the state park, including overlap of most of Apana 1, as well as overlap of portions of the 1907, 1963, 1964 (but not the tank site), 1974, and 1975 deeds from the same grantor, Wailuku Sugar Company.

The 1961 deed reserves all water rights of the grant to the Wailuku Sugar Company, and a certain compromise agreement with H C & S, also reserving water rights.

By its own terms, the 1961 deed purportedly "merged in and extinguished" the rights in the Grantee of "lands containing said area of 3.853 acres" including the small portion of overlap in the 1907 deed. [See recordation page 244 of Exhibit 2304-DLNR-6b.]

Q: What do the remaining deeds 2.c. to 2.e. (Exhibits 2304-DLNR-6c to 2304-DLNR-6e) state regarding water rights to the Wailuku Sugar Company?

A: They reserve water rights to the Wailuku Sugar Company.

Q: In the re-submitted application for provisional recognition, the tax map key number is (2) 3-3-03:012 but the prior tax map key number for the State's application also indicated (2) 3-3-03:013. Which is it?

A: As you know, tax map key information are not usually relied upon for property descriptions. Instead a survey is required. In this case, a survey of the Ahupua'a of Wailuku was done in 1882 by Monsarrat, who located LCA 3529, Apana 1 as a separate stand-alone parcel.

The tax map plat also depicts Apana 1 as a separate parcel from the grants for the 'Īao Valley State Park, and gives each separate parcel numbers. If the tax map is relied on, then the parcel numbers should be TMK no. (2) 3-3-03:013 (for Apana 1), and TMK no. (2) 3-3-03:012 (State Parks property), but the "two" parcels are shown as a unified whole according to the C.S.F. map in EO 2026.

Until the question is resolved by State Survey, either or both TMK parcel numbers 012 and 013 appear to be correct.

Q: Is Exhibit 2304-DLNR-8 a portion of the 1882 Survey Map of that Ahupua'a of Wailuku by Monsarrat?

A: Yes.

Q: Is Exhibit 22 in Exhibit 2304-DLNR-1 a copy of the tax map plat that you used to determine the tax map key number for the State Park parcel?

A: Yes. I made a copy of a portion of the tax map plat for the resubmitted application.

Q: Did you consult with the State Survey Division of the Department of Accounting and General Services about the overlap of boundaries of the deeds?

A: Yes. In particular, I discussed the overlap of Apana 1 to Hana with the deeds derived from the Grant 3433 to Claus Spreckels. We discussed an older survey done in 1882 by Monsarrat. That survey depicted Apana 1 to Hana as in a very different position than in EO 2926. Another map that was from Wailuku Sugar Company based on Monsarrat's survey also placed a portion of Apana 1 outside the park boundaries of the Spreckels grants from Wailuku Sugar Company.

Q: What did you find out from State Survey Division regarding the water rights indicated on EO 2926 and C.S.F. 18,293 map and description?

A: I met with Gerald Yonashiro and Ryan Morales of the State Survey Division and Barry Cheung from DLNR's Land Division. We looked at C.S.F. map 18,293 and agreed that the map does not appear to accurately represent placement in relation to the Spreckels deeds mentioned in the EO.

They agree, based on the information I showed them and their own files, that there is no indication that the State or any of its predecessors in interest to LCA 3529, Apana 1 to Hana relinquished title to the LCA or any of its entitlements or appurtenant rights.

Further, none of the deeds of Wailuku Sugar Company which purport to overlap the LCA actually ever mention the LCA. This means there was no agreement or disclosure that the LCA would somehow be assumed, relinquished, or superseded by the deeds of the 1960s or 1970s. This has a profound effect on how the Wailuku Sugar deeds – esp. the 1961 deed – should be interpreted.

Q: What did you conclude regarding the reservation of all water rights belonging or appurtenant to Wailuku Sugar Company?

A: Even with the phrase in the EO, "Reserving to Wailuku Sugar Company, … all rights belonging or appurtenant to the above-described parcel of land", Wailuku Sugar could not reserve water rights it never had.

Q: Did you also find a Hawaii Territorial Survey map entitled "Iao Valley Water Rights" as HTS Plat 1079?

A: Yes. State Survey Division had a copy which was the same as that labeled as Exhibit 2304-DLNR-9.

Q: Given the names in the HTS Plat 1079 map, how are these streams oriented in relation to the ʻĪao Valley State Park?

A: From HTS Plat 1079, Kinihapai Stream crosses the southwestern portion of the park below (southwest of) the present botanical garden, and ʻĪao Stream runs northeast along the park boundary before it merges with Kinihapai Stream.

The merged streams have been known as ʻĪao River (and is depicted as ʻĪao Stream on some maps) but recently it was officially re-named Wailuku River, an older name that was re-instituted.

Q: How does the ʻĪao Valley State Park get its water for present-day kalo?

A: There is currently loʻi kalo (or taro patches) located on the ʻĪao Valley State Park property in the park's botanical garden. They are currently lying fallow and are not planted in kalo. The water for the kalo comes from Kinihapai Stream, which crosses the property.

There may have also been ʻauwai from Kinihāpai Stream for kalo in the past or they were watered from a small stream running through the property.

Q: What evidence did you find regarding historical water usage on the ʻĪao Valley State Park property at the time of the LCA?

A: I found newspaper articles in the Library of Congress online archives regarding a water lawsuit by Wailuku Sugar Company against the Territory and the County of Maui.

Wailuku Sugar sought to enjoin the taking of water at LCA 3529, Apana 1 to Hana (Royal Patent 4059) which was stored in a reservoir and allegedly sent via pipeline for domestic needs of Maui County, including the towns of Wailuku and even Kahului.

Wailuku Sugar Company said that the Territory's 1.45 acre parcel of Apana 1 was only entitled to a much smaller amount of water than was taken.

Eventually a settlement was reached in which the County and Territory sold water rights at nominal cost to Wailuku Sugar Company by agreement, and the County purchased water from Wailuku Sugar Company.

Q: When did this take place?

A: The lawsuit was filed on August 29, 1908 as Equity no. 1634. *See* State Parks Exhibit 2304-DLNR-10.

Newspaper articles following the lawsuit and subsequent settlement are as Exhibits 10-A, 10-B, 11, and 12 which are in State Parks Exhibit 2304-DLNR-1.

Q: Was there any information that was helpful in determining how much water usage was needed for kalo at the ʻIao Valley State Park site?

A: Yes. The equity case was reported in a newspaper which recited portions of the Wailuku Sugar Company's Bill of Complaint in Equity case no. 1634. According to the Complainant, approximately fifty-four years after the LCA, Apana 1 had approximately three-fourths of an acre growing in kalo.

Also, the Complaint stated that Apana 1 was entitled to no more that 20,000 gallons per twenty-four hours.

Q: Was there any information regarding the water requirements for kalo in your sources?

A: The Maui News reported that the parties in Wailuku Sugar Company's equity suit agreed that "thirty thousand gallons per twenty-four hours shall be the amount of water allowed for the water right of each acre of taro land now owned or leased by the County of Maui." This is in my exhibit 11 of Exhibit 2304-DLNR-1.

If this figure were applied to the three-fourths acre of kalo that Wailuku Sugar Company agreed was being grown at the Park's Apana 1, then the water for kalo should be 22,500 gallons per day (i.e., 30,000 x .75 = 22,500).

Q: How does that compare with contemporary measurements of water flow to the park lo'i kalo?

A: Since the water source to the lo'i is currently dry, I spoke with Dean Uyeno and Ayron Strauch, who are staff hydrologists with the Commission on Water Resource Management (CWRM). They had photos that were taken of the water diversion for the park lo'i kalo when it was being supplied with stream water in July of 2010.

Q: What does Exhibit 2304-DLNR-11 depict?

A: It is a series of photos that I received from CWRM hydrologist Dean Uyeno of his observations of water supplying the park lo'i kalo on July 7, 2010. Water from Kinihapai Stream is drawn into an intake in Figure 1. Figure 3 shows the water as it exits a four-inch PVC pipe into the upper portion of the park botanical garden at the lo'i kalo.

From there water flows through the roughly five lo'i kalo, gravity-fed via ditches and pipes, finally exiting via a gully into Wailuku River.

Q: Was there an estimate of the water flow entering the lo'i kalo in 2010?

A: Ayron Strauch made an estimate of the water flow based on there being a four-inch PVC pipe feeding the lo'i. His assumptions and calculations are very rough since they included the loss of head (water pressure linked to elevation) from the estimates on elevation change from where the water is piped into the lo'i.

I don't fully understand the formula he used for the calculation, but the assumptions were based on guesses at a 100-foot head loss to a 20-foot head loss over the distance of a 550-foot 4-inch diameter PVC pipe.

Based on the formula, he arrived at a flow velocity of approximately 23.77 ft/s or 2.074 cfs for the pipe. Considering a 50 foot head loss, the adjusted flow is 1.427 cfs. Had it been a 20-foot head loss, the flow velocity is 9.967 ft/s or 0.8697 cfs.

Flow of 0.8697 cubic feet per second equates to 562,102 gallons per day (GPD) or about 390.35 gallons per minute (GPM).

Q: What is the average rainfall for the portion of 'Iao valley with the park?

A: The 2012 "Online Rainfall Atlas of Hawaii" published in the Bulletin of the American Meteorological Society (by Giambelluca et al.) says the current annual rainfall at the park averages 103 inches while averages across the upper valley vary from 140 to 320 inches annually. As is typical of Hawaii's windward exposures, rainfall rates are higher between November and April (i.e., 11 to 13 inches monthly) and lower between May and October (i.e., 4.5 and 6.7 inches monthly).

Q: Does this complete your written direct testimony?

A: Yes.

I declare under penalty of law that the foregoing is true and correct.

DATED: Honolulu, Hawaii FEB - 5 2016.

Phyllis H. McEldowney

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STATE OF HAWAI'I
DIVISION OF STATE PARKS

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAI'I

Surface Water Use Permit Applications, 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	Case No. CCH-MA 15-01 WRITTEN DIRECT TESTIMONY OF RUSSELL P. KUMABE

WRITTEN DIRECT TESTIMONY OF RUSSELL P. KUMABE

Q: Please state your name and current place of employment.

A: My name is Russell Kumabe. I work for the Department of Land and Natural Resources, Division of State Parks.

Q: What is your job title?

A: I am a State Parks Planner, Chief of the Planning and Development Branch.

Q: How long have you worked for the Division of State Parks in that capacity?

A: 12 years.

Q: As part of your duties with the Planning and Development Branch, are you familiar with

the ʻĪao Valley State Monument, also known as ʻĪao Valley State Park, on Maui Island?

A: Yes.

Q: What does the park consist of?

A: It includes sanitation facilities, a scenic viewpoint for ʻĪao Needle, a walking path, botanical garden, interpretive display panels, parking area, and water tank.

The park was recently closed for renovations to install a new events trailer comfort station, and re-opened as of January 23, 2016.

Q: Does your knowledge of the ʻĪao Valley State Park extend to the water system for the park?

A: Yes.

Q: What is the source of water for the park, generally?

A: Most of the water currently comes from rainfall which allows the park natural maintenance of the park facility including the plants in the botanical garden.

Q: Are there any other sources of water used at the ʻĪao Valley State Park?

A: Yes. The park uses a very small amount of water from the County of Maui, Department of Water Supply, pumped up to the water tank on the property and used for washdown purposes of the sanitation facilities.

Q: What is amount of water is used from the County water supply for the park?

A: We are billed at a minimum amount (about eighty dollars a month) – often showing less usage than would register for the thousand gallons of use per month. In the past annual period, only two months even had a number (i.e., 1) in the column, while the rest showed zero (in thousands of gallons of usage).

Q: Are you aware of any water used to grow kalo (or taro) on the park property?

A: Yes. There is a place for kalo loʻi in the botanical garden, but otherwise no other places in the park.

Q: What is the reason that kalo is grown on the park property?

A: It is a demonstration project to show visitors what it looks like, how it is grown, and its importance in Hawaiian culture.

Q: What is the current status of the kalo lo'i?

A: It is lying fallow because the water source inlet from the stream is currently above the level of the stream, and has been for over a year – at least since December of 2014.

Our park curator drained the lo'i intending to add compost. He has been maintaining the lo'i by tilling the soil and turning over the grass that has been growing there since the lo'i were drained.

Q: Where is the water inlet located?

A: On Kinihapai Stream which runs across the park property.

On January 12, 2016, I took a photo of the inlet showing the PVC pipe which is about seven feet above the level of the stream, so no water is flowing.

Q: Are you familiar with a series of photos taken by CWRM hydrologist Dean Uyeno in July of 2010, labeled as Exhibit 2304-DLNR-11?

A: Yes.

Q: Are the photos a fair and accurate representation of the lo'i kalo water system in 'Īao Valley State Park?

A: Yes. I've seen the botanical garden when kalo is being grown and they are very accurate in depicting the system.

Q: Exhibit 2304-DLNR-12 shows a garden with a bridge, several switchback trails, and a PVC pipe in a stone wall in the foreground, that appears to empty into a small garden. Are you familiar with it?

A: Yes. I took the photo on January 12, 2016. Water that would feed the lo'i kalo comes into the garden flowing from a pipe that is located behind the bare plumeria tree in the picture. When the kalo is being grown, the water flows from the first lo'i and is connected by gravity flow through the pipe system to other lo'i kalo in the garden.

Q: Where is the outlet or effluent to the botanical garden lo'i kalo located (e.g., which stream does it go to)?

A: When in operation, the water from the lo'i drains through the pipe system, eventually going out to the stream downstream of the point at which Kinihapai and 'Īao Stream merge.

Q: Are there currently any other sources of water to the botanical garden?

A: No. The plants in the park are maintained by rainfall and any runoff in the park.

Q: Does the park have access to well water?

A: None nearby that I'm aware of.

Q: Are there any other neighboring properties upstream from either Kinihapai Stream or ʻĪao Stream?

A: There are no other structures above or upstream from the park property, although some of the land above may be owned by Wailuku Water Company.

Q: Is there any recycled wastewater available for use on the property?

A: I don't know of any source of recycled wastewater anywhere nearby the park.

Currently there are no plans by State Parks to use recycled wastewater, even if it were available since the garden is a demonstration garden, and the chance of affecting medicinal or edible plants – esp. kalo – and of discharge into stream water with potentially potable uses and stream life could pose a health hazard.

Q: Does this complete your written direct testimony?

A: Yes.

I declare under penalty of law that the foregoing is true and correct.

DATED: Honolulu, Hawai'i 2/5/2016.

RUSSELL P. KUMABE

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DIVISION OF STATE PARKS

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAI'I

Surface Water Use Permit Applications, 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	Case No. CCH-MA 15-01 WRITTEN DIRECT TESTIMONY OF E. MAHOE COLLINS

WRITTEN DIRECT TESTIMONY OF E. MAHOE COLLINS

Q: Please state your name and current place of employment.

A: My name is E. Mahoe Collins. I work for the Department of Land and Natural Resources, Land Division as the State Abstractor.

Q: How long have you worked for the DLNR Land Division in that capacity?

A: 24 years. Since 1992.

Q: What are your responsibilities as State Abstractor?

A: My responsibilities include researching and reporting on the government's interests in and to any and all real property in the State of Hawai'i, wherein an investigation of evidence as to the chain of title and ownership of lands is conducted, commencing with the 1848

Mahele.

Prior to my employment with the State of Hawai'i, I was employed at Security Title Corporation as a Title Abstractor, "long searcher," researching the chain of title to private properties from the Mahele forward to the date of search.

As part of my duties with the DLNR, I also translate documents written in the Hawaiian Language. I read, write, and speak Hawaiian.

Q: What is your educational background?

A: I have an Associate of Arts degree from Windward Community College with an emphasis on studies focused on the Hawaiian Language, and have taken courses at the University of Hawai'i at Manoa in secondary education, Hawaiian language.

I also taught the Hawaiian language in the Department of Education Program for three years.

Q: Have you previously been qualified as an expert in the courts of the State of Hawai'i before?

A: Yes. I was qualified and testified in the Circuit Court as an expert in abstracting title to land in Hawai'i and translating the Hawaiian language in *Joseph Sugarman v. Heirs & Assigns of Kanao, et al.*, Civil No. 93-0815(2); *Maui Land & Pineapple Co. Inc. v. J.A. Nahaku, et al.*, Civil No. 88-0068(3): and *Keith Scott Douglas, Trustee, et al. v. State of Hawaii, et al.*, Civil No. 02-1-0006(3).

Q: Were you asked to research the State of Hawai'i's ownership in the 'Īao Valley State Park property in relation to the Na Wai Eha Water Commission proceedings?

A: Yes.

Q: Did you write a report of your findings which is labeled as Exhibit 2304-DLNR-7?

A: Yes. My report is specifically in regard to the derivation of title to Land Commission Award no. 3529, Apana 1 to Hana. I checked the files in Land Division, State Survey Office, the State Archives, and the Bureau of Conveyances.

Q: What did you find?

A: I found the Land Commission Award no. 3529, dated January 7, 1854 giving the fee title to Hana for the claim for three parcels in the Ahupuaa of Wailuku, including Apana 1.

The award for Apana 1 describes it as kalo land in the Ili of Kahua, and containing 1.45 acres. My translation of the boundaries of Apana 1 indicate measurements "along the

Pali" and in three courses, "along the Pali & Stream" which indicate a stream is alongside the subject property.

A Royal Patent (No. 4059) was given on June 23, 1858 for the subject kalo land as surveyed, and which was confirmed in absolute fee simple.

Several deeds (which I had certified and now are labeled as Exhibits 2304-DLNR-5a to 2304-DLNR-5d) show the chain of title between Hana to the deed by John W. Kalua to the Hawaiian Government on May 11, 1899. I also provided a translation of the deeds from Hawaiian to English.

Although I could not find a deed of title from Hana to the next grantor (Pa), records show no transfers or conveyances by Hana, nor any transfers or conveyances to Pa.

Q: What, if anything, is your opinion regarding ownership of LCA no. 3529, Apana 1 to Hana for the ʻĪao Valley State Park?

A: I concluded that the State of Hawaii owns the subject property, from Land Commission Award no. 3529, Apana 1 to Hana.

Q: Does this complete your written direct testimony?

A: Yes.

I declare under penalty of law that the foregoing is true and correct.

DATED: Honolulu, Hawai'i 5 February 2016.

E. Mahoe Collins

E. MAHOE COLLINS

NEIL ABERCROMBIE
GOVERNOR OF HAWAII

WILLIAM J. AILA, JR.
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COMMISSION ON WATER RESOURCE MANAGEMENT

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AQUATIC RESOURCES
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CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

November 20, 2014

Commission on Water Resource Management
Department of Land and Natural Resources
State of Hawai'i
1151 Punchbowl Street, Room 227
Honolulu, HI 96813

Attn: William J. Aila, Jr., Chairperson
William M. Tam, Water Deputy Director
CWRM Staff

Re: Re-submitted Application for Provisional Recognition of Appurtenant Rights
Na Wai Eha Surface Water Management Area, Waihe'e, Waiehu, 'Īao, and
Waikapu Streams, Maui, Hawai'i

Hearing: Friday, November 21, 2014
Kahului Community Center
275 Uhu Street
Kahului, Maui, HI 96732

Enclosed please find our re-submitted application (Form SWUPA-E) for Na Wai Eha, Maui, as had previously been submitted on April 27, 2009, regarding that certain parcel of state land which includes the 'Īao Valley State Monument. Following the prior proceeding, the application was denied without prejudice due to erroneously citing the Tax Map Key (TMK) number and not providing appurtenant right documentation.

As part of this re-application, please find our corrected citation of the TMK no.: 3 - 3- 003: 012, and our documentation showing ownership of the subject property along with our claim for provisional recognition of appurtenant water rights under Land Commission Award 3529, particularly Apana 1 to Hana. We have included Executive Order No. 2926, dated August 21, 1978, which also includes the property description and map.

Although the description from the Department of Accounting and General Services Survey Division includes a purported and undocumented reference to a reservation of water rights to Wailuku Sugar Company, we are unaware of any such claim either asserted by Wailuku Sugar Company or its successors and assigns, or as ascertained by a court of law. As such, we are asserting our claim to appurtenant and surface water rights to the described property.

EXHIBIT 2304-DLNR-1

An objection to our application by Wailuku Water Company, LLC was received. The objection also cites the erroneous TMK number. It is unclear whether the objection is to another property than State Parks' property, as we can ascertain, we do not obtain our water via that water purveyor.

In the event that you wish further information, please contact our representative, Holly McEldowney at (808) 587-0307 for further information.

Sincerely yours,

Dan S. Quinn
Administrator
State Parks Division

Exhibit 1

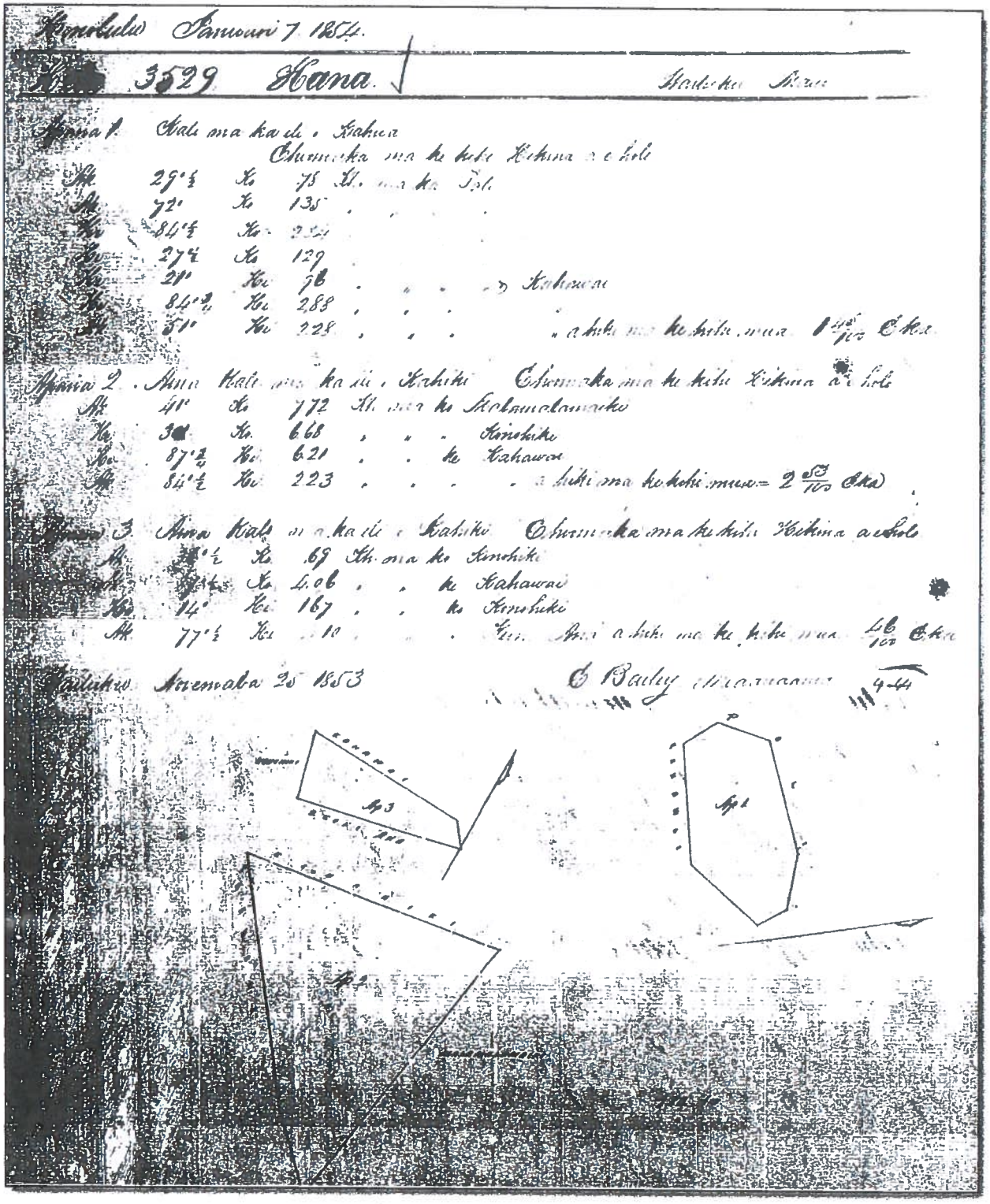
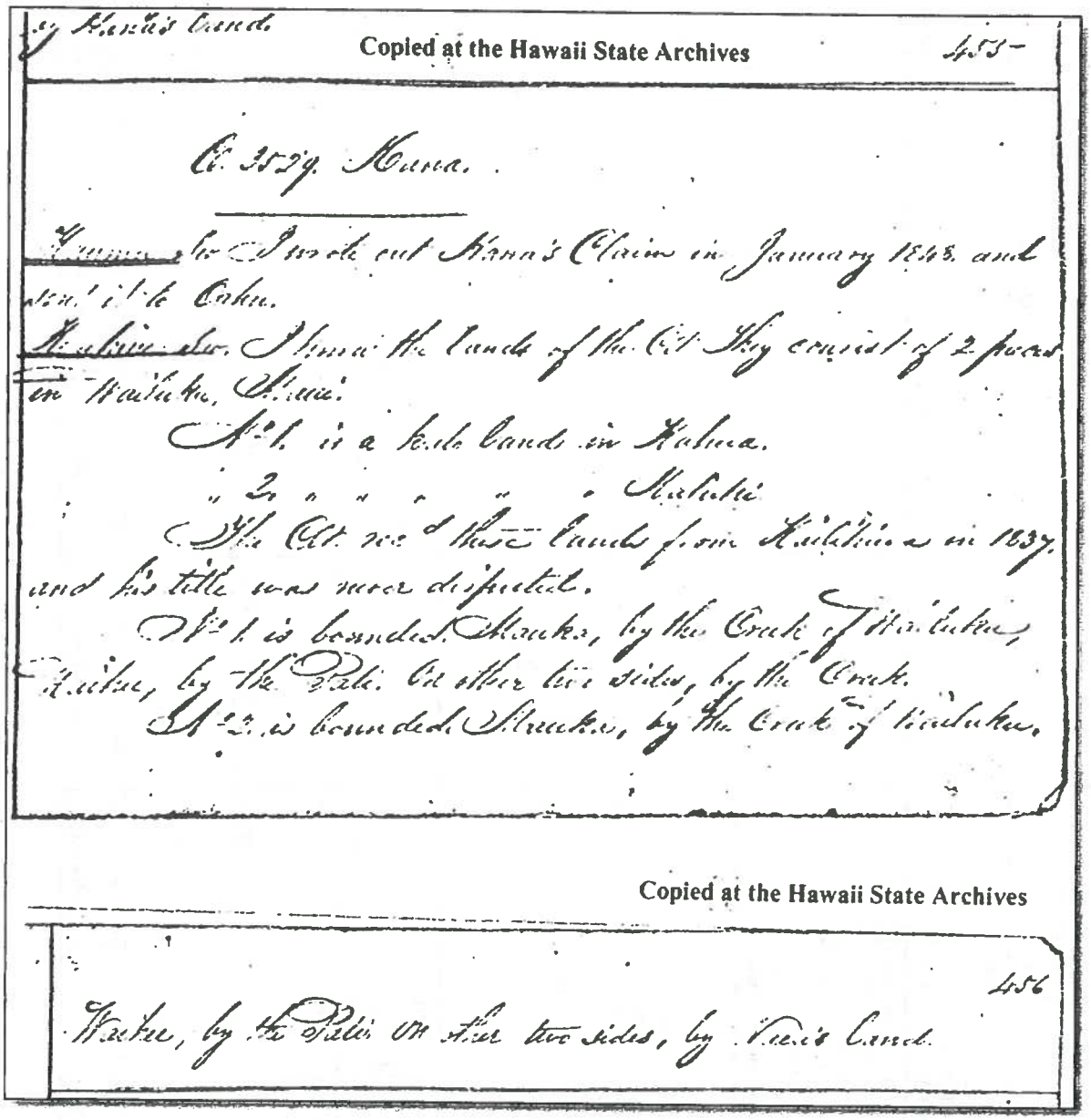


Exhibit 1: Land Commision Award 3529 Awarded to Hana in 1854. Apana 1 is most likely within, in whole or in part, the parcel currently set aside to the Division of State Parks. It is in the 'ili of Kahu and is said to be kalo land.

Exhibit 3



Copied at the Hawaii State Archives

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Cl. 3529. Hana.

Kauma sw. I wrote out Hana's Claim in January 1848. and sent it to Oahu.

Kuahine sw. I know the lands of the Clt. They consist of 2 pieces in Wailuku, Maui.

No. 1. is a kalo land in Kahua.

" 2. " " " " " Kaluki

The Clt. rec.d these lands from Kailihiwa in 1837. and his title was never disputed.

No. 1. is bounded Mauka, by the Creek of Wailuku, Haiku, by the Pali. On other two sides, by the Creek.

No. 2. is bounded Mauka, by the Creek of Wailuku.

Copied at the Hawaii State Archives

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Waihee, by the Pali. On other two sides, by Nua's Land.

Exhibit 3: Foreign Testimony Given on Hana's Claim to LCA 3529 (Vol. 7, pp. 455-56). A transcription follows:

Kauma [?] sw. I wrote out Hana's Claim in January 1848 and sent it to Oahu.

Kuahine sw. I know the land of the Clt. They consist of 2 pieces in Wailuku Maui.

No. 1 is a kalo land in Kahua

No. 2 is a kalo land in Kaluki

The Clt. rec.d these lands from Kailihiwa in 1837 and his title was never disputed.

No. 1 is bounded Mauka by the Creek of Wailuku, Haiku by the Pali. On the other side by the Creek.

No. 2 is bounded Mauka by the Creek of Wailuku, [page 456] Waihee by the Pali on the two sides by Nua's land.

Exhibit 4

Exhibit 4: Award to Hana (LCA 3529) in the ʻIli of Kahua and Kahiki. Information extracted from the different Land Commission Award documents.

Hana LCA 3529: 1, 2, and 3	Land Name	Use	Acquired	Testifier	Boundaries	Notes
Native Register [Not available]						
Native Testimony 1849 (Vol. 9, p. 642)						
Apana 1	Kahua (ʻIli)	ʻāina kalo	From Kailihiwa 1837	Kuahine	mauka: kahawai Waihe'e: pali makai: kahawai Mā'alaea: kahawai	Kaumauma wrote Hana's claim in Jan. 1848 and sent it to O'ahu (Foreign Testimony, Vol. 7:445)
Apana 2	Kahiki (ʻIli)	ʻāina kalo	From Kailihiwa 1837	Kuahine	mauka: kahawai Waihe'e: pali makai: Naea Mā'alaea: Naea (person)	
Foreign Testimony [1849] (Vol. 7, pp. 455-56)						LCA number preceded by "C". Date presumed same as Native Testimony
No. 1	Kahua	kalo land	From Kailihiwa 1837	Kuahine	mauka: Creek of Wailuku Haiku: pali other sides: creek	
No. 2	Kaluki [Kahiki]	kalo land	From Kailihiwa 1837	Kuahine	mauka: Creek of Wailuku Waihe'e: pali other sides: Naea's land	
Award 1853 (Vol. 7, p. 486)						
Apana 1	Kahua (ʻIli)	kalo			mauka corner-akau: pali ʻākau: pali hema: pali hema: pali hema: kahawai hema: kahawai ʻākau akau: kahawai	1.45 acres
Apana 2	Kahiki (ʻIli)	ʻāina kalo			ʻākau: Malamalamaiki hema: konohiki hema: kahawai ʻākau: kahawai	2.53 acres
Apana 3	Kahiki (ʻIli)	ʻāina kalo			ʻākau: konohiki ʻākau: kahawai hema: konohiki ʻākau: konohiki	0.46 acres

Exhibit 5

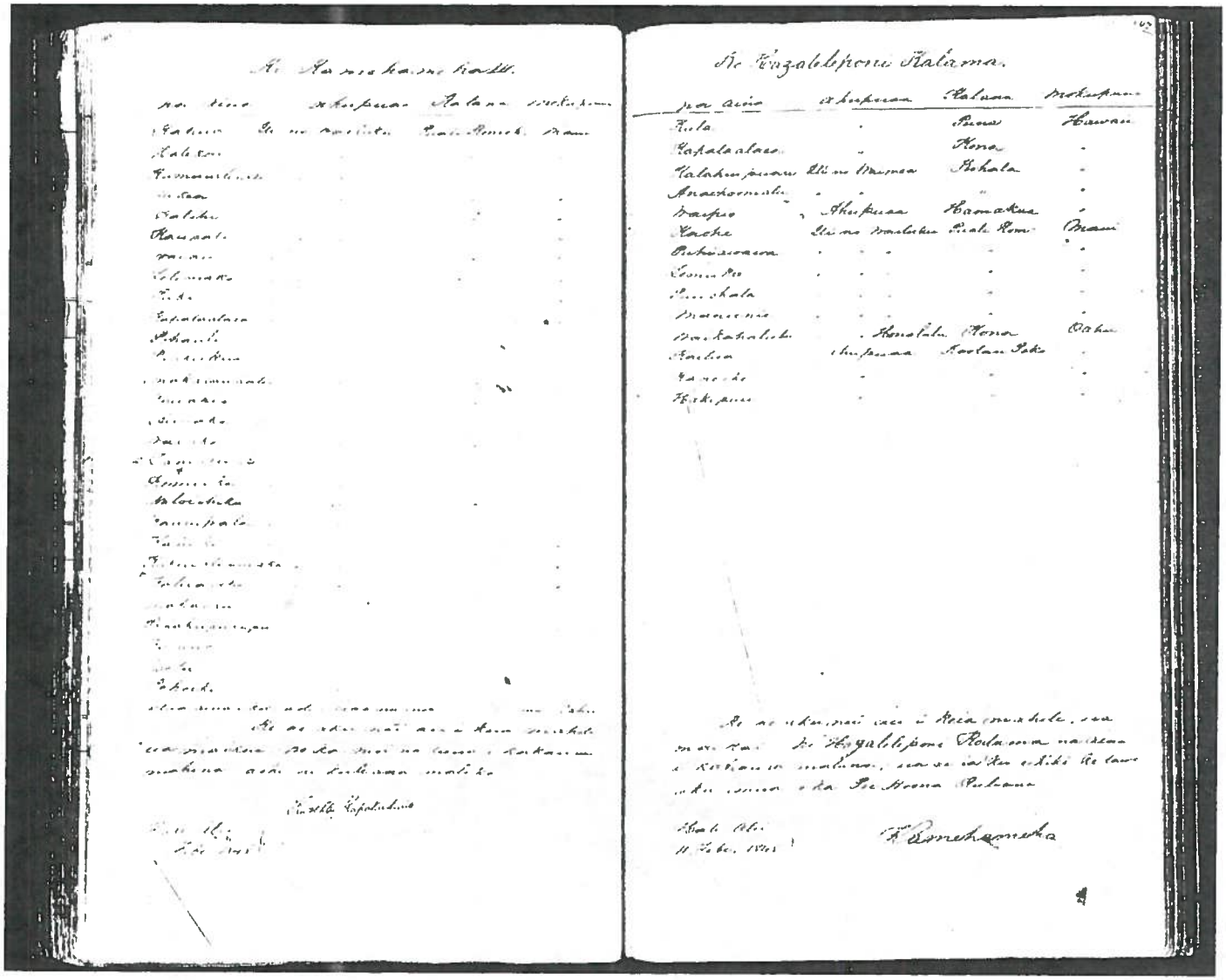


Exhibit 5: Record of Hakaleipoini Kalama Relinquishing Kahua, an 'Ili of Wailuku, to Kamehameha III during the Māhele of 1848. Kahua is the first 'ili listed on the page to the left (Hawai'i State Archives, *Buke Kakau Paa no ka mahele aina i Hooholoia i waena o Kamehameha III a me Na Lii a me Na Konohiki ana*, Hale Alii Honolulu, January 28, 1848 to March 7, 1848, page 147148). LCA 3529, Apana 1, awarded to Hana was in Kahua. This may indicated that lo'i kalo extended beyond Hana's claim and that others cultivated the area in support of Kalama.

EXHIBIT 6

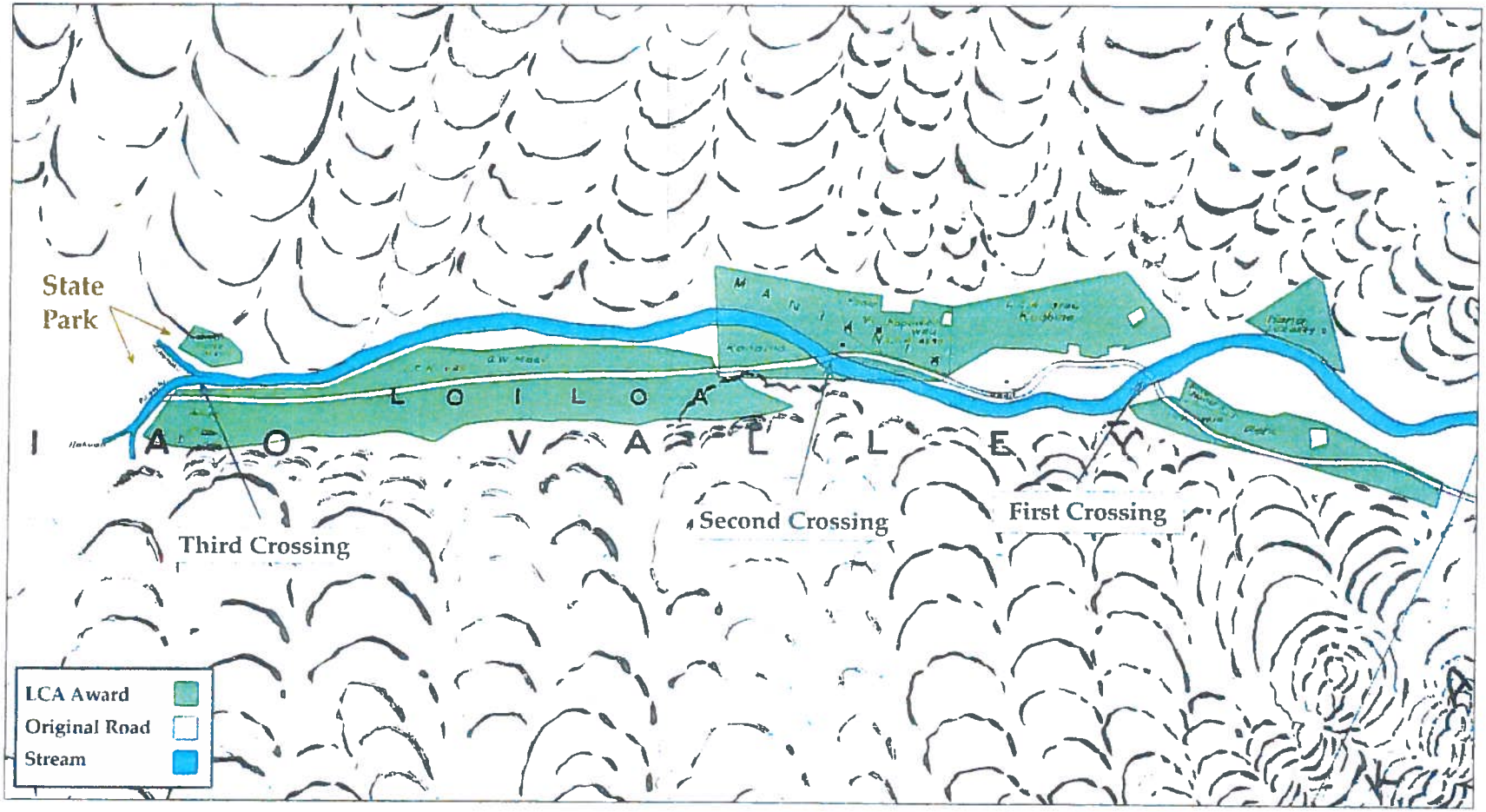


Exhibit 6: Land Commission Awards in Upper ʻĪao Valley Recorded between 1846 and 1853. The ma uka award to Hana is within the general location of ʻĪao Valley State Park. Note that the ma uka portion of the road was then on the opposite (southern) side of ʻĪao Stream when the base map was surveyed and prepared in 1882. The three river crossings so frequently referenced in historic records are identified.

EXHIBIT 7

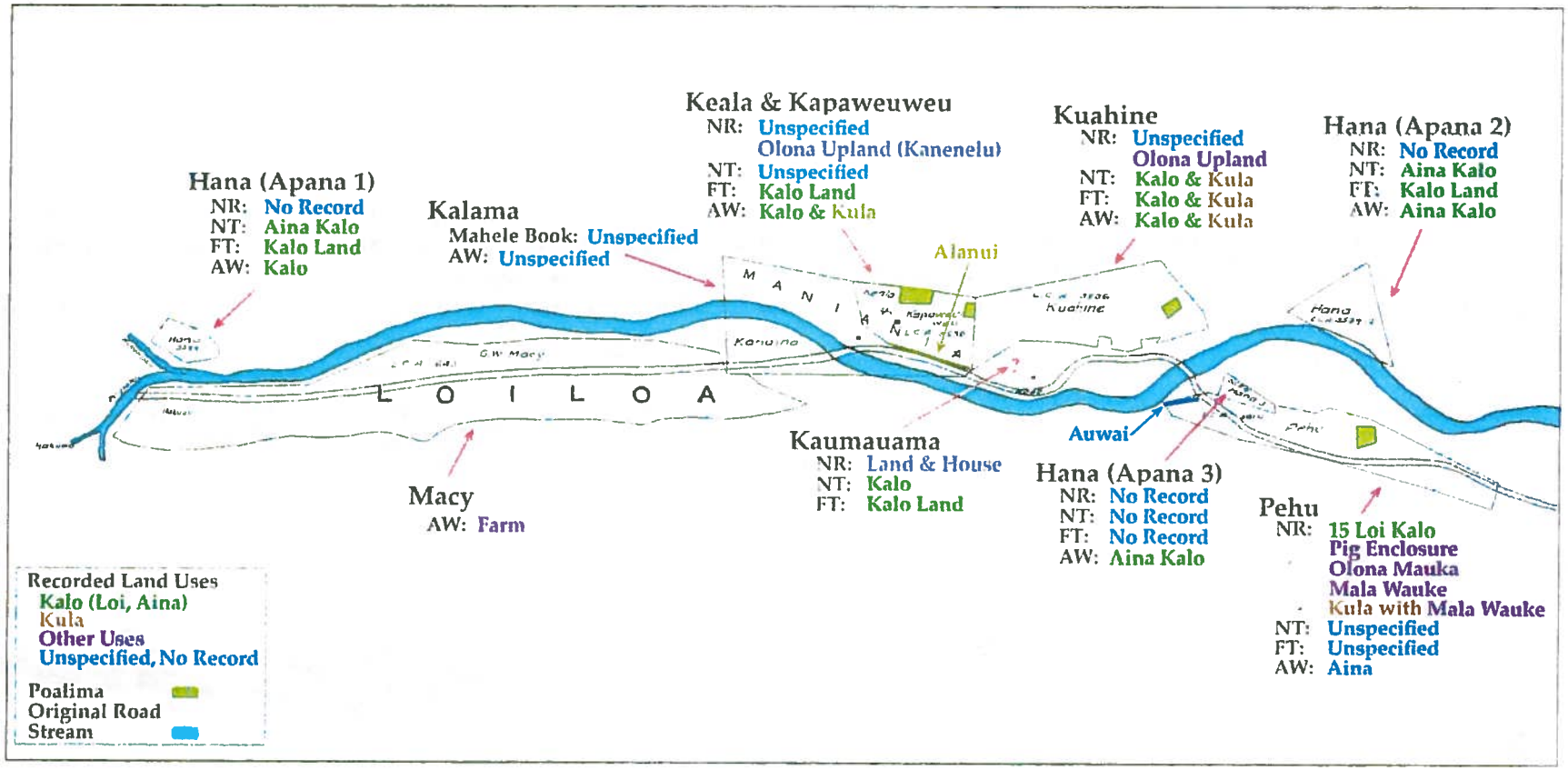


Exhibit 7: Land Use Information Extracted from Land Commission Records for Upper Portion ʻĪao Valley. Land uses, crops, resources, and features mentioned in LCA records are coded by color and listed by source type (NR for Native Register; NR for Native Testimony; FT for Foreign Testimony; Aw for Award; and Mahele Book). Portrayed is an area primarily dedicated to irrigated *kalo* cultivation but also includes cultivation of the *kula* (non-irrigated lands) and use of the upland for tending olonā. This supports the assumption that LCA 2529, Apana 1 was in irrigated kalo cultivation for a longtime.

EXHIBIT 8

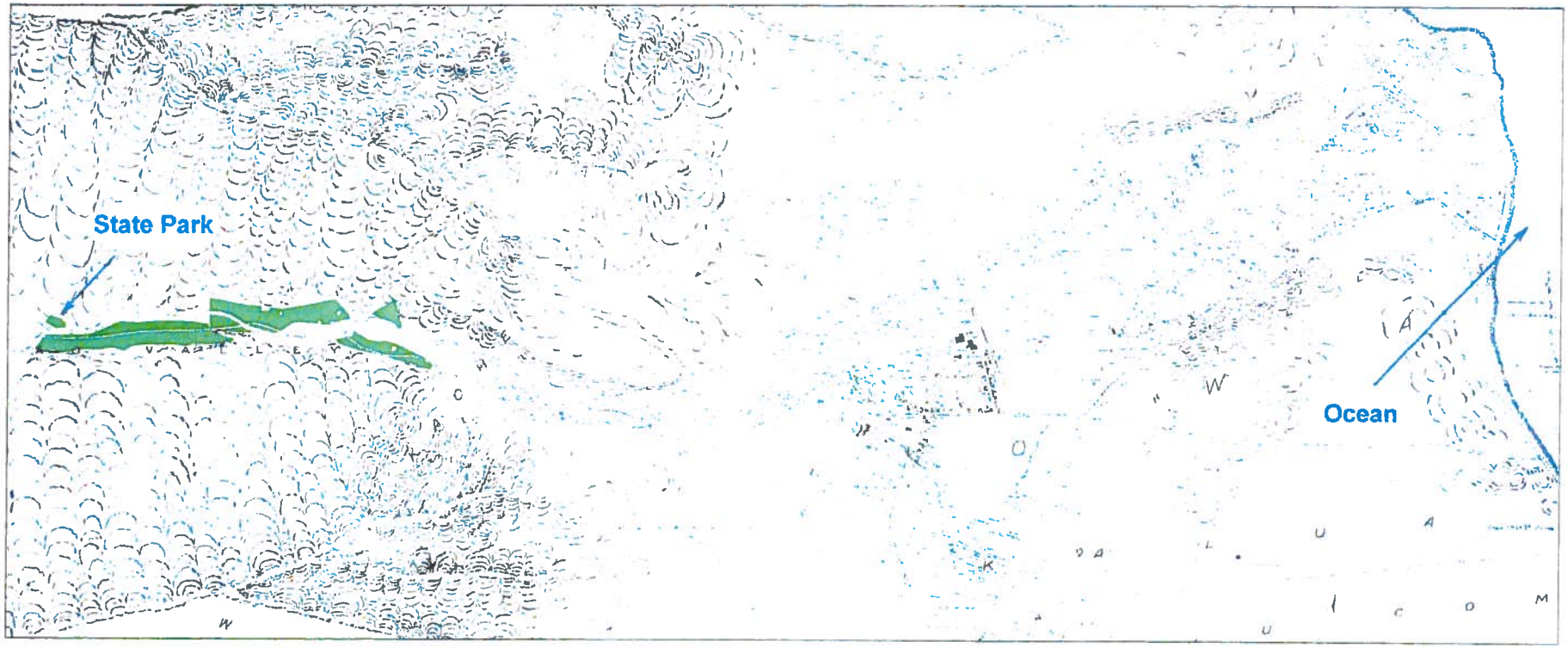
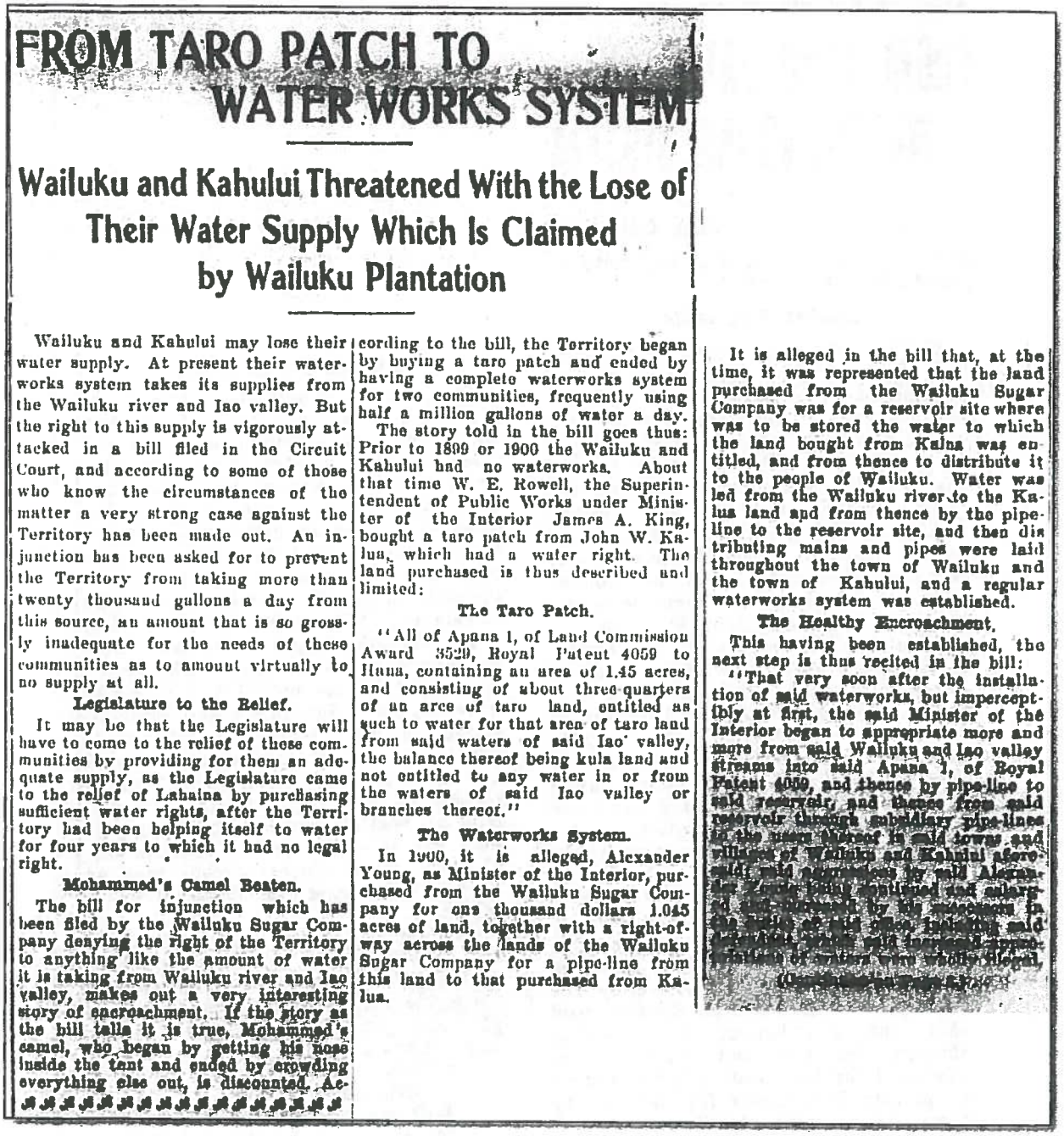


Exhibit 8: Land Commission Awards (LCA) along Wailuku River from Upper ʻĪao Valley to the Ocean as Mapped in 1882 (Monsarrat M.D. *Map of Portion of Wailuku, Maui*, Land Survey Division, Department of Accounting and General Services, Register Map 1261). LCAs in Upper ʻĪao Valley are highlighted in green. LCA 3529, Apana 1 to Hana is the inland-most award of this extensive, 4.5-miles long, irrigated kalo system that covered the river benches and broad stream channel of Wailuku River.

Exhibit 10-A



FROM TARO PATCH TO WATER WORKS SYSTEM

Wailuku and Kahului Threatened With the Lose of Their Water Supply Which Is Claimed by Wailuku Plantation

Wailuku and Kahului may lose their water supply. At present their waterworks system takes its supplies from the Wailuku river and Iao valley. But the right to this supply is vigorously attacked in a bill filed in the Circuit Court, and according to some of those who know the circumstances of the matter a very strong case against the Territory has been made out. An injunction has been asked for to prevent the Territory from taking more than twenty thousand gallons a day from this source, an amount that is so grossly inadequate for the needs of these communities as to amount virtually to no supply at all.

Legislature to the Relief.

It may be that the Legislature will have to come to the relief of these communities by providing for them an adequate supply, as the Legislature came to the relief of Lahaina by purchasing sufficient water rights, after the Territory had been helping itself to water for four years to which it had no legal right.

Mohammed's Camel Beaten.

The bill for injunction which has been filed by the Wailuku Sugar Company denying the right of the Territory to anything like the amount of water it is taking from Wailuku river and Iao valley, makes out a very interesting story of encroachment. If the story as the bill tells it is true, Mohammed's camel, who began by getting his nose inside the tent and ended by crowding everything else out, is discounted. According to the bill, the Territory began by buying a taro patch and ended by having a complete waterworks system for two communities, frequently using half a million gallons of water a day.

The story told in the bill goes thus: Prior to 1899 or 1900 the Wailuku and Kahului had no waterworks. About that time W. E. Rowell, the Superintendent of Public Works under Minister of the Interior James A. King, bought a taro patch from John W. Kalua, which had a water right. The land purchased is thus described and limited:

The Taro Patch.

"All of Apana 1, of Land Commission Award 3529, Royal Patent 4059 to Hana, containing an area of 1.45 acres, and consisting of about three-quarters of an arce of taro land, entitled as such to water for that area of taro land from said waters of said Iao valley, the balance thereof being kula land and not entitled to any water in or from the waters of said Iao valley or branches thereof."

The Waterworks System.

In 1900, it is alleged, Alexander Young, as Minister of the Interior, purchased from the Wailuku Sugar Company for one thousand dollars 1.045 acres of land, together with a right-of-way across the lands of the Wailuku Sugar Company for a pipe-line from this land to that purchased from Kalua.

It is alleged in the bill that, at the time, it was represented that the land purchased from the Wailuku Sugar Company was for a reservoir site where was to be stored the water to which the land bought from Kalua was entitled, and from thence to distribute it to the people of Wailuku. Water was led from the Wailuku river to the Kalua land and from thence by the pipe-line to the reservoir site, and then distributing mains and pipes were laid throughout the town of Wailuku and the town of Kahului, and a regular waterworks system was established.

The Healthy Encroachment.

This having been established, the next step is thus recited in the bill:

"That very soon after the installation of said waterworks, but imperceptibly at first, the said Minister of the Interior began to appropriate more and more from said Wailuku and Iao valley streams into said Apana 1, of Royal Patent 4059, and thence by pipe-line to said reservoir, and thence from said reservoir through subsidiary pipe-lines to the users thereof in said towns and villages of Wailuku and Kahului aforesaid; said aggressions by said Alexander Young being continued and enlarged and [illegible] by his successors in the [illegible] of said office, including said [illegible] said [illegible] appropriations of waters were wholly illegal.

[illegible]

Exhibit 10-A: Report on Injunction Filed by Wailuku Sugar Company against the Superintendent of Public Works (Equity Case #1634). The injunction claimed that the Territory of Hawaii was diverting more water from Wailuku Stream for the Wailuku waterworks system than it was entitle based on the water rights of parcels it owned. A major focus of the case was LCA 3529, Apana 1, awarded to Hana. The Hawaiian Government in 1899 purchased this parcel explicitly to use its water rights to establish the Wailuku waterworks. The initial intake for this system was at LCA 3529, Apana 1, until it was washed away in a flood and placed elsewhere multiple times. Throughout the court records, the water rights that came with this LCA were never questioned; only the amount that was being drawn. Court records and newspaper accounts also verify that the parcel was in irrigated kalo cultivation. Hawaiian Gazette, September 4, 1908, Page 1.

FROM TARO PATCH TO WATERWORKS SYSTEM

(Continued from Page One.)

and made without right or authority or justification therefor."

Another Aggression.

The next step, according to the bill, was when a storm in Iao valley in November, 1900, broke and carried away the pipe-line leading the waters from the stream, but instead of repairing it as it was before the superintendent of the Wailuku waterworks changed the head to a point near the first crossing of said Iao valley and upon land owned by the Wailuku Sugar Company under the plea of necessity and the promise that when he had more time he would restore it to where it ought to be.

These encroachments, it is alleged, have grown until now there is often diverted a half million gallons a day, and always more than the Territory is entitled to, the amount so far illegally diverted being worth ten thousand dollars, it is claimed, and the water taken is needed by the Wailuku Sugar Company to irrigate its plantation.

"One excuse or pretense made by the defendant," the bill goes on to say, "for its action aforesaid, now made, is that there are a number of persons residing in the village of Wailuku entitled to a share of the waters from the Wailuku stream and Iao valley for their lands in Wailuku district, and that the government is diverting through its pipe and water system aforesaid for the most part the waters of private individuals for delivery to them through said pipe-lines, and that the charges and water rates made to such individuals are solely for the use of said pipe-lines and the expense of transmitting the same therein, rather than through the open ditches, as was formerly the case."

Claims to Be Konohiki.

The plaintiff denies that this is so, and while admitting that there are some people in Wailuku who are entitled to take water from Wailuku stream and Iao valley, it is not true that there is any understanding between them and the government whereby the government is authorized to take the water they are entitled to, run it through its pipe-lines, deliver it to the owners and charge them for the service.

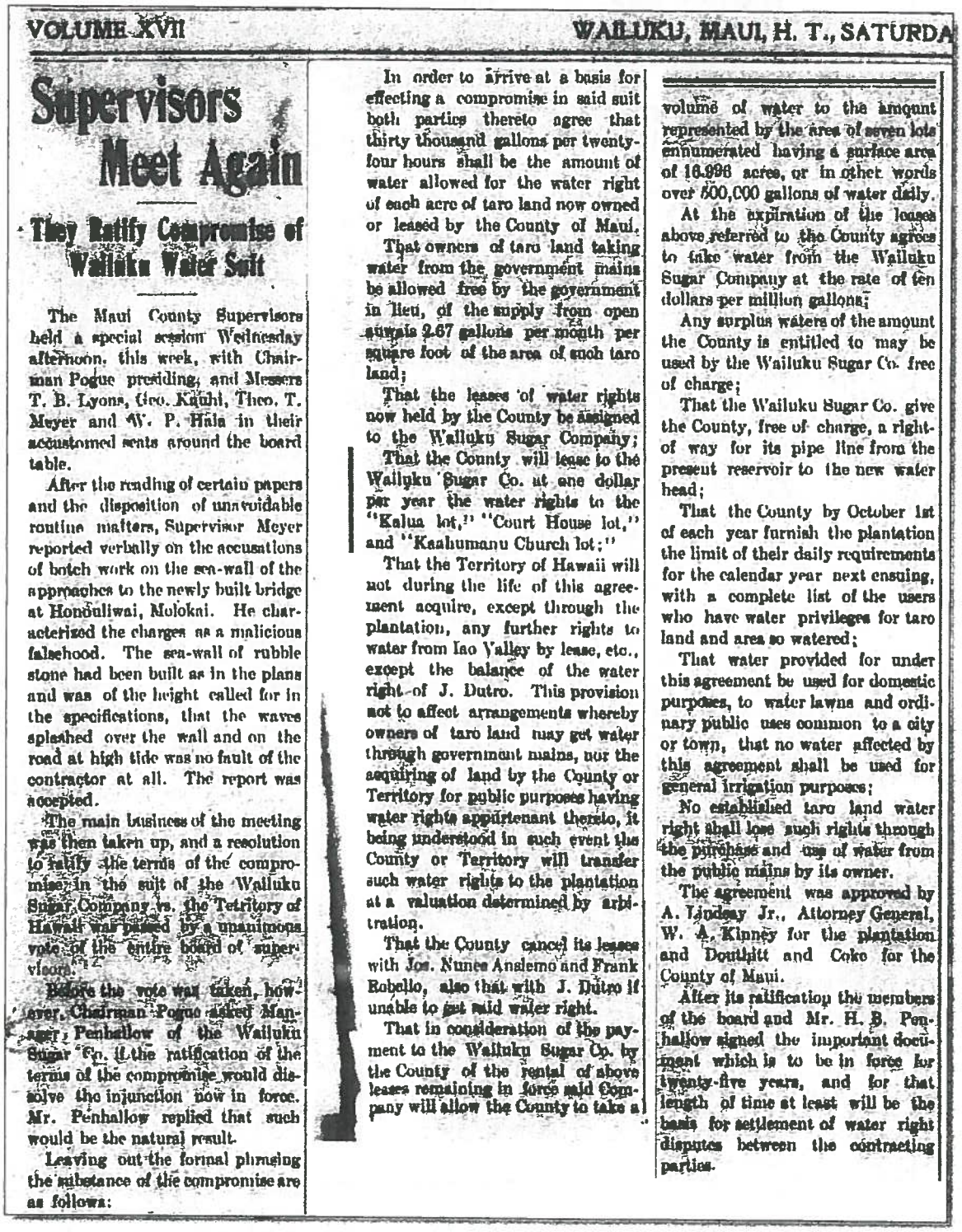
The Wailuku Sugar Company claims to have purchased water rights until since 1904 it has owned the konohiki water rights in Iao valley and Wailuku stream and in branches thereof, and is entitled to all of the waters, normal and otherwise of these, except as to certain kuleana rights within the district of Wailuku owned by third persons, and it claims to own all the surplus and storm waters except such as it may have leased or disposed of to others.

So pointedly is the accusation made that the Territory simply took water that didn't belong to it and created a profitable waterworks system out of it that the pleader who drew the bill might have concluded:

A little rill of water,
A little patch of land
Will grow a hydrant system,
If you fertilize with "sand."

Exhibit 10-B: Continuation of Report on Injunction Filed by Wailuku Sugar Company against the Superintendent of Public Works (Equity Case #1634). *Hawaiian Gazette*, September 4, 1908, Page 8

Exhibit 11



VOLUME XVII — WAILUKU, MAUI, H. T., SATURDA

Supervisors Meet Again

They Ratify Compromise of Wailuku Water Suit

The Maui County Supervisors held a special session Wednesday afternoon, this week, with Chairman Pogue presiding, and Messers T. B. Lyons, Geo. Kauhi, Theo. T. Meyer and W. P. Hala in their accustomed seats around the board table.

After the reading of certain papers and the disposition of unavoidable routine matters, Supervisor Meyer reported verbally on the accusations of botch work on the sea-wall of the approaches to the newly built bridge at Honouliwai, Molokai. He characterized the charges as a malicious falsehood. The sea-wall of rubble stone had been built as in the plans and was of the height called for in the specifications, that the waves splashed over the wall and on the road at high tide was no fault of the contractor at all. The report was accepted.

The main business of the meeting was then taken up, and a resolution to ratify the terms of the compromise in the suit of the Wailuku Sugar Company vs. the Territory of Hawaii was passed by a unanimous vote of the entire board of supervisors.

Before the vote was taken, however, Chairman Pogue asked Manager Penhallow of the Wailuku Sugar Co. if the ratification of the terms of the compromise would dissolve the injunction now in force. Mr. Penhallow replied that such would be the natural result.

Leaving out the formal phrasing the substance of the compromise are as follows:

In order to arrive at a basis for effecting a compromise in said suit both parties thereto agree that thirty thousand gallons per twenty-four hours shall be the amount of water allowed for the water right of each acre of taro land now owned or leased by the County of Maui.

That owners of taro land taking water from the government mains be allowed free by the government in lieu, of the supply from open ditch 2.67 gallons per month per square foot of the area of such taro land;

That the leases of water rights now held by the County be assigned to the Wailuku Sugar Company;

That the County will lease to the Wailuku Sugar Co. at one dollar per year the water rights to the "Kalua lot," "Court House lot," and "Kaahumanu Church lot;"

That the Territory of Hawaii will not during the life of this agreement acquire, except through the plantation, any further rights to water from Iao Valley by lease, etc., except the balance of the water right of J. Dutro. This provision not to affect arrangements whereby owners of taro land may get water through government mains, nor the acquiring of land by the County or Territory for public purposes having water rights appurtenant thereto, it being understood in such event the County or Territory will transfer such water rights to the plantation at a valuation determined by arbitration.

That the County cancel its leases with Jos. Nunes Anselmo and Frank Robello, also that with J. Dutro if unable to get said water right.

That in consideration of the payment to the Wailuku Sugar Co. by the County of the rental of above leases remaining in force said Company will allow the County to take a volume of water to the amount represented by the area of seven lots enumerated having a surface area of 16.996 acres, or in other words over 500,000 gallons of water daily.

At the expiration of the leases above referred to the County agrees to take water from the Wailuku Sugar Company at the rate of ten dollars per million gallons;

Any surplus waters of the amount the County is entitled to may be used by the Wailuku Sugar Co. free of charge;

That the Wailuku Sugar Co. give the County, free of charge, a right-of way for its pipe line from the present reservoir to the new water head;

That the County by October 1st of each year furnish the plantation the limit of their daily requirements for the calendar year next ensuing, with a complete list of the users who have water privileges for taro land and area so watered;

That water provided for under this agreement be used for domestic purposes, to water lawns and ordinary public uses common to a city or town, that no water affected by this agreement shall be used for general irrigation purposes;

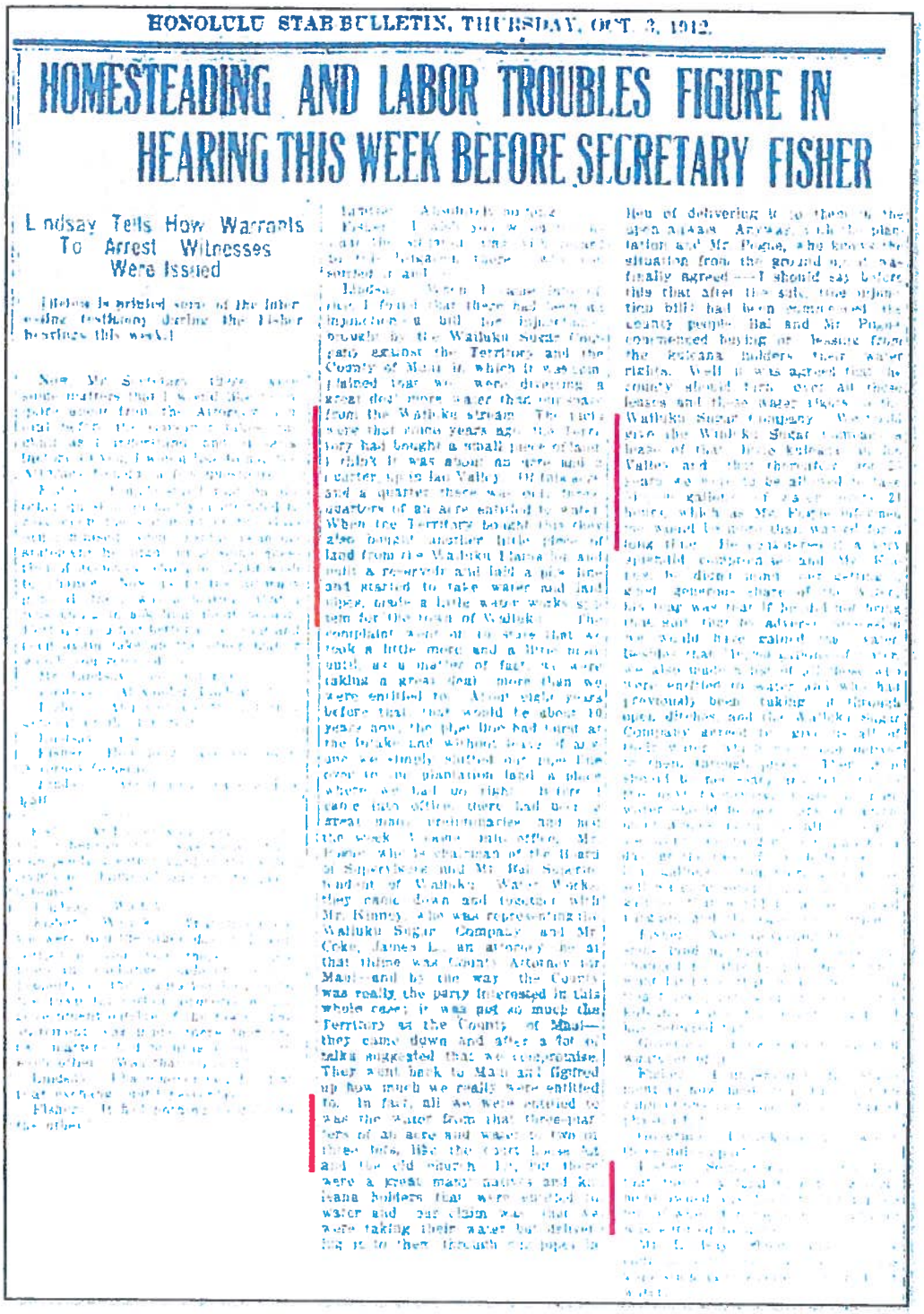
No established taro land water right shall lose such rights through the purchase and use of water from the public mains by its owner.

The agreement was approved by A. Lindsay Jr., Attorney General, W. A. Kinney for the plantation and Douthitt and Coke for the County of Maui.

After its ratification the members of the board and Mr. H. B. Penhallow signed the important document which is to be in force for twenty-five years, and for that length of time at least will be the basis for settlement of water right disputes between the contracting parties.

Exhibit 11: Report on the Settlement Agreement between Wailuku Sugar and the County of Maui and Territory of Hawaii (Equity Case #1634). In reporting on the settlement for this water rights case, the newspaper article notes that the agreement includes the lease of water rights for the "Kuleana Lot", which is LCA 3529, Apana 1, to Wailuku Sugar for 25 years. This would be up to 1935. *Maui News*, May 21, 1910.

Exhibit 12



HONOLULU STAR-BULLETIN, THURSDAY, OCT. 3, 1912.

HOMESTEADING AND LABOR TROUBLES FIGURE IN HEARING THIS WEEK BEFORE SECRETARY FISHER

Lindsay Tells How Warrants To Arrest Witnesses Were Issued

Below is printed some of the interesting testimony during the Fisher hearings this week.

Exhibit 12: Account of Hearing Held by the U.S. Secretary of the Interior, Including Questions on the Water Rights Case Filed by Wailuku Sugar Against the Superintendent of Public Works (Equity Case #1634). During the hearing, former Attorney General Lindsay was questioned about this case and its settlement. The Territory's ownership of LCA 3529, Apana 1, is confirmed as is its former use for cultivating kalo. He also confirms that the settlement agreement included leasing the water rights of the LCA to Wailuku Sugar for 25 years. He clarifies that testimony in court documents estimated that three-quarters of this parcel was directly under kalo cultivation. *Honolulu Star Bulletin*, October 12, 1912.

Exhibit 20

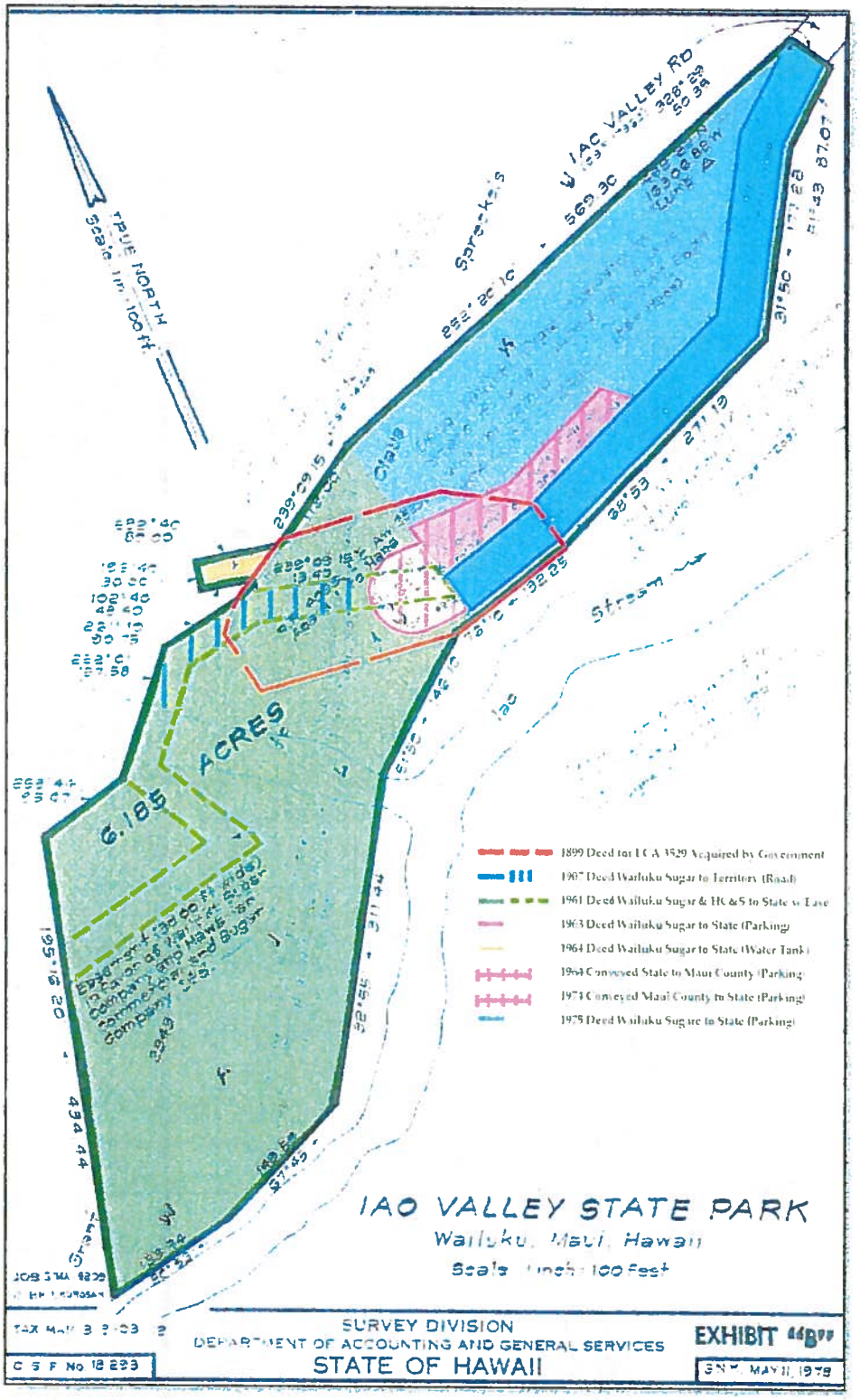


Exhibit 20: Survey Division's 1978 Map of ʻĪao Valley State Park Highlighting the Location of Deeds Pertaining to the Parcel from 1899 to 1975. All deeds were included in the survey description attached to Executive Order No. 2926 which set aside these lands as a State Park. Note the location of LCA 3529, Apana 1, to Hana was apparently based on a map provided by Wailuku Sugar Company in 1977 (See Exhibit XX).

Exhibit 21

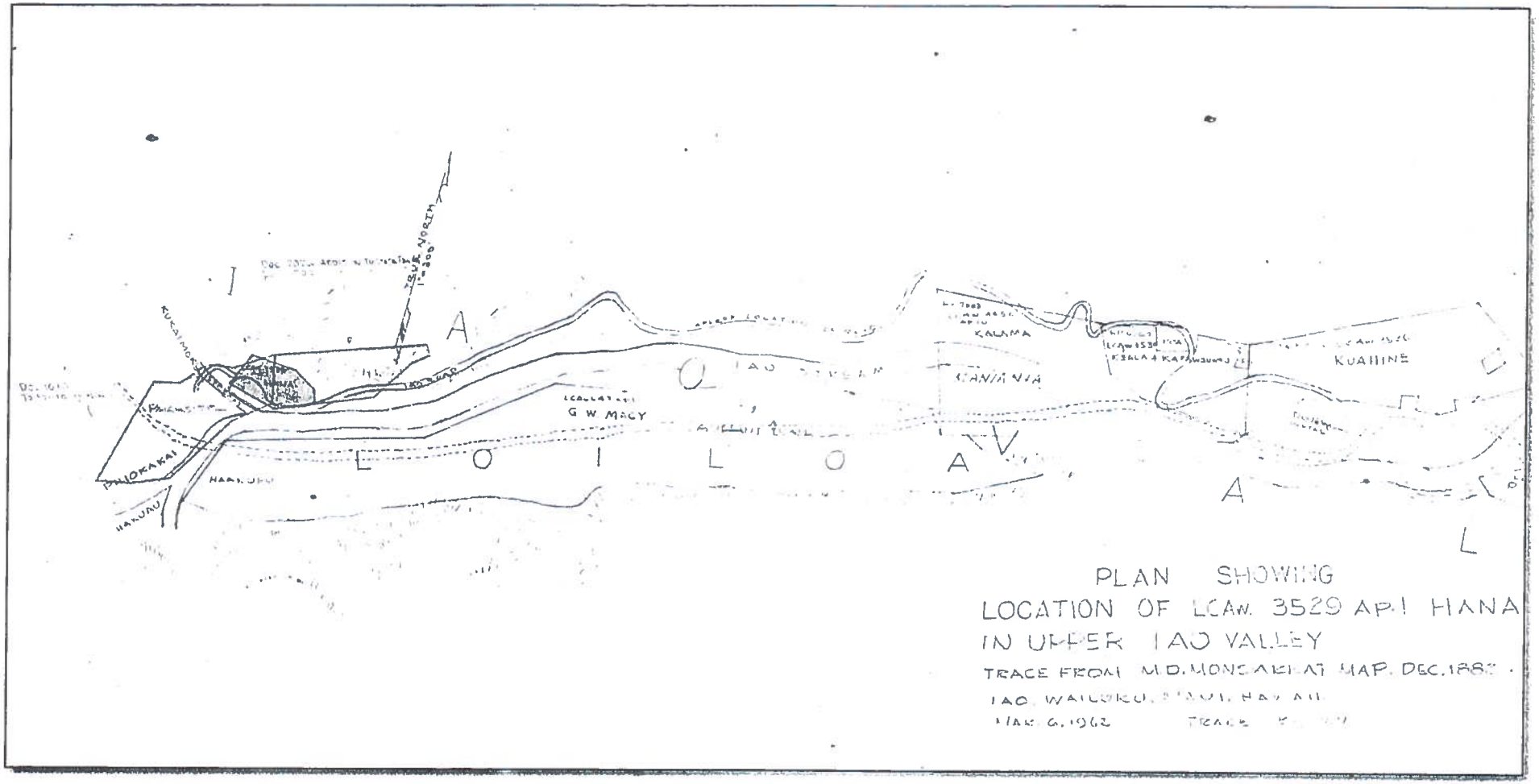


Exhibit 21: Plan Showing Location of LCA 3529, Ap. 1, to Hana in Upper Iao Valley as Prepared by Wailuku Sugar Company in 1977. This map was submitted to the Survey Division, Department of Accounting and General Services, by Wailuku Sugar Company when the Survey Division was preparing the boundary survey and description for the ʻĪao Valley State Park Executive Order (No. 2926). The map shows LCA 3529, Apana 1, almost entirely within lands it deeded to the State of Hawai'i for park purposes. This location of LCA 3529, Apana 1, was basically repeated in the Survey Division's map attached to the Executive Order. The Order also included a statement saying that Wailuku Sugar Company reserved the water rights for what became the entire State Parks parcel. LCA 3529, Apana 1, is highlighted in blue and the State Park Parcel is in green. A note with this map by Wailuku Sugar Company says: "The kuleana description seems to fit this location." This underscores the uncertainty of the location of LCA 3529, Apana 1.

Exhibit 22

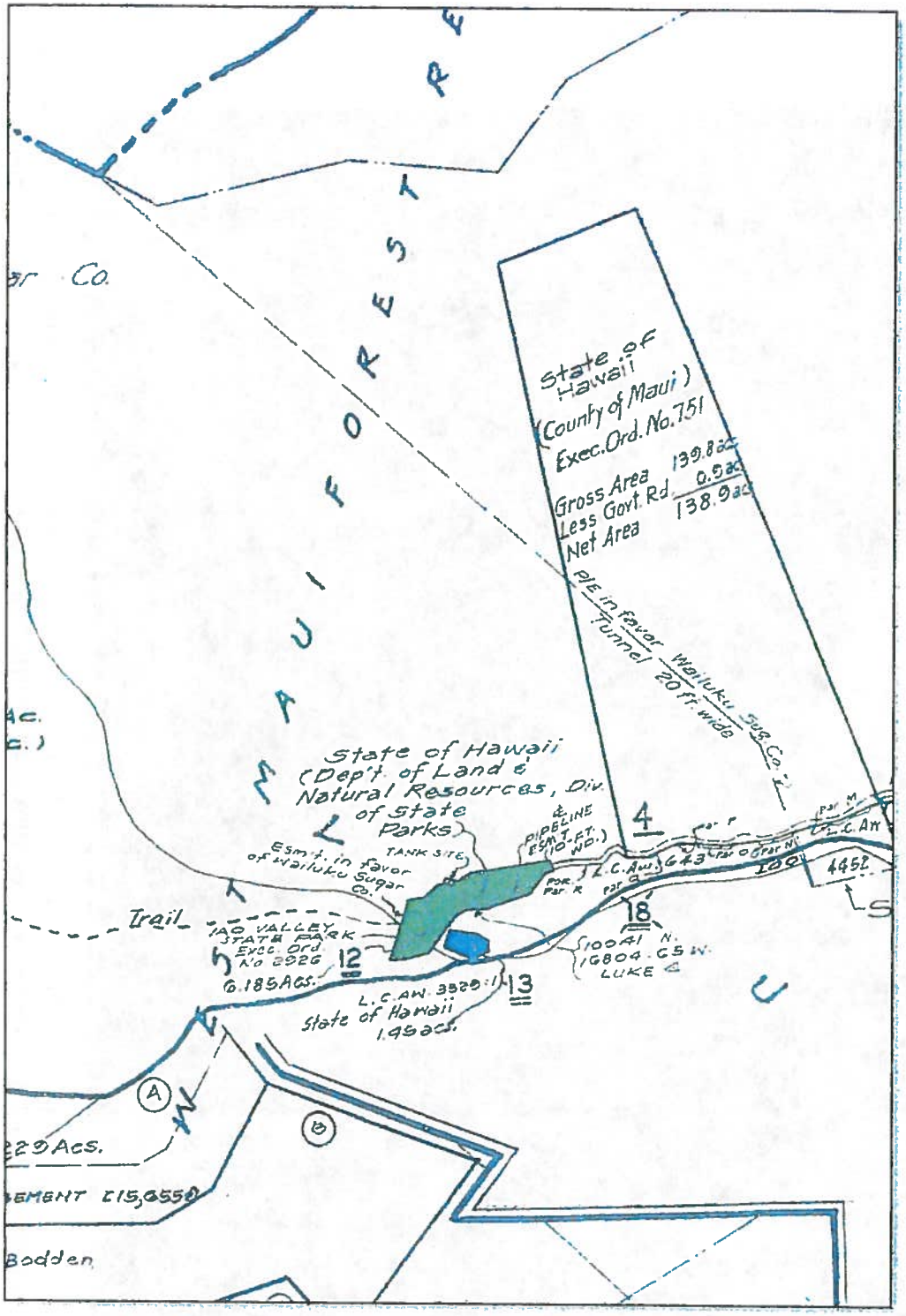


Exhibit 22: Tax Map Key for (2) 3- 3-003. Parcel 12, highlighted in green, is currently that set aside to the Division of State Parks. Parcel 13, highlighted in blue, is LCA 3525, Apana 1, and is identified as belonging to the State of Hawai'i. This differs from the 1978 Survey Division map and description which show LCA 3525, Apana 1, being within the State Parks parcel. Given the topography of the area, it would be difficult to fit a major portion of the 6.185-acre State Park and the 1.45-acre LCA in this area without having them overlap.

Exhibit 23

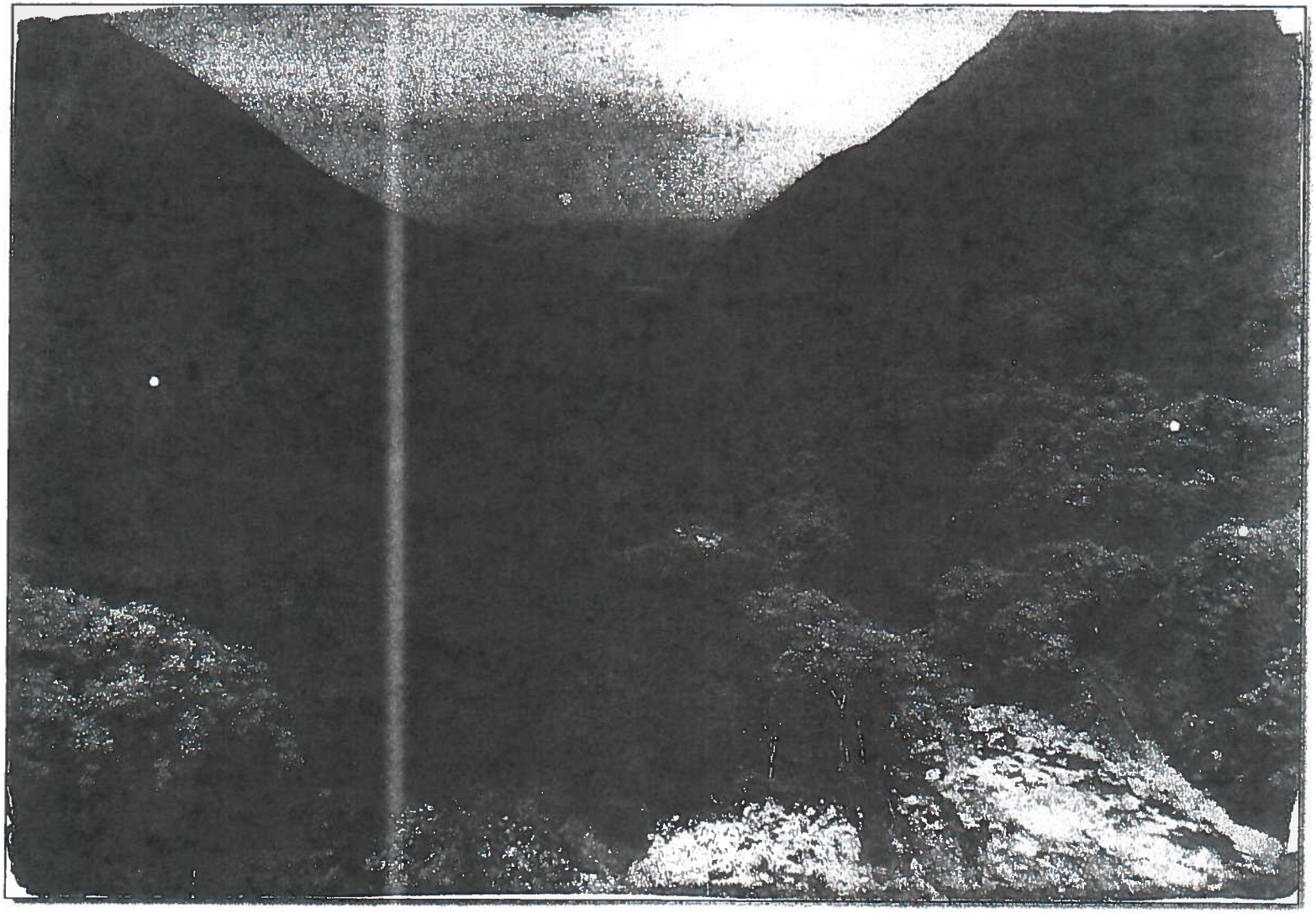


Exhibit: 23: General Location of LCA 3529, Apana 1 to Hana and What is Now ʻĪao Valley State Park in the 1880s (View Facing East). Photograph is from the M.D. Monsarrat Collection in the Hawaiʻi State Archives (PPWD-10-13-010). The trail visible to the right was the traditional and early historic route up ʻĪao Valley before the current road was constructed in 1906. M.D. Monsarrat's survey is the basis for the 1882 map showing the location of LCAs in Wailuku. He may have taken this photograph at the time of his survey.

Exhibit 24

Exhibit 24: General Location of LCA 3529, Apana 1 to Hana and Today's ʻĪao Valley State Park Parking Area in the 1920s (View Facing East). This parking lot and turnaround at the end of ʻĪao Valley Road were initially constructed in 1906 and then improved in 1922 after a massive 1916 flood destroyed access to this segment of the road. Hawaiian Historical Society #1,919

Exhibit 25

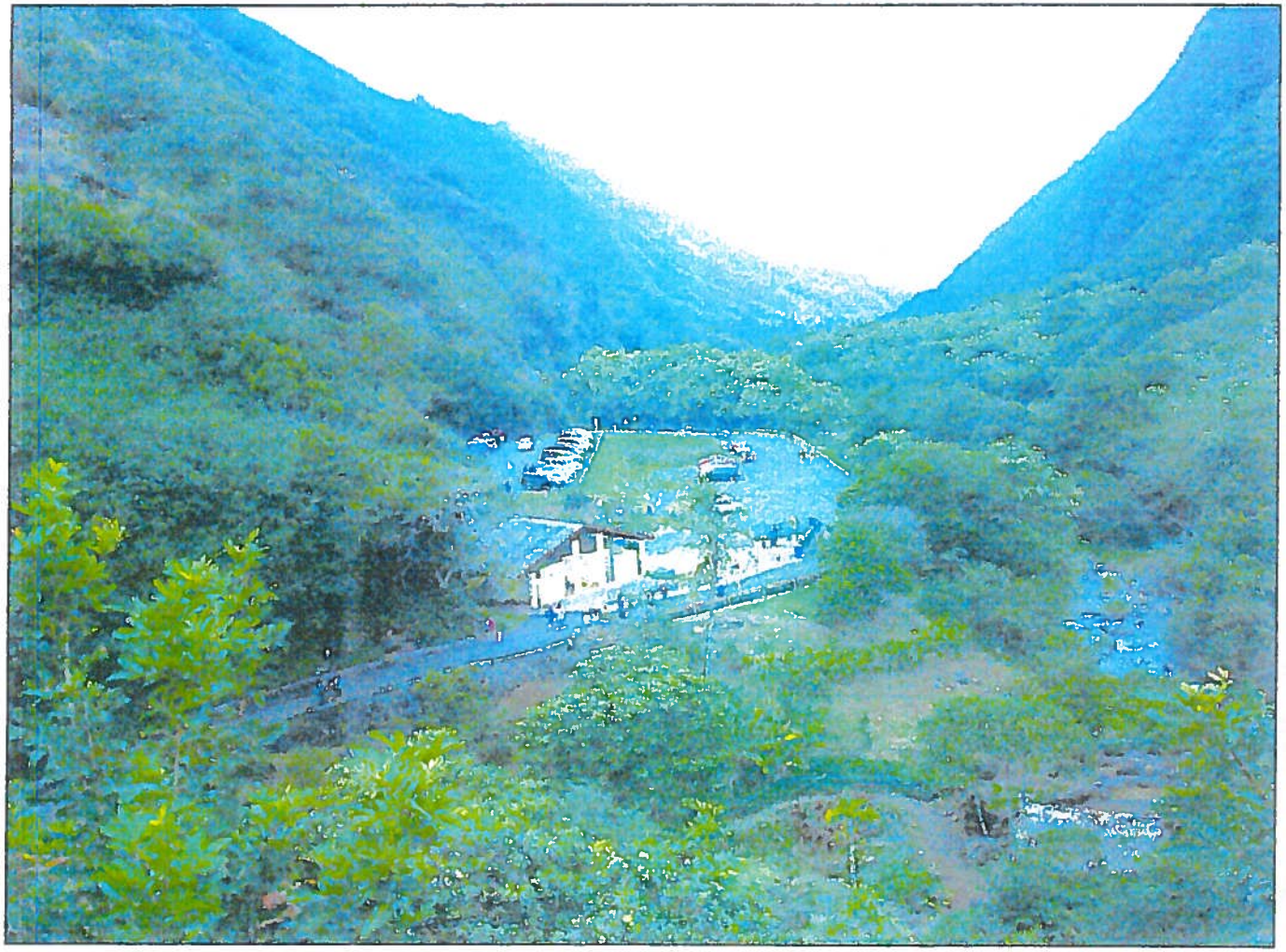


Exhibit 25: General Location of LCA 3529, Apana 1 to Hana with the Current ʻĪao Valley State Park Parking Area in the 2012 (View Facing East). This view is similar to those in Exhibits XX and XX. Note that the current irrigated loʻi kalo are at the base of the large flat and on a lower area that did not appear to exist in the 1880s. This lower section may have been carved out by repeated flooding since the 1880s photograph and the 1840s when the LCA claim was first made.

Exhibit 26

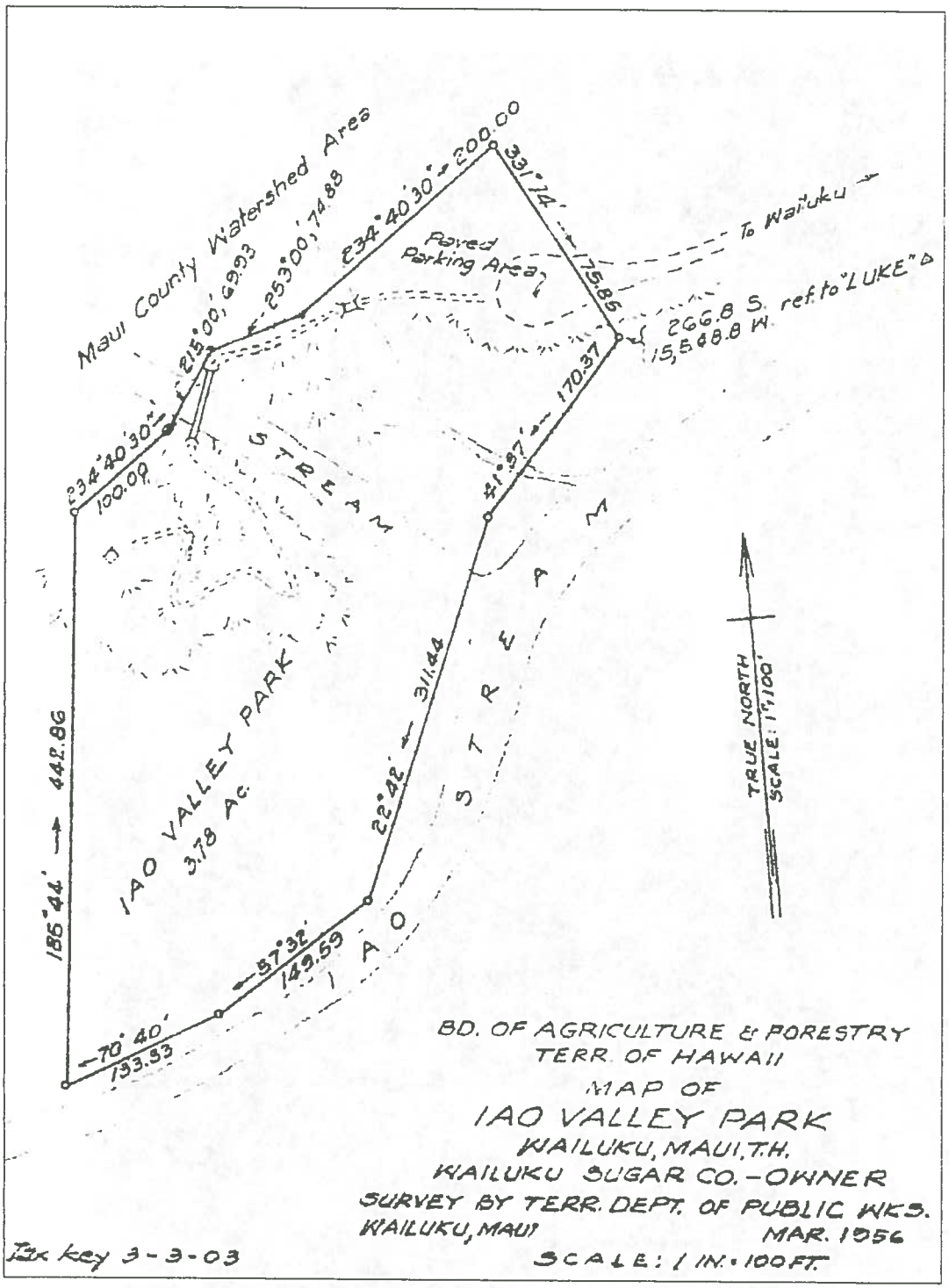


Exhibit 26: Proposed ʻĪao Valley Park Boundaries and Existing Improvements in 1956. Improvements include those created by the Territorial Division of Forestry which managed the area as a park throughout the 1950s and those remaining from 1906 when the area was first developed for visitors. The small stream shown between the longer bridge and parking area irrigated loʻi kalo tended by Forestry employees. If this is an old ditch, it may have irrigated some of the original loʻi kalo. This is the first recorded use of the area for loʻi kalo since the 1850s and this use has been maintained in some form until today.

Exhibit 27

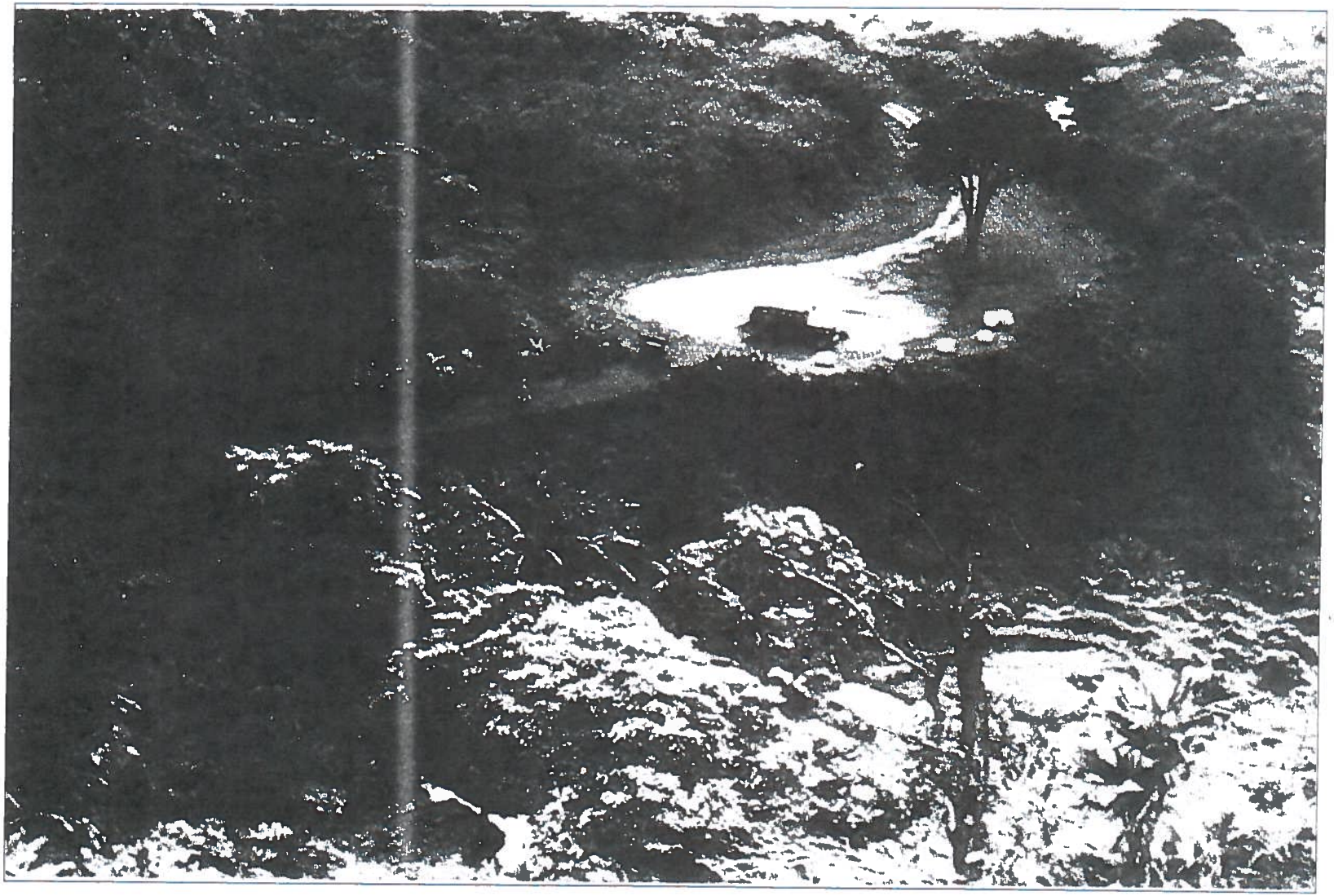


Exhibit 27: Parking Lot Turnaround at End of ʻĪao Valley Road in 1957. The stream in the foreground is that which irrigated the loʻi kalo at the time.

Exhibit 28

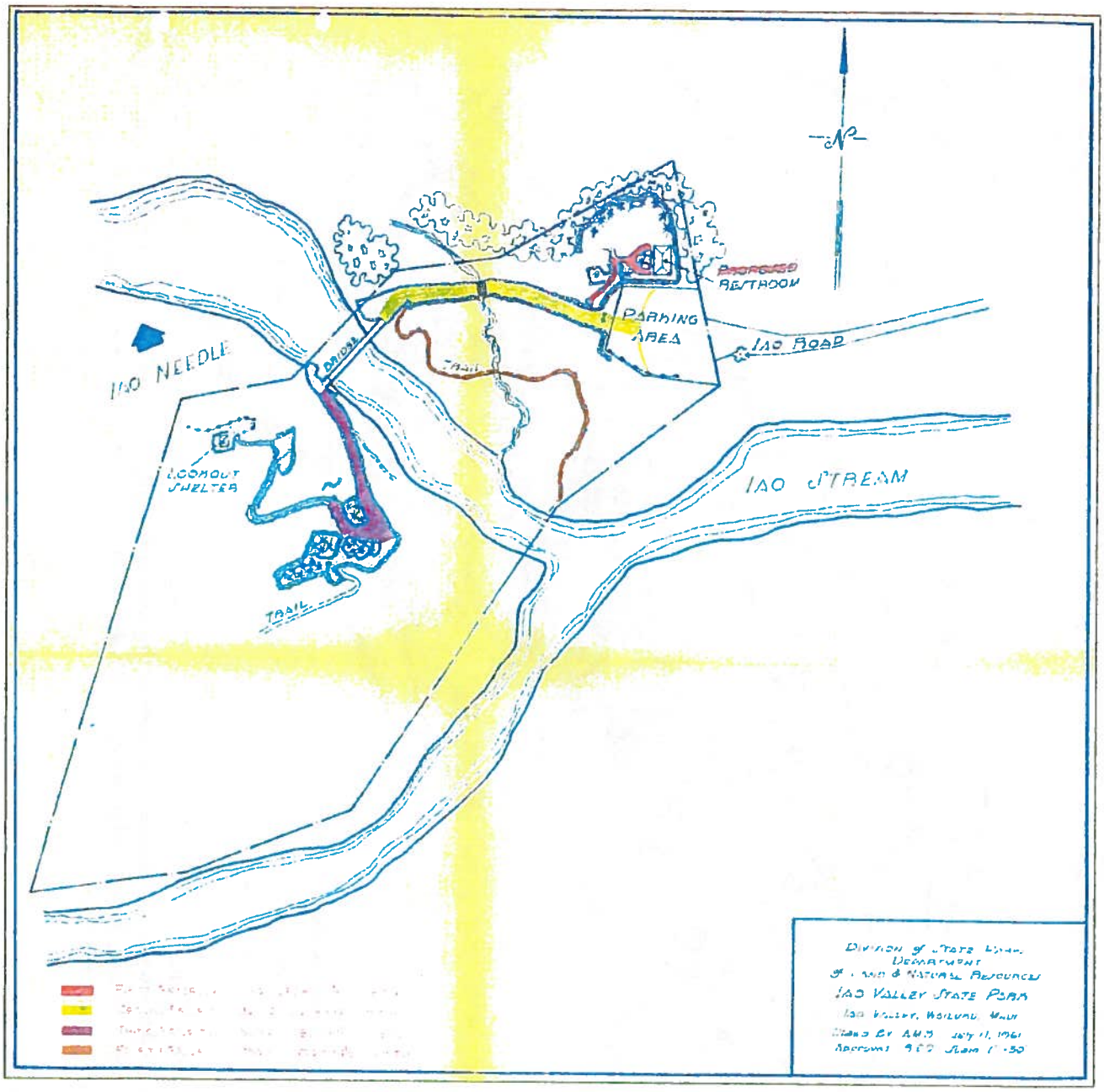


Exhibit 28: ʻĪao Valley State Park in July 1961. The color-coded features represent priorities for proposed park improvements. The stream or ditch used to irrigated the loʻi kalo is still depicted. Note that the water used for the loʻi did not come directly from Kinhāpai as it does today.

Exhibit 29

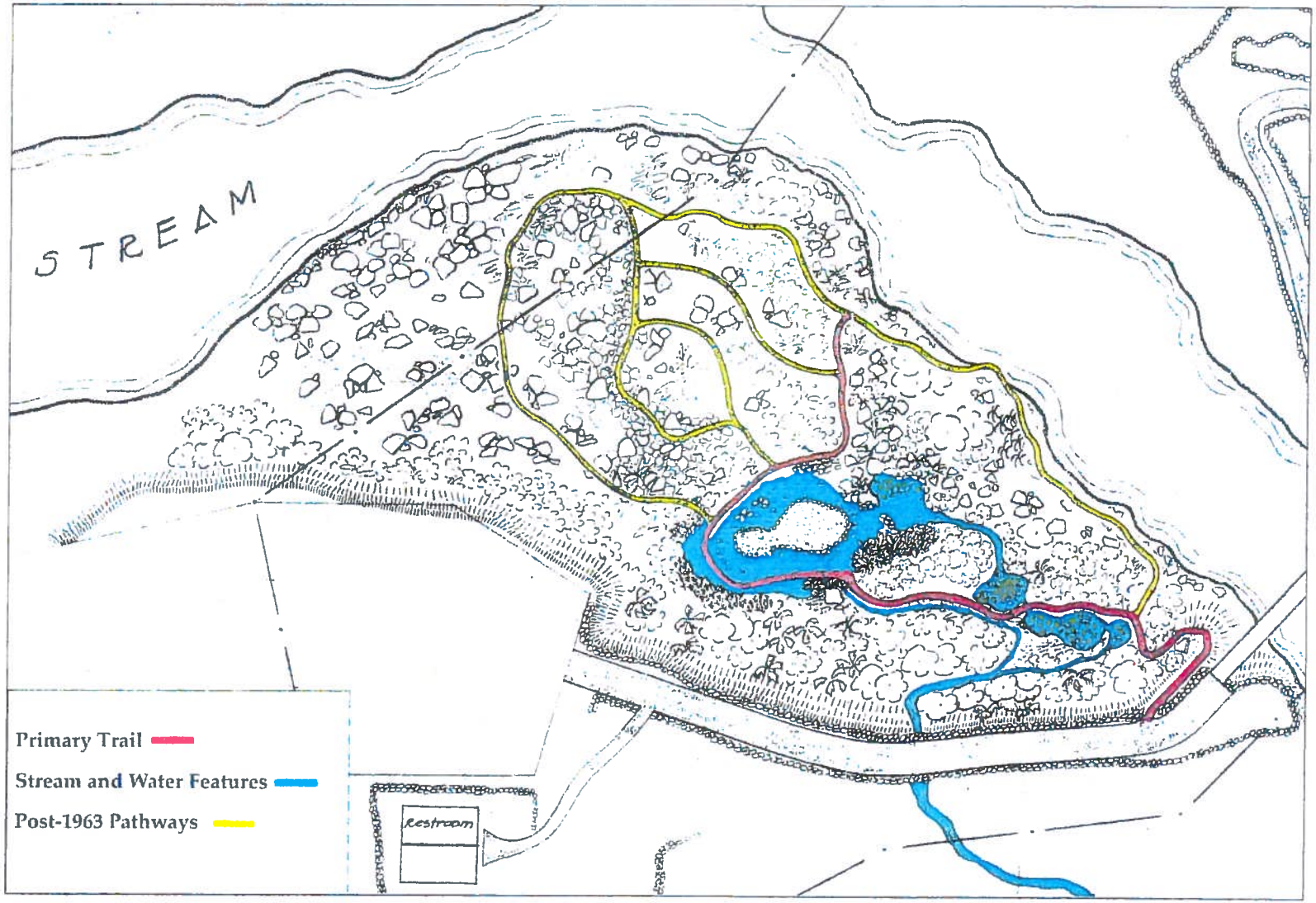


Exhibit 29: Detail of 1963 "Botanical Garden" with Lo'i Kalo and Visitor Trails. Highlighted in red is the main trail running through the original phase of the garden. Blue marks the garden's water features as there were at the time, including the stream which fed these features and the lo'i kalo. In yellow are the pathways added during the second phase of garden development in 1963. The stream irrigating the lo'i kalo was re-routed ma uka to allow creation of an additional lo'i.

Exhibit 30

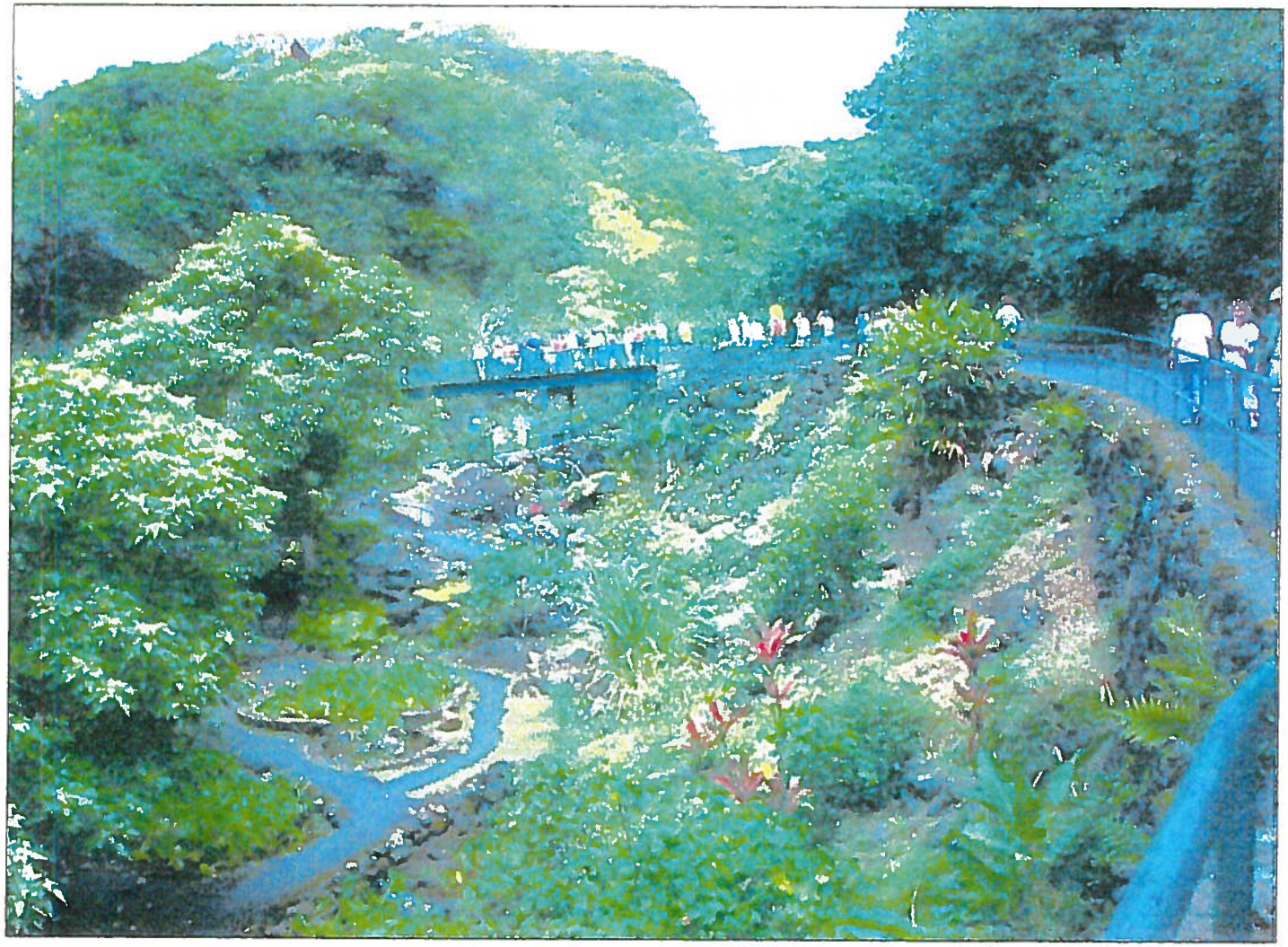


Exhibit 30: Upper Section of Garden Area with Lo'i Kalo in 2008 (View Facing West). The stream that once irrigated the Lo'i no longer runs. Its former location is marked by the concrete culvert directly below the stone retaining wall and asphalt walkway. The current intake is beneath the bridge.

Executive Order No. 2926

Setting Aside Land for Public Purposes

By this Executive Order, I, the undersigned, Governor of the State of Hawaii, by virtue of the authority in me vested by Section 171-11, Hawaii Revised Statutes, and every other authority me hereunto enabling, do hereby order that the public land hereinafter described be, and the same is, hereby set aside for the following public purposes:

FOR IAO VALLEY STATE PARK, to be under the control and management of the Department of Land and Natural Resources, Division of State Parks.

Being designated Iao Valley State Park, situate at Wailuku, Maui, Hawaii, more particularly described in Exhibit "A" and delineated on Exhibit "B", both of which are attached hereto and made parts hereof, said exhibits being, respectively, a survey description and a survey map prepared by the Survey Division, Department of Accounting and General Services, State of Hawaii, both being designated C.S.F. No. 18,293 and dated May 11, 1978.

SUBJECT to disapproval by the legislature by two-thirds vote of either the Senate or the House of Representatives or by majority vote of both, in any regular or special session next following the date of this Executive Order.

In Witness Whereof, I have hereunto set my hand and caused the Great Seal of the State of Hawaii to be affixed

Done at the Capitol at Honolulu this 21st day of August, Nineteen Hundred and 78

George R. Ariyoshi

Governor of the State of Hawaii

Approved as to form

/s/ Jackie Kahi Erickson

Deputy Attorney General

Dated: 7-11-78

EXHIBIT 2304-DLNR-2

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STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES

HONOLULU

C.S.F No. 18,293

May 11, 1978

IAO VALLEY STATE PARK

Wailuku, Maui, Hawaii

Comprising the following:

1. R.P. 4059, L.C. Aw. 3529, Apana 1 to Hana conveyed to the Minister of Interior by John W. Kalua dated May 11, 1899 and recorded in Liber 194, Pages 483-484 (Land Office Deed 681)

2. Portion of Grant 3343 to Claus Spreckels deeded as follows:

   a. Wailuku Sugar Company to Territory of Hawaii dated July 30, 1907 and recorded in Liber 296, Page 137 (Land Office Deed 1143)

   b. Wailuku Sugar Company to State of Hawaii dated September 11, 1961 and recorded in Liber 4135, Page 241 (Land Office Deed S-18223)

   c. Wailuku Sugar Company to State of Hawaii dated September 29, 1964 and recorded in Liber 4905, Page 36 (Land Office Deed S-23289)

   d. County of Maui to State of Hawaii dated February 19, 1974 and recorded in Liber 9754, Page 79 (Land Office Deed S-26204)

   e. Wailuku Sugar Company to State of Hawaii dated July 3, 1975 and recorded in Liber 10797, Page 404 (Land Office Deed S-26500)

Beginning at the northeast corner of this parcel of land and on the northwesterly corner of Iao Valley Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 462.22 feet North and 16306.82 feet West, thence running by azimuths measured clockwise from True South:-

1.	328°	29'	50.35 feet along the southwesterly end of Iao Valley Road and along the remainder of Grant 3343 to Claus Spreckels;
2.	51°	43'	87.07 feet along the remainder of Grant 3343 to Claus Spreckels;
3.	31°	50'	177.28 feet along the remainder of Grant 3343 to Claus Spreckels;

EXHIBIT "A"

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4.	68°	53'		271.19 feet along the remainder of Grant 3343 to Claus Spreckels;
5.	76°	10'		132.25 feet along the remainder of Grant 3343 to Claus Spreckels;
6.	51°	50'		146.10 feet along the remainder of Grant 3343 to Claus Spreckels to the edge of Iao Stream;
7.	32°	55'		311.44 feet across Iao Stream and along the remainder of Grant 3343 to Claus Spreckels;
8.	67°	45'		149.59 feet along the remainder of Grant 3343 to Claus Spreckels;
9.	80°	53'		133.34 feet along the remainder of Grant 3343 to Claus Spreckels;
10.	195°	16'	20"	434.44 feet along the remainder of Grant 3343 to Claus Spreckels;
11.	258°	44'		95.07 feet along the remainder of Grant 3343 to Claus Spreckels;
12.	222°	01'		127.58 feet along the remainder of Grant 3343 to Claus Spreckels;
13.	261°	10'		90.75 feet along the remainder of Grant 3343 to Claus Spreckels;
14.	239°	09'	15"	13.40 feet along the remainder of Grant 3343 to Claus Spreckels;
15.	102°	40'		48.40 feet along the remainder of Grant 3343 to Claus Spreckels;
16.	192°	40'		30.00 feet along the remainder of Grant 3343 to Claus Spreckels;
17.	282°	40'		80.00 feet along the remainder of Grant 3343 to Claus Spreckels;
18.	239°	09'	15"	113.00 feet along the remainder of Grant 3343 to Claus Spreckels;
19.	252°	20'	10"	569.30 feet along the remainder of Grant 3343 to Claus Spreckels to the point of beginning and containing an AREA OF 6.185 ACRES.

Reserving to Wailuku Sugar Company, its successors and assigns, all water rights belonging or appurtenant to the above-described parcel of land.

Also reserving and excepting therefrom in favor of Wailuku Sugar Company, and Hawaiian Commercial and Sugar Company, Limited, their successors and assigns an easement for roads, pipelines and utility.

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C.S.F. No. 18,293

May 11, 1978

Subject, also to the rights in favor of the County of Maui, under agreement dated October 4, 1954 and recorded in the Bureau of Conveyances in Liber 2882, Page 113, including but not limited to the right therein mentioned for the installation, maintenance and repair of a pipeline.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: Ichiro Sakamoto
Ichiro Sakamoto
Land Surveyor

Compiled from Govt.
Survey Records.

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State of Hawaii

Office of the Lieutenant Governor

2926

This is to Certify That the within is a true copy of Executive Order No ..... setting aside land for public purposes, the original of which is on file in this office.

In Testimony Whereof, the Lieutenant Governor of the State of Hawaii, has hereunto subscribed his name and caused the Great Seal of the State to be affixed

DONE in Honolulu, this ..... day of ..... A.D. 19.....

Executive Order No. 2926

Setting Aside Land for Public Purposes

Land .....

Purpose .....

Date .....

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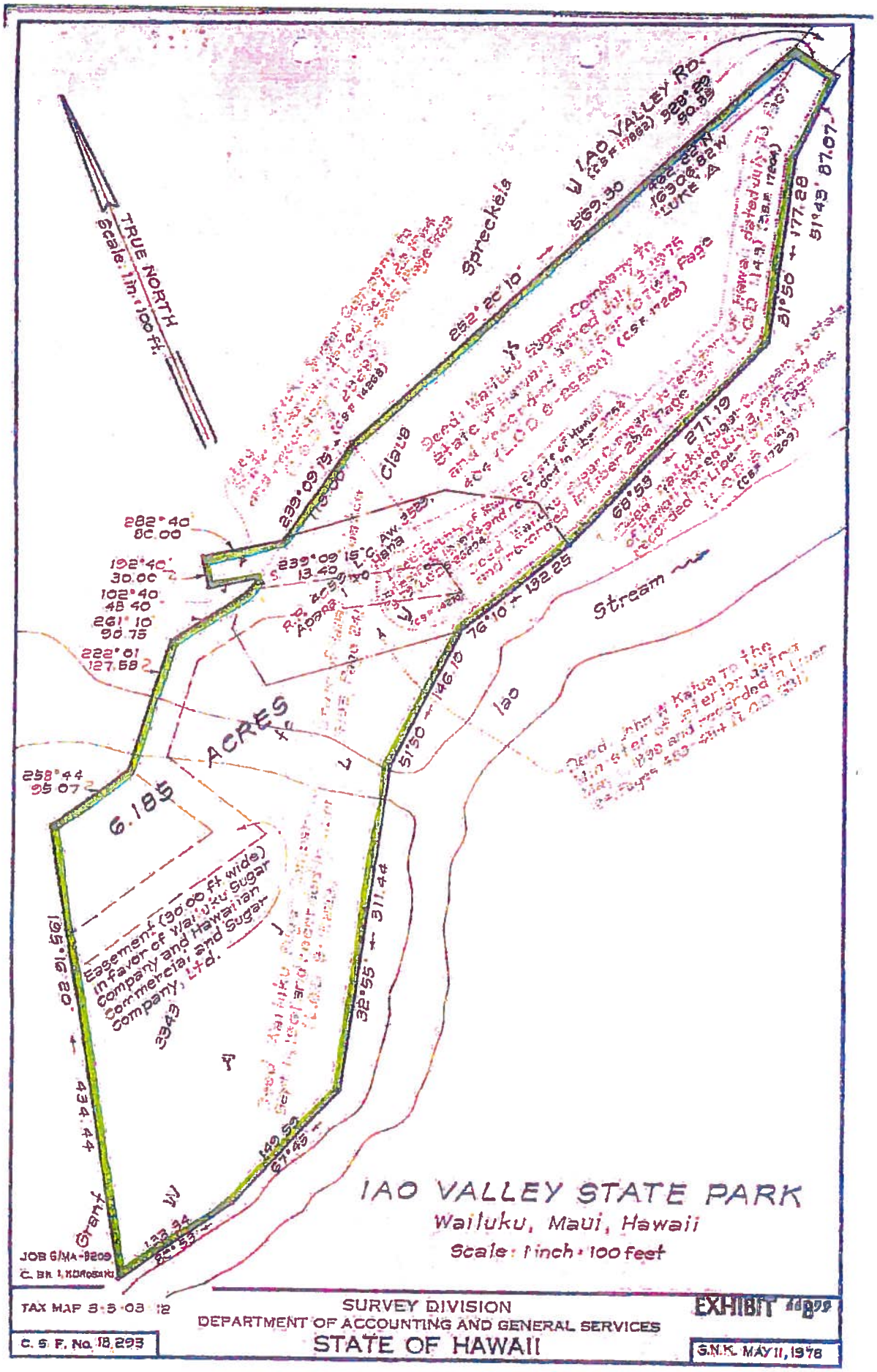


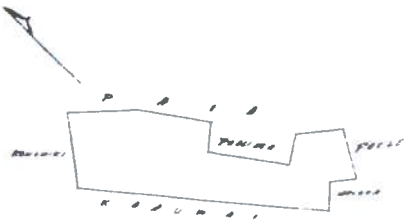
TAX MAP 3-5-03-12

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

EXHIBIT "B"

C. S. F. No. 18,293

G.N.K. MAY 11, 1978



Ukupuloa $ 4

[illegible]
G. M. Robertson
[illegible]
[illegible]

Honolulu January 7 1854

Kala 3529 Hana

Apana 1 [illegible]

Ak	29½	Ko	7[illegible]	[illegible]
Ak	72	Ko	13[illegible]	
Ko	[illegible]	Ko	[illegible]	
Ko	27½	Ko	12[illegible]	
Ko	21	Ko	76	[illegible]
Ko	[illegible]	Ko	[illegible]	
Ak	51	Ko	[illegible]	[illegible]

Apana 2 [illegible]

Ak	11	Ko	77[illegible]	[illegible]
Ko	38	Ko	66[illegible]	[illegible]
[illegible]	87½	Ko	621	[illegible]
Ak	[illegible]	Ko	[illegible]3	[illegible]

Apana 3 Ama Kalo [illegible]

Ak	36½	Ko	69	[illegible]
Ak	87½	Ko	[illegible]6	[illegible]
Ko	1[illegible]	Ko	167	[illegible]
Ak	77½	Ko	[illegible]	[illegible]

Hanaka [illegible]

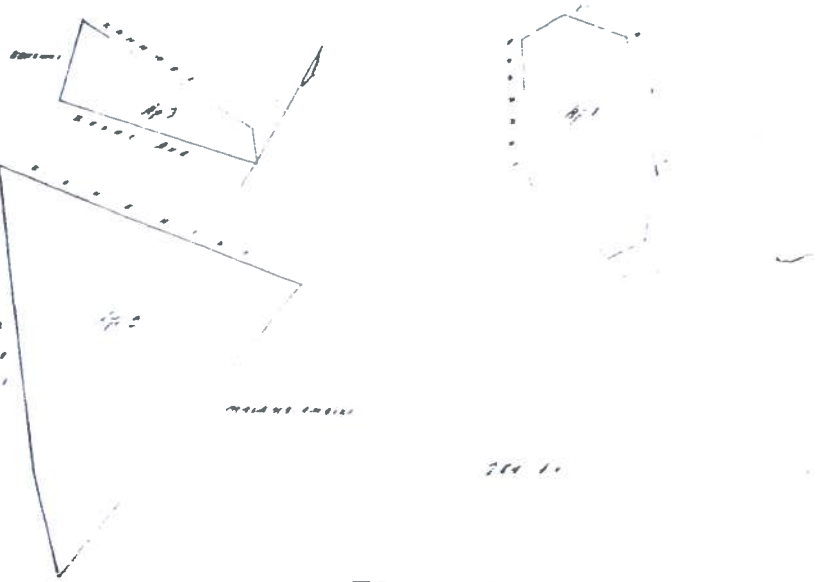


EXHIBIT 2304-DLNR-3

I hereby certify that the foregoing document is a true and correct copy of the document archived on film in the Department of Land and Natural Resources, Kalanimoku Building, 1151 Punchbowl Street, Honolulu, Hawaii.

Dated: Honolulu, Hawaii, this _____day of

JAN 2 1 2010

[illegible] Conveyances

[illegible] Natural Resources

Bureau of Conveyances
Recorded records
Bureau of Conveyances
Registrar of Conveyances
Assistant Registrar, Land Court
State of Hawaii

the persons described in and who executed the foregoing instrument who severally acknowledged to me that they executed the same freely and voluntarily and for the uses and purposes therein set forth. And the said Victoria Meyer and Elizabeth Meyer on a private examination by me separate and apart from their husbands further acknowledged to me that they executed the same freely and without any fear or compulsion of their said husbands.

D. McLorriston, Agent to take Acknowledge for Molokai.

Recorded & compared this 16th day of August A.D. 1899 at 10:46 o'clock A.M.

Chas. G. Hitchcock, Registrar.

J. H. Kalua, Surv. To Min. of Interior.

Stamped $2.00 Land.

Know all men by these presents, that I, John H. Kalua of Wailuku, Maui, Hawaiian Islands, in consideration of one thousand dollars to me paid by James A. King, Minister of the Interior of the Government of the Hawaiian Islands, the receipt whereof is hereby acknowledged, hereby give, grant, bargain, sell and convey unto the said Minister of the Interior all of that parcel of land situate in said Wailuku, described as Apana 1, in Royal Patent No. 4039, Land Commission Award No. 3529 to Nana and bounded and described as follows: E hoomaka ana ma ke kiki Hikina a e holo ana. Akau 29½° No. .78 Kaulahas ma ka pali. Akau 72° No. 1.35 Kaulahas ma ke pali. Hema 84½° No. 2.84 Kaulahas ma ka pali; Hema 27½° No. 1.39 Kaulahas ma ka pali. Hema 31° No. .96 Kaulahas ma Kahawai. Hema 84½° No. 2.88 Kaulahas ma Kahawai. Akau 51° No. 2.28 Kaulahas ma Kahawai a kiki i kahi i hoomaka ai and containing an area of 14 9/100 acres. To have and to hold the granted premises with all the rights, privileges and appurtenances thereto belonging to the said James A. King, as Minister of the Interior as aforesaid and his successors in office and assigns forever. And I hereby, for myself and my heirs, executors and administrators covenant with the said minister and his successors in said office and assigns, that I am lawfully seized in fee simple of the granted premises; that they are free from all encumbrances; that I will and my heirs, executors and administrators shall warrant and defend the same to the said Minister and his successors in office and his assigns forever against the lawful claims and demands of all persons. And for the consideration aforesaid I, Polly Kalua, wife of the said John H. Kalua, hereby release unto the said Minister of the Interior his successors in said office and assigns, all the right of dower in the granted premises. In witness whereof, the said John H. Kalua and Polly Kalua, his wife have hereunto set their hands and seals this 11th day of May A.D. 1899.

John H. Kalua

Executed in presence of M. Pkaiwaiki. Polly Kalua

BUREAU OF CONVEYANCES
REGISTRAR OF CONVEYANCES
STATE OF HAWAII

Hawaiian Islands, Island of Maui ss. On this 11th day of May, A.D. 1899 personally appeared before me John H. Kalua and Polly Kalua his wife known to me to be the persons described in and who executed the foregoing instrument who severally acknowledged to me that they executed the same freely and voluntarily, and for the uses and purposes therein set forth. And the said Polly Kalua, wife of said John H. Kalua on a private examination by me separate and apart from her husband further acknowledged to me that she had signed the same freely and without compulsion or fear from her husband.

M. P. Naiwaiole.
Notary Public, 1st Judicial Circuit.

Recorded & compared this 16th day of August A.D. 1899 at 10:47 o'clock A.M.

Thos. G. Thrum, Reg. of Conveyances.

Kahuki To Min. of Interior.

Stamped $1.00 Deed

Know all men by these presents that I Kahuki of Makawao, Maui Hawaiian Islands, in consideration of forty dollars to me paid the receipt whereof is hereby acknowledged, do by these presents grant, sell, and convey to the Minister of Interior and his successors in office for the use and benefit of the Republic of Hawaii, a strip of land across my lot situated at Haiku Uka in said District of Makawao, forty feet wide and four hundred and thirty two feet long for a roadway, containing four tenths of an acre more or less. This is a portion of the share of Halawaia in the Hui land of Haiku Uka in said District. To have and to hold the said land together with the appurtenances unto the said Minister of Interior and his successors in office for the use and benefit of said Republic of Hawaii forever. In witness whereof, I have hereto set my hand and seal this nineteenth day of May A.D. One thousand eight hundred and ninety nine.

Kahuki (Seal)

Hawaiian Islands, Second Judicial Circuit ss. Personally appeared before me this 31st day of May 1899 Kahuki to me well known to be the person mentioned in and who executed the foregoing instrument and acknowledged to me that she executed the same freely and voluntarily and for the uses and purposes therein set forth.

C. H. Dickey, Notary Public.

Recorded & compared this 16th day of August A.D. 1899 at 10:48 o'clock A.M.

Thos. G. Thrum, Reg. of Conveyances.

Joao der Costa & wf To Min. of Interior.

Stamped $1.00 Deed

Know all men by these presents that we Joao der Costa and Ilena his wife, of Haikuuka, Makawao, Hawaiian Islands, in consideration of fifteen 50/100 dollars to us paid, the receipt whereof is hereby acknowledged,

10507(M)
Exhibit B

Chain of Title of the State of Hawaii

DEED (Liber 194, Page 483) LOD 681 May 11, 1899
JOHN W. KALUA TO: MINISTER OF THE INTERIOR of the Hawaiian Government

In consideration of the sum of $1,000.00 paid him, JOHN W. KALUA of Wailuku conveys unto JAMES A. KING, Minister of the Interior of the Government of the Hawaiian Islands, **"and his successors in office and assigns forever"** all of Apana 1 of Royal Patent No. 4059 Land Commission Award No. 3529 to Hana, bounded and described, in translation, as follows:

"Beginning at the East corner thence running North 29-1/2° West .78 Chains along the pali; North 72° West 1.35 Chains along the pali; South 84-1/2° West 2.84 Chains along the pali; South 27-1/2° West 1.29 Chains along the pali; South 21° East .96 Chains along the stream; South 84-3/4° East 2.88 Chains along the stream; North 51° East 2.28 Chains along the stream, to the place of beginning and containing an area of 1-45/100 acres." See Exhibit B-5 for copy of deed.

The title and interest of the Hawaiian Government in and to the subject property, defined as public lands in accordance with §73 (3) of the Organic Act, and managed and controlled by the Commissioner of Public Lands of the Territory of Hawaii succeeded to the State of Hawaii pursuant to §5(a) of the Admission Act of March 18, 1959 (Pub L 86-3, 73 Stat 4).

Accordingly we find that the State of Hawaii owns the subject property identified as Apana 1 of Royal Patent 4059, Land Commission Award No. 3529 to Hana, subject to the effect, if any, of Executive Order No. 2926 dated August 21, 1978.

Pa I Nakea

Deed

Eike na kanaka a pau me kua palapala awau o Pa no Wailuku Mokupuni o Maui ke hoomaka aku nei ma ka hoolimalima, a ma ke kuai a ma kua palapala ke hoolilo loa aku nei ia Nakea no ia wahi kookoke no i kela mau apana aina a pau e kolu e waiho la ma ke Ahupuaa o Waiehu. Maui ua haiki ia na palena ma ka Palapala Sila Aupuni Helu 4059 oia ke Kuleana o Hana ma lilo ia Nakea ai i kona mau hoolilina na hoohiohana. a me na waihona . . Eia ke kumumua o ka lilo ana i kua la na hoomaka mai o Nakea i loko o kau lima i Kanalima Dala - e like me ka hai ana o kua palapala - Holaila na lilo ia ia na apana elu - a i kona mau hoolilina - a me na waihona no ka manawa pau ole - na lilo pu no hoi na mea a pau malaina iho - o na mau aina la . . Nai no e hoomaka i kau kuleana i lilo ia Nakea ke kakaa mai kekahi a na ia no e hooiaio imua o na Aha o ke Aupuni - I hoike no kua ke kakau aku nei i koia inoa me kau lima me ke ka pili pu iho i kau Sila i kua la 19 o Okatoba AD 1870

I ke maka
I O.P. Kahale
Kaiki tona X koko

Pa O

Wailuku Maui ss. Personally appeared before me this 19th day of October AD 1870. Pa (K) party to the foregoing Conveyance and acknowledged he had executed the same for the uses and purposes therein set forth

Thomas W Everett Agent to take acknowledgments for the Island of Maui Hawaiian Islands -

Recorded & Compared this 19th day of October AD 1870 at 9 o'clock A.M.

Thomas Brown Registrar of Conveyances

Assignees of C.N. Spencer & Co. To. N. C. Haley

Deed

This Indenture made this twelfth day of October in the year one thousand eight hundred and seventy - Between William L Green and F. H. Harris of the City of Honolulu Assignees in Bankruptcy of Charles N Spencer and Henry Macfarlane late composing the Mercantile firm of C N Spencer & Co of Honolulu Voluntary Bankrupts and also Assignees of the private property of Charles N. Spencer.

Whereas by virtue of the Bankruptcy of the said C. N. Spencer & Co. the said C N Spencer was divested of all his

I certify this is a true copy from the records of the Bureau of Conveyances.
Registrar of Conveyances
Assistant Registrar, Land Court
State of Hawaii

BOOK 31
PAGE 1 - 478

BUREAU OF CONVEYANCES
REGISTRAR OF CONVEYANCES
STATE OF HAWAII

EXHIBIT 2304-DLNR-5a 10507(M)
Exhibit B-1

10507(M)
Exhibit B-1

DEED (Liber 31, Page 90)
PA (k)

TO:

October 17, 1870
NAKEA (k)

" Know all men by this document that I, PA (k) of Wailuku, Island of Maui, give, grant, bargain and sell and by this document convey unto NAKEA, of said Wailuku, all of those three parcels of land lying situated in the Ahupuaa of Wailuku, Maui, whose boundaries are described in Royal Patent No. 4059, being the kuleana awarded to Hana, now hereby conveyed unto Nakea his heirs, successors and assigns. For and in consideration of the $50.00 received in my hand from Nakea on this day and hereby this document acknowledged, I therefore convey the said lands unto him, his heirs and assigns in perpetuity together with all rights and privileges appurtenant upon said lands. And I shall warrant and defend my interest herein conveyed to Nakoa against any claim made and will prove and confirm this in the presence of the courts. In witness hereof I hereby sign and affix my signature together with my seal on this 17th day of October, 1870.

Pa

"In the Witness of W.P. Kahale"

[Acknowledged in English by Thomas W. Everett, Agent]

Registrar of Conveyances
Assistant Registrar, Land Court
State of Hawaii

Nakea & Wife To Samuela & Helelani

Stamped $1.00 Deed

Ina kanaka apau e nana mai ana i keia. Owau o Nakea (K) no Wailuku Maui ke kuai aku nei au a ke hoolilo aku nei a ke haawi nei a ma keia palapala ua kuai au ua haawi a ua hoolilo loa aku ia Samuela (K) a me Helelani (K) no Wailuku Maui i kela mau apana aina apau ekolu e waihoʻla ma ke ahupuaa o Wailuku Maui, ua hoike ia na palena ma ka Palapala Sila Nui Helu 4059, oia ke Kuleana o Haua ililo iaʻu ma ke kuai ana mai a Pa i hoike ia ma ka palapala kuai i hana ia i ka la 17 o Okakoba 1870. Eia ke kumu o ka lilo ana o ua mau apana ainaʻla, ua haawi mua mai o Samuela & Helelani iloko o koʻu lima ina dala hookahi haneli ($100.00). A no ka oiaio o keia ua kuai ia a lilo loa ka aina ia Samuela me Helelani a i ko laua mau hope na hoo ilina ame na hooko kauoha no ka manawa pau ole. I hoike no keia ke kakau nei au me koʻu lima ame ke Sila i keia la 12 o Dekemapa M. H. 1883, ma Wailuku Maui.

Hanaia Silaia me ka ike o D. Napela

Nakea (K) his X mark
Kamaka (W) her X mark

Hawaiian Islands, Wailuku Maui S.S. On this 12th day of December A.D. 1883 Personally appeared before me Nakea (K) and Kamaka (W) his wife of Iao Wailuku parties well known to me to be the parties described in and who executed the foregoing instrument and who severally acknowledged to me they had executed the same freely and voluntarily for the uses and purposes therein set forth. and Kamaka (W) wife of Nakea (K) being examined by me separate and apart from her husband acknowledged to me that she relinquished all right of dower or expectancy in the within described premises and that she did the same without fear or compulsion on the part of her husband or any other person.

Thomas W. Everett, agent to take acknowledgements for the District of Maui Hawaiian Islands.

Recorded & Compared this 22nd day of Dec. A.D. 1883 at 11 o'clock A.M.

Malcolm Brown Deputy Registrar of Conveyances.

Manoanoa & Wife To Kaauwai

Stamped $0. Deed.

Eike auanei na mea apau ke nana mai i keia, owau o Manoanoa (K) ame Kapaole (W) kaʻu wahine mare no Kaupo Mokupuni o Maui Ko Hawaii Pae aina, a no ka mea hoi ua loaa mai iloko o ko maua lima na dala

BUREAU OF CONVEYANCES
REGISTRAR OF CONVEYANCES
STATE OF HAWAII

EXHIBIT 2304-DLNR-5b 10507(M)
Exhibit B-2

DEED (Liber 86, Page 158)
NAKEA (k) & Wife

TO:

December 12, 1883
SAMUELA (k) & HELELANI

" To all men unto whom these presents shall come, I NAKEA (k) of Wailuku, Maui give, grant, bargain, sell and convey and by this document do hereby give, grant, sell and convey unto SAMUELA (k) and HELELANI (k) of Wailuku, Maui all of those three parcels of land lying situated in the Ahupuaa of Wailuku, Maui whose boundaries are described in Royal Patent No. 4059, and being the kuleana awarded and confirmed to Hana and conveyed to me by purchase from Pa described in deed dated the 17th of October 1870. Said parcels of land being conveyed for and in consideration of the payment of $100.00 received in my hand from SAMUELA & HELELANI, and in acknowledgement of this, I do hereby give, grant, bargain, sell and convey said land unto SAMUELA & HELELANI their successors, heirs and executives in perpetuity. In witness hereof we hereby sign and affix our signatures together with our seals on this 12th day of December M.H. 1883 at Wailuku, Maui.

Nakea (k)
Kamaka (w)

"Done and Sealed before D. Napela"

[Acknowledged in English by Thomas W. Everett, Agent]

purposes therein set forth. And the said Kaikuaana wife of the said Kawaauhau on a private examination by me, separate and apart from her husband further acknowledged to me that she had signed the same freely and without compulsion or fear from her husband.

J. H. Waipuilani
Notary Public

Recorded & Compared this 17th day of June A.D. 1898 at 2:59 O'clock P.M.
Thos. G. Thrum

S. H. D. Palau To Mrs K. Pakiko

Stamped $1.00

Deed.

Eike auanei na kanaka a pau ma keia Palapala Owaii o S. H. David Palau no Eleele Plantation Kauai. No na Dalamaikai he Kanawalu kumalima ($85.00) i loaa pono mai nei iaŭ, mai Mrs Kamaka Pakiko no Napoopoo Kona Hema Mokupuni o Hawaii, a o keia Palapala ka hoike oiaio. Nolaila ma keia Palapala, he kuai, haawi a hoolilo loa aku nei au i kekahi mau Eka aina Eono o koŭ kuleana i mahele ole ia, I loko o ka apana aina o Palau (a) koŭ makuakane ponoi i make kauoha ole. I hoakakaia na palena ma ka Palapala Sila Nui Helu 1179 e waiho ana ma Kahauloa I ki Kona Hema Mokupuni o Hawaii, a he kuleana oiaio a kupono koŭ ma ke Kanawai ma keia kuai ana. Nolaila o keia mau Eka aina oŭ eono (6) i mahele ole ia i hoakakaia malima, na pono ame na pomaikai a pau loa e pili ana maluna iho, ua lilo loa ia ia Mrs Kamaka Pakiko i olelo mua ia, a i kona mau Hooilina me kona mau waihona no ka manawa pau ole. I hoike no ka oiaio ona olelo a pau i hana ia na keia Palapala ke kakau nei au i koŭ Inoa me ka hoopili pu i koŭ sila i keia la 17 o Decembr C.D. 1897, ma Eleele Kauai.

Kakau ia Imua
o M. A. Rego

S. H. David Palau

Hawaiian Islands Island of Kauai. ss. On this 17th day of December A.D. 1897 personally appeared before me S. H. David Palau known to me to be the person described in, and who executed the foregoing instrument, who duly acknowledged to me that he executed the same freely and voluntarily, and for the uses and purposes therein set forth.

E. Strehz Notary Public 5th J. C.

Recorded & Compared this 21st day of June A.D. 1898 at 9:12 O'clock A.M.
Thos. G. Thrum, Registrar of Conveyances.

Samuela & Helelani To M. Waiwaiole

Stamped $1.00

Deed.

Eike auanei na kanaka a pau ma keia palapala, o maua o Samuela (x) ame Helelani (x) no Waiehu, apana o Wailuku Mokupuni

I hereby certify that this is a true copy from the records of the Bureau of Conveyances.
Nicholas Ben Thrum
Registrar of Conveyances
Assistant Registrar, Land Court
State of Hawaii

BUREAU OF CONVEYANCES
REGISTRAR OF CONVEYANCES
STATE OF HAWAII

o Maui o Ko Hawaii Pae Aina. No ka loaa ana mai o na Dala he Kanakolukumamalima ($35.00) iloko o ko mai a lima mai ia Mele Waiwaiole (w) mai ka maua kaikamahine o Wailuku i olelo mua ia, a ke ae nei maua ma keia palapala, ua loaa pono mai no ia mau Dala ia maua nolaila, ke kuai, ke haawi, ke hoo kiue, a ma keia palapala. e hoolilo nei maua i komaua kuleana apau, oia no ka apana I e waiho la ma ka ili o Kahua ame ka apana II e waiho la ma ka ile o Kahiki ma Wailuku i olelora a i hookoia hoi ma ka inoa o Hana, nona ka Palapala Sila Nui Helu 4059, Kuleana Helu 3529 no Mele Waiwaiole i olelo ia, kona mau Hooilina, Hope a waihona no ka manawa pau ole, a e koi ana hoi ma keia kuai ana ka apana III oia kahi e noho ia la e Kaimuwai ma i keia wa. A o keia no hoi, kekahi mau apana iloko o keia kuleana i hoakakaia maluna, a Pa (w) i hoolilo mai ai ia Nakea (w) a i kopeia iloko o ka Buke 31 o ke aupuni aoao 90, a hoolilo hou ia mai hoi e ua Nakea la i olelo mua ia, ame Kamaka (w) kana wahine mare, a kopeia iloko o ka Buke 86 o ke aupuni aoao 158 ia maua, oia no Samuela ame Helelani i olelo mua ia maluna. Nolaila, o ke kuleana i hoakakaia maluna, na pono ame na pomai kai apau o keia wa ame ka wa i hala, ame na mea apau maluna, oia ka maua e hoolilo loa aku nei no Mele Waiwaiole i olelora, kona mau hooilina, hope a waihona no ka manawa pau ole. I hoike no ka oiaio o keia, ke kakau nei ma ia i ko maua mau inoa ame na sila i keia la 12 o May A.D. 1898.

Hoike ike maka } Samuela (w)
S. E. Kaleikau } Helelani (w)

Hawaiian Islands, Island of Maui ss On this 12 day of May A.D. 1898 personally appeared before me Samuela (w) ame Helelani (w) known to me to be the persons described in and who executed the foregoing instrument who severally acknowledged to me that they executed the same freely and voluntarily, and for the uses and purposes therein set forth.

S. E. Kaleikau
Notary Public.

Recorded & Compared this 21st day of June A.D. 1898 at 9:13 o'clock A.M.
Thos. G. Thrum.

M. Waiwaiole & husbd To J. W. Kalua

Stamped $1.00 Deed.

Eike auanei na kanaka a pau ma keia palapala owau o Mele Waiwaiole (w) ame M. P. Waiwaiole kau kane mare no Wailuku, Mokupuni o Maui o Ko Hawaii Pae Aina. No na Dala he kanalima ($50.00) i haawi ia mai iloko o ko maua lima mai ia J. W. Kalua mai o Wailuku i olelo mua ia, a ke ae aku nei maua ma keia palapala, ua loaa pono mai no na Dala i olelora maluna, nolaila ke

BUREAU OF CONVEYANCES
REGISTRAR OF CONVEYANCES
STATE OF HAWAII

I hereby certify that this is a true copy from the records of the Bureau of Conveyances.
Assistant Registrar, Land Court
State of Hawaii

10507(M)
Exhibit B-3

DEED (Liber 183, Page 102)
SAMUELA (k) & HELELANI (k) TO: May 12, 1898
MELE WAIWAIOLE

" Know all men by this document that we SAMUELA(k) and HELELANI(k) of Waiehu, section of Wailuku, Island of Maui, Hawaiian Islands, for and in consideration of the sum of $35.00 received in our hands from our niece MELE WAIWAIOLE of said Wailuku and in acknowledgement of the receipt of said sum do hereby this document give, grant, bargain, release, sell and convey all of our right, title and interest in and to apana I lying situated in the Ili of Kahua and apana II lying situated in the Ili of Kahiki at said Wailuku awarded and confirmed in the name of Hana under Royal Patent No. 4059, Land Commission Award No. 3529 unto the said MELE WAIWAIOLE, her heirs, successors and assigns in perpetuity, and reserving however from this conveyance apana III, where Kainuwai presently resides. Furthermore these parcels of land described within the aforementioned award, were by Pa (k) conveyed to Nakea (k) by deed recorded in Book 31, page 90, and later conveyed by said Nakea and his wife Kamaka (w) to us, SAMUELA and HELELANI by deed recorded in Book 86, page 158. We therefore do hereby convey all of our aforementioned title and interests, and all rights, privileges and benefits belonging to and appurtenant thereon now and forever unto the said MELE WAIWAIOLE, her heirs, successors and assigns in perpetuity. In witness hereof we hereby sign and affix our signatures and Seals on this 12th day of May A.D. 1898.

Samuela
Helelani

"Witnessed before S.E. Kaleikau"

[Acknowledged in English by S.E. Kaleikau, Notary Public]

o Maui o Ko Hawaii Pae Aina. No ka loaa ana mai o na Dala he Kanakolukumamalima ($35.00) iloko o ko mae a lima mai ia Mele Waiwaiole (w) mai ka maua kaikamahine o Wailuku i olelo mua ia, a ke ae nei maua ma keia palapala, ua loaa pono mai no ia mau Dala ia maua nolaila, ke kuai, ke haawi, ke hookiu, a ma keia palapala. e hoolile nei maua i ko maua kuleana apau, oia no ka apana I e waiho la ma ka ili o Kahua ame ka apana II e waiho la ma ka ili o Kahiki ma Wailuku i oleloia, a i hookoia hoi ma ka inoa o Hana, nona ka Palapala Sila Nui Helu 4059, Kuleana Helu 3529 no Mele Waiwaiole i olelo ia, kona mau Hooilina, Hope a waihona no ka manawa pau ole, a e koi ana hoi ma keia kuai ana ka apana III oia kahi e noho ia la e Kaimuwai ma i keia wa. A o keia no hoi, kekahi mau apana iloko o keia kuleana i hoakakaia maluna, a Pa (x) i hoolilo mai ai ia Nakea (x) a i kopeia iloko o ka Buke 31 o ke aupuni aoao 90, a hoolilo hou ia mai hoi e ua Nakea la i olelo mua ia, ame Kamaka (w) kana wahine mare, a kope ia iloko o ka Buke 86 o ke aupuni aoao 158 ia maua, oia no Samuela ame Helelani i olelo mua ia maluna. Nolaila, o ke kuleana i hoakakaia maluna, na pono ame na pomaikai apau o keia wa ame ka wa i hala, ame na mea apau maluna, oia ka maua e hoolilo loa aku nei no Mele Waiwaiole i oleloia, kona mau hooilina, hope a waihona no ka manawa pau ole. I hoike no ka oiaio o keia, ke kakau nei maua i ko maua mau inoa ame na Sila i keia la 12 o May A.D. 1898.

Hoike ike maka } Samuela
S. E. Kaleikau } Helelani

Hawaiian Islands, Island of Maui ss On this 12 day of May A.D. 1898 personally appeared before me Samuela (x) ame Helelani (x) known to me to be the persons described in and who executed the foregoing instrument who severally acknowledged to me that they executed the same freely and voluntarily, and for the uses and purposes therein set forth.

S. E. Kaleikau
Notary Public.

Recorded & Compared this 21st day of June A.D. 1898 at 9:13 o'clock A.M.
Thos. G. Thrum

M. Waiwaiole & husbd To J. W. Kalua

Stamped $1.00 Deed.

Eike ananei na kanaka a pau ma keia palapala owau o Mele Waiwaiole (w) ame M. P. Waiwaiole kau kane mare no Wailuku, Mokupuni o Maui o Ko Hawaii Pae Aina. No na Dala he kanalima ($50.00) i haawi ia mai iloko o ko maua lima mai ia J. W. Kalua mai o Wailuku i olelo mua ia, a ke ae aku nei maua ma keia palapala, ua loaa pono mai no na Dala i oleloia maluna, nolaila ke

I hereby certify that this is a true copy from the records of the Bureau of Conveyances.
Nicks Ben Thrum
Assistant Registrar, Land Court
State of Hawaii

BUREAU OF CONVEYANCES
REGISTRAR OF CONVEYANCES
STATE OF HAWAII

EXHIBIT 2304-DLNR-5d

10507(M)
Exhibit B-4

kuai, ke haawi, ke hookuu a ke hoolilo loa aku nei au i kela mau apana aina elua oia ka apana I ame ka apana II, a Samuela ame Helelani (w) i hoolilo mai ai iaŭ ma ka la 12 o May A.D. 1898 no J. N. Kalua i oleloia, kona mau hooilina, hope a waihona no ka manawa pau ole. A o keia no hoi kekahi mau apana iloko o ke kuleana i hooko ia ia Hana, nona ka Palapala Sila nui Helu 4059 Kuleana Helu 3529, e waiho la ma Keahua ame Kuluki, ma Nailuku i oleloia. Nolaila, o nu apana aina i hoike ia maluna, na pono ame na pomaikai apau ame na mea apau maluna, ame na pono o keia wa ame ko ka wa i hala, oia kaŭ e hoolilo loa nei no J. N. Kalua i oleloia, kona mau hooilina, hope a waihona no ka manawa pau ole. I hoike no ka oiaio o keia ke kakau nei mau i ko maua mau inoa ame na sila i keia la 13 o May A.D. 1898.

Hoike ike maka } Mele Naiwaiole.
S. E. Kaleikau } M. P. Naiwaiole

Hawaiian Islands, Island of Maui. ss. On this 13th day of May A.D. 1898 personally appeared before me Mele Naiwaiole (w) and M. P. Naiwaiole her husband known to me to be the persons described in, and who executed the foregoing instrument, who severally acknowledged to me that they executed the same freely and voluntarily, and for the uses and purposes therein set forth. S. E. Kaleikau

Notary Public.

Recorded & Compared this 21st day of June A.D. 1898 at 9:14 o'clock A.M.

Thos. G. Thrum [illegible]

Hookano To Pawale & Haalipo

Stamped $2.00

Deed.

Eike auanei na kanaka apau owau o Hookano i kapaia o Kikoo (w) no Naihee apana o Nailuku Makupuni o Maui ko H. P. A. ma ke kuai ke haawi kuai hoolilo aku nei au i kou kuleana aina apau i loaa mai iaŭ mai a Pawale (w) kau wahine mare i make nona hoi ka nui. 58 E ka iloko o ka waiwai o Mahoe (w) i make kona makuakane ponoi ai hooko pono ia hoi nona na palena i hoike ia ma ka Palapala Sila nui Helu 6150 Kuleana Helu 3887 B e waiho ala ma ka Ili o Kolopue iloko o ke ahupuaa o Naihee Maui.

E lilo loa ia Pawale (w) kau kaikamahine ame Haalipo (w) kau kuki no Nailuku Maui i olelo ia maluna no laua ua aina la i olelo ia no laua a i ko laua mau Hooilina a Hope a waihona no ka manawa pau ole.

Eia ke kumu o ka lilo ana ua haawi mai o Pawale ame Haalipo ma Kala la 10 ma kou lima i keia la 1st o Marati Makahiki 1898.

A no ka oiaio o keia ke kakau nei au i kou Inoa a hoopili i kou sila i keia la i olelo a maluna.

Hanaia mi ka ike o Kaualua } Hookano Kona X Kaha
M. P. Naiwaiole }

Registrar of Conveyances
Assistant Registrar, Land Court
State of Hawaii.

BUREAU OF CONVEYANCES
REGISTRAR OF CONVEYANCES
STATE OF HAWAII

10507(M)
Exhibit B-4

DEED (Liber 183, Page 103)
MELE WAIWAIOLE & Husband TO: May 13, 1898
J. W. KALUA

" Know all men by this document I MELE WAIWAIOLE (w) and M.P. Waiwaiole, my husband, of Wailuku, Island of Maui, Hawaiian Islands, for and in consideration of the sum of $50.00 received in our hands from J.W. KALUA of said Wailuku, and in acknowledgement of the receipt of said sum we hereby this document give, grant, bargain, release, sell and convey unto the said J.W. KALUA, his heirs, successors and assigns in perpetuity, those two parcels of land being Apana I and Apana II conveyed to me on the 12th of May A.D. 1898 by Samuela (k) and Helelani (k). These parcels being portions of the kuleana awarded and confirmed unto Hana under Royal Patent No. 4059, Land Commission Award No. 3529 lying situated in Keahua and Kahiki, at said Wailuku. Therefore the above described lands, together with all rights, privileges and benefits now and forever belonging to and appurtenant thereon is that which I hereby convey unto the said J.W. KALUA, his heirs, successors and assigns in perpetuity. In the witness hereof we hereby sign and affix our signatures and Seals on this 13th day of May A.D. 1898.

Mele Waiwaiole
M.P. Waiwaiole

"Witnessed before S.E. Kaleikau"

[Acknowledged in English by S.E. Kaleikau, Notary Public]

a true copy from the records of the Bureau of Conveyances.
Registrar of Conveyances
Assistant Registrar, Land Court
State of Hawaii

Wailuku Sugar Co. with Territory of Hawaii.

Ex./ Deed Stamped O.

This Indenture, made this 30th day of July, A.D. 1907, by and between the Wailuku Sugar Company, Limited, a corporation duly organized and existing under and by virtue of the laws of the Territory of Hawaii, party of the first part, and the Territory of Hawaii, by C.S.Holloway, Superintendent of Public Works of the Territory of Hawaii, party of the second part,

W i t n e s s e t h : That the said party of the first part has given and granted and by these presents does give and grant unto the said party of the second part, its successors and assigns, those certain lots, pieces and parcels of land situate in Iao Valley, District of Wailuku, Island and County of Maui, Territory of Hawaii, more particularly described in schedule 1 hereto annexed and made a part hereof.

Together with the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining in exchange for the rights of way and easements over public lands of the party of the second part hereinafter mentioned; it being mutually agreed between the parties hereto that upon the construction and completion by the party of the second part or and the County of Maui of road or and roads upon the lands herein by the party of the first part granted to the party of the second part and the delivery by the said party of the second part to the party of the first part of a good and sufficient description describing and delineating by metes and bounds the road and or roads so constructed and completed, the said party of the first part will make, execute, acknowledge and deliver to the said party of the second part a good and sufficient deed of the said lands containing a true and accurate description and delineation by metes and bounds of the said land and lands upon which the road or and roads may be thus constructed and completed.

OF CONVEYANCES
REGISTRAR OF CONVEYANCES
STATE OF HAWAII

To have and to hold the said premises with the appurtenances and every part thereof unto the said party of the second part, its successors and assigns forever, in exchange for the rights of way and easements over public lands hereinafter mentioned.

And the said party of the second part has likewise given and granted and by these presents does give and grant unto the said party of the first part, its successors and assigns forever, a perpetual right of way and easement for flumes or ditches over, upon,

along, or under those certain lots, pieces or parcels of land situate in the District of Wailuku, Island and County of Maui, Territory of Hawaii, more particularly described and bounded in schedule 2, hereunto annexed and made a part hereof.

To have and to hold all and singular the above granted rights of way and easements with the appurtenances and every part thereof to the said party of the first part, its successors and assigns forever, together with the right of ingress, egress and regress upon and over said rights of way and easements for the purpose of installation, examination, repair or any other purpose connected with the construction, maintenance, repair or removal of any and all flumes and or ditches, in exchange for the said lands hereinbefore mentioned.

Provided Always nevertheless, and these premises are upon this condition and it is the true intent and meaning of the parties hereto that if it shall happen that either of the said parties to these presents, their respective successors or assigns shall, at any time hereafter, by color or means of any form of or other conveyance or howsoever be ousted or evicted from the possession of either of the said messuages or tenements or either the premises so respectively granted in exchange as aforesaid or any part thereof, then in any such case, the grant and conveyance made by these presents shall be void and of no effect; and thenceforth it shall or may be lawful to and for the party or parties so ousted or evicted unto its or their said former messuage or tenements or premises with all and singular the appurtenances to reenter and the same to have again, repossess and enjoy as of its and their former estate or estates, anything herein contained to the contrary notwithstanding.

And it is further agreed and understood by and between the parties hereto, that should at any time hereafter, said party of the first part voluntarily abandon any of the rights of way and easements herein and by these presents granted, such right of way and or rights of way and easements so abandoned shall revert to the Territory of Hawaii and no longer be owned, enjoyed or possessed by the party of the first part and shall then and there and thereafter cease to exist.

In witness whereof, the said party of the first part has cause its corporate name to be hereunto subscribed and its corporate seal

affixed by M.P.Robinson its President, and Geo. H. Robertson its Treas-J.M.K.-N.P.
urer thereunto duly authorized, and the said party of the second part has caused these presents to be signed by its Superintendent of Public Works, the day and year first above written.

Wailuku Sugar Company,

Corporate Seal.

By M.P.Robinson - Its President.

By Geo.H.Robertson - Its Treasurer. J.A.J.

Territory of Hawaii.

By C.S.Holloway

Superintendent of Public Works of the Territory of Hawaii.

Approved:

G. R. Carter

Governor of Hawaii. J.M.K.-N.P.

I hereby certify that on page 2 of this instrument, as initialed by me "Secretary" was changed to "Treasurer," before signing.

J. A. Johnson

Notary Public.

I hereby certify that that the correction and interlineation made on page 3 line 18, by striking out the word "Secretary" and interlining in place thereof the word "Treasurer", and the correction on page 4 line 3 by striking out the word "Acting" were made before execution thereof.

Jno. M. Kea

Notary Public.

Territory of Hawaii, County of Oahu, -ss.- On this 30th day of July, A.D., 1907, before me appeared M.P.Robinson and Geo. H. Robertson, to me personally known, who, being by me duly sworn, did say that they are the President and Treasurer, respectively, of the Wailuku Sugar Company, the Corporation described in the the foregoing instrument, and that the seal affixed to said instrument is the Corporate Seal of said Corporation, and that said instrument was signed and sealed by them, respectively, in behalf of said Corporation; and said M.P. Robinson and Geo. H. Robertson, severally acknowledged said instrument to be their free act and deed and the free act and deed of said Corporation.

" I further certify that on 3rd page of this instrument, as initialed "by me, "Secretary" was changed to "Treasurer" before signing.

J. A. Johnson

Notary Public, First Judicial Circuit.

Territory of Hawaii, Island of Oahu, County of Oahu, -ss.- On this 5th day of August, A.D. 1907, personally appeared before me George R. Carter, Governor of the Territory of Hawaii, and C.S.Holloway, Superintendent of Public Works of the Territory of Hawaii, both known to me to be the persons described in and who executed the foregoing instrument and they severally acknowledged to me that they, acting in their respective official capacities as such Governor and Superintendent of Public Works, executed the same freely and voluntarily as the free act and deed of the said Territory of Hawaii, and for the uses and purposes therein set forth.

And I hereby certify that the correction and interlineation made on page 3 line 18, by strking out the word "secretary" and interlining in place thereof the word "Treasurer" was made before execution thereof.

Jno. M. Kea,

Notary Public, First Judicial Circuit,

Territory of Hawaii.

Schedule I.

1.- A strip of land 30 feet in width, lying equally 15 feet on each side of the center line of the new road up Iao as constructed, with such additional width as may be necessary now or at any future time for the proper slopes of fills and cuts, running from a point on the old government road about 800 feet East of the government reservoir, at Engineer's Station 0, in a general Westerly direction, to Engineer's Station 20, where the new road joins the old; also beginning at Engineer's Station 72 plus 50 about 500 feet below the new bridge, and running Westerly to Engineer's Station 81, just below the Wailuku Sugar Co's large pipe line, joining the old road again; also beginning at Engineer's Station 90 plus 50, where the new road leaves the old road just below the property of W.R. Field to Engineer's Station 148, at the junction of the new road with the trail leading to the Table Land", near the foot of the main spur by the old "Third Crossing", excepting two small strips heretofore conveyed by Mrs. Dorcas Richardson Decker and Mrs. Margaret Nape Field respectively, and containing a net area of 5-1/2 acres, a

trifle more or less.

C.S.Holloway

Supt. of Public Works, Terr. of Hawaii

2.- A strip of land 20 feet wide, lying equally 10 feet on each side of the center line of the new road as constructed, together with such additional width as may be required now or at any future time for the proper slopes of cuts and fills, running from a point on the old road by the gate which is 1100 feet in a Northwesterly direction from the Northern end of the new bridge across Waihee stream, in a general Northwesterly direction, entirely through the lands of the Wailuku Sugar Company to the boundary between Waihee and the government land of Kukuipuka, on a prominent ridge directly mauka of Hulu Island, a total distance of about 5000 feet, and containing an area of 2-1/2 acres, a little more or less.

C. S. Holloway

Supt. of Public Works,Terr. of Hawaii

Geo. H. Robertson

Treasurer Wailuku Sugar Co.

Schedule 2.

1.- A portion of the Ili of Kou, Waiehu, Maui, T.H., ten (10) feet in width, the center line of which is described as follows:

Commencing at a point on the center line of the new Waihee Canal at the portal at the outlet of Tunnel #11, from which the intersection of Canal line with the boundary between Waihee and Kou bears N. 5° 48' W. True distant 600 feet, thence along the ditch, the direct bearings and distances being as follows:

Courses magnetic:

S	57°	W.	209	feet
S	53°	W.	280	"
S	54°	W.	368	"
S	67-1/2°	W.	194	"
S	56°	W.	496	"
S	62 -1/2°	W.	365	"
S	59-1/2°	W.	252	"
S	26-1/2°	E.	154	"
S	85-3/4°	E.	229	"
S	75°	E.	151	" more or less to boundary on divide

between Ilis of Kou and Hanamui, Waiehu, Maui. 26980.0 sq. ft.

C.S.Holloway

Supt. of Public Works, Terr. of Hawaii.

Geo. H. Robertson

Treasurer Wailuku Sugar Co.

2.- A portion of the Ili of Polipoli, Waiehu, Maui, ten (10) feet in width the center line of which is described as follows:

Commencing at a point on the Northerly boundary of Polipoli, Waiehu, Maui, from which a large rock marked with an arrow (⟶) bears N 63° E. Magnetic, distant 1482 feet, thence along the line of flume and ditch to the Southerly boundary of the Ili of Polipoli:

The direct bearings and distances being as follows:

Courses Magnetic.

1.	S	11°	E.	65 feet
2.	S	32° 36'	E.	75 "
3.	S	66° 27'	E.	100 "
4.	S	59° 57'	E.	100 feet
5.	S	71° 32'	E.	150 "
6.	S	33° 38'	E.	20 "
7.	S	38° 75'	E.	90 "
8.	S	50° 40'	W.	109 "
9.	S	24° 32'	W.	133 "
10.	S	49° 11'	E.	82 "
11.	S	29° 31'	E.	78 "
12.	N	81° 24'	E.	199 "
13.	S	69° 40'	E.	59 "
14.	S	15° 05'	E.	130 feet to the Southerly boundary of the Ili of Polipoli

13900.0 sq. ft.

3.- A portion of the Ili of Kou, Waiehu, Maui, ten (10) feet in width, the center line of which is described as follows:

Commencing at a point on the boundary line between Waihee and Waiehu, on the Northerly boundary of the Ili of Kou, Waiehu, Maui, from which the Pohakupuka Rock bears N 80° 04' E true distant 354.7 feet, said point being in the center of a V flume thence by true courses:

1- S 48° 46' E. 50 feet to center of flume

2- S 41° 31' E 50 feet to center of flume

3- S 26° 11' E 50 feet to center of flume

4- S 7° 23' E 50 feet to center of flume

5- S 1° 38' E 200 feet to center of flume

6- S 5° 30' E 50 feet to center of flume

7- S 6° 28' E 50 feet to center of flume

8- S 13° 08' E 50 feet to center of flume

9- S 26° 10' E 50 feet to center of flume

10- S 30° 10' E 50 feet to center of flume more or less.

6500.0 sq. ft.

C.S.Holloway

Supt. of Public Works, Terr. of Hawaii

Geo. H. Robertson

Treas. Wailuku Sugar Co.

4.- Portion of the land of Kapoino, Waiehu, Maui, ten (10) feet in width the center line of which is described as follows:

Commencing at a point on the Northerly boundary of Kapoino situate in Waiehu, Maui, from which the broken rock as described in Survey of said tract bears S 75° 30' W true distant 182 feet said point being in the center of V flume, thence by true courses as follows:

1- S 32° 15' E 100 feet

2- S 21° 30' E 100 feet

3- S 28° 75' E 100 feet

4- S 32° 30' E 100 feet

5- S 13° 55' E 100 feet

6- S 5° 10' E 100 feet

7- S 3° 40' E 130 feet more or less to boundary on southerly side of Government road. 7300.0 sq. ft.

5.- A portion of the Ilis of Kou, Hananui and Polipoli, Waiehu, Maui, which intersects course No. 12 of the survey of the Kou tract Waiehu Maui, and from which a rock (being a corner on said boundary) bears S 83° 18' E true 386 feet said rock being S 86° 36' W true 1471.8 feet from Pohakunahaha rock on said Kou boundary forty (40) feet in width, the center line being described as follows:

Commencing at the center line of said new Waihee canal by angles and distances, tangents and including semi-tangents on curves in Section 2 of Waihee Canal as constructed including all of tunnel number

11 and a portion of tunnels number 10 and 12:

S 5° 48' E true 645 feet, thence

51° 45' Right 195 feet, thence

49° 35' Left 253 feet, thence

17° 15' Left 210 feet, more or less to the Southerly boundary of the Ili of Kou and thence crossing the Hanamui tract by same course 330 feet to the end of tunnel number 12, thence along the center line of tangents and curves including tunnels, open ditch and flumes:

Tangent	70.2 feet
16° Curve Right	100.0 feet
Tangent	380.5 feet
18° Curve Left	200.0 feet
Tangent	116.0 feet
40° Curve Right	20.0 feet to the boundary between the Ilis of Hanamui and Polipoli.

Hence crossing the Polipoli tract,

40° Curve Right	150.62 feet
Tangent	77.58 feet
40° 30' Curve Left	100.00 feet
Tangent	483.42 feet
73° Curve Left	100.0 feet
Tangent	293.58 feet
50° Curve Right	88.05 feet
Tangent	109.45 feet
20° Curve Right	97.50 feet
Tangent	50.20 feet
40° Curve Right	105.33 feet
Tangent	50.00 feet more or less to the Southerly boundary of the Polipoli Tract. 169021.0 sq. ft.

C.S. Holloway

Supt. of Public Works, Terr. of Hawaii

Geo. H. Robertson

Treasr Wailuku Sugar Co.

6.- A portion of the Ili of Kou thirty five (35) feet in width the makai boundary line being described as follows:

Commencing at a point on the boundary line between Waihee and

Waiehu on the Northerly boundary of the Ili of Kou, Waiehu, Maui, from which the Pohakunahaha rock bears S 80° 04' W true distant 197 feet, said point being on the makai bank of the Spreckels ditch, thence by true courses along said makai bank as follows:

1-	S	26° 28'	E	50 feet
2-	S	21° 16'	E	50 feet
3-	S	00° 36'	E	50 feet
4-	S	27° 56'	W	50 feet
5-	S	31° 54'	W	250 feet
6-	S	19° 24'	W	50 feet
7-	S	6° 58'	E	100 feet
8-	S	5° 7'	W	50 feet
9-	S	19° 17'	W	50 feet
10-	S	35° 54'	W	50 feet
11-	S	45° 27'	W	50 feet
12-	S	23° 9'	W	50 feet
13-	S	3° 21'	E	50 feet
14-	S	14° 41'	E	50 feet
15-	S	4° 1'	E	50 feet
16-	S	10° 59'	W	50 feet more or less to the boundary line

between the Ilis of Kou and Hanamui, Waiehu, Maui. 36750.0 sq. ft.

7.- A portion of tract of land purchased from the Wailuku Sugar Co. by the Hawaiian Government for a Reservoir Site for the Wailuku and Kahului Water Works, and described in deed from Wailuku Sugar Company, Ltd to Minister of Interior, dated February 20th, A.D. 1900, and recorded in Book 201, page 415 to 417, having a width of eight (8) feet the center line being described as follows:

Commencing at a point on the Northerly line of said tract of land in the line of fence from which the most Northerly corner of fence around said tract bears N 45-1/4° E distant 2 feet, thence S. 44-1/4° E 35 feet to the fence line on the Easterly boundary of said tract - all courses magnetic. 280.0 sq. ft.

C.S.Holloway

Supt. of Public Works, Terr. of Hawaii

Geo. H. Robertson

Treasurer Wailuku Sugar Co.

Entered of Record this 4th day of September A.D.1907,at 2:02 O'clock P. M.,and compared. Chas. T. Murray Registrar of Conveyances.

I hereby certify that this is a true copy from the records of the Bureau of Conveyances.

Registrar of Conveyances
Assistant Registrar, Land Court
State of Hawaii

4135 241

GIFT DEED

THIS AGREEMENT entered into this 11th day of September, 1961 by and between the WAILUKU SUGAR COMPANY, a Hawaii corporation, hereinafter referred to as the "GRANTOR", the STATE OF HAWAII, hereinafter referred to as the "GRANTEE", by its Board of Land and Natural Resources, and the HAWAIIAN COMMERCIAL AND SUGAR COMPANY, LIMITED, a Hawaii corporation, hereinafter referred to as "H C & S";

WITNESSETH THAT:

WHEREAS, the Grantor is the owner of a certain parcel of land situate at Iao, District of Wailuku, Island and County of Maui, State of Hawaii, which parcel of land the Grantor desires to transfer to the Grantee as a gift; and

WHEREAS, said land is affected and encumbered by a certain compromise agreement dated June 23, 1924 by and between the Grantor and H C & S, and recorded in the Bureau of Conveyances, Honolulu, Hawaii in Liber 740, Page 134; and

WHEREAS, H C & S being in accord with the intent and effect of this Gift Deed, joins in with the Grantor in causing this conveyance to be made; and

WHEREAS, the Grantee is willing to accept said parcel as a gift from the Grantor with the concurrence of H C & S;

BUREAU OF CONVEYANCES ★ REGISTRAR OF CONVEYANCES ★ STATE OF HAWAII

NOW, THEREFORE, the Grantor for and in consideration of the sum of ONE DOLLAR ($1.00), the receipt whereof is hereby acknowledged, does hereby grant and convey to the Grantee, its successors and assigns, as a gift nevertheless and subject to the reservations, covenants and conditions hereinafter set forth, all that certain parcel of land, being portion of Grant 3343 to Claus Spreckels, situate at Iao, District of Wailuku, Island and County of Maui, State of Hawaii, which is more particularly described as follows:

EXHIBIT 2304-DLNR-6b

Beginning at a 3/4 inch pipe at the East corne. of this parcel of land and on the South side of Iao Valley Road, the coordinates of said point of beginning referred to U.S.C. & G.S. Triangulation Station "LUKE" being 100.41 feet North and 16,804.65 feet West, and running by azimuths measured clockwise from True South:

1.	51°	50'		170.37 feet	to the edge of Iao Stream to a point;
2.	32°	55'		311.44 feet	across the stream to a point;
3.	67°	45'		149.59 feet	to a 1 1/4 inch pipe;
4.	80°	53'		133.34 feet	to a 1 1/4 inch pipe;
5.	195°	16'	20"	434.44 feet	to a 1 1/4 inch pipe;
6.	258°	44'		95.07 feet	to a point on the Iao Valley Road right of way;
7.	222°	01'		127.58 feet	along Iao Valley Road right of way and across Iao Stream to a point;
8.	261°	10'		90.75 feet	along Iao Valley Road right of way to a point;
9.	239°	09'	15"	169.97 feet	to a point;
10.	346°	43'		194.26 feet	to the point of beginning and containing an AREA OF 167,858 SQUARE FEET or 3.853 ACRES.

RESERVING unto the Grantor, its successors and assigns, all water rights belonging or appertaining to the above described land.

RESERVING AND EXCEPTING therefrom, unto the Grantor and H C & S, their successors and assigns, an easement (hereinafter referred to as the "Easement Area") for roads, pieplines and utility purposes, including the right of ingress, egress and regress, over, under, along, across and upon the following described portion thereof:

Beginning at a point on the South Side of 30 foot road easement on the East boundary of Iao Valley Park Site, the coordinates of said point of beginning referred to U.S.C & G.S. Triangulation Station "LUKE" being 117.63 feet North and 16,808.71 feet West, and running by azimuths measured clockwise from True South:

1.	106°	00'		196.01 feet	to a 3/4 inch pipe;
2.	81°	10'		73.48 feet	to a 3/4 inch pipe;
3.	42°	01'		95.51 feet	across the North branch of Iao Stream to a 3/4 inch pipe;
4.	331°	00'		119.68 feet	to a point;
5.	78°	44'		229.17 feet	to a point;
6.	195°	16'	20"	33.53 feet	to a point;
7.	258°	44'		173.10 feet	to a point;
8.	151°	00'		100.00 feet	to a 3/4 inch pipe;
9.	222°	01'		127.58 feet	across the North branch of Iao Stream to a point;
10.	261°	10'		90.75 feet	to a point;
11.	286°	00'		185.80 feet	to the east boundary of Iao Vall Park to a point;
12.	346°	43'		34.40 feet	along the East boundary of Iao Valley Park to the point of beginning and containing an AREA OF 20,862 SQUARE FEET or 0.479 ACRE.

SUBJECT, HOWEVER, to the right of free flowage of water in the North Branch of Iao Stream.

SUBJECT, ALSO, to the rights in favor of the County of Maui under agreement dated October 4, 1954, and recorded in said Bureau of Conveyances in Liber 2882, Page 113, including but not limited to, the right therein mentioned for the installation, maintenance and repair of a pipeline.

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

The parties hereto mutually covenant and agree as follows:

1. That the Grantor and H C & S, their respective successors and assigns shall have the right to construct, reconstruct, maintain, operate, repair and remove a road, pipelines and utilities over the Easement Area.
2. That the Grantor and H C & S, from time to time, shall have the right to substitute another area within said 3.853 acres parcel of land for said Easement Area and to relocate thereon said road, pipelines and utilities, any such substitution and relocation to be determined upon the basis of physical necessity and not merely upon convenience; PROVIDED, HOWEVER, that such substitution and relocation shall be at the own cost and expense of the Grantor and/or H C & S.
3. Upon the completion of any work done by the Grantor or H C & S or their agents or assigns, the land and the plants or planting that existed prior to the performance of such work shall be restored to their original condition to the extent that such restoration is reasonably possible.
4. That the Grantor and H C & S in the exercise of the rights herein reserved and/or excepted shall not unreasonably interfere with the Grantee's use and enjoyment of the property.

5. That the 3.853 acres parcel of land herein described, heretofore encumbered by that certain compromise agreement between the Grantor and H C & S, dated June 23, 1924, and recorded in said Bureau of Conveyances in Liber 740, Page 134, is hereby released and forever discharged from the terms of said compromise agreement; PROVIDED, HOWEVER, that this release shall in no ways release or affect any of the other property affected by said compromise agreement.

AND THE GRANTOR AND GRANTEE HERETO, in order to clarify title to the land described in the foregoing conveyance and clearly establish the reservations and encumbrances above set forth, do hereby covenant and agree that all right and title heretofore acquired by the Grantee in and to the above-described lands containing said area of 3.853 acres, and in and to any portion or portions thereof, including but not limited to that certain portion thereof conveyed to the Grantee by the Grantor by deed dated July 30, 1907, and recorded in said Bureau of Conveyances in Liber 296, Page 137, are hereby merged in and extinguished by the foregoing conveyance and the Grantee does hereby covenant and agree that all right and title it may have in and to said above-described land area of 3.853 acres shall be and is hereby subordinated to and subject to the foregoing reservations in favor of the Grantor and/or H C & S and to the specific encumbrances hereinabove listed and set forth.

IN WITNESS WHEREOF, the parties have caused these presents to be duly executed the day and year first hereinabove written.

WAILUKU SUGAR COMPANY

By: _____
Its Vice President

And By: _____
Its Assistant Secretary

STATE OF HAWAII
By its Board of Land and
Natural Resources

By: _____
Its

As authorized to sign by the
Board of Land and Natural Re-
sources in its Resolution of
May 19, 1960.

...ed by the Board
...meeting held on

HAWAIIAN COMMERCIAL AND
SUGAR COMPANY, LIMITED

By: _____
Its

And By: _____
Its

APPROVED AS TO FORM:

_____
Deputy Attorney General

State of Hawaii)
) ss
City and County of Honolulu)

On this 11th day of September, 1961, before me appeared R. G. A. CROWE and G. R. EWART III, to me personally known, who being by me duly sworn did say that they are the Vice President and Assistant Secretary, respectively, of WAILUKU SUGAR COMPANY, a corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and the said R. G. A. CROWE and G. R. EWART III acknowledged said instrument to be the free act and deed of said corporation.

_____
Notary Public, First Judicial
Circuit, State of Hawaii.
My commission expires 9/15/64.

LIBER 4135 PAGE 246

State of Hawaii)
) ss
City and County of Honolulu)

On this 19th day of September, 1961, before me appeared J. T. WATERHOUSE and R. G. JAMIESON, to me personally known, who being by me duly sworn did say that they are the VICE-PRESIDENT and TREASURER, respectively, of HAWAIIAN COMMERCIAL AND SUGAR COMPANY, LIMITED, a corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and the said J. T. WATERHOUSE and R. G. JAMIESON acknowledged said instrument to be the free act and deed of said corporation.

Notary Public, First Judicial Circuit, State of Hawaii.
My commission expires OCT. 14, 1963

Entered of Record SEP 25 1961 at 1:14 o'clock P. M.
and compared. Oliver K. Aiu Registrar of Conveyances,
By [redacted] Clerk

I hereby certify that this is
a true copy from the records
of the Bureau of Conveyances.

Registrar of Conveyances
Assistant Registrar, Land Court
State of Hawaii

RECORDATION REQUESTED BY:

DEPT OF LAND AND NATURAL RESOURCES
LAND MANAGEMENT DIVISION

AFTER RECORDATION, RETURN TO:

DEPT OF LAND AND NATURAL RESOURCES
LAND MANAGEMENT DIVISION

RETURN BY: MAIL ( ) PICKUP (X)

REQUESTOR TO FILL ABOVE

BUREAU OF CONVEYANCES
RECEIVED FOR RECORD
LIBER 4905 PAGE 363
84 DEC 10 PM 3 57

REGISTRAR

Certified to be a true and correct copy
of the original presented for record.
MICHIKI ADACHI, Registrar.
By: Clerk

SPACE ABOVE THIS LINE FOR REGISTRAR'S US

GIFT DEED

KNOW ALL MEN BY THESE PRESENTS:

That WAILUKU SUGAR COMPANY, a Hawaii corporation, hereinafter called the Grantor, for and in consideration of the sum of ONE DOLLAR ($1.00) to it paid by the STATE OF HAWAII, hereinafter called the Grantee, the receipt whereof is hereby acknowledged, does hereby grant and convey to the Grantee, its successors and assigns, as a gift nevertheless and subject to the reservations and conditions hereinafter set forth, for use as a water tank site forever, all of that certain piece or parcel of land, being portion of Grant 3343 to Claus Spreckles, situate at Iao, District of Wailuku, Island and County of Maui, State of Hawaii, and being more particularly described as follows:

BUREAU OF CONVEYANCES
REGISTRAR OF CONVEYANCES
STATE OF HAWAII

IAO VALLEY STATE PARK TANK SITE

Beginning at the east corner of this parcel of land and on the northerly boundary of Iao Valley State Park, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 231.53 feet North and 16,946.30 feet West, thence running by azimuths measured clockwise from true South:

EXHIBIT 2304-DLNR-6c

1.	59°	09'	15"	43.57 feet along Iao Valley State Park;
2.	102°	40'		48.40 feet along the remainder of Grant 3343 to Claus Spreckles;
3.	192°	40'		30.00 feet along the remainder of Grant 3343 to Claus Spreckles;
4.	282°	40'		80.00 feet along the remainder of Grant 3343 to Claus Spreckles, to the point of beginning and containing an area of 1,926 square feet.

RESERVING, HOWEVER, unto the Grantor, its successors and assigns, all water rights belonging or appertaining to the above described land.

SUBJECT, HOWEVER, to a reservation in favor of the State of Hawaii of all mineral and metallic mines of every description as reserved in said Grant 3343.

AND SUBJECT, ALSO, to the condition relative to use and abandonment as hereinafter set forth.

TO HAVE AND TO HOLD the said described premises, with all the privileges and appurtenances thereunto belonging unto the Grantee, its legal successors and assigns and to their own proper use, benefit and behoof so long as the same shall be used and maintained as a tank site for its water system.

In the event the Grantee, its legal successors or assigns, shall cease to use and maintain said property as a water tank site for its water system for a period of one year, then this conveyance shall become null and void and the title to said property shall revert to the Grantor, its successors and assigns, and be held by it as fully as if this conveyance had not been made; and

In such event the Grantee agrees to execute such reconveyance, quitclaim or other documents as may be desirable to clearly revest unencumbered title to said premises in the Grantor.

IN WITNESS WHEREOF, the said Grantor has caused its corporate name and seal to be hereto affixed by its proper officers on this 29th day of September, 1964.

WAILUKU SUGAR COMPANY

SEAL

By _____
Vice President

By _____
Assistant Secretary

APPROVED AS TO FORM:

_____
Deputy Attorney General

Dated: 10-26-64

STATE OF HAWAII)
City & County of Honolulu) SS.

On this 29th day of September, 1964, before me appeared A. DOUGLAS EDNIE and G. R. EWART, III to me personally known, who, being by me duly sworn, did say that they are the Vice-President and Assistant Secretary respectively of the WAILUKU SUGAR COMPANY and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that the foregoing instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors and said A. DOUGLAS EDNIE and G. R. EWART, III acknowledged the foregoing instrument to be the free act and deed of said corporation.

SEAL

Violet L. Wada
Notary Public, 1st Judicial Circuit, State of Hawaii

My commission expires:
April 15, 1968

I hereby certify that this is
a true copy from the records
of the Bureau of Conveyances.

Registrar of Conveyances
Assistant Registrar, Land Court
State of Hawaii

RECORDATION REQUESTED BY:

County of Maui

AFTER RECORDATION, RETURN TO:

Office of the County Clerk
County of Maui
Wailuku, Hi. 96793

RETURN BY: MAIL (X) PICKUP ( )

74-11757

9754 PAGE 79

1974 FEB 27 PM 3 59

D E E D

KNOW ALL MEN BY THESE PRESENTS:

That the COUNTY OF MAUI, a political subdivision of the State of Hawaii, the principal place of business and post office address of which is Wailuku, County of Maui, State of Hawaii, hereinafter referred to as the "GRANTOR", for and in consideration of the sum of ONE DOLLAR ($1.00) to it in hand paid by the STATE OF HAWAII, by its Board of Land and Natural Resources, whose post office address is Honolulu, City and County of Honolulu, State of Hawaii, hereinafter referred to as the "GRANTEE", the receipt of which is hereby acknowledged, does hereby remise, release and forever quitclaim unto the Grantee, its successors and assigns, all of its right, title, interest, claim and demand in and to the following described parcels of land:

BUREAU OF CONVEYANCES
REGISTRAR OF CONVEYANCES
STATE OF HAWAII

Parcel A

All of that certain piece or parcel of land being a portion of Grant 3343 to Claus Spreckels, situate at Iao Valley, Wailuku, Island and County of Maui, State of Hawaii, and being more particularly described as follows:

EXHIBIT 2304-DLNR-6d

Beginning at the northwest corner of this parcel of land, and on the east boundary of Iao Valley State Park, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 192.71 feet North and 16826.43 feet West, thence running by azimuths measured clockwise from True South:

1.	270°	00'	104.99 feet	along the remainder of Grant 3343 to Claus Spreckels;
2.	248°	53'	125.36 feet	along the remainder of Grant 3343 to Claus Spreckels;
3.	308°	53'	34.64 feet	along the remainder of Grant 3343 to Claus Spreckels;
4.	68°	53'	142.40 feet	along the north side of Iao Valley Road;
5.	76°	10'	106.57 feet	along the north side of Iao Valley Road;
6.	166°	43'	54.83 feet	along Parcel B, described below, and along Iao Valley State Park, to the point of beginning and containing an AREA of 8,401 SQUARE FEET.

RESERVING to Wailuku Sugar Company, its successors and assigns, all water rights belonging or appurtenant to the above-described parcel of land.

Parcel B

All of that certain piece or parcel of land being a portion of Grant 3343 to Claus Spreckels, situate at Iao Valley, Wailuku, Island and County of Maui, State of Hawaii, and being more particularly described as follows:

Beginning at the southeast corner of this parcel of land, on the south side of Iao Valley Road, and the east corner of Iao Valley State Park, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 100.41 feet North and 16804.65 feet West, thence running by azimuths measured clockwise from True South:

1. 90° 00' 43.79 feet along Iao Valley State Park;

2. Thence along Iao Valley State Park, on a curve to the right with a radius of 38.93 feet, the chord azimuth and distance being: 180° 00' 77.86 feet;

3. 270° 00' 25.41 feet along Iao Valley State Park;

4. 346° 43' 80.00 feet along Parcel A, described above, and along the west end of Iao Valley Road, to the point of beginning and containing an AREA of 5,075 SQUARE FEET.

SUBJECT to the reservation in favor of Wailuku Sugar Company, its successors and assigns, of all water rights belonging or appurtenant to the above-described parcel of land.

SUBJECT ALSO to the reservation and exception in favor of Wailuku Sugar Company and Hawaiian Commercial and Sugar Company, Limited, their successors and assigns, of an easement for roads, pipelines and utility purposes, including the right of ingress and egress over, under, along, across and upon the above-described parcel of land, as shown on the plan attached hereto and made a part hereof.

SUBJECT FURTHER to the rights in favor of the County of Maui, under agreement dated October 4, 1954, and recorded in the Bureau of Conveyances in Liber 2882, Page 113, including but not limited to, the right therein mentioned for the installation, maintenance and repair of a pipeline.

RESERVING to the State of Hawaii, its successors and assigns, in perpetuity, all minerals appurtenant to the land described, together with the right to enter, sever and remove minerals; provided, that the State shall pay just compensation to the surface owner for improvements taken as a condition precedent to the exercise of such reserved rights.

Being the same premises conveyed to Grantor by the State of Hawaii by deed dated August 10, 1964, and recorded in the Bureau of Conveyances of the State of Hawaii at Honolulu, Hawaii, in Liber 4815 on Pages 511-515.

The Grantee covenants, for itself, its successors and assigns, that the use and enjoyment of the land herein conveyed shall not be in support of any policy which discriminates against anyone based upon race, creed or color.

TO HAVE AND TO HOLD the same, together with all the rights, easements, privileges and appurtenances thereunto belonging or in anywise appertaining or held and enjoyed therewith, unto the Grantee, its successors and assigns.

IN WITNESS WHEREOF, the Grantor has hereunto set its hand and seal on this 1st day of June, 19____.

COUNTY OF MAUI

By _____
Its Mayor

APPROVED AS TO FORM
AND LEGALITY:

_____
Deputy County Attorney
County of Maui

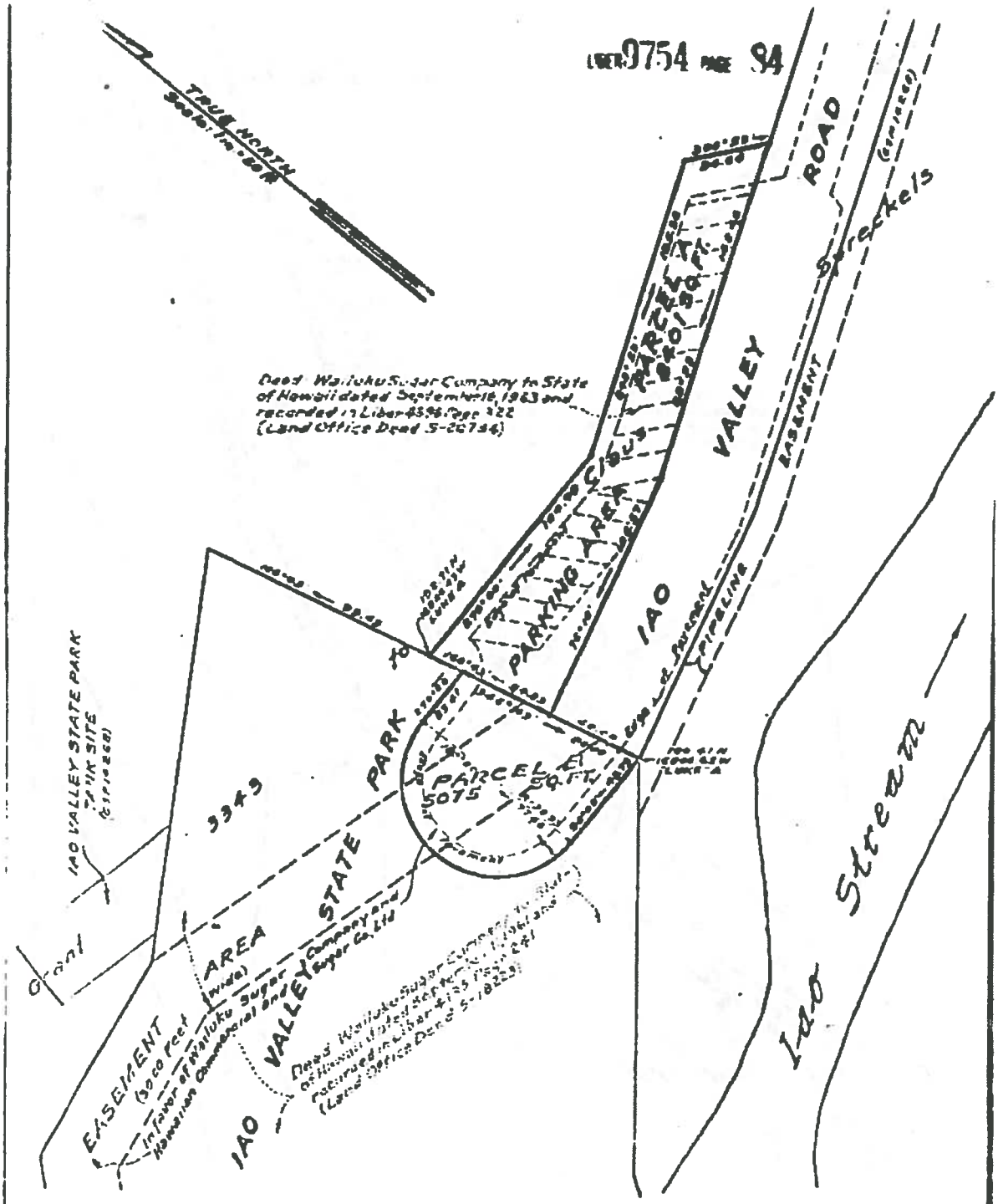
STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 17th day of February, 19__, before me appeared ELMER F. CRAVALHO, to me personally known, who, being by me duly sworn, did say that he is the Mayor of the County of Maui, a political subdivision of the State of Hawaii, and that the seal affixed to the foregoing instrument is the lawful seal of the said County of Maui, and that the said instrument was signed and sealed on behalf of the County of Maui by authority of its Council, and the said ELMER F. CRAVALHO acknowledged the said instrument to be the free act and deed of the said County of Maui.

Notary Public, Second Judicial Circuit
State of Hawaii

My commission expires_____

LIBER 9754 PAGE 94



State of Hawaii to County of Maui

PARKING AREA

PARCELS A AND B

Iao Valley, Wailuku, Maui, Hawaii.

Scale 1 inch = 50 feet

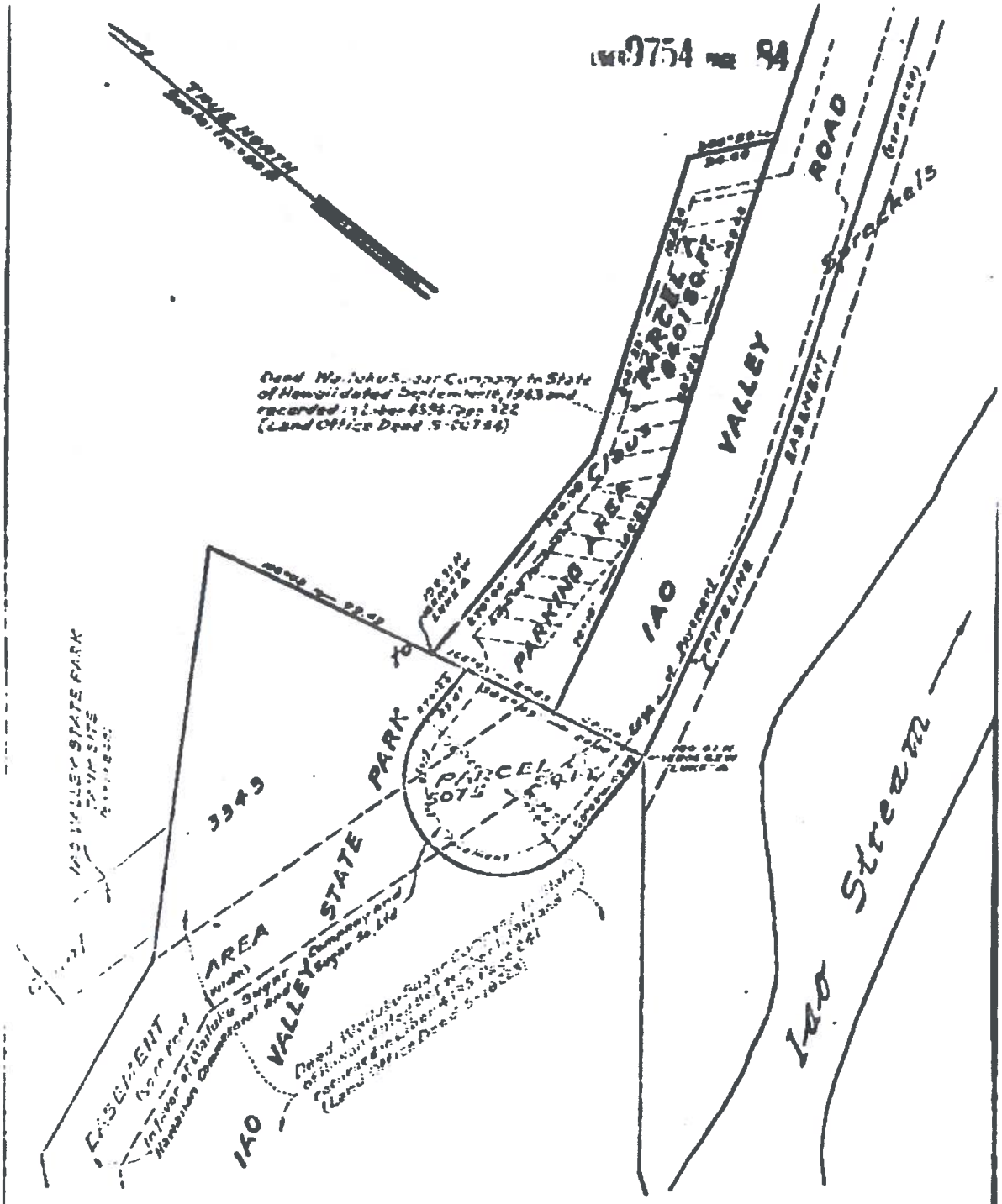
JOB 1792

SURVEY DIVISION

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

STATE OF HAWAII

LIBER 9754 PAGE 84



State of Hawaii to County of Maui

PARKING AREA

PARCELS A AND B

Iao Valley, Wailuku, Maui, Hawaii

Scale 1 inch = 50 feet

SURVEY DIVISION

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

STATE OF HAWAII

I hereby certify that this is
a true copy from the records
of the Bureau of Conveyances.

Registrar of Conveyances
Assistant Registrar, Land Court
State of Hawaii

RECORDATION REQUESTED BY:

DEPT. OF LAND AND NATURAL RESOURCES
LAND MANAGEMENT DIVISION

AFTER RECORDATION, RETURN TO:

DEPT. OF LAND AND NATURAL RESOURCES
LAND MANAGEMENT DIVISION

RETURN BY: MAIL ( ) PICKUP (X)

M

75- 52341

LIBER 10797 PG 404

1975 JUL 21 PM 1:46

D E E D

KNOW ALL MEN BY THESE PRESENTS:

THAT, WAILUKU SUGAR COMPANY, a Hawaii corporation, hereinafter called the Grantor, for and in consideration of the sum of ONE DOLLAR ($1.00) to it paid by the STATE OF HAWAII, hereinafter called the Grantee, the receipt whereof is hereby acknowledged, does hereby grant and convey to the Grantee, its successors and assigns, as a gift, nevertheless and subject to the reservation herein set forth, for use as an addition to the Iao Valley State Park parking facilities, all of those certain parcels of land situate at Iao Valley, Wailuku, Maui, Hawaii, more particularly described in Exhibit "A" , attached hereto and made a part hereof, and delineated on Exhibit "B", said exhibits being, respectively, a survey description and survey map prepared by the Survey Division, Department of Accounting and General Services, State of Hawaii, both being designated C.S.F. No. 17,203 and dated September 20, 1974.

SUBJECT, HOWEVER, to a reservation in favor of Wailuku Sugar Company of all of its water rights appurtenant to the land conveyed.

TO HAVE AND TO HOLD the said described premises, with all the privileges and appurtenances thereunto belonging unto the Grantee, its successors and assigns, forever, except as aforesaid.

EXEMPT—HAWAII CONVEYANCE TAX
r/s
CERTIFICATE NOT REQUIRED

DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF LAND MANAGEMENT
P. O. BOX 621
HONOLULU, HAWAII 96809

EXHIBIT 2304-DLNR-6e

IN WITNESS WHEREOF, the said Grantor has caused its corporate name and seal to be hereto affixed by its proper officers this 3rd day of July, 1975.

WAILUKU SUGAR COMPANY

By _____
Its CHAIRMAN OF THE BOARD

And By _____
Its Assistant Secretary

APPROVED AS TO FORM, CONTENTS & AUTHORIZATION
_____
[illegible] DEPARTMENT
[illegible] & CO., LTD.

APPROVED AS TO FORM
AND LEGALITY:

_____
Deputy Attorney General
Dated: 6-12-75

STATE OF HAWAII)
: ss.
City & COUNTY OF Honolulu)

On this 3rd day of July, 1975, before me appeared ROBERT H. HUGHES and HAROLD P. LUSCOMB, to me personally known, who being by me duly sworn, did say that they are the CHAIRMAN OF THE BOARD and Assistant Secretary, respectively, of WAILUKU SUGAR COMPANY, a Hawaii corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and the said ROBERT H. HUGHES and HAROLD P. LUSCOMB acknowledged said instrument to be the free act and deed of said corporation.

_____
Notary Public, First Judicial Circuit, State of Hawaii

My commission expires: March 15, 1978

mm

LIBER 10797 PG 406

STATE OF HAWAII
SURVEY DIVISION
DEPT. OF ACCOUNTING AND GENERAL SERVICES
HONOLULU

C.S.F. No. 17,203 September 20, 1974

ADDITION TO

IAO VALLEY STATE PARK

PARCELS 1 AND 2

Iao Valley, Wailuku, Maui, Hawaii

Being portions of Grant 3343 to Claus Spreckels.

PARCEL 1

Beginning at the northwest corner of this parcel of land, the southeast corner of Iao Valley State Park and on the south side of Iao Valley Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 100.41 feet North and 16,804.65 feet West, thence running by azimuths measured clockwise from True South:-

1.	258°	10'	109.50 feet along the south side of Iao Valley Road;
2.	248°	53'	267.20 feet along the south side of Iao Valley Road;
3.	211°	50'	175.68 feet along the south side of Iao Valley Road;
4.	231°	43'	90.01 feet along the south side of Iao Valley Road;
5.	328°	29'	10.07 feet along the remainder of Grant 3343 to Claus Spreckels;
6.	51°	43'	87.07 feet along the remainder of Grant 3343 to Claus Spreckels;
7.	31°	50'	177.28 feet along the remainder of Grant 3343 to Claus Spreckels;
8.	68°	53'	271.19 feet along the remainder of Grant 3343 to Claus Spreckels;
9.	78°	10'	132.25 feet along the remainder of Grant 3343 to Claus Spreckels;
10.	231°	50'	24.27 feet along Iao Valley State Park to the point of beginning and containing an AREA OF 6,550 SQUARE FEET.

EXHIBIT "A"

C.S.F. No. 17,203

September 20, 1974

PARCEL 2

Beginning at the northwest corner of this parcel of land and at the northeast corner of Iao Valley State Park, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LUKE" being 289.48 feet North and 16,849.28 feet west, thence running by azimuths measured clockwise from True South:-

1.	252°	20'	10"	563.30 feet along the remainder of Grant 3343 to Claus Spreckels;
2.	51°	43'		101.77 feet along the north side of Iao Valley Road;
3.	31°	50'		169.29 feet along the north side of Iao Valley Road;
4.	68°	53'		108.85 feet along the north side of Iao Valley Road;
5.	128°	53'		34.64 feet along Iao Valley State Park;
6.	68°	53'		125.36 feet along Iao Valley State Park;
7.	90°	00'		104.99 feet along Iao Valley State Park;
8.	166°	43'		99.43 feet along Iao Valley State Park to the point of beginning and containing an AREA OF 59,282 SQUARE FEET.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: James Chrystal Jr.
James Chrystal, Jr.
Land Surveyor

ac

Compiled from Maui County
R/W Map of Iao Valley Road,
CSF 14270 and Govt.
Survey Records.

DAVID Y. IGE
GOVERNOR OF HAWAII

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

February 4, 2016

10507(M)

MEMORANDUM

TO: **Colin J. Lau, Deputy Attorney General**

THROUGH: **Russell Y. Tsuji, Administrator**

FROM: **E. Mahoe Collins, State Abstractor**

SUBJECT: **Title History of Land Commission Award 3529, Apana 1 to Hana, re Form SWUP-E (Na Wai EHA, Maui), Applicant DLNR, Division of State Parks, TMK: (2) 3-3-003:013.**

We have been requested to provide "an expedited review/report in determining the title history and translation where needed, of Royal Patent 4059, Land Commission Award 3529, Apana 1 to Hana", containing an area of 1.45 acres and designated bearing Tax Map Key Parcel (2) 3-3-03:13, as shown on the map attached hereto as Exhibit A.

An examination of the records and files located in our office, the State Survey Office, the State Archives, and the Bureau of Conveyances reveal that the State of Hawaii owns the subject property pursuant to §5(a) of the Admission Act (Act of March 18, 1959, Pub L 86-3, 73 Stat 4).

Attached hereto as Exhibit B is the chain of title of the State of Hawaii in and to the subject property identified as Apana 1 of Land Commission Award No. 3529, Royal Patent No. 4059 to Hana, containing an area of 1.45 acres, bearing Tax Map Key Parcel (2) 3-3-03:13.

If you have any questions please feel free to contact me at 587-0458.

Enclosures

EXHIBIT 2304-DLNR-7

Chain of Title of the State of Hawaii
in and to
Apana 1 of Royal Patent 4059, Land Commission Award 3529 to Hana

By Land Commission Award No. 3529 dated January 7, 1854, the Land Commissioners adjudicated a fee title to Hana in and to the claim for three parcels of land in the Ahupuaa of Wailuku, including the subject property identified as Apana 1, kalo land in the Ili of Kahua containing 1.45 acres and described by survey attached thereto as follows:

Apana 1. Taro [land] in the Ili of Kahua. Beginning at the East corner thence running

North	29° 1/2	West	0.78	Chains	along	the	Pali,
North	72°	West	1.35	"	"	"	"
South	84° ½	West	2.84	"	"	"	"
South	27° ½	West	1.29	"	"	"	"
South	21°	East	0.96	"	"	"	" & Stream
South	84° ¾	East	2.88	"	"	"	"
North	51°	East	2.28	"	"	"	" to the beginning, 1 45/100 Acre.

Under Royal Patent No. 4059 dated June 23, 1858 the title of Hana in and to the parcels of land claimed and adjudicated under Land Commission Award No. 3529, including the subject kalo land as surveyed, is confirmed in absolute fee simple.

NOTES:

1. Records show no transfers and or conveyances, probates and or judicial determination of heirs **made under** the name of **HANA** affecting the title to the subject land under search, being Apana 1 of Land Commission Award 3529.

2. Records further show no transfers and or conveyances **made to** under the name of **PA** affecting the title to the subject land under search. However the following appear of record:

DEED (Liber 31, Page 90) — October 17, 1870
PA (k) — TO: — NAKEA (k)

For and in consideration of $50.00 paid to him, said PA (k) of Wailuku conveys unto NAKEA (k) also of Wailuku, all three parcels of land lying situated in the Ahupuaa of Wailuku whose boundaries are described in Royal Patent No. 4059 and being the kuleana awarded to Hana. See Exhibit B-1 for copy of deed and translation into English.

Chain of Title of the State of Hawaii

DEED (Liber 86, Page 158)
NAKEA (k) & Wife TO: December 12, 1883
SAMUELA (k) & HELELANI

For and in consideration of $100.00 paid to him, said NAKEA (k) of Wailuku, conveys unto SAMUELA (k) and HELELANI (k) also of Wailuku, all three parcels of land lying situated in the Ahupuaa of Wailuku whose boundaries are described in Royal Patent No. 4059 and being the kuleana awarded to Hana.

See Exhibit B-2 for copy of deed and translation into English.

DEED (Liber 183, Page 102)
SAMUELA (k) & HELELANI (k) TO: May 12, 1898
MELE WAIWAIOLE

In receipt of the sum of $35.00 paid to them, SAMUELA (k) and HELELANI (k) of Waiehu convey unto MELE WAIWAIOLE (w) of Wailuku, all of their right, title and interest in and to Apana I situated in the Ili of Kahua and Apana II in the Ili of Kahiki in the Ahupuaa of Wailuku, awarded and confirmed in the name of Hana under Royal Patent No. 4059, Land Commission Award 3529.

See Exhibit B-3 for copy of deed and translation into English.

DEED (Liber 183, Page 103)
MELE WAIWAIOLE & Husband TO: May 13, 1898
J. W. KALUA

In receipt of the sum of $50.00 paid to them, MELE WAIWAIOLE (w) and her husband, M.P. WAIWAIOLE convey unto J.W. KALUA of Wailuku, Apana I and Apana II of the kuleana awarded and confirmed to Hana under Royal Patent No.4059 Land Commission Award No. 3529.

See Exhibit B-4 for copy of deed and translation into English.

Chain of Title of the State of Hawaii

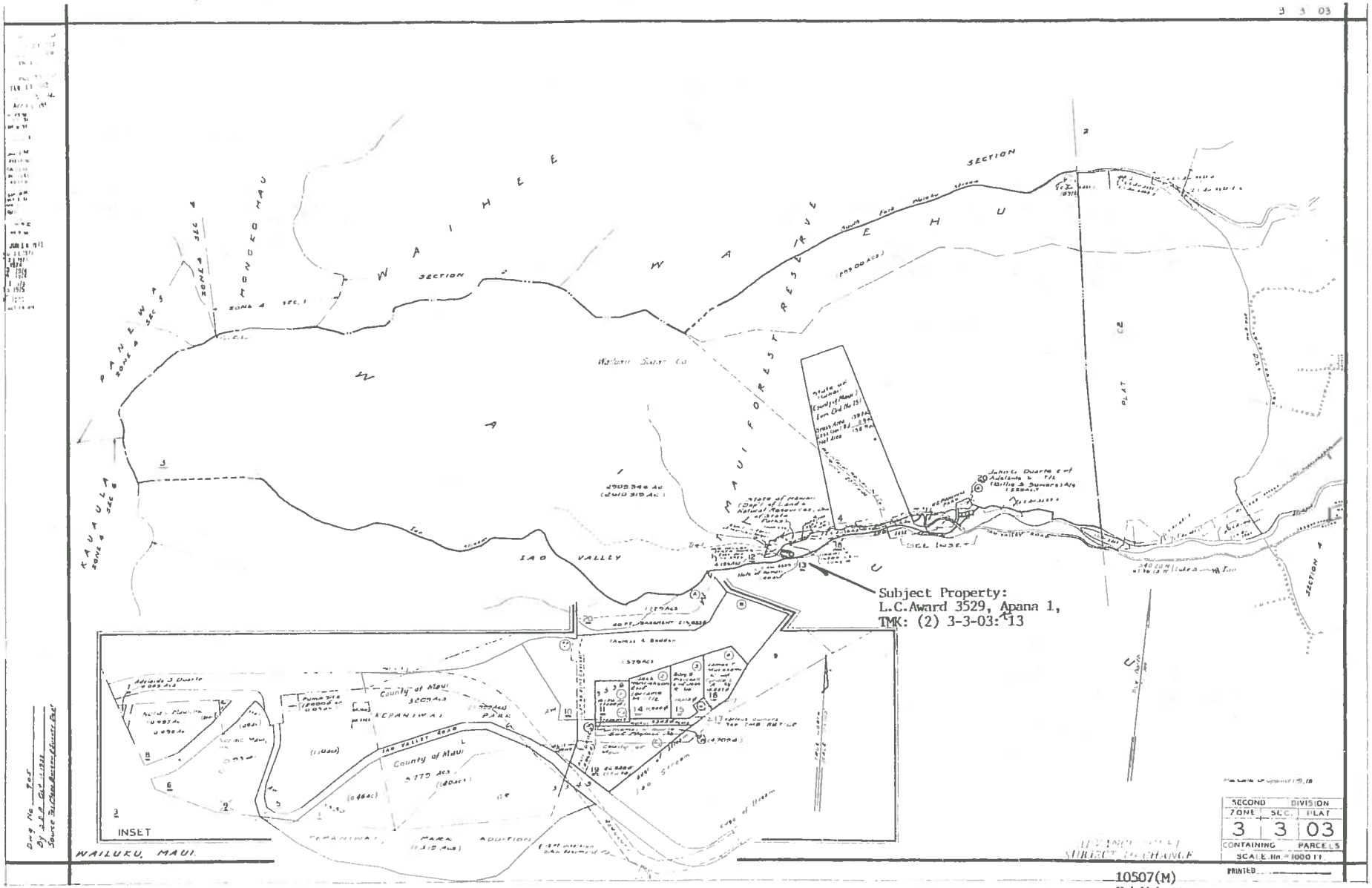
DEED (Liber 194, Page 483) LOD 681 May 11, 1899
JOHN W. KALUA TO: MINISTER OF THE INTERIOR of the Hawaiian Government

In consideration of the sum of $1,000.00 paid him, JOHN W. KALUA of Wailuku conveys unto JAMES A. KING, Minister of the Interior of the Government of the Hawaiian Islands, **"and his successors in office and assigns forever"** all of Apana 1 of Royal Patent No. 4059 Land Commission Award No. 3529 to Hana, bounded and described, in translation, as follows:

"Beginning at the East corner thence running North 29-1/2° West .78 Chains along the pali; North 72° West 1.35 Chains along the pali; South 84-1/2° West 2.84 Chains along the pali; South 27-1/2° West 1.29 Chains along the pali; South 21° East .96 Chains along the stream; South 84-3/4° East 2.88 Chains along the stream; North 51° East 2.28 Chains along the stream, to the place of beginning and containing an area of 1-45/100 acres." See Exhibit B-5 for copy of deed.

The title and interest of the Hawaiian Government in and to the subject property, defined as public lands in accordance with §73 (3) of the Organic Act, and managed and controlled by the Commissioner of Public Lands of the Territory of Hawaii succeeded to the State of Hawaii pursuant to §5(a) of the Admission Act of March 18, 1959 (Pub L 86-3, 73 Stat 4).

Accordingly we find that the State of Hawaii owns the subject property identified as Apana 1 of Royal Patent 4059, Land Commission Award No. 3529 to Hana, subject to the effect, if any, of Executive Order No. 2926 dated August 21, 1978.



10507(M)
Exhibit A

EXHIBIT

2304-DLNR-8

CERTIFICATION

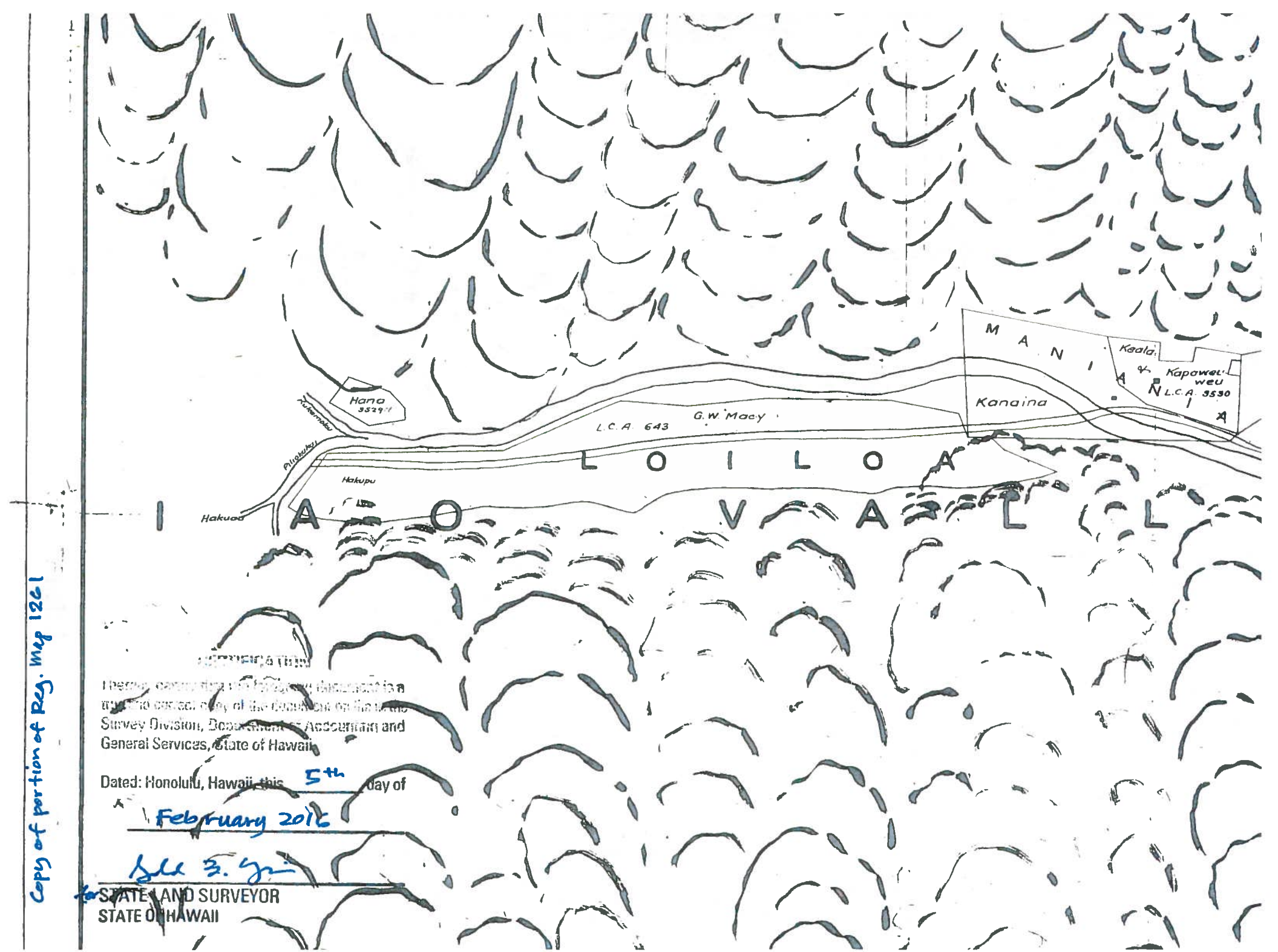
I hereby certify that the foregoing document is a true and correct copy of the document on file in the Survey Division, Department of Accounting and General Services, State of Hawaii.

Dated: Honolulu, Hawaii, this 5th day of February 2016

for STATE LAND SURVEYOR
STATE OF HAWAII

REDUCED COPY

Not To Scale



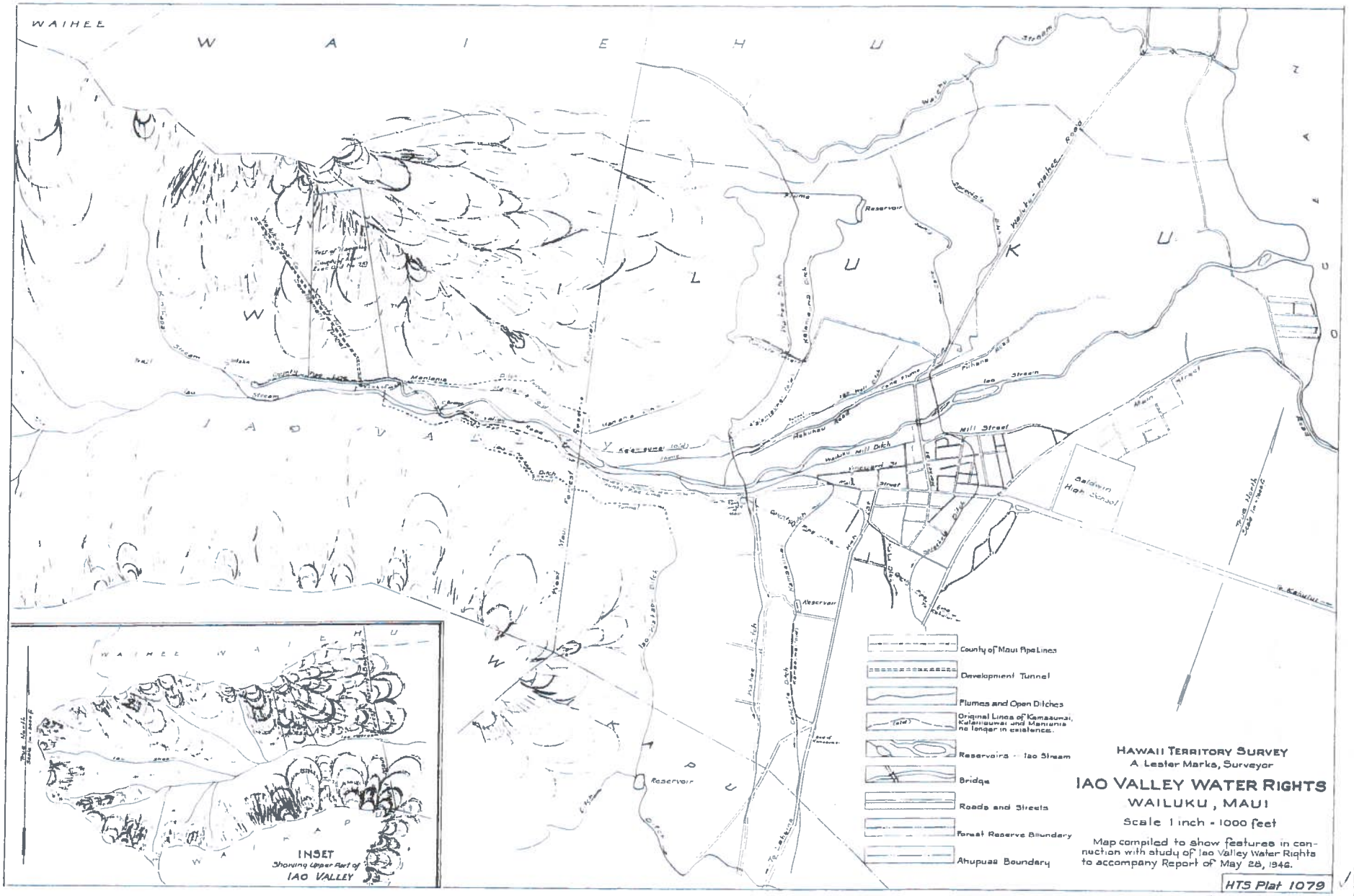
Copy of portion of Reg. Map 1261

I hereby certify that the foregoing document is a true and correct copy of the document on file in the Survey Division, Department of Accounting and General Services, State of Hawaii.

Dated: Honolulu, Hawaii, this 5th day of February 2016

for STATE LAND SURVEYOR
STATE OF HAWAII

EXHIBIT 2304-DLNR-9



IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT,

TERRITORY OF HAWAII.

AT CHAMBERS. IN EQUITY.

WAILUKU SUGAR COMPANY,)
Complainant,)
vs.) BILL FOR
MARSTON CAMPBELL Superintendent)
of Public Works of the Territory of Hawaii, and) INJUNCTION.
WILLIAM E. BAL, Superintendent of the)
Wailuku and Kahului Water-Works,)
Defendants.)

BILL OF COMPLAINT.

To the Honorable John T. de Bolt, First Judge of the Circuit Court of the First Judicial Circuit, Territory of Hawaii.

The undersigned, the Wailuku Sugar Company, a corporation of the Territory of Hawaii, conducting a sugar plantation in the County of Maui, Territory aforesaid, complaining of Marston Campbell, Superintendent of Public Works of the Territory of Hawaii, residing at Honolulu in the County of Oahu, Territory aforesaid, and William E. Bal, Superintendent of the Wailuku and Kahului Water-Works, under said Superintendent of Public Works, residing at Wailuku in said County of Maui says:

I do hereby certify that this is a full true and correct copy of the original on file in this office pursuant to Section 92-30, Hawaii Revised Statutes.

Clerk, Circuit Court, First Circuit
State of Hawaii

EXHIBIT 2304-DLNR-10

First: That it, the complainant, for a period of forty years and more last past, has been conducting a sugar plantation in the District of Wailuku, said County of Maui; and, in the conduct of said business, has from time to time acquired many valuable water-rights in said district, more particularly large and valuable water-rights in the Iao Valley in said district and in and to the waters of the Wailuku Stream issuing out of and from said Iao Valley, and the branches thereof.

Second: That on or about the 11th day of May, 1899, J. A. King, , then Minister of the Interior of the Republic of Hawaii - a predecessor in the duties of the office of said defendant, Marston Campbell, Superintendent of Public Works as aforesaid, - desiring to establish public water works in said district of Wailuku, under an appropriation made by the legislature of the Territory of Hawaii at the session of said legislature for the year _____, which said appropriation is contained in Chapter _____ of the Session Laws of said legislature, for said year, and to which said act special reference is now made, purchased from one John W. Kalua, a resident of said Wailuku, a certain piece or parcel of land situate in said valley of Iao, which said piece and parcel of land is described as follows, to-wit:-

"All of Apana 1, of Land Commission Award 3529, Royal Patent 4059 to Hana, containing an area of 1.45 acres, and consisting of about three-fourths of an acre of taro land, entitled as such to water for that area of taro land from said waters of said Iao Valley, the balance thereof being kula land and not entitled to any water in or from the waters of said Iao Valley or branches thereof;" a copy of which said deed marked Exhibit "A" is attached hereto and made part hereof. That in pursuance of said purpose and plan said Alexander Young, Minister of the Interior as aforesaid, on the 20th

day of February, A. D. 1900, also purchased from complainant herein for the sum of One Thousand Dollars, a certain piece of land in the district of Wailuku, Island of Maui, bounded and described as follows:-

"Commencing at a fence post on the Easterly side of Government road to Iao Valley, from which point the cement work on the Wallbridge ditch at the summit crossing of the Iao Valley road from Wailuku bears N. 19° W. 44 feet distant; thence (all courses magnetic) S. 45-1/4° W. 306 feet to point in line of fence; thence S. 47° E. 234 feet to point on edge of cane field and plantation wagon road; thence N. 24° E. 100 feet along said plantation road; thence N. 8-3/4° E. 230 feet along said road; thence N. 27° W. 62 feet to the place of beginning, and containing 1.045 acres of land; said tract being a portion of Royal Patent 1925, L. C. A. 387, A. P. Mission, Pohakauhi, Wailuku, Maui."

and also the following rights and rights of way, to-wit:-

"A right of way for the purpose of constructing, laying and maintaining a pipe-line across the lands of the Wailuku Sugar Company where desirable in Iao Valley from the land conveyed aforesaid by complainant to said Alexander Young to said land in Iao Valley known as Apana 1, Royal Patent Number 4059, the exact location of said pipe-line to be determined by said Alexander Young, with a right of entry upon the lands of the Wailuku Sugar Company for all work and purposes necessary or requisite in the proper construction, maintenance and control of said pipe-line;" a copy of which said last-named deed marked Exhibit "B" is attached hereto and made a part hereof.

Third: That the negotiations for the purchase from complainant aforesaid by Alexander Young, Minister of the Interior as aforesaid, was conducted on the part of said Minister of the Interior by one, William E. Rowell, then Superintendent of Public Works under said

Alexander Young, Minister of the Interior as aforesaid, and on the part of complainant, by G. H. Robertson, Treasurer of the complainant corporation and C. B. Wells, manager of the complainant corporation; it then being represented to the Treasurer and manager of the complainant corporation by said W. E. Rowell that the Territory of Hawaii desired to purchase from the Wailuku Sugar Company the land and rights thereafter conveyed by it as aforesaid for the purpose of erecting and maintaining a reservoir to hold water for public distribution among the residents of said district of Wailuku; it being further represented to complainant that the purpose of the Minister of the Interior in purchasing from said John W. Kalua said Apana 1, of Royal Patent 4059 was to acquire the water-rights of said kuleana, it being represented by said W. E. Rowell to complainant through its treasurer and manager as aforesaid, that the water to be stored in said reservoir as aforesaid was to be solely and only water belonging to said Apana 1, of Royal Patent 4059, it being the intention of said Minister of the Interior, as explained by said W. E. Rowell to said Geo. H. Robertson and C. B. Wells to lead the water from said kuleana down through Iao Valley to the land purchased by the Territory from complainant, where the same would be stored in a reservoir to be constructed thereon and from there distributed thence to the residents of said district of Wailuku.

Fourth: That in pursuance of said plans, water was led by said Alexander Young, Minister of the Interior as aforesaid, from said Wailuku River into said kuleana, being Apana 1, of Royal Patent 4059, thence by pipe it was led down through Iao Valley to the land conveyed as aforesaid by complainant to said Alexander Young, where a reservoir was duly erected; into which was stored a portion of the waters of said Wailuku Stream, supposed to represent the water to which said Apana 1, of Royal Patent 4059 was then entitled by virtue of the taro lands thereon.

Fifth: That in connection with the building of said reservoir and the construction of said pipe-line as aforesaid, and under the same appropriation aforesaid, said Minister of the Interior and his successors in office, proceeded to lay pipe-lines through the village or town of Wailuku and its vicinity and also to lay a pipe-line from the village or town of Wailuku down to the village or landing of Kahului in said county; and thereupon commenced to distribute water through said pipe-lines to the inhabitants of Wailuku and also to the inhabitants of said village or town of Kahului; and to collect rates and charges from the persons to whom said water was so distributed.

Sixth: That very soon after the installation of said water-works, but imperceptibly at first, the said Minister of the Interior began to appropriate more and more water from said Wailuku and Iao Valley Streams into said Apana 1, of Royal Patent 4059, and thence by pipe-line to said reservoir and thence from said reservoir through subsidiary pipe-lines to the users thereof in said towns and villages of Wailuku and Kahului aforesaid; said aggressions by said Alexander Young being continued and enlarged and increased by his successors in the duties of said office, including said defendants; which said increased appropriations of water were wholly illegal, and made without right thereto or authority or justification therefor.

Seventh: That about the month of November in the year 1900, a heavy storm occurred in said Iao Valley, which broke and carried away said pipe-line, and when it came to repairing the damage done to said pipe-line, the head thereof was changed from said Apana 1, of Royal Patent 4059, to a point near the first crossing of said Iao Valley road; that the head of said pipe-line, as changed by reason of said storm was made upon land belonging to complainant and was so done under the plea then made by said superintendent of said Wailuku

and Kahului Water-Works to complainant that later on, and when he had more time, the head would be removed back again to said Apana 1, of Royal Patent 4059. That notwithstanding said promise, such water-head has been maintained illegally and without right ever since and is now maintained at the same point where it was established shortly after said storm, and this without any consent, or acquiescence whatsoever on the part of complainant other than as a temporary makeshift until the pipe-line could be permanently restored as originally constructed.

Eighth: That ever since the establishment of said water-works, the said Alexander Young and his successors in the duties of said office, including said defendants, have continuously encroached upon the water rights of said complainant, and have against complainant's protests and without right and against complainant's rights and to its injury, diverted and appropriated more and more of its waters through said pipe-lines and reservoir aforesaid, so that at this date the appropriation of water by the defendant, Marston Campbell, and his subordinate, the said William E. Bal, has come at times to equal half a million gallons of water per twenty-four hours, and at all times exceeds any water rights of defendants, or the Territory aforesaid, in any of said waters, the amount of water belonging to complainant heretofore diverted as aforesaid now exceeding Ten Thousand Dollars in value.

Ninth: That notwithstanding the protest of complainant, said defendants are continuously enlarging the water service of said water-works particularly at Kahului, where plans and arrangements are now on foot by defendants, and about to be carried into execution by them, whereby a new and larger pipe-line is to be constructed and laid in the immediate future for the purpose and with the avowed intention of diverting still greater amounts of water from said

reservoir, and from the waters of said Wailuku Stream and its branches to Kahului aforesaid, which said waters so to be diverted are the property of complainant and are needed to irrigate its said plantation that said diversions are made in bad faith with the deliberate purpose of encroaching upon the water rights of complainant, and without any right or claim to the waters so diverted by defendants or said Territory.

Tenth: That one excuse or pretense made by defendants for its action aforesaid now made is that there are a number of persons residing in the village or town of Wailuku entitled to a sh - the waters from Wailuku Stream and Iao Valley for their lands in Wailuku District and that the government is diverting, through its pipe and water system aforesaid for the most part the waters of private individuals for delivery to them through said pipe-lines, and that the charges and water rates made to such individuals are solely for the use of said pipe-line and the expense of transmitting the same therein rather than through open ditches as was formerly the case. But complainant denies the truth of such claim or pretense and says in answer thereto that while it is true that a number of people residing in Wailuku and taking water from the government as aforesaid, are entitled to part of the waters of said Wailuku Stream and Iao Valley, it is not true that there is any understanding or agreement between any of these parties entitled to water as aforesaid whereby the defendants are authorized to take the water belonging to such inhabitants through said pipe-lines into said reservoir and distribute the same to them in said pipe-lines; and particularly does complainant say that neither the defendants nor any one using the waters at Kahului as aforesaid have any right, title or interest to any of the waters of the Wailuku Stream or Iao Valley other than the right to the water appurtenant as aforesaid to the taro land of said Apana 1, of Royal Patent number 4059, nor are they entitled to

divert any of said waters of said valley or river through said public reservoir or through said public water-works or pipes and connections thereof, outside of said water of said Apana 1, to any person, individual, or corporation whatsoever; complainant in this connection saying that the defendants, in diverting water as aforesaid, have repeatedly caused loss and damage to the crops of cane of complainant growing on its said plantation, where said waters so diverted would have been used in the irrigation of its cane if the same had not been diverted as aforesaid. And in this connection, complainant denies that any resident of Wailuku entitled to water as aforesaid from said Wailuku Stream or its branches, ever did consent, or is now consenting, to a diversion of the waters so owned by him as aforesaid by defendants, to Kahului for use at that point, complainant alleging on the contrary that all owners of said waters of Wailuku valley as well as complainant desire and claim said water for their own use in Wailuku; and that any pretense by the defendants that the residents of Wailuku village owning said water rights are willing that their waters should be used by the government in furnishing water to the residents of Kahului is wholly false and without any foundation in fact or in truth; and that in so far as the water rights of Apana 1, of Royal Patent 4059 is concerned, that the water rights of said kuleana do not exceed 20,000 gallons per twenty-four hours, whereas the defendants are now diverting as aforesaid to Kahului many times that amount daily, and are also furnishing water daily to persons in Wailuku who have no rights whatever to waters in said Wailuku River and Iao Valley, in amounts far in excess of the total water rights of said Apana 1, of Royal Patent 4059.

Eleventh: That since said water works were established said landing or town of Kahului has grown very substantially, many buildings having been erected there since said water works were so established, whereby the use of water as aforesaid has greatly increased;

that in all probability said landing or town of Kahului will very materially increase in size and in its demands for water in the near future by reason of the growth and development of said landing and the commerce done in Kahului harbor; that complainant is now short of water for its said plantation, and needs and will need for its said plantation the water now diverted , and which will hereafter be diverted by defendants if their present plans are carried out as aforesaid.

Twelfth: That by reason of the premises complainant has suffered, and is threatened with great and irreparable loss and damage in the appropriation and diversion of its waters as aforesaid, complainant in this connection alleging that by virtue of certain conveyances made to it on the 29th day of November, 1904, it, the complainant, acquired, and has ever since owned the konohiki water rights of the waters of Iao Valley and Wailuku Stream and branches thereof, complainant paying large and valuable consideration for the acquisition of said water rights, and by reason of the acquisition of said additional water rights as aforesaid, complainant says it came to own and continuously thereafter has owned and now continues to own all of the waters, normal and otherwise of said Iao Valley and Wailuku River and branches thereof, saving and excepting only certain kuleana rights within the district of Wailuku owned by third parties, and particularly does complainant allege and claim that by virtue of the purchase of the konohiki water rights aforesaid it has come to own and control all rights to surplus and (or) storm waters in said Iao Valley and Wailuku Stream and branches thereof excepting only so much thereof as it may lease or dispose of to others.

Thirteenth: That by reason of the premises complainant has not only suffered great and irreparable injury but is also threatened with still further loss and with other and further irreparable injury unless the Court intervenes, particularly if the defendants are

permitted to still further extend and increase their use of said waters and are permitted to carry out their threatened plan and intention to enlarge the pipe line as aforesaid from said reservoir to said landing or town of Kahului; and inasmuch therefore as complainant is remediless at law in the premises and by virtue of the matters and things hereinabove set forth, petitioner prays:

I.

That the defendants may be duly summoned to appear and answer this complaint according to the practice of this court in like proceedings, and

II.

That upon due hearing herein the Court grant a perpetual injunction against the defendants and each of them enjoining them and each of them and their successors in office, and agents and servants from using, diverting or transmitting any waters whatsoever from said Wailuku River and Iao Valley and the branches thereof to said Kahului or elsewhere, for any purposes whatsoever and by any means whatsoever, in excess of twenty thousand gallons per day.

III.

That in the meantime this Court grant a temporary injunction requiring the defendants and each of them, their agents and servants to desist from taking any more water from said Iao Valley or Wailuku River or branches thereof in excess of the amount heretofore taken as aforesaid, and further enjoining and restraining said defendants and each of them and their agents and servants from enlarging any of the pipes, conducting water to said Kahului or from extending the use of said waters to other parties not now supplied by said waters at Kahului or elsewhere, and to new uses of said water at Kahului or elsewhere, until further order of the Court; and

IV.

Lastly, complainant prays for costs of Court, and such other and further relief as to the Court may seem meet.

Wailuku Sugar Company
by its attorneys
Kuniyoshi & Marx

TERRITORY OF HAWAII,

COUNTY OF MAUI. SS.

C. B. WELLS, being duly sworn on oath deposes and says that he now is and for fifteen years last past has been, manager of the Complainant corporation; that as such manager, he has had full charge of its business affairs in said County of Maui, and is fully cognizant of the matters and things set forth in the above Complaint; and that on oath he does depose and say on behalf of said corporation that all and singular the matters and things in said complaint alleged and set forth are true excepting as to such matters as are alleged on information and belief, and as to the same he believes them to be true.

C B Wells

Subscribed and sworn to before me
this 21st day of August, A. D. 1908.

Edmund [illegible]

Notary Public, Second Judicial
Circuit, Territory of Hawaii.

Exhibit " A "

Stamped $2.

KNOW ALL MEN BY THESE PRESENTS that I, JOHN W. KALUA, of Wailuku, Maui, Hawaiian Islands, in consideration of One Thousand Dollars to me paid by JAMES A. KING, Minister of the Interior of the Government of the Hawaiian Islands, the receipt whereof is hereby acknowledged hereby give grant bargain sell and convey unto the said Minister of the Interior all of that parcel of land situate in said Wailuku, described as Apana 1, in Royal Patent No. 4059 Land Commission Award No. 3529 to Hana and bounded and described as follows:

E hoomaka ana ma ke kihi Hikina a e holo ana Akau 29 1/2° Ko. .78 Kaulahao ma ka pali Akau 72° Ko. 1.35 kaulahao ma ka pali Hema 84 1/2° Ko. 2.84 Kaulahao ma ka pali; Hema 27 1/2° Ko. 1.29 Kaulahao ma ka pali; Hema 21° Hi. .96 Kaulahao ma Kahawai; Hema 84 3/4° Hi. 2.88 Kaulahao ma Kahawai; Akau 51° Hi. 2.28 Kaulahao ma Kahawai a hiki i kahi i hoomaka ai, and containing an area of 1 45/100 Acres.

TO HAVE AND TO HOLD the granted premises with all the rights, privileges and appurtenances thereto belonging to the said James A. King, as Minister of the Interior as aforesaid and his successors in office and assigns forever.

And I hereby for myself and my heirs, executors and administrators covenant with the said Minister and his successors in said office and assigns, that I am lawfully seized in fee simple of the granted premises; that they are free from all incumbrances; that I will and my heirs, executors and administrators shall warrant and defend the same to the said Minister and his successors in office and his assigns forever against the lawful claims and demands of all persons.

And for the consideration aforesaid I POLLY KALUA, wife of the said John W. Kalua, hereby release unto the said Minister of the Interior his successors in said office and assigns all the right of dower in the granted premises.

IN WITNESS WHEREOF the said John W. Kalua and Polly Kalua, his wife, have hereunto set their hands and seals this 11th day of May, A. D. 1899.

Executed in presence of /S/ JOHN W. KALUA
M. P. WAIWAIOLE POLLY KALUA

HAWAIIAN ISLANDS
SS
ISLAND OF MAUI

On this 11th day of May, A. D. 1899, personally appeared before me JOHN W. KALUA and POLLY KALUA, his wife, known to me to be the persons described in and who executed the foregoing instrument who severally acknowledged to me that they executed the same freely and voluntarily and for the uses and purposes therein set forth.

And the said POLLY KALUA, wife of said John W. Kalua, on a private examination by me separate and apart from her husband further acknowledged to me that she had signed the same freely and without compulsion or fear from her husband.

/S/ M. P. WAIWAIOLE
(NOTARIAL SEAL) Notary Public 11 Judicial Circuit

Recorded & Compared this 16th day of August, A. D. 1899 at 10:47 o'clock A. M. /S/ Thos. G. Thrum, Registrar of Conveyances.

(Liber 194, Page 483.)

EXHIBIT "b".

THIS INDENTURE, made this 20th day of February, in the Year of Our Lord One Thousand Nine Hundred, between the WAILUKU SUGAR COMPANY, LIMITED, a corporation duly organized and existing under the laws of the Republic of Hawaii, the party of the first part, and ALEXANDER YOUNG, MINISTER OF THE INTERIOR, his successor or successors in office, the party of the second part:

WITNESSETH: That the said party of the first part, for and in consideration of the sum of One Thousand ($1,000.00) Dollars lawful money of the United States of America, to it in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained and sold, conveyed and confirmed, and by these presents does grant, bargain and sell, convey and confirm unto the said party of the second part, and to his successors and assigns forever, all that certain lot, piece or parcel of land situate, lying and being in the District of Wailuku, Island of Maui, and bounded and particularly described as follows, to-wit:-

Commencing at a fence post on the Easterly side of Government road to Iao Valley, from which point the cement work on the Wall-bridge ditch at the summit crossing of the Iao Valley road from Wailuku bears N. 19° W. 44 feet distant; thence (all courses magnetic) S. 45-1/4° W. 306 feet to point in line of fence; thence S. 47° E. 234 feet to point on edge of cane field and plantation wagon road; thence N. 24° E. 100 feet along said plantation road; thence N. 8-3/4° E. 230 feet along said road; thence N. 27° W. 62 feet to the place of beginning, and containing 1.045 acres of land; said tract being a portion of Royal Patent 1925, L. C. A. 387, A. P. Mission, Pohakauhi, Wailuku, Maui.

The party of the first part further grants, sells and conveys to the party of the second part, a right of way for the purpose of constructing, laying and maintaining a pipe line across the lands of the party of the first part, where desirable, in the Iao Valley from the tract of land above described as containing 1.045 acres to the tract known as Apana No. 1, Royal Patent No. 4059, located near what is commonly known as the third crossing of the Wailuku stream, - the exact location of said pipe line to be determined by the party of the second part; with the right of entry upon the lands of said first party for all work and purposes necessary or requisite in the proper construction, maintenance and control of said pipe line.

TOGETHER WITH ALL AND SINGULAR, the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD, all and singular the said premises, together with the appurtenances, unto the said party of the second part, and to his successors and assigns forever for the use and benefit of the Republic of Hawaii.

IN WITNESS WHEREOF, the said party of the first part has, by the hands of its President and Secretary, signed its corporate name and affixed its corporate seal the day and year first above written.

WAILUKU SUGAR COMPANY, LIMITED,

By _____
Vice-President.

By Geo. H. Robertson
Treasurer.

(Signed)

Recd $37.00

Filed August 29/08
11:40 a.m.

J A Thompson
Clerk

Served the within Summons on William E.Bal,Superintendent of the Wailuku and Kahului Water-Works, at Wailuku, County of Maui.Territory of Hawaii,this 2nd. day of September A.D. 1908, by delivering to him a certified copy hereof and of the petition or complaint hereto annexed and at the same time showing him the original as herein directed.

Dated September 2nd. 1908.

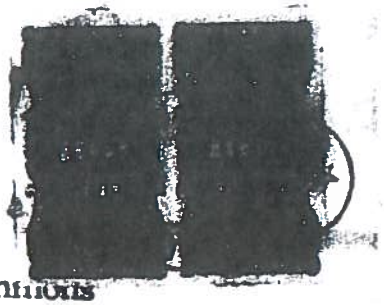
Jas. F. Acloch

Deputy High Sheriff, Ter. of Hawaii

In the Circuit Court of the FIRST Circuit

TERRITORY OF HAWAII.

AT CHAMBERS.



WAILUKU SUGAR COMPANY,
Complainant,
vs.
MARSTON CAMPBELL, Superintendent of Public Works of the Territory of Hawaii, and WILLIAM E. BAL, Superintendent of the Wailuku and Kahului Water Works,
Defendants.

Chambers Summons

The Territory of Hawaii:

TO THE HIGH SHERIFF of the Territory of Hawaii, or his Deputy; the Sheriff of the County of Oahu *or his Deputy.*

YOU ARE COMMANDED to summon MARSTON CAMPBELL, Superintendent of Public Works of the Territory of Hawaii, and WILLIAM E. BAL, Superintendant of the Wailuku and Kahului Water Works,

to appear ten days after service hereof, if they *reside in the County of* Oahu *otherwise twenty days after service, before such Judge of the Circuit Court of the* First *Circuit as shall be sitting at Chambers in the Court Room at* Honolulu

to answer the annexed Bill of Complaint

of WAILUKU SUGAR COMPANY,

AND YOU ARE FURTHER COMMANDED, by order of the Honorable ~~Judge of the Circuit Court of the~~ *Circuit*

And have you then there this Writ with full return of your proceedings thereon.

WITNESS the Honorable J. T. DE BOLT, *First Judge of the Circuit Court of the* First *Circuit, at* Honolulu *this* ~~29th~~ *day of* August 190 8.

J. L. Thompson *Clerk.*

Section 1769 Revised Laws. The time within which an act is to be done * * * shall be computed by excluding the first day and including the last. If the last day be Sunday, it shall be excluded.

Number 1634

Equity Division

CIRCUIT COURT

FIRST CIRCUIT

Hawaiian Sugar Co

vs

Marston Campbell

et al.

191

Bill of Complaint

Entered in Docket Page

Record Page

J. Aimoku Dominis
Clerk.

Part I

Water Intake and System for Irrigated Taro Lo'i and Gardens, 'Īao Valley State Monument
Photographs by Dean Uyeno (July 7, 2010)—Compiled by State Parks

Figure 1: Intake for State Parks Irrigated Lo'i and Garden. Intake draws water from Kinihapai Stream, a tributary to Wailuku River

Figure 2: T-Junction on Primary Intake Pipe. Pipe running to the left becomes the source (upper inlet) for the upper set of lo'i. The main pipe continues to the lower source (lower inlet) and lo'i.

EXHIBIT 2304-DLNR-11

Figure 3: Upper Inlet Emptying into Ditch Feeding the Upper Set of Loʻi.

Figure 4: Upper Inlet and Ditch Feeding the Upper Set of Loʻi (View towards Kinihāpai Stream)

Figure 5: Ditch Carrying Water from the Upper Intake to the Lo'i

Figure 6: Upper Set of Lo'i Viewed from the Upper Inlet

Figure 7: View Looking Across Upper Set of Lo'i towards the Lower Lo'i.

Figure 8: Lo'i Fed by the Upper Inlet

Figure 9: Last (Downslope) Lo'i in the Upper Set of Lo'i. Water flowing through the lo'i empties into the ditch or gully below the lo'i (below banana stocks).

Figure 10: Last (Downslope) Lo'i in the Upper Set as Viewed from Outflow Ditch or Gully

Figure 11: View of Lower Lo'i from Park Walkway. Upper set of lo'i is in the foreground.

Figure 12: Inlet for Lower Set of Lo'i and Ditch

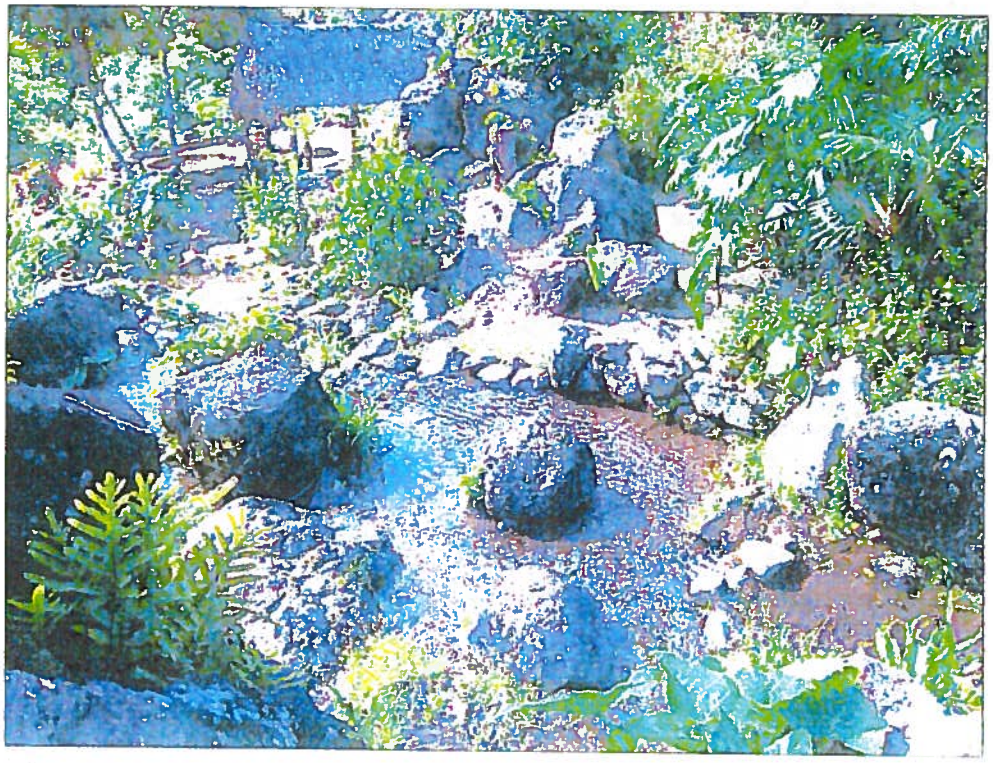


Figure 13: Ditch Carrying Water from Lower Inlet to Lo'i.

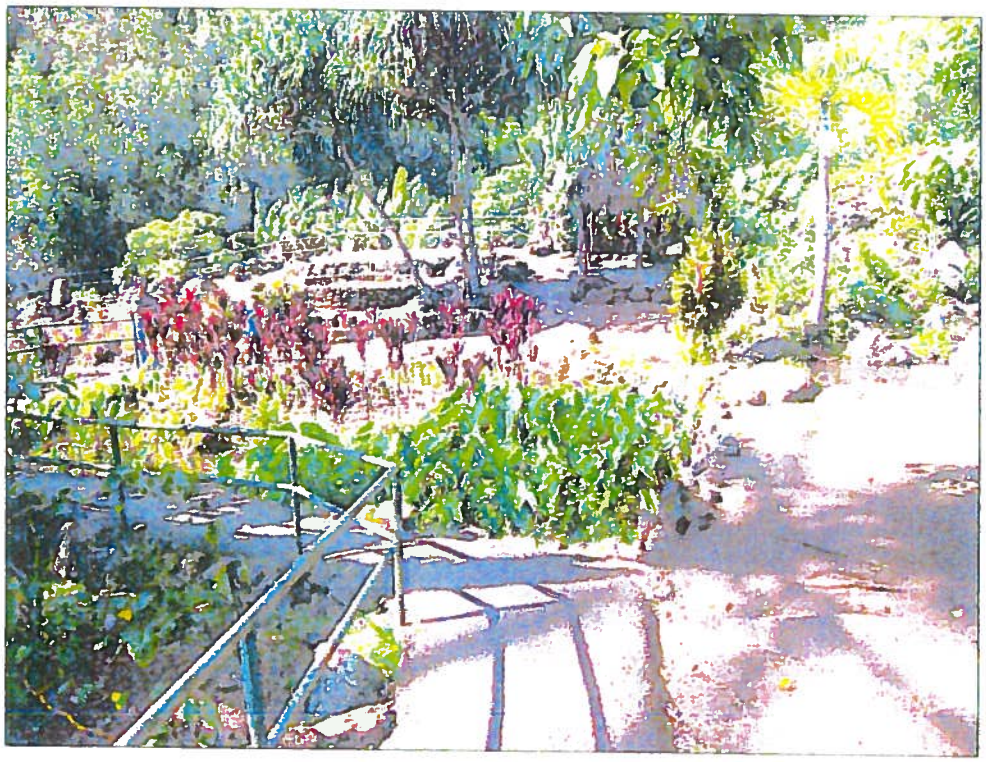


Figure 14: Lower Lo'i with Red Ti Growing in Middle.

Figure 15: Lower Lo'i. Note outflow pipe to right of path.

Figure 16: Outflow Pipe Emptying Water from Lo'i into Ditch or Gully. Water from the upper set of lo'i is discharged into the same gully or ditch.

Photo by R. Kumabe
Taken 1-12-2016

EXHIBIT 2304-DLNR-12

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAI'I

Surface Water Use Permit Applications, 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	Case No. CCH-MA 15-01 CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

On FEB 5 2016, a copy of the foregoing document was served on the following parties by U.S. mail, postage prepaid, or electronic service, as indicated below:

SERVICE BY MAIL

Noelani & Alan Almeida
Gordon Almeida
P.O. Box 1005
Wailuku, HI 96793

Joseph Alueta
P.O. Box 785
Wailuku, HI 96793

Michael Bailie
PO Box 1433
Wailuku, HI 96793

Vernon Bal
230 Koeli Street
Wailuku, HI 96793

Dorothy Bell
1419 Nuna Place
Waikapu, HI 96793

Patricia Federcell
88 S Papa Avenue, Apt. 404
Kahului, HI 96732-3307

Dwayne Betsill
Koolau Cattle Company, LLC
635 Kenolio Road
Kihei, HI 96753

Alan Birnie
175 W. Waiko Road
Wailuku, HI 96793

Gary & Evelyn Brito
2160A Puuohala Road
Wailuku, HI 96793

David & Anne Brown
2525 Kahekili Hwy.
Wailuku, HI 93793-9233

Douglas Myers
1299 Malaihi Road
Wailuku, HI 96793

Regino Cabacungan
304 Hoomalu Place
Wailuku, HI 96793

Thomas Cerizo
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Wailuku, HI 96793

Cordell Chang
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Wailuku, HI 96793

Joshua Chavez
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Kahului, HI 96733

Winifred and Gordon Cockett
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Wailuku, HI 96793

Pauline Kanegai Curry
P.O. Box 3172
Wailuku, HI 96793

Charles Dando, Sr. & Jr.
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Wailuku, HI 96793

Alfred & Patricia DeMello
El Ranchitos DeMello
P.O. Box 1394
Lockeford, CA 95237

James Dodd
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Wailuku, HI 96793

Michael Doherty
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Wailuku, HI 96793

Richard Emoto
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Wailuku, HI 96793

Rudy & Perlita Fernandez
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Kahului, HI 96733

Roderick Fong
Fong Construction
Company Inc.
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Kahului, HI 96732

Dave Gomes
Hawaiian Cement - Maui
Concrete and Aggregate
Division
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Kahului, HI 96732

Russel Gushi
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Wailuku, HI 96793

Valentine Haleakala
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