

JOSEPH ALUETA
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2013 FEB 11 11:01:53

WATER USE PERMIT APPLICANT PRO SE

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAI'I

Surface Water Use Permit Applications,)	Case No. CCH-MA15-01
Integration of Appurtenant Rights and)	
Amendments to the Interim Instream Flow)	TESTIMONY OF JOSEPH ALUETA;
Standards, Nā Wai 'Ehā Surface Water)	EXHIBITS "2362-ALUETA-1" - "2362-
Management Areas of Waihe'e, Waiehu,)	ALUETA-6"
'Īao, & Waikapū Streams, Maui)	
)	
)	

TESTIMONY OF JOSEPH ALUETA

1. This testimony is provided in support of Surface Water Use Permit Application ("SWUPA") No. 2362N, filed with the Commission on Water Resource Management on April 23, 2009, for a parcel in Waihe'e, Tax Map Key ("TMK") No. (2) 3-2-003:001. My wife and I purchased the land on July 28, 2003, and our family has lived on the land since we completed construction of our family home in December 2006.

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

3. We are a Native Hawaiian 'ohana who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778. Pursuant to Article XII, Section 7 of the Hawai'i Constitution and Hawai'i Revised Statutes ("HRS") section 174C-101, our intended use of stream water is a traditional and customary cultural practice that is a protected public trust purpose.

4. My domestic water use is a protected public trust purpose.

5. Based on the information set forth below, if appurtenant rights survived the deed's reservation, I request recognition of appurtenant rights for TMK No. (2) 3-2-003:001 in the amount of 120,000 gallons per day. I request a Surface Water Use Permit for my future reasonable-beneficial use for TMK No. (2) 3-2-003:001 of 601,250 gallons per day.

QUANTIFICATION OF APPURTENANT RIGHTS

6. TMK No. (2) 3-2-003:001 is comprised of a portion of Land Commission Award ("LCA") No. 7713:24 to Kamamalu, confirmed by Royal Patent No. 4475. In addition, there are three kuleana parcels on my land: the entirety of LCA No. 4405-P:3 to Moo, confirmed by Royal Patent No. 4120; the entirety of LCA No. 2412:3 to Kauhi, confirmed by Royal Patent No. 6147; and the entirety of LCA No. 3770-B:3 to Paiki, confirmed by Royal Patent No. 8066. I am attaching various Māhele documents that confirm water use on TMK No. (2) 3-2-003:001 at the time of the Māhele.

7. Attached as "2362-ALUETA-1" is a true and correct copy of LCA No. 4405-P:3 to Moo, as well as the foreign testimony (original in English and partial transcription in English) supporting the award.

8. Attached as "2362-ALUETA-2" is a true and correct copy of LCA No. 2412:3 to Kauhi, as well as foreign testimony (original in English and partial transcription in English) supporting the award.

9. Attached as "2362-ALUETA-3" is a true and correct copy of LCA No. 3770-B:3 to Paiki, as well as the native register (both the original, a transcription, and an English translation).

10. Attached as "2362-ALUETA-4" is a true and correct copy of a screenshot from the Kipuka database of TMK No. (2) 3-2-003:001, which I have marked to show the approximate location of LCA No. 4405-P, 'āpana 3, location of LCA No. 2412, 'āpana 3, location of LCA No. 3770-B, āpana 3, and LCA No. 7713:24.

11. Attached as "2362-ALUETA-5" is a true and correct copy of a map of TMK No. (2) 3-2-003:001 showing the location of our property, diversion location, and area of proposed use.

12. Attached as "2362-ALUETA-6" are excerpts from a true and correct copy of the report entitled "Data Recovery Excavations at Site 50-50-04-2846, Waihe'e Ahupua'a, Wailuku District, Island of Maui, Hawai'i," prepared by Scientific Consultant Services (Revised May 1998).

13. The documents in 2362-ALUETA-1, referring to LCA No. 4405-P:3, confirm that 'āpana 3, in the 'ili of Ahuakolea, was cultivated in 8 lo'i kalo.

14. The documents in 2362-ALUETA-2, referring to LCA No. 2412:3, confirm that 'āpana 3, in the 'ili Ahuakolea, was cultivated in 4 lo'i kalo.

15. The documents in 2362-ALUETA-3, referring to LCA No. 3770-B:3, confirm that 'āpana 3, in the 'ili Ahuakolea, was cultivated in 6 lo'i kalo.

16. The historic sites found on our land further indicate that our property was historically cultivated in wetland kalo. As shown in 2362-ALUETA-6, the historic sites include ancient lo'i kalo terraces and the ancient Hawaiian 'auwai that historically fed them. 2362-ALUETA-6-P.2 states that, "[b]y virtue of the fact they were claimed and awarded, the LCA's in the present project area had been cultivated in lo'i before the Mahele in 1848." We collaborated with the State Historic Preservation Division (SHPD) of the Department of Land and Natural Resources (DLNR) to produce a Preservation Plan for Waihe'e Irrigated Taro Complex (SIHP Site 50-50-04-2846). Pursuant to the plan, we have removed the java plum trees with aggressive roots that were undermining the ancient lo'i terraces so that we can restore the lo'i, plant them with kalo, and make them productive again.

17. My land, TMK No. (2) 3-2-003:001, is 3.84 acres. As explained above, part of my parcel covered by LCA No. 4405-P:3 (0.24 acres) was cultivated in wetland kalo, part of my parcel covered by LCA No. 2412:3 (0.1 acres) was cultivated in wetland kalo, and part of my parcel covered by LCA No. 3770-B:3 (0.06 acres) was cultivated in wetland kalo.

18. Based on the Māhele documents in 2362-ALUETA-1, 2362-ALUETA-2, and 2362-ALUETA-3, if appurtenant rights survive the deed's reservation of rights, the quantification of the appurtenant rights is the amount of water sufficient to grow kalo on 0.4 acres using traditional methods.

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

20. Thus, in my best estimation, the water right appurtenant to TMK No. (2) 3-2-003:001 is 120,000 gallons per day (“gpd”) (0.4 acres x 300,000 gad).

AMOUNT REQUESTED UNDER PERMIT

21. I plan to divert water from the Waihe‘e River using a pipe, first to generate hydroelectricity before the water flows into our lo‘i kalo. After flowing through our lo‘i kalo, some of the water will then be piped to our other diversified agriculture crops like betelnut, ma‘o (Hawaiian cotton), tobacco, sweet potato, fruit trees, and flowering trees, before flowing back to Waihe‘e River. I am requesting a permit for the amount of water necessary for these uses.

22. I estimate our proposed water use for wetland kalo of 600,000 gpd by multiplying the amount of land on which I intend to grow wetland kalo (2 acres) by 300,000 gpd, the average amount of water I understand is required to grow healthy wetland kalo.

23. Some of the water from our lo‘i will be used for our diversified agriculture, and the rest, other than what seeps into the soil or evaporates, will be returned to Waihe‘e River. I estimate our proposed water use for diversified agriculture of 1,250 gpd by multiplying the amount of land on which I intend to maintain diversified agriculture (0.5 acres) by a water duty of 2,500 gallons per acre (the amount of water I understand the Water Commission applied for diversified agriculture in the Waiāhole case). Because this amount will be used after flowing through the lo‘i kalo, we are not requesting an additional amount for diversified agriculture.

24. Thus, I request a permit in the amount of 601,250 gpd, for the amount of water necessary for my hydroelectric, lo‘i kalo, and diversified agriculture.

Reasonable-Beneficial Analysis

25. In the event of a legal determination that my appurtenant rights were extinguished, my existing use is still “reasonable-beneficial,” defined as: “the use of water in

such a quantity as is necessary for economic and efficient utilization, for a purpose, and in a manner which is both reasonable and consistent with the state and county land use plans and public interest.” Hawai‘i Revised Statutes § 174C-3.

26. Our use will be “economic and efficient” because we will only use the amount we need and we will take steps to make our water use efficient. For instance we will include the use of mulch and green manure to protect the soil from erosion and minimize the use of water.

27. Our use of stream water to irrigate our wetland taro and garden is also consistent with the state and county land use plans and the public interest. My land is classified by the State as rural, and zoned by the County as RU-0.5. My water use on my land for domestic cultivation is in the public interest and fulfills a public trust purpose.

Alternatives Analysis

28. Our exercise of our traditional and customary right as a Native Hawaiian ‘ohana to cultivate kalo on our land in the traditional manner is constitutionally protected, and therefore is not required to use alternative, non-traditional sources.

29. Even if such a requirement applied, there is no potentially available alternative source that is economically practicable. We intend to cultivate wetland kalo on our land for cultural and subsistence purposes. An alternative water source that would require us to pay for the volumes of constantly flowing water to our lo‘i necessary to keep temperatures cool and support healthy kalo would make our practice economically impossible. We would effectively be denied our traditional and customary right to grow kalo on our land.

SUMMARY

30. In sum: (1) my domestic water use is a protected public trust purpose; (2) my ‘ohana’s traditional and customary right to grow kalo is a protected public trust purpose; (3) if

appurtenant rights survived the deed's reservation for TMK No. (2) 3-2-003:001, I am entitled to 120,000 gallons per day; (5) at this time, I request a permit for my future reasonable-beneficial uses on the property of ~~600,000~~ ^{601,250} gallons per day, and this amount will be used to generate hydroelectricity and to irrigate wetland taro and diversified agriculture, which is a reasonable-beneficial use of stream water, for which there is no practicable alternative.

I, JOSEPH ALUETA, do declare under penalty of law that the foregoing is true and correct.

Dated: Waihe'e, Hawai'i, 1/17/16.



JOSEPH ALUETA
WATER USE PERMIT APPLICANT PRO SE

Wm. P. L. 6
 J. M. Johnston
 S. N. Smith

255

Honolulu, Feb. 31 1852.

Hele 4405 P. M. C.

Honolulu, Hawaii.

Apana I. Ua kaalehi iia.
 Apana I 58' Kē Kaipe. 3.5 4.5. Chumaha lu ana ma he hiki. Ana. hiki, i pili ana ma
 Kahaui. Ahe 7.5. Ahe 3.5. Kaulahe ma Kahaui. Ahe 3.5. Ahe 2.5. Ahe ma Kaulahe. Ahe 3.5.
 Ahe 1.5. Ahe ma Paahakaha. Ahe 4.5. Ahe 5.5. Ahe ma Kaulahe. Ahe 4.5. Ahe 1.5. Ahe ma Kaulahe.
 Ahe 4.5. Ahe 1.5. Ahe ma Kaulahe. Ahe 3.5. Ahe 4.5. Ahe ma Kaulahe. Ahe 4.5. Ahe 1.5. Ahe ma Kaulahe.
 ma Kaulahe. Ahe 3.5. Ahe 4.5. Ahe ma Kaulahe. Ahe 2.5. Ahe 3.5. Ahe ma Kaulahe. a hiki:
 hiki: hiki: hiki: a mahe iia ana pili. 1.5. 1.5.

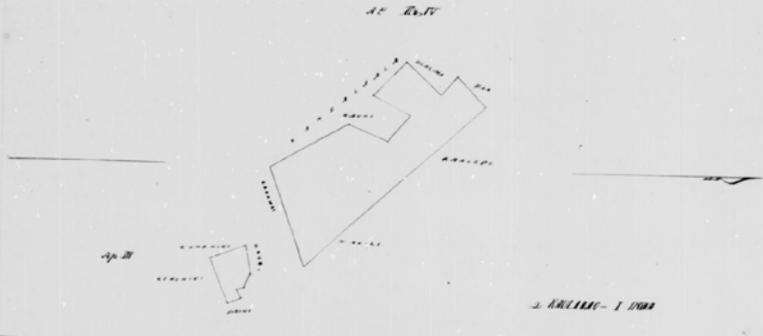
Apana II. He Alueta. Chumaha lu ana ma he hiki. Ana. hiki, i pili ana ma Kaulahe

Ahe	5.5	Kaulahe	1.5	Ahe	Kaulahe
Ahe	1.5	Ahe	1.5	Ahe	Kaulahe
Ahe	1.5	Ahe	1.5	Ahe	Kaulahe
Ahe	1.5	Ahe	1.5	Ahe	Kaulahe
Ahe	1.5	Ahe	1.5	Ahe	Kaulahe
Ahe	1.5	Ahe	1.5	Ahe	Kaulahe
Ahe	1.5	Ahe	1.5	Ahe	Kaulahe
Ahe	1.5	Ahe	1.5	Ahe	Kaulahe

a hiki: hiki: hiki: a mahe iia ana pili. 1.5. 1.5.

Honolulu, July 2 1852.

Wm. P. L. 6
 J. M. Johnston
 S. N. Smith



Wm. P. L. 6
 J. M. Johnston
 S. N. Smith
 J. Kikunaka

Honolulu, Jan. 4. 1853.

N^o 2 is bounded Waikae, by the Honekahi's land, Akahakalo, by
Tahamuku's land, Waikae, by Tahamuku's lot, Waikae, by the side of
Waikae.

L. L. L. O. P. O. K.

The claimant says that he has been in Waikae for 40 years and that he has been in Waikae since
1812 and that he has been in Waikae since 1812.

- 1. 2 lots in Waikae.
- 2. 2 lots in Waikae.
- 3. 2 lots in Waikae.

The claimant says that he has been in Waikae since 1812 and that he has been in Waikae since 1812. He says that he has been in Waikae since 1812 and that he has been in Waikae since 1812. He says that he has been in Waikae since 1812 and that he has been in Waikae since 1812.

N^o 4 is bounded Waikae, by the side of Akahakalo, by the
side of Waikae, by the side of Waikae, by the side of Waikae.

N^o 5 is bounded Waikae, by the side of Waikae, by the side of Waikae,
by the side of Waikae, by the side of Waikae, by the side of Waikae.

N^o 6 is bounded Waikae, by the side of Waikae, by the side of Waikae,
by the side of Waikae, by the side of Waikae, by the side of Waikae.

N^o 7 is bounded Waikae, by the side of Waikae, by the side of Waikae,
by the side of Waikae, by the side of Waikae, by the side of Waikae.

Charles K. K.

The claimant says that he has been in Waikae since 1812 and that he has been in Waikae since 1812. He says that he has been in Waikae since 1812 and that he has been in Waikae since 1812.

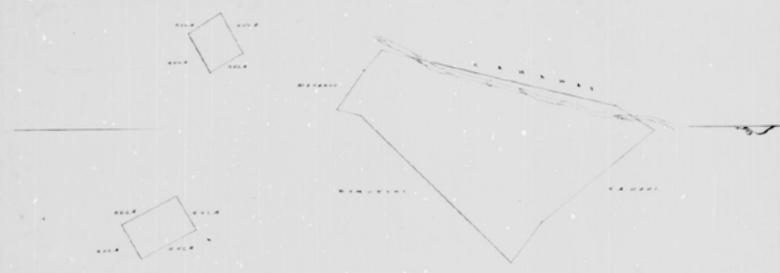
The claimant says that he has been in Waikae since 1812 and that he has been in Waikae since 1812. He says that he has been in Waikae since 1812 and that he has been in Waikae since 1812.

N^o 1 is in the side of Waikae.

- 1. 2 lots in Waikae.
- 2. 2 lots in Waikae.
- 3. 2 lots in Waikae.

Transcription of Foreign Testimony for Land Commission Award No. 4405-P:3

No 3. is 8 lois in Ahuakolea



Uta Ena 8/10
 P. L. L. L.
 S. De Klaten
 S. Chikaulahar
 S. H. L. L.

Konklusio 12 Juli 1892

Nulu 2412 Kauchi

Klaten & Hauri

Ajara 1. Al. Saipar. Chikaulahar ke ana ma ke hulu Kamban & Bura, e jitu ana ma Alia.
 Al. 27 1/2. Al. 118 Kaul. ma Alia. Al. 45. Al. 116 Kaul. ma Alia. Al. 34. Al. 117 Kaul. ma Alia.
 Al. 31. Al. 120 Kaul. ma Kaul. a hulu ma hulu Kamban, a matela ma anapuni Jira Sika.

Ajara 2. Al. Kaul. Chikaulahar ke ana ma ke hulu Kamban & Bura, e jitu ana ma Alia.
 Al. 31 1/2. Al. 118 Kaul. ma Alia. Al. 45. Al. 116 Kaul. ma Alia. Al. 34. Al. 117 Kaul. ma Alia.
 Al. 31. Al. 120 Kaul. ma Kaul. a hulu ma hulu Kamban, a matela ma anapuni Jira Sika.

Ajara 3. Al. Kaul. Chikaulahar ke ana ma ke hulu Kamban & Bura, e jitu ana ma Alia.
 Al. 31 1/2. Al. 118 Kaul. ma Alia. Al. 45. Al. 116 Kaul. ma Alia. Al. 34. Al. 117 Kaul. ma Alia.
 Al. 31. Al. 120 Kaul. ma Kaul. a hulu ma hulu Kamban, a matela ma anapuni Jira Sika.

Ajara 4. Al. Saipar. 2. Chikaulahar ke ana ma ke hulu Kamban & Bura, e jitu ana ma Alia.
 Al. 27 1/2. Al. 118 Kaul. ma Alia. Al. 45. Al. 116 Kaul. ma Alia. Al. 34. Al. 117 Kaul. ma Alia.
 Al. 31. Al. 120 Kaul. ma Kaul. a hulu ma hulu Kamban, a matela ma anapuni Jira Sika.

Ajara 5. Al. Kaul. Chikaulahar ke ana ma ke hulu Kamban & Bura, e jitu ana ma Alia.
 Al. 31 1/2. Al. 118 Kaul. ma Alia. Al. 45. Al. 116 Kaul. ma Alia. Al. 34. Al. 117 Kaul. ma Alia.
 Al. 31. Al. 120 Kaul. ma Kaul. a hulu ma hulu Kamban, a matela ma anapuni Jira Sika.

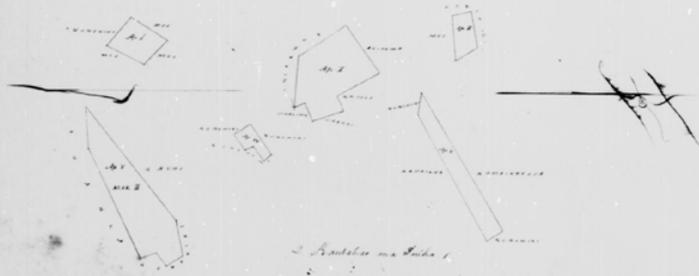
Ajara 6. Al. Kaul. Chikaulahar ke ana ma ke hulu Kamban & Bura, e jitu ana ma Alia.
 Al. 31 1/2. Al. 118 Kaul. ma Alia. Al. 45. Al. 116 Kaul. ma Alia. Al. 34. Al. 117 Kaul. ma Alia.
 Al. 31. Al. 120 Kaul. ma Kaul. a hulu ma hulu Kamban, a matela ma anapuni Jira Sika.

Alam 17^o Kanchana 60 Kautaha ma Kambaha Alam 51^o Ah 53 Kautaha ma Kambaha
Alam 53 Kanchana 60 Kautaha ma Kambaha Alam 56 Alam 113 Kautaha ma Kambaha
Alam 57^o Kanchana 60 Kautaha ma de Kambaha Kambaha k a hiki ma hiki k hama k
a mabha ma anapuni 24^o Eka

Apurua Na hokumu ma hua apura

Kaitiaki Aug 10, 1852

Alam k hama
Ma ma hama



Alam 3^o Alam 5^o
W. L. ...
17^o 18^o 19^o
20^o 21^o

Kaitiaki 17^o 18^o 1852

Kaitiaki 1852 (2 35 17) Wairua k hama
Part 1st

Apura I. Al. Kaitiaki. E hama k hama ma ma hiki hama k hama, Ah 54^o Ah 55^o Kautaha
ma hiki, Ah 57^o Alam 133 Kautaha Kautaha, Ah 58^o Alam 53 Kautaha ma Kautaha, Ah 59^o Alam
68 Kautaha ma Kautaha Alam 60 Alam 59 Kautaha ma Kautaha Alam 59^o Ah 57^o Kautaha ma
Kautaha Alam 59^o Ah 74 Kautaha ma hiki a hiki ma hiki k hama k hama a mabha ma anapuni
33^o Eka

Apura II. Al. Kaitiaki. E hama k hama ma ma hiki hama k hama, Ah 54^o Ah 55^o Kautaha
ma hiki Alam 59^o Ah 53 Kautaha ma Kautaha Alam 59^o Ah 53 Kautaha ma Kautaha
Alam 57^o Alam 76 Kautaha ma Kautaha Alam 59^o Ah 53 Kautaha ma Kautaha Alam 57^o Alam
246 Kautaha ma Kautaha Alam 57^o Alam 184 Kautaha ma Kautaha Ah 59^o Alam 133 Kautaha
ma Kautaha Ah 59^o Alam 204 Kautaha ma Kautaha Ah 59^o Alam 231 Kautaha ma hama
hiki a hiki ma hiki k hama k hama a mabha ma anapuni a hama k hama

Apura III. Al. Kaitiaki. E hama k hama ma ma hiki hama k hama a hama
Ah 54^o Ah 55^o Kautaha ma hama Alam 54^o Ah 53 Kautaha ma hama Alam 54^o Alam 68
Kautaha ma hama Alam 54^o Alam 56 Kautaha ma Kaitiaki a hiki ma hiki k hama k hama
a mabha ma anapuni a hama k hama

Apura IV. Al. Kaitiaki. E hama k hama ma ma hiki hama k hama a hama
ma Kaitiaki Alam 53^o Ah 53 Kautaha Kautaha Alam 57^o Ah 74 Kautaha ma Kautaha Alam 58^o

and not so well acquainted with them as now.

Then, Sir, these four pieces are as follows.

N^o 1 is a base of hats in Papeete

N^o 2 is a base in Raiatea.

N^o 3 is a base in Raiatea.

N^o 4 is a base in Otaia.

The fragment occurred N^o 1 in the days of Kamihameha II, and the other 3 pieces from St. Matthew and others in 1839. His title was never disputed until 1842, and his son Lica-mai is still his. There are two peahine titles in Raiatea.

N^o 1 is bounded Maunua, by the Raiatea title, Tahatua, by the Raiatea title, Maunua, by the Raiatea title, Tahatua, by the Raiatea title.

N^o 2 is bounded Maunua, by the Raiatea title, Tahatua, by the Raiatea title, Maunua, by the Raiatea title, Tahatua, by the Raiatea title.

N^o 3 is bounded Maunua, by the Raiatea title, Tahatua, by the Raiatea title, Maunua, by the Raiatea title, Tahatua, by the Raiatea title.

N^o 4 is bounded Maunua, by the Raiatea title, Tahatua, by the Raiatea title, Maunua, by the Raiatea title, Tahatua, by the Raiatea title.

C. 2412. Raia.

The title consists of 5 pieces in Raiatea, &c.

N^o 1 is a base in Raiatea.

N^o 2 is a base in Raiatea.

N^o 3 is a base in Raiatea.

N^o 4 is a base in Raiatea.

N^o 5 is a base in Raiatea.

N^o 1 & 2 he had long before 1839, and N^o 3, 4, 5 from Raiatea. He had from Raiatea in 1830, and 1831, from Raiatea in the same year. His title has not been disputed except to N^o 5 which was taken away in 1866, by the name Rai. Because the title was very old and could not go to the peahine.

N^o 1 is bounded Maunua, by Raiatea's land. On other three sides, by Raiatea's land.

Partial Transcription of Foreign Testimony for Land Commission Award No. 2412:3

No 3. is 4 loi in [A]Huakolea

Ulu Pua Lea # 7

W. L. Lee
G. W. Robertson
S. Kaulahaa
J. H. Smith

Honolulu 27 Oct 1852

Hele 3770 Paiki

Waikele, Hawaii

Apana 1. He Papeina. E hoomaka ke ana ma ke hiki Hehina. Heia, e fite ana ma Kele
He 34 1/2' Kim 46' Kaul ma Kelehe. Kim 64' Kim 65' Kaul ma Kelehe. He 53' Kim 107' Kaul
ma Laupaku Kim 145' Kim 217' Kaul ma anaia Kim 256' Hele 267' Kaul ma Hehina
He 66 1/2' Hele 275' Kaul ma Kelehe. a hiki ma hiki. hoomaka, a maletia ia anaia 54' eke

Apana 2. He Keiahi. E hoomaka ke ana ma ke hiki Hehina. Heia, e fite ana ma ke hiki
Hehina. Kim 56 1/2' Kim 122' Kaul ma Kelehe. He 53 1/2' Kim 115' Kaul ma
Kelehe. Kim 98 1/2' Kim 177' Kaul ma Kelehe. Heia 35' Kim 46' Kaul ma
Kelehe. He 82' Hele 257' Kaul ma Kelehe. a hiki ma hiki. hoomaka, a maletia ia
anaia 54' eke

Apana 3. He Kelehe. E hoomaka ke ana ma ke hiki Hehina. Heia, e fite ana ma ke hiki
Hehina. Kim 65 1/2' Hele 115' Kaul ma Kelehe. He 53' Kim 77' Kaul ma
Kelehe. Kim 67' Kim 134' Kaul ma Kelehe. Kim 100' Hehina 23' Kaul ma Kelehe. He 12'
Hele 33' Kaul ma Kelehe. Kim 145' Hehina 24' Kaul ma Kelehe. Kim 145' Hele 33' Kaul ma Kelehe. a maletia ia anaia 54' eke

Apana 4. Ua haalele ia ia ma Apana

Waikele Aug 12 1852

Wm. H. Lee
Ma ana ana



Ulu Pua Lea # 5
W. L. Lee
G. W. Robertson
S. Kaulahaa
J. H. Smith

Honolulu 27 Oct 1852

142

3723 Paaka Paaka Jan. 1, 1861

14 He kōwhiri mai kōwhiri Kōwhiri 7 lei
 no Kōwhiri mai kōwhiri. Kōwhiri
 3 lei no Kōwhiri mai kōwhiri. Kōwhiri
 1 lei no Paaka mai kōwhiri. Kōwhiri
 Kōwhiri. Kōwhiri Kōwhiri no
 Kōwhiri mai kōwhiri.
 Na Paaka

3724 Alauka Paaka Jan. 1, 1861

14 He kōwhiri mai kōwhiri Kōwhiri 12 lei
 no Kōwhiri mai kōwhiri. Kōwhiri
 Kōwhiri. Kōwhiri Kōwhiri no
 Kōwhiri mai kōwhiri. Kōwhiri
 Kōwhiri. Kōwhiri Kōwhiri no
 Kōwhiri mai kōwhiri.
 Na Alauka

3725 Alapai

14 He kōwhiri mai kōwhiri Kōwhiri 12 lei
 no Kōwhiri mai kōwhiri. Kōwhiri
 Kōwhiri. Kōwhiri Kōwhiri no
 Kōwhiri mai kōwhiri. Kōwhiri
 Kōwhiri. Kōwhiri Kōwhiri no
 Kōwhiri mai kōwhiri.
 Na Alapai

21 Jan. 1861

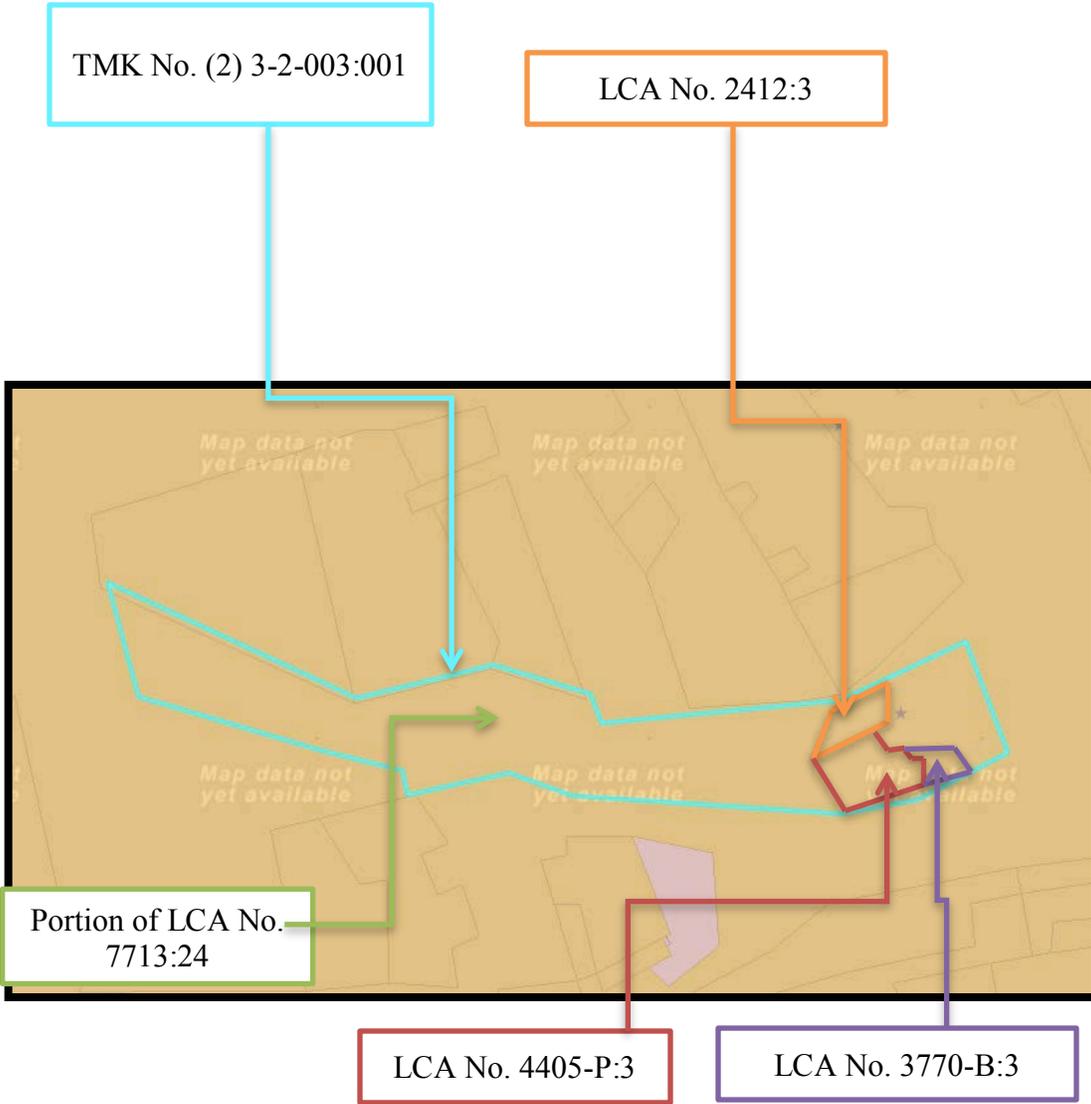
**Transcription and Translation of Native Register for Land Commission Award No. 3770-B
(Portion relevant to 'āpana 3 is underlined)**

3770B Paiki Waihee, Jan 1 1848

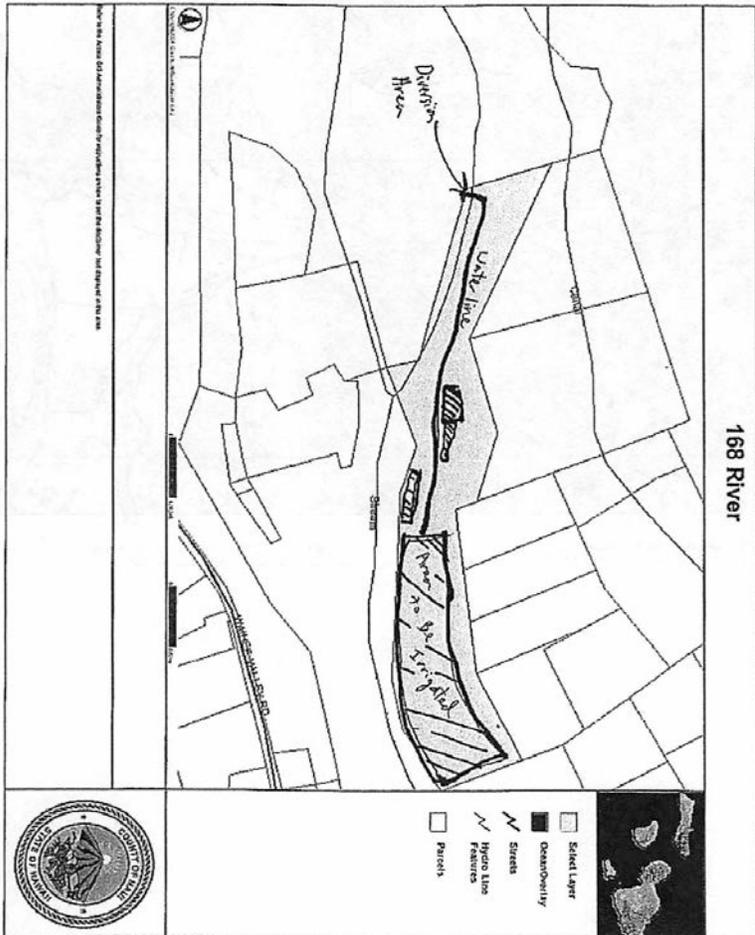
Ili aina o Papaina 16 loi
no Kawao mai ko'u, Koiahi 7 loi
no Kanahēle mai ko'u. Ahuakolea
6 loi no Kaaiai mai ko'u. Ohia
1 loi no Puka mai ko'u, 1 kula
Maninole II mana kahawai no
Kumaililani mai ko'u
Na Paiki

3770B Paiki Waihee, Jan 1 1848

In the 'ili of Papaina 16 taro patches
mine are from Kawao, Koiahi 7 taro patches
from Kanahēle are mine. Ahuakolea
6 taro patches from Kaaiai are mine. Ohia
1 taro patch from Puka are mine, 1 dryland cultivated plot
at Maninole II by the stream
from Kumaililani are mine.



2362-ALUETA-4-P.1



<http://agis10g.co.rnau.hi.us:8080/agis/map/printMap.jsp>

4/7/2009

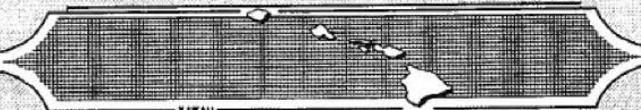
2362-ALUETA-5-P.1

**DATA RECOVERY EXCAVATIONS
AT SITE 50-50-04-2846
WAIHEE AHUPUA'A, WAILUKU DISTRICT
ISLAND OF MAUI, HAWAII
[TMK: 3-2-03: 8, 9, 19, 20, 21, POR. 1 AND 20]**

By:
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Leann McGerty, B.A.,
and
Robert L. Spear, Ph.D.**
Revised May 1998

Prepared for:
Mr. Dominic Marino
Waihee, Maui

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Summaries of historical background for Waihee, derived from recorded legends, various recorded oral histories, and historic records, have been compiled by Helen Wong Smith (Donham 1989) and Marion Kelly and Gordon Hee (Cordy 1978). Readers are directed to those accounts for sources, legends, prehistory, and historic land use pertaining to Waihee *ahupua`a*. For the most part, legends and prehistory descriptions are directed to the coastal region. Kamakau (1992:83) describes a quarrel over fishing rights between the descendants of Kekaulike. The account of the quarrel and ensuing battle takes place during the time of Kahekili and is dated to 1765. This account makes brief mention of a taro plantation in Waihee.

Historical Land Use

In 1848 a drastic change in the traditional land tenure resulted in a division of island lands and system of private ownership based on western law. Hawaiian lands were separated into Crown Lands, Government Lands, and Konohiki Lands and were all subject to the rights of native tenants (Chinen 1961:29). The *maka`ainana* were able to make claims, if they had been made aware of the foreign procedures, on parcels they were presently cultivating and houselots. If occupation could be verified by witnesses, the claimant was then issued a Royal Patent number and could take possession of the property. Commoners claiming houselots in Honolulu, Hilo, and Lahaina were required to pay commutation to the government before obtaining a Royal Patent on their awards (ibid.:1961:16).

Census records for the early 19th century count 827 people living in Waihee Valley in 1831 (Schmitt 1978:18). During the Mahele of 1848 two large awards in Waihee Valley were to William Edmond, who received 142 acres (LCA 780), and to Victoria Kamamalu who received the largest Waihee award, the *konohiki* lands of Waihee (LCA 7713, *Apana* 24). Other awards ranged from 0.05 to 7.52 (Table 1). Awards within and adjoining the current project area are shown in Figure 3.

By virtue of the fact they were claimed and awarded, the LCA's in the present project area had been cultivated *lo`i* before the Mahele in 1848. There is also authority over the native *o`opu* in Waipuka Stream awarded to Kauai.

In the early 1860s T.H. Hobron acquired land in Waihe`e Valley for a sugarcane plantation and Captain James Hobron purchased land to build a Waihee sugar mill.

Table 1: Land Commission Awards In and Near the Project Area.

LCA	Awardee	Native Testimony
7713:24	V. Kamamalu	3:390 - Pualihi
2412:3*,4	Kauai	3:486 - 23 lo`i plus "mana o`opu" gobey fish stream named Waipuka.
4405:1	Moo	6:168.
3770*	Alauka	6:122 - `ili of Koishi (sic), 16 lo`i, 12 lo`i.
3701:3	Makaonaona	6:115 - `ili of Kanahena 5, 14 lo`i, 1 kula
4416:1	Kaualua	6:168 - `ili of Laukee, 39 lo`i.
4431:2	Kaumaka (Kauamaka)	6:170 - Kalihinamaia, 3 lo`i.
3718 B:1	Kamakaualii	6:118 - 6 lo`i.
4405 Q:3	Kaalepo	5:288 - 6 patches (lo`i), pasture, house.
4405 R:1	Mioi	5:286 - `ili of Waipae
4405 P:2,4*	Moo	8:49 - 20 taro lo`i at Waipae 3, 4 taro lo`i at Waipae 4.

* LCAs within project area. (All are within the lands originally awarded to Victoria Kamamalu - LCA 7713:24).

In 1894 Waihe`e Plantation was combined with Wailuku and Waikapu Plantations as Wailuku Sugar Co. Although not currently planted in sugarcane, lands in lower Waihe`e Valley are still owned by Wailuku Sugar Company.

The previous sections suggest that the project area would have been occupied after AD 1200; prehistoric agricultural and residential sites, as well as evidence of historic agricultural use and ranching, would most likely be encountered in the area. According to Dominic Marino, present owner of the survey area property, early in this century pigs were raised on the current study area.

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WATER USE PERMIT APPLICANT PRO SE

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAI'I

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

WITNESS LIST

PARTY: JOSEPH ALUETA

NAME/ ORGANIZATION/ POSITION	SUBJECT MATTER	EXHIBIT(S) TO BE INTRODUCED BY WITNESS
Joseph Alueta	Need for and use of Nā Wai 'Ehā water	2362-ALUETA-1 to -6

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 and Waikapū Streams, Maui)
)
)

EXHIBIT LIST

PARTY: JOSEPH ALUETA

EXHIBIT NUMBER	DESCRIPTION	REFERENCES	REC'D INTO EVIDENCE
2362-ALUETA-1	LCA No. 4405, Foreign Testimony, Foreign Testimony Transcription	Testimony of Joseph Alueta	
2362-ALUETA-2	LCA No. 2412, Foreign Testimony, Foreign Testimony Transcription	Testimony of Joseph Alueta	
2362-ALUETA-3	LCA No. 3770, Native Register, Native Register Translation	Testimony of Joseph Alueta	
2362-ALUETA-4	Screenshot from the Kipuka database of TMK No. (2) 3-2-003:001, showing the location of LCA No. 4405, LCA No. 2412, LCA No. 3770, and LCA No. 7713:24	Testimony of Joseph Alueta	
2362-ALUETA-5	Copy of a map of TMK No. (2) 3-2-003:001	Testimony of Joseph Alueta	
2362-ALUETA-6	Copy of the report "Data Recovery Excavations at Site 50-50-04-2846, Waihe'e Ahupua'a, Wailuku District, Island of Maui, Hawai'i"	Testimony of Joseph Alueta	