

NATALIE HASHIMOTO AND CARL HASHIMOTO

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Wailuku, Hawai'i 96793

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2010 FEB -6 AM 9:57

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 NATALIE HASHIMOTO
Standards, Nā Wai 'Ehā Surface Water)	AND CARL HASHIMOTO; EXHIBITS
Management Areas of Waihe'e, Waiehu,)	"2363-HASHIMOTO-1" – "2363-
'Āao, & Waikapū Streams, Maui)	HASHIMOTO-2"
)	
)	
)	

TESTIMONY OF NATALIE HASHIMOTO AND CARL HASHIMOTO

1. This testimony is provided in support of Surface Water Use Permit Application ("SWUPA") No. 2363N, filed with the Commission on Water Resource Management on April 23, 2009, for a parcel in Waiehu, Tax Map Key ("TMK") No. (2) 3-2-016:021. Our family acquired the property in the 1940's, and I have lived on this land since 2013. My aunt, Yoshie Suehiro, and I used to live on and own the property together. However, Aunty Yoshie is now in a nursing home and no longer lives on the property. My brother Carl Hashimoto and I are the current owners. I would like to add his name to my Surface Water Use Permit Application ("SWUPA").

2. Our domestic water use is a protected public trust purpose.

3. Based on the information set forth below, we request recognition of appurtenant rights for TMK No. (2) 3-2-016:021 in the amount of 60,000 gallons per day (“gpd”). We request a Surface Water Use Permit for our future reasonable-beneficial use for TMK No. (2) 3-2-016:021 of 600 gpd.

QUANTIFICATION OF APPURTENANT RIGHTS

4. TMK No. (2) 3-2-016:021 includes one Land Commission Award (“LCA”), LCA No. 3434 to Kaapowale, confirmed by Royal Patent No. 6166. We are attaching various Māhele documents that confirm water use on TMK No. (2) 3-2-016:021 at the time it was converted to fee simple.

5. Attached as “2363-HASHIMOTO-1” is a true and correct copy of LCA No. 3434, the foreign testimony, the native testimony (both the original and the English translation), and survey boundary.

6. Attached as “2363-HASHIMOTO-2” is a true and correct copy of the County tax plat map for TMK No. (2) 3-2-016:021, a close up of the plat map showing our property, the TMK map showing our non-commercial garden and a map from Kīpuka database showing the location of the TMK on LCA No. 3434.

7. The documents in 2363-HASHIMOTO-1, confirm that the ‘ili of Poino, including LCA No. 3434, was cultivated in wetland taro: the foreign testimony notes “one piece of kalo and kula” along with “3 poalima lois in it;” and the translated native testimony states “1 taro section at pasture” and “3 poalimas there.” The LCA and its survey boundary note an area of “kula” located above and to the right of our parcel. “Kula” means a “non-flooded cultivated area.” Because the foreign and native testimony both indicate a “kalo” section along with “3 poalima” in LCA 3434, and the survey boundary show the kula section to be located on the other

side of the LCA, the lo'i's and the pō'alima were likely located on a majority of the LCA, including our property. In addition, having consulted with experts in Nā Wai 'Ehā land tenure at the time of the Māhele, we understand that pō'alima in Nā Wai 'Ehā, including mine, were all cultivated in lo'i kalo.

8. Our land, TMK No. (2) 3-2-016:021, is 0.2 acres. As explained above, nearly our entire parcel is covered by LCA No. 3434 and was cultivated in lo'i.

9. Based on the Māhele documents in 2363-HASHIMOTO-1, the quantification of the appurtenant rights is the amount of water sufficient to grow kalo on 0.2 acres using traditional methods.

10. It is our 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.

11. Thus, in our best estimation, the water right appurtenant to TMK No. (2) 3-2-016:021 is 60,000 gpd (0.2 acres x 300,000 gad).

AMOUNT REQUESTED UNDER PERMIT

12. For years, as riparian landowners, our 'ohana pumped water from Waiehu Stream and used it on our property for domestic and agricultural purposes. Our pump broke in April 2008. We would like to fix the pump and use water from the stream once again. We filed a Water Use Permit Application in 2009 to re-new our use that was in existence on the date of designation. We will fix the pump and place the pump on our property on the bank of Waiehu Stream and pump water for our domestic, agricultural, and other needs. We will use the water to irrigate our non-commercial garden of bananas, ti leaves, star fruit, citrus, guava, avocado,

liliko'i, and tropical flowers. We are requesting a permit for this amount. We believe that the 2002 State of Hawai'i Water System Standard for Maui County of 600 gpd per single family home is sufficient for our domestic water uses.

REASONABLE-BENEFICIAL ANALYSIS

13. Our use is "reasonable-beneficial," which is defined as: "the use of water in such a quantity as is necessary for economic and efficient utilization, for a purpose, and in a manner which is both reasonable and consistent with the state and county land use plans and public interest." Hawai'i Revised Statutes § 174C-3.

14. The quantity we are requesting is necessary for the economic and efficient irrigation of our home garden, which includes bananas and citrus for consumption by our 'ohana, and neighbors, and ti leaves and tropical flowers, which provide us and our neighbors with aesthetic enjoyment. Our use of the stream water is economic and efficient, as we use only the amount needed to irrigate our garden, and we implement measures to minimize water loss, including using a pump and pipes, which will reduce evaporation and leakage.

15. Our use of stream water to irrigate our garden is also consistent with the state and county land use plans and the public interest. Our land is classified by the State as urban, and zoned by the County as agricultural. Our water use on our land for our individual household needs, including our non-commercial garden, is in the public interest and fulfills a public trust purpose.

ALTERNATIVES ANALYSIS

16. Because our land has appurtenant rights to stream water in the nature of an easement that was conveyed at the time of the Māhele, we are not required to provide an alternative analysis to show that we have no practicable alternatives. Our appurtenant right is for

stream water, not for water from any other source, and our exercise of this right enjoys maximum protection and first priority under the law. Nonetheless, the alternatives analysis set forth in SWUPA No. 2363N remains applicable, true, and correct.

17. We have always used a reasonable amount of stream water to maintain our small non-commercial garden of fruits and flowers. Other alternatives, such as municipal water, reclaimed wastewater, water from other ditch systems, desalinized water, and groundwater, are not practicable alternatives to the Waiehu stream water. Requiring us to pay for these alternatives instead of diverting the small amount of stream water would impose an unfair and impracticable cost on us, given that we are a non-commercial, domestic water user who has always used Waiehu Stream to water our home garden.

SUMMARY

18. In sum: (1) our domestic water use is a protected public trust; (2) the exercise of our appurtenant right is a protected public trust purpose; (3) based on our appurtenant rights we are entitled to 60,000 gpd; and (4) at this time, we request a permit for 600 gallons per day, and this modest amount will be used to irrigate our non-commercial garden, which is a reasonable-beneficial use of stream water, for which there is no reasonable alternative.

We, NATALIE HASHIMOTO AND CARL HASHIMOTO, do declare under penalty of law that the foregoing is true and correct.

Dated: Waiehu, Hawai'i, 12-15-15

Natalie Hashimoto
NATALIE HASHIMOTO
WATER USE PERMIT APPLICANT PRO SE

Carl Hashimoto
CARL HASHIMOTO
WATER USE PERMIT APPLICANT PRO SE

Uku Pan Loo # 6
W. L. Lee
G. M. Robertson
J. Kihaulaha
C. H. Smith

Honolulu 2 Dec 1852

Heleu 3434 Kaapowale ✓

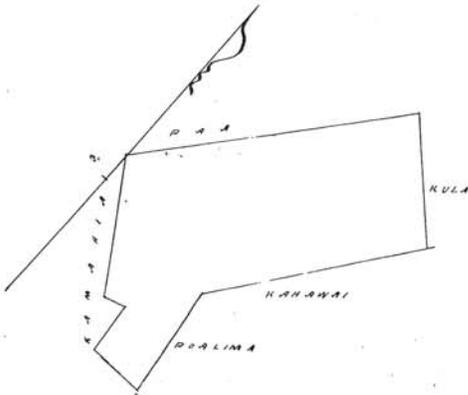
Kaiehu, Maui

Ili o Pono, E hoomaka ke ana ma ke kahi Homohano o Keia, Nona 33° Hihina 280 Kaul. ma Kamahia
Ake. 18° Hike 121 Kaul. ma Patalima, Non. 9° Hike 98 Kaul. ma Patalima, Nona 84½° Hike 111 Kaul. ma ke Kamahia
Ake. 5½° Non. 281 Kaul. ma Patalima, Ake. 37° Hike 450 Kaul. ma Kahawai, Ake. 44½° Non. 260 Kaul. ma ke
Kahaw. Nona 40° Non. 577 Kaul. ma ke Poo, a hiki ma kahi i hoomaka i, a malike via awapuni 1 1/4 1/2 Eka,

Kaiehu, Oct. 18, 1852

John S. Lewis,
Ma ana aina,

2 Kaul. 1 Sm.



Uku Pan Loo # 5
W. L. Lee
G. M. Robertson
J. Kihaulaha
C. H. Smith

Honolulu 2 Dec 1852

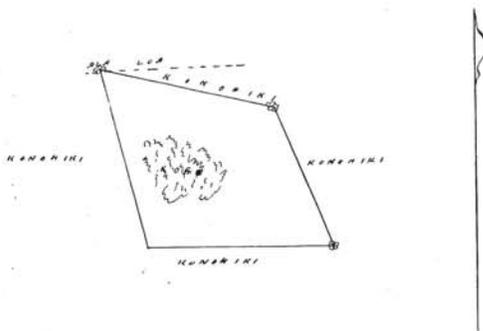
Heleu 4718 Kapapua ✓

Hilo, Hawaii

Kapaluna, Hilo, Hawaii,
E hoomaka ke ana ma kahi kumu kuku, ma Kapua o ke ala loa, i ke ululau, a e holo, Non. 13¾° Hihina i
kahi pahu 716 Kaul. Ake. 87½° Hike, i kahi kumu kuku, 722 Kaul. Ake. 23¾° Non. hana i kahi kumu
kuku, 583 Kaul. Ake. 77½° Non. i kahi kumu kuku 682 Kaul. a hiki i kahi i hoomaka i
Malike o ke ana awa aina 4 1/4 Eka.

Hilo, Dec 1, 1852.

A. M. Lyman,
Ma ana aina,



2 Eka 5

FOREIGN TESTIMONY

546

Mau.

N^o 1 is a Mor of kolo and kula in the ili of Hahaione.

" 2." two lots in the ili of Kapaemahu.

The Claimant rec^d N^o 1, from me in 1837, and N^o 2, from Hoahula in Ahaione, and his title was never disputed.

N^o 1, is bounded, Maunaloa, by Waiwairoa's land. Waikae, by Kamahua's land. Makai, by Pihakupu's land. Maalaea, by Waiwairoa's land.

N^o 2, is bounded, Maunaloa, by Hoahula's land. Waikae, by Waiwairoa's land. On other two sides, by Hoahula's land.

C. 10469. Napoo. (Resumed) Pt. 542

Kala Sw. The Olo's land consist of one piece of kolo land of 17 lots, in the Ahupuaa of Peinoni, Napoo, Mau.

The Olo rec^d it from me in 1845, and I had it from Kamea in 1845, and he had from Kakauehu the Premier. His title is not disputed. There are two pihama his and one pihama in it.

It is bounded, Maunaloa, by Pea's land. Waikae, by the Govt lot. Makai, by Kamea's land. Maalaea, by the Creek of Waikae.

C. 3373 Pu.

Papa Sw. The Olo's land consists of 24 lots one kula, and a House lot in one piece at Peinoni, Napoo, Mau.

The Olo rec^d it from Kamaha in the reign of Kamea the II, and his title has never been disputed. There are 3 pihama and one pihama lots in it.

It is bounded, Maunaloa, by Peawa's land. Waikae, by the Govt lot. Makai, by Kakauehu's land. Maalaea, by the Creek of Waikae.

C. 3434 Kaapowaka.

Pehuli Sw. The Olo's land consist of one piece of kolo and kula

FOREIGN TESTIMONY

land in Poiniki, Napoko, Maui.
 The Claimant rec^d it from Kamakeu in 1838, and his title was never disputed. There are 3 pualima lots in it.
 It is bounded Mauike & Maikuu sides, by Kakaulea's land. Mahai, by Kaahu's land. Maalaea, by the Pualima lots.

C. 3258. Laka.

Chas. See. The Oti land consist of kaba, kula, & House lot in one piece at Wailakua, Polipoli, Maui.
 The Oti rec^d from the days of Kamakehu I. He is a very old man, and his title was never disputed. There are 2 pualima lots, and 2 pualima kula in it.
 It is bounded Mauike, by the Pali, Maikuu, by Anua's land. Mahai, by Kaalapa's & Kapulu's land. Maalaea, by Apapa's land.

C. 3429. Kaupae.

Chas. See. The Oti land consist of 29 lots, one kula and House lot in one piece, in the ili of Tioopalava, Polipoli, Maui.
 The Claimant from Kamakehu before 1839, and his title was never disputed. There are two pualima lots in it.
 It is bounded Mauike, by the Pali of Polipoli, Maikuu, by W. P. Rich's land. Mahai, by Wai'u's land. Maalaea, by Kamakehu's land.

C. 3327. Maialaia.

Kula See. The Oti land consist of 3 pieces in Maikuu, Maui.
 No. 1 is 20 lots & House lot in Omas.
 " 2. " 3 " ——— " " 1.
 " 3. " 4 " ——— " Pucopalili.
 The Claimant rec^d these lands from one in 1844, and I from Laishe in 1835. His title was not disputed up to his death.

NATIVE TESTIMONY TRANSLATION

No. 10469 Napoe

July 19, 1849

Hale sworn He has seen 1 section at Kapoinonui in Napoho consisting of 17 patches. Land from Hale, in 1845, Hale's interest from J. Kanae' at the same time. J. Kanae's land from Kakauluohi in 1845. 2 Poalima and 1 prison there, no objections.

Mauka	Pu
Waihee	Government seclosure
Makai	Kaiui
Maalaea	Stream

No. 3373 Pu

July 19, 1849

Pepe sworn He has seen 1 taro section, pasture and house in Kapoinonui ahupuaa of Napoho.

Land from Manuela at the time of Kam. II, 1 poalima there, no objections.

Mauka	Paaoao
Waihee	Government fence
Makai	Kulilikana
Maalaea	Waiehu stream

No. 3434 Kaapowale

July 19, 1849

Page 330

Kapohuli sworn He has seen 1 taro section at pasture at Kapoinoiki of Napoho. Land from Kameheu in 1838. 3 Poalimas there, no objections.

Makai	Kaahu
Mauka and Waihee	Kekaula
Maalaea	Poalima

No. 3258 Laka

July 19, 1849

Ehu sworn He has seen 1 taro section, pasture and house in Wailaahia ili of Polipoli, since the time of Kam. I. 2 Poalima patches and 2 poalima pastures there.

Mauka	Pali
Waihee	Auwae
Makai	Kapulu/Kaalapahi
Maalaea	Apapau

No. 3429 KAUPÉ

July 19, 1849

Ehu sworn He has seen 1 taro section, pasture and house in the ili Palaoa at Polipoli. Land from Nawaihona before 1839. 2 Poalimas there, no objections.

Mauka	Polipoli pale
Waihee	Kamana Baisa
Makai	Waiwaiole
Maalaea	Kamaka

~~3397~~ Naialaolao

July 19, 1849

3327

Kula sworn He has seen 3 sections in these ilis of Waiehu. Land from Kula in 1844, Kula's land from Laioha in 1835.

No objections as long as he had lived - 1848 Kapule, his son is his (Naialaolao heir. 1 poalima in the first section.

2363-HASHIMOTO-1-P.5

SURVEY BOUNDARY

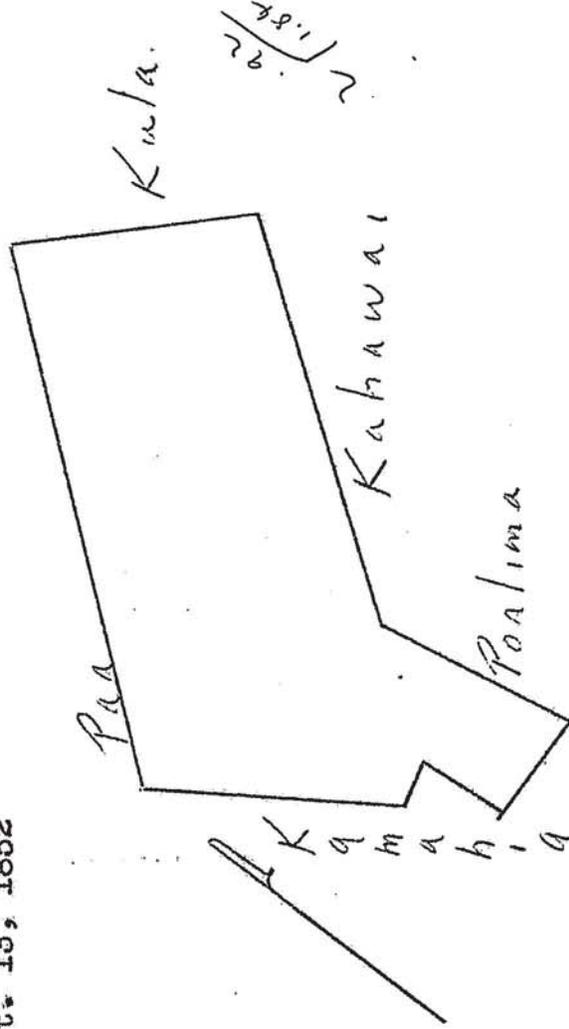
KAAPOWALE - WAIERU - MAUI

L. C. A. 3434
R. P. 6166
Bk. 8, Page 397

Ili o Poio.	Beginning at the West corner	Kamahi
S. 33° E.	2.80 chains	Poalima
N. 78° E.	41 chains	"
S. 9° E.	98 chains	"
S. 84 $\frac{1}{2}$ ° E.	1.11 chains	Kamahi
N. 5 $\frac{1}{2}$ ° W.	2.31 chains	Poalima
N. 37° E.	4.50 chains	Kahawai
N. 44 $\frac{1}{2}$ ° W.	2.60 chains	Kaahu
S. 43° W.	5.77 chains	Paa to the
		beginning.

Area 1 84/100 Acres

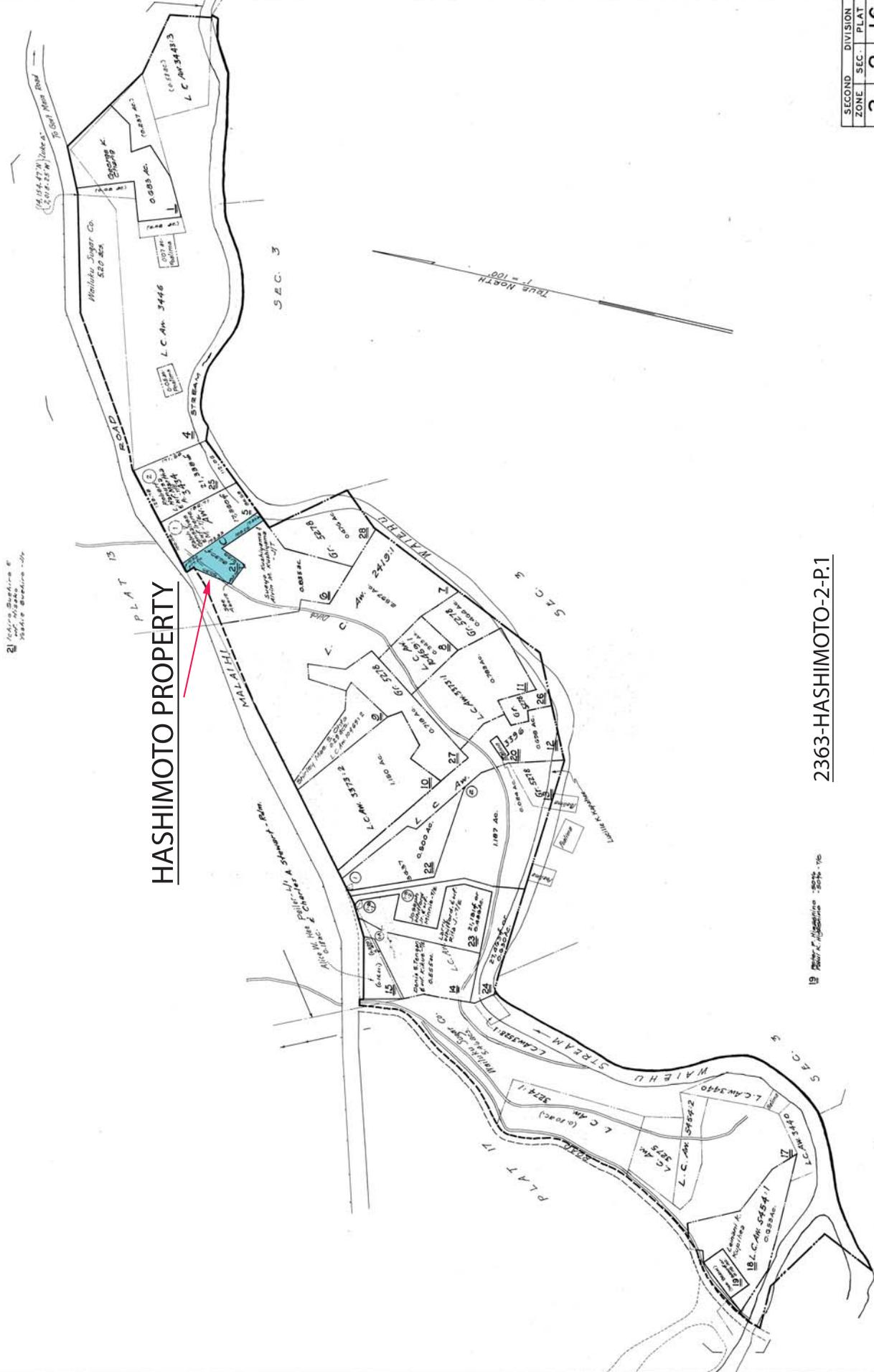
Oct. 13, 1852



2363-HASHIMOTO-1-P.6

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 JUL 31 2020
 JUL 31 2021
 JUL 31 2022
 JUL 31 2023
 JUL 31 2024

HASHIMOTO PROPERTY



2363-HASHIMOTO-2-P.1

SECOND ZONE	DIVISION SEC.	PLAT
3	2	16

CONTAINING PARCELS
SCALE - 1 in = 100 ft

ADVANCE SHEET
SUBJECT TO CHANGE

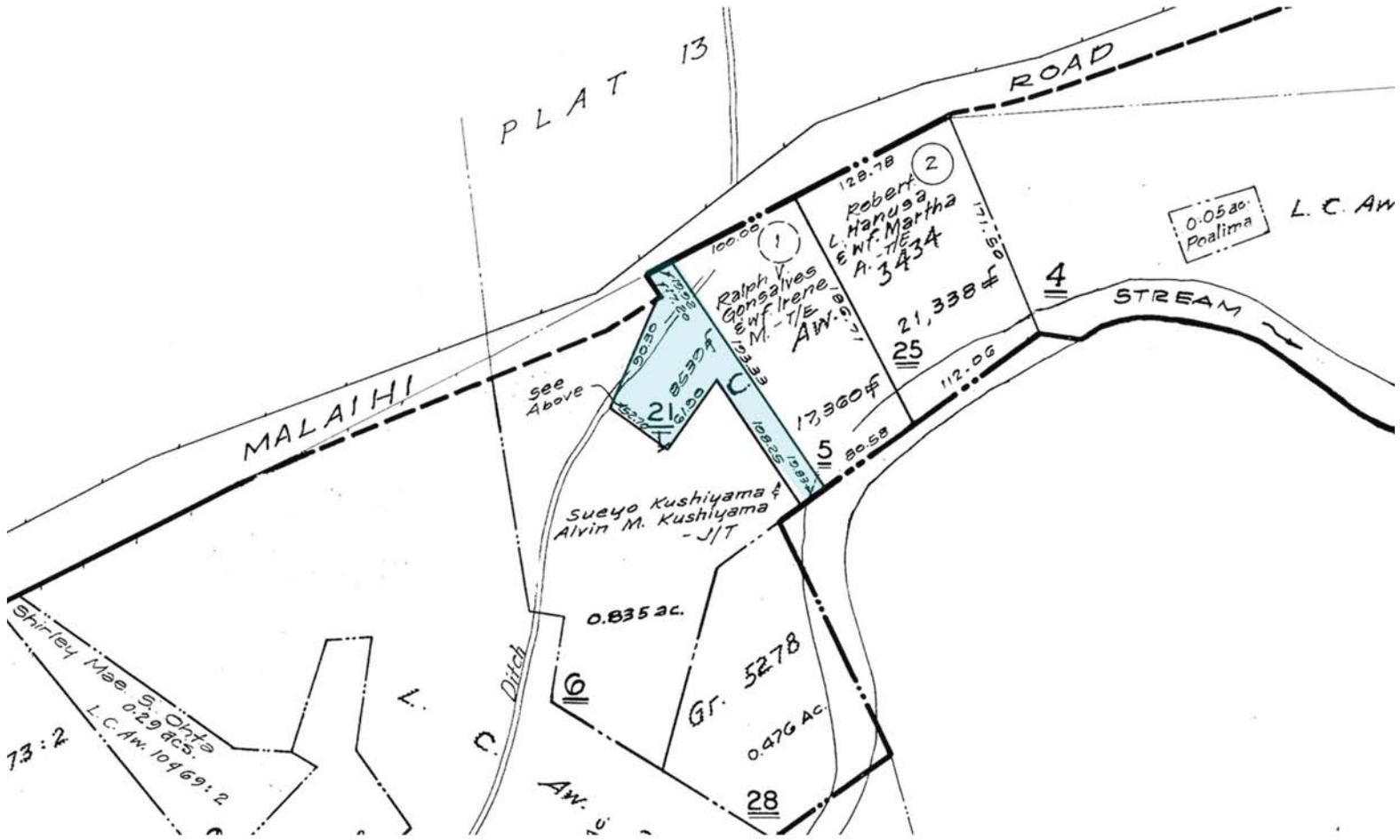
PRINTED

WAIEHU, MAUI

19 2363-HASHIMOTO-2-P.1

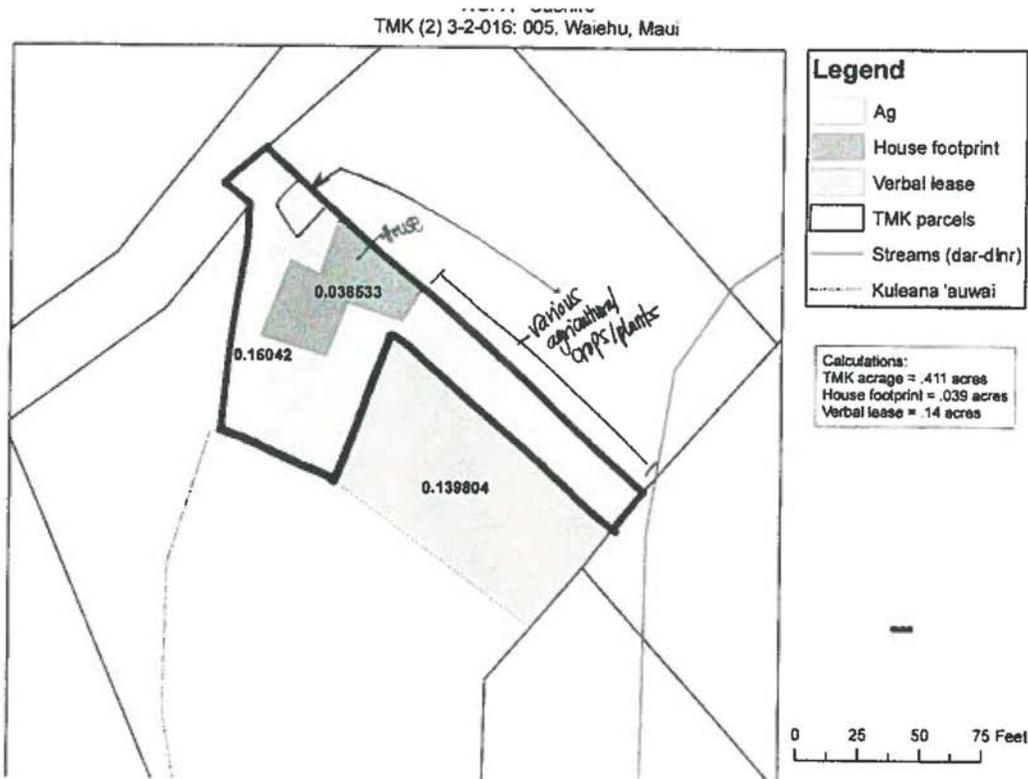
Dwg No. 1994
 Source: Tax Maps Bureau
 Revised to:

CLOSE-UP OF PLAT MAP SHOWING MY PROPERTY



2363-HASHIMOTO-2-P.2

TMK SHOWING NON-COMMERICAL GARDEN



This is a true and correct copy of the TMK map for TMK No. 3-2-16: 021 showing our non-commercial garden in relation to established property boundaries. We have a small garden including starfruit, banana, lilikoi, guava trees, grapefruit trees, ginger, and some tropical flowers that we cultivate in the two areas indicated on this map. We would like to place our pump on our property where it abuts the stream (bottom right corner of the parcel).

LCA No. 3443 and TMK (2) 3-2-016:021



NATALIE HASHIMOTO AND CARL HASHIMOTO

915 Malaihi Road

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WATER USE PERMIT APPLICANT PRO SE

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAII

Surface Water Use Permit Applications,) Case No. CCH-MA15-01
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Standards, Nā Wai 'Ehā Surface Water)
Management Areas of Waihe'e, Waiehu, 'Īao)
and Waikapū Streams, Maui)
_____)
)
)
)

WITNESS LIST

PARTY: YOSHI SUEHIRO/NATALIE HASHIMOTO AND CARL HASHIMOTO

NAME/ ORGANIZATION/ POSITION	SUBJECT MATTER	EXHIBIT(S) TO BE INTRODUCED BY WITNESS
Carl Hashimoto	Need for and use of Nā Wai 'Ehā water	2363-HASHIMOTO-1 to -2

NATALIE HASHIMOTO AND CARL HASHIMOTO

915 Malaihi Road

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and Waikapū Streams, Maui)
)
)
)

EXHIBIT LIST

PARTY: YOSHIE SUEHIRO/NATALIE HASHIMOTO AND CARL HASHIMOTO

EXHIBIT NUMBER	DESCRIPTION	REFERENCES	REC'D INTO EVIDENCE
2363-HASHIMOTO-1	LCA No. 3434, Foreign Testimony, Native Testimony, Native Testimony Translation and Survey Boundary	Testimony of Carl Hashimoto	
2363-HASHIMOTO-2	County Tax Plat Map, Close-up of Plat Map, Map Showing Non-Commercial Garden and Map Showing Location of TMK on LCA No. 3434	Testimony of Carl Hashimoto	