

PUBLIC NOTICE

To Announce
APPURTENANT RIGHTS DETERMINATION IN
NA WAI EHA SURFACE WATER MANAGEMENT AREAS
(WAIHEE, WAIEHU, IAO and WAIKAPU STREAMS)
By the
COMMISSION ON WATER RESOURCE MANAGEMENT

On September 27, 2011, the Commission on Water Resource Management (Commission) approved a process for determining appurtenant water rights in the Na Wai Eha Surface Water Management Areas (SWMAs). The appurtenant rights determination will be done in a two-step process. The first step will be to determine whether there is an appurtenant water right associated with the parcel of land on which the water is being used or proposed to be used. The second step will be to quantify the amount of water associated with that parcel. The quantity determination will be done as part of the surface water use permitting process.

The Commission has the legal authority to determine appurtenant rights pursuant to HRS §174C-5(15) which provides that, in addition to its other powers and duties, the Commission “[s]hall determine appurtenant water rights, including quantification of the amount of water entitled to by that right, which determination shall be valid for purposes of this chapter.”

The land areas affected by the appurtenant rights determination are located in the Wailuku District of Maui and include Tax Map Keys from: (2) 3-1-006:001 to (2) 3-8-087:093 and from (2) 4-1-001:017 to (2) 4-8-001:002 (see map).

Applications for appurtenant water rights in Na Wai Eha must be made within ninety (90) days from the date of the last publication of this notice. The deadline is February 6, 2012. The Commission shall send notices to all existing users who declared their surface water uses and/or registered stream diversions with the Commission; existing and new users who applied for Surface Water Use Permits with the Commission; and the principal contacts for TMKs indicating a Land Commission Award in Na Wai Eha.

Although appurtenant rights may not be diminished or extinguished by a failure to apply for a permit, the Commission hereby notifies all potential appurtenant rights claimants to submit an application for a surface water use permit if they are currently using surface water (FORM SWUPA-E) or plan to use surface water in the Na Wai Eha SWMA (FORM SWUPA-N).

Application forms for surface water use permits are available at the Department of Land and Natural Resources, Commission on Water Resource Management, Kalanimoku Building, Room 227, 1151 Punchbowl Street, Honolulu, HI 96813, or may be downloaded from the Commission’s website at: <http://hawaii.gov/dlnr/cwrm/forms.htm>.

In addition to filing an application for surface water use permit, the following information and documentation will assist the Commission in making a judgment about the appurtenant rights claim:

- Proof of ownership or occupancy
- TMK map showing boundaries of all parcels for which an appurtenant right is being claimed
- TMK map showing current auwai(s)/ditches, loi, and sources of water (i.e., stream or spring)
- Documents demonstrating that parcel was used as a residence or for cultivation at the time of the Mahele, including but not limited to:
 - Copy of the LCA (and number) that is legible
 - Translation into English
 - Royal Patent (and number)
 - Name of original awardee
 - Kamaaina testimony and/or other Mahele documents
 - Other title history in support of claim
 - Map showing sources of water at the time of the Mahele

- 1800's tax record
- Current or historic photos of archaeological features or historic uses
- Schematic maps or diagrams
- Current title or deed clear of language demonstrating that the appurtenant right has been extinguished (i.e., no severance in deed)
- Such other relevant information that the Commission may request from time to time
- List of future crops and water flow requirements (total & net) to supplement SWUPA-E applications, as applicable.
- Other relevant information that may assist the Commission in making its determination, e.g. oral history.

If you have any questions regarding the process for claiming an appurtenant right, please call the Commission's Stream Protection and Management Branch at (808) 587-0234, or toll-free from Maui at 984-2400 extension 70234.

COMMISSION ON WATER RESOURCE MANAGEMENT

WILLIAM J. AILA, JR., Chairperson
WILLIAM M. TAM, Deputy Director

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Department of Land and Natural Resources
Commission on Water Resource Management
Stream Protection and Management Branch

Na Wai Eha, Maui Designated Surface Water Management Areas

Legend

-  Hydrologic Units and Code
-  TMK Parcels
-  Streams
-  Irrigation System
-  Diversions

This map was produced by the Department of Land and Natural Resources (DLNR), Commission on Water Resource Management for planning purposes. It should not be used for boundary interpretations or other spatial analysis beyond the limitations of the data. Information regarding compilation dates and accuracy of the data presented can be obtained from DLNR.

Date: 04/29/2008
Datum: North American Datum 1983

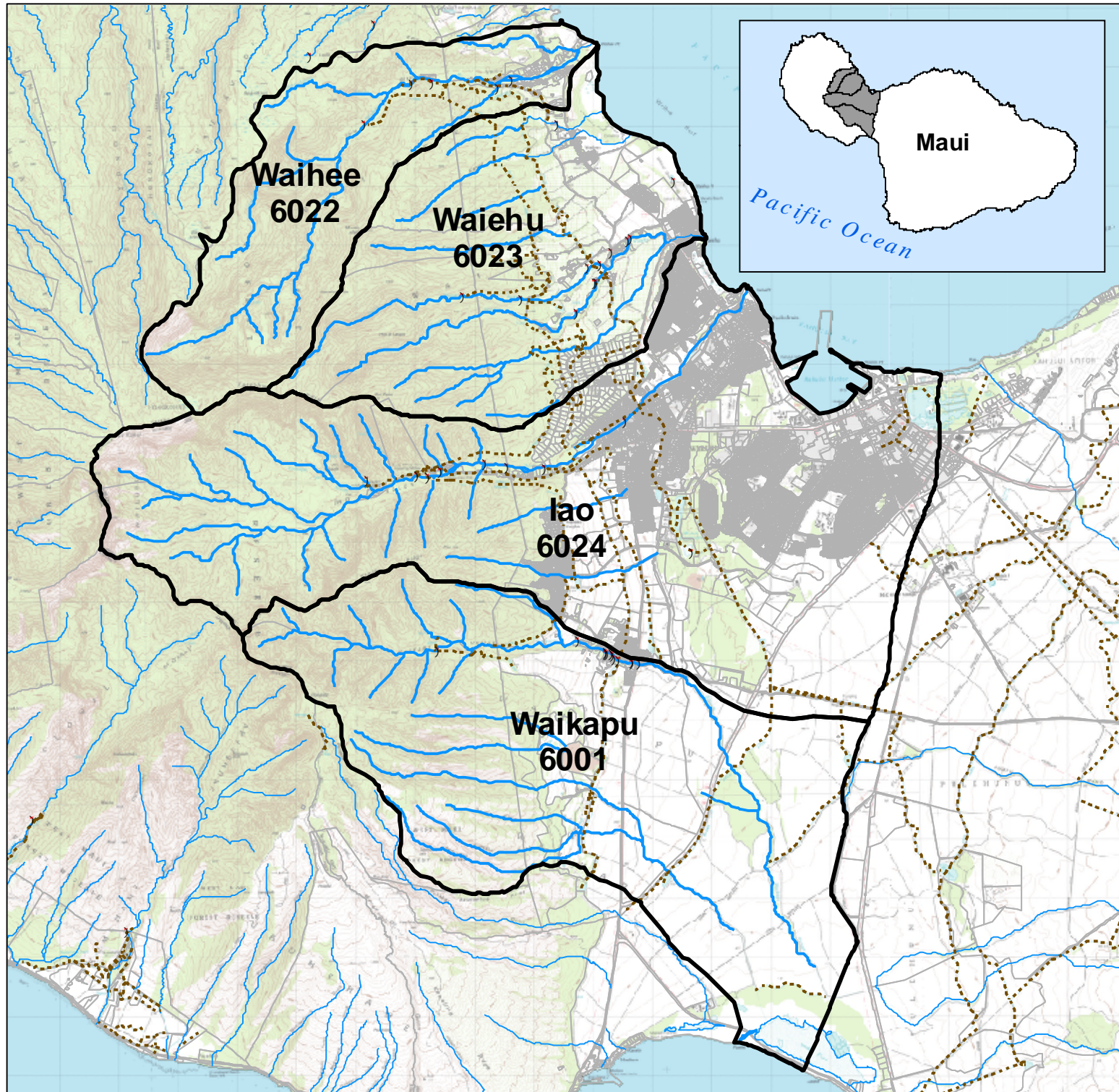
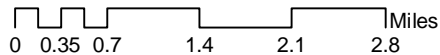


EXHIBIT 1