

Kamehameha

Kalama

to

C. Brewer & others

L.C.A. 2436: Kahaiki 2.
L.C.A. 2593: Malaihi
L.C.A. 3498 Kaupe
L.C.A. 3257 Hewahewa
L.C.A. 2508: Ihumai 2
L.C.A. 453: Kuihelani 2
Napela L.C.A. 406:1

Kaawa L.C.A. 3488
John Pelletier L.C.A. 377
L.C.A. 3292
L.C.A. 3330 Lonohiwa W
MUA

L.C.A. 453: Kuihelani Ap.1

L.C.A. 436 Kapau
L.C.A. 347 Kekoo

L.C.A. 2459 Wahinekuapu 1
L.C.A. 407 Kaauiwai 9
L.C.A. 407 Kaauiwai 8
L.C.A. 407 Kaauiwai 10

L.C.A. 2425 Kaumu
L.C.A. 3220 Ahulau
L.C.A. 459 Kapawa
L.C.A. 457 Kawailili
L.C.A. 2455 Kahiko
L.C.A. 2456 Kahoko
L.C.A. 3225 Opunui

L.C.A. 418 Halualani
L.C.A. 7907 Kuke
L.C.A. 2599 Makahookalo

L.C.A. 3461:1 Kaihumau
L.C.A. 3291 Makaena

L.C.A. 375-375:1
L.C.A. 375-375:2
L.C.A. 375-375:3
L.C.A. 375-375:4
L.C.A. 375-375:5
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L.C.A. 375-375:93
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L.C.A. 375-375:95
L.C.A. 375-375:96
L.C.A. 375-375:97
L.C.A. 375-375:98
L.C.A. 375-375:99
L.C.A. 375-375:100

K. IV to Kahale

Kamehameha IV to Kaauiwai

Crown Co to Keat

Not K

SOURCE: TMB & SURVEY/DEPT. BY: JMK DATE: 3/8/1934 DWS: NO. 1927



DROPPED PARCELS: 2, 4, 6, 8, 15, 16, 30

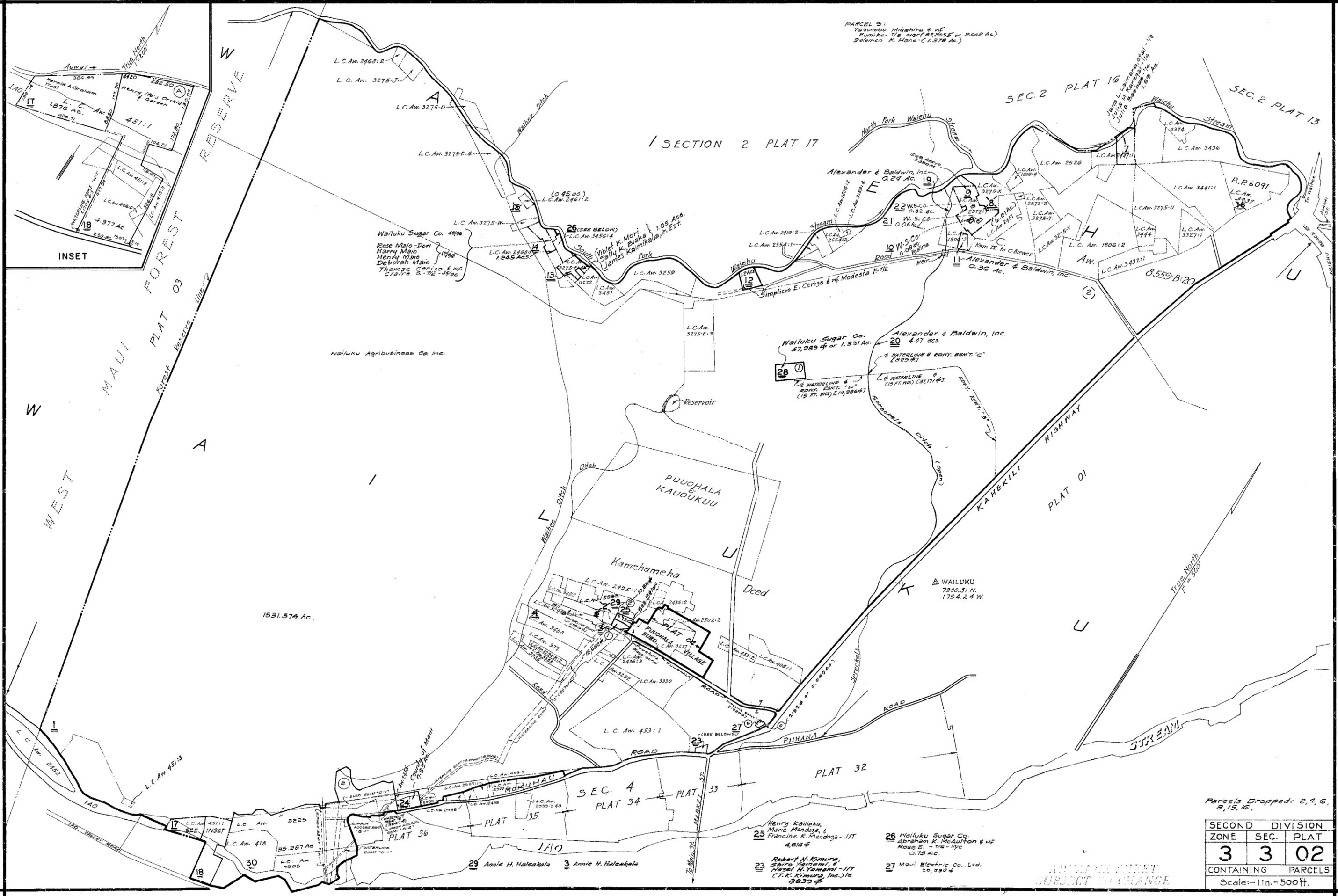
DEPARTMENT OF FINANCE		
REAL PROPERTY TAX DIVISION		
TAX MAP		
COUNTY OF MAUI		
ZONE	SECTION	PLAT
3	3	02

SCALE: 1 IN = 500'

PRINTED:

FOR PROPERTY ASSESSMENT PURPOSES - SUBJECT TO CHANGE

SEP 8 1938
 FEB 14 1939
 NOV 23 1950
 JUN 6 1966
 JUN 27 1966
 JUN 13 1972
 JUN 13 1974
 JUN 13 1977
 JUN 9 1977
 JUN 21 1983



PARCEL 5:
 Tanihira Miyahira & W.F.
 Punika 7 1/2 Acs (87,205 of 2002 Ac.)
 Selemen K. Hana (1,378 Ac.)

INSET

Dwg No. 1927
 By: J.A.K. March 8, 1934
 Source: Top. Maps, Bureau & Survey Dept.

Parcels Dropped: 2, 4, 6, 8, 15, 16,

SECOND DIVISION		
ZONE	SEC.	PLAT
3	3	02
CONTAINING PARCELS		
Scale: 1 in. = 500 ft.		

AWAKE STREET
 SUBJECT TO CHANGE

PRINTED

<u>Land Comission Award</u>	<u>Royal Patent Number</u>	<u>Awarded To:</u>	<u>Native Registers</u>		<u>Native Testimony</u>		<u>Foreign Register</u>	<u>Foreign Testimony</u>	<u>English Trans Water in LCA</u>
			<u>Eng</u>	<u>Haw</u>	<u>Eng</u>	<u>Haw</u>			
377	5366	John Pillitier	None	None	None	None	x	x	
406	5376	Napela	x	x	x	x	None	x	x
453	997; 997(por.)	Kuihelani	x	x	x	x	None	None	x
2434	6397(por.)	Kahooke	x	x	x	x	None	x	x
2436	2009; 2009(por.)	Kahaiki	x	x	x	x	None	x	x
2495	7790	Kaiaholokuaau	x	x	x	x	None	x	x
2502	5973; 5973(por.)	Ihumai	x	x	x	x	None	x	x
2503	3652(por.)	Ohule	x	x	x	x	None	x	x
2533	6529(por.); 6437(por.)	Malaihi	x	x	x	x	None	x	x
3225	6298-6458 (por.)	Opunui	x	x	x	x	None	x	x
3237	6888(por.)	Hewahewa	x	x	x	x	None	x	x
3292		Mua	x	x	x	x	None	x	x
3330	4424(por.); 4622(por.)	Lonohiwa	x	x	x	x	None	x	x
3335	7774	Naonohi	x	x	x	x	None	x	x
3387	6065(por.)	Pooliilii	x	x	x	x	None	x	x
3388	6101	Paiwi	x	x	x	x	None	x	x
3488	5289	Kaawa	x	x	x	x	None	x	
3498	7432	Kaupe	x	x	x	x	None	x	
4452	7302(por.)	H. Kalama	x	x	x	x	None	x	
4461	6630	Kawaa	x	x	x	x	None	x	x
3275-E	5154	Kaleo	None	None	x	x	None	x	x
3294-B	6102; 6102; 6102(por.)	Moomooiki	None	None	x	x	None	x	x

SCHEDULE "1"

Land Commission Award Number 2502, Apanas
1 and 3 to Ihumai (Volume 7, Page 487)

Wanuku January 7 1854.

Feb 25 22 Ahumai.

Wanuku. Mass.

Ahama 1. Kalo ma ka ike. Kolu.

Ahama 2. Kalo ma ka ike. Kolu. Ahumaka ma ka ike. Kolu a e holo.

Nov	65	Nov	2.90	Nov	1.08	Nov	1.97	Nov	1.32
Nov	16 1/4	Nov	87	Nov	1.08	Nov	1.97	Nov	1.32
Nov	88	Nov	1.08	Nov	1.97	Nov	1.32	Nov	1.32
Nov	64 1/2	Nov	1.97	Nov	1.32	Nov	1.32	Nov	1.32
Nov	21	Nov	1.32	Nov	1.32	Nov	1.32	Nov	1.32

Ahama 2. Kalo ma ka ike. Kolu. Ahumaka ma ka ike. Kolu a e holo.

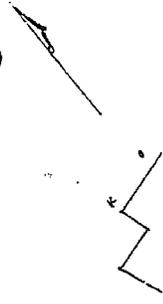
Nov	55 1/4	Nov	4.59	Nov	1.33	Nov	2.17	Nov	2.84	Nov	40	Nov	67	Nov	80
Nov	220	Nov	1.33	Nov	2.17	Nov	2.84	Nov	40	Nov	67	Nov	80	Nov	80
Nov	75 1/4	Nov	2.17	Nov	2.84	Nov	40	Nov	67	Nov	80	Nov	80	Nov	80
Nov	62 1/2	Nov	2.84	Nov	40	Nov	67	Nov	80	Nov	80	Nov	80	Nov	80
Nov	19	Nov	40	Nov	67	Nov	80	Nov	80	Nov	80	Nov	80	Nov	80
Nov	62 1/2	Nov	67	Nov	80	Nov	80	Nov	80	Nov	80	Nov	80	Nov	80
Nov	2 1/2	Nov	80	Nov	80	Nov	80	Nov	80	Nov	80	Nov	80	Nov	80

Ahama 3. Kalo ma ka ike. Waukamaui. Ahumaka ma ka ike. Kolu a e holo.

Nov	77	Nov	98	Nov	1.18	Nov	1.44	Nov	1.23
Nov	2	Nov	1.18	Nov	1.44	Nov	1.23	Nov	1.23
Nov	69	Nov	1.44	Nov	1.23	Nov	1.23	Nov	1.23
Nov	16 1/2	Nov	1.23	Nov	1.23	Nov	1.23	Nov	1.23

Wanuku Ahumaka 17. 1853.

E. Bailey. Waukamaui.

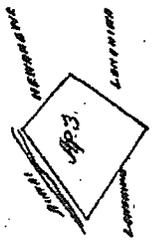
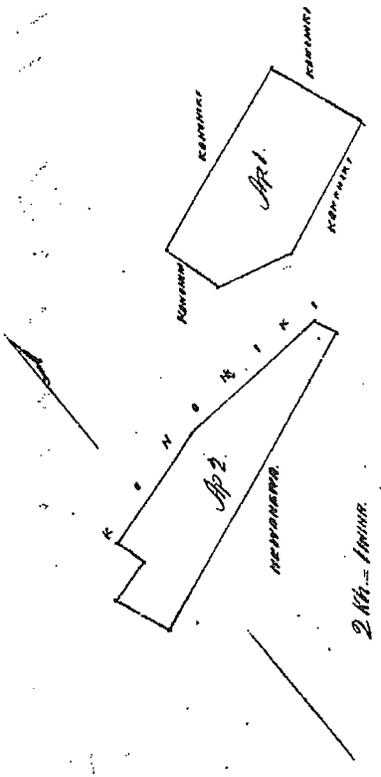


Apama 2. Kalo ma ka li. 100. Chomaka ma ke hiki Kama a e hola.
 M. No. 4.59 Ma ma ka Kawakawa
 M. No. 33. " " " " Kawakawa
 No. 2.17 " " " " Kawakawa
 No. 2.84 " " " " Kawakawa
 No. 40 " " " " Kawakawa
 No. 67 " " " " Kawakawa
 No. 80 " " " " Kawakawa
 No. 2 1/2 " " " " Kawakawa
 Apama 3. Kalo ma ka li. 100. Chomaka ma ke hiki Kama a e hola.
 No. 77. Ma ma ka Kawakawa.
 No. 1.18 " " " " Kawakawa
 No. 1.44 " " " " Kawakawa
 No. 1.23 " " " " Kawakawa
 No. " " " " Kawakawa

Apama 4. Kalo ma ka li. 100. Chomaka ma ke hiki Kama a e hola.
 No. 77. Ma ma ka Kawakawa.
 No. 1.18 " " " " Kawakawa
 No. 1.44 " " " " Kawakawa
 No. 1.23 " " " " Kawakawa
 No. " " " " Kawakawa

O. Bailey, Maamama.

Maamama 17.1853.



\$ 4.00

M. L. Lee
 S. M. Robertson
 J. M. Kaulahao
 O. H. Smith

Maamama 17.1854.

Royal Patent Number 5973
(Volume 23, Page 111)

**NATIVE REGISTER
(HAWAIIAN)**

527.

mau mala Ualu iasle koo? ua no i Palae-
ea, i ike. Kulama. Eia no keia. he pakele
Aia makai, Akau. he aua pa. waa, Aitina
he ike iale, kama he aua o Punaheo,
Kamohana he kai, i ike Hoapai. Eia
no keia he mau i ike mau, aia i
Maaukalahine

Yau na. Ehufuli

2501 Inoaale

Annuaia Oct. 26 1847

Auhaa i ike. e ma Lema. Aona
imi kuleana, he i ike aku nei aia i keia
Aia aia aia i Heaheae o Kahanaamali
ka i ike. Aha o Heaheae o Maawakiki,
Aitina o Kahikiki, ma ka kama Kahana-
mali, Kamohana o Kawai. i ike Pihau
Eia no keia. he mala Uala Kahiki

Mau

he i ike aia no i keia Heaheae. i ike Heaheae
aia no ia Mala ma Kahiki e aku. i ike
Kahana. Eia no keia o Kahu Kulanakale
Aha he Kahawai, Aitina ka pa o Puna-
heo. kama he Kahawai no, Kamohana
he kai i ike Pihau. O keia mau mea
kai e ma aia nei he kuleana ia nei
Aha i ike a pa

Yau na Inoaale

2502

Ihuma

Wailuku Oct. 23. 1847

E na Lema Aona kuleana aia
Eia kua kuleana aia ma ka i ike. 1 kolu 9
loa na Kapuina o haawe mai i ike. he kahu
i ike aia ma ka i ike. Kapuina o 3 loa
na Haaweha o haawe mai i ike. he kahu

Mau



Kūkulu ka 'ike i ka 'ōpua



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DJVU	38.17 Kb	Full Size - requires DJVU plugin
PDF	135.75 Kb	Full Size - requires PDF plugin

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**NATIVE REGISTER
(ENGLISH)**

in the 'ili of halimuloa, consisting of 3 lo'i, which adjoin Kaina's land and Kalehua. There is also an upland place, in this same 'ili, which I got from Kahūi -- I live under him. I got this in the year 1842. There is also a house, in the Ahupua'a.

EHUIKI

No. 2499 Ehunui Waikapu, Dec. 29, 1847

I hereby state my claim for my 18 lo'i at Olohe. The witness is Kaeha. At Pikoku are 2 lo'i, and at Nohoana is 1 lo'i. The witness is also Kaeha.

Also, there are 4 lei hala trees and 1 clump of hala trees for weaving mats, at Pikoku, which were planted by me, and this is a claim of mine. Kaeha is the witness, also. Furthermore, there is a small houselot at Maalaea. At Pakoioa are 2 lei hala trees.

EHUNUI

No. 2500 Ehupili Honuaula, Dec. 29, 1847

Hear ye, ye Land Commissioners: I hereby state my claim, an 'ili, of Loaloa at Palauea. North is Loaloa 2, east is Kolea, south is Keauhou, west is the long pathway. Witnesses: Kalama, Nakuia. Also, an

Page 527

Irish potato patch at Palauea. Witness, Kalama. Also, a houselot which is makai. North is the canoe landing, east is Hihio's house, south is the harbor of Punahoa, west is the sea. Witness, Kapau. Also, there some sections of grassland at Mauakaluahine.

EHUPILI

No. 2501 Inoaole Honuaula, Dec. 26, 1847

Hear ye, ye Land Commissioners: I hereby state my claim for land in the 'ili of Kahahamāie, at Keauhou. North is Keauhou of Maweiki, east is Kahikiiki, on the south is Kaluanui, on the west is Kaawili. Witness, Puhau.

Also, there is one Irish potato patch at Keauhou. Witness, Kaei. This is a patch at another place. Witness, Kalama. Also, there is a house site: north is a stream, east is the lot of Puhau, south is the stream, west is the sea. Witness, Puhau. I believe I have a claim to all these things. Farewell to you all.

INOAOLE

✓ No. 2502 Ihumai Wailuku, Dec. 22, 1847

To the Land Commissioners: Here is my land claim in the 'ili of Holu.

NR 2502

Unit 2502

There are 9 lo'i which were given me by Napaina, the landlord of the 'ili. In the 'ili of Kepuakeeo are 2 lo'i which were given me by Hewahewa, a landlord of a mo'o.

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There are 6 lo'i which were given me by Lonohiwa, a landlord of an 'ili.
 Hōlu, Wailuku, Maui, Dec. 22

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IHUMAI

No. 2503 Ohule Imieu, Wailuku, Dec. 24, 1847

I hereby state the size of my claim for land. There are 23 lo'i, 2 sweet potato kula, 2 hala trees, and one house site at Imieu. This land has been held from ancient times by my makuas, therefore I have a right to this land, for you, the Commissioners, to know of.

OHULE

No. 2504 Opunui

Greetings to the Land Commissioners: I have a claim in an 'ili in the Ahupua'a of Mapulehu on the Island of Molokai. Its name is Kukui-kapuu. The name of the 'ili on the mauka side is Ohaipilo, held by Kau, and the name of the 'ili on the maka'i side is Kahau, held by Ka-aeone.

I have been on this claim for three years. It was given to me by Amakani, the konohiki of A. Kanae. I have occupied and farmed this and from that time until today, and have done po'alima work until his very day. The length of this land to which I claim a right, is 7 fathoms, and the width is 40 fathoms. I hereby petition you, if his is a true

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and correct claim, that it be awarded to me.

OPUNUI

The witnesses are all the men of Mapulehu who do po'alima work.
 Mapulehu, Molokai, 16 December 1847

No. 2505 Ohule

Greetings to the Land Commissioners: I, the one whose name is below, hereby state my claim for 6 taro lo'i in the 'ili of Kaluaopalena in the Ahupua'a of Kalihi, Island of Oahu
 Kaluaopalena, December 20, 1847

OHULE

No. 2505B Ohule Honuaula, Dec. 26, 1847

Greetings to the Land Commissioners: I, Ohule, hereby state my claim at Papaanui, my 'ili. Piihale is on the north, Waipao is on the east, the boundary of the sugar cane field of the haole is on the

NR2502 (cont)

**NATIVE TESTIMONY
(HAWAIIAN)**

**NATIVE TESTIMONY
(ENGLISH)**

Kamaka left his claim on this 11th day of July, 1849, because Kalawalahonu took Halelani at the direction of H. Kalama, on the death of B. Mahune /from whom Kamaka had his land/.

No. 2567 - Kaawa II Nakaawa

Ehu sworn: I know of one parcel of taro in the 'Ili of Kuunaheana, Wailuku. They are old timers on the land, it was given him by his makuas. When the land was given to the haole* in 1837, he continued to occupy it, until the present. One po'alima is in it. There is no opposition. It is bounded mauka by the po'alima of the Konohiki, Waihee, kula of the Konohiki, makai, Kalua Stream and Kuunaheana, Maalaea by Kaholokula.

/*Mr. Miles/

No. 504 - Kolii

Z. Kaauwai sworn: I know of one parcel of lot land in the 'Ili of Kuunaheananui of Maila* in Wailuku. It was from his wahine, Piipii, in the time of Kamehameha I. It was objected to by Maila and he petitioned in 1843 to the Tax Officer, Kuihelani, but was not awarded it; he petitioned to the Mo'i -- I was the one who spoke with the Mo'i -- but he did not award it but directed John Young, the Governor of Maui, to settle it. It was decided by John Young that the Tax Officer should make a house lot like that lot of Kolii, then the former lot of Kolii would be given to Maila.

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However, the Tax Officer did not make a lot just like Kolii's former lot, in accordance with the directions of Keoni Ana. Therefore Kolii determined to enter that former lot as a claim, in 1847. It is bounded mauka by government road, Waihee by Kalua stream, makai by the land boundary wall of Kalua, Maalaea by Kupa Maila and cactus.

/*Mr. Miles/

No. 3514 - Kamoku

Ohule sworn: I know his land in the 'Ili of Kalua, Wailuku, there are three parcels of taro. Parcel 1 was from Wahawa in 1839. Parcel 2 was from Kaua in 1839. Parcel 3 was from Muolo in 1839. There is no opposition. One po'alima is in parcel 3.

Parcel 1. Two taro lo'i, bounded mauka by H. Kuihelani, Waihee by Kekino, makai, the same, Maalaea by Haleola.

Parcel 2. Two taro lo'i, bounded mauka by Konohiki, Waihee by Makaanohano, makai by Haai, Maalaea, the same.

Parcel 3. Seven taro lo'i, bounded mauka by Konohiki, Waihee by Ohule, makai by Kaolelo, Maalaea by Haole.

✓ No. 2502 - Ihumai

Kawaa sworn: I know his three parcels of land in the 'Ilis in

NATIVE TESTIMONY 2502

Wailuku.

- Parcel 1. Pauku taro in the 'Ili of Holu
 " 2. " " " " " " "
 " 3. " " " " " " Waikaninui

These parcels were from me in 1837. No opposition.

1. is bounded mauka by Napaena, and on the three remaining sides by the land of the Mo'i.
 2. is bounded mauka by Kalawaiahonu, Waihee by Napaena, makai by the land of the Mo'i, Maalaea by Hewahewa.
 3. is bounded mauka by 'Ili of Pohakupukupu, Waihee by Hewahewa, makai by Po'alima of Keahi, Maalaea by Lonohiwa.

No. 2436 - Kahaiki

July 11, 1849

Page 642

Manoa sworn: I know his three parcels of land in the 'Ilis in Wailuku.

- Parcel 1. Pauku of taro in the 'Ili of Pohakupukupu
 " 2. " " " " " " Holu
 " 3. Six lo'i " " " " Waikaninui

Parcels 1 and 3 were from Kekahuna before 1839. Parcel 2 was from Napaena at the same time. Kahaiki died in 1849. There is no opposition and no po'alima. His wahine, Kaaikaula, and the two children, are his heirs.

1. is bounded mauka, Waihee and makai by the land of the Mo'i, Maalaea by Manoa.
 2. is bounded mauka by the Mo'i, Waihee by the 'Ili of Puuhala, makai by the Mo'i, Maalaea by Hewahewa.
 3. is bounded mauka by the 'Ili of Pohakupukupu, Waihee by Kaiaholo-kuaau, makai by the 'Ili of Puhiaawaawa, Maalaea by Hewahewa.

No. 3261 - Leoiki

Puanahie sworn: I know his land in the 'Ilis in Wailuku, two parcels.

- Parcel 1. Taro land in the 'Ili of Kapanui
 " 2. " " " " Ahuena

He had it from Kaulii before 1837. No opposition.

1. is bounded mauka by Kaiiae, Waihee by Kaulii, makai by Kaua, Maalaea by Mahoe.
 2. is bounded mauka by Hana and Poochina, Waihee by Mahoe, makai by Kaulii, Maalaea by Hana.

No. 3529 - Hana

Kuahine sworn: I know his land in the 'Ilis of Wailuku

- Parcel 1. Taro land in Kahua 'Ili
 " 2. " " " Kahiki

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They were from Kailihiwa in 1837. No opposition.

1. is bounded mauka by Kahawai, Waihee by Pali, makai by Kahawai, Maalaea, the same.
 2. is bounded mauka by Kahawai, Waihee by Pali, makai by Naea, Maalaea, the same.

MANAWE ESTIMATING 2502
cont.

FOREIGN TESTIMONY

Water Related Terms for Various Land Commission Awards in Wailuku

LCA	RP	Awardee	Water Terms cited in Metes and Bounds Description
406 Ap1	5376	Napela	This award contains many lo'i maloo (dry taro) patches
453 Ap 1,2	997	Kuihelani	Ap 1 is bounded by a Poalima and Ap 2 is the site of lo'i(taro patches)
2434	6397	Kahooke	A Poalima (ali'i taro patch) cited as a boundary
2436 Ap 1,2,3	2009	Kahaiki	All 3 Apana are identified as kalo (taro) lots and Apana 2 cites an auwai (ditch)
2495 Ap 1,2,3,4	7790	Kaiaholokuau	A Poalima sits within Apana 4
2502 Ap 1,3	5973	Ihumai	Apana 1 & 3 are kalo (taro) lots and an auwai runs through Ap 3
2503 Ap 2	3652	Ohule	Apana 2 is a kalo (taro) and house lot bounded by a Poalima
2533 Ap 1	6529 & 6437	Malahi	Apana 1 is an aina kalo (taro land) bounded by a Poalima
3225	6298	Opunui	A Kahawai (stream) and 2 Poalima lie within this parcel that is bounded by an auwai
3237 Ap 3	6888	Hewahewa	A Poallima is surrounded by this parcel bounded by an auwai (ditch)
3275E	5154	Kaleo	Parcels 1 & 4 contain a kahawai (stream) and Poalima
3292		Mua	Identified as a kalo (taro) lot containing auwai (ditch) and Poalima
3294B Ap1M1 & M2, Ap; 6102		Moomooki	Ap1 M1, Ap 1M2, Ap2 all identified as kalo (taro) lots with an auwai adjoining
3330	4424 & 4622	Lonohiwa	A kalo (taro) lot with an auwai adjoining
3335	7774	Naonohi	Identified as a kalo (taro) lot containing auwai (ditch)
3387	6065	Pooliliii	Award identified as having 9 lo'i (taro patches)
3388	6101	Paiwi	A kalo (taro) lot with an auwai adjoining
4461 Ap 1,2	6630	Kawaa	Both parcels identified as kalo (taro) lots

B

Ukupaia 1861
W. L. Lee
S. M. Johnston
A. Kaula
J. H. Smith

Wendulu Januari 7 1854

Teke 2502 Maomai Tuluhe Maui

Taru in the ili of Hala

Apunai	Kala ma ka lii	Kala	Chamaka ma ka haka	Maui a haka
Bu	65°	To 290	Ma ka haka	Maui a haka
Bu	18 1/2	To 17	Ma ka haka	Maui a haka
Bu	85°	To 108	Ma ka haka	Maui a haka
M	65 1/2	To 197	Ma ka haka	Maui a haka
M	21°	To 132	Ma ka haka	Maui a haka

a haka ma ka haka maui 39 Eka

auwai = ditch

Taru in the ili of Waikaniuni

Apunai	Kala ma ka lii	Kala	Chamaka ma ka haka	Maui a haka
M	55 3/4	To 259	Ma ka haka	Maui a haka
M	22°	To 33	Ma ka haka	Maui a haka
Bu	75 1/2	To 217	Ma ka haka	Maui a haka
Bu	62 1/2	To 224	Ma ka haka	Maui a haka
Bu	19°	To 40	Ma ka haka	Maui a haka
Bu	62 1/2	To 87	Ma ka haka	Maui a haka
Bu	27 1/2	To 80	Ma ka haka	Maui a haka

a haka ma ka haka maui 39 Eka

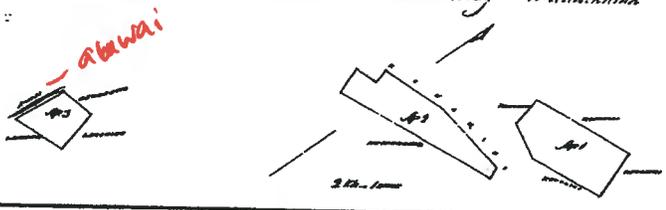
Taru in the ili of Waikaniuni

Apunai	Kala ma ka lii	Kala	Chamaka ma ka haka	Maui a haka
Bu	77°	To 91	Ma ka haka	Maui a haka
Bu	2°	To 168	Ma ka haka	Maui a haka
M	69°	To 166	Ma ka haka	Maui a haka
M	16 1/2	To 123	Ma ka haka	Maui a haka

a haka ma ka haka maui 109 Eka

Wendulu Januaria 17 1853

E. Bailey



auwai

Ukupaia 1861

W. L. Lee
S. M. Johnston
A. Kaula
J. H. Smith

Wendulu Januaria 7 1854

Teke 3388 Maui Tuluhe Maui

Apunai	Kala ma ka lii	Kala	Chamaka ma ka haka	Maui a haka
M	12°	To 80	Ma ka haka	Maui a haka
M	58 1/2	To 279	Ma ka haka	Maui a haka
M	82 1/2	To 130	Ma ka haka	Maui a haka
Bu	12°	To 91	Ma ka haka	Maui a haka
Bu	82 1/2	To 311	Ma ka haka	Maui a haka
Bu	89 1/2	To 349	Ma ka haka	Maui a haka

a haka ma ka haka maui 56 Eka

Wendulu Januaria 17 1853

E. Bailey

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April 27, 2012

Department of Land and Natural Resources
Commission on Water Resource Management
Attention: Robert Chong
Kalanimoku Building, Room 227
1151 Punchbowl Street
Honolulu, Hawaii 96813

2012 APR 27 AM 10:37
COMMUNICATIONS SECTION
PROPERTY

Re: Wailuku Country Estates Irrigation Company and the Wailuku Country Estates Community Association, Inc.

Appurtenant Rights Determination in Na Wai Eha Surface Water Management Areas (Waihee, Waiehu, Iao and Waikapu Streams)

Dear Ladies and Gentlemen:

This firm represents the Wailuku Country Estates Irrigation Company ("WCEIC") and the Wailuku Country Estates Community Association, Inc. ("WCECA") in connection with their applications that were submitted to the Commission for existing and new water uses.

This letter is in response to the water commission's letter dated February 21, 2012, regarding the water commission's review and comments to the information we submitted for appurtenant right claims (for TMK: (2) 3-2-002: various) except with respect to the following which the water commission found to support WCEIC's and WCECA's appurtenant right claims:

1. LCA 2533:1 and RP 6529 (appurtenant right claim documented for Ap 1).
2. LCA 3225 and RP 6298 & 6458 (appurtenant right claim documented).
3. LCA 3292 (appurtenant right claim documented).
4. LCA 3330 and RP 4424, 4622 (appurtenant right claim documented).
5. LCA 3335 and RP 7774 (appurtenant right claim documented).
6. LCA 3387 and RP 6065 (appurtenant right claim documented).
7. LCA 3388 and RP 6101 (appurtenant right claim documented).

Department of Land and Natural Resources
Commission on Water Resource Management
Attention: Robert Chong
April 27, 2012
Page 2

Please see the attached chart with our responses to the water commission's February 21, 2012 letter. In addition, we would like to add the following which explains our responses to the water commission's comments that there were no references to water use in some of the Royal Patents ("RP") and Land Commission Awards ("LCA") in WCEIC's/WCECA's application. In short, implicit in a LCA and RP is the appurtenant right to water. Since the LCA and RP were required to be in literal agreement with the other, reference to water use in either one means that there was a reference to water use in the other.

Further, as explained below, since the form of the RP required description by metes and bounds only, reference to water use may not be in the RP. This should hold true for LCAs as well. Consequently, testimony at the time of application (which we submitted) should weight in on whether the lands were being cultivated at that time.

Background

In 1845, the Board of Land Commissioners to quiet land titles was formed. It was the Land Commission's responsibility to ascertain or reject claims of interest in land brought before it. The Board was not empowered to grant fee simple title to land. Its duty was to determine each applicant's identifiable interests in land and issue an award describing those interests. *Public Access Shoreline Hawaii v. Hawaii County Planning Commission*, 79 Haw. 425, 445, 903 P.2d 1246, 1266 (1995) ("*PASH*"); *Application of Elizabeth Cockett Robinson*, 49 Haw. 429, 434, 421 P.2d 570, 574 (1966) (the Land Commission Award is a determination of a right to a patent). Actual title to land could be gained only by a payment of commutation to the Kingdom and issuance of a royal patent. *PASH*, 79 Haw. at 445, 903 P.2d at 1266; *Omerod v. Heirs of Kainoa Kupuna Kaheananui*, 116 Haw. 239, 247, 172 P.3d 983, 991 (2007) (citing *PASH*).

After the Land Commission entered a LCA, the Minister of Interior could issue a RP after the awardee paid a commutation fee. In essence, a RP was a quitclaim of the government's interest in the land. *Id.*; *Brunz v. Mott Smith*, 3 Haw. 783, 1877 WL 7569 (1877) (the effect of a patent is to relinquish the government's interest in the area described therein unto the original awardee). In summary, neither the LCA nor RP was required to show the use of the land.

Additional Responses to Water Commission's Comments

Form of RP required metes and bounds

The water commission commented that there were no references to water use in some of the LCA's and/or RP's in WCEIC's/WCECA's application. However, this should not be determinable on the issue of water use or cultivation on the lands since they were only required to show the lands' metes and bounds.

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The form of all RPs were required to describe the land therein by metes and bounds or by natural boundaries. In order to obtain a RP and obtain fee simple ownership of land conveyed during the Mahele, an awardee needed to present a Boundary Commission judgment describing his or her land by metes and bounds. *Id.*; *Greenwell v. Paris*, 6 Haw. 315, 1882 WL 7783 (1882) (The object of the boundary commissioner is to enable parties to obtain such Royal Patents defining their lands by metes and bounds); *See Application of Elizabeth Cockett Robinson*, 49 Haw. 429, 421 P.2d 570 (1966) (the form of all Royal Patents shall describe the land by actual survey or by natural boundaries as the case may be).

There were some instances where the water commission noted references to water use in the LCA but not in the RP, and vice versa. However, the metes, bounds and description of the survey in the petition must be in literal agreement with the award. *Brunz*, 3 Haw. 783, 1877 WL 7569 (1877). Consequently, if water use is referenced in either the LCA or the RP it should apply equally to the other.

Testimony Regarding Water Use

We note that the water commission did not comment on the testimony submitted and so are unsure on the water commission's position regarding the same. Since neither the LCA nor RP can be relied upon to reference water use (since metes and bounds only were required in them), testimony by applicants and others at the time of application should weigh equally in on the question. Furthermore, by virtue of the lands being Kuleana lands, the use of water thereon is implied. In this regard, the first six sections of the Kuleana Act enabled the common people of Hawaii to secure fee simple title to the **lands they actually cultivated**. The seventh section contained the rights that were to accompany a commoner's tenancy. *Reppun v. Board of Water Supply*, 65 Haw. 531, 549, 656 P.2d 57, 69 (1982).

Generally, the conveyance of land, confirmed by a LCA and/or when the RP was issued based on such award, **carried with it the appurtenant right to water** for taro growing. *McBryde Sugar Company, Limited v. Robinson*, 54 Haw. 174, 188, 504 P.2d 1330, 1339 (1973); *See also Maikai v. Hasings & Co.*, 5 Haw. 133, 1884 WL 6659 (1884) (Holders of Kuleanas are entitled to water for irrigation purposes from the stream in the land which their Kuleanas are situated.) Unlike riparian rights, appurtenant water rights are incidents of land ownership. This includes the water on their lands and all the water which the lands had enjoyed from time immemorial. *Reppun*, 65 Haw. at 551, 656 P.2d at 70.

We are also enclosing the following documents that respond to the Commission's various comments:

1. File Plan - regarding location of the various apanas.
2. Enlargement of File Plan re LCA 4452:9, RP 7302.
3. Index re LCA 3237.

4. Land Patent No. S-8536 re LCA 3237:3 issued in 1960.
5. Copy of RP 6102

We trust our responses satisfies the Commission's comments. Please do not hesitate to advise the undersigned if you have any questions. Thank you for your consideration in this matter.

Very truly yours,

TOM QUITIQUIT CHEE WATTS &
YAMAMOTO, LLP



Donna H. Yamamoto

Enclosures

cc: client

**WAILUKU COUNTRY ESTATES IRRIGATION COMPANY
and the WAILUKU COUNTRY ESTATES COMMUNITY ASSOCIATION, INC.**

Document	Commission Comment	WCEI/WCECA Comment
LCA 377	Appurtenant right claim documented for “cultivated” and “kuleana” land.	The description of the land in the LCA and the RP are the same. Consequently, both LCA and RP document the appurtenant right claim.
RP 5366	Appurtenant right claim documented	
LCA 406:1	11 Apana are listed. No specific ref to water use for Ap 1. Further documentation required for Ap1. NR, NT, and FT refer to loi, taro, sugar cane and potato patches but do not specify which apana.	The LCA states: “There are many dry taro lots in the ili of Puhiaawaawa.” Puhiaawaawa is apana 1. Consequently, appurtenant right is documented for apana 1. See the following that references “Puhiaawaawa: 1. English translation 2. native register (English) that “some taro patches are at Puhiaawaawa...” 3. native testimony (English) by Kuihelani: “There is a patch and a field at Puhiaawaawa...”, by Kailihiwa: “There is a field and patches at Puhiaawaawa...”
RP 5376	No ref to water use.	As well, the RP says that the land is in Puhiaawaawa. This should be tied in to the LCA that says there are many dry taro lots in the ili of Puhiaawaawa.
LCA 453: 1 & 2	Appurtenant right claim documented.	

RP 997	RP refers to LCA 3572. No ref to water use.	The File Plan refers to RP 997 (which we submitted for your reference only). However, we believe RP “997” is a typo on the File Plan (the “1” is missing) and RP “1997” is correct because RP 1997 cites LCA 453. Furthermore, RP 1997 mirrors the description in LCA 453 and as such documents the appurtenant right claim. Also, the register references taro patches and the native testimony references patches and farming.
LCA 2434 & 2435	LCA 2434 & 2435 are not shown on survey or TMK maps. Documentation provided for LCA 2435 but 2435 is crossed out. NR, NT, FT documentation provided for LCA 2434.	<p>There appears to be two (2) LCA 2435's. One was issued to Kaakole (a copy was submitted) and the other was issued to Kahooke (a copy was submitted). The RP 6397 also states Kuleana Helu 2435 to Kahooke. However, we believe the LCA and RP for Kahooke showing 2435 are typos (and should be 2434) because the register and testimony for Kahooke (property in Wailuku) is numbered 2434 while the property for Kaakole (2435) is in Kapunakea. A poalima is referenced in the LCA for Kahooke. The register for 2434 refers to loi's and the native testimony refers to taro and 3 po'alimas and the foreign testimony references kalo and 3 poalimas on the property.</p> <p>See File Plan (LCA 2435 indicated below Lot 69)</p> <p><u>NOTE: all LCA's that were commented as not located are shown highlighted on the File Plan.</u></p>
RP 6397	RP ref to LCA 2435.	See above. A poalima is also referenced in the RP. The description of the land mirrors the LCA.

LCA 2436:1, 2 &3	Appurtenant right claim documented for Ap 2. Survey map only shows Ap 2 but not Ap 1 or 3	LCA shows that all 3 apanas are identified as kalo (taro) lots and Apana 2 cites an auwai (ditch). See translation of LCA into English that was submitted. The register also refers to loi's and the native and foreign testimonies refer to loi's and kalo. The LCA, RP, testimony and register all cite the same areas of Pohakukupuku, Holu and Waikani See File Plan Map (Apana 1 is indicated on Lot 43; Apana 3 is indicated on Lot 120)
RP 2009	Appurtenant right claim documented for Ap 2. Survey map only shows Ap 2 but does not show Ap 1 or 3.	The RP mirrors the LCA that shows all 3 apanas identified as kalo lots.
LCA 2495:1, 2, 3 & 4	Appurtenant right claim documented for Ap 1. TMK map only shows Ap 1 but does not show Ap 2-4.	Apana 4 contains a poalima Alii taro patch (see translation into English that was submitted and drawing of apana 4 in LCA with poalima drawn in). See register, native and foreign testimonies that references taro land/taro moo at Pohakupuku (apana 1 & 2) and Puuokala (apana 3) and poalima (apana 4). See File Plan (Apana 2 is indicated on Lot 43; Apana 3 is indicated on Lot 43; Apana 4 is indicated across Lots 37 and 44)
RP 7790	No ref to water use for Ap 1.	The land description in the RP and LCA are the same and the comment as to LCA 2495 applies here.

LCA 2502: 1 & 3	Appurtenant right claim documented for Ap 2 & 3	See English translation of LCA indicating water use for Apana 1 & 3 which are both taro lots and an auwai runs through Apana 3. See also the register (reference to loi) and native testimony (reference to taro (apana 1 & 3) & poalima (apana 3) and foreign testimony (reference to loi's (apana 1 & 3) and poalima (apana 3))
RP 5973	Appurtenant right claim documented for Ap 2 & 3	The description of the land in the RP mirrors the LCA.
LCA 2503: 2	LCA is not shown on TMK. Ref to kalo and pahale	See File Plan (LCA 2503:2 is indicated on Lot 12 of the North Iao Village)
RP 3652	RP is for LCA 2502	RP 3652 cites LCA 2502. However, we believe it is a typo because the description in RP 3652 is exactly the same as in LCA 2503. Consequently, both reference water use. Further, both RP 3652 and LCA 2503 are to Ohule. The LCA and RP references poalimas, the register references lois, native testimony references taro and poalimas and foreign testimony references kalo and poalima.
LCA 3237: 3	Appurtenant right claim documented.	

RP 6888	No ref to water use	<p>The purpose of the RP was to quitclaim the government's interest in the property and to contain metes and bounds description. Consequently, reference to water use would not necessarily be in the RP. The register references lois, native testimony references taro land, taro loi, taro pauku and foreign testimony references lois.</p> <p>Royal Patent 6888 is indicated in the Index for LCA 3237 but it is land in Kalihi, Oahu. Before 1960, no RP was issued. The RP was issued in 1960 and only shows metes and bounds. A copy is attached.</p>
LCA 3275-E: 3,4,6	Appurtenant right claim documented	
RP 5154	No ref to water use	<p>The description of the land in RP is the same as in LCA 3275-E and thus, appurtenant right claim was documented in the RP as well. Native testimony references taro patches (apana 3), taro pauku (apana 4 & 6) and foreign testimony references lois (apana 3, 4 & 6).</p>
LCA 3294-B: 2; LCA 3294-B:1, M1; LCA 3294-B- 1, M2	Appurtenant right claim documented	

RP 6102	No ref to water use.	RP tracks LCA and references kalo. Appurtenant right contained in LCA is in RP. Enclosed is a clearer copy of RP 6102. The native testimony references taro land and taro moo (cultivated piece of land) and foreign testimony references moo of kalo.
LCA 3488	Appurtenant right claim documented.	
RP 5289	No ref to water use.	The RP notes the land is "Aina Kalo". The register references 127 loi's, native testimony references taro and poalimas and foreign testimony references kalo land and poalimas,
LCA 3498	Appurtenant right claim documented.	
RP 7432	No ref to water	Reference to "kalo" is contained in both the LCA and RP. The description in the RP and the LCA are exactly the same. Consequently, both LCA and RP refer to water use. The register references taro.
LCA 4452:9	LCA is not shown on TMK map. No ref to Ap. 9.	Reference to "Apana 9" appears on the LCA under the words "Helu 4452" See File Plan (LCA 4452 is shown on the enclosed 8 ½ x 11 map)

RP 7302	No ref to water use	RP evidenced the government's quitclaim of its interest in the property and the RP was only required to contain the metes and bounds of the property.
LCA 4461:1 & 2	LCA is not shown on TMK MAP. Ref to kalo and moo kalo.	See File Plan (Apana 2 is indicated across Lots 30 and 31; Apana 2 is indicated on Lot 32).
RP 6630	Ref to kalo and moo kalo.	RP references kalo moo and mirrors the LCA. Also, native testimony references taro moo.