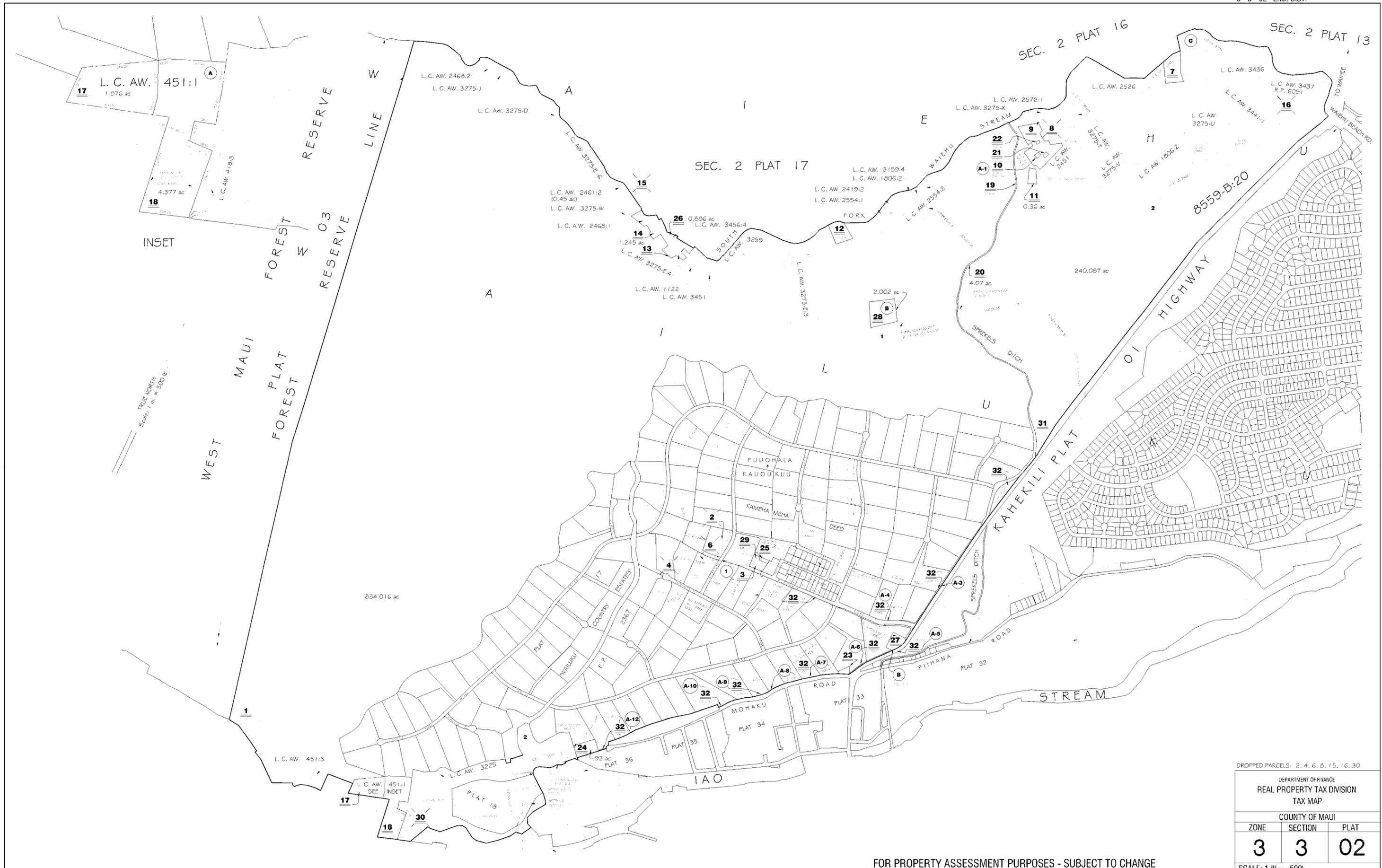




SOURCE: TMB & SURVEY/DEPT. BY: JMK DATE: 3/8/1934 DWS NO. 1927



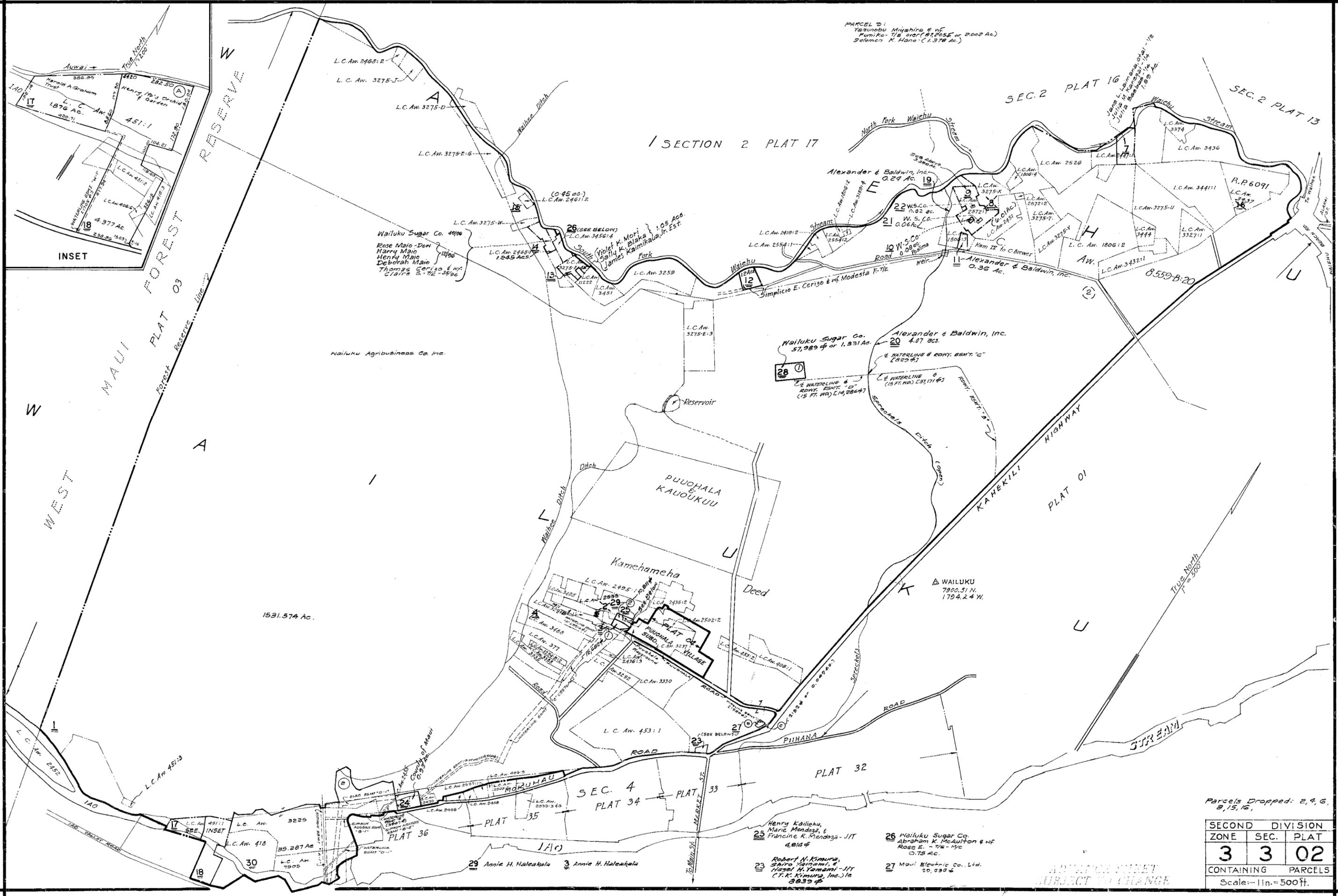
DROPPED PARCELS: 2, 4, 6, 8, 15, 16, 30

DEPARTMENT OF FINANCE		
REAL PROPERTY TAX DIVISION		
TAX MAP		
COUNTY OF MAUI		
ZONE	SECTION	PLAT
3	3	02
SCALE: 1 IN = 500'		

FOR PROPERTY ASSESSMENT PURPOSES - SUBJECT TO CHANGE

PRINTED:

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.		

AMERICAN 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"**

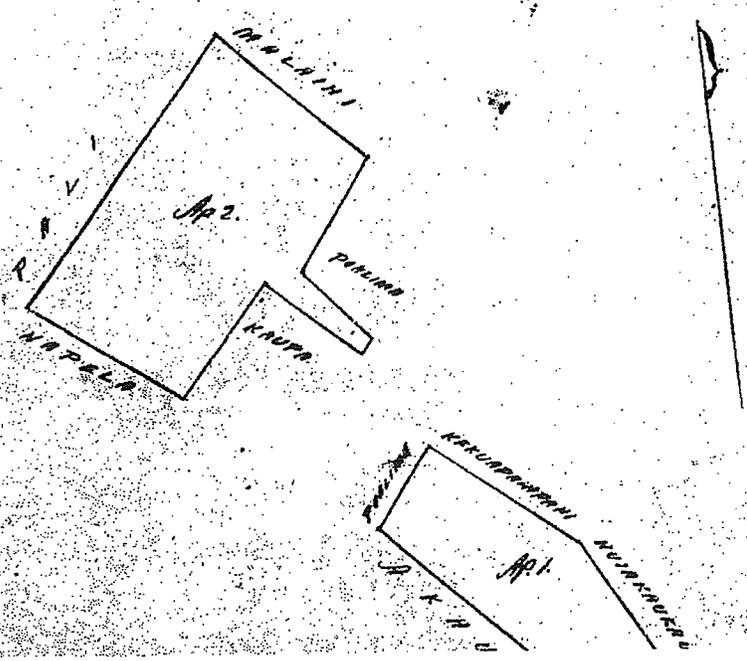
Land Commission Award Number 2503, Apana  
2 to Ohule  
(Volume 3, Page 705)

Apurua 1. Kalo. ma ka ili i Umiu.  
 Ehuamaka ma ke kiki i Maui, a e holo.  
 Ke 37° Ke. 1.27 Ke. ma ka ke Koroheke  
 Ke 43° Ke. 4.59 " " Kuumu.  
 Ak. 35 1/2 Ke. .91 " ka ili i Puako  
 Ak. 30° Ke. .93 " ke. Kiuakaukau.  
 Ak. 25 1/2 Ke. 1.44 " " "  
 Ak. 50 1/4 Ke. 2.35 " " Kekuapapa.  
 a hiki ma ke kiki maa. -- 6/10 Eka.

Apurua 2. Kalo y Pahale ma Umiu. Ehuamaka ma ke  
 kiki Koroheke a e holo.  
 Ke 51 1/2 Ke. 2.39 Ke. ma ke Kapaia.  
 Ak. 41 1/2 Ke. 1.87 " " Kapaia  
 Ke. 45 3/4 Ke. 1.54 " ke Pahala  
 Ak. 41 1/2 Ke. .22 " " "  
 Ak. 38° Ke. 1.26 " " "  
 Ak. 35° Ke. 1.70 " ke Malakii  
 Ak. 43° Ke. 2.59 " " "  
 Ke. 42° Ke. 4.24 " ke Pahi. a hiki ma ke  
 kiki maa. -- 1 1/10 Eka.

C. Bailey  
 Maaanaama

Waibutuu. Dek. 9. 1853.

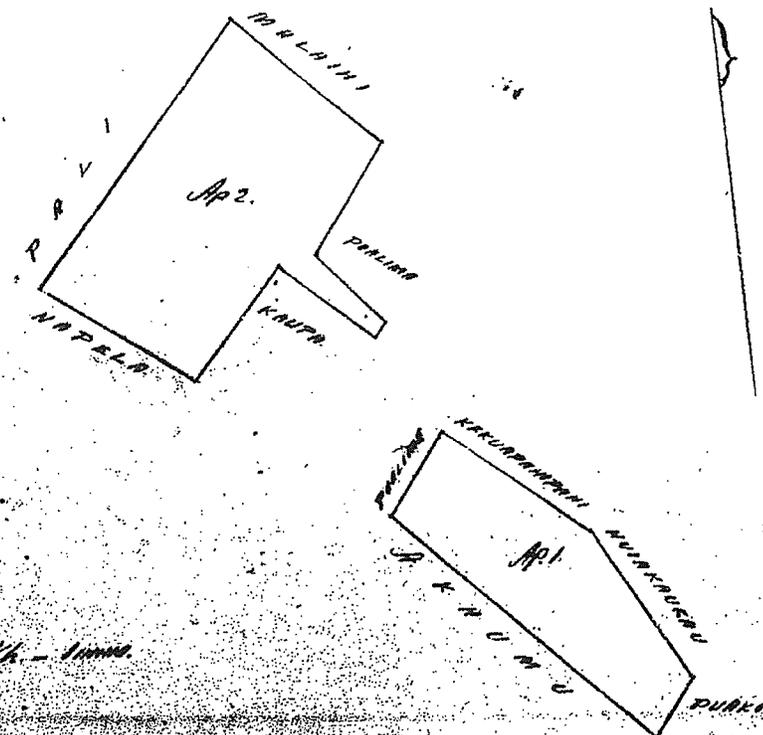


NK	41° 1/2	187	"
Se	48° 3/4	184	"
AK	41° 1/2	22	"
AK	38°	126	"
AK	35°	170	"
AK	43°	259	"
Se	42°	424	"
Kita muna	1 1/2	100	1000

to ...  
to Malabu  
to Tali ...

C. Bailey  
11/10/1853

Waidutaw Dete. 9. 1853



~~Alupaulus~~ 184.00  
 W. L. Lee  
 G. M. Robertson  
 J. H. Kaulakas  
 J. H. Smith  
 Chaulaka ... 1853

Royal Patent Number 3652  
(Volume 16, Page 63)

HELU 2632

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# PALAPALA SILA NUI.

A KE ALII, MAMULI O KA OLELO A KA POE HOONA KULEANA.

NO KA MEA, Ua hoo'olo na Luna Hoona i na kumu kuleana aina i ka olelo, he kuleana oiaio ko

*Ohule* Kuleana Helu 2602  
ma ke **Ame Aiole** iloko o kahi i oleloia malalo.

Nolaila, ma keia Palapala Sila Nui, ke hoike aku nei o Kamehameha IV, ke Alii nui a ke Akua i kona lokomakai i boonoho ai maluna o ko Hawaii Pae Aina, i na kanaka a pau, i keia la nona iho, a no kona mau hope alii, ua hawii aku oia ma ke **Ame Aiole** ia *Ohule*

i kela *Mauw* wahi a pau loa ma *Wailuku*  
ma ka mokupuni o penei na mokuna,

*Apt. Kalo ma ka ili o Anuenue*  
*E hoomaka ma ke kahi Keia a i holo ana*  
*Ke 57<sup>o</sup> No 127 Au ma ke Ke Konoiki*  
*43 Ke 459 Kaunuu*  
*Ke 35<sup>o</sup> " 91 ka pali o Puako*  
*30 Ke 90 ke Muraakaukau*  
*25<sup>o</sup> " 144 " " "*  
*50<sup>o</sup> " 235 " " " "*  
*Hekepaahipahi i ke kahi mea*  
*To Eka*

*Apt. Kalo aue Pahale*  
*E hoomaka ma ke kahi Kou o Keia a i holo ana*  
*Ke 57<sup>o</sup> Ke 239 Au ma ke Kapela*  
*Ke 41<sup>o</sup> " 187 Kaupa*  
*Ke 43<sup>o</sup> " 154 Poalima*  
*Ke 41<sup>o</sup> " 22 " " "*  
*38 Ke 126 " " "*  
*35<sup>o</sup> Ke 127 Malahi*  
*43 Ke 237 " " "*  
*Ke 42 " 424 Pali i kahi i hoomaka ai*  
*A/10*

Maloko o *hia mau* apena 122  
177 Eia  
a oi iki aku, a eia iki mai paha. Ua koe nae i ke aupuni na mine minerefa a me na metela a pau.

No *Ohule*  
ua aina la i haawia ma ke ANO ALODIO a no kona mau hooilina, a me kona waihona; ua pili nua  
ka sobou a ka Poe Abaolelo o lusu like ai ma ua aina alodio i kela manawa i keia manawa.

A i ma e ikeka oi, ua kau wau i ko'u inoa, a me ka Sila Nui o ke Hawaii Pae

Aina ma Heaolelo i keia la

*Pepeluni*

1857

*Kamohamoha*

*Kaahumanu*

**NATIVE REGISTER  
(HAWAIIAN)**



*Māhele 'Āina*

*Kūkulu ka 'ike i ka 'ōpua*



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**Māhele 'Āina Index - Native Register - Helu 2503**

> **Source Link**  
*not applicable*

> **Locations**

Island	Moku	Ahupuaa
Maui	Wailuku	Wailuku

> **Metadata**

<p><b>PD Number</b> 41653</p> <p><b>Source</b> Native Register</p> <p><b>Helu (Identifier)</b> MD-NR-2503</p> <p><b>Uploaded (Date)</b> 07/06/2009</p> <p><b>Accessrights (Rights)</b> Public</p> <p><b>Claimant</b> Ohule</p> <p><b>Island Ili (Location) Ahupuaa District</b> Maui Wailuku Wailuku</p>	<p><b>RelatedImages</b> MD-NR-R2-V3-I01124</p> <p><b>RelatedHelu</b> 1. MD-FT-2503 2. MD-MA-2503 3. MD-NT-2503</p> <p><b>NextHelu</b> MD-NR-2504</p> <p><b>PreviousHelu</b> MD-NR-2502</p>
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**NATIVE REGISTER  
(ENGLISH)**

Page 527

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.  
 Holu, Wailuku, Maui, Dec. 22

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-okapuu. The name of the 'ili on the mauka side is Ohaipilo, held by Kau, and the name of the 'ili on the makai side is Kahau, held by Kalaone.

I have been on this claim for three years. It was given to me by Kamakani, the konohiki of A. Kanae. I have occupied and farmed this land from that time until today, and have done po'alima work until this very day. The length of this land to which I claim a right, is 87 fathoms, and the width is 40 fathoms. I hereby petition you, if this 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

To the Land Commissioners, Greetings: 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. Pihale is on the north, Waipao is on the east, the boundary of the sugar cane field of the haole is on the

NR 2503

**NATIVE TESTIMONY  
(HAWAIIAN)**

2530. Moeau.

Wailuku, Julai 5, 1829

Selaku Wook. Ua ike au i kona aia ma Halekulu,  
Wailuku. Eia apana.

Apana 1. Eia mos kele.

" 2. Hoohahi mos kele.

Nou aku kona aia i ka wa o Hamahamaha, aole  
ma keakea. 3 foalima ma ka apana 1. Hoohahi  
ma ka apana 2.

1 Penei ma foalima. Mauka, aia o Paku, Waiheo, ka-  
hawai o Wailuku, M. Pa o Kuhelani, Makana, Pa o  
Moeau me Pali.

2 Penei ma foalima. M. aia o Apuhi, W. kahawai, M.  
Pali kahawai, M. fela mo.

2503. Ohule.

Mauhili Wook. Ua ike au aia ma ka ili o Imiue ma  
Wailuku. Eia Apana.

Apana 1. 2 Mos kele me kula.

" 2. foalima kele " " me Pahale.

Nou aku kona i ka M. St. 1835. Aole ma keakea. Ho-  
hahi foalima hakiwone ma ka apana 1.

1 Penei ma foalima. M. aia o Naunuu, W. koi aia. M. ili  
o Puako, M. fela mo.

2 Penei ma foalima, M. koi aia. W. fela mo, M. foalima o  
Mua, M. fela mo.

1759. Kaupua.

Kaunuuai Wook. Ua ike au i ma kuleana o Kaupua,  
kehe au kuleana i ke ma koi mau ili malalo nei, ma  
Wailuku.

Apana 1. Aia kele ma ka ili o Mokuhau.

" 2. " " " " " " Puako.

NT 2503

**NATIVE TESTIMONY  
(ENGLISH)**

His land was from me in 1843; I got it from Nailiili in ancient times, it was from the makuas, and there has been no dispute.

1. is bounded mauka by Naonohi, Waihee by a wall, makai by the po'ali-  
ma, Maalaea, by the land of Pae.
2. is bounded mauka by the land of Pa and Kaniu, Waihee by the land of Pae, makai, the same, Maalaea by the Government Mo'i.
3. is bounded mauka by my land, Waihee by the land of Pae, makai by the land of Apiki, Maalaea by the land of Naleipuleho.

No. 2429 - Kawahalama, enters into 10993 above.

No. 2530 - Meeau Wailuku, July 5, 1849

Page 584

Kelolou sworn: I know his land at Halaula 1, Wailuku. Two parcels.

Parcel 1 - two taro mo'o  
" 2 - one taro mo'o

This land was from me in the time of Kamehameha I, with no opposition from any one. Three po'alima are in parcel 1, one is in parcel 2.

1. is bounded mauka by the land of Paele, Waihee, by Wailuku stream, makai by the lot of Kuihelani, Maalaea by the lot of Meeau and Pali.
2. is bounded mauka by the land of Apiki, Waihee by the stream, makai by the stream cliff, Maalaea, the same.

✓ No. 2303 - Ohule

Mauhili sworn: I know /this land/ is in the 'Ili of Imieu in Wailuku. Two parcels.

Parcel 1 - two taro mo'o and kula

Parcel 2 - a small section of taro and a house lot and kula.

It was from me in 1835, with no opposition from anyone. One po'alima hakuone is in parcel 1.

1. is bounded mauka by the land of Kaumu, Waihee by my land, makai, by the 'Ili of Puako, Maalaea, the same.
2. is bounded mauka by my land, Waihee, the same, makai, the po'alima of Naea, Maalaea, the same.

No. 1759 - Kaupa

Z. Kaauwai sworn: I know the claims of Kaupa, - I know of three claims in these areas below, at Wailuku.

Parcel 1 - taro land in the 'Ili of Mokuhaui

" 2 - " " " " " Puako

" 3 - Acre of sugar cane in the 'Ili of Oua.

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Parcel 1 was from Kuapahoa before 1839. The land at Puako was from Kapuaa and his wahine, Manaohia; before 1839 he farmed there. Parcel 3 was from the Ali'i, Kamehameha III, it was planted between 1838 and 1839. He lived peaceably on parcels 1 and 2, with no opposition from anyone. I heard that parcel 3 was land leased from the Mo'i, with a half share when the cane was mature, and he is converting it into a claim for himself. But Naea, the assistant of Kamehameha III is disputing this parcel.

NT 2503

# **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	Kaiholokuaau	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 Poalima 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	Poolilili	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

D



# TOM QUITQUIT CHEE WATTS & YAMAMOTO, LLP

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Danielle Degele-Mathews  
Jerilynn Ono Hall  
Edward R. Brooks

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.

Department of Land and Natural Resources  
Commission on Water Resource Management  
Attention: Robert Chong  
April 27, 2012  
Page 3

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.**

<b>Document</b>	<b>Commission Comment</b>	<b>WCEI/WCECA Comment</b>
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 <b>Kahooke</b> (a copy was submitted). The RP 6397 also states Kuleana Helu 2435 to <b>Kahooke</b>. However, we believe the LCA and RP for <b>Kahooke</b> showing 2435 are typos ( and should be 2434) because the register and testimony for <b>Kahooke</b> (property in Wailuku) is numbered 2434 while the property for Kaakole (2435) is in Kapunakea. A poalima is referenced in the LCA for <b>Kahooke</b>. 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><b><u>NOTE: all LCA's that were commented as not located are shown highlighted on the File Plan.</u></b></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 Pohakukupupu, 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 Pohakupukupu (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 &amp; 6) and foreign testimony references lois (apana 3, 4 &amp; 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.