

CHARMAINE TAVARES
Mayor



JEFFREY K. ENG
Director

ERIC H. YAMASHIGE, P.E. RECEIVED
Deputy Director

DEPARTMENT OF WATER SUPPLY
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793-2155
www.mauiwater.org

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COMMISSION ON WATER
RESOURCE MANAGEMENT

March 31, 2009

Honorable Laura H. Thielen, Chairperson
Commission on Water Resource Management
State of Hawaii Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

Dear Chairperson Thielen:

Subject: Application for Surface Water Use Permit for *Existing Use* in the Na Wai Eha, Maui, Surface Water Management Areas

Please find attached 15 copies of the Maui County Department of Water Supply's (DWS) "existing use" Water Use Permit Application Form SWUPA-E for 1.784 mgd from the Iao Ditch. In some instances, the format of the SWUPA-E form did not seem to be applicable to a municipal purveyor of water such as the DWS and we therefore provide supplemental and clarifying information to this form below.

Land Use Consistency and Efficiency

Land use consistency and efficiency of use must be described in relation to the Central Maui System as a whole, as Iao ditch along with DWS wells in Iao and Waihee aquifers are mixed so that the Iao ditch source can serve different areas within the system. In lieu of Table 2 "Land Use Consistency/Efficiency" on Form SWUPA-E, please find below water use categories, quantity in gallons per day, and number of services per water use category for existing uses with active consumption at the time of surface water management area designation. The requested amount of 1.784 mgd is DWS's highest monthly average withdrawal in the last ten years. While the current agreement with Wailuku Water Company (WWC) "Second Amendment to Agreement Concerning Withdrawal from the Iao/Waikapu Ditch" dated February 27, 2008 makes available 3.2 mgd and DWS has needs for greater withdrawals, these were limited by treatment plant capacity and the infrastructure at the time of designation. DWS has withdrawn municipal supply from Iao ditch since the 1930s. As the requested amount would serve existing uses throughout the Central Maui system, the requested amount per water use category from Iao ditch is the percentage of existing use that each water use category represents of the total water use for the Central Maui system.

"By Water All Things Find Life"



Current state land use district and County zoning codes can not be identified for all existing individual meters on the Central Maui system. However, building permits for new homes and businesses requires underlying appropriate zoning and State land use district for approval.

Table 2: Land Use Consistency/Efficiency

Water Use Category	# Active Meters per 4/30/08	AVG Monthly Use per 4/30/08 in 1000 gal	AVG GPD/Water Use Category	AVG GPD/Meter	Water Use/Total Use	Requested Amount GPD
AGRICULTURE	19	6,410.01	210,164.26	11,061.28	1.051%	18,754.44
GOVERNMENT	203	55,033.67	1,804,382.62	8,888.58	9.026%	161,017.76
COMMERCIAL	874	72,327.85	2,371,404.92	2,713.28	11.862%	211,617.15
GOLF PRIVATE	2	14.5625	477.46	238.73	0.002%	42.61
HOTEL	71	57,992.66	1,901,398.77	26,780.26	9.511%	169,675.20
INDUSTRIAL	149	24,392.97	799,769.34	5,367.58	4.001%	71,369.05
IRRIGATION	42	5,815.25	190,663.85	4,539.62	0.954%	17,014.28
PRIVATE						
MULTI FAMILY	512	101,409.28	3,324,894.34	6,493.93	16.631%	296,703.73
MULTI FAMILY	9	5,933.82	194,551.48	21,616.83	0.973%	17,361.20
LOW RISE						
RELIGIOUS	84	3,322.02	108,918.77	1,296.65	0.545%	9,719.59
SCHOOL	1	107.195	3,514.59	3,514.59	0.018%	313.63
PRIVATE						
SINGLE FAMILY	16,830	275,727.31	9,040,239.75	537.15	45.220%	806,724.23
UNKNOWN	19	1,260.22	41,318.52	2,174.66	0.207%	3,687.14
	18,815	609,746.81	19,991,698.69		100.000%	1,784,000.00

Irrigation Information

At this time DWS does not serve non-potable water on our Central Maui system. Some preliminary research of potential commercial projects where reclaimed water can off-set potable sources have been initiated in the Water Use and Development Plan (WUDP) process. DWS strongly encourages new developments to utilize non-potable sources where available, such as on site brackish wells. Commercial properties are required to use reclaimed water for non potable needs if located within 100 feet of a R-1 reclaimed water distribution line.

Alternative Analysis

We note that the various categories on CWRM's Table 4 are not specified in the State Water Code. HRS § 174C-49 sets forth the criteria that applicants must meet. Nonetheless, DWS addresses each category on Table 4 to the best of its ability. In doing so, DWS does not waive its legal objections to the imposition of these specific categories. DWS has no real, practical alternatives to the requested existing uses. DWS has considered drilling new wells in the Northern portion of the Waihee aquifer and in the Kahakuloa aquifer, but CWRM has asked

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DWS to limit its withdrawals from the Waihee aquifer, and recent discussions with USGS have led DWS to conclude that new wells in these areas may not be as productive or cost-effective as previously hoped. USGS has advised DWS that the Waikapu aquifer may be a better place to seek new sources of supply and since 2006 (FY 2007) DWS has budgeted and received County Council approval for well development in the Waikapu aquifer. However, the current sustainable yield of that aquifer is 3 mgd, and DWS faces competition from private landowners for the available water in the Waikapu aquifer.

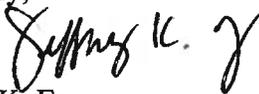
Moreover, DWS is precluded from developing more wells in East Maui in the immediate future due to the entry on December 22, 2003 of a consent decree in The Coalition to Protect East Maui Water Resources et al. v. Board of Water Supply et al., Civil No. 03-1-0008(3). In that case, the Plaintiffs demanded that before looking to East Maui as a source of groundwater, DWS look first to surface water drawn from the Waikapu, Iao, and/or Waihee hydrologic units. Therefore, DWS has vigorously pursued surface water sources as required under the Consent Decree.

CWRM's chart does not include conservation as a specific category, but DWS recognizes that conservation efforts can be a very cost effective way to stretch a limited water supply. DWS's conservation efforts include a program that provides low-flow fixtures, free of charge, and public education programs. These efforts have been successful in reducing demand by about 500,000 gallons per day. DWS has stepped up conservation efforts with additional conservation staff responsible for leak detection in water systems, commercial and industrial operations, residences, and irrigation systems; repair or arranging for repair of leaks and other problems identified; replacement of fixtures as appropriate; suggestions for plant materials as appropriate; analysis and presentation of findings; and public presentations and meetings with community groups and homeowners' associations to increase awareness of and compliance with good conservation practices.

A request for a voluntary 10 % reduction in water use from customers on the Central Maui has been remarkably successful in achieving the voluntary cutback goal of 25.5 mgd, even in the dry summer months.

We respectfully request that the Commission on Water Resource Management issue an "existing use" Surface Water Use Permit to DWS for 1.784 mgd from the Iao Ditch. We also ask that you please copy Deputy Corporation Counsel Jane Lovell with all correspondence relating to this "existing use" application.

Sincerely,


Jeffrey K. Eng
Director
emb

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Laura H. Thielen, Chairperson

Commission On Water Resource Management

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c: Engineering Division

Jane Lovell, Deputy Corporation Counsel

Ed Kushi, Jr. Deputy Corporation Counsel

attachments:

Iao Ditch Water Use Permit Application Form SWUPA-E (15 copies) with 4 exhibits:

1. USGS Topographic map
2. Property Tax Map Key maps
3. Photographs of stream diversion and ditch intake
4. GIS maps of end use/service areas



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

APPLICATION FOR SURFACE WATER USE PERMIT
 FOR EXISTING USE IN THE NA WAI EHA, MAUI, SURFACE
 WATER MANAGEMENT AREAS

FORM SWUPA-E (NA WAI EHA, MAUI)

For Official Use Only:

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COMMISSION ON WATER RESOURCE MANAGEMENT

Event ID:

For detailed instructions on filling out this application, refer to the attached instructions.

APPLICANT INFORMATION: Note: In accordance with §174C-51(1)(B), HRS, *In the event a lessee, licensee, developer, or any other person with a terminable interest or estate in the land, which is the water source of the permitted water, applies for a water permit, the landowner shall also be stated as a joint applicant for the water permit.*

1. APPLICANT'S NAME Maui County Department of Water Supply		Applicant's Contact Jeffrey K. Eng, Director	2. SOURCE LANDOWNER'S NAME Not Applicable per HRS 174C-51(1)(B)		Source Landowner's Contact
Applicant's Mailing Address, or Principal Place of Business 200 S. High Street Wailuku, Hawaii 96793			Source Landowner's Mailing Address, or Principal Place of Business		
Applicant's Phone 808 270 7816	Applicant's Fax 808 270 7833	Applicant's E-mail jeffrey.eng@co.maui.hi.us	Source Landowner's Phone	Source Landowner's Fax	Source Landowner's E-mail

EXISTING SOURCE INFORMATION

The following must be attached before this application is accepted as complete:

- Portion of 7.5-Minute Series USGS topographic map (scale 1:24,000) labeled with stream and diversion locations and quad map name.
- Property Tax Map Key (TMK), showing stream or diversion location, and location of water use referenced to established property boundaries.
- Photograph(s) of the surface water diversion works and end use.

3. SURFACE WATER HYDROLOGIC UNIT AND CODE: Waihee/6022 Waiehu/6023 Iao/6024 Waikapu/6001

4a. TMK OF STREAM DIVERSION LOCATION: 3 - 5 - 003 : 003
Zone Sector Plat Parcel

4b. TMK OF DITCH DIVERSION LOCATION: 3 - 5 - 001 : 067
Zone Sector Plat Parcel

5. STREAM DIVERSION: How is water diverted from the stream to your property? Check all that apply.

Pipe Pump Ditch/auwai Other Describe: From Iao stream to Iao-Waikapu ditch. Pipe from ditch to treatment plant

Is the diverted water returned to the stream or ditch? Yes. No. If yes, how much water is returned?

6. FLOW MEASUREMENT INFORMATION:

Does the stream diversion have a flowmeter with totalizer or other device to measure diverted amounts?

Yes. Enter the installation date: Wailuku Water Co has meter at ditch intake, unknown installation date

Describe the device and enter measured amounts in Table 1. DWS effluent meters at each of three treatment plan filter units

No. Explain how you are measuring flow to justify amounts shown in Table 1 in the space below

EXISTING USER INFORMATION

7. APPURTENANT RIGHT: Do you claim an appurtenant right for your water use? Yes No

If yes, has the appurtenant right been established by the courts or the Commission? Yes No

8. END USER INFORMATION: Are you an end user on an existing water system? Yes No

If yes, who is the operator of the water system?

9. REGISTRATION AND DECLARATION OF WATER USE: Do you have a Registration and Declaration of Water Use with the Commission?

Yes. List the file reference name(s):

No

10. STREAM DIVERSION WORKS PERMIT (SDWP):

Have you ever been issued a SDWP by the Commission?

Yes. List the permit number(s):

No

NOTE: Signing below indicates that the signatories understand and affirm that the information provided on this application is accurate and true to the best of their knowledge. Furthermore, the signatories understand that: 1) if necessary, further information may be required before the application is considered complete; 2) if a water use permit is granted by the Commission, this permit will be subject, but not limited, to any existing legal uses, changes in sustainable yields and instream flow standards, Hawaiian Home Lands uses, and any other conditions imposed by the Commission; and 3) the applicant is responsible for paying the required public notice fees associated with this application.

11. APPLICANT	12. SOURCE LANDOWNER
<p>Signature <u>Jeffrey K. Eng</u></p> <p>Jeffrey K. Eng, Director</p> <p>Print <u>3/31/09</u></p> <p>Date</p>	<p>Signature</p> <p>Not Applicable per HRS 174C-51(1)(B)</p> <p>Print</p> <p>Date</p>

**SURFACE WATER USE PERMIT APPLICATION
EXISTING USE (NA WAI EHA, MAUI)**

**TABLE 1: 12-MONTH AVERAGE DAILY USE
Measured or Calculated Use of Water at the Source or End Use
As of the Effective Date of Designation, April 30, 2008**

MONTH / YEAR	AVERAGE DAILY USE FOR THE MONTH IN GALLONS PER DAY (GPD)	Check one item per box				OTHER Please describe
		METERED	ESTIMATED	ACTIVE BUT UNKNOWN	INACTIVE	
May 2007	1,263,000	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
June 2007	1,573,000	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
July 2007	1,444,000	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
August 2007	1,388,000	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
September 2007	1,370,000	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
October 2007	1,730,000	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
November 2007	1,680,000	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
December 2007	728,000	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
January 2008	1,121,000	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
February 2008	1,073,000	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
March 2008	1,515,000	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
April 2008	1,498,000	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
SUM OF AVERAGE DAILY USE FOR THE MONTH	16,383,000					GPD
AVERAGE DAILY USE (Average of the above)	1,365,250					GPD

**SURFACE WATER USE PERMIT APPLICATION
EXISTING USE (NA WAI EHA, MAUI)**

TABLE 2: LAND USE CONSISTENCY/EFFICIENCY
(Attach additional copies of Table 2 if necessary)

LAND USE CONSISTENCY						EFFICIENCY OF USE			
1. PURPOSE / WATER USE CATEGORY	2. USE TMK ATTACH THE FOLLOWING: • Property tax map, showing use location in reference to established property boundaries • Photograph of the area of use	3. STATE LAND USE DISTRICT	4. CDUP REQ'D Enter either: Yes and Date approved, or Yes and not acquired, or No	5. COUNTY ZONING CODE	6. SMAP REQ'D Enter either: Yes and Date approved, or Yes and not acquired, or No	7. REQUESTED QUANTITY OF USE Gallons per Day (GPD)	8. SUB-METERED? (Yes or No)	9. UNITS OR NET ACREAGE	10. APPLICANT'S JUSTIFICATION FOR REQUESTED QUANTITY OF USE FOR ITEM 7. If applicable, attach sheets to show how this number was calculated. For irrigation uses, fill in Table 3.
Uses that require potable (drinking) water									
	____ - ____ - ____ : ____ Zone Sector Plat Parcel								
	____ - ____ - ____ : ____ Zone Sector Plat Parcel								
	____ - ____ - ____ : ____ Zone Sector Plat Parcel								
	____ - ____ - ____ : ____ Zone Sector Plat Parcel								
TOTAL POTABLE USE							GPD		
Uses that do not require potable water									
	____ - ____ - ____ : ____ Zone Sector Plat Parcel								
	____ - ____ - ____ : ____ Zone Sector Plat Parcel								
	____ - ____ - ____ : ____ Zone Sector Plat Parcel								
	____ - ____ - ____ : ____ Zone Sector Plat Parcel								
TOTAL NON-POTABLE USE							GPD		
TOTAL USE REQUESTED (Sum of Total Potable Use and Total Non-Potable Use above) =							GPD		
If total use requested is not equal to the total monthly average in Table 1, please explain.									
In accordance with §174C-51(5), please explain if there are any limitations (legal, contractual, etc.) on the use(s) of water described above.									
Per agreement entered into June 9, 2004, first amendment made November 29, 2007 and second amendment made February 27, 2008 DWS is entitled to withdraw up to 3.2G MGD except as notified by Wailuku Water Company when Ioa Stream flow is below 11.5 MGD as measured at the USGS gauging station at Iao Stream at Kepaniwai Park, Wailuku.									

**SURFACE WATER USE PERMIT APPLICATION
EXISTING USE (NA WAI EHA, MAUI)**

TABLE 3: IRRIGATION INFORMATION

List all crops as separate line items and include landscape and golf course irrigation, grown in the 12 months prior to April 30, 2008. Attach additional copies of Table 3 if necessary.

1. USE TAX MAP KEY (TMK) Attach map outlining area and photo.	2. CROP	3. TOTAL ACREAGE	4. NET IRRIGATED ACREAGE	5. BEGIN ROWTH PERIOD (Month)	6. END GROWTH PERIOD (Month)	7. IRRIGATION SYSTEM (Refer to instructions.)	8. IRRIGATION PRACTICE (Refer to instructions.)
____ - ____ - ____ : ____ Zone Sector Plat Parcel							
____ - ____ - ____ : ____ Zone Sector Plat Parcel							
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**SURFACE WATER USE PERMIT APPLICATION
EXISTING USE (NA WAI EHA, MAUI)**

TABLE 4: ALTERNATIVES ANALYSIS

	Potable Alternatives Attach additional sheets if necessary.	Non-Potable Alternatives Attach additional sheets if necessary.
Municipal sources	Existing municipal sources are used to the extent possible with consideration to system capacity, water quality, pumping permits and various operational reasons to meet current demand	
Wastewater reuse		Expansion of the recycled water system require further quantification of end-uses and technical potential. Due to extensive capital costs and needed funding by private parties and other agencies in addition to DWS, this is a long-term goal, rather than an alternative that is available at this time.
Ditch system	DWS does not own or operate a ditch system and is using Iao/Waikapu ditch to serve current demand. DWS had preliminary discussions with Alexander & Baldwin concerning the potential for expansion of surface water treatment but ditch water availability dependson the Na Wai Eha stream water allocations.	
Desalinization	A plant for desalination of Central Maui brackish ground water for potable and non-potableneeds would have extensive energy needs and could potentially require new generation plants. Other issues are cost volatility, and disposal of brine. This strategy does not present a viable alternative to meet current demand	A plant for desalination of Central Maui brackish ground water for potable and non-potableneeds would have extensive energy needs and could potentially require new generation plants. Other issues are cost volatility, and disposal of brine. This strategy does not present a viable alternative to meet current demand
Ground water	Well development in the Northern Waihee, Kahakuloa, Waikapu, Haiku or Honpou aquifers may not be as productive or cost-effective as expected or feasible at all at this time. Any well development in either aquifer is a short to long term alternative that can not be developed in time to serve existing customers.	
Other (specify)	DWS conservation efforts include low-flow fixture distribution, public education, leak detection and water audits that are stepped up through additional conservation staff. Voluntary water restrictions on the Central Maui system have succeeded in achieving the voluntary cutback goal of 25.5 mgd.	

PUBLIC INTEREST

§174C-2(c) states that: *The state water code shall be liberally interpreted to obtain maximum beneficial use of the waters of the State for purposes such as domestic uses, aquaculture uses, irrigation and other agricultural uses, power development, and commercial and industrial uses. However, adequate provision shall be made for the protection of traditional and customary Hawaiian rights, the protection and procreation of fish and wildlife, the maintenance of proper ecological balance and scenic beauty, and the preservation and enhancement of waters of the State for municipal uses, public recreation, public water supply, agriculture, and navigation. Such objectives are declared to be in the public interest.*

Explain below how the uses in your application are consistent with the public interest as described above. Attach additional sheets if necessary.

DWS's existing withdrawals from Iao ditch is mixed with Iao and Waihee aquifer sources to serve the Central Maui system. This public water supply system serves 21,270 meters in the communities extending from Waiehu, through Wailuku, Kahului, Puunene, Spreckelsville, Paia and Kuau in the North, and from Maalaea through Kihei to Makena in the South. Domestic uses, such as single-family and multi-family uses, account for about two-thirds of the Central Maui system services. The remaining one-third serves commercial, industrial, and agricultural uses. A portion of these uses serve non-potable uses and is supplemented by reclaimed and brackish water for irrigation. We understand that domestic uses are protected public trust uses, and are entitled to high priority under the public trust doctrine. CWRM concluded on February 15, 2006 and January 31, 2007 that DWS's basal source withdrawals serve the public interest. The Iao ditch withdrawals serve the public interest in the same way. DWS provides for the protection and preservation of ground and surface water resources through conservation and resource protection programs

SURFACE WATER USE PERMIT APPLICATION EXISTING USE (NA WAI EHA, MAUI)

INSTRUCTIONS FOR FILLING OUT FORM SWUPA-E

This application form is to be used for actual **existing uses** as of the effective date of designation, April 30, 2008, for the Na Wai Eha Surface Water Management Areas. Based on the State Water Code, Section 174C, Part IV Regulation of Water Use, a completed application must be filed with the Commission on Water Resource Management (CWRM) no later than **April 30, 2009**, to qualify as an existing use. Failure to meet the filing deadline may cause your application to be considered a new use and require you to file an Application for Surface Water Use Permit for New Use.

If you are applying for a new surface water use, which are proposed uses after the date of designation, please use the Application for Surface Water Use Permit for New Use, **Form SWUPA-N**.

Information about surface water management areas and the current application forms are available at our website: <http://www.hawaii.gov/dlnr/cwrm/>; by contacting the Stream Protection and Management Branch at 587-0234; or sending an email to: dlnr.cwrm@hawaii.gov.

REQUIREMENTS FOR A COMPLETE APPLICATION Information must be legible. Therefore, please type or clearly print all information in ink.

- a. Fill in the most recent application form.
- b. Fill in every line on the application.
- c. Enclose a check for the non-refundable filing fee of \$25 payable to: Department of Land and Natural Resources.
- d. Pay for the cost of publishing any required public notices related to your application.
- e. Mark the source and end use locations on the appropriate USGS quad map and TMK map and attach to your application.
- f. Attach photos showing your existing diversion, measuring device (if applicable) and end use areas.
- g. Sign the application form. Both the applicant and the landowner of the source must sign the application form.
- h. Submit one original and **15 copies** of the application form; one original and 15 copies of the attachments (instructions, maps, photos and any additional attachments) and filing fee to: Commission on Water Resource Management, P.O. Box 621, Honolulu, HI 96809.

The applicant **must** establish that the existing use of water is a reasonable and beneficial use. According to §174C-3 of the State Water Code: *"Reasonable-beneficial use" means 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 the public interest.*

Furthermore, public interest is described in §174C-2(c) of the State Water Code which states that: *(t)he state water code shall be liberally interpreted to obtain maximum beneficial use of the waters of the State for purposes such as domestic uses, aquaculture uses, irrigation and other agricultural uses, power development, and commercial and industrial uses. However, adequate provision shall be made for the protection of traditional and customary Hawaiian rights, the protection and procreation of fish and wildlife, the maintenance of proper ecological balance and scenic beauty, and the preservation and enhancement of waters of the State for municipal uses, public recreation, public water supply, agriculture, and navigation. Such objectives are declared to be in the public interest.*

LINE BY LINE INSTRUCTIONS FOR COMPLETING THE APPLICATION FORM

APPLICANT INFORMATION

1. **APPLICANT'S NAME:** Fill in the information for the applicant. This should be the entity that will be responsible for all conditions of the water use permit.
2. **SOURCE LANDOWNER'S NAME:** Fill in the information for the landowner of the property where the existing surface water diversion works is located. *Note:* in accordance with §174C-51(1)(B), *In the event a lessee, licensee, developer, or any other person with a terminable interest or estate in the land, which is the water source of the permitted water, applies for a water permit, the landowner shall also be stated as a joint applicant for the water permit.*

EXISTING SOURCE INFORMATION

3. **SURFACE WATER HYDROLOGIC UNIT AND CODE:** Check the appropriate box for the hydrologic unit name and hydrologic code where the source is located. The "source" is the stream, ditch, or conduit from which water is diverted to the user. For information on hydrologic unit names and unit codes please refer to the *Surface-Water Hydrologic Unit: A Management Tool for Instream Flow Standards* report available on the CWRM website at: <http://www.hawaii.gov/dlnr/cwrm/>, or contact CWRM staff at (808) 587-0234. You may also contact CWRM toll-free from Maui at: 984-2400, ext. 70234.
- 4a. **TMK OF STREAM DIVERSION LOCATION:** Fill in the current Tax Map Key (TMK) number of the parcel where the stream diversion is located if applicable. To find out your TMK number, call Maui County Real Property Tax Division at: (808) 270-7297, or check online at: www.maipropertytax.com/
- 4b. **TMK OF DITCH DIVERSION LOCATION:** Fill in the current Tax Map Key (TMK) number of the parcel where the ditch diversion is located, if applicable.
5. **STREAM DIVERSION:** How is water diverted from the stream to your property? Check the appropriate box(es). Is the diverted water returned to the stream or ditch? Check "Yes" or "No." If yes, enter the amount of water returned.
6. **FLOW MEASUREMENT INFORMATION:** Check "Yes" or "No." If you have a working flowmeter with a totalizer, answer "Yes" to this question, and fill in the date that the flowmeter was installed and any other information you may have (manufacturer, serial number, etc.). A totalizer directly measures the total use for the source (similar to a car's odometer). Otherwise, answer "No" and explain how stream diversion is measured or estimated to justify amounts requested in Table 1

EXISTING USER INFORMATION

7. **APPURTENANT RIGHT:** An appurtenant water right is a legally recognized right to a specific amount of surface freshwater – usually from a stream – on the specific property that has that right. This right traces back to the first time the land was converted to fee simple title; i.e., the Great Mahele and the issuance of either a Land Commission Award or Royal Patent. The quantity of water under the appurtenant right is the amount that was being used on the land shortly before or at the time of the Mahele.
Do you claim an appurtenant right for your water use? Check "Yes" or "No."
If yes, has your appurtenant right been established by the courts or the Commission? Check "Yes" or "No."
8. **END USER INFORMATION:** Are you an end user on an existing water system? Check "Yes" or "No". If yes, please list the name of the water system operator.
9. **REGISTRATION AND DECLARATION OF WATER USE:** Do you have a Registration and Declaration of Water Use from the Commission? Check "Yes" or "No". If yes, please list the name of the registrant(s).
10. **STREAM DIVERSION WORKS PERMIT (SDWP):** Have you ever been issued a SDWP by the Commission? If yes, please list the permit number(s). Otherwise, check "No."
11. **APPLICANT:** Please sign and print your name, and date your application.
12. **LANDOWNER:** Please sign and print your name, and date your application. The landowner shall be the joint applicant in the event the applicant is a lessee, licensee, developer, or any other person with a terminable interest or estate in the land which is the water source of the permitted water. §174C-51(1)(B)

SURFACE WATER USE PERMIT APPLICATION EXISTING USE (NA WAI EHA, MAUI)

TABLE 1: 12-MONTH AVERAGE DAILY USE - Measured or calculated use of water at the source or end use as of the effective date of designation, April 30, 2008.

Please fill out Table 1 to calculate your existing use as of the effective date of the designation, **April 30, 2008**, of the Na Wai Eha Surface Water Management Areas. The effective date of designation is the date of the publication of the public notice of the Commission designation action. The qualifying dates have been filled in for this application. Fill in as completely as possible.

The **12-month average** is the average daily use^a of 12 months of consecutive use^b from the last month^c of the period.

- a. Average daily use. This is the average daily use for one month in gallons per day (GPD). To calculate this average, take the total use (in gallons) for the month, and divide this amount by the number of days in the month.
- b. 12 months of consecutive use. To calculate the average monthly withdrawal for 12 consecutive months of use, add the average daily use for all 12 months and divide that amount by 12.
- c. Last month. The last month of the period is the effective date of designation, April 30, 2008.

Check only one of the following boxes per row in Table 1:

- Metered – data is based on an operational meter with a totalizer.
- Estimated – data is based on some indirect measurement technique (e.g. measured flow rate multiplied by time of operation).
- Active but unknown – source is active, but there is no means to measure or estimate flow coming from source.
- Inactive – source was not pumped or diverted for the month.
- Other - describe how water use was measured or calculated in this box.

TABLE 2: LAND USE CONSISTENCY/EFFICIENCY

1. **PURPOSE / WATER USE CATEGORY:** Choose one of the following purpose or category codes listed below for each row in Table 2. There may be several purpose/categories on a single TMK, and each purpose or category must be listed in a separate row. Attach additional copies if necessary.

AGRICULTURE	
AGRAQ	Aquatic Plants & Animals
AGRCP	Crops & Processing
AGRLI	Livestock & Processing, and Pasture
AGRON	Ornamental & Nursery Plants
AGROTH	Other
DOMESTIC	
DOM	Single & Multi Low-Rise & High-Rise Household
DOMN	Domestic (Non-residential)
DOMNCB	Commercial Businesses
DOMNRI	Religious Institutions
DOMNHOS	Hospitals
DOMNHOT	Hotels
DOMNOB	Office buildings
DOMNOTH	Domestic Non-Residential – Other
DOMNSC	Schools
INDUSTRIAL	
INDEL	Geothermal, Thermoelectric Cooling, Power Development
INDFP	Fire Protection
INDMI	Mining, Dust Control
INDOTH	Industrial – Other
IRRIGATION	
IRRGC	Golf Course
IRRHM	Habitat Maintenance
IRRHOT	Hotel
IRRLA	Landscape/Water Features
IRROTH	Other
IRRPCA	Parks
IRRSC	Schools
MILITARY	
MIL	Military
MUNICIPAL	
MUNCO	County
MUNPR	Privately owned and operated but defined as a public system by the Department of Health
MUNST	State

2. **USE TMK:** The Tax Map Key number of the parcel over which the water is applied. There should only be one parcel for each line. Also, attach a TMK map(s) for the lots showing the boundaries of irrigated acreage, etc., as well as a photograph of the area of use.
3. **STATE LAND USE DISTRICT:** To find out the current Land Use District, contact the Land Use Commission at 587-3822.
4. **CDUP REQUIRED:** If a Conservation District Use Permit (CDUP) is required, enter either: “Yes” and the date the CDUP was approved if you have a CDUP applicable to this project; or “Yes” and “not acquired” in this box. If a CDUP is not required, enter “N” for no in this box. To check if your parcel is in the Conservation District, contact the Land Use Commission at 587-3822. If your parcel is in a Conservation District, contact the Department of Land and Natural Resources Office of Conservation and Coastal Lands at 587-0328 to find out if a CDUP is required.
5. **COUNTY ZONING CODE:** To find out the Zoning Code for your property, call Maui County Planning Department at 270-6279, or 270-7253
6. **SMAP REQUIRED:** If a Special Management Area Permit (SMAP) is required for this project, enter either: “Y” and the date SMAP was approved; or “Y” and “not acquired” in this box. If a SMAP is not required, enter “N” for no in this box. To find out if your property is in a Special Management Area and requires an SMAP, call Maui County Planning Department at 270-8205.
7. **QUANTITY OF USE:** Enter the quantity of use in gallons per day (GPD). Justification for the quantities requested may depend on your answers to items 8 and 9, and you should describe the justification in item 10.
8. **SUBMETERED? (Y/N):** If the specific use is submetered, enter “Y” for yes here. If it is not submetered, enter “N” for no. Submetering is specific to each line item.
9. **UNITS OR ACREAGE:** This is the value and category as the basis for calculating the duty. “Duty” is the amount of water used or requested for a “unit” over a specific time period, e.g. gallons per acre per day, or gallons/acre/day. “Unit” can mean dwelling units, or number of people, or animals. Examples to fill in for this category are: 400 dwelling units, 500 people, 3.74 acres.
10. **APPLICANT’S JUSTIFICATION FOR REQUESTED QUANTITY OF USE FOR ITEM 7:** Explain how you are justifying the amount you are requesting. Attach additional sheets if necessary.

SURFACE WATER USE PERMIT APPLICATION EXISTING USE (NA WAI EHA, MAUI)

TABLE 3: IRRIGATION INFORMATION

If you have grown crops in the year prior to the date of designation, please list all the crops (including landscape and golf course irrigation) that you have grown. Enter a single crop and single TMK per line. If you have multiple crops, list them all as separate line items. Attach additional copies of Table 3 if necessary.

1. USE TAX MAP KEY (TMK): Enter the parcel number where the crop is being grown. Attach a map outlining irrigated area(s) and photos.
2. CROP: Enter the crop type.
3. TOTAL ACREAGE: Enter the total acreage of the parcel listed.
4. NET IRRIGATED ACREAGE: Enter the acreage for the specific crop grown.
5. BEGIN GROWTH PERIOD (MONTH): This is the month of the start of the growth cycle. For perennial crops, list the 12th month prior to the date of designation.
6. END GROWTH PERIOD (MONTH): This is the month of the end of the growth cycle. For perennial crops, list the month of the date of designation.
7. IRRIGATION SYSTEM: Enter one of the following:
 - TRICKLE, DRIP
 - TRICKLE, SPRAY
 - MULTIPLE SPRINKLERS
 - SPRINKLER, CONTAINER NURSERY
 - SPRINKLER, LARGE GUNS
 - SEEPAGE, SUBIRRIGATION
 - CROWN FLOOD
 - FLOOD (TARO)
 - OTHER – Please describe.
8. IRRIGATION PRACTICE: Enter one of the following:
 - IRRIGATE TO FIELD CAPACITY
 - APPLY A FIXED DEPTH PER IRRIGATION
 - DEFICIT IRRIGATION
 - OTHER – Please describe.

TABLE 4: ALTERNATIVES ANALYSIS

Please address every alternative listed in Table 4 and whether or not they are available, for both potable and non-potable needs. Other alternatives on the last line may include stormwater reclamation, rainwater catchment, etc.

Surface water is defined in §174C-3 as *both contained surface water - that is, water upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other watercourses, lakes, reservoirs, and coastal waters subject to state jurisdiction - and diffused surface water - that is, water occurring upon the surface of the ground other than in contained waterbodies. Water from natural springs is surface water when it exits from the spring onto the earth's surface.*

PUBLIC INTEREST

Explain how the uses in your application are consistent with the public interest as described in §174C-2(c): *(t)he state water code shall be liberally interpreted to obtain maximum beneficial use of the waters of the State for purposes such as domestic uses, aquaculture uses, irrigation and other agricultural uses, power development, and commercial and industrial uses. However, adequate provision shall be made for the protection of traditional and customary Hawaiian rights, the protection and procreation of fish and wildlife, the maintenance of proper ecological balance and scenic beauty, and the preservation and enhancement of waters of the State for municipal uses, public recreation, public water supply, agriculture, and navigation. Such objectives are declared to be in the public interest.*

Iao Ditch, Wailuku, Maui, Hawaii

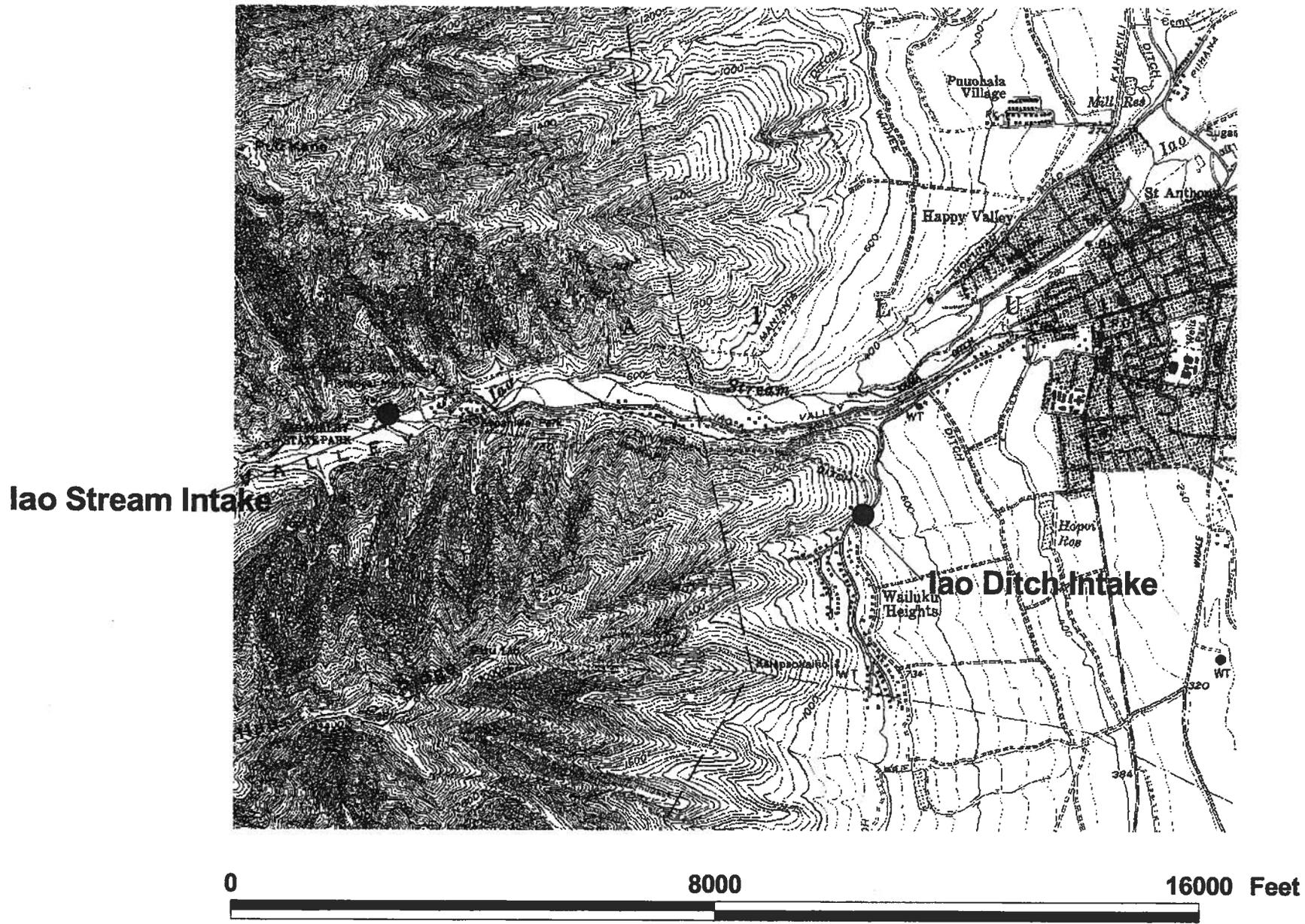
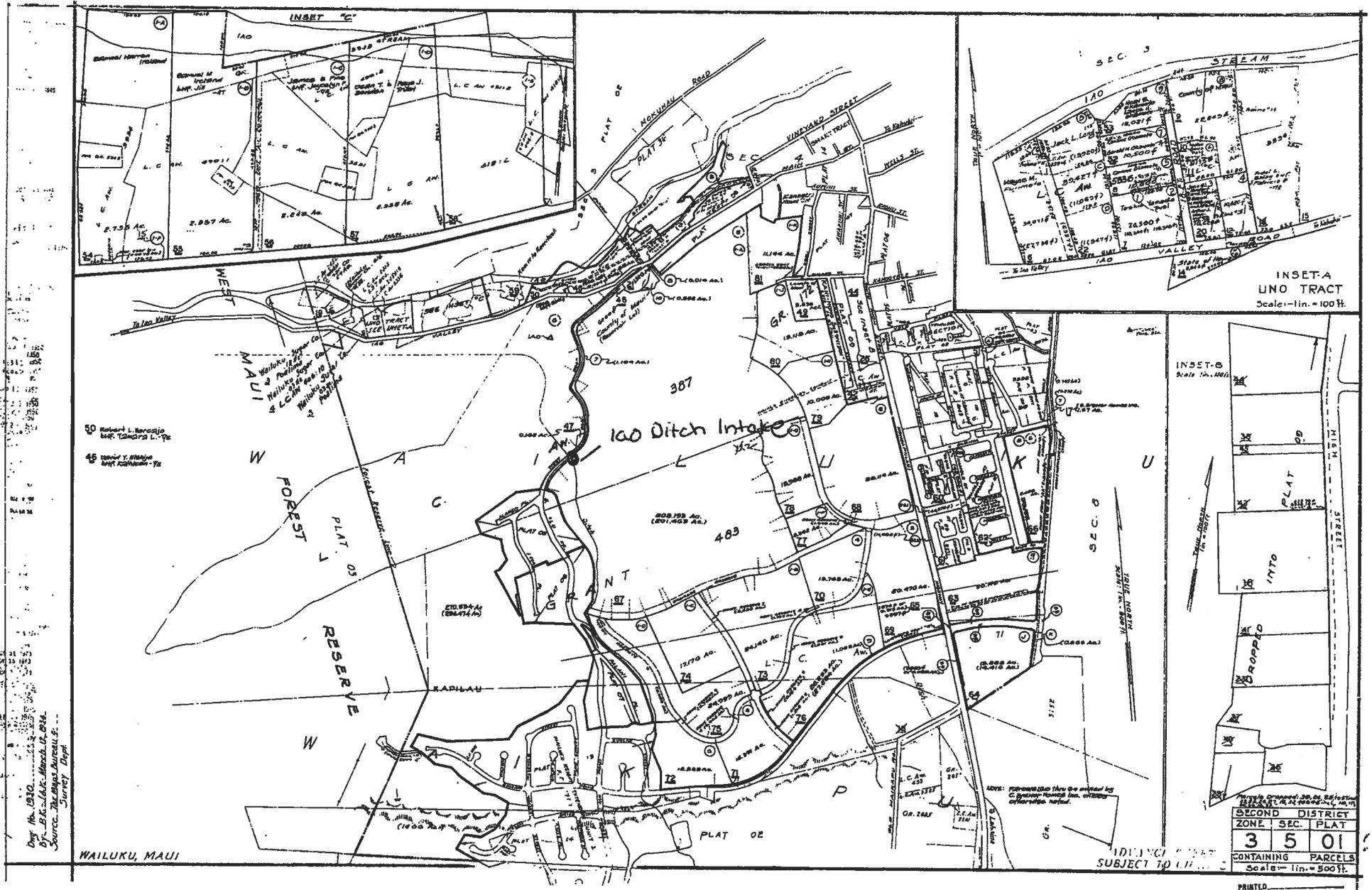


EXHIBIT 2A



Dep't. No. 1930
 D.T. P.C. - 14-3- March 12, 1914.
 Source: The Dept. Bureau of Survey Dept.

WAILUKU, MAUI

INSET A
 UNO TRACT
 Scale - lin. = 100 ft.

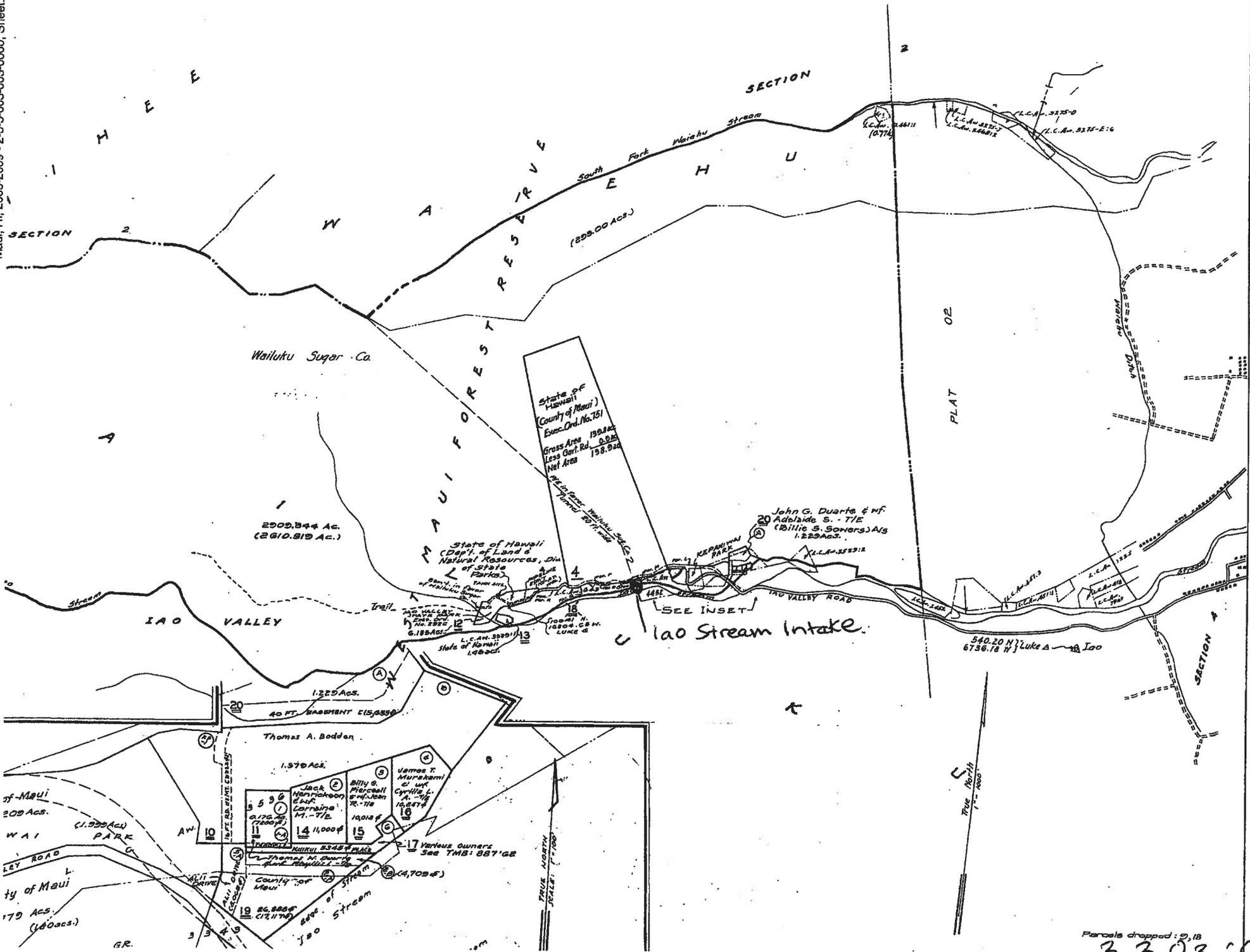
INSET B
 Scale 1/4" = 100 ft.

SECOND DISTRICT		
ZONE	SEC.	PLAT
3	5	01
CONTAINING PARCELS		
Scale - lin. = 500 ft.		

067

PRINTED

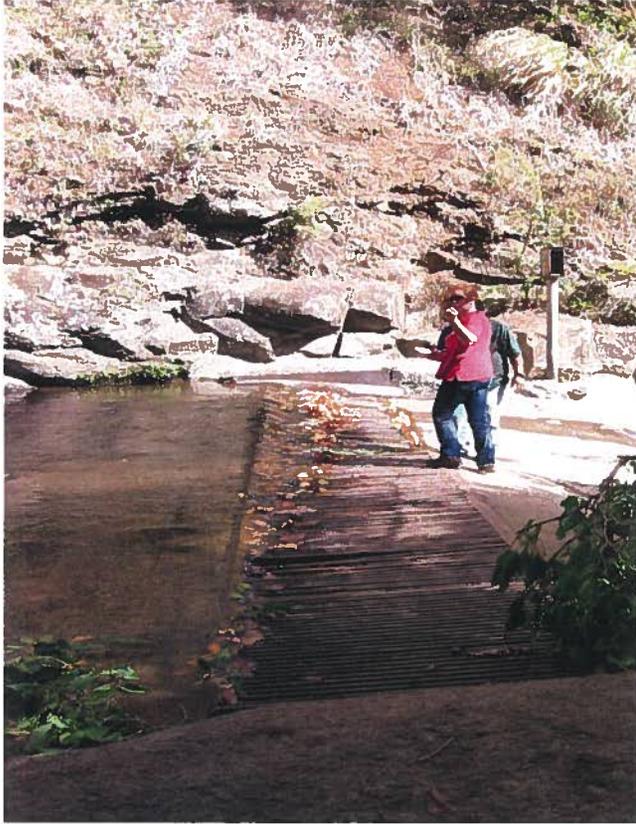
EXHIBIT 2D



Parcels dropped: 9, 18
3303:003

Exhibit 3

Iao Stream Diversion



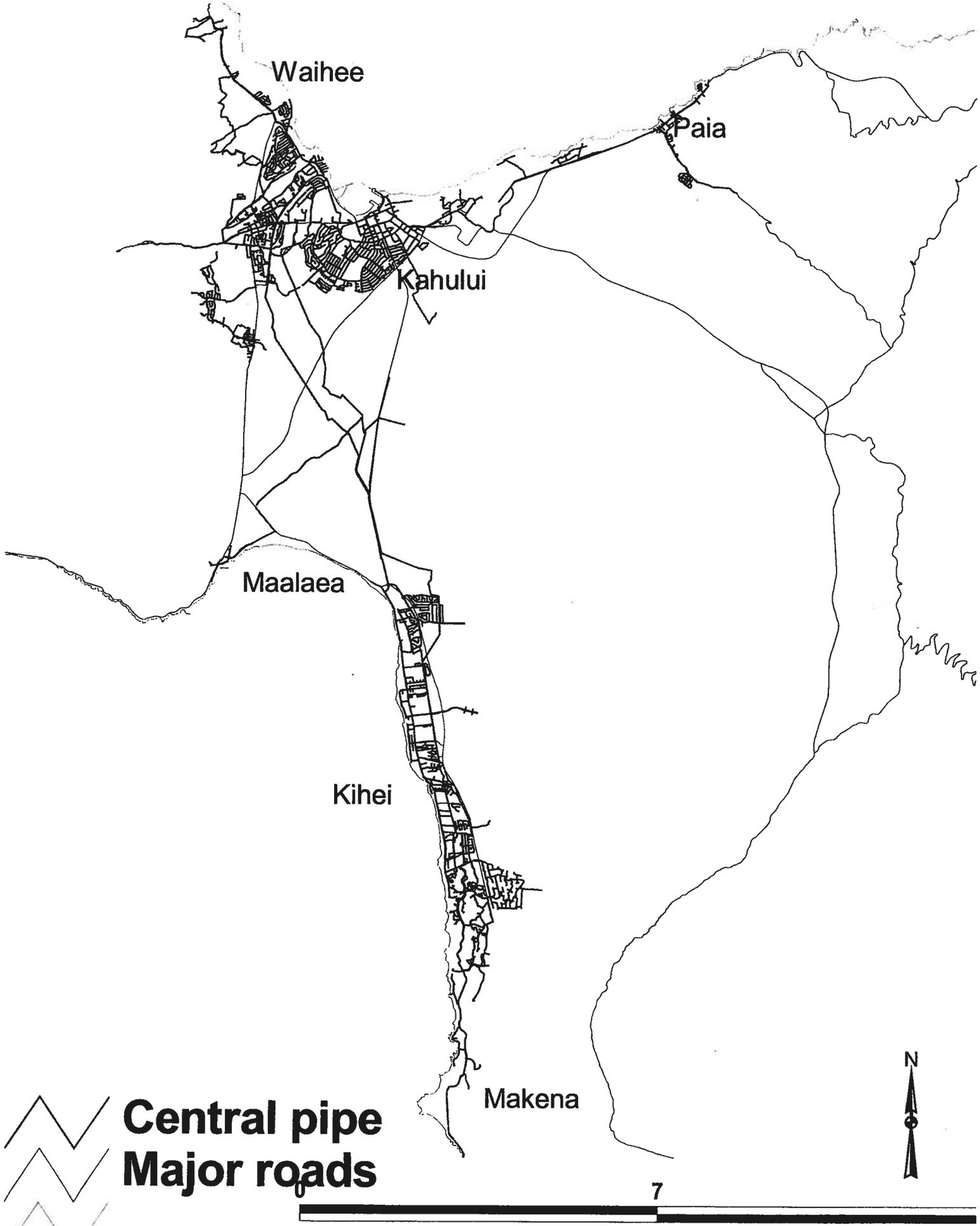
Iao Ditch Intake



Iao Ditch Intake Improvements



Exhibit 4 : Central Maui System Service Area



CHARMAINE TAVARES
Mayor



JEFFREY K. ENG
Director
ERIC H. YAMASHIGE, P.E., L.S.
Deputy Director

DEPARTMENT OF WATER SUPPLY
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793-2155
www.mauewater.org

RECEIVED
COMMISSION ON WATER
RESOURCE MANAGEMENT
2009 APR 24 AM 9:38

April 22, 2009

Honorable Laura H. Thielen, Chairperson
Commission on Water Resource Management
State of Hawaii
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

Dear Chairperson Thielen:

Subject: Supplemental Information for Maui County Department of Water Supply's Applications for Surface Water Use Permit for Existing Use in the Na Wai Eha, Maui and for Surface Water Use Permit for New Use in the Na Wai Eha, Maui

As a result of the Commission's adoption of Declaratory Ruling No. DEC-MA09-S12 at its meeting on April 16, 2009, the Maui County Department of Water Supply requests to supplement its two surface water permit applications with the following information as requested in box 2 of both applications:

Source Landowners' Names:

1. Wailuku Water Company, LLC
Contact: Avery B. Chumbley
255 East Waiko Road
Wailuku, Hawaii 96793
Phone (808) 244-9570
Fax (808) 242-7068
2. County of Maui
Contact: Jeffrey K. Eng
200 South High Street
Wailuku, Hawaii 96793
Phone (808) 270-7816
Fax (808) 270-7951

FILE ID: SWUP. 2178.6
DOC ID: 3341 ✓

FILE ID: SWUP. 2179.6
DOC ID: 3342 ✓

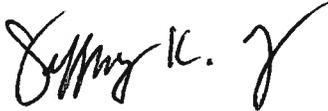
"By Water All Things Find Life"



Honorable Laura H. Thielen
April 22, 2009
Page 2

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey K. Eng". The signature is written in a cursive style with a large, sweeping initial "J".

JEFFREY K. ENG
Director

Xc: Jane E. Lovell, Deputy Corporation Counsel
Edward S. Kushi, Jr., Deputy Corporation Counsel