



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

For Official Use Only:

RECEIVED
COMMISSION ON WATER
RESOURCE MANAGEMENT

2009 APR 23 PM 3:49

Event ID: SWUP.2223.6

SWUP NO.

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 Winifred and Gordon Cockett		Applicant's Contact Winifred Cockett	2. SOURCE LANDOWNER'S NAME Wailuku Water Company LLC		Source Landowner's Contact Avery Chumbley
Applicant's Mailing Address, or Principal Place of Business 1159 Pi'ihana Road Wailuku, Maui 96793			Source Landowner's Mailing Address, or Principal Place of Business 255 East Waiko Road Wailuku, HI 96793		
Applicant's Phone [REDACTED]	Applicant's Fax n/a	Applicant's E-mail [REDACTED]	Source Landowner's Phone [REDACTED]	Source Landowner's Fax [REDACTED]	Source Landowner's E-mail [REDACTED]

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: Weihee/6022 Waiehu/6023 Iao/6024 Waikapu/6001

4a. TMK OF STREAM DIVERSION LOCATION:

3	-	2	-	014	:	001
Zone		Sector		Plat		Parcel

4b. TMK OF DITCH DIVERSION LOCATION:

3	-	4	-	031	:	008
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: See Attached
 Is the diverted water returned to the stream or ditch? Yes. No. If yes, how much water is returned? See Attached

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:
 Describe the device and enter measured amounts in Table 1.
 No. Explain how you are measuring flow to justify amounts shown in Table 1 in the space below
 See attached.

EXISTING USER INFORMATION

7. APPURTENANT RIGHT: Do you claim an appurtenant right for your water use?
 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? Wailuku Water Co.

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): Cockett WL
 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

Signature
 Gordon Cockett
 Print
 Date 4/19/09

12. SOURCE LANDOWNER

Signature
 Print
 Date

FILE ID: SWUP.2223.6
 DOC ID: 3227V

**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	942	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
June 2007	942	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
July 2007	942	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
August 2007	942	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
September 2007	942	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
October 2007	942	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
November 2007	942	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
December 2007	942	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
January 2008	942	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
February 2008	942	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
March 2008	942	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
April 2008	942	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
SUM OF AVERAGE DAILY USE FOR THE MONTH	11,304	GPD				
AVERAGE DAILY USE (Average of the above)	942	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						n/a		GPD	
Uses that do not require potable water									
DOM	3 - 4 - 031 : 008 Zone Sector Plat Parcel	Ag	No	Ag	No	942	No	0.314	See Attached
	- - - - - Zone Sector Plat Parcel								
	- - - - - Zone Sector Plat Parcel								
	- - - - - Zone Sector Plat Parcel								
TOTAL NON-POTABLE USE						942		GPD	
TOTAL USE REQUESTED (Sum of Total Potable Use and Total Non-Potable Use above) =						942		GPD	
If total use requested is not equal to the total monthly average in Table 1, please explain. N/A									
In accordance with §174C-51(5), please explain if there are any limitations (legal, contractual, etc.) on the use(s) of water described above. N/A									

**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.)
<u>3</u> - <u>4</u> - <u>031</u> : <u>008</u> <small>Zone Sector Plat Parcel</small>	Diversifed agriculture	0.65	0.314	Year round	Year round	Other (garden hose)	Field capacity
<u> </u> - <u> </u> - <u> </u> : <u> </u> <small>Zone Sector Plat Parcel</small>							
<u> </u> - <u> </u> - <u> </u> : <u> </u> <small>Zone Sector Plat Parcel</small>							
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<u> </u> - <u> </u> - <u> </u> : <u> </u> <small>Zone Sector Plat Parcel</small>							

**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	n/a	See Attached
Wastewater reuse	n/a	See Attached
Ditch system	n/a	See Attached
Desalinization	n/a	See Attached
Ground water	n/a	See Attached
Other (specify)	n/a	See Attached

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.

See Attached

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.mauipropertytax.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

- I. **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.*

Attachment A: Supplemental Information

Attachment B: 7.5 minute-series USGS topographic maps indicating the diversion points for Waihe`e River, North Waiehu Stream, and `Īao Stream.

Attachment C: TMK Map labeling where we access kuleana water and our area of end use

Attachment D: Photographs depicting our diversion and area of end use

Attachment E: Records from the Māhele of 1848 documenting out appurtenant rights

Attachment A

Supplemental Information for Box 2: Source Landowner

Not applicable pursuant to HRS § 174C-51(1)(B), because applicant does not have a terminable interest in the land which is the source of the permitted water. According to the Water Commission's records, which have not been verified, Wailuku Water Company claims to be the source landowner.

Supplemental Information for Box 5: Stream Diversion

We are kuleana users along a kuleana `auwai that runs through Happy Valley and Wailuku town. This `auwai receives water from **Waihe`e Ditch**, to the north of `Īao Stream, at a point just downstream of where the `Īao-Maniania Ditch drains into the Waihe`e Ditch. The water in Waihe`e Ditch at that point is a mixture of water from **Waihe`e River, North Waiehu Stream, and `Īao Stream**. Water is diverted from Waihe`e River by Waihe`e Ditch at the Waihe`e diversion (see attached USGS topo map). Water diverted from North Waiehu stream enters the Waihe`e Ditch through the North Waiehu Ditch (see attached USGS topo map). Water is diverted from `Īao Stream (see attached USGS topo map) and enters the Waihe`e Ditch via the `Īao-Maniania Ditch. A 6-inch pipe brings **water from Waihe`e Ditch** several miles makai to a location near the old mill in Wailuku. The 6-inch pipe splits into two separate pipes, and one comes towards our home on the north side of `Īao Stream.

We tap water off of this pipe with a smaller pipe to water our yard and plants like banana, ti leaf, noni, crown flower, plumeria, palm, yellow hibiscus, popolo and other Hawaiian herbs, eggplant, and green onions. We water our plants with a garden hose. The water we use is not returned to the `auwai or stream, but it seeps into the ground and helps to recharge the aquifer.

Supplemental Information for Box 7:

Our property has appurtenant rights because at the time of the Māhele of 1848, this land was in kalo. Royal Patent No. 5288 and Land Commission Award 3382 establish our property's appurtenant rights. Attached hereto as ATTACHMENT E are true and correct copies of Māhele records for Land Commission Award No. 3382, Royal Patent No. 5288, and the native and foreign testimonies in support of the claim, which indicate that the land was in kalo.

This land has been in our family for over 60 years, and our land has received kuleana water as long as we can remember. Based on our knowledge of the history of this land and our family, we have no evidence, indication, or any other reason to believe that our appurtenant rights have been extinguished. This application should be granted pursuant to HRS § 174C-63.

Supplemental Information for Table 2, Box 3 through 5:

My existing water use is on land zoned as agricultural. Domestic cultivation of crops such as banana, papaya, ti, and flowering trees such as plumeria and puakenikeni, is consistent with state and county general plans and land use designations. Additionally, this use is consistent with county land use plans and general policies.

Supplemental Information for Table 2, Box 10:

We estimated our existing uses for domestic purposes of 942 gallons per day by multiplying the 2002 State of Hawai'i Water System Standard for Maui County of 3,000 gallons per acre by our total irrigated acreage (0.314), which is our best estimate of the amount of water we used up to the date of designation and have continued to use.

Supplemental Information for Table 4, Alternatives:

Because our land has an appurtenant right to stream water, which is in the nature of an easement that was conveyed with the land at the time of the Māhele, we do not need to demonstrate that we have no practicable alternative source of water. Our appurtenant right is for stream water, not to water from some other source, and our exercise of this appurtenant right enjoys maximum protection and first priority under the law. Moreover, even if we did not have protected rights to stream water, there is no potentially available alternative source that is economically practicable. We maintain our yard and a small, non-commercial garden with our kuleana water supply. As shown below, each potentially available alternative water source is impracticable for a small, non-commercial user like us and would impose a cost on exercising our protected right.

Municipal Sources. First, requiring us to pay for municipal water instead would impose an unfair and impracticable cost on our use and abridge my right to kuleana water. As long as I can remember, we have always used the `auwai water for our domestic needs.

Wastewater reuse. Second, ground water is not a practicable alternative; as a small user engaged in non-commercial gardening, I do not have the means to install and maintain such infrastructure.

Ditch system. Third, reusing wastewater is impracticable because, as a small user engaged in non-commercial gardening, I do not have the means to hookup to and use that water. The closest wastewater treatment plant is in Kahului.

Desalinization. Fourth, desalinization of brackish water is not a practicable alternative because I am not aware of any such plant having been built on Maui. According to the County's estimates, a plant is expected to be built in 2013 at the earliest.

Ground Water. Fifth, using an alternative ditch system is not practicable. I am currently using water from an existing 'auwai. Even if other ditch systems in Nā Wai 'Ehā consistently had enough water to support additional users, it makes no sense to try to connect to these other ditches and or build a new ditch. As a small user engaged in non-commercial gardening, I do not have the means to obtain the property, access, permits and funding necessary for such alternatives.

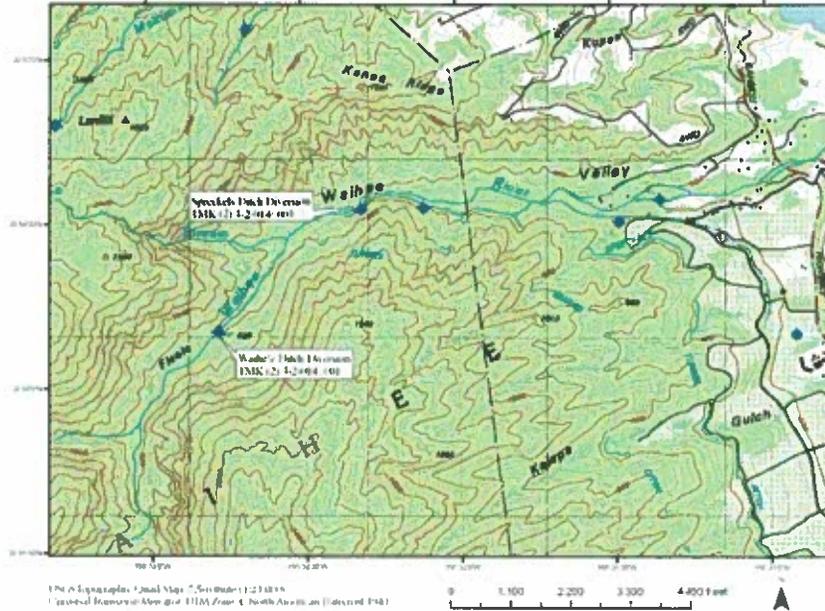
Supplemental Information, Table 4, Public interest:

“As a general matter, water use for diversified agriculture on land zoned for agriculture is consistent with the public interest.” In re Waiāhole Ditch Combined Contested Case, 94 Hawai'i 97, 162, 9 P.3d 409, 474 (2000) (“Waiāhole I”). Thus, our existing use of stream water to grow various crops and plants is in the public interest. In addition, the law specifically protects our individual rights. The public trust doctrine protects the exercise of my “Native Hawaiian and traditional and customary rights” and appurtenant rights as public trust purposes. Waiāhole I, 94 Haw. at 137 & n.34, 9 P.3d at 449 & n.34.

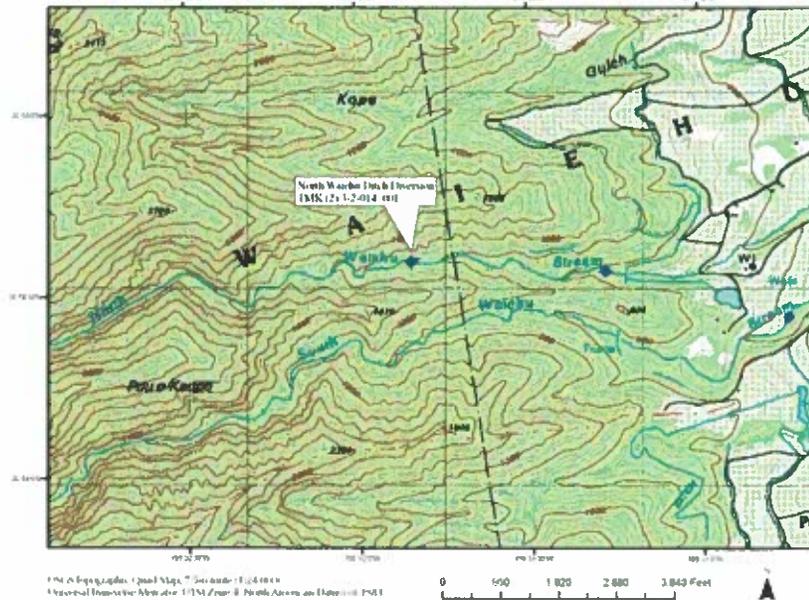
“Reasonable-beneficial use” is defined as “the use of water in such a quantity as is necessary for economic and efficient utilization, for a purpose, and in a manner which is both reasonable and consistent with the state and county land use plans and public interest.” HRS § 174C-3. Our existing use fulfills state policies in favor of reasonable-beneficial uses of water, agriculture, and conservation of agricultural lands. Additionally, we are currently only using the amount we need. If we received less or no water, our yard and plants would suffer. Moreover, we have taken steps to make our water use more efficient. For instance, we use pipes to transfer water to minimize water loss. As detailed above, we have no practicable alternative for our existing water use. Therefore, the amount of water we have requested is reasonable-beneficial.

ATTACHMENT B: USGS MAPS

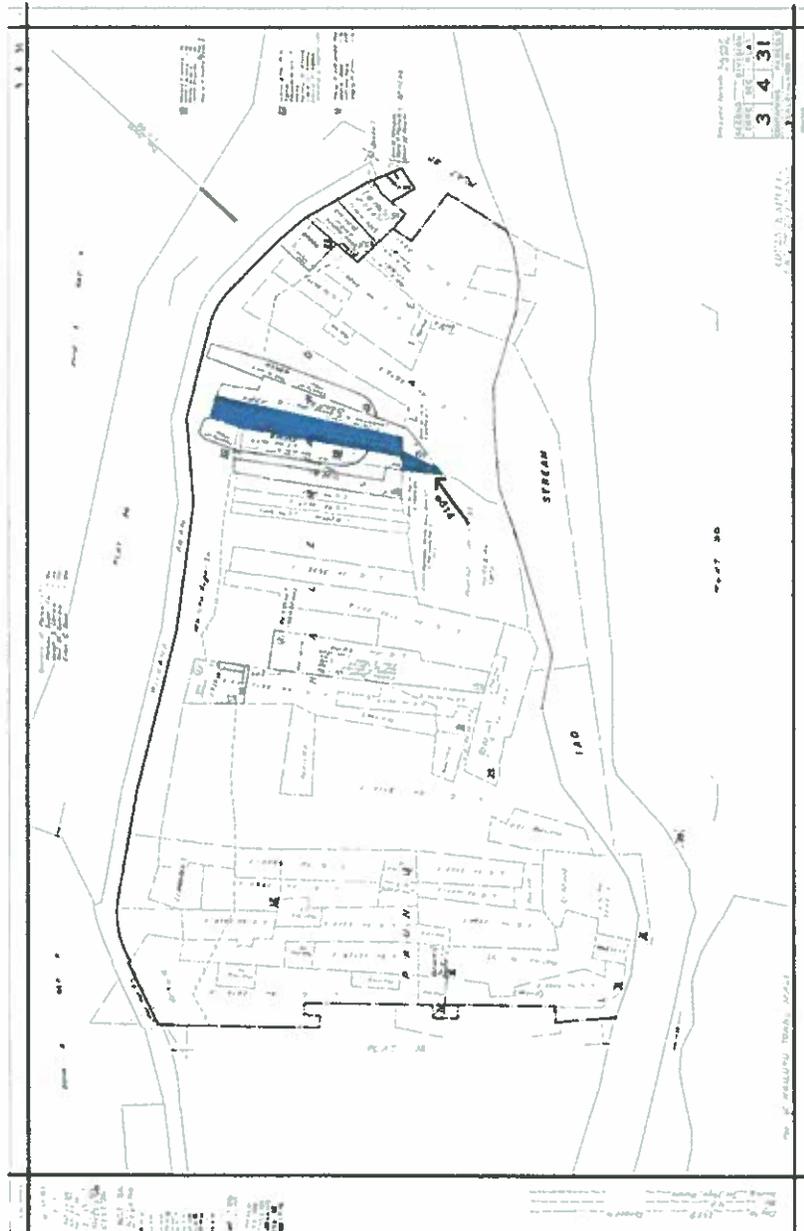
Topographic map of the Waibe'e ahupua'a in central Maui, Hawaii (Source: U.S. Geological Survey, 1996).



Topographic map of the Waichu ahupua'a in central Maui, Hawaii (Source: U.S. Geological Survey, 1996).



ATTACHMENT C: TMK MAP



This is a true and correct copy of TMK No. 3-4-031-008.

ATTACHMENT D: PICTURES



These are true and correct copies of photographs taken on January 5, 2008 (top) and Sept. 8, 2007 (bottom) that accurately depict the pipes that bring kuleana water to our home. The top photograph is where the pipe from Waihe`e Ditch splits to bring water to our house. The bottom photo depicts one of the hoses we use to water our plants.





These are true and correct copies of photographs taken on Sept. 8, 2007 (top) and October 25, 2008 (bottom) that accurately depict some of our end uses.

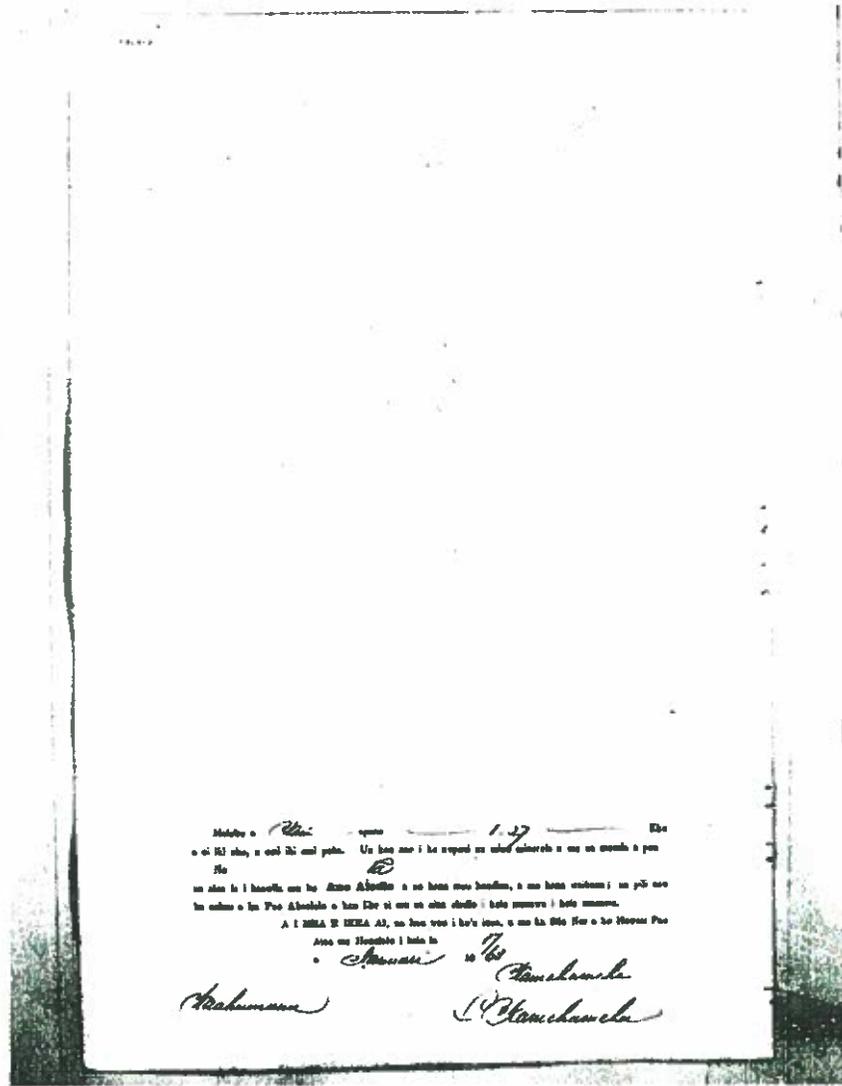


WINNIFRED AND GORDON COCKETT

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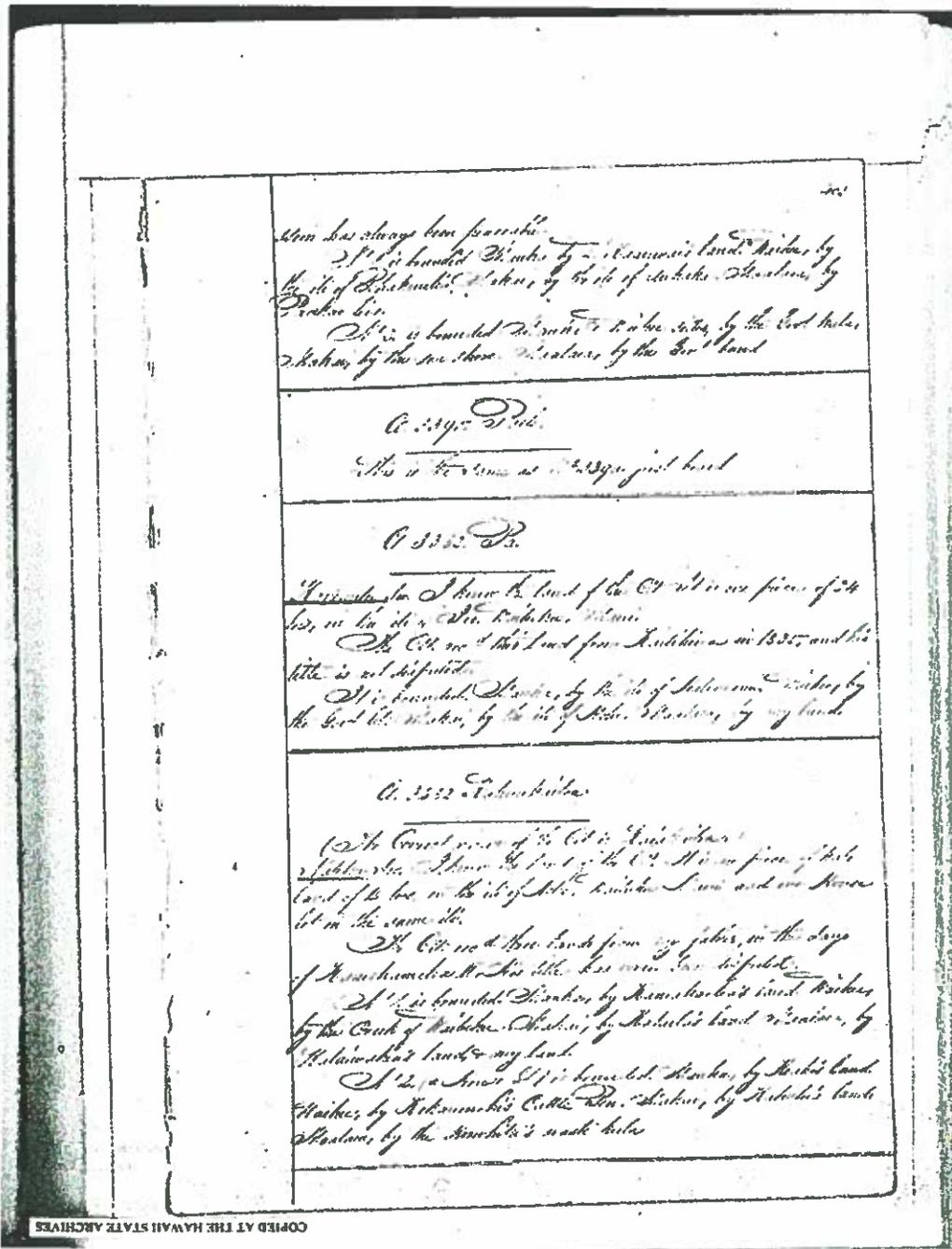


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No. 3395 - Paele

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This is the same as No. 3390 and is entered in that number.

No. 3382 Pa

Kaneiaulu sworn: I know his 24 lo'i at Iao, in Wailuku.

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They were from Kailihiwa in 1835. There is no opposition. They are bounded mauka by the 'Ili of Halemano, Waihee by the government land boundary wall, makai by the 'Ili of Holu, Maalaea by my land.

No. 3482 - Kaiakailoa July 6, 1849

Nalehu sworn: I know his land at Wailuku, there are two parcels.

- Parcel 1. 14 lo'i, and the kula, at Nehe
- " 2. House lot at Nehe

His land was from Kekuamamaawa in the time of Kamehameha II. There is no opposition.

- 1. is bounded mauka by Kamakaolea, Waihee by stream, makai by Kahula, Maalaea by Kalawehea and Nalehu.
- 2. is bounded mauka by Keaho, Waihee by M. Kekauonohi, makai by Kahulu, Maalaea by the kula of Kekuamamaawa.

No. 3471 - Kekuamamaawa

Kekalaiwahea sworn: I know his land in Wailuku.

Parcel 1. A pauku of taro at Nehe.

- " 2. Kula land "
- " 3. 1 lo'i "
- " 4. 1 " "
- " 5. 3 " Pohoiki
- " 6. 1 " Pohoiki
- " 7. 1 " Lamalii

This is an ancient land, from the time of Kamehameha I. He lived there are died in 1848. Heirs were his keiki, Nalehu, and his makuahine, Noholoa. There are no objections.

- 1. is bounded mauka by Kekueo, Waihee by my land, makai by Kaianui, Maalaea, by the government lot.
- 2. is bounded mauka by lo'i pa'ahao, Waihee by government lati, makai, the same, Maalaea, my land.
- 3. is bounded mauka by Kahula, Waihee, the same, makai by lo'i pa'ahao, Maalaea by Kahula. Page 600
- 4. is bounded mauka by my land, Waihee by Kaiakailoa, makai by my land, Maalaea by Kahula.
- 5. is bounded mauka by Naea, Waihee by government lati, makai by Naea, Maalaea by Kahula.
- 6. is bounded mauka by Hoopiaina, Waihee, the same, makai by Kaupauli, Maalaea by Hoopiaina.
- 7. is bounded mauka by Kamaka, Waihee by Pooa, makai; the same, Maalaea, by Naea.