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

For Official Use Only:
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COMMISSION ON WATER RESOURCE MANAGEMENT
2009 APR 23 PM 3:45
Event ID: SWUP.2225.6

SWUP NO. 29

FORM SWUPA-E (NA WAI EHA, MAUI)

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	Applicant's Contact	2. SOURCE LANDOWNER'S NAME	Source Landowner's Contact
Michael Doherty		Wailuku Water Company LLC	Avery Chumbley

Applicant's Mailing Address, or Principal Place of Business	Source Landowner's Mailing Address, or Principal Place of Business
41 Waihee Valley Rd. Wailuku, HI 96793	255 East Waiko Road Wailuku, HI 96793

Applicant's Phone	Applicant's Fax	Applicant's E-mail	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 (Zone) - 2 (Sector) - 014 (Plat) : 001 (Parcel)

4b. TMK OF DITCH DIVERSION LOCATION: 3 (Zone) - 2 (Sector) - 005 (Plat) : 019 (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 addendum

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

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 addendum

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? Wailuku Water Company

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): WALLACE BL

☐ 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
Michael Doherty 4.19.09 Signature	Signature
MICHAEL DOHERTY 4/19/09 Print Date	Print Date

FILE ID: SWUP. 2225.6
DOC ID: 3229 ✓

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	302,250	☐	☒	☐	☐	
June 2007	302,250	☐	☒	☐	☐	
July 2007	302,250	☐	☒	☐	☐	
August 2007	302,250	☐	☒	☐	☐	
September 2007	302,250	☐	☒	☐	☐	
October 2007	302,250	☐	☒	☐	☐	
November 2007	302,250	☐	☒	☐	☐	
December 2007	302,250	☐	☒	☐	☐	
January 2008	302,250	☐	☒	☐	☐	
February 2008	302,250	☐	☒	☐	☐	
March 2008	302,250	☐	☒	☐	☐	
April 2008	302,250	☐	☒	☐	☐	
SUM OF AVERAGE DAILY USE FOR THE MONTH	3,627,000	**GPD**				
AVERAGE DAILY USE (Average of the above)	302,250	**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									
AGRCP	3 - 2 - 005 : 007 Zone Sector Plat Parcel	RURAL	No	RU-0.5	No	264,000	No	0.88	See addendum
DOM	3 - 2 - 005 : 007 Zone Sector Plat Parcel	RURAL	No	RU-0.5	No	2,250	No	0.75	See addendum
AGRCP	3 - 2 - 005 : 006 Zone Sector Plat Parcel	RURAL	No	RU-0.5	No	21,000	No	0.07	See addendum
AGRCP	3 - 2 - 005 : 008 Zone Sector Plat Parcel	RURAL	No	RU-0.5	No	15,000	No	0.05	See addendum
					TOTAL NON-POTABLE USE	302,250	GPD		
					TOTAL USE REQUESTED (Sum of Total Potable Use and Total Non-Potable Use above) =	302,250	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.)
3 - 2 - 005 : 007 (Zone - Sector - Plat : Parcel)	Wetland kalo	2.825	0.88	Annual	Annual	Flood (taro)	Field capacity
3 - 2 - 005 : 007 (Zone - Sector - Plat : Parcel)	Diversified agriculture	2.825	0.75	Annual	Annual	Crown Flood	Field capacity
3 - 2 - 005 : 006 (Zone - Sector - Plat : Parcel)	Wetland kalo	0.07	0.07	Annual	Annual	Flood (taro)	Field capacity
3 - 2 - 005 : 008 (Zone - Sector - Plat : Parcel)	Wetland kalo	0.05	0.05	Annual	Annual	Flood (taro)	Field capacity
- - : (Zone - Sector - Plat : Parcel)							
- - : (Zone - Sector - Plat : Parcel)							
- - : (Zone - Sector - Plat : Parcel)							
- - : (Zone - Sector - Plat : Parcel)							
- - : (Zone - Sector - Plat : Parcel)							
- - : (Zone - Sector - Plat : Parcel)							

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 addendum
Wastewater reuse	N/A	See addendum
Ditch system	N/A	See addendum
Desalinization	N/A	See addendum
Ground water	N/A	See addendum
Other (specify)	N/A	See addendum

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 addendum

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

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
IRRPA	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.*

Addendum

Attachments

Appended hereto as Exhibit A is a copy of the 7.5 minute-series USGS topographic map with Waihe'e River and the stream diversions labeled. Exhibit B is a TMK map showing the location of our property, the location of the 'auwai diversion, and the area of our existing end uses. Exhibits C and D contain copies of photographs of our `auwai diversion and a portion of the area of our existing use. Exhibit E is described below.

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.

Box 5: Stream Diversion

We are kuleana users along the kuleana `auwai that runs to the south of Waihe`e River. Water is diverted from Waihe`e River at the Waihe`e and Spreckels diversions (see attached USGS topo map). All the water from the Spreckels diversion enters the Spreckels Ditch, as does some water from the Waihe`e diversion. The South Waihe`e kuleana `auwai receives water via a pipe in the Spreckels Ditch. The pipe empties into an open `auwai on the south side of Waihe`e River. The water continues makai in the ditch and pipes down Waihe`e Valley Road until it passes adjacent to the northern side of our property. We divert some water at two points on the `auwai via two open ditches. After flowing through our lo`i kalo, the water that does not seep into the soil or evaporate is returned to a different branch of the South Waihe`e kuleana `auwai that runs adjacent to the southern boundary of our property. The water in the `auwai eventually returns to Waihe`e River.

Box 7: Appurtenant Rights

Our property has appurtenant rights because it was in kalo cultivation at the time of the Māhele of 1848. In fact, almost all of the stream water we currently use is for wetland kalo cultivation in ancient lo`i kalo that have been continuously cultivated since ancient times. Attached hereto as Exhibit E are true and correct copies of Māhele records for Land Commission Award No. 4405-NN, Royal Patent No. 5104; Land Commission Award No. 3770:1; Land Commission Award No. 4295:1, Royal Patent No. 5401; and Land Commission Award No. 3995:3, Royal Patent No. 5360, including the testimonies in support of these claims, indicating the land was in kalo. In addition, two of our TMKs are poalima. This land has been in our family since at least the 1890s, and based on my knowledge of the history of this kuleana and our family, I 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.

Table 2, Box 10: Justification for Requested Quantity

I estimated our existing water use for wetland kalo cultivation by multiplying the amount of land we had in wetland kalo cultivation on April 30, 2008 (about 1 acre) by 300,000 gallons, the average amount of water I understand is required to grow healthy wetland kalo. I estimated our existing domestic water use of 2,250 gallons per day, including our use of water outside our home for watering our plants like bananas, ti-leaf, papaya, watermelon, yams, and peanuts, by multiplying the 2002 State of Hawai`i Water System Standard for Maui County of 3,000 gallons per acre by the amount of land on which I grow fruits, vegetables, and other plants for my family's subsistence and use (about 0.75 acres)

Table 4: Alternatives Analysis

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. Similarly, our traditional and customary right as Native Hawaiians is to cultivate kalo on our land in the traditional manner, not in some other manner using alternative, non-traditional sources, and this traditional and customary right is constitutionally protected.

Moreover, even if we did not have protected rights to stream water, there is no potentially available alternative source that is economically practicable. We cultivate kalo on our land for cultural and subsistence purposes; the kalo we grow feeds our `ohana and is shared with neighbors and community members. An alternative water source that would require us to pay for the volumes of constantly flowing water in our lo`i necessary to keep temperatures cool and support healthy kalo, would make our use economically impossible. We would effectively be denied our appurtenant right and traditional and customary right to grow kalo on our land. As shown below, each potentially available alternative water source imposes a cost on exercising our protected rights.

Municipal Sources. Our domestic water service is a typical residential service and does not have the capacity to deliver the volumes of water we require. Even if the Maui County Department of Water Supply were willing to provide municipal water for kalo cultivation by installing a larger water meter, the cost of using municipal water for such purposes would be prohibitive. Additionally, water from the Maui County Department of Water Supply is chlorinated, which is detrimental and unsuitable for wetland kalo.

Wastewater reuse. Reusing wastewater is impracticable because we would still be required to pay for large volumes of flowing water. As a small user engaged in traditional uses and non-commercial gardening, we do not have the means to hookup to and use that water. The closest wastewater treatment plant is in Kahului.

Ditch system. We are currently using water from an existing `auwai, although water is not available consistently and in sufficient amounts to support the existing uses on our system, including our own uses (see concurrently filed SWUPA-N). Getting water from other ditch systems is not practicable. First, the other ditch systems in Nā Wai 'Ehā do not consistently have enough water to support additional users. Second, we lack the property, access, permissions and funding necessary to permit and construct an additional ditch diversion. As a small user engaged in traditional uses and non-commercial gardening, the cost of taking water from or constructing another ditch is not practicable.

Desalinization. Desalinization of brackish water is not a practicable alternative because we are 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. Even if we were able to secure the permits necessary to drill a well and pump ground water for our uses, installing and operating such a well to provide flowing water for kalo cultivation would be unprecedented and extremely burdensome. As a small user engaged in traditional uses and non-commercial gardening, we do not have the means to install and maintain such infrastructure.

Table 4: Public Interest

Our Existing Use is Consistent with the Public Interest

Generally, "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"). Further, HRS § 174C-2(c) provides that the protection of traditional and customary Hawaiian rights, agriculture, and the maintenance of proper ecological balance and scenic beauty are "in the public interest." Our existing water use is predominantly for kalo cultivation. We grow kalo in traditional ways and use it for home, ceremonial, and educational purposes. We also grow fruit, vegetables, and other plants for our subsistence and use. My `ohana is Native Hawaiian, and we are engaged in traditional agricultural practices. In addition, our crops help maintain ecological balance and scenic beauty. As such, our existing use of stream water is consistent with the public interest.

Our Existing Use is a Protected Public Trust Purpose

Kalo cultivation by Native Hawaiians and the exercise of appurtenant rights are also protected public trust purposes. Waiāhole I, 94 Haw. at 137 & n.34, 9 P.3d at 449 & n.34; see also Haw. Const. art XII, § 7 (protecting traditional and customary Native Hawaiian rights); HRS § 174C-101(c) (specifically protecting the right to cultivate kalo on one's own kuleana). Additionally, because much of the water we use is returned to the `auwai and eventually Waihe`e River, our use supports other public trust purposes such as: (1) the maintenance of

waters in their natural state; (2) resource protection; (3) water for domestic purposes; and (4) the protection of traditional and customary Native Hawaiian rights and appurtenant rights.

Our Existing Use Supports Beneficial Instream Uses

Because we return much of the water we divert for kalo cultivation to Waihe'e River, our existing use also supports beneficial instream uses such as: (1) the maintenance of fish and wildlife habitats; (2) outdoor recreational activities; (3) maintenance of ecosystems such as estuaries, wetlands, and stream vegetation; (4) aesthetic values such as waterfalls and scenic waterways; (5) maintenance of water quality; (6) the conveyance of irrigation and domestic water supplies to downstream points of diversion; and (7) the protection of traditional and customary Native Hawaiian rights. See HRS § 174C-3.

Our Existing Use is a "Reasonable-Beneficial Use"

"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. As indicated, our existing use of stream water is consistent with state and county land use plans and the public interest. It is also "economic and efficient" because we only use the amount we need. We take steps to make our water use efficient. For instance, we use pipes where appropriate, and our farming practices include the use of mulch to protect the soil from erosion and minimize the use of water. Therefore, our use is "reasonable-beneficial."

Exhibit A:

USGS Map of Waihe`e River and Diversions

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

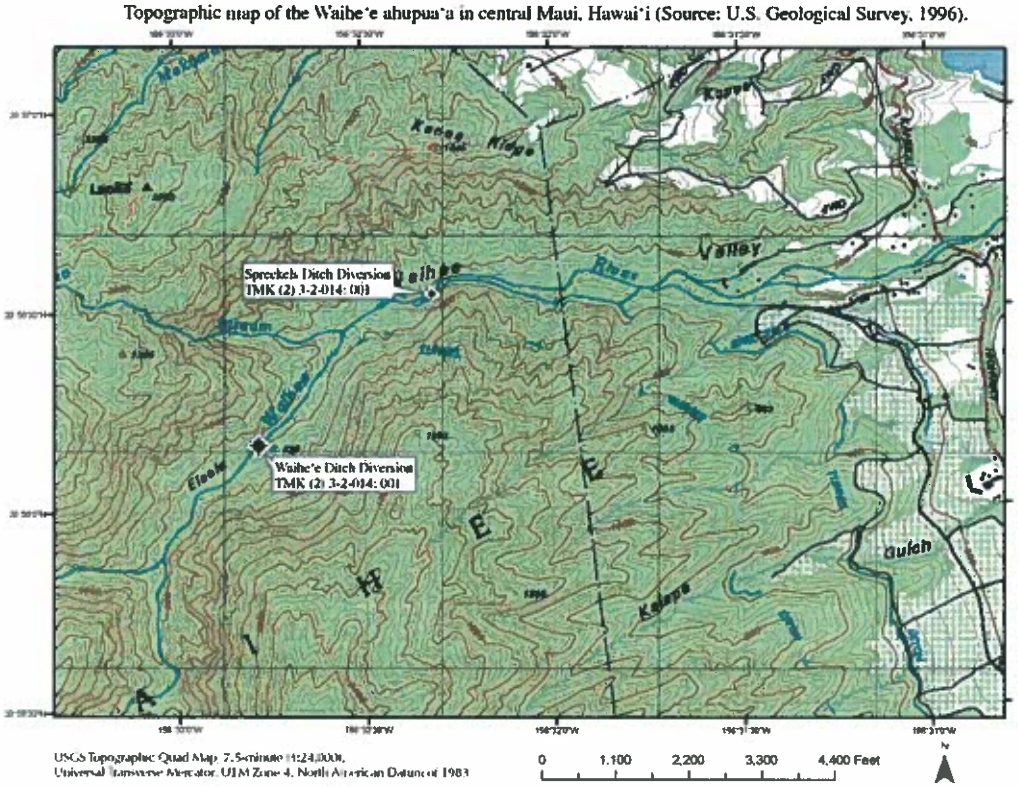


Exhibit B:

TMK Map Indicating Our Diversion Points and Area of End Use

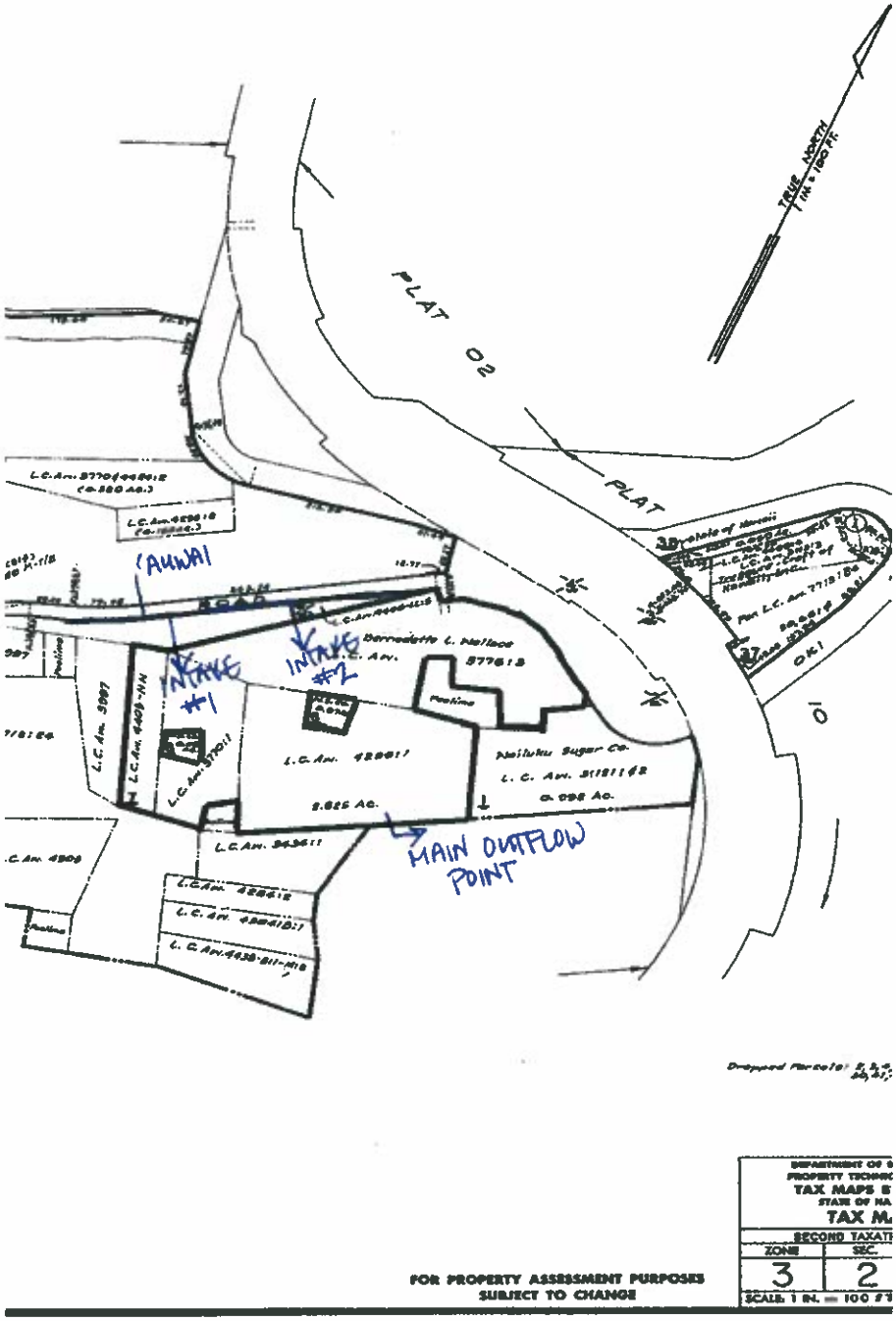


Exhibit C:

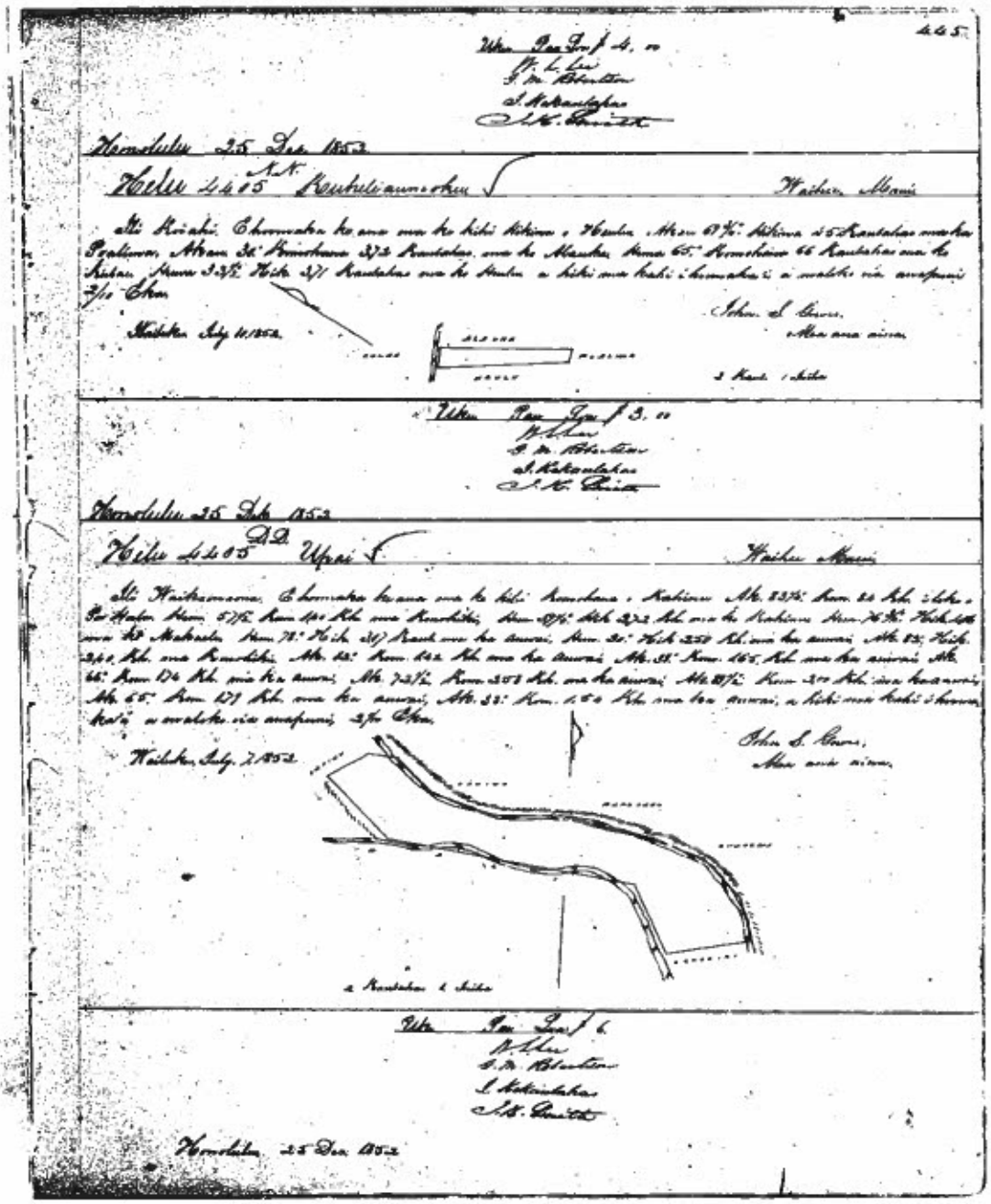
Photograph of `Auwai Diversion

Exhibit D:

Photographs of End Uses: Wetland Kalo

Exhibit E: Māhele records

Land Commission Award No. 4405-NN, Royal Patent 5104, and supporting testimonies



HELU.....5804

PALAPALA SILA NUI.

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

NO NA MEA, Ua hoohelo na Luna Hoona i na kama kuleana aina i ka olelo, ke kuleana olelo ke Kuheleanmoku Kuleana Helu.....4405 5.N

ma ke Ano Aledio iloko o kahi i olelola malalo.

Nolaila, ma kuia Palapala Sila Nui, ke hoike aku nei o Kamehameha IV. ke Alii nui a ke Akua i kona lokomaikai i hoonoho ai malana o ke Hawaii Pae Aina, i na kanaka a pau, i kuia la nona iho, a no kona mau hope alii, na hawaii aku oia ma ke Ano Aledio la Kuheleanmoku i kela wahi a pau loa ma Waiehu ma ka mokupuni o Maui pensi na mokuna,

Ai Kuiihi

Enoomaka ma ke Kahi Hik o Kaulu o Koh

Akau	69 3/4	Hik	0.45	Kaul	ma Poalenia
"	30	Kom	3.72	"	" Alauka
Hema	65	"	66	"	" Kulae
"	33½	Hik	3.70		" Kaulu

30/100 Eka

430

Maloko o Aiea apaa 50/100 Eka
o ei iki aku, o emi iki emi peha. Ua koe uae i ke aupuni ua mae mioerela a me ua metela a pau.

No Aukekaumoku
ua aina la i hoewia ma ke **Ano Alodio** a ua kaua mae hoeilina, a me kaua waikoea; ua pili nae ka aoloo a ka Pae Ahaolelo e kau like ai ma ua aina alodio i kela manawa i kela manawa.

A I MEA E IKEA AI, ua kau wae i ke'a inoa, a me ka Sila Noi o ka Hawaii Pae Aina ma Honolulu i kaia la

o September 1862

Kamehameha
L Kamehameha

Kaahumanu

295

Manka Ili o Kamohoe, Ma Kahakulua Kuhaunui
Makai Ili o Kikpelepe 2. Ma Waiheku Ili o Paulani.

N N

4405 Kuheleaumoku Julai 27.
J. J. Kaawa Hoohikiia
Ua lohe au na Kekahio i Kakau mamua o 1848
Kaawa Hoohikiia
Ua ike au i apana i 9 Loi meloko, ma ka ili o Koiahi ma Waihee. No George R. mai kona i ka 1847, no Kanakahi mai ko George. Ua make o Kuheleaumoku i Febuari 1849, o kona hooilina o kana wahine o Hokii, ade keakea.
Manka Heulu, Ma Kahakulua Kuhai, Makai Kamoki
Ma Waiheku Ili aina o Kikpelepe.

O O

4405 Kaumi Julai 27
Hoohikiia keia mai Kuheleaumoku
i oklo mai la. Ua ike no na Kekahio i Kakau imua 1848
Kaoka Hoohikiia
Ua ike au 2 apana makia mai ili aina ma Waihee
Apr. Aina Kalo me Kula ma Kamoki
2. Aina Kalo me Kula ma Kolea
No Kuihelani mai ko Kaumi i ka 1843. No Mikekuanaoa mai ko Kuihelani. 2 Poalima ma ka apana mua, a 4 Poalima ma ka apana 2. Ade mea keakea.
Manka Nuhi, Ma Kahakulua Pali, Makai Mahi,
Ma Waiheku Kahumai.
Manka Konohiki, Ma Kahakulua Pa Aina, Makai Kai. Ma Waiheku Ili o Kapumaiki.

4284 Kekumoku Julai 27
J. J. Kaawa Hoohikiia
Ua ike au i apana ma Palenkauila ma Waihee, e 8 Loi meloko okeia apana. No Laahili mai kona 1844. No Mikekuanaoa mai ko Laahili. Ua make o Kekumoku i ka malama

N N
Ct. 4405 Kuhikaumoku

Kaaua Sw. The Cts land is 9 lots, in the ili of Kiahi. Waihee. Maui.
The Claimant received it from Kuoki in 1847, and he from Kamakahi in 1842, and he from Hoapili wahine. His title was never disputed up to his death in February last. His heir is Hoohii his widow.
It is bounded Mauka, by Heulu's land. Kahakuloa, by Kaalai's land. Makai, by Kamoku's land. Wailuku, by Kalepelepe an ili.

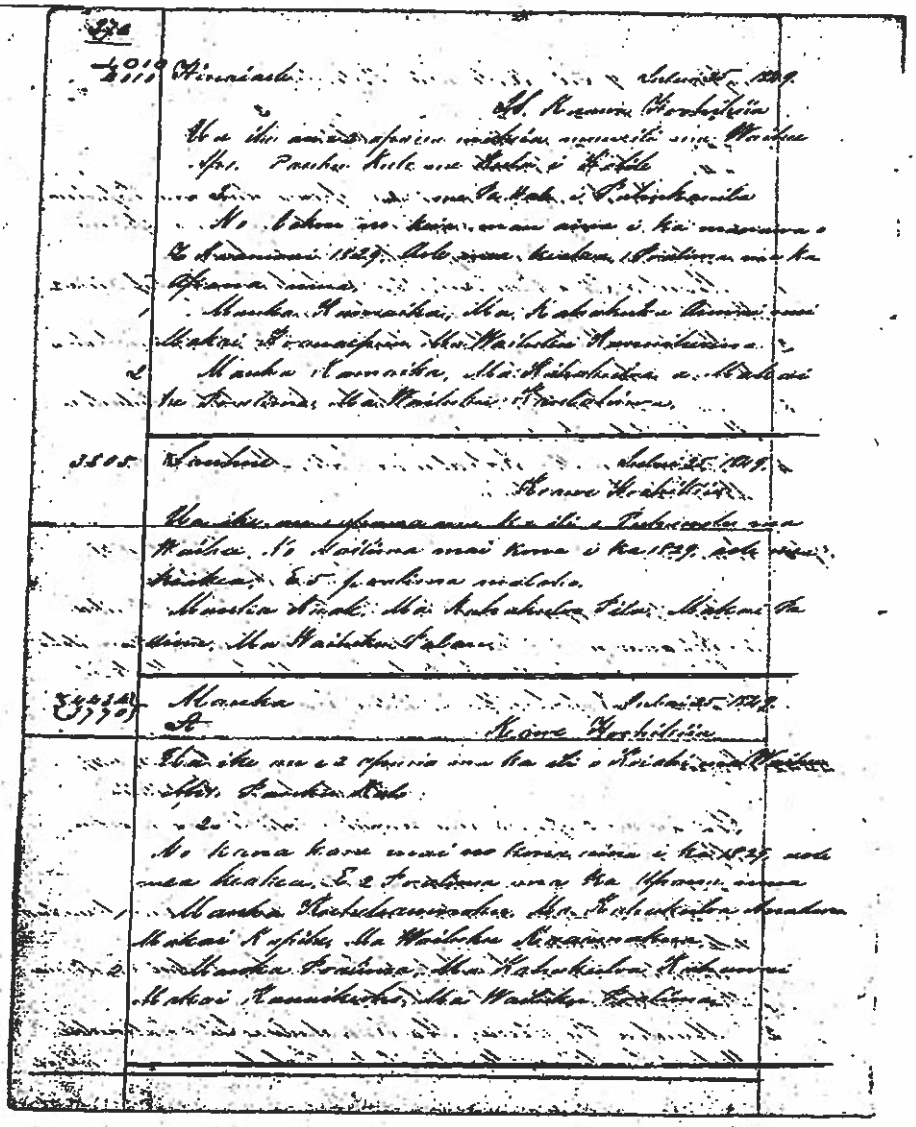
O O
Ct. 4405 Kaunui

The Claimant made the requisite oath.
Kaohae Sw. The Cts land consists of 2 pieces in Waihee, Maui.
No 1 is kali and kula land in Nuk 1.
" 2 " " " " " Kolea
The Claimant these lands from Kuihelani in 1863, and he from Govr Kekuanaoa. His title was never disputed. There are 2 pralima in No 1 and 4 in No 2.
No 1 is bounded Mauka, by Nahi's land. Kahakuloa, by the Pali. Makai, by Mahi's land. Wailuku, by the Creek.
No 2 is bounded Mauka, by the Kamhiki's kula. Kahakuloa, by the Govt Lot. Makai, by the sea shore. Wailuku, by the ili of Kapunaiki.

Ct. 4286 Kekumoku

N. T. Kaauwa Sw. I know but one of the Cts lands. It is 10 lots in the ili of Pankauiba. Waihee. Maui.
The Claimant received it from Lanhili in 1846, and he from Govr Kekuanaoa. His title was not disputed up to his death in June last. His heir is his widow Koholani.
It is bounded Mauka, by the Paahao lot. Kahakuloa, by Kaohai's land. Makai, by the same. Wailuku, by Kaumihiana's land.
Lanpahulu Sw. The Claimant has one piece of 9 lots in the ili of Kalepelepe 2nd. He received it from L. Kaauwai in 1837. His title

Testimony in support of Land Commission Award No. 3770



Waikee 33.

Cl. 3770 & 4236. Mauka. K.

Kaane Sw. The Elts land consists of two pieces in the ili of Koiahi. Waikee. Maui.

No. 1 is a section of lois.

" 2 " " " "

The Claimant received it from her husband in 1829. Her title is not disputed. There are 2 poalima lois in No. 1.

No. 1 is bounded. Mauka, by Kahelemoku's land. Kahakuloa, by Anakaka's land. Makai, by Kapaka's land. Wailuku, by Kaaamahua's land.

No. 2 is bounded. Mauka, by the poalima lois. Kahakuloa, by the Creek. Makai, by Kaauwaikoko's land. Wailuku, by the Poalima lois.

Cl. 4431. Kaumaka.

Kahinu Sw. The Elts land consists of 2 pieces in Waikee. Maui.

No. 1 is a section of lois in Kahipahu.

" 2 " 3 lois in Kahilinamaia.

The Claimant received No. 1 from me in 1829, and No. 2 from Kaholoaulani at the same time. His title was never disputed. There are 2 poalima lois in No. 1.

No. 1 is bounded. Mauka, by the Poalima lois. Kahakuloa, by my land. Makai, by the Poalima lois. Wailuku, by the Creek.

No. 2 is bounded. Mauka, by the ili of Laukue. Kahakuloa, by Kaholoaulani's land. Makai, by the same. Wailuku, by Kaualua's land.

Cl. 3701. Makaonama.

Kahinu Sw. The Elts land consists of 3 pieces in Waikee. Maui.

No. 1 is a section of lois and huba, in Naile.

" 2 " " " " in Pahukauwila.

" 3 " 6 lois in the ili of Laukue.

The Claimant received No. 1 from Kaauwai in 1829.

122

3770B Paiki Waihee Jan. 1. 1848.

Ili aina o Papaina 16 loi
Mp no Kawao mai kou. Koiahi 7 loi
no Kanahele mai kou. Ahukolea
6 loi no Kaaiai mai kou, Ohia
1 loi no Puka mai kou, 1 kula
Maninole II Mana kahawai no
Kumaolelani mai kou.
Na Paiki

3771 Alauka Waihee Jan. 1. 1848.

Ili aina o Koiahi 16 loi
Mp no Kauakahi mai kou
Na Alauka
Ili aina o Koiahi 12 loi no Kaua
kahi mai kou mak. Ak. ko
Kuei ma ka H. Kalepelepe ma ke
H. ko Keula ma ka hikina ko.
Alauka Na Alauka

3772 Alapai

Aloha na Luna poona
Mp kuleana. he palapala hai akou
ia oukou i ke kuleana loi, 8 loi
3 moo uala, hookahi kahuahale.
no Moku mai keia kuleana loi
uia ma Punkolea ohilo. Ma ke
Ahupuaa iha moo uala, a me ka-
hi kahuahale, 4 puhala moena
a me ka laau, aole mea nana
i keakea mai a hiki i keia wa
no Pikao mai kekuleana moo
uala ou
Olowalu Na Alapai
20 Jan. 1848.

Land Commission Award No. 4295:1, Royal Patent 5401, and supporting testimonies

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Uhu Pau Lai 6
R. Lee
S. M. Kanoa
J. Ii
J. Kekauonohi

Honolulu 16 Oct 1852

Helu 3770 Ap 4424 Mauka

Hoike Mami

Apana I Ki. Kiaahi. O kumu ka mea ma ka kihi Hema o kua o pili ma ka kihi Hikina. Kuhelamoku. Ak. 69¾ Hik 71 Kl. ma Pualima. Ak. 60. Hik 81 Kl ma Kaamahua. Ak. 30¼ Kom 62 Kl. ma Kapihe Hom. 60. Kom. 65 Kl. ma ka Paili. Ak. 34¼ Kom. 68 Kl. ma Pohaiki Paili. Ak. 60. Hik 68 Kl. ma Paili. Ak. 30¼ Kom. 302 Kl. ma Kapihe. Hom. 82 Kom. 156 Kl. ma ka Anahola. Hom. 36. Hik. 372 Kl. ma ka Kuhelamoku. a hiki ma kahi: kumaka: a makahi ia anapuni. 4¼ Eka

Apana II Ki. Kiaahi. O kumu ka mea ma ka kihi Akau o kua o pili ma Kaaawa. Hom. 36¼. Hik 77 Kl. ma Kula. Hom. 18¾. Kom. 219 Kl. ma ka Kapihe. Hom. 17¼. Kom. 215 Kl. ma Pualima. Ak. 28 Kom. 56. Kl. ma Pualima. Ak. 36¼ Hik 112 Kl. ma Kaaawa. a hiki ma kahi: kumaka: a makahi ia anapuni 8¼ Eka

Waikiki July 16. 1852

John S. Kuna
Mau ana aina

Uhu Pau Lai 15
R. Lee
S. M. Kanoa
J. Ii
J. Kekauonohi

Honolulu 16 Oct 1852

Helu 4295 Kapihe

Hoike Mami

Apana I Ki. Kiaahi. O kumu ka mea ma ka kihi Hema. Kaaahahi ma ka kihi Hikina. Kua. Ak. 27. Kom. 203 Kl. ma Kaaahahi. Hom. 76 Kom. 139 Kl. ma Pualima. Hom. 67. Kom. 80 Kl. ma ka Pualima. Hom. 67. Kom. 124 Kl. ma Anahola. Ak. 22¼. Kom. 80 Kl. ma Pualima. Hom. 39¼ Hik 333 Kl. ma Anahola. Ak. 54. Hik 421 Kl. ma Kaaahahi. a hiki ma kahi: kumaka: a makahi ia anapuni 1¼ Eka.

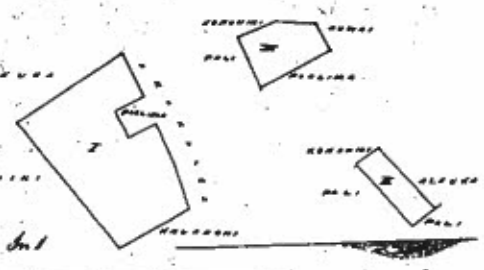
Apana II Ki. Kiaahi. O kumu ka mea ma ka kihi Akau. Kua. o pili ma ka kihi Hikina. Kaaka. Hom. 18¼. Kom. 219 Kl. ma ka Akaka. Hom. 35¼. Hik 72 Kl. ma Kaahahi. Ak. 19. Hik 220 Kl. ma Pali. Ak. 35¼. Kom. 74 Kl. ma Pali. a hiki ma kahi: kumaka: a makahi ia anapuni. 15 ¼ Eka.

Apana III Ki. Kiaahi. O kumu ka mea ma ka kihi Akau. Kua. ma ka kihi Hema. Lua o Akaka. Apana II Ak 19 Kom. 63 Kl. Hom. 26. Hik 204 Kl ma Pualima. Kom. 68¼. Ak 103 Kl ma Pali. Ak. 21¼. Kom. 103 Kl. ma Kaaahahi. Ak. 5. Hik 100 Kl. ma Kaaahahi. Ak. 63. Hik 31 Kl. ma Auwai. a hiki ma kahi: kumaka: a makahi ia anapuni. 2¼ Eka.

Waikiki. July 16. 1852

John S. Kuna.
Mau ana aina

186



Ahi. 2 Kl. 1

Ulu. 9 Ka. 9 Ia. 5.
W. L. Lee
F. M. Robertson
J. K. Smith
J. Kekaulahao

Honolulu, 16 Oct 1852

Helu 4426 Kahinu (

Maihu ... Kawi

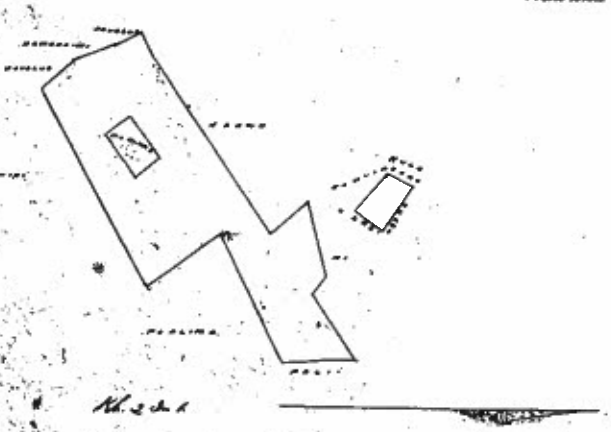
Apana I. Ili. Kalipahe. Ehumaka he ... ma ke Kihi Kikina Kuma. Kumaka. Ak. 21½ Kum. 115 Kl. ma Kawaha. Ak. 20. Kum. 115 Kl. ma Kumakaiwi. Ak. 24½. Kum. 77 Kl. ma Kawaha. Ak. 67½. Kik. 70 Kl. ma Kaua. Ak. 55½ Kik. 533 Kl. ma Kaua. Ak. 35½. Kum. 135 Kl. ma Kaua. Ak. 75½ Kik. 200 Kl. ma Pi. Kum. 52 Kik. 50 Kl. ma Pualima. Ak. 56. Kik. 202 Kl. ma Paaha. Kum. 2. Kik. 190 Kl. ma Pali. Kum. 64. Kum. 363 Kl. ma Pualima. Kum. 57½. Kik. 202 Kl. ma Pualima. Kum. 60. Kum. 275 Kl. ma Auwai. Kum. 62. Kum. 281 Kl. ma Kawaha. a hiki ma kahi. kumaka. a malele ia anapuni 2 3/4 Ohia.

X Apana I. Pualima i Loko. Ehumaka he ... ma ke pahu hope. o Kia Kuhana. Ak. 11 Kik. 111 Kl. a hiki ma ke Kihi. o kia. Ak. 33½. Kum. 32 Kl. Kum. 53½. Kum. 132 Kl. Kum. 39½ Kik. 52 Kl. Ak. 53½. Kik. 133 Kl. a hiki ma ke pahu mua, a malele ia Pualima 1/4 Ohia.

Apana II. Ili. Kapahukauila. E humaka he ... ma ke Kihi Kuma o Kia. Ak. 57½. Ak. 57½ Kl. ma Kamikana. Kum. 51½. Kik. 130 Kl. ma Kamikana. Kum. 31½. Kum. 84 Kl. ma Kamikana. Ak. 56 Kum. 132 Kl. ma Kamikana. a hiki ma ke pahu ... a malele ia Kaipuni. 1/4 Ohia.

Waikiki July. 2. 1852

John S. Emerson.
Mea ana aina



Kl. 2 Ia. 1

6.

HELU..... 5401

PALAPALA SILA NUI.

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

NO KA MEI, Ua hoohalo au Luna Hoona i ua hana kuleana aina i ka oiaio, he kuleana oiaio ko oiaiho ma ke Ano Alodio koko a kahi i olelolo malalo. Kuleana Helu.....4495

Nolaila, ma kuu Palapala Sila Nui, ke hoike aku wai o Kamehameha IV. ke Ali wi a ke Alii i kana lokomaikai i hoomoe ai mahua o ko Hawaii Pae Aina, i ma kanaka a pau, i keia la mua iho, a ua kona mau kupa ali, ua hauli aku ai ma ke Ano Alodio ia oiaiho oiaiho - koiko i keia kahi o pau loa ma mai ka makapui o pono ia makua.

Apana 1. (Ka mahele ma ke ahili Kau. o Kawaikini ma ke ahili Nile.

Mau	27	Kau	3.08	Kaul	Ma ke	Kawaikini
Kama	74	"	1.29	"	" ke	Pualima
"	69	"	1.10	"	" ke	Kaakaloa
"	17½	Nile	— 20	"	" ke	Pualima
"	69½	Kau.	— 80	"	" "	"
Mau	22½	"	— 80	"	" "	"
Kama	69	"	1.24	"	" ke	Kaakaloa
"	30½	Nile	3.23	"	" "	"
Mau	54	"	4.21	"	" ke	Kawaikini
					Ke	1.10 Ka

Apana 2. (Ka mahele ma ke ahili Mau a pili ma Nile. o Kaaulu

Kama	48½	Kau	2.19	Kaul	Ma ke	Kaaulu
Kama	35½	Nile	— 72	"	" "	Kawaikini
Mau	49	"	2.20	"	" ke	Pali
Mau	35½	Kau.	— 74	"	" "	"
					Ke	5. Ka

Apana 3. (Ka mahele ma ke ahili Mau. mai ke ahili Kau. o Kaaulu Apana 2. Mau 49 Kau. 0.63 Kaul

Kama	36	Nile	2.04	Kaul	Ma ke	Kaakaloa
Kama	68½	Kau.	1.43	"	" "	Pali
Mau	24½	"	1.02	"	" ke	Kawaikini
Mau	5	Nile	1.03	"	" "	"
Mau	61	"	— 81	"	" ke	Puuwai
					Ke	24/100 Ka

Maloko o Keia mau apana 0.49 Eke
a oi iki aku, a emi iki mai paha. Ua kuu mai i ke aupani na mine mineraia a me na mereia a pau.
No Kapika
ua aina la i hawiia mu ko Ano Aledio a no kona mau hoailina, a me kuua waihona; na pili ana
ka aohao a ka Poe Ahoolelo o kau like ai ma na aina aledio i kela manawa i keia manawa.
A I MEA E IKEA AI, ua hao wau i ka'u inoa, a me ka Sila Nui o ko Hawaii Pae
Aina ma Honolulu i keia la 27
o Augusta 1863

Kamehameha

Kaahumanu

L. Kamehameha

161

4287 Kalaikolohe Waihee Dek. 29, 1847

M Ili aina makaaka 6 loi, no Sahilahi mai koie. makaaka 39 la, 1 kula, no Wahinekuapuu mai koie, makaaka 4 loi no Kalolikailikapu mai koie, ma Kahaalele 1 loi, no Hauole mai koie loi. Naie ke Kulanahale Mapahalele.

Nau na Kalaikolohe

4289 Kauikau Waihee Dek. 1847.

M He palapala kuleana no koie mau kuleana loi i Hoes, 5 pauku aina, he 30 ka laula. Mano Oopu, elua kula mahiai elima no ha Oopu

Nau na Kuikau

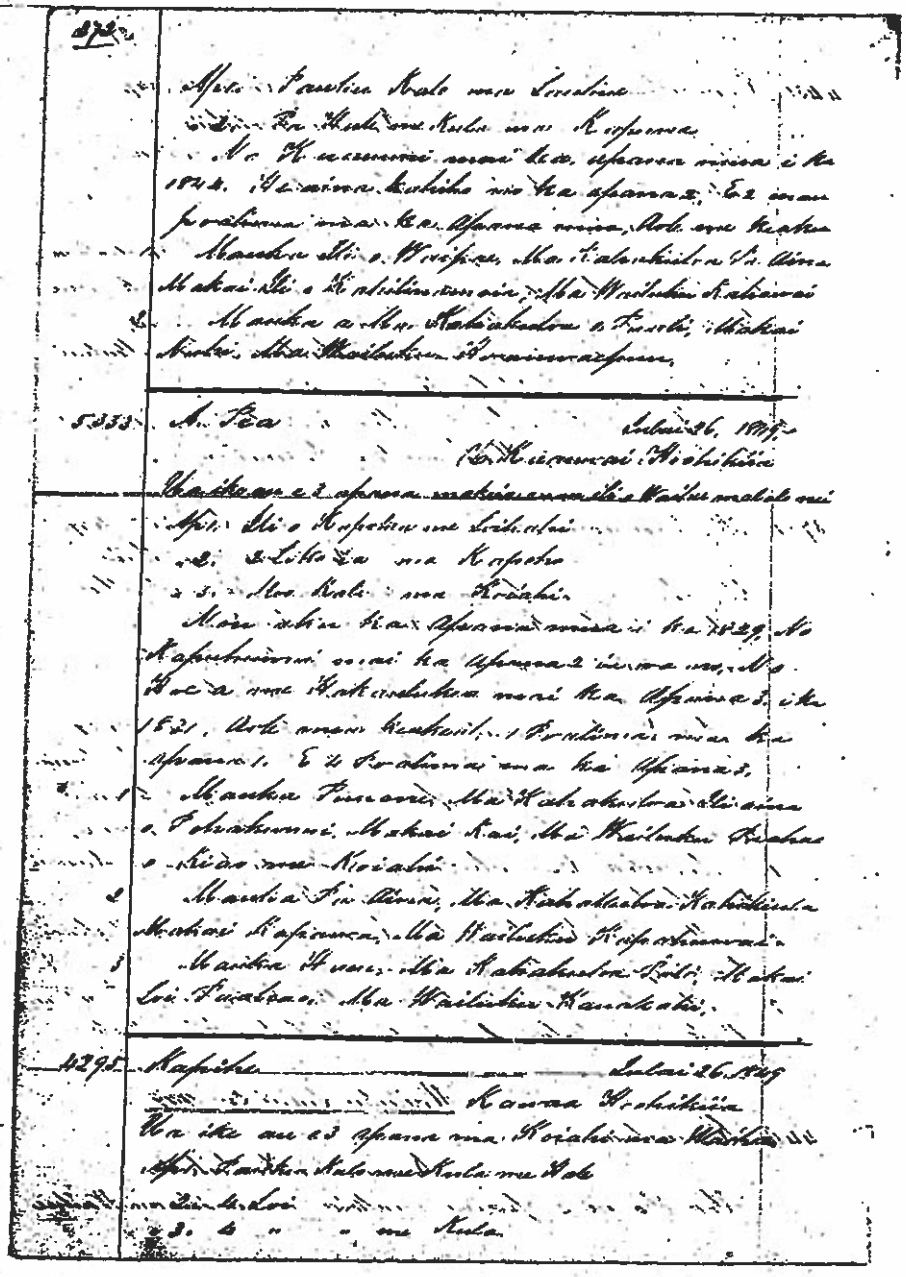
4295 Kapihe Waihee Maui 29 Dek. 1847

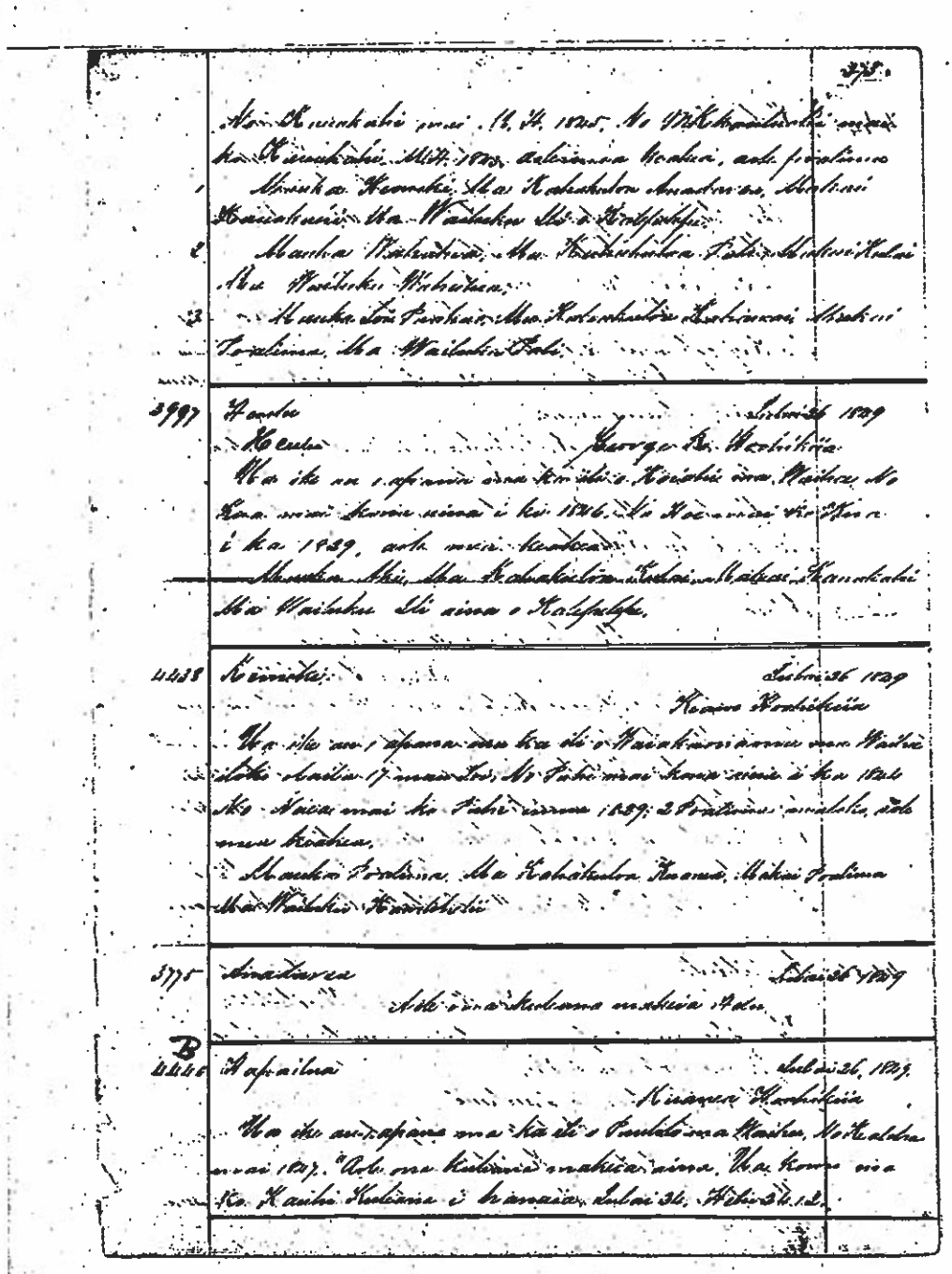
M Ka aina kuleana o Kapihe ma ke Ahupuaa o Waihee o Koiahi ka inoa o ka ili aina kuleana; no Kauakahi mai koie kuleana aina i noho ai ma Waihee nui i keia manawa.

Ebiomaka ana ka moe ana mai ka akau a i ka Hema, ma ka Hikina, he kula a pela aku no.

Ka nui o na loi; he 33 ma ka ili aina o Kaiahi, oia koie kuleana aina e noho nei ma keia aina, a ke hoomaopopo aku nei au me ka oiaio loa, i ka nui o koie kuleana, ade me ka wahahee, e like me ka delo o ke Kanawai K. III E hoike koke anai na mea kuleana i ko lakou kuleana aina ma keia Aupuni mai ka la aku o ka hoolaha ana o keia Kanawai. Na Kapihe

Hoike naopopo Waihee Maui 29 Dek. 1847
Kauakahi
Kauaikeoho





375

No Kanakahi mai M. H. 1845. No Mikkanakahi mai ka Kanakahi M. H. 1843. Aole mea keakea, aole poalima

1 Mauka Kemoki, Ma Kahakulou Anadarea, Makai Kanakahi, Ma Wailuku Sli o Kalepelepe.

2 Mauka Wahaiwa, Ma Kahakulou Pali, Makai Kulai Ma Wailuku Wahaiwa.

3 Mauka Lou Paahao, Ma Kahakulou Kahawai, Makai Poalima, Ma Wailuku Pali.

3997 Hanlu Lubai 26 1849

Hanlu George R. Hoohikiia

Ua ike au o apana ma ka ili o Koiahi ma Waiha. No Kua mai kona aina i ki 1846. No Hoe mai ko Kua i ka 1839, aole mea keakea.

Mauka Aki, Ma Kahakulou Kulai, Makai Kanakahi Ma Wailuku Sli aina o Kalepelepe.

4438 Kemoki Lubai 26 1849

Keaua Hoohikiia

Ua ike au o apana ma ka ili o Waiakaonama ma Waiha iloko o Aila 17 mau Loi. No Pahi mai kona aina i ka 1844 No Naea mai ko Pahi ama 1839. 2 Poalima maloko, aole mea keakea.

Mauka Poalima, Ma Kahakulou Kuanea, Makai Poalima Ma Wailuku Kamoholii

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3775 Anadarea Lubai 26 1849

Aole ona kuleana makeia Aolu.

B

4446 Hapailua Lubai 26, 1849.

Kuanea Hoohikiia

Ua ike au o apana ma ka ili o Paulilo ma Waiha. No Kalaha mai 1847. Aole ona kuleana makeia aina. Ua komo ma ko Kauhi Kuleana i hanaia. Lubai 34. Helu 34.12.

No. 1 and 4 in No. 3

No. 1 is bounded Mauka, by the pralima lois. Kahakuloa, by the ili of Pohakunui. Makai, by the sea shore. Wailuku, by "Kihau" and "Kiriahi."

No. 2 is bounded Mauka, by the Govt lot Kahakuloa, by Kahikiula's land. Makai, by Kapawa's land. Wailuku, by Kapahuwai's land.

No. 3 is bounded Mauka, by Huen's land. Kahakuloa, by the Pali. Makai, by Paahai lois. Wailuku, by Kauakahi's land.

Cl. 4395. Kapiko.

Kawaa Sw. The Clt's land consists of three pieces in Waiku, the ili of Kiriahi.

No. 1 is a section of kak and kula

" 2 " 4 lois.

" 3 " 4 " and one kula.

The Claimant received them from Kauakahi in 1865, and he from Kekauluohi in 1863. His title has never been disputed. There are no pralimas in either piece

No. 1 is bounded Mauka, by Kamoke's land. Kahakuloa, by Anakalea's land. Makai, by Kauakahi's land. Wailuku, by the ili of Kalepetepe.

No. 2 is bounded Mauka, by Wahalua's land. Kahakuloa, by the Pali. Makai, by Kulai's land. Wailuku, by Wahalua's land.

No. 3 is bounded Mauka, by the Paahai lois. Kahakuloa, by the Creek. Makai, by the Pralima lois. Wailuku, by the Pali.

Cl. 3997. Heulu.

Kaki Sw. The Clt's land consist of one piece of kalo in Kiriahi, Waiku, Maui.

The Claimant received this from Kua in 1866, and he from Hoe in 1829. Clt's title is without dispute.

It is bounded Mauka, by Aki's land. Kahakuloa, by

Land Commission Award No. 3775:3, Royal Patent 5360, and supporting testimonies

789.

Ukupaulea 3.2.60

W. L. Lee
G. M. Robertson
J. Mekaulahao
J. M. Smith

Honolulu 29 Novemaba 1851.

Helu 3396 Pilipo Wahino & Lani see P. 711 Wailuku Maui

From page 711

Apana 3. 2 Loi ma Hakula 2. Wailuku, Maui.
8 hoomaka ma ke kihi Hikina a e holo
Akau 33 ¼ · Komohana .51 Kh. ma ko Uma aina
Hema 38 ¼ · Komohana 1.52 " " Pae "
Hema 21 ½ · Hikina .74 " " " "
Akau 51 ¾ · Hikina .99 " " " "
Akau 33 ¾ · Komohana .47 " " " "
Akau 41 · Hikina .64 " " " "
a hiki i ko ma ke kihi mua — 1/10 Eka

E. Bailey
Mea ana

Wailuku Julai 1, 1854

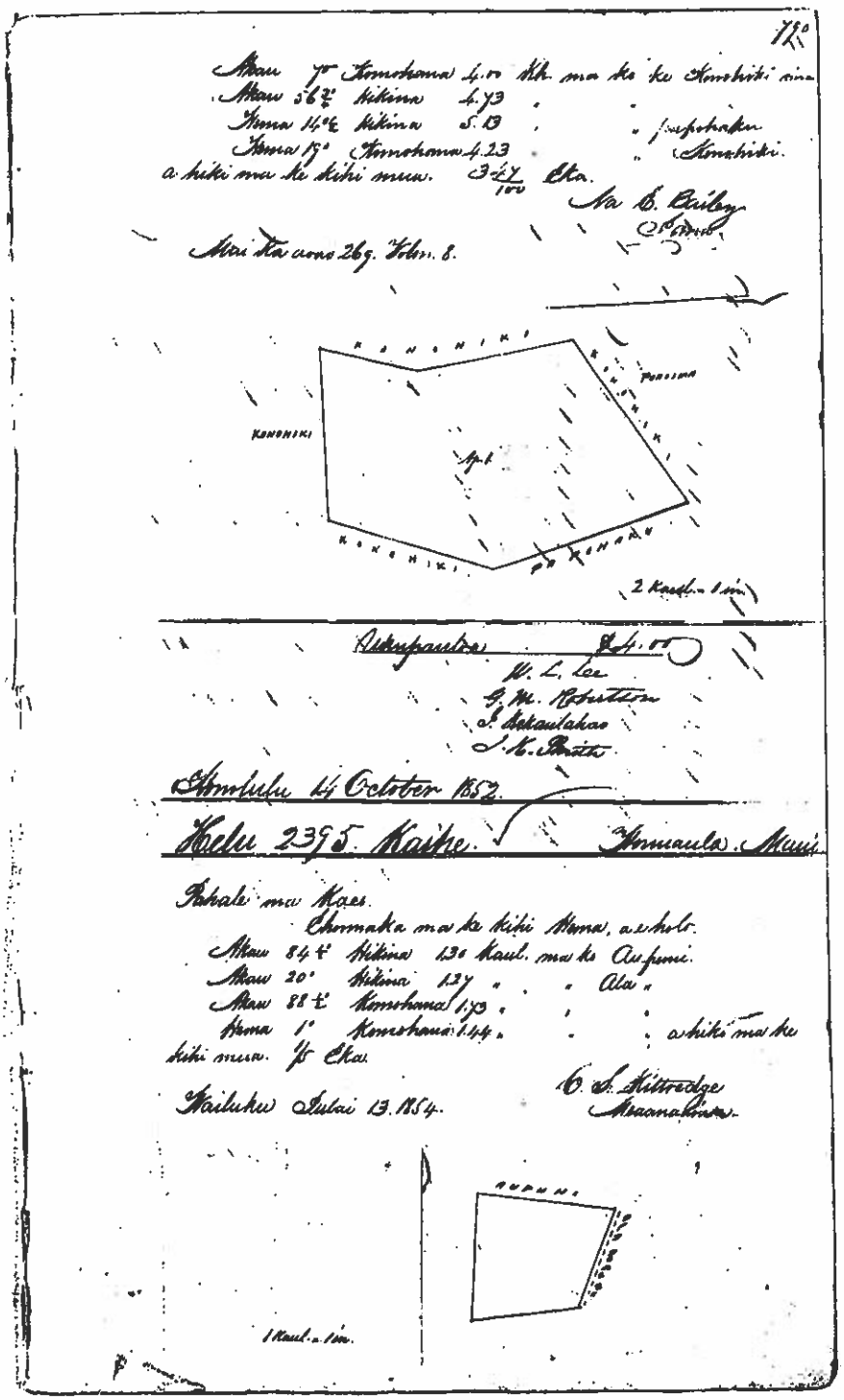
2 Kaulahao Iwika

Ukupaulea ma ka Aoao 711 Ap. 1.2.
W. L. Lee
G. M. Robertson
J. Mekaulahao
J. M. Smith

Honolulu February 11, 1854.

Helu 3775 Anakaloa. Waihee. Maui.

Apana 1. Ke mau loi & Lauhala ma ka ili, Kapokea & Loikahi — ua okiia ke kula, ke Komohiki.
Choomaka ma ke kihi Komohana Hikina, a e holo
Akau 89 ¾ Komohana 4.03 Kh. ma ko ke Komohiki aina
Akau 76° Hikina 2.48.



72°

Akau 7° Komohana 4.00 Kh. ma ko ke Konohiki ma
Akau 56½° Hikina 4.73 " "
Hema 14°½ Hikina 5.13 " " pupohaku
Hema 19° Komohana 4.23 " " Konohiki.
a hiki ma ke kihi mua. 3 47/100 Eka.

Na E. Bailey
Pana

Mai ka aoao 269. Volm. 8.

KONOHIKI
KONOHIKI
KONOHIKI
KONOHIKI
PUPOHAKU
Ap. 1

2 Kaul. = 1 in.

Ukupanoa $4.00
W. L. Lee
G. M. Robertson
J. Kekaulahao
J. H. Smith

Honolulu 14 October 1852.

Helu 2395. Kaihe. Honuaula. Maui

Pahale ma Kaes.
Chonmaka ma ke kihi Hema, a e holo.
Akau 84½° Hikina 1.30 Kaul. ma ko Au puni.
Akau 20° Hikina 1.27 " " " Ala "
Akau 88½° Komohana 1.73 " " "
Hema 1° Komohana 1.44 " " " a hiki ma ke kihi mua. 1/5 Eka.

C. S. Kittredge
Meaanakinoa

Wailuku Julai 13. 1854.

AUPUNI

1 Kaul. = 1 in.

7

HELU..... 5360

PALAPALA SILA NUI.

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

NO KA HEA, Ua hoohele au Luna Hoona i na hana kuleana ana i ka aina, he kuleana aina ko [illegible] Kuleana Hale.....5775
na ke Ane Alodio Kuhe o kahi i olelo maiale.

Nolaila, ua hoin Palapala Sila Nui, ke hoike aku nei o Kamehameha IV, ke Alii nui a ke Akua i hana lokomaikai i hoomoe ai maluna o ko Hawaii Pae Aina, i ua kuaola a pau, i kaia la oana ino, o na hana maa hope ali, ua hauoli aku ola au ke ke Ane Alodio i [illegible] i kela [illegible] ola a pau ka au [illegible]
na ke makapuni o [illegible] pono no makou.

[illegible]

Mau	8½	Aum	4.05	Aul	[illegible]
"	16	Nite	2.43	"	"
"	7	Aum	4 —	"	"
"	56½	Nite	4.73	"	"
Kama	14½	"	5.13	"	[illegible]
"	19	Aum	4.23	"	[illegible]
				Ke	3.47 Aa

[illegible]

Mau	41	Nite	5.88	Aul	[illegible]
"	21½	"	2.50	"	"
Kama	35½	"	— 46	"	[illegible]
Mau	58	"	— 97	"	"
Kama	35½	"	— 45	"	"
Mau	56½	"	1.24	"	"
Kama	59½	"	— 93	"	[illegible]
"	66½	Aum	1.29	"	[illegible]
Mau	27½	"	— 70	"	"
Kama	55½	"	1.21	"	"
"	32½	Nite	— 66	"	"
"	53	Aum	— 73	"	[illegible]
"	17½	Nite	— 53	"	"
"	57½	Aum	— 74	"	"
Mau	24½	"	— 70	"	"
Kama	68½	"	— 90	"	[illegible]
Mau	25	"	— 60	"	"
Kama	67½	"	— 57	"	"
"	22½	Nite	1.23	"	"
"	67	Aum	1.18	"	[illegible]
"	[illegible]	"	1.66	"	[illegible]

134

Malaka a Alia Inau apana — 3.47 — Eko
a ni iki aku, a ami iki mai paha. Ua kae nae i ka nupuni ua mine minerala a me ua metala a pau.
No Imatakea
ua aina la i kaawiia ma ko Ana Aledio a no kona mau hoailina, a me kona waihona; ua pili nae
ka uahau a ka Poo Aheolelo a kau like ai ma ua aina aledio i kela manawa i keia manawa.
A I MEA E IKEA AI, ua kau wau i ko'u inoa, a ma ka Sila Nui o ko Hawaii Poo
Aina ma Honolulu i keia la 10
a June 1863
Kamehameha
Kaahumana L'Kamehameha

Clt. received the land from one in the time of Kekauluohi, & has held it in quiet until the present time.

Paupau, sworn, says the above testimony is true & is his own

3136 } Namahine, Clt. Died in 1848
3775 }

Present. Malena the son & heirs with Hawea his aunt & guardian.

They declared under oath, that of their own free will, they relinquish the claim of deceased as set forth in No 3136 in favor of Opunui, to be included within his claim No 2993, & the same is therefore so included.

3001 Nawahine, Clt.

Kaopuiki sworn, says it is a mooaina in the ili of Pohakai, Waianae, Oahu. It contains 4 lois & a kula divided in the middle by the koele. One apana, & a kakuahale in another.

Apana 1. is bounded

M. — by the mooaina of Makalis.
E " " iliaina Naloiloa
Mk. " " koele
W " an auwai of Nahiun

Apana 2. House lot in Pahoa, bounded

M. by the paaina
E " " yard of Kaoliko
Mk " " public road
W " homewall of Kauhiahiwa.

Clt. received the land from one in the time of Kekauluohi & has held it in quiet until now.

Nakai sworn, says the above testimony is correct, his also his own.

3775 Anakalea: Vaihu Jan 1, 1884

Ili aina o Kanaele 20 loi ai
Mp no Anakalea mai kou 1 wahi kula no
Anakalea mai Pau
Na Anakalea

3782 Opunui

Ili aina Puhanolu 3 loi no
Pila, 1 loi. Kapoho 5 puhala na ukou
Mp e hoopunopono aku keia palapala
kuleana aina. Na Opunui

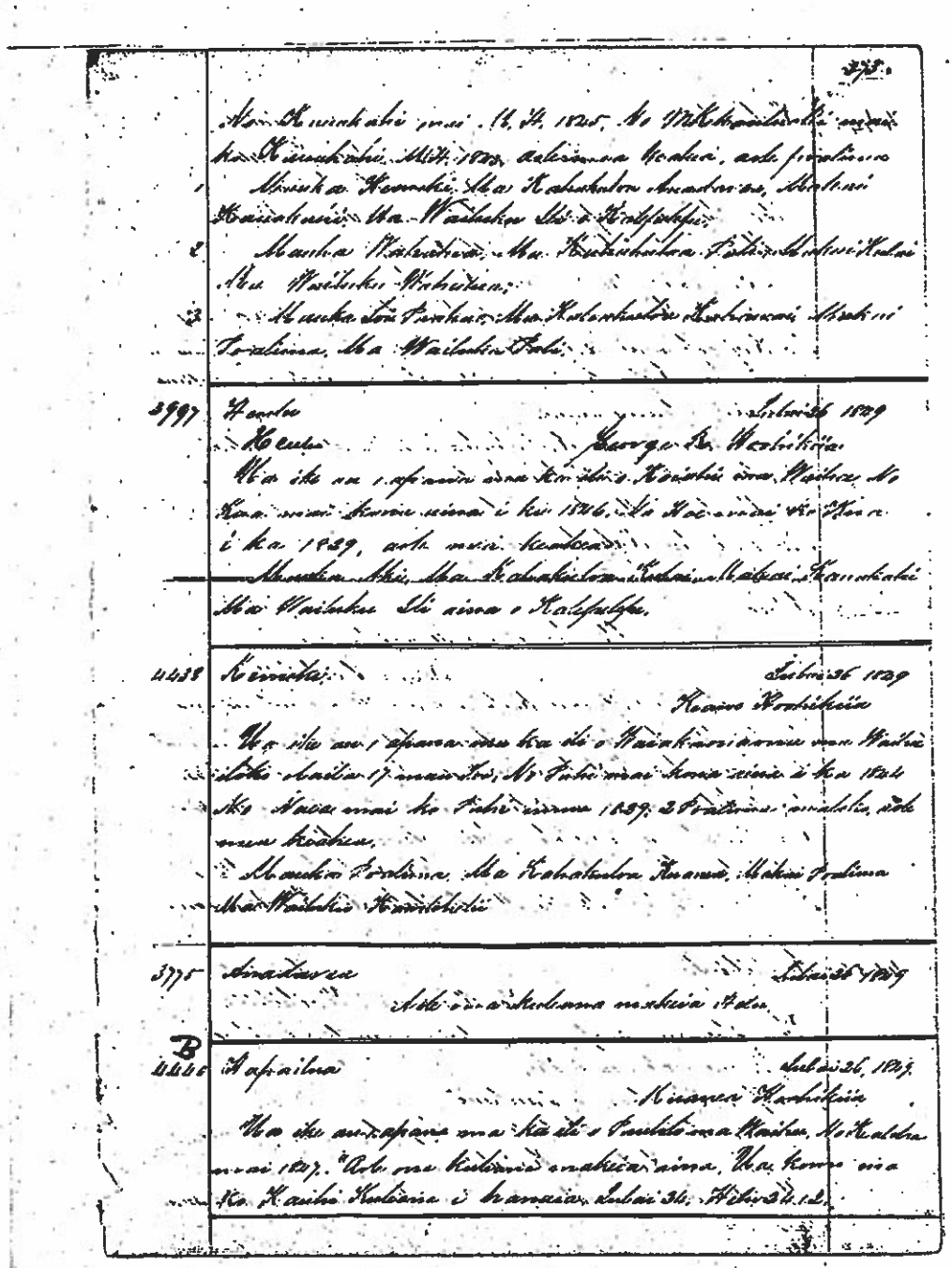
3784 Ohule

Eia keia mea kuleana o Ohule
o Apuu ka ili aina 12 kihapai, o Mano-
Mp kohala ka ili aina 6 kihapai. Kaimalo
ka aina 5 kihapai Uala haole 1 mala
uala maoli. Ma ia aina he kulana
kauhale. o Waha ka hoike o Puupuu
kekahi hoike Na Ohule

3784B Puupuu

Eia kuleana o Puupuu, o Ka-
naio ke Ahupuaa o Apuu ka ili aina
Mp. maloko 11 ou kihapai, 3 kihapai i
mahi ia. o mahakea, he mau kula-
nakauhale 2 he kula hanai holo-
holona. he ili aina o Manokohala
Maauahi 1 kihapai uala 6 kihapai
uala haole. O Kawaapahulu
ka hoike. O Mai kekahi hoike

Na Puupuu



No Kanakahi mai M. H. 1845. No Mikkanaulu mai ko Kanakahi M.H. 1843, aole ninaa Kaaka, aole pualima

1 Manka Kemeki, Ma Kahakulou Anadarea, Makai Kanakahi, Ma Wailuku Sli o Kalepelepe.

2 Manka Wahahua, Ma Kahakulua Pali, Makai Kulai Ma Wailuku Wahahua.

3 Manka Lou Pauhai, Ma Kahakulua Kahanai, Makai Pualima, Ma Wailuku Pali.

3997 Hendu Lubai 26 1849

Hendu George R. Hoohikiia

Ua ike au i apana ma ka ili o Koiahi ma Waihe, No Kua mai kona aina i ka 1846. No Hoe mai ko Kua i ka 1839, aole nea keakea.

Manka Aki, Ma Kahakulua Kulai, Makai Kanakahi Ma Wailuku Sli aina o Kalepelepe.

4438 Kemeki Lubai 26 1849

Keano Hoohikiia

Ua ike au i apana ma ka ili o Waiakoniamu ma Waihe iloko olaiba 17 mau Ioi, No Pahi mai kona aina i ka 1844 No Naea mai ko Pahi imua 1839. 2 Pualima maleke, aole nea keakea.

Manka Pualima, Ma Kahakulua Kuanea, Makai Pualima Ma Wailuku Kamiohelii

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3775 Anadarea Lubai 26 1849

Aole ona kuleana makeia Adu.

B

4446 Hapailua Lubai 26, 1849.

Kuanea Hoohikiia

Ua ike au i apana ma ka ili o Paulilo ma Waihe, No Kaleha mai 1847. "Aole ona kuleana makeia aina. Ua kono ma ko Kauhi Kuleana i hanaia. Lubai 34. Helu 34.12.

Waikee 35

Cl. 10466 Naki (Heard July 16th in part)

236 S Charles Copp is a Counter Claimant.

Kalua Sw. I know the land of the Claimant as it is called at Waikapu. It is a part of the land of Mr Copp called Luapuaa.

The Claimant Mr Copp gave Makiki a native living with him the piece of Naki's called No 1. in the year 1846. Soon after Makiki went to Hana with Mr Copp, and gave the land to Naki. He lived there but refused to go to poalima and I appealed to Kuihelani and he said after a hearing that Naki should do the work, he did so until rented the land to Joseph Gould, and then he turned Naki off because he wanted all Mr Copp's land.

Cl. 4416 Kaualua.

Kamaka Sw. The Clt's land consists of two pieces in Waikee, Maui.

No 1. is a piece of kalo in the ili of Lauhue.

" 2. " " House lot and lois, and one huba in Kapuwa.

The Claimant received these lands as follows: No 1 he received from Kaauwai in 1836. and No 2. from his parents in olden times. There are 2 poalima lois in No 1.

No 1. is bounded Manka, by the ili of Waipae. Kahakuloa, by the Govt lot. Makai, by Kahilinamaia's an ili. Wailuku, by the Creek

No 2. is bounded Manka, and Kahakuloa sides, by Puali's land. Makai, by Naki's land. Wailuku, by Hoauwepuni's land.

Cl. 5333 & 3775 Amakalea Pea. (No 3775 is not a Claim)

To Kaauwai Sw. The Clt's land consists of three pieces in Waikee Maui.

No 1. is a pauku of lois or two small ilis Kapuhea & Loikaki.

" 2. " 2 Fish Ponds in Kapuhe.

" 3. " a Mo of kalo in Kiaki.

The Claimant received No 1. in 1829 - No 2 from Palumai in the same year, and No 3. in the year 1831 from Hakauluhea & Hoe. His title has never been disputed. There is one poalima lois in

36.

No. 1. and 4. in No. 3.

No. 1. is bounded. Mauka, by the pralima lois. Kahakuloa, by the ili of Pohakunui. Makai, by the sea shore. Wailuku, by "Kihau" and "Koiahi."

No. 2. is bounded. Mauka, by the Govt lot. Kahakuloa, by Kahikuula's land. Makai, by Kapawa's land. Wailuku, by Kapahuwai's land.

No. 3. is bounded. Mauka, by Huen's land. Kahakuloa, by the Pali. Makai, by Paahao lois. Wailuku, by Kauakahi's land.

A. 4395. Kapihe.

Kawaa Sw. The Ots land consists of three pieces in Waikee, the ili of Koiahi.

No. 1. is a section of kalo and kula

" 2. " 4 lois.

" 3. " 4 " and one kula.

The Claimant received them from Kauakahi in 1845, and he from Kekauluohi in 1843. His title has never been disputed. There are no pralimas in either piece.

No. 1. is bounded. Mauka, by Kameke's land. Kahakuloa, by Anakalea's land. Makai, by Kauakahi's land. Wailuku, by the ili of Kalepetepe.

No. 2. is bounded. Mauka, by Wahalua's land. Kahakuloa, by the Pali. Makai, by Kulae's land. Wailuku, by Wahalua's land.

No. 3. is bounded. Mauka, by the Paahao lois. Kahakuloa, by the Creek. Makai, by the Pralima lois. Wailuku, by the Pali.

A. 3997. Heulu.

Keoki Sw. The Ots land consist of one piece of kalo in Koiahi, Waikee, Maui.

The Claimant received this from Kua in 1846, and he from Hoe in 1829. Ots title is without dispute.

It is bounded. Mauka, by Aki's land. Kahakuloa, by