



**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 4: 12

Event ID: SWUP.2231.6

SWUP No. 33

**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 Diannah K. Goo		Applicant's Contact Diannah K. Goo		2. SOURCE LANDOWNER'S NAME Wailuku Water Company LLC		Source Landowner's Contact Avery Chumbley	
Applicant's Mailing Address, or Principal Place of Business 2120 C Kahekili Hwy. Wailuku, HI 96793				Source Landowner's Mailing Address, or Principal Place of Business 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 and use.

3. SURFACE WATER HYDROLOGIC UNIT AND CODE:  Waihee/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 - 2 - 011 : 006  
Zone Sector Plat Parcel

5. STREAM DIVERSION: How is water diverted from the stream to your property? Check all that apply.  
 Pipe  Pump  Ditch/euwai  Other Describe: See Attachment  
 Is the diverted water returned to the stream or ditch?  Yes.  No. If yes, how much water is returned? See Attachment

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 Attachment

**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): GOO W, GOO E&C, GOO A, GOO L, GOO ESTHER  
 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 <b>DIANNAH GOO</b> Print Date <u>4/4/09</u>		12. SOURCE LANDOWNER  Signature Print Date	
---	--	--	--

**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	3,600	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
June 2007	3,600	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
July 2007	3,600	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
August 2007	3,600	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
September 2007	3,600	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
October 2007	3,600	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
November 2007	3,600	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
December 2007	3,600	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
January 2008	3,600	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
February 2008	3,600	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
March 2008	3,600	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
April 2008	3,600	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>SUM OF AVERAGE DAILY USE FOR THE MONTH</b>	43,200	<b>GPD</b>				
<b>AVERAGE DAILY USE (Average of the above)</b>	3,600	<b>GPD</b>				

**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.
<b>Uses that require potable (drinking) water</b>									
	____ - ____ - ____ : ____ Zone Sector Plat Parcel								
	____ - ____ - ____ : ____ Zone Sector Plat Parcel								
	____ - ____ - ____ : ____ Zone Sector Plat Parcel								
	____ - ____ - ____ : ____ Zone Sector Plat Parcel								
<b>TOTAL POTABLE USE</b>								<b>GPD</b>	
<b>Uses that do not require potable water</b>									
DOM	3 - 2 - 011 : 006 Zone Sector Plat Parcel	Urban	No	R-3	No	600	No	1 lot	See Attachment
DOM	3 - 2 - 011 : 019 Zone Sector Plat Parcel	Urban	No	R-3	No	600	No	1 lot	See Attachment
DOM	3 - 2 - 011 : 067 Zone Sector Plat Parcel	Urban	No	R-3	No	600	No	1 lot	See Attachment
DOM	3 - 2 - 011 : 066 Zone Sector Plat Parcel	Urban	No	R-3	No	600	No	1 lot	See Attachment
<b>TOTAL NON-POTABLE USE</b>						continued		<b>GPD</b>	
<b>TOTAL USE REQUESTED (Sum of Total Potable Use and Total Non-Potable Use above) =</b>						continued		<b>GPD</b>	
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 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.
<b>Uses that require potable (drinking) water</b>									
	Zone - Sector - Plat - Parcel								
	Zone - Sector - Plat - Parcel								
	Zone - Sector - Plat - Parcel								
	Zone - Sector - Plat - Parcel								
<b>TOTAL POTABLE USE</b>								<b>GPD</b>	
<b>Uses that do not require potable water</b>									
DOM	3 - 2 - 011 - 065 Zone Sector Plat Parcel	Urban	No	R-3	No	600	No	1 lot	See Attachment
DOM	3 - 2 - 011 - 079 Zone Sector Plat Parcel	Urban	No	R-3	No	600	No	1 lot	See Attachment
	Zone - Sector - Plat - Parcel								
	Zone - Sector - Plat - Parcel								
<b>TOTAL NON-POTABLE USE</b>						3,600		<b>GPD</b>	
<b>TOTAL USE REQUESTED (Sum of Total Potable Use and Total Non-Potable Use above) =</b>						3,600		<b>GPD</b>	
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>2</u> - <u>011</u> : <u>006</u> Zone Sector Plat Parcel	Diversified agriculture	0.268	0.24	Annual	Annual	Other (seepage and bucket)	Irrigate to Capacity
<u>3</u> - <u>2</u> - <u>011</u> : <u>019</u> Zone Sector Plat Parcel	Diversified agriculture	0.154	0.12	Annual	Annual	Crown Flood	Irrigate to Capacity
<u>3</u> - <u>2</u> - <u>011</u> : <u>067</u> Zone Sector Plat Parcel	Diversified agriculture	0.0685	0.0685	Annual	Annual	Crown Flood	Irrigate to Capacity
<u>3</u> - <u>2</u> - <u>011</u> : <u>066</u> Zone Sector Plat Parcel	Diversified agriculture	0.223	0.18	Annual	Annual	Crown Flood	Irrigate to Capacity
<u>3</u> - <u>2</u> - <u>011</u> : <u>065</u> Zone Sector Plat Parcel	Diversified agriculture	0.2755	0.24	Annual	Annual	Crown Flood; Trickle Drip; other (seepage)	Irrigate to Capacity
<u>3</u> - <u>2</u> - <u>011</u> : <u>079</u> Zone Sector Plat Parcel	Diversified agriculture	0.232	0.232	Annual	Annual	Other (seepage)	Irrigate to Capacity
<u>    </u> - <u>    </u> - <u>    </u> : <u>    </u> Zone Sector Plat Parcel							
<u>    </u> - <u>    </u> - <u>    </u> : <u>    </u> Zone Sector Plat Parcel							
<u>    </u> - <u>    </u> - <u>    </u> : <u>    </u> Zone Sector Plat Parcel							
<u>    </u> - <u>    </u> - <u>    </u> : <u>    </u> Zone Sector Plat Parcel							

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

**TABLE 4: ALTERNATIVES ANALYSIS**

	<b>Potable Alternatives</b> Attach additional sheets if necessary.	<b>Non-Potable Alternatives</b> Attach additional sheets if necessary.
Municipal sources	N/A	See Attachment
Wastewater reuse	N/A	See Attachment
Ditch system	N/A	See Attachment
Desalinization	N/A	See Attachment
Ground water	N/A	See Attachment
Other (specify)	N/A	See Attachment

**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 Attachment

## 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/cwrml/>; by contacting the Stream Protection and Management Branch at 587-0234; or sending an email to: [dlnr.cwrml@hawaii.gov](mailto:dlnr.cwrml@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/cwrml/>, 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/](http://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<sup>a</sup> of 12 months of consecutive use<sup>b</sup> from the last month<sup>c</sup> 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.

<b>AGRICULTURE</b>	
AGRAQ	Aquatic Plants & Animals
AGRCP	Crops & Processing
AGRLI	Livestock & Processing, and Pasture
AGRON	Ornamental & Nursery Plants
AGROTH	Other
<b>DOMESTIC</b>	
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
<b>INDUSTRIAL</b>	
INDEL	Geothermal, Thermoelectric Cooling, Power Development
INDFP	Fire Protection
INDMI	Mining, Dust Control
INDOTH	Industrial – Other
<b>IRRIGATION</b>	
IRRGC	Golf Course
IRRHM	Habitat Maintenance
IRRHOT	Hotel
IRRLA	Landscape/Water Features
IRROTH	Other
IRRPCA	Parks
IRRSC	Schools
<b>MILITARY</b>	
MIL	Military
<b>MUNICIPAL</b>	
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 12<sup>th</sup> 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**

We are filing a single existing use application for our family's domestic uses because we access water from the same kuleana `auwai that runs behind our homes on adjacent parcels of land (see attached TMK map). We have agreed that Diannah Goo will be our representative and contact and may sign and file this application on our behalf.

#### **Exhibits:**

Appended hereto as Exhibit A is a copy of the 7.5 minute-series USGS topographic map with Waihe`e River and Waihe`e and Spreckels Diversions labeled. Exhibit B is a TMK map showing the location of our properties showing the general flow of the `auwai and the area of end use. Exhibit C contains true and correct copies of photographs of our `auwai diversion and areas of proposed use. Exhibit D is described below.

#### **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 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 through Waihe`e in the ditch and pipes then crosses under Kahekili Highway and onto our land at **TMK No. 3-2-011:006** in an open ditch.

Willie and Janet Goo's land (TMK No. 3-2-011:006) receives water from the ditch via absorption and seepage to water his plants and trees like mountain apple, ti-leaf, and tropical flowers. He also uses a bucket to bring some water to his plants. Jeffrey and Gale Goo bring water to their land (TMK No. 3-2-011:019) from the `auwai via a pipe to water their yard and domestic garden, including a 3' by 5' lo`i kalo with kalo varieties like lehua and moi, coconut trees, banana, ti-leaf, and tropical flowers; a pipe brings remaining water back to the `auwai. Some water is used to maintain flowers and other domestic plants on family land at TMK No. 3-2-011:067. Joni Kawamura brings water to her land (TMK No. 3-2-011:066) via a pipe to water her yard and flowers like red ginger, roses, and bird of paradise. Lawrence and Diannah Goo take some of the water from the `auwai for their land (TMK No. 3-2-011:065) via an open ditch and pipes to water the lawn, flowers, and fruits, and vegetables like mountain apple, banana, squash, pumpkin, comfrey, ginger, and papaya for home consumption and use. They also grow several varieties of awa and wetland kalo inside the `auwai. Some of the water from Diannah

and Lawrence's land continues in an open ditch to TMK No. 3-2-011-078 (formerly a portion of TMK No. 3-2-011:007), where Lawrence and Diannah intend to grow wetland kalo (see concurrently filed SWUPA). The outflow from Lawrence and Diannah's land on TMK No. 3-2-011:078 continues to Clarence Goo's land (TMK No. 3-2-011:079), where he uses the water via seepage from the ditch to grow tropical flowers like red, pink, and white ginger. The outflow from Clarence's land returns to the South Waihe'e `auwai that flows behind our homes.

### **Box 7: Appurtenant Rights**

Our property has appurtenant rights because it was in kalo cultivation at the time of the Māhele of 1848. Attached hereto as Exhibit D are true and correct copies of Māhele records for Land Commission Award No. 8366, Royal Patent No. 5327, and supporting testimony indicating the land was in kalo. 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.

### **Table 2, Box 10: Justification for Requested Quantity**

We estimated our proposed domestic water use by applying the 2002 State of Hawai'i Water System Standard for Maui County of 600 gallons per single family home. We use water for domestic purposes on six lots (as described above). Even though our domestic water use is relatively small, we are still applying for and would like a Water Use Permit for our existing uses.

### **Table 4: Alternatives Analysis**

Because our land has appurtenant rights 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. The vegetables and flowers we grow feed our `ohana and are shared with neighbors and community members. As shown below, each potentially available alternative water source is impracticable for a small, non-commercial user like us.

**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. As long as we can remember, we have always used the `auwai water for our non-commercial gardening. Requiring us to pay for municipal water instead would impose an unfair and impracticable cost on this use.

**Wastewater reuse.** Reusing wastewater is impracticable. As a small user engaged in 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. 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 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.

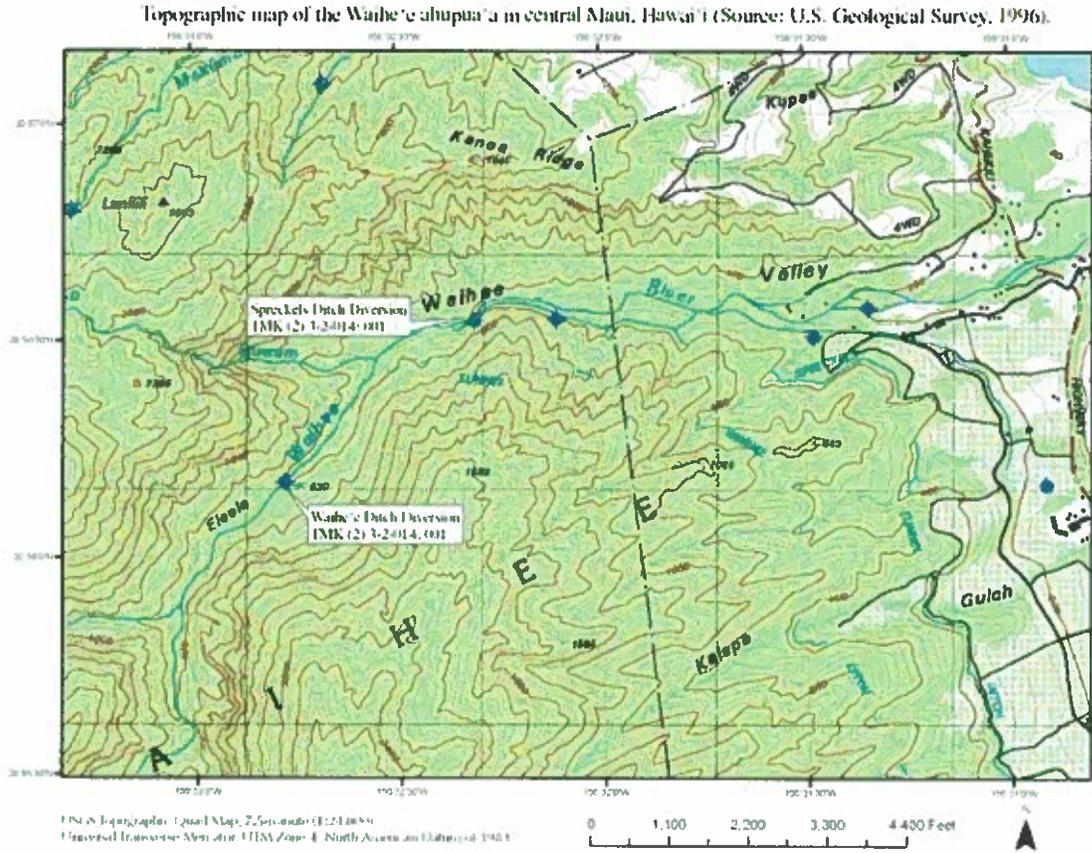
**Ground Water.** Even if we were able to secure the permits necessary to drill a well and pump ground water for our uses, installing and operating such a well for our small, non-commercial uses would be unprecedented and extremely burdensome. As a small user engaged in non-commercial gardening, we do not have the means to install and maintain such infrastructure.

**Table 4: Our Existing Use is Consistent with the Public Interest**

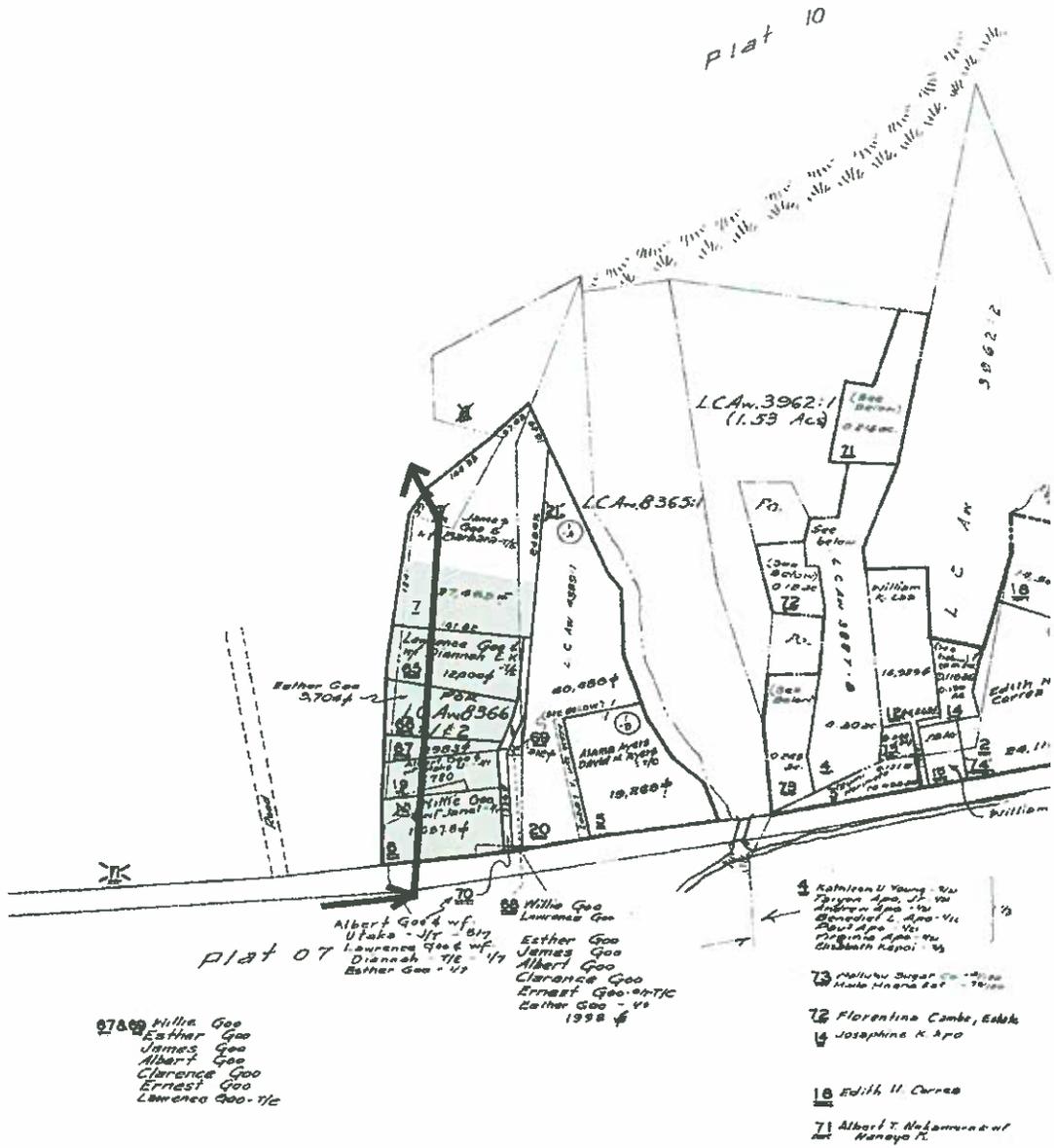
HRS § 174C-2(c) provides that the domestic uses, agriculture, and the maintenance of proper ecological balance and scenic beauty are "in the public interest." Our existing water is for our domestic, non-commercial purposes. We grow fruits, vegetables, and flowers that feed our `ohana and that we share with friends and neighbors. Our crops also help maintain ecological balance and scenic beauty. As such, our existing use of stream water is consistent with the public interest. In addition, the exercise of appurtenant rights is a protected public trust purpose. In re Waiāhole Ditch Combined Contested Case, 94 Hawai'i 97, 137 n.34, 9 P.3d 409, 449 n.34 (2000) ("Waiāhole I").

Our use is also 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 to minimize water loss 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 with Waihe'e River and Waihe'e and Spreckels Diversions labeled**



**Exhibit B: TMK Map with 'auwai location referenced and existing water use area shaded**



07600 Milha Goo  
 Esther Goo  
 James Goo  
 Albert Goo  
 Clarence Goo  
 Ernest Goo  
 Lawrence Goo - 1/2

070 Milha Goo  
 Laurence Goo  
 Esther Goo  
 James Goo  
 Albert Goo  
 Clarence Goo  
 Ernest Goo - 1/2  
 Esther Goo - 1/2  
 1998 #

071 Kathleen U Young - 1/2  
 Taryn Apo JI - 1/2  
 Andrew Apo - 1/2  
 Benedict L Apo - 1/2  
 Paul Apo - 1/2  
 Virginia Apo - 1/2  
 Chabath Kapoi - 1/2

072 Malulu Sugar Co - 1/2  
 Hale Hana Est - 1/2

073 Florentina Combe, Estak

074 Josephine K Apo

075 Edith H. Correa

076 Albert T. McFarlane & wif  
 Hanayo K.

**Exhibit C: Photographs of `auwai and end uses**



**South Waihe`e `Auwai flowing onto TMK 3-2-011:006 from Kahekili Highway**



**`Auwai flowing behind our land**

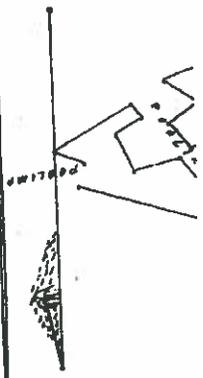


**`Auwai flowing behind our land and examples of end uses: ti leaf, banana, coconut**



**Example of end use: ginger**

**Exhibit D: Records documenting that our land was in kalo at the time of the Māhele**



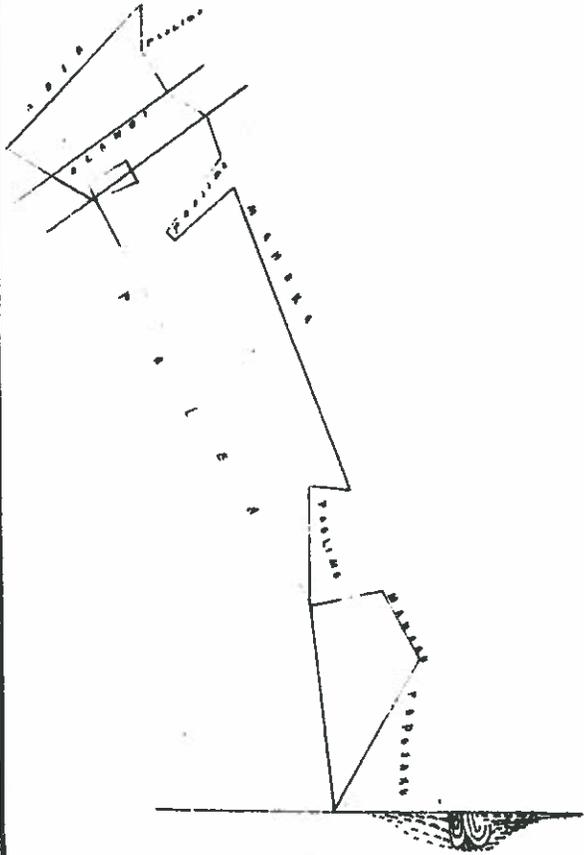
Ulu Lau Sea 8.6m  
 P. v. v. v.

i. M. Robertson  
 1st Street  
 Honolulu

Handwritten text:  
 1852  
 8568 Napua  
 8568 Napua

*Handwritten notes:*  
 1852 Ulu Lau Sea 8.6m  
 P. v. v. v.  
 i. M. Robertson  
 1st Street  
 Honolulu  
 1852 Ulu Lau Sea 8.6m  
 P. v. v. v.  
 i. M. Robertson  
 1st Street  
 Honolulu  
 1852 Ulu Lau Sea 8.6m  
 P. v. v. v.  
 i. M. Robertson  
 1st Street  
 Honolulu

*Handwritten notes:*  
 1852 Ulu Lau Sea 8.6m  
 P. v. v. v.  
 i. M. Robertson  
 1st Street  
 Honolulu  
 1852 Ulu Lau Sea 8.6m  
 P. v. v. v.  
 i. M. Robertson  
 1st Street  
 Honolulu



*Alta (Tan) Noe* 1-5

*H. C. Lee  
 S. W. Robinson  
 P. St. Denis  
 of Kalamazoo*

*Memorandum dated 12.18.59.*

*Stellin 5276 Maui*

*Yonbu Maui*

*Maui, the Hawaiian Islands, Department of the Interior, Bureau of Land Management, Honolulu, Hawaii, 96818. Memorandum dated 12.18.59.*





Goo Family

TMK Nos. 3-2-011:006, 019, 067, 066, 065, 079

SWUPA-E Attachment

Page 12 of 14

No. 8365 - Kaula

Waihee, Jan. 13, 1848

Page 462

I have 15 lo'i and two kula. On the east is a kula, there my house stands. On the west is a kula, from thence comes the water, from the land of Miha.

KALUA

No. 8366 - Kapua

Waihee, Jan. 13, 1848

I have 17 lo'i of my own. 5 lo'i are from Fale, a total of 23 lo'i. Two kula are on the east, a total, with the lo'is, of 25 parcels.  
/Translator's note: 17 + 5 = 22/.

KAPUA

No. 8390 - Kalolou

Honolulu, Feb. 12, 1848

Page 463

To the Land Commissioners, Greetings: As in the Law and the command for the claimants to tell their claims: 1/2 of Puueo, Kau, Hawaii.

See P. 553

KALOLOU

No. 8423 - Kekuapio

I, Kekuapio am a claimant of a house site in Lahaina at Alapai. In the land of Puako are two lo'i, that is my claim.

KEKUAPIO

No. 8458 - Kailihiwa

Wailuku, Feb. 10, 1848

Greetings to the Land Commissioners: I, Kailihiwa, have a lot in Lahaina, from the lo'i. The name of this claim is Kolakia.

KAILIHIWA

No. 8459 - Kualele

Wailuku, Jan. 18, 1848

Greetings to the Land Commissioners: I hereby tell of my lo'is in the 'ili of Pohaku and Kapalaalaea.

At Pohaku are 12 lo'i. 10 are in one place, 2 are in another place of this 'ili. The 10 are situated as follows: on the north is a watercourse, on the east is the land of Fookie, on the south is the land of Kanakanui, on the west is the land of Kalole. The 2 lo'i are bounded on the north by a po'alima, on the east and south by the land of Koo, on the west by the land of Makalele. These were received in 1828 from Ehu.

Page 464

5 lo'i are in Kapalaalaea, bounded on the north by the po'alima of Kalawaiahonu, on the east by the land of Naai, on the south by a watercourse, on the west by the land of Paho. I received them from Naai in 1838.

KUAELE

No. 2412 Kauhi (cont.)

Section 3 - 4 Taro patches at Ahuakolea  
 Mauka and Kahakuloa Stream  
 Makai Paihi  
 Wailuku Stream

Section 4 - 3 Taro patches at Waipae 2  
 Mauka Kaalepo  
 Kahakuloa Land enclosure  
 Makai Kaikinohopono  
 Wailuku Kaalepo

Section 5 - Taro moo at Puulolo  
 Mauka Paahao patch  
 Kahakuloa Mookahi ili  
 Makai Kahanu  
 Wailuku Kahananui

First section from Luhia

Section 2 from Z. Kaauwai

Section 3 from Anadarea in 1843

Section 4 from Kawahalea

Section 5 from Kapawa in 1843

Page 259

Kauhi's illness incapacitated him from Poalima work.

No. 2654 Kahalewai Wailuku, July 25, 1849

Z. Kaauwai sworn He Has seen 1 section in Puanea 1 ili at Waihee, 4 taro moos are there. Land from Kuaiki in 1839, no objection. Kahalewai died in 1848, his wife Kemiki is his heir.

Mauka Land enclosure  
 Kahakuloa Wm. Kokami  
 Makai Prisoners' patch  
 Wailuku Kuaiki

No. 8366 Kapua July 25, 1849

Keahi sworn He has seen 2 sections at Makaaka ili in Waihee. \*Land from Wahine-Pg.260 lua long ago at the time of Kam II, two poalimas in section 2, no objection.

Section 1 - Taro pauku and pasture  
 Mauka Land enclosure  
 Kahakuloa Kamahaku  
 Makai Puuone  
 Wailuku Palea

Section 2 - Taro pauku and pasture  
 Mauka, Kahakuloa and makai Palea  
 Wailuku Kalua

No. 9256 Kawaha July 25, 1849

Kawaha has no claim in this grant 9256.

No. 4063 Kanehekili July 25, 1849

Makaale sworn He has seen 1 taro section in ili of Waiakamaona in Waihee. Land from Naea in 1832, no objection. 8 Poalimas in Kanehekili's moo.

Mauka Naea's poalima  
 Kahakuloa Kawelohilii  
 Makai Land enclosure  
 Wailuku Stone wall

