



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

ORIGINAL

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

FORM SWUPA-E (NA WAI EHA, MAUI)

For Official Use Only:
RECEIVED
COMMISSION ON WATER
RESOURCE MANAGEMENT
 2009 APR 30 AM 8:49
 SWUP NO. 85
 Event ID: SWUP.2318.6

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 Nolan & Merle Ideoka (Landowner) <i>Lester Nakama (Lessee)</i>		Applicant's Contact Lester Nakama (Aloha Poi Factory, Inc.)	2. SOURCE LANDOWNER'S NAME Wailuku Water Company LLC		Source Landowner's Contact Avery Chumbley
Applicant's Mailing Address, or Principal Place of Business 800 Lower Main Street 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 end 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 - 007 : 017
Zone Sector Plat Parcel

5. STREAM DIVERSION: How is water diverted from the stream to your property? Check all that apply.
 Pipe Pump Ditch/vauwai Other Describe: See attachment 1
 Is the diverted water returned to the stream or ditch? Yes. No. If yes, how much water is returned? See attachment 1

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 1

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): ONO Y
 No

10. STREAM DIVERSION WORKS PERMIT (SDWP):
 Have you ever been issued a SDWP by the Commission?
 Yes. List the permit number(s): N/A
 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 <i>Merle Ideoka</i> Signature Merle Ideoka Print 4-19-09 Date	12. SOURCE LANDOWNER Signature Print Date
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Lester Nakama
 LES NAKAMA

FILE ID: SWUP.2318.6
 DOC ID: 3450V

**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	97,850	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
June 2007	97,850	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
July 2007	97,850	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
August 2007	97,850	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
September 2007	97,850	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
October 2007	97,850	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
November 2007	97,850	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
December 2007	97,850	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
January 2008	97,850	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
February 2008	97,850	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
March 2008	97,850	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
April 2008	97,850	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
SUM OF AVERAGE DAILY USE FOR THE MONTH	1,174,200	GPD				
AVERAGE DAILY USE (Average of the above)	97,850	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						0		GPD	
Uses that do not require potable water									
AGRCP	3 - 2 - 007 : 018 Zone Sector Plat Parcel	Urban	No	Interim	No	[97,850]	No	0.55	See attachment 1
DOM	3 - 2 - 007 : 018 Zone Sector Plat Parcel	Urban	No	Interim	No	1,500	No	0.5	See attachment 1
	Zone - Sector - Plat : Parcel								
	Zone - Sector - Plat : Parcel								
TOTAL NON-POTABLE USE						97,850		GPD	
TOTAL USE REQUESTED (Sum of Total Potable Use and Total Non-Potable Use above) =						97,850		GPD	
If total use requested is not equal to the total monthly average in Table 1, please explain.						96,425			
In accordance with §174C-51(5), please explain if there are any limitations (legal, contractual, etc.) on the use(s) of water described above. To the best of my knowledge, there are no limitations on the use of water described above.									

**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 - 007 : 018 <small>Zone Sector Plat Parcel</small>	Wetland Taro	1.1	0.55	Annual	Annual	Flood (Taro)	Irrigate to Field Capacity
3 - 2 - 007 : 018 <small>Zone Sector Plat Parcel</small>	Diversified Agriculture	1.1	0.5	Annual	Annual	Other (garden hose)	Irrigate to Field Capacity
- - - : <small>Zone Sector Plat Parcel</small>							
- - - : <small>Zone Sector Plat Parcel</small>							
- - - : <small>Zone Sector Plat Parcel</small>							
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- - - : <small>Zone Sector Plat Parcel</small>							

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

TABLE 4: ALTERNATIVES ANALYSIS

	Potable Alternatives Attach additional sheets if necessary.	Non-Potable Alternatives Attach additional sheets if necessary.
Municipal sources	N/A	See attachment 1
Wastewater reuse	N/A	See attachment 1
Ditch system	N/A	See attachment 1
Desalinization	N/A	See attachment 1
Ground water	N/A	See attachment 1
Other (specify)	N/A	See attachment 1

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 1

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	
IRRG	Golf Course
IRRH	Habitat Maintenance
IRRHOT	Hotel
IRRLA	Landscape/Water Features
IRROTH	Other
IRRPCA	Parks
IRRS	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.*

Nolan and Merle Ideoka (landowners)
Lester Nakama (lessee)
SWUPA - EXISTING USE
TMK: 3-2-007:018
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ATTACHMENT 1

EXISTING USE INFORMATION: Attached as **EXHIBIT 1** is a true and correct copy of a USGS topographic map labeled with stream and diversion locations. Attached as **EXHIBIT 2** is a true and correct copy of a Property Tax Map Key showing diversion location and location of water use. Attached as **EXHIBIT 3** are true and correct copies of photographs that accurately depict the 'auwai diversion and examples of our end uses. **EXHIBIT 4** is described below.

ADDITIONAL INFORMATION FOR SWUPA-E BOXES:

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.

5. STREAM DIVERSION:

We are kuleana users that access water from a kuleana 'auwai. It is our understanding that the water in the 'auwai currently comes from the Spreckels Ditch and that Wailuku Water Company calls the 'auwai the "Field 4" 'auwai. The water in Spreckels Ditch comes from Waihe'e River through 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. It is our understanding that the "Field 4" 'auwai receives water via a diversion in the Spreckels Ditch and the water empties into a pond.

Our water comes from a 3" pipe that brings water from the pond to our neighbor's land (Alfred Kailiehu) at TMK: 3-2-07:017. Some water flows in an open ditch to the lo'i kalo on our property that Aloha Poi cultivates, and some flows in pipes for the Kailiehus. The outflow from the Kailiehus' land also flows into the lo'i kalo on our property. Except for what seeps into the ground and evaporates, outflow from the lo'i flows into an open ditch that runs along the border between our land and Waihe'e School. We access some water via a PVC pipe with a garden hose attached for our yard, flowers like antheriums and orchids, and other domestic plants like bananas. The remaining water is returned to the South Waihe'e 'auwai as it runs along Kahekili Highway just before the South Waihe'e 'auwai crosses to the makai side of Kahekili Highway.

6. FLOW MEASUREMENT INFORMATION: Please see explanation for **TABLE 2** below.

7. APPURTENANT RIGHT:

Our property has appurtenant rights because our land was in kalo cultivation at the time of the Māhele of 1848. In fact, we lease our land to Aloha Poi, which uses the ancient lo'i kalo to cultivate wetland kalo in the traditional manner. Attached as **EXHIBIT 4** are true and correct copies of Māhele records for Land Commission Award No. 4284D and Royal Patent No. 5984 & 2776 with accompanying testimonies indicating the land was in kalo. This land has been in our

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'ohana for over 50 years and 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: JUSTIFICATION FOR REQUESTED QUANTITY:

It is our understanding that Wailuku Water Company meters this kuleana `auwai, and that the `auwai receives an average of 97,850 gallons per day. This amount is shared by us and the Kailiehu, and it is our understanding that the Kailiehu's use about 1,425 gallons per day. Therefore, we estimate that we use approximately 96,425 gallons per day. The amount of water currently available is not enough for us to grow healthy wetland kalo on the 0.55 acres we currently cultivate (see our concurrently filed SWUPA-N).

Based on the 2002 State of Hawai'i Water System Standard for Maui County of 3,000 gallons per acre for domestic use, we estimate that after flowing through the lo'i kalo, we use about 1,500 gallons per day of the 96,425 gallons on about 0.5 acres for our domestic plants and yard.

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.

Moreover, even if we did not have protected rights to stream water, there is no potentially available alternative source that is economically practicable. We have leased our land to Aloha Poi Factory for many years to grow kalo in the traditional manner in the ancient lo'i on our land. Aloha Poi makes poi out of the kalo they grow to provide the local community with a nutritious and culturally significant food source. An alternative water source that would require us or Aloha Poi to pay for the volumes of constantly flowing water in our lo'i necessary to keep temperatures cool and support healthy kalo would make Aloha Poi's wetland kalo cultivation using traditional methods economically impossible. We would effectively be denied our appurtenant right and the opportunity to grow kalo on our land. As shown below, each potentially available alternative water source is impracticable and imposes a cost on exercising our protected right.

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 for kalo cultivation. Even if the Maui County Department of Water Supply were willing to provide municipal water for wetland 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. Additionally, the closest wastewater treatment plant is in Kahului. As a small user engaged in wetland kalo cultivation using traditional irrigation methods, we do not have the means to hookup to and use that water.

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 our concurrently filed SWUPA-N). Getting water from a different ditch system other than the existing system that already services our land is not practicable or efficient. 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 and irrigation system. As a small user engaged in wetland kalo cultivation, 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 wetland kalo cultivation using traditional methods, 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

HRS § 174C-2(c) provides that the protection of traditional and customary Hawaiian rights, agriculture, domestic uses, and the maintenance of proper ecological balance and scenic beauty are "in the public interest." The water we use is predominantly for kalo cultivation and domestic agriculture. Aloha Poi grows kalo on our land in the traditional manner and uses it to make poi for sale in local stores. We grow flowers, fruits, and other plants for our use and enjoyment. The lo'i kalo and other plants help maintain ecological balance and scenic beauty and allow the perpetuation of the Native Hawaiian culture. As such, our existing use of stream water is consistent with the public interest. Additionally, the exercise of appurtenant rights is a protected public trust purpose. In re Waiāhole Ditch Combined Contested Case, 94 Hawai'i 137 n.34, 162, 9 P.3d 409, 449 n.34 (2000)

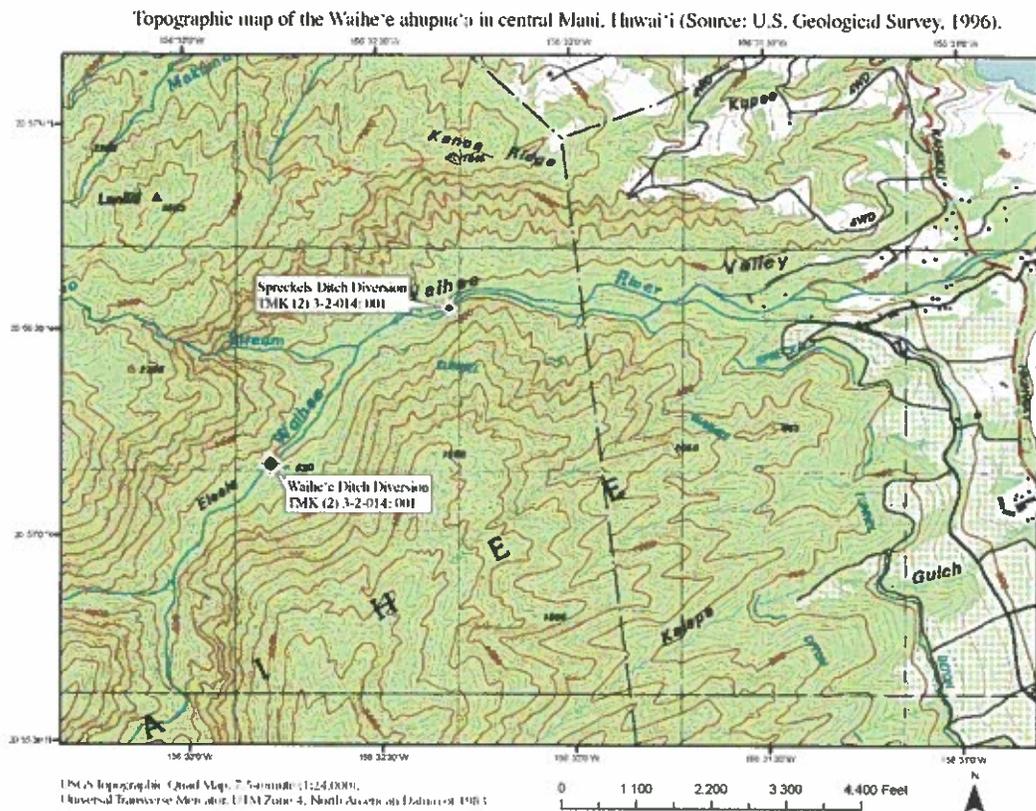
Our Existing Use is a "Reasonable-Beneficial Use"

"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

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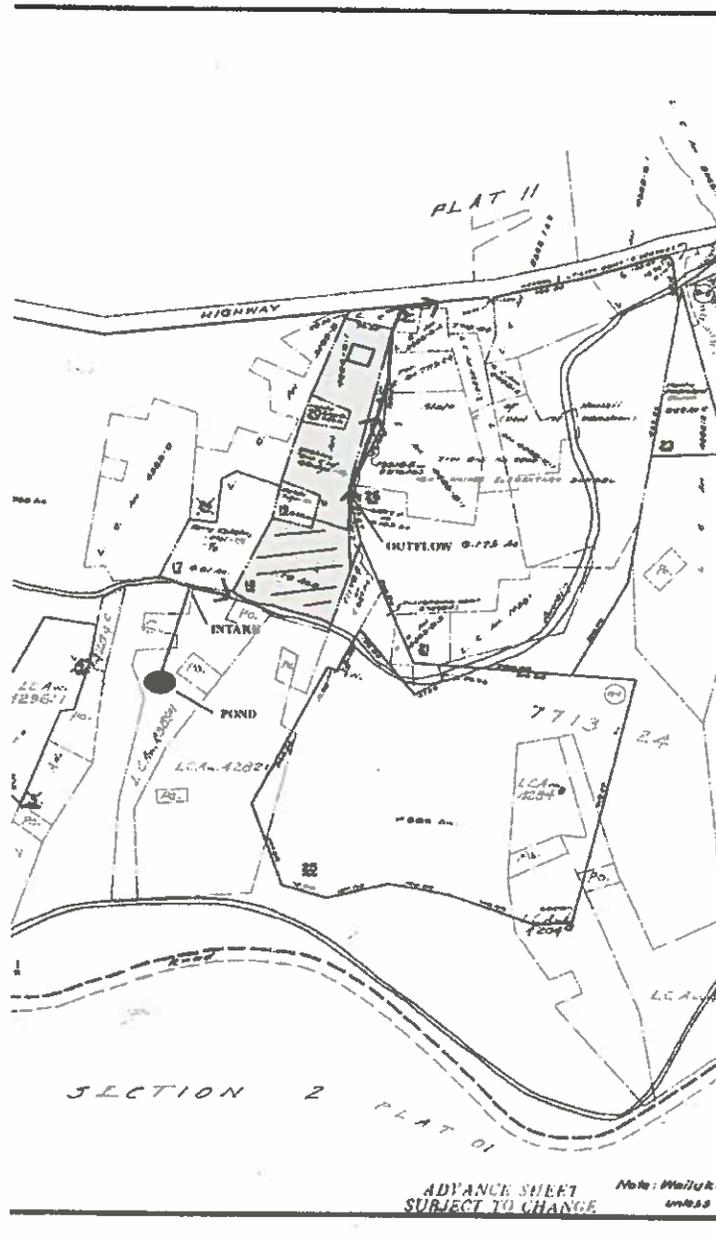
indicated, our existing use of stream water is consistent with state and county land use plans and the public interest. It is also “economic and efficient” because we only use the amount we need. We take steps to make our water use efficient. For instance, our farming practices include the use of mulch and volunteer cover crops to minimize the use of water. Therefore, the water we use is for a “reasonable-beneficial use.”

EXHIBIT 1: true and correct copy of a
USGS topographic map labeled with stream and diversion locations.



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EXHIBIT 2: This is a true and correct TMK map depicting our 'auwai diversion location and outflow and areas of end use. The existing lo'i kalo are marked with hatch marks and the area of domestic water use is shaded in grey. The Ideoka's house is near Kahekili Highway.



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EXHIBIT 3: PHOTOGRAPHS



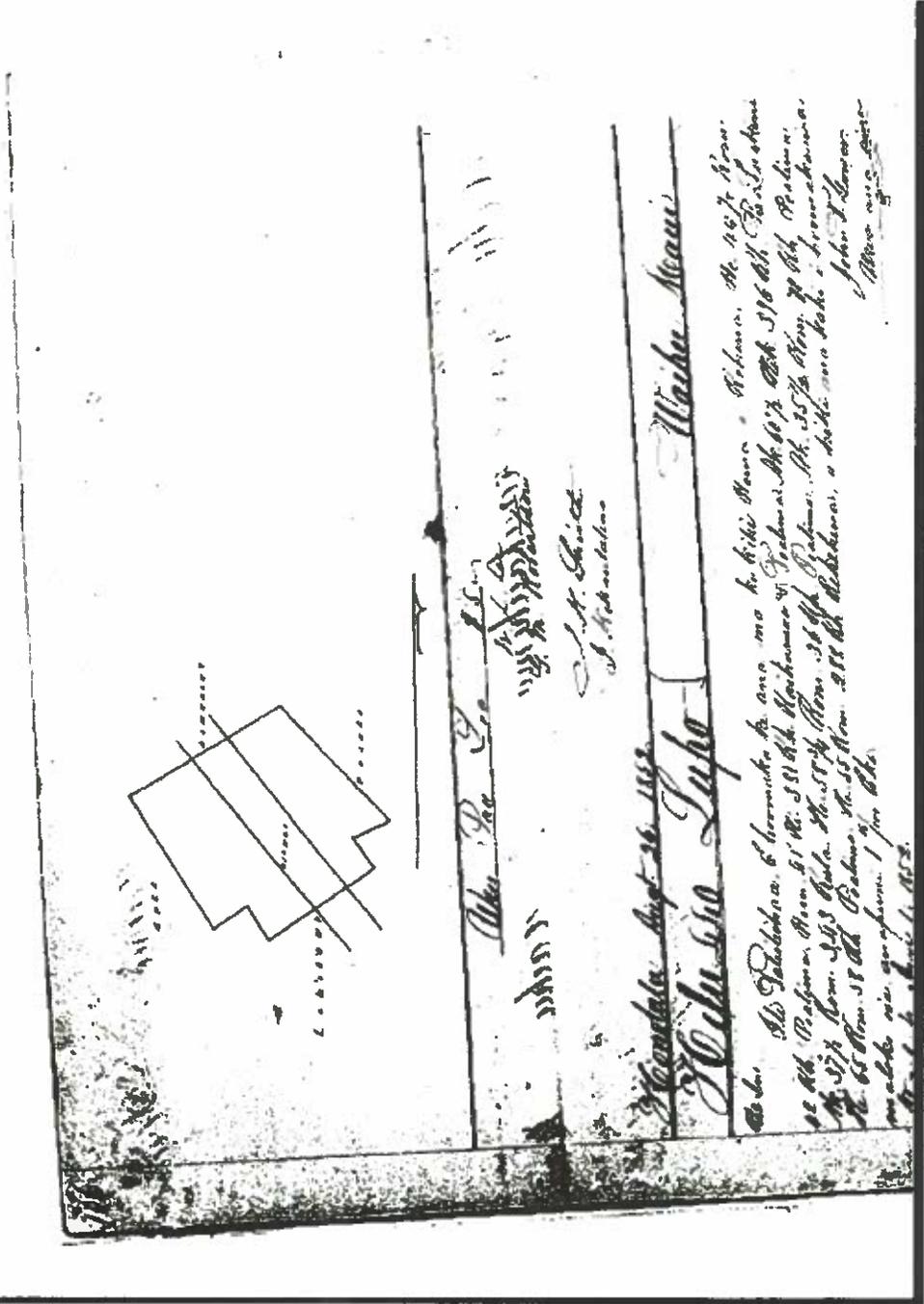
These are true and correct copies of photos accurately depicting the kuleana 'auwai as it enters the neighboring Kailiehu property on TMK: 3-2-007:017. The water in the open ditch flows onto our land.

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These are true and correct copies of photos accurately depicting a portion of the lo'i kalo on our land





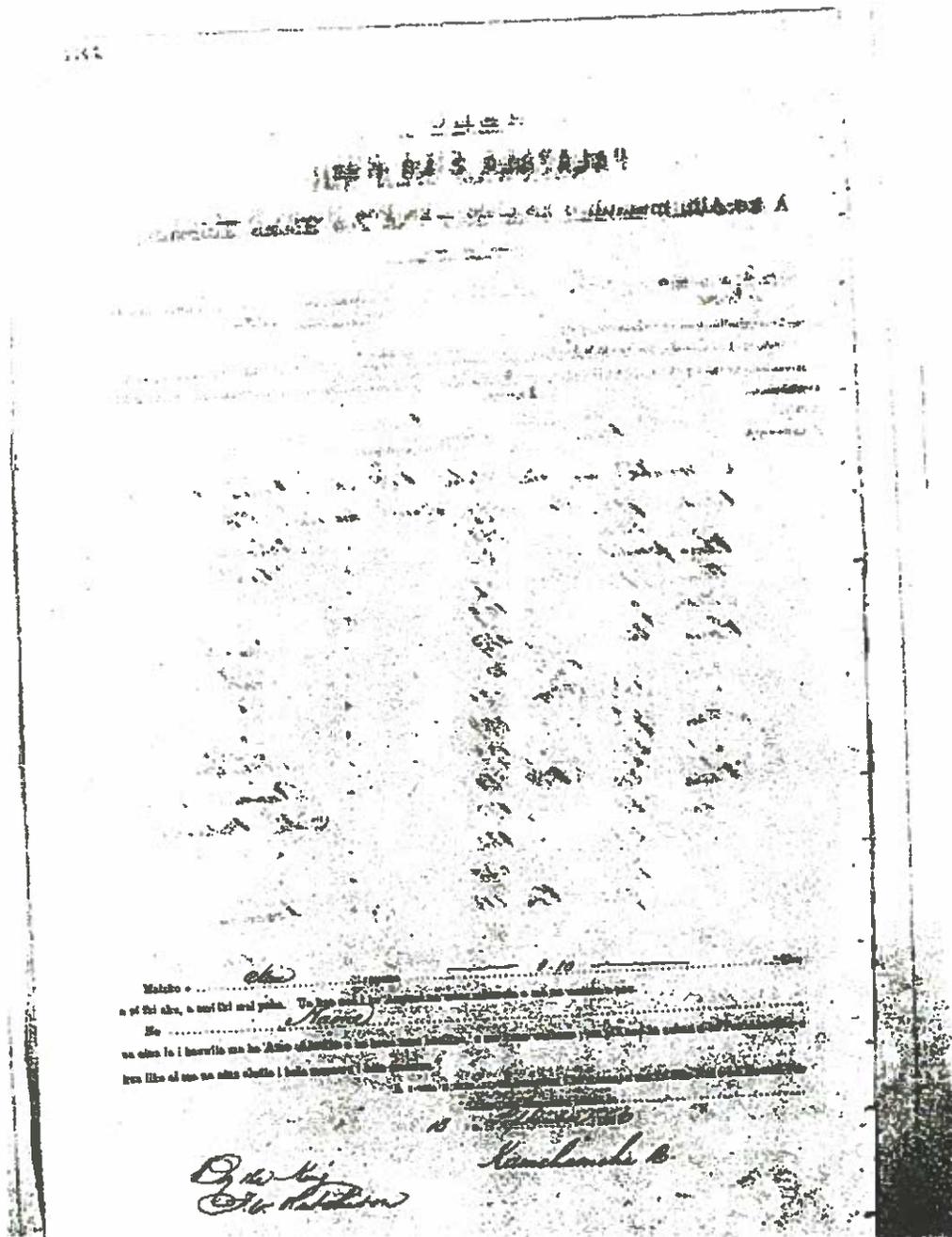
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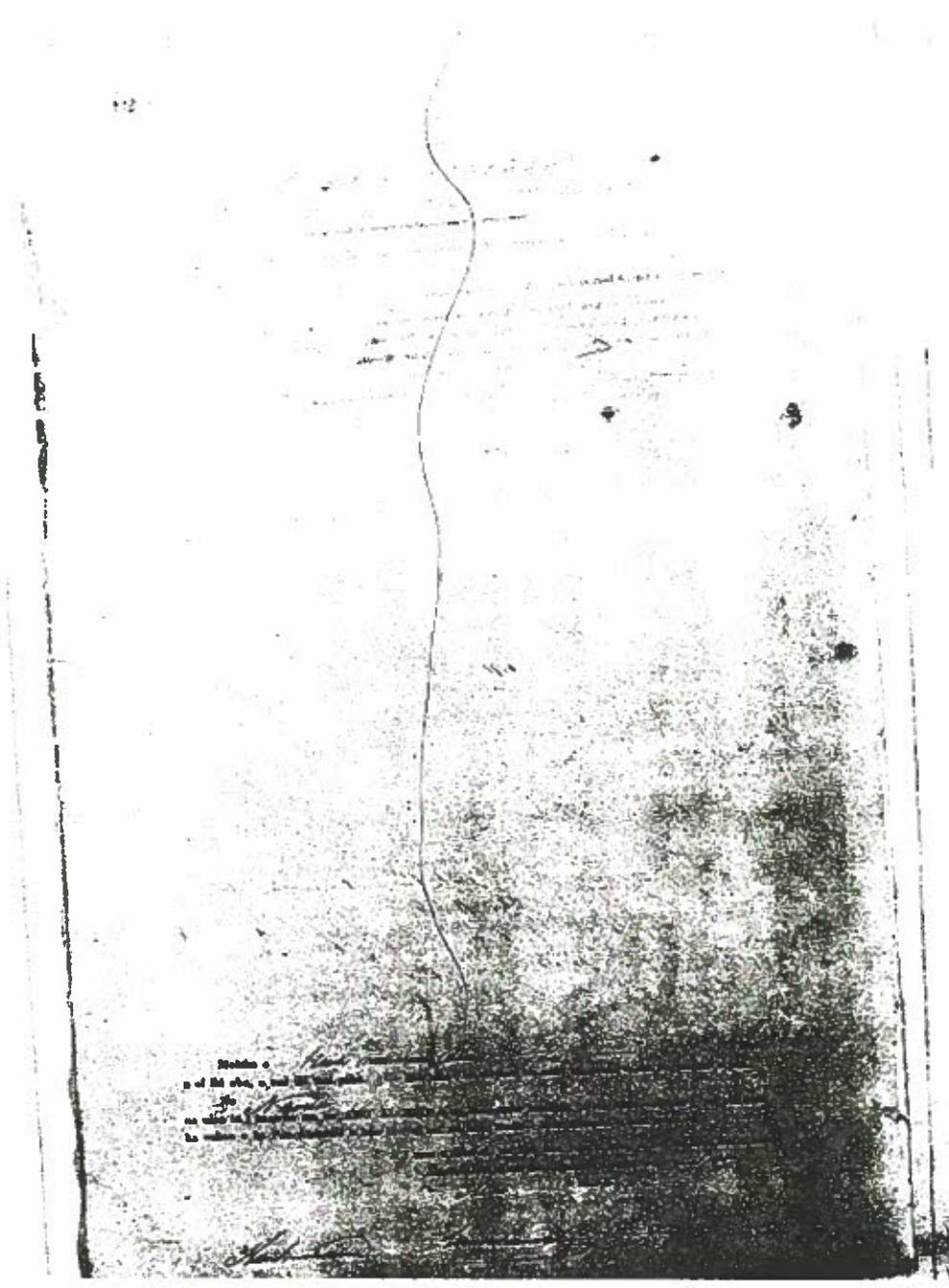
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Ammakua (land)

Area	Area	Area
Area 1: 100' x 100'	Area 2: 100' x 100'	Area 3: 100' x 100'
Area 4: 100' x 100'	Area 5: 100' x 100'	Area 6: 100' x 100'
Area 7: 100' x 100'	Area 8: 100' x 100'	Area 9: 100' x 100'
Area 10: 100' x 100'	Area 11: 100' x 100'	Area 12: 100' x 100'
Area 13: 100' x 100'	Area 14: 100' x 100'	Area 15: 100' x 100'
Area 16: 100' x 100'	Area 17: 100' x 100'	Area 18: 100' x 100'
Area 19: 100' x 100'	Area 20: 100' x 100'	Area 21: 100' x 100'
Area 22: 100' x 100'	Area 23: 100' x 100'	Area 24: 100' x 100'
Area 25: 100' x 100'	Area 26: 100' x 100'	Area 27: 100' x 100'
Area 28: 100' x 100'	Area 29: 100' x 100'	Area 30: 100' x 100'
Area 31: 100' x 100'	Area 32: 100' x 100'	Area 33: 100' x 100'
Area 34: 100' x 100'	Area 35: 100' x 100'	Area 36: 100' x 100'
Area 37: 100' x 100'	Area 38: 100' x 100'	Area 39: 100' x 100'
Area 40: 100' x 100'	Area 41: 100' x 100'	Area 42: 100' x 100'
Area 43: 100' x 100'	Area 44: 100' x 100'	Area 45: 100' x 100'
Area 46: 100' x 100'	Area 47: 100' x 100'	Area 48: 100' x 100'
Area 49: 100' x 100'	Area 50: 100' x 100'	Area 51: 100' x 100'
Area 52: 100' x 100'	Area 53: 100' x 100'	Area 54: 100' x 100'
Area 55: 100' x 100'	Area 56: 100' x 100'	Area 57: 100' x 100'
Area 58: 100' x 100'	Area 59: 100' x 100'	Area 60: 100' x 100'
Area 61: 100' x 100'	Area 62: 100' x 100'	Area 63: 100' x 100'
Area 64: 100' x 100'	Area 65: 100' x 100'	Area 66: 100' x 100'
Area 67: 100' x 100'	Area 68: 100' x 100'	Area 69: 100' x 100'
Area 70: 100' x 100'	Area 71: 100' x 100'	Area 72: 100' x 100'
Area 73: 100' x 100'	Area 74: 100' x 100'	Area 75: 100' x 100'
Area 76: 100' x 100'	Area 77: 100' x 100'	Area 78: 100' x 100'
Area 79: 100' x 100'	Area 80: 100' x 100'	Area 81: 100' x 100'
Area 82: 100' x 100'	Area 83: 100' x 100'	Area 84: 100' x 100'
Area 85: 100' x 100'	Area 86: 100' x 100'	Area 87: 100' x 100'
Area 88: 100' x 100'	Area 89: 100' x 100'	Area 90: 100' x 100'
Area 91: 100' x 100'	Area 92: 100' x 100'	Area 93: 100' x 100'
Area 94: 100' x 100'	Area 95: 100' x 100'	Area 96: 100' x 100'
Area 97: 100' x 100'	Area 98: 100' x 100'	Area 99: 100' x 100'
Area 100: 100' x 100'	Area 101: 100' x 100'	Area 102: 100' x 100'

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No. 4137 Kapela (con't.)

<u>Section 2</u> -	Mauka	Government road
	Koolau	Uluvalu ahupuaa
	Wailuku	Kaupakulua
	Makai	Government road

No. 4264 B Naone

July 19, 1849

Filipili sworn he wrote Naone's claim. Paale sworn he has seen Naone's land.
Section 1 - Taro in Mooki from Kekumoku in 1841.
 Land in Waiokeana ili, Pannela ahupuaa.

	Mauka	Filipili
	Koolau	Eulaha ahupuaa
	Makai	Onaha
	Wailuku	Pannela pali
<u>Section 2</u>	Taro in Waiokeana, ili of Pannela ahupuaa, from Kila in 1830.	
	Mauka, Koolau	Holohe
	Makai	Helaipewa
	Wailuku	Pannela pali

No. 4137 B Kapohaku

July 19, 1849

Kalaikai sworn he has seen this land - a kihapai pasture in Keokea. Iula from Kapohaku in 1844.

Mauka	Aupuni
Koolau	Makulu
Makai	Haeole ka
Honnuala	Aupuni

No. 4120 B Kapohaku

July 19, 1849 Page 38

Hapuku sworn he has seen Kapohaku's land of 7 sections.

Section 1 - Pasture at Wailuku, ili of Keokea ahupuaa.
Section 2 - Pasture at Molokai ili of Keokea ahupuaa.
Section 3 - Taro at Punahevea piimoo, Maunakialoa.
Section 4 - Taro at Piimoo, Pualoa, Kaaheoa, Kaloaleona, Kapturpun.
Section 5 - Pasture in Pualoa.
Section 6 - Pasture in Pualoa Iaihevehevea.
Section 7 - House site in Kuopa of Kalepolepo.
 Section 1 - 6 from Keobahiwa in 1823.

Section 7 from Hevehevea in 1843, no one has objected to Kapohaku.

<u>Section 1</u>	Mauka, Makai, Makawao, Honnuala	Konehiki
<u>Section 2</u>	Mauka, makai, Makawao	Konehiki
	Honnuala	Kaiwialii
<u>Section 3</u>	Mauka	Uauna and Makahakulani
	Makai	Kauhichiwa and Maiola
	Makawao	Kaehokulani and Makahakulani
	Honnuala	Kalana
<u>Section 4</u>	Mauka	Kama, Opunui, Kahulukaei, Haeole
	Makai	Maikawai, Paakai
	Makawao	Makahakulani
	Honnuala	Kiula
<u>Section 5</u>	Makai	Haeole
	Mauka	Kali
	Makawao	Government land
	Honnuala	Mahere-