ORIGINAL

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

**APPLICATION FOR SURFACE WATER USE PERMIT FOR *PROPOSED NEW USE* IN A DESIGNATED SURFACE WATER MANAGEMENT AREA**

**FORM SWUPA-N**

☒ Application for New use
☐ Application to Modify SWUP No. _____

For Office Use Only:
RECEIVED
COMMISSION ON WATER RESOURCE MANAGEMENT
2009 APR 30 AM 8:56

For detailed instructions on filling out this application form completely, refer to the attached instructions sheet. **Incomplete applications will not be accepted for processing.**

SWUP. 2333.6

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 location and the quad map name.
- Property tax map showing the stream or diversion location and location of water use referenced to established property boundaries.
- Photograph(s) of the surface water source, diversion and end use, if applicable.

## APPLICANT INFORMATION: NOTE: In accordance with HRS §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 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 |
|---|---|---|---|
| VICTOR & WALLETTE PELLEGRINO | VICTOR PELLEGRINO | AVERY CHUMBLEY | |

| Applicant's Mailing Address, or Principal Place of Business | Source Landowner's Mailing Address, or Principal Place of Business |
|---|---|
| 1420 Kilohi St.<br>Wailuku, HI 96793 | 363 W Waiko Rd.<br>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 |
|---|---|---|---|---|---|
| [redacted] | | | unknown | unknown | abc@aloha.net |

## SOURCE INFORMATION

3. **SURFACE WATER HYDROLOGIC UNIT:** Island: MAUI Hydrologic Unit: WAIKAPŪ Hydrologic Unit Code: 6001

4. **INSTREAM FLOW STANDARD (IFS) FOR HYDROLOGIC UNIT IF APPLICABLE:** N/A

5. **CAN YOUR PROPOSED USE(S) BE ACCOMMODATED WITHIN THE ABOVE AMOUNTS:** ☐ Yes ☐ No
Explain how your proposed use(s) can be accommodated within the existing IFS for the above hydrologic unit:
see attachment

6a. **TMK OF PROPOSED STREAM DIVERSION LOCATION:** 3 (Zone) - 5 (Sec) - 0 0 4 (Plat) : 0 1 8 (Parcel)

6b. **TMK OF PROPOSED DITCH DIVERSION LOCATION:** 3 (Zone) - 5 (Sec) - 0 1 2 (Plat) : 0 2 3 (Parcel)

7a. **PROPOSED STREAM DIVERSION:** How will water be diverted from the stream to your property? Check all that apply.
☒ Pipe ☐ Pump ☒ Ditch/auwal ☐ Other Describe: see attachment

7b. **WILL THE DIVERTED WATER BE RETURNED TO THE STREAM OR DITCH?**
☒ Yes. How much water will be returned? see attachment.
☐ No

8. **PROPOSED FLOW MEASUREMENT INFORMATION:**
Will the stream diversion have a flow meter with totalizer or other device to measure diverted amounts?
☐ Yes. List the manufacturer and describe the device . _____
☒ No. Explain how stream diversion will be measured or estimated to justify amounts requested in the space below.
see attachment

## PROPOSED USE INFORMATION HRS §174C-51(4), (5), (6)

9. **TOTAL QUANTITY OF WATER REQUESTED:** 433,400 gallons per day. See Table 1, Item14.

10. **PROPOSED USE:** Check all that apply. See Table 1, Item 1.
☒ Agriculture ☐ Domestic ☐ Industrial
☐ Irrigation ☐ Military ☐ Municipal

11. **LOCATION OF PROPOSED WATER USE:** Show the location of the proposed use on the same USGS and TMK maps as the proposed source location. Otherwise, attach similar maps. See Table 1, Item 2.

## PROPOSED USER INFORMATION

12. **APPURTENANT RIGHT:** Do you claim an appurtenant right for your proposed water use? ☒ Yes ☐ No
If yes, has the appurtenant right been established by the courts or the Commission? ☐ Yes ☒ No

13. **PROPOSED END USER INFORMATION:** Will you be an end user on an existing water system?
☒ Yes. List the name of the system operator: N/A, no "operator" ☐ No

14. **REGISTRATION AND DECLARATION OF WATER USE:** Do you have a Registration and Declaration of Water Use from the Commission?
☐ Yes. List the file reference name(s): ☒ No

15. **STREAM DIVERSION WORKS PERMIT (SDWP):** Do you have a SDWP from 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, additional 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.**

| 16. APPLICANT | 17. SOURCE LANDOWNER |
|---|---|
| Wallette Pellegrino<br>Victor Pellegrino<br>Signature | Signature |
| VICTOR PELLEGRINO<br>WALLETTE PELLEGRINO<br>Print | Print |
| 4-27-09<br>Date | Date |

FILE ID: SWUP. 2333.6
DOC ID: 3467√

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

**APPLICATION FOR SURFACE WATER USE PERMIT FOR *PROPOSED NEW USE* IN A DESIGNATED SURFACE WATER MANAGEMENT AREA**

**FORM SWUPA-N**

☒ Application for New use
☐ Application to Modify SWUP No. _____

For Official Use Only:

For detailed instructions on filling out this application form completely, refer to the attached instructions sheet.
**Incomplete applications will not be accepted for processing.**

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 location and the quad map name.
- Property tax map showing the stream or diversion location and location of water use referenced to established property boundaries.
- Photograph(s) of the surface water source, diversion and end use, if applicable.

## APPLICANT INFORMATION

NOTE: In accordance with HRS §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 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 |
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| VICTOR & WALLETTE PELLEGRINO | VICTOR PELLEGRINO | AVERY CHUMBLEY | |

| Applicant's Mailing Address, or Principal Place of Business | Source Landowner's Mailing Address, or Principal Place of Business |
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| 1420 Kilohi St.<br>Wailuku, HI 96793 | 363 W Waiko Rd.<br>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 |
|---|---|---|---|---|---|
| (808)242-4642 | N/A | booksmaui@hawaii.rr.com | unknown | unknown | abc@aloha.net |

## SOURCE INFORMATION

3. **SURFACE WATER HYDROLOGIC UNIT:** Island: MAUI Hydrologic Unit: WAIKAPŪ Hydrologic Unit Code: 6001

4. **INSTREAM FLOW STANDARD (IFS) FOR HYDROLOGIC UNIT IF APPLICABLE:** N/A

5. **CAN YOUR PROPOSED USE(S) BE ACCOMMODATED WITHIN THE ABOVE AMOUNTS:** ☐ Yes ☐ No
Explain how your proposed use(s) can be accommodated within the existing IFS for the above hydrologic unit:
see attachment

6a. **TMK OF PROPOSED STREAM DIVERSION LOCATION:** (Zone) 3 - (Sec) 5 - (Plat) 0 0 4 : (Parcel) 0 1 8

6b. **TMK OF PROPOSED DITCH DIVERSION LOCATION:** (Zone) 3 - (Sec) 5 - (Plat) 0 1 2 : (Parcel) 0 2 3

7a. **PROPOSED STREAM DIVERSION:** How will water be diverted from the stream to your property? Check all that apply.
☒ Pipe ☐ Pump ☒ Ditch/auwai ☐ Other Describe: see attachment

7b. **WILL THE DIVERTED WATER BE RETURNED TO THE STREAM OR DITCH?**
☒ Yes. How much water will be returned? see attachment.
☐ No

8. **PROPOSED FLOW MEASUREMENT INFORMATION:**
Will the stream diversion have a flow meter with totalizer or other device to measure diverted amounts?
☐ Yes. List the manufacturer and describe the device . _____
☒ No. Explain how stream diversion will be measured or estimated to justify amounts requested in the space below.
see attachment

## PROPOSED USE INFORMATION HRS §174C-51(4), (5), (6)

9. **TOTAL QUANTITY OF WATER REQUESTED:** 433,400 gallons per day. See Table 1, Item14.

10. **PROPOSED USE:** Check all that apply. ☒ Agriculture ☐ Domestic ☐ Industrial
See Table 1, Item 1. ☐ Irrigation ☐ Military ☐ Municipal

11. **LOCATION OF PROPOSED WATER USE:** Show the location of the proposed use on the same USGS and TMK maps as the proposed source location. Otherwise, attach similar maps. See Table 1, Item 2.

## PROPOSED USER INFORMATION

12. **APPURTENANT RIGHT:** Do you claim an appurtenant right for your proposed water use? ☒ Yes ☐ No
If yes, has the appurtenant right been established by the courts or the Commission? ☐ Yes ☒ No

13. **PROPOSED END USER INFORMATION:** Will you be an end user on an existing water system?
☒ Yes. List the name of the system operator: N/A, no "operator" ☐ No

14. **REGISTRATION AND DECLARATION OF WATER USE:** Do you have a Registration and Declaration of Water Use from the Commission?
☐ Yes. List the file reference name(s): ☒ No

15. **STREAM DIVERSION WORKS PERMIT (SDWP):** Do you have a SDWP from 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, additional 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.**

| 16. APPLICANT | 17. SOURCE LANDOWNER |
|---|---|
| Wallette Pellegrino<br>Victor Pellegrino<br>Signature | Signature |
| VICTOR PELLEGRINO<br>WALLETTE PELLEGRINO<br>Print | Print |
| 4-27-09<br>Date | Date |

## APPLICATION FOR SURFACE WATER USE PERMIT - PROPOSED NEW USE

### TABLE 1: LAND USE CONSISTENCY / EFFICIENCY

(Attach additional copies of Table1 if necessary.)

| LAND USE CONSISTENCY | | | | | | EFFICIENCY OF USE | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 |
| PURPOSE / WATER USE CATEGORY | TMK FOR PROPOSED LOCATION OF USE<br>ATTACH THE FOLLOWING:<br>• Property tax map, showing proposed location of use referenced to established property boundaries.<br>• Photograph of the area of proposed use. | STATE LAND USE DISTRICT | CDUP REQ'D<br>Check the appropriate box, and write in the date approved, if applicable. | COUNTY ZONING CODE | SMAP REQ'D<br>Check the appropriate box, and write in the date approved, if applicable. | UNITS OR NET ACREAGE | GPD/UNIT or GPD/ACRE (Gallons per Day) | REQUESTED QUANTITY OF USE (GPD) | SUB-METERED? Check Yes or No | APPLICANT'S JUSTIFICATION FOR REQUESTED QUANTITY OF USE FOR ITEM 9. If applicable, attach sheets to show how this number was calculated. For irrigation uses, fill in Table 2. |
| Uses that require **potable** (drinking) water | | | | | | | | | | |
| | Zone - Sec - Plat : Parcel | | ☐ Yes, date approved: / /<br>☐ Yes, not acquired<br>☐ No | | ☐ Yes, date approved: / /<br>☐ Yes, not acquired<br>☐ No | | | | ☐ Yes<br>☐ No | |
| | Zone - Sec - Plat : Parcel | | ☐ Yes, date approved: / /<br>☐ Yes, not acquired<br>☐ No | | ☐ Yes, date approved: / /<br>☐ Yes, not acquired<br>☐ No | | | | ☐ Yes<br>☐ No | |
| | Zone - Sec - Plat : Parcel | | ☐ Yes, date approved: / /<br>☐ Yes, not acquired<br>☐ No | | ☐ Yes, date approved: / /<br>☐ Yes, not acquired<br>☐ No | | | | ☐ Yes<br>☐ No | |
| | Zone - Sec - Plat : Parcel | | ☐ Yes, date approved: / /<br>☐ Yes, not acquired<br>☐ No | | ☐ Yes, date approved: / /<br>☐ Yes, not acquired<br>☐ No | | | | ☐ Yes<br>☐ No | |
| | | | | | | | TOTAL POTABLE USE | 0 [12] | GPD | |
| Uses that **do not** require potable water | | | | | | | | | | |
| AGRCP | 3 - 5 - 0 1 2 : 0 2 3<br>Zone Sec Plat Parcel | AG | ☐ Yes, date approved: / /<br>☐ Yes, not acquired<br>☒ No | AG | ☐ Yes, date approved: / /<br>☐ Yes, not acquired<br>☒ No | 1.4 | 310,000 | 434,000 | ☐ Yes<br>☒ No | see attachment: 434,000 is reduced by 600 to account for the conversion of 0.2 acres from non-commercial gardening to wetland kalo. |
| | Zone - Sec - Plat : Parcel | | ☐ Yes, date approved: / /<br>☐ Yes, not acquired<br>☐ No | | ☐ Yes, date approved: / /<br>☐ Yes, not acquired<br>☐ No | | | | ☐ Yes<br>☐ No | |
| | Zone - Sec - Plat : Parcel | | ☐ Yes, date approved: / /<br>☐ Yes, not acquired<br>☐ No | | ☐ Yes, date approved: / /<br>☐ Yes, not acquired<br>☐ No | | | | ☐ Yes<br>☐ No | |
| | Zone - Sec - Plat : Parcel | | ☐ Yes, date approved: / /<br>☐ Yes, not acquired<br>☐ No | | ☐ Yes, date approved: / /<br>☐ Yes, not acquired<br>☐ No | | | | ☐ Yes<br>☐ No | |
| | | | | | | | TOTAL NON POTABLE USE | 433,400 [13] | GPD | |
| | | | | | | | TOTAL QUANTITY OF WATER REQUESTED (Sum of Total Potable Use and Total Non-Potable Use above) = | 433,400 [14] | GPD | |

15. Please explain if there are any limitations (legal, contractual, etc.) on the use(s) of water described above. §174C-51(5) HRS
N/A

## APPLICATION FOR SURFACE WATER USE PERMIT - PROPOSED NEW USE

### TABLE 2: IRRIGATION INFORMATION

List all crops that will be grown as separate line items and include landscape and golf course irrigation.
Attach additional copies of Table 2 if necessary.

| 1<br>TMK OF PROPOSED LOCATION OF USE<br>(Attach TMK map outlining area and photos for each proposed use.) | 2<br>CROP | 2<br>TOTAL ACREAGE | 4<br>NET IRRIGATED ACREAGE | 5<br>BEGIN GROWTH PERIOD (Month) | 6<br>END GROWTH PERIOD (Month) | 7<br>IRRIGATION SYSTEM (Refer to instructions.) | 8<br>IRRIGATION PRACTICE (Refer to instructions.) |
|---|---|---|---|---|---|---|---|
| 3 - 5 - 0 1 2 : 0 2 3 (Zone - Sec - Plat : Parcel) | Wetland Kalo | 2.146 | 1.4 | year round | year round | flood (kalo) | field capacity |
| | | | | | | | |
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**9. COMMENTS:**
N/A

## APPLICATION FOR SURFACE WATER USE PERMIT - PROPOSED NEW USE

## TABLE 3: ALTERNATIVES ANALYSIS AND ADDITIONAL REQUIREMENTS

| | **A. Analysis of Potable Alternatives** (Attach additional sheets if necessary.) | **B. Analysis of Non-Potable Alternatives** (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 | N/A |

C. **ADDITIONAL REQUIREMENTS:**

**PUBLIC INTEREST** Hawaii Revised Statutes §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.*

1. Explain below how your proposed new use(s) will maximize beneficial use(s) and how they will be deemed to be in the public interest as defined by the State Water Code above.
see attachment

2. Explain below how your proposed new use(s) will not interfere with any existing legal use(s).
see attachment

3. Explain below how your proposed new use(s) will not interfere with the rights of the Department of Hawaiian Home Lands as provided in Section 221 of the Hawaiian Homes Commission Act.
see attachment

## APPLICATION FOR SURFACE WATER USE PERMIT
## PROPOSED NEW USE

## INSTRUCTIONS

This application form is for **new surface water uses** or for a modification of a previously approved water use permit in designated surface water management areas. New surface water uses are proposed uses after the effective date of designation of the surface water management area. Please check the appropriate box.

**Do not use this form for existing surface water use applications.** Existing surface water uses are actual uses before the effective date of designation. Please use Form SWUPA-E for existing uses.

Most questions can be addressed by visiting our website at: www.hawaii.gov/dlnr/cwrm, or contacting us at 587-0234, or by email at: dlnr.cwrm@hawaii.gov. The current application forms are also available at: www.hawaii.gov/dlnr/cwrm/resources_permits.htm.

REQUIREMENTS FOR A COMPLETE APPLICATION

1. Fill in the most recent application form. A current form is available at our web site or by contacting us at 587-0234.
2. Print in ink or type in the information on the application.
3. Fill in every item in the application form (page 1) and Tables 1, 2, and 3 as it relates to your proposed new use or permit modification.
4. Enclose a check for the non-refundable filing fee of $25 payable to: Department of Land and Natural Resources. Government agencies are not required to pay the filing fee.
5. Pay for the cost of publishing any required public notices related to your application. The curreot cost for publishing public notices is approximately $400.00. Commission staff will provide instructions later in the permit process regarding payment of these costs.
6. Mark the source and end use locations on the appropriate USGS quad map (scale 1:24,000) and property tax (TMK) map and attach these maps to your application.
7. Attach photos showing your existing diversion, measuring device(s) (if applicable) and end use areas.
8. Sign the application form in ink. Both the applicant and the landowner where the source is located must sign the application form.
9. Submit the original application and **15 copies** of the application form and all attachments (maps, photos and any other attachments) and filing fee to: Commission on Water Resource Management, P.O. Box 621, Honolulu, HI 96809.

ADDITIONAL REQUIREMENTS FOR A COMPLETED APPLICATION

Per Hawaii Revised Statutes §174C-49, the applicant must establish that the proposed new use of surface water:

1. Can be accommodated with the available water source.
2. Is a reasonable-beneficial use.*
3. Will not interfere with any existing legal use of water.
4. Is consistent with the public interest.**
5. Is consistent with state and county general plans and land use designations.
6. Is consistent with county land use plans and policies.
7. Will not interfere with the rights of the Department of Hawaiian Home Lands as provided in Section 221 of the Hawaiian Homes Commission Act.

*HRS §174C-3 of the State Water Code states: *"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.*

**HRS §174C-2(c) of the State Water Code 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 ta be in the public interest.*

**NOTE:** Filling in the application from and Tables 1, 2, and 3 completely will address the requirements of HRS §174C-49.

### LINE BY LINE INSTRUCTIONS ON APPLICATION

#### APPLICANT INFORMATION

In accordance with the Hawaii Water Code, both the applicant and the person who owns the property where the water source is located are required to apply for a water use permit. §174C-51(1)(B), HRS, states, *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: Fill in the information for the applicant. This should be the person who 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.

#### SOURCE INFORMATION

3. SURFACE WATER HYDROLOGIC UNIT AND CODE: Enter the appropriate island, hydrologic unit name, and hydrologic code where the proposed source is located. The "source" is the stream 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 Flaw 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.

## APPLICATION FOR SURFACE WATER USE PERMIT
## PROPOSED NEW USE

4. INSTREAM FLOW STANDARD (IFS) FOR HYDROLOGIC UNIT: Provide Instream Flow Standard (IFS) for hydrologic unit if available.
5. CAN YOUR PROPOSED USE BE ACCOMMODATED WITHIN THE ABOVE AMOUNTS: Check "Yes" or "No". Explain how your proposed use(s) can be accommodated within the Instream Flow Standard (IFS) for the above hydrologic unit.
6a. TMK OF PROPOSED STREAM DIVERSION LOCATION: Fill in the Tax Map Key (TMK) number of the tax parcel where the stream diversion will be located. Each tax parcel is issued a TMK number by the county property tax office and is defined as follows: 1st digit = (Island code), 2nd digit = Zone, 3rd digit = Section, Digits 4-6 = Plat, Digits 7-10 = Parcel, e.g. (1) 1-1-001:001. To find out your TMK number, call Maui County Real Property Tax Division at: (808) 270-7297, or check online at: www.mauipropertytax.com/
6b. TMK OF PROPOSED DITCH DIVERSION LOCATION: Fill in the Tax Map Key (TMK) number of the parcel where the proposed ditch diversion will be located.
7a. PROPOSED STREAM DIVERSION: How will water be diverted from the stream to your property? Check all the appropriate box(es).
7b. WILL THE DIVERTED WATER BE RETURNED TO THE STREAM OR DITCH? Check "Yes" or "No." If yes, enter the amount of water to be returned.
8. PROPOSED FLOW MEASUREMENT INFORMATION: Check "Yes" or "No". If yes, please describe the measuring device. A flowmeter with a totalizer will directly measure the total use for the source (similar to a car's odometer). If no, explain how stream diversion will be measured or estimated to justify amounts requested.

**PROPOSED USE INFORMATION** (HRS §174C-51(4), (5), (6))

9. TOTAL QUANTITY OF WATER REQUESTED: Enter the amount of water requested as gallons per day (GPD). Fill out Table I and enter the amount in Box 14, "Total Use Requested."
10. PROPOSED USE: Check all the boxes that apply for the proposed use. Refer to the instructions for Table 1: Land Use Consistency/Efficiency of Use, Item 1: Purpose/Water Use Category below to determine which water use category to use.
11. LOCATION OF PROPOSED WATER USE: Show the location of the proposed use on the same USGS and TMK maps as the proposed source location. Otherwise, attach similar maps and show the location of the proposed use.

**PROPOSED USER INFORMATION**

12. 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 proposed water use? Check "Yes" or "No."
If yes, has your appurtenant right been established by the courts or the Commission? Check "Yes" or "No."
13. PROPOSED END USER INFORMATION: Will you be an end user on an existing water system? Check "Yes" or 'No." If yes, please list the name of the water system operator.
14. 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, list the name of the registrant(s).
15. 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."
16. APPLICANT: Sign and print your name, and date your application.
17. SOURCE LANDOWNER: Sign and print your name, and date your application. The landowner of the source shall be a 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)

**TABLE I: LAND USE CONSISTENCY / EFFICIENCY OF USE**

Provide information on all of the proposed uses you are applying for or seeking to modify. In the space provided below the table or on a separate sheet, explain whether there are any limitations (e.g., a contract or other legal agreement(s)) on your proposed water use(s), as required by §174C-51(5), HRS.

1. PURPOSE / WATER USE CATEGORY: For each proposed use, choose one of the categories listed below and enter the appropriate code in the space provided (e.g. AGRAQ, IRRIG, etc.)

| | |
|---|---|
| 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 |

## APPLICATION FOR SURFACE WATER USE PERMIT
## PROPOSED NEW USE

| | | |
|---|---|---|
| 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 will be applied. There should nnly be one parcel for each line. Also, attacb 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, check "Yes" and enter the date CDUP was approved if you have a CDUP applicable to this project; or check "Yes, not acquired". If a CDUP is not required, check "No." To find out 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 Na Wai Eha, contact Maui County Department of Planning at 270-6279 or 270-7253.
6. SMAP REQUIRED: If a Special Management Area Permit (SMAP) is required, check "Yes" and enter the date SMAP was approved if you have a SMAP applicable to this project; or check "Yes, not acquired". If a SMAP is not required, check "No." To find out if your parcel is in a Special Management Area and requires an SMAP, contact Maui County at 270-8205.
7. UNITS OR NET ACREAGE: This is the value and category as the basis for calculating the duty. "Duty" means the amnunt of water requested for a "unit" over a specific time period, e.g. gallons per acre per day, or gallons/acre/day. "Unit" can mean dwelling unit, or number of people, or animals. Some examples of this category include: 400 dwelling units, 500 people, and 3.74 acres.
8. GPD/UNIT or GPD/ACRE (GPD=gallons per day): Enter the gallons per day or gallons per acre for each water use category listed in Column #1.
9. REQUESTED QUANTITY OF USE (GPD): Enter the requested quantity of use in gallons per day (GPD) at build out after all phases of your project have been completed. The build out amount may differ from the four-year cumulative projected demand if ynur build out date extends beyond the cumulative projccted fnur-year demand.
10. SUBMETERED? Is there a second measuring device or meter for another user? Check "Yes" or "No" if the specific use will be submetered or not. Submetering is specific to each line item.
11. APPLICANT'S JUSTIFICATION FOR QUANTITY OF REQUESTED USE FOR ITEM #9: Explain how you are justifying the amount(s) you are requesting for Item #9. Attach additional copies of Table 1 if necessary to show how this number was calculated. For irrigation uses, fill in Table 2.
12. TOTAL POTABLE USE: Add the quantities listed in the column above for potable water and enter the total potable use in gallons per day (GPD) here.
13. TOTAL NON-POTABLE USE: Add the quantities listed in the column above for uses that do not require potable water and enter the total non-potable use in gallons per day (GPD) here.
14. TOTAL QUANTITY OF WATER REQUESTED: Add the requested amounts listed on Box 13 and Box 14 and enter the total requested amount of both potable and non-potable uses here.
15. Please explain if there are any limitations (legal, contractual, etc.) on the use(s) of water described above. HRS §174C-51(5)

**TABLE 2: IRRIGATION INFORMATION**

On Table 2, provide the information requested for all the crops you are proposing to grow, including landscape and golf course turf and plants. Enter only one crop and one parcel number (TMK) per line. For multiple crops, list each one as a separate line item. All proposed or modified irrigation uses you are applying for must be listed. Attach additional copies of Table 2, if necessary.

1. USE TAX MAP KEY (TMK): Enter the parcel number where the crop will be grown. Also attach a property tax map with an outline around the area(s) of proposed use(s) and a photograph nf each area of the proposed use.
2. CROP: Enter the crop type.
3. TOTAL ACREAGE: Enter the total acreage of the parcel listed.
4. NET IRRIGATED ACREAGE: Enter the acreage that the specific crop will be grown.
5. BEGIN GROWTH PERIOD (MONTH): This is the month of the start of the growth cycle.
6. END GROWTH PERIOD (MONTH): This is the month of the end of the growth cycle.
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 in the space provided for Comments.

8. IRRIGATION PRACTICE: Enter one of the following:

IRRIGATE TO FIELD CAPACITY
APPLY A FIXED DEPTH PER IRRIGATION
DEFICIT IRRIGATION
OTHER - Please describe in the space provided for COMMENTS below.

**TABLE 3: ALTERNATIVES ANALYSIS AND ADDITIONAL REQUIREMENTS**

**A.** ALTERNATIVES ANALYSIS: Please address each alternative and explain why they are or are not available for potable needs. Other alternatives on the last line may include stormwater reclamation, rainwater catchment, etc. that are not already listed above.

**B.** ALTERNATIVES ANALYSIS: Please address each alternative and explain why they are or are not available for non-potable needs. Other alternatives on the last line may include stormwater reclamation, rainwater catchment, etc. that are not already listed above.

Surface water is defined in §174C-3, HRS 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.*

**C. ADDITIONAL REQUIREMENTS**

1. Explain how your proposed new use(s) will maximize beneficial use(s) and how they will be deemed to be in the public interest as defined by the State Water Code below.

   Hawaii Revised Statutes §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.*

2. Explain how your proposed new use(s) will not interfere with any existing legal use(s).

3. Explain how your proposed new use(s) will not interfere with the rights of the Department of Hawaiian Home Lands as provided in Section 221 of the Hawaiian Homes Commission Act. See below. To inquire about potential interference, you may contact the Department of Hawaiian Home Lands Planning Office at 586-3836.

   The State Water Code in §174C-101(a), HRS [Native Hawaiian water rights], states: *Provisions of this chapter shall not be construed to amend or modify rights or entitlements to water as provided for by the Hawaiian Homes Commission Act, 1920, as amended, and by chapters 167 and 168, relating to the Molokai irrigation system. Decisions of the commission on water resource management relating to the planning for, regulation, management, and conservation of water resources in the State shall, to the extent applicable and consistent with other legal requirements and authority, incorporate and protect adequate reserves of water for current and foreseeable development and use of Hawaiian home lands as set forth in section 221 of the Hawaiian Homes Commission Act.*

**Attachment**

The following attachments provide additional information supporting our water use permit application for our new water use. Our farm, Noho`ana Farm LLC, is a small family farm that cultivates wetland kalo and other Native Hawaiian crops and provides cultural, place-based educational programs for students and community members to learn and practice traditional Hawaiian culture in Waikapū. Since 2004, our farm has hosted more than a thousand visitors, including members of school groups, hālau hula, and community and government organizations. Because the purpose of our farm is to grow food and share Hawaiian culture, our educational programs are facilitated under a non-profit auspice. The lack of sufficient water has precluded us from restoring all of the lo`i kalo on our land, and by this new use application, we seek enough water to maximize our kalo cultivation. Our farm on TMK No. 3-5-012:023 is 2.146 acres (although the Maui County website claims it is 2.175 acres), and we intend to restore 1.4 additional acres of ancient lo`i kalo, which when combined with our existing lo`i, will total 1.6 acres of wetland kalo on this parcel.

**Exhibits:**

Appended hereto as Exhibit 1 is a copy of the 7.5 minute-series USGS topographic map with the Waikapū Stream and Waikō Road diversion labeled. Exhibit 2 is a TMK map showing the location of our property, as well as a close-up of the property showing the locations of our `auwai diversion and area of proposed use. Exhibit 3 contains true and correct copies of photographs of our `auwai diversion and existing uses that accurately depict the conditions on the date the pictures were taken. Exhibit 4 contains copies of Māhele records establishing our appurtenant rights, as described below.

**Box 2: Source Landowner**

Not applicable pursuant to HRS § 174C-51(1)(B), because we do 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, Avery Chumbley claims to be the source landowner.

**Supplemental Information for Box 4 and 5: Instream Flow Standards**

There currently are no Instream Flow Standards for Nā Wai 'Ehā, and a petition to upwardly amend the Interim Instream Flow Standards is pending. There is sufficient water upstream of all diversions to accommodate our proposed use.

**Box 7(a): Proposed Stream Diversion**

We are kuleana users along the kuleana `auwai that runs along Waikō Road. Water is currently diverted into the `auwai from the stream through a traditional po`owai (intake made with stones) near Ione Shimizu's house. See attached USGS topo map and Exhibit 3, Photo 1. The water continues makai in pipes and ditches until it passes our property (TMK No. 3-5-012:023) where we divert some water by pipe and ditch for our lo`i kalo and other crops. See Exhibit 3, Photos 2-3. After flowing through our lo`i, a flume returns water directly to Waikapū Stream. See Exhibit 3, Photo 5. This application seeks to expand our area of wetland kalo cultivation (See Exhibit 3, Photo 4) and we will utilize our existing diversions and `auwai to do so. The amount of water returned to the stream will vary, depending on a number of factors, including the amount of water in the kuleana `auwai, crop needs, weather, etc.

**Box 8: Justification for Requested Quantity**

We estimated our proposed water use for wetland kalo cultivation by multiplying the amount of land we will restore to wetland kalo cultivation (1.4 acres) by 310,000 gallons per acre per day (GAD), the water duty for wetland kalo cultivation for Nohoana Farm in Waikapū. See concurrently filed SWUPA-E.

We calculated this figure by measuring the amount of water flowing out of our existing lo`i using a five-gallon bucket. Because it took an average of eight seconds to fill a five-gallon bucket, we know that approximately 54,000 gallons of water is flowing out of our lo`i each day. We added 8,000 gallons per day to that figure to account for water consumed by our kalo (40,000 [reasonable consumptive use of wetland kalo per acre per day, according to previous studies] x 0.2 [acres currently in kalo] = 8,000). Because we are using approximately 62,000 gallons per day (GPD) for our 0.2 acres of existing lo`i kalo (54,000 + 8,000 = 62,000), that means our water duty for kalo at Nohoana Farm in Waikapū is approximately 310,000 GAD (62,000 x 5 = 310,000). When this 310,000 GAD figure is applied to the 1.4 acres of lo`i kalo we would like to restore, that totals 434,000 GPD.

Since we will be converting 0.2 acres on Parcel 23 from non-commercial gardening to lo`i kalo, we subtracted 600 (0.2 x 3000 GAD = 600) from 434,000. Therefore, we are requesting an additional 433,400 GPD to restore our 1.4 acres of wetland kalo.

**Box 12: Appurtenant Rights**

Our property has appurtenant rights because it was in kalo cultivation at the time of the Māhele of 1848. Almost all the stream water we currently use (see our concurrently filed SWUPA-E) and propose to use is for ancient lo`i kalo on our land. Attached hereto as Exhibit 4 are true and correct copies of Māhele records for Land Commission Award No. 3340, Royal Patent No. 3115, and Land Commission Award No.

3110, Royal Patent No. 3152, including testimony indicating the land was in kalo. This land has been in our family continuously since the Māhele, and based on our knowledge of the history of this kuleana and our family, we have no evidence, indication, or any other reason to believe that our appurtenant rights have been extinguished. This application should be granted pursuant to HRS § 174C-63.

**Table 1, Boxes 3 through 5**

Our application seeks to expand our existing water use on land zoned for agriculture in agriculture and urban state land use districts. The cultivation of traditional Hawaiian agricultural crops is consistent with state and county general plans and land use designations. Additionally, this use is consistent with county land use plans and general policies.

**Table 1, Box 11: Justification for Requested Quantity**

See response to Box 8, above.

**Table 3, Box B: 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 water from Waikapū Stream, there is no potentially available alternative source that is economically practicable, especially compared to the `auwai drawing directly from the stream. We cultivate kalo on our land for cultural, subsistence, and educational 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 practice economically impossible and effectively deny us our rights. 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, 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. 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, 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 agriculture, we do not have the means to install and maintain such infrastructure.

**Table 3, Sections C: Additional Requirements**

**1) Our proposed new use will maximize beneficial use and is in 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." The water we are requesting is for kalo cultivation. We grow kalo in traditional ways and use it for home, ceremonial, and educational purposes. We are Native Hawaiians engaged in traditional agricultural practices, and we believe our crops help to maintain ecological balance and scenic beauty. As such, our proposed use of stream water is consistent with the public interest.

***Our Proposed Use is a Protected Public Trust Purpose***

Kalo cultivation by Native Hawaiians and the exercise of appurtenant rights are protected public trust purposes. Waiāhole I, 94 Haw. at 137, 9 P.3d at 449; 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 will use will be returned to Waikapū stream, 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.

***Our Proposed Use Supports Beneficial Instream Uses***

Because we will return much of the water we divert for kalo cultivation to Waikapū stream, our proposed 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 Proposed 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 proposed use of stream water is consistent with state and county land use plans and the public interest. It will also be "economic and efficient" because we will only use the amount we need. We will take steps to make our water use efficient. For instance, we will use pipes and concrete-lined `auwai where appropriate to minimize water loss, and our farming practices will include the use of mulch and green manure to protect the soil from erosion and minimize the use of water. Therefore, the water we have requested is for a "reasonable-beneficial use."

**2) Our proposed uses will not interfere with any existing legal use**

Our proposed use will not interfere with existing legal uses. As kuleana users, we have first priority by law. We believe the flow of Waikapū Stream is able to accommodate our new use. In fact, our use of water from Waikapū Stream has been severely restricted by large diversions upstream of our `auwai po`owai (intake), and this has limited the acreage that we can cultivate, necessitating this new use application. Also, as mentioned above, most of the water we will use will go back to Waikapū

Stream. Thus, our use will not interfere with other existing legal uses because it will not result in a large net loss of water from the stream and larger ecosystem.

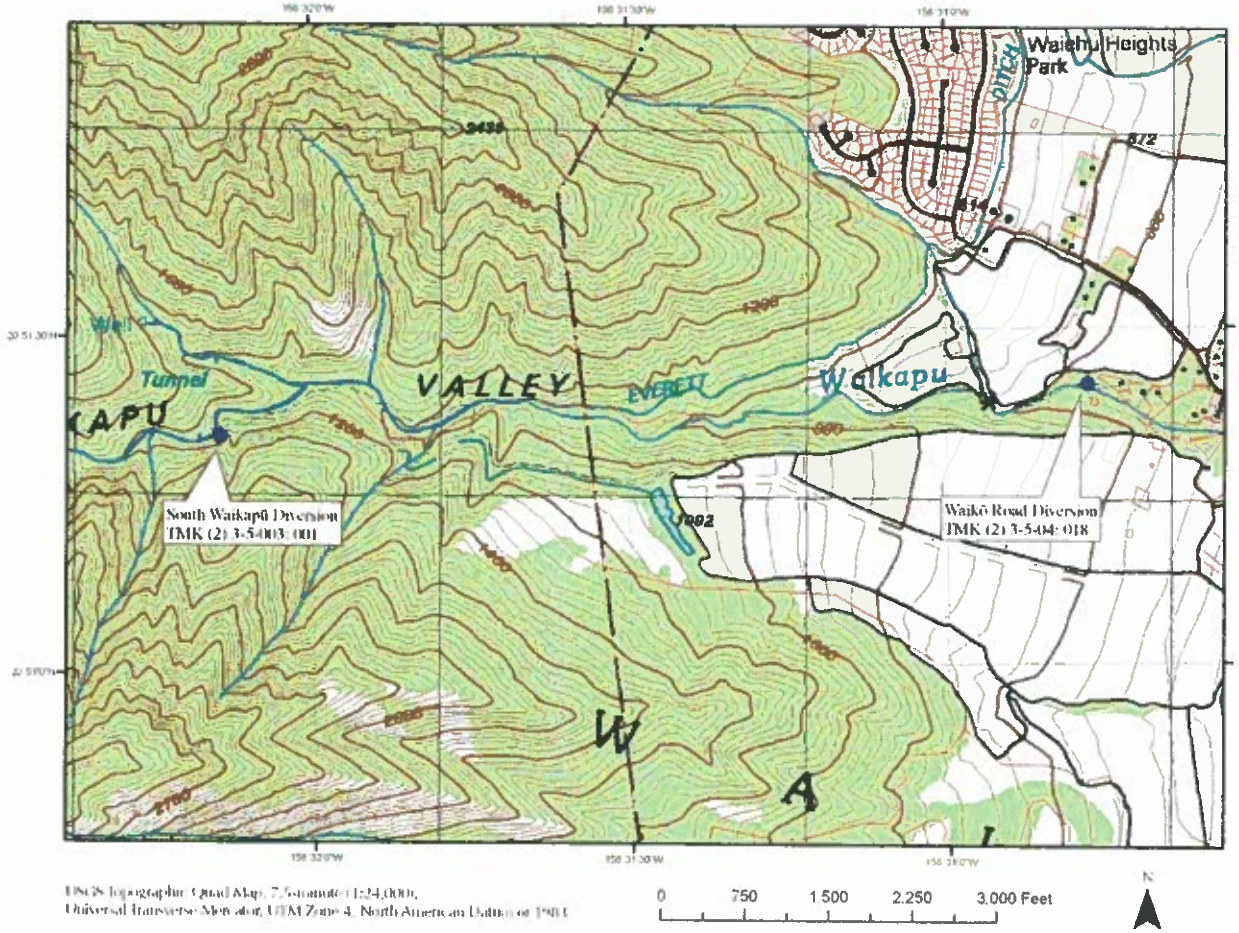
**3) Our proposed uses will not interfere with the rights of the Department of Hawaiian Home Lands**

We are not aware of any DHHL lands using water from Waikapū Stream. To the best of our knowledge, DHHL has not filed an application to use water from this source. While we are aware that DHHL has outstanding reservations for municipal water meters in Central Maui, our use will not interfere with those reservations, which are largely served by ground water sources. Instead, our proposed use will actually help to protect DHHL's rights because the vast majority of the water that we have requested will be returned to the stream, and if it remains in the stream, it will recharge the aquifer, protecting the health of the aquifer system for DHHL's present and future ground water uses.

# EXHIBIT 1

USGS topographic map labeled with
Waikapū Stream and the "Waikō Road Diversion" location.

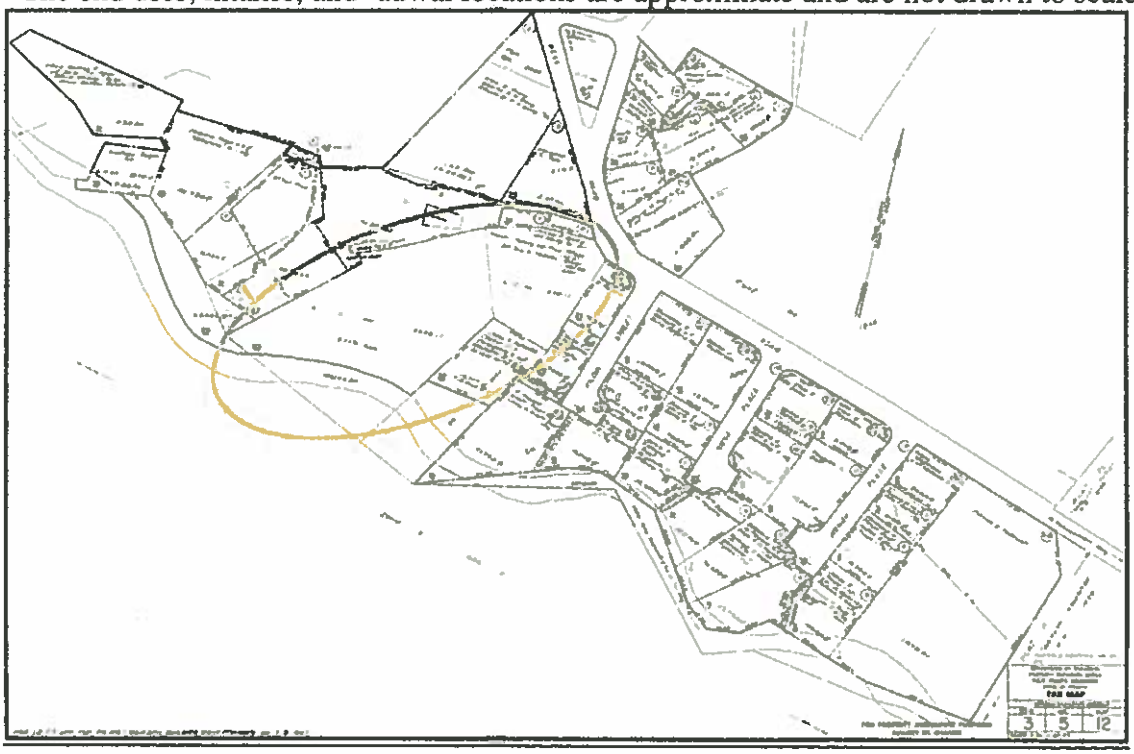
Topographic map of the Waikapū ahupua'a in central Maui, Hawai'i (Source: U.S. Geological Survey, 1996).




USGS Topographic Quad Map, 7.5-minute (1:24,000),
Universal Transverse Mercator, UTM Zone 4, North American Datum of 1983

**EXHIBIT 2**

TMK maps showing our diversion locations and water uses.
Water enters Parcel 23 via our `auwai (in blue) for existing lo`i kalo and diversified ag; water returns to Waikapū Stream via a flume (in pink).
Our existing lo`i are in dark green, and the lo`i we will restore are in light green.
Portions of lo`i 8-12 will displace existing diversified agriculture.
The end uses, intakes, and `auwai locations are approximate and are not drawn to scale.



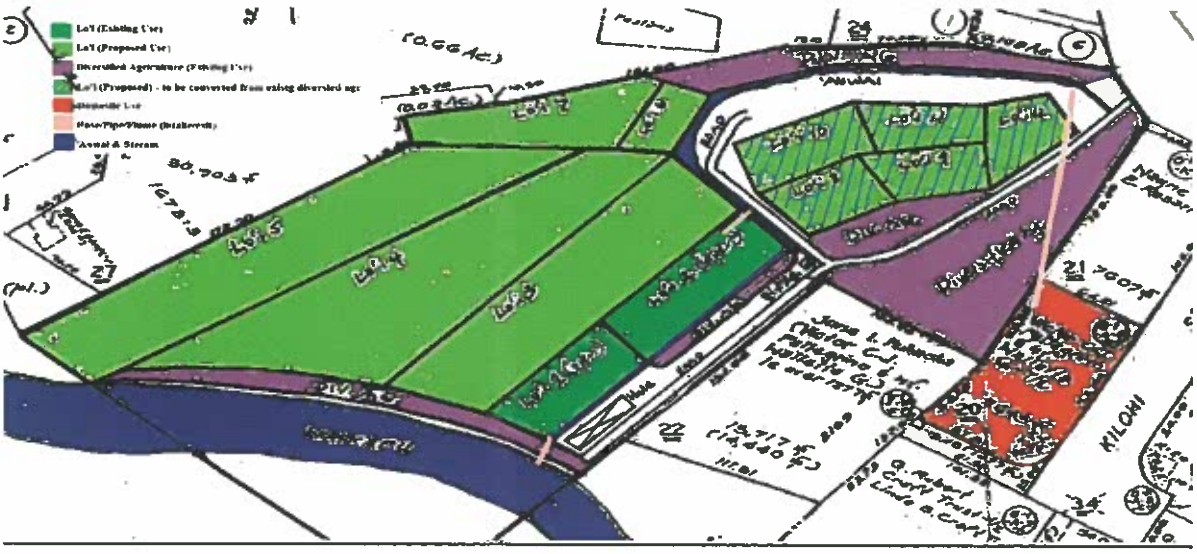


**EXHIBIT 3**

Photographs of surface water diversion and end uses

1. Waikapū stream diversion (po`owai on right of picture)

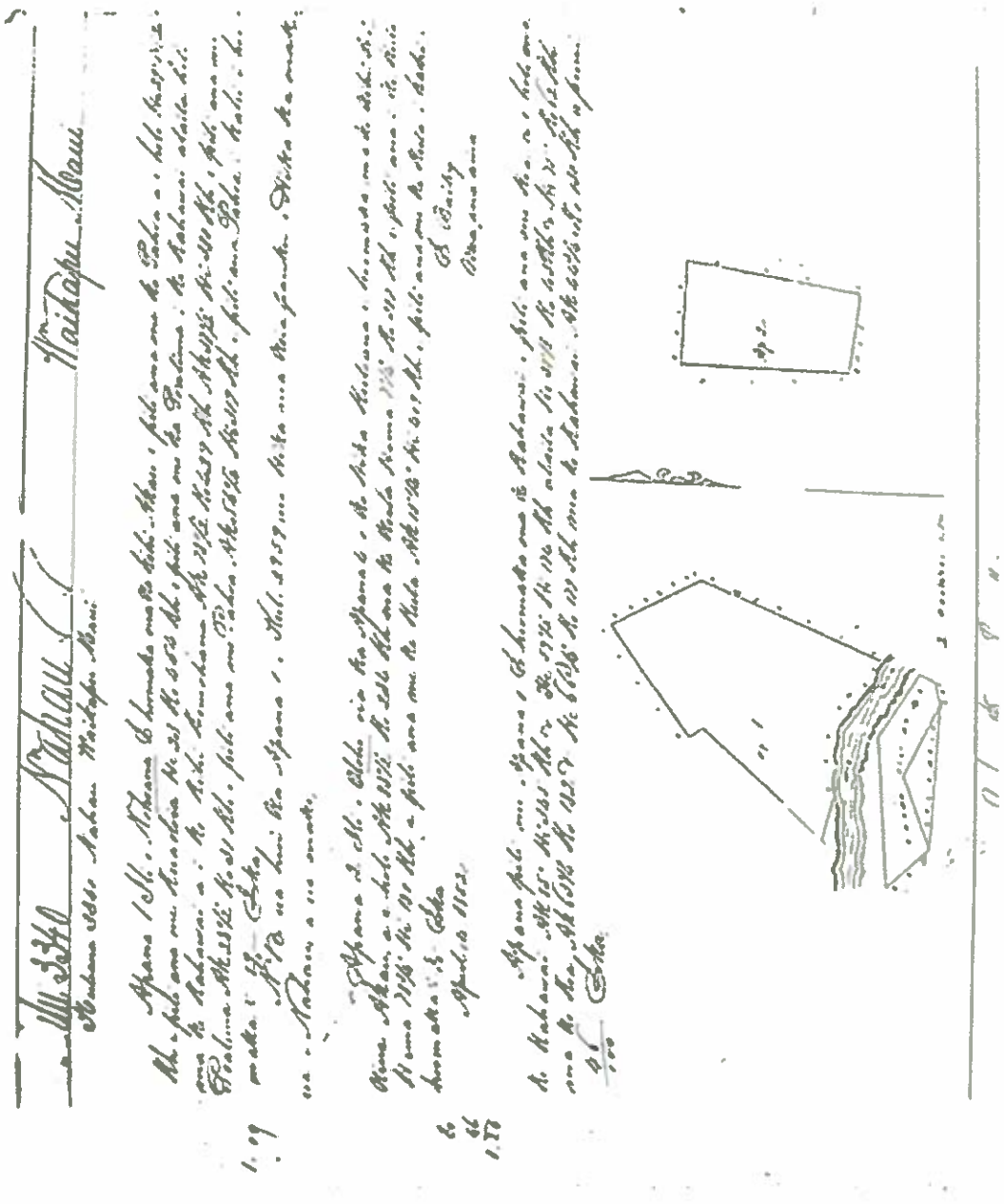
2. Diversion from main `auwai for Parcel 23

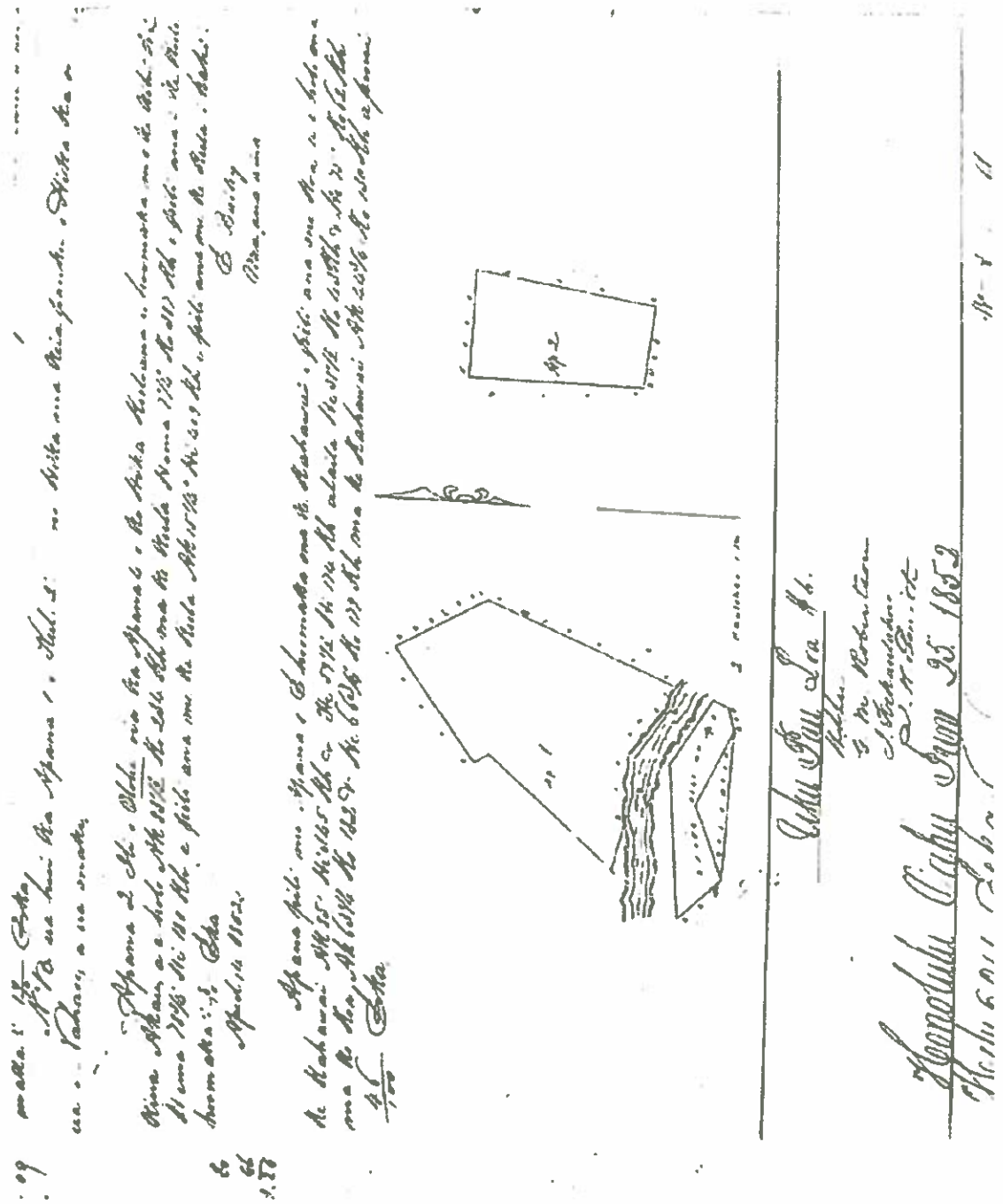
3. Branch `auwai on Parcel 23, bringing water from main `auwai to lo`i

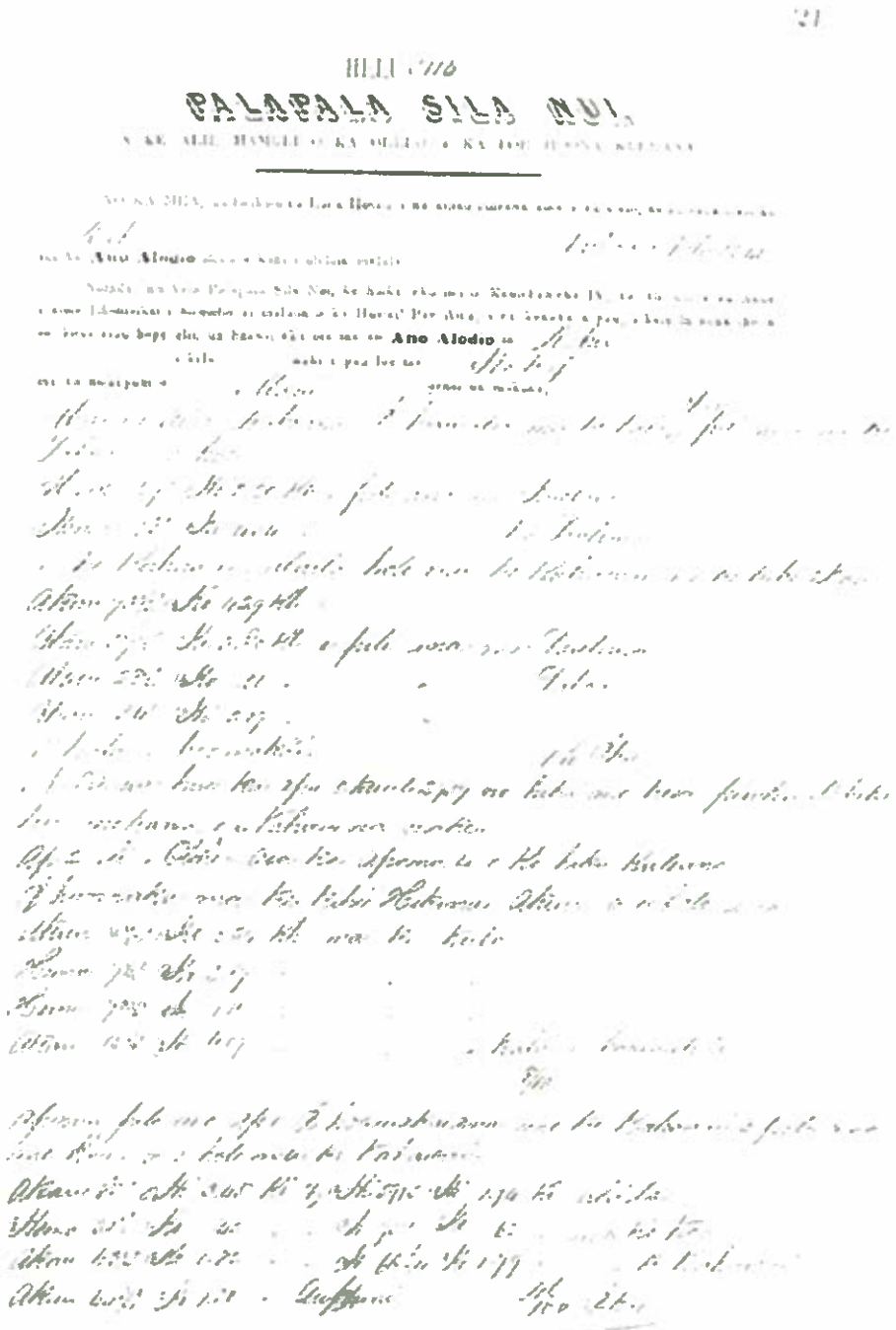
4. Area of Proposed Use for future lo`i kalo

5. Flume returning water to Waikapū stream from Parcel 23

**EXHIBIT 4**
Copies of Original Māhele Documents







21

HELI 116

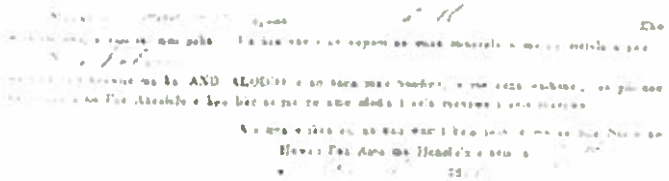
# PALAPALA SILA NUI.

[illegible]

[illegible] Ano Alodio [illegible]

[illegible] Ano Alodio [illegible]

[illegible]



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five mo'o, in the 'Ili called Kealakapohu at Wailuku, Maui. They were from my makuas, and are

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bounded on the north by Pohakuokauhi, on the east by the land boundary wall, on the south by the 'Ili of Hakole, on the west by the land boundary wall.
Waikapu, 19 January 1848 KAKAILOU

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No. 3339 - Napue

Greetings to the Land Commissioners: I hereby petition for my claim. I have 24 lo'i, in the 'Ili called Kalua in Wailuku, Maui, which I have occupied for 20 years. The boundaries are: on the north are the lo'is of Akalc, on the east is a land boundary wall, on the south are the lo'is of Makahanohano, on the west is a watercourse. Respectfully,
Wailuku, 17 Dec. 1847 NAPUE

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No. 3340 - Nahauna Waikapu, Maui, Jan. 13, 1848

Hear ye, ye Land Commissioners: I hereby petition you for my lo'i claims. They are in the 'Ili of Nohoana and are bounded on the east by Hokahelahela, on the west by mountain, on the northeast by the watercourse, on the south by the stream. I have a total of 8 lo'i and 2 clumps of lauhala.

I received the right to these lo'is from the time my makuahine was alive, and on her death I continued to possess these lo'is, from the time of Kamehameha II until the present.

Furthermore, I have a mala of wauke in the 'Ili of Aweoweo luna, which is bounded on the east by Puuhele, on the west by Kamehame II, on the north by Waikapu, on the south by Honuaula.

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We have had the right of occupancy from the time of Pikanele until this very time, therefore I make this petition to you. It is finished.

NAHAUNA

---

No. 3341 - Niauhoe

To the Land Commissioners, Greetings: I hereby state my claim for my 15 lo'i and a house lot at Auwaiolimu, adjoining Kaaa. It is bounded on the north by the lo'is of Naai, on the east by the land boundary wall, on the south by the kula, on the west by the 'Ili called Pilipili. It was from W. Shou /Shaw/ in the time of Kamehameha II.
Waikapu, Dec. 22, 1847 NIAUHOE

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No. 3342 - Nauahi

o the Land Commissioners, Greetings: I hereby state my claim to

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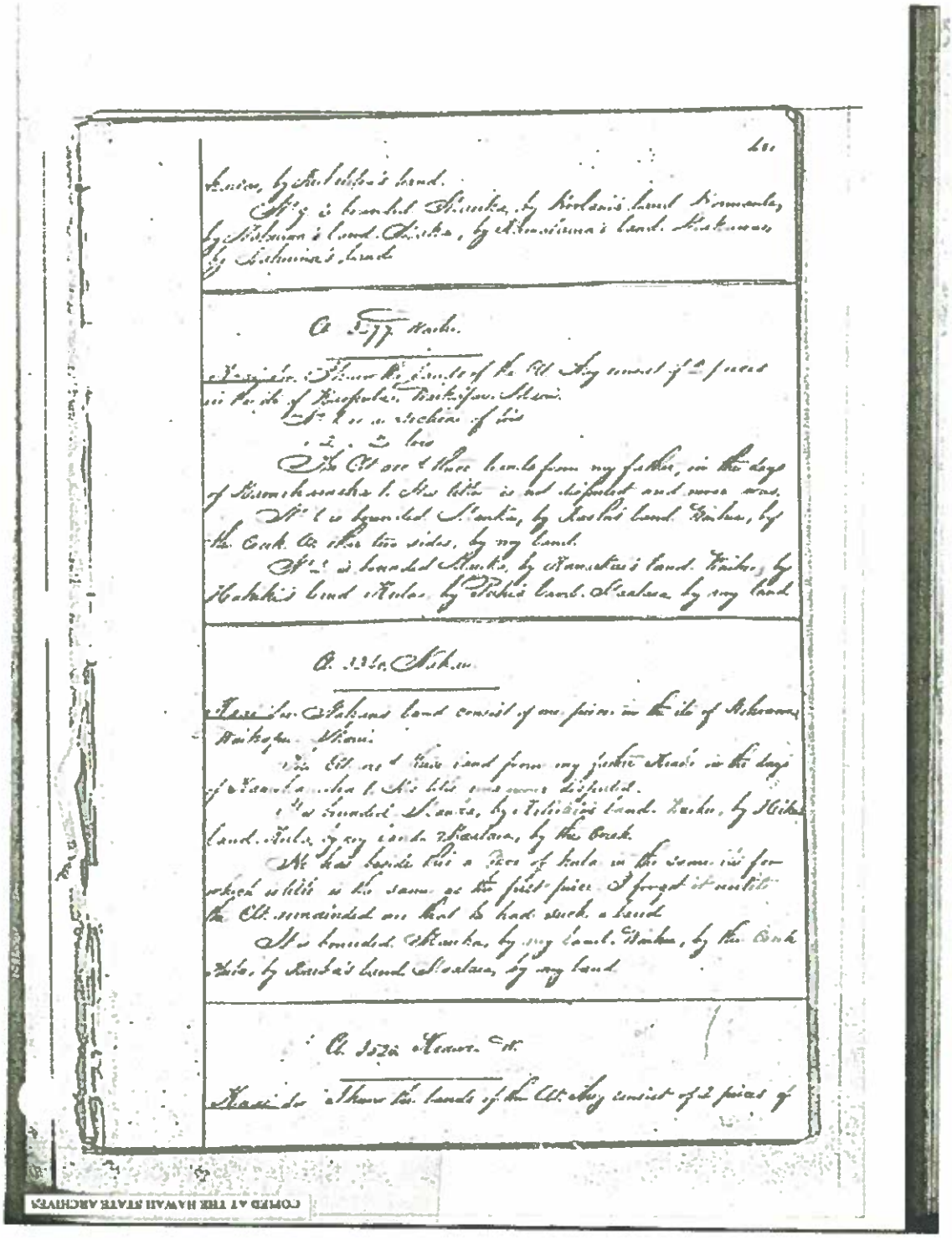

[illegible] by [illegible]'s land.

No. 7 is bounded [illegible], by [illegible]'s land [illegible], by [illegible]'s land [illegible], by [illegible]'s land [illegible], by [illegible]'s land.

A. 3277 [illegible].

[illegible] Know the lands of the Ct. Hwy consist of 2 pieces in the ile of [illegible] [illegible] [illegible].

No. 1 is a section of [illegible]

[illegible] 2 [illegible]

The Ct. acc'd these lands from my father, in the days of [illegible] [illegible] [illegible] is not disputed and never [illegible].

No. 1 is bounded [illegible], by [illegible]'s land [illegible], by the Creek [illegible] other two sides, by my land.

No. 2 is bounded [illegible], by [illegible]'s land [illegible], by [illegible]'s land [illegible], by [illegible]'s land [illegible], by my land.

A. 3340 [illegible].

[illegible] [illegible] land consist of one piece in the ile of [illegible] [illegible] [illegible].

The Ct. acc'd these land from my father [illegible] in the days of [illegible] [illegible] [illegible] [illegible] disputed.

It is bounded [illegible], by [illegible]'s land [illegible], by [illegible] land [illegible], by my land [illegible], by the Creek.

He has beside this a piece of [illegible] in the same ile for which is title is the same as the first piece. I forgot it until the Ct. remainded me that he had such a land.

It is bounded [illegible], by my land [illegible], by the Creek [illegible], by [illegible]'s land [illegible], by my land.

A. 3520 [illegible].

[illegible] [illegible] Know the lands of the Ct. Hwy consist of 2 pieces of

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7. is bounded mauka by Puupahoehoe, Waihee by Pepelaopili, Kula by Kepaa, Maalaea by Manu.
8. is bounded mauka by Kaaihue, Honuaula by Kanakao-

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kai, makai by Maanaa, Maalaea by Kuheleloa.
9. is bounded mauka by Holani, Honuaula by Nahuina, makai by Kamalama, Maalaea by Nahuina.

Kuihewa sworn: My knowledge of the boundaries of the Parcels 8 and 9 at Kamaole, Kula is the same as described above.

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No. 3277 - Waiho July 13, 1849

Kaai sworn: I know of his two parcels of taro in Kaopala 'Ili in Waikapu
Parcel 1. Taro pauku
" 2. 2 taro lo'i
He got them from my makuakane in the time of Kamehameha I. No opposition.
1. is bounded mauka by Kaohi, Waihee by stream, Kula and Maalaea by my land.
2. is bounded mauka by Kamakai, Waihee by Hakiki, Kula by Puhi, Maalaea by my land.

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No. 3340 - Wahau

Kaai sworn: I know of two parcels in Nohoana 'Ili in Waikapu. The first parcel is for taro, and the second parcel is a mo'o kula. They are from me, who had them from my makuakane in the time of Kamehameha I. No opposition.
1. is bounded mauka by Keliololo, Waihee by Hika, Kula by myself, Maalaea by stream.
2. is bounded mauka by myself, Waihee by stream, Kula by Kaeha, Maalaea by myself.

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No. 3520 - Keawe (w)

Kaai sworn: I know of two taro parcels and

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a kula parcel in Punia 'Ili in Waikapu. She had it from my makuakane in the time of Kamehameha I. There are no po'alima, and no opposition to her.
1. is bounded mauka by the 'Ili of Pikoku, Waihee by the po'alima and pa'ahao, Kula by the 'Ili of Kaopala, Maalaea by po'alima.
2. is bounded mauka by Kawawa, Waihee by myself, Kula by the 'Ili of Kaopala, Maalaea by Ihuole (w).
3. is bounded Maalaea side by Government Lot and the other sides by myself.

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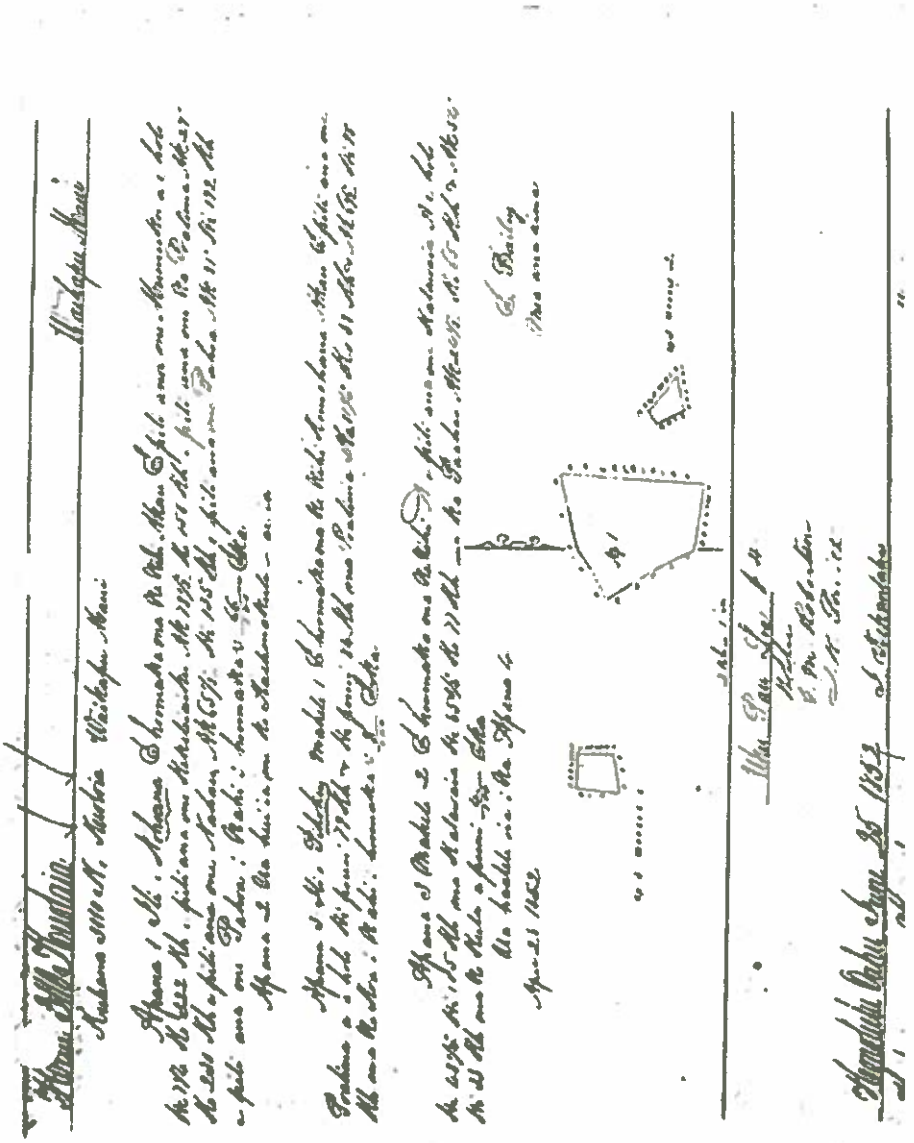


HELU [illegible]

# PALAPALA SILA NUI.

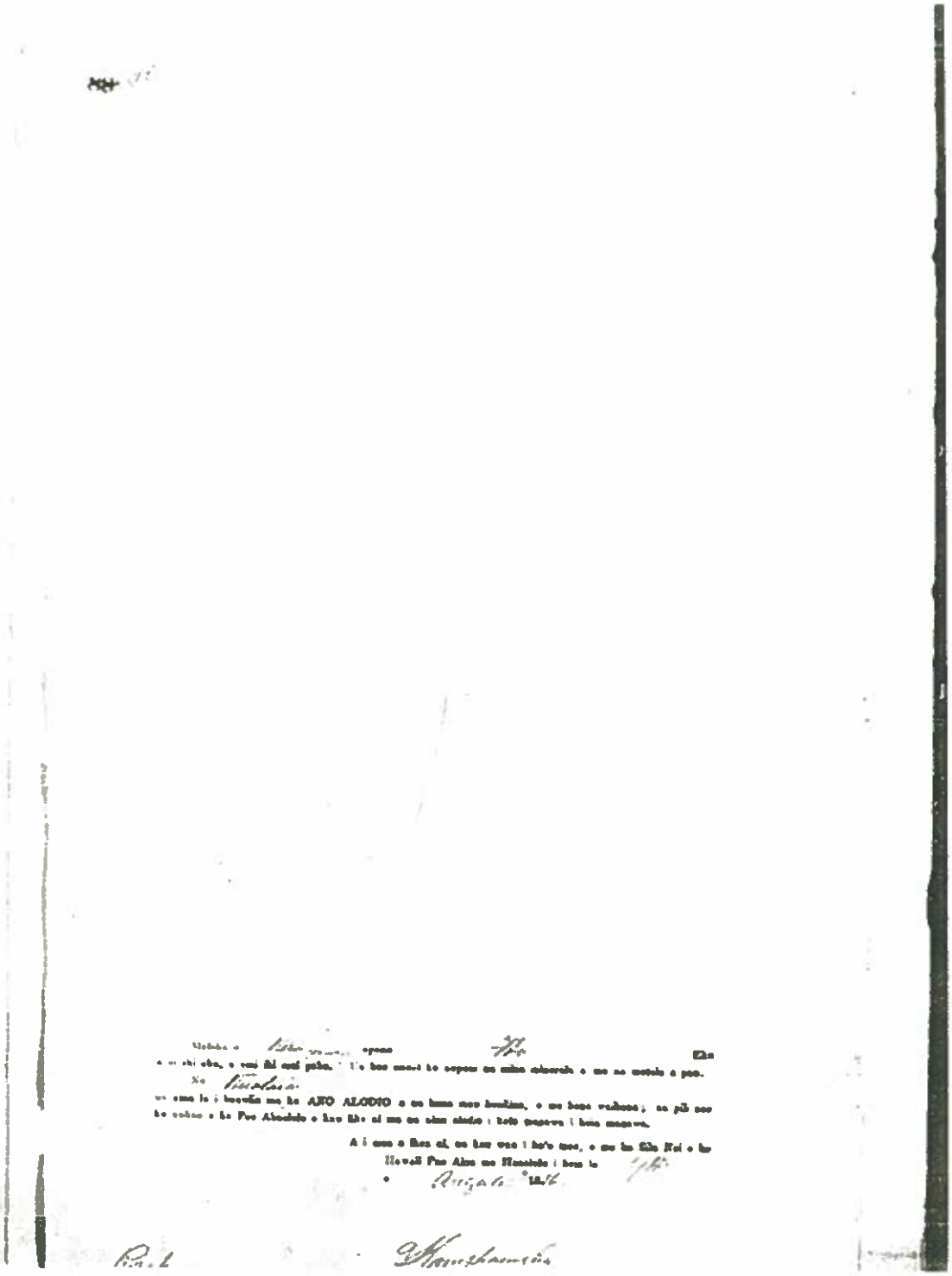
A KE ALII, MAMULI O KA OLELO A KA POE HOONA KULEANA.

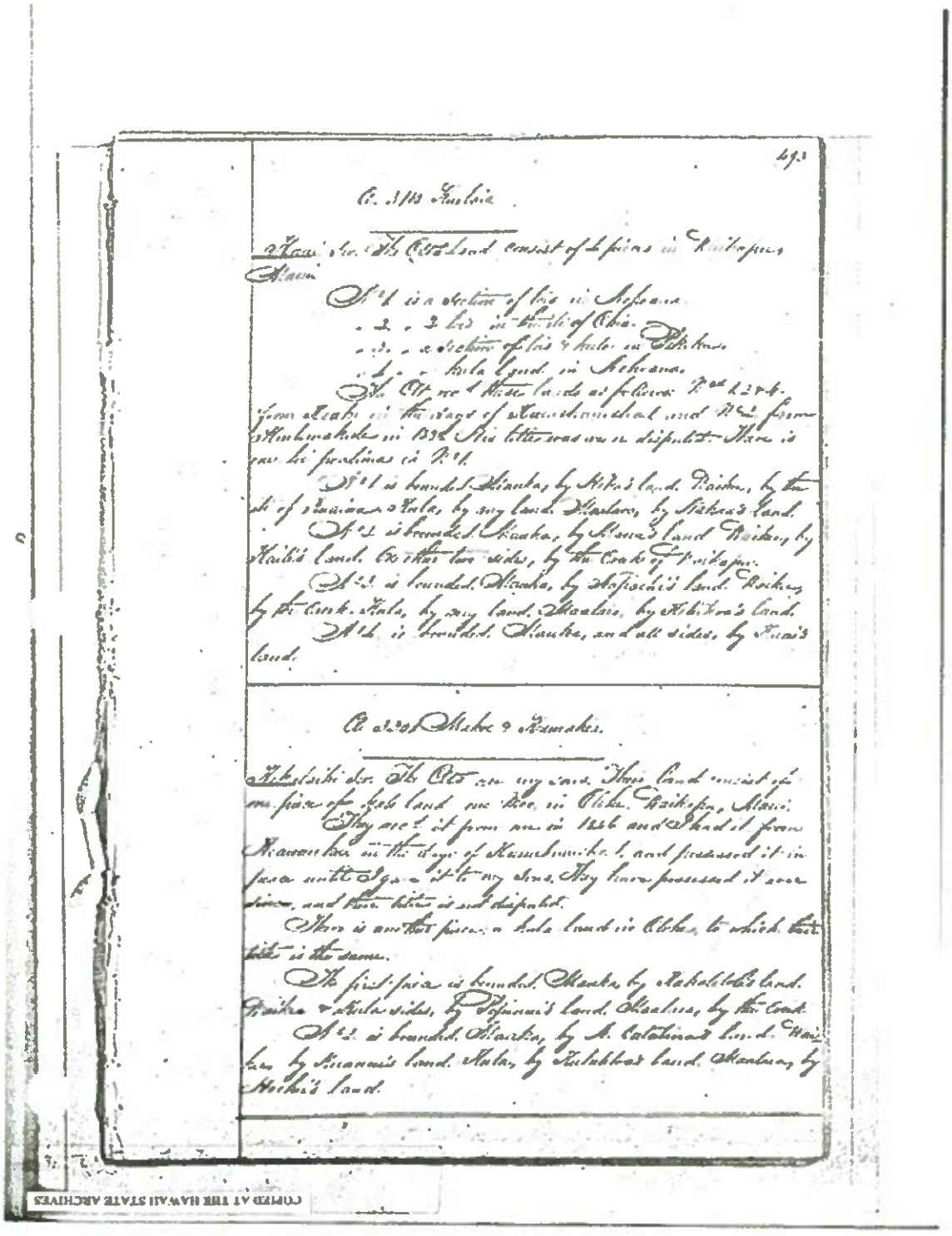
NO KA MEA, [illegible]

[illegible] Ano Alodio [illegible]

[illegible] Palapala Sila Nui, [illegible] Kamehameha IV, [illegible] Ano Alodio [illegible]

[illegible]





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C. 3118 Kuolaia.

Hani sec. The Ctr's land consist of 4 pieces in Waikapu, Maui.

No 1 is a section of lois in Nohoana.
" 2 " 2 lois in the ili of Ohia.
" 3 " a section of lois & kula in Pikikua.
" 4 " kula land in Nohoana.

The Ctr rec'd these lands as follows: No 1 & 2 & 4 from Keaki in the days of Kamehameha I and No 2 from Kuhimakuhe in 1832. His title was never disputed. There is one hi pealima in No 1.

No 1 is bounded Mauka, by Heka's land. Waikea, by the ili of Kuaiwa. Kula, by any land. Maalaea, by Nakaa's land.

No 2 is bounded Mauka, by Mana's land. Waikea, by Kaili's land. On other two sides, by the Creek of Waikapu.

No 3 is bounded Mauka, by Napachi's land. Waikea, by the Creek. Kula, by any land. Maalaea, by Kekikea's land.

No 4 is bounded Mauka, and all sides, by Kuai's land.

C. 3201 Makoe & Kamakea.

Kekelaiki sec. The Ctr are my sons. Their land consist of one piece of kala land one Moo in Oloke, Waikapu, Maui.

They rec'd it from me in 1836 and I had it from Keawaukea in the days of Kamehameha I, and possessed it in peace until I gave it to my sons. They have possessed it ever since, and their title is not disputed.

There is another piece, a kula land in Oloke, to which their title is the same.

The first piece is bounded Mauka, by Kakelelele's land. Waikea & Kula sides, by Papinui's land. Maalaea, by the Creek.

No 2 is bounded Mauka, by A. Catalina's land. Waikea, by Kuanui's land. Kula, by Kulakkoa's land. Maalaea, by Hoehi's land.

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No. 8806 - Kalapuna

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Manu sworn: I know of four parcels in Waikapu:
Parcel 1. Taro mo'o and house lot at Kapalaalaea
" 2. " " " Haanui
" 3. 1 taro lo'i " Halilpalala
" 4. Kula wauke " Palailaiha

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Parcel 1 was from Puupahoehoe in the days of Kamehameha II. Parcel 2 was from Pupuhi in 1842; Puhipuhi had received it from Puupahoehoe in 1839. Parcel 3 was from Atoni C. /Antonio Catalina/ before 1830. Parcel 4 was from Kuamu in 1840; Kuami had received it from David Malo. One po'alima is in Parcel 2. No opposition.
1. is bounded mauka by Kuihonc, Waihee by Kapehana, Kula by Ioane R. /John Richardson/, Maalaea by Kepaa.
2. Is bounded mauka by pa'ahao, Waihee by the 'Ili of Pohakuloa, Kula by Kapule, Maalaea by po'alima.
3. is surrounded by the land of Atoni C. /Antonio Catalina/
4. is surrounded by the land of Kuamu.

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No. 3546 - Kupalii

Kaai sworn: I know of three parcels in Waikapu:
Parcel 1. Taro land and kula at Makaelelu in Waikapu
" 2. " " " " Keana " "
" 3. House lot " " " Makaelelu " "
All his four /sic/ parcels were received from Keaho in the days of Kamehameha I. No opposition.
1. is bounded mauka by myself, Waihee by stream, Kula and Maalaea by myself.
2. is bounded mauka by myself, Waihee by stream, Kula and Maalaea by myself.
3. is surrounded by my land.

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No. 3110 - Kuolaia

Kaai sworn: I know of four parcels in Waikapu:
Parcel 1. Taro pauku at Nohoana 'Ili of Waikapu
" 2. Two taro lo'i, Ohia " " "
" 3. Taro pauku and kula at Pikooku 'Ili of Waikapu
" 4. Cultivated kula in Nohoana 'Ili of Waikapu
Parcels 1, 3 and 4 were from Keaho and Hika in the days of Kamehameha I. Parcel 2 was from Kaelemakule in 1838. In Parcel 1 is one po'alima. No opposition.
1. is bounded mauka by Hika, Waihee by 'Ili of Kuaiwa, Kula by Kaai, Maalaea by Nahau.
2. is bounded mauka by Manu, Waihee by Kaili, Kula by stream, Maalaea by stream.

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3. is bounded mauka by Napaeloi, Waihee by stream, Kula by Kaai, Maalaea by Keliikoa.
4. is surrounded by the lands of Kaai.

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