



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

ORIGINAL

For Official Use Only:

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COMMISSION ON WATER
RESOURCE MANAGEMENT

2009 APR 30 AM 8:35

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 detailed instructions on filling out this application form completely, refer to the attached instructions sheet. Incomplete applications will not be accepted for processing. **SWUP.2335.6**

- 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 BURT H. SAKATA & PETER FRITZ		Applicant's Contact Burt H. Sakata		2. SOURCE LANDOWNER'S NAME WAILUKU WATER COMPANY, LLC		Source Landowner's Contact Avery Chumbley	
Applicant's Mailing Address, or Principal Place of Business 107 Waibee Valley Rd. Wailuku, HI 96793				Source Landowner's Mailing Address, or Principal Place of Business 255 East Waiko Road Wailuku HI 96793			
Applicant's Phone 808 242-6642		Applicant's Fax 808 242-6642		Applicant's E-mail [REDACTED]		Source Landowner's Phone 808 244-7079	
				Source Landowner's Fax 808 242-7068		Source Landowner's E-mail abc@aloha.net	

SOURCE INFORMATION

3. SURFACE WATER HYDROLOGIC UNIT: Island: MAUI Hydrologic Unit: WAIHE'E Hydrologic Unit Code: 6022

4. INSTREAM FLOW STANDARD (IFS) FOR HYDROLOGIC UNIT IF APPLICABLE: NOT APPLICABLE

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 A

6a. TMK OF PROPOSED STREAM DIVERSION LOCATION: 3 - 2 - 0 1 4 : 0 0 1
Zone Sec. Plat Parcel

6b. TMK OF PROPOSED DITCH DIVERSION LOCATION: 3 - 2 - 0 0 5 : 0 1 7
Zone Sec. Plat Parcel

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 A

7b. WILL THE DIVERTED WATER BE RETURNED TO THE STREAM OR DITCH?
 Yes. How much water will be returned? See Attachment A
 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 A

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

9. TOTAL QUANTITY OF WATER REQUESTED: 380,100 gallons per day. See Table 1, Item 14.

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: Wailuku Water Company 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): Burt H. Sakata 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 Signature Burt H. Sakata Print Date: 4/27/2009		17. SOURCE LANDOWNER Signature _____ Print _____ Date _____	
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FILE ID: SWUP.2335.6
DOC ID: 3469 ✓

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 ATTACH THE FOLLOWING: • Property tax map, showing proposed location of use referenced to established property boundaries. • Photograph of the area of proposed use.				STATE LAND USE DISTRICT	CDUP REQ'D Check the appropriate box, and write in the date approved, if applicable.	COUNTY ZONING CODE	SMAP REQ'D 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		<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired / / <input type="checkbox"/> No		<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired / / <input type="checkbox"/> No				<input type="checkbox"/> Yes <input type="checkbox"/> No	
	Zone	Sec	Plat	Parcel		<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired / / <input type="checkbox"/> No		<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired / / <input type="checkbox"/> No				<input type="checkbox"/> Yes <input type="checkbox"/> No	
	Zone	Sec	Plat	Parcel		<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired / / <input type="checkbox"/> No		<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired / / <input type="checkbox"/> No				<input type="checkbox"/> Yes <input type="checkbox"/> No	
	Zone	Sec	Plat	Parcel		<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired / / <input type="checkbox"/> No		<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired / / <input type="checkbox"/> No				<input type="checkbox"/> Yes <input type="checkbox"/> No	
TOTAL POTABLE USE											0	GPD	
Uses that do not require potable water													
AGRCP	3	2	0 0 5	0 1 3	AG	<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired / / <input checked="" type="checkbox"/> No	AG	<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired / / <input checked="" type="checkbox"/> No	0.427	300,000	128,100	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	See Attachment A
AGRCP	3	2	0 0 5	0 1 5	AG	<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired / / <input checked="" type="checkbox"/> No	AG	<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired / / <input checked="" type="checkbox"/> No	0.03	300,000	9,000	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	See Attachment A
AGRCP	3	2	0 0 5	0 1 7	AG	<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired / / <input checked="" type="checkbox"/> No	AG	<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired / / <input checked="" type="checkbox"/> No	0.81	300,000	243,000	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	See Attachment A
	Zone	Sec	Plat	Parcel		<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired / / <input type="checkbox"/> No		<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired / / <input type="checkbox"/> No				<input type="checkbox"/> Yes <input type="checkbox"/> No	
TOTAL NON POTABLE USE											380,100	GPD	
TOTAL QUANTITY OF WATER REQUESTED (Sum of Total Potable Use and Total Non-Potable Use above) =											380,100	GPD	
15. Please explain if there are any limitations (legal, contractual, etc.) on the use(s) of water described above. §174C-51(5) HRS To the best of our knowledge, we are not aware of any such limitations.													

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	2	2	4	5	6	7	8
TMK OF PROPOSED LOCATION OF USE (Attach TMK map outlining area and photos for each proposed use.)	CROP	TOTAL ACREAGE	NET IRRIGATED ACREAGE	BEGIN GROWTH PERIOD (Month)	END GROWTH PERIOD (Month)	IRRIGATION SYSTEM (Refer to instructions.)	IRRIGATION PRACTICE (Refer to instructions.)
3 - 2 - 005 : 013 <small>Zone - Sec - Plat Parcel</small>	Wetland Taro	0.61	0.427	Year round	Year round	Flood (Taro)	Field Capacity
3 - 2 - 005 : 015 <small>Zone - Sec - Plat Parcel</small>	Wetland Taro	0.03	0.03	Year round	Year round	Flood (Taro)	Field Capacity
3 - 2 - 005 : 017 <small>Zone - Sec - Plat Parcel</small>	Wetland Taro	0.81	0.81	Year round	Year round	Flood (Taro)	Field Capacity
<small>Zone - Sec - Plat Parcel</small>							
<small>Zone - Sec - Plat Parcel</small>							
<small>Zone - Sec - Plat Parcel</small>							
<small>Zone - Sec - Plat Parcel</small>							
<small>Zone - Sec - Plat Parcel</small>							
<small>Zone - Sec - Plat Parcel</small>							
<small>Zone - Sec - Plat Parcel</small>							
<small>Zone - Sec - Plat Parcel</small>							
<small>Zone - Sec - Plat Parcel</small>							

9. COMMENTS:

Overflow of water used for wetland taro on parcels 13, 15, and 17 will be used to water existing macadamia nut trees on parcel 19 (TMK # 3-2-005-019). See Attachment 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	Not Applicable	See Attachment A
Wastewater reuse	Not Applicable	See Attachment A
Ditch system	Not Applicable	See Attachment A
Desalinization	Not Applicable	See Attachment A
Ground water	Not Applicable	See Attachment A
Other (specify)	Not Applicable	Not Applicable

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 A

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

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 22 t of the Hawaiian Homes Commission Act.
See Attachment A

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 current 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: (1) *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.*

NOTE: Filling in the application form 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 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.

**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 1 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 1: 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	
IRRG	Golf Course
IRRHM	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 will be 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, 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 amount 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 your build out date extends beyond the cumulative projected four-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 of 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

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

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.*

This Water Use Permit Application incorporates the following attachments:

Attachment A: Supplemental Answers

Attachment B: A copy of a 7.5-minute series (1:24,000) USGS Topographic Map showing Waihe`e River, with the Waihe`e Ditch Diversion and Spreckels Ditch Diversion labeled. Attachment B also includes TMK maps depicting our property in relation to established property boundaries and Waihe`e River, as well as a close-up of our property detailing our end uses.

Attachment C: True and correct copies of photos of our intakes from the `auwai, as well as our areas of proposed new use that accurately depict conditions on the date they were taken.

Attachment D: True and correct copies of documents establishing that our land was in kalo at the time of the Māhele of 1848.

Attachment A: Supplemental Answers and Addenda

Supplemental Explanation for Field 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, Wailuku Water Company, LLC claims to be the source landowner.

Supplemental Explanation for Fields 4 & 5: Instream Flow Standards

There currently are no Instream Flow Standards for Nā Wai `Ehā, or Waihe`e River in particular, 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.

Supplemental Explanation for Field 7: Proposed Stream Diversion

We are kuleana users along the kuleana `auwai that runs to the south of Waihe`e River. Water is diverted from Waihe`e River at the Waihe`e and Spreckels diversions (see USGS Topographical Map, Attachment B). All the water from the Spreckels diversion enters the Spreckels Ditch, as does some water from the Waihe`e diversion. The South Waihe`e kuleana `auwai receives water via a pipe in the Spreckels Ditch. The pipe empties into an open `auwai on the south side of Waihe`e River. The water continues makai in the `auwai until it passes and flows through our property where we divert water from several different intakes on Parcels 17 and 39 to support our non-commercial gardening, including bananas, citrus, mangos, and tropical flowers. Although we formerly cultivated wetland kalo, we stopped growing kalo several years ago because there was not enough water in our `auwai. And, if we used water for our lo`i, there was not enough water for other kuleana users makai of us. So, we stopped growing wetland kalo, but would like to do so once again and are filing this application to restore our lo`i kalo.

Any unused water will flow through our lo`i kalo then irrigate our 12-acre mac nut farm before returning to another branch of the South Waihe`e Kuleana `auwai so that it can go on to supply our neighbors before returning to Waihe`e River. The amount of water flowing into our lo`i and the amount that is returned to the `auwai both depend on the flow in the South Waihe`e kuleana `auwai, which fluctuates. The amount that flows out also depends, in part, on various conditions, including weather, crop needs (for both our kalo and mac nuts), etc.

Supplemental Explanation for Field 8: Proposed Flow Measurement Information

The amount of water required for wetland kalo cultivation is an estimate. We plan to resume cultivation in lo`i kalo that are currently fallow due to the lack of water. We have kept our lo`i fallow because drawing the water necessary to restore our lo`i would, at present, leave insufficient water for our downstream neighbor's uses. We plan to cultivate an additional 1.267 acres of kalo, across three of our parcels: 13 (0.427 acres), 15 (0.03 acres), and 17 (0.81 acres). We estimated our proposed new water use for wetland kalo cultivation by multiplying the total 1.267 acres that we plan to restore by 300,000 gallons per acre per day, which we understand is the amount of water required to grow healthy wetland kalo.

We actively cultivate approximately 12 acres of macadamia nuts on Parcel 19. We are not currently seeking a separate allocation of water for our mac nuts, but plan to water our mac nuts with the water that flows out of our lo`i kalo. We estimate that the amount applied to our mac nuts will be approximately 30,000 gallons per day (12 acres x 2,500 gallons per day, the amount the Water Commission allocated to diversified agriculture in the Waiāhole decision).

Supplemental Explanation for Field 12: Appurtenant Rights

Parcels 13 and 17 have an appurtenant right to water because they were in kalo cultivation at the time of the Māhele of 1848. In fact, the stream water we currently use and the additional stream water we are seeking by this application is for ancient lo`i kalo that we have restored. Appended to this application as Attachment D are true and correct copies of Land Commission Award 7686 and Royal Patent No. 6284 (Parcel 13), and Land Commission Awards 3770, 4444-B, & 4444, and Royal Patent Nos. 8066, 8065, & 6380 (Parcel 17), along with the testimony indicating that the land was in kalo at the time of the Māhele. We have no evidence, indication, or other reason to believe that our appurtenant rights for Parcels 13 and 17 have been extinguished. This application should be granted pursuant to HRS § 174C-63.

Parcel 15 also had appurtenant rights. However, when we purchased Parcel 15 from Wailuku Agribusiness in 2001 the appurtenant rights were reserved. As a result, it appears our property's appurtenant rights for that parcel may be extinguished, although we reserve the right to claim appurtenant rights in the future based on further information.

Table 1, Land Use Consistency/Efficiency

Boxes 3 & 5 – Our application is for kalo cultivation on land zoned for agriculture. The cultivation of traditional Native Hawaiian crops, including kalo, 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.

Box 11 – See supplemental response for Field 8, above.

Addendum to Table 3: 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 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 cultivate fruits and vegetables on our land for subsistence purposes; the produce we grow feeds our extended family 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 wetland kalo would make our diversified agriculture economically impossible. We would effectively be denied our appurtenant 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 may 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 and install 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 a non-commercial use, 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 that passes near our land, and have had to reduce our kalo cultivation because currently water is not available consistently and in sufficient amounts to support the existing uses on our system, including our own use. Obtaining water from other ditch systems is not practicable. The other ditch systems in Nā Wai `Ehā currently do not consistently have enough water to support additional users. Moreover, there is no other ditch that passes near our kuleana land and we lack the property, access, permissions, and funding necessary to permit and construct an additional ditch diversion. As small users engaged in a traditional, non-commercial use, 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 a traditional, non-commercial use, we do not have the means to install and maintain such infrastructure.

Addendum to Table 3, Section C: Additional Requirements

1. (a) Our Proposed 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”). We seek to exercise appurtenant rights to cultivate kalo in the traditional manner on our kuleana land in ancient lo`i that we restored, and our lo`i help maintain ecological balance and scenic beauty. HRS § 174C-2(c) also declares the protection of agriculture and the maintenance of proper ecological balance and scenic beauty are “in the public interest.” As such, our proposed use of stream water is consistent with the public interest.

(b) Our Proposed Use is a Protected Public Trust Purpose

Because our existing water use is based on an appurtenant right, it is a protected public trust purpose. Waiāhole I, 94 Hawai‘i at 137 n. 34, 9 P.3d at 449, n. 34. Additionally, because any unused water remains in the `auwai and eventually returns to Waihe`e River, our use supports other public trust purposes such as: (1) the maintenance of waters in their natural state; (2) resource protection; (3) water for domestic purposes; and (4) the protection of traditional and customary Native Hawaiian rights and appurtenant rights.

(c) 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 is also “economic and efficient” because we will only use the amount we need.

2. Our Proposed Use Will Not Interfere With Any Existing Legal Use

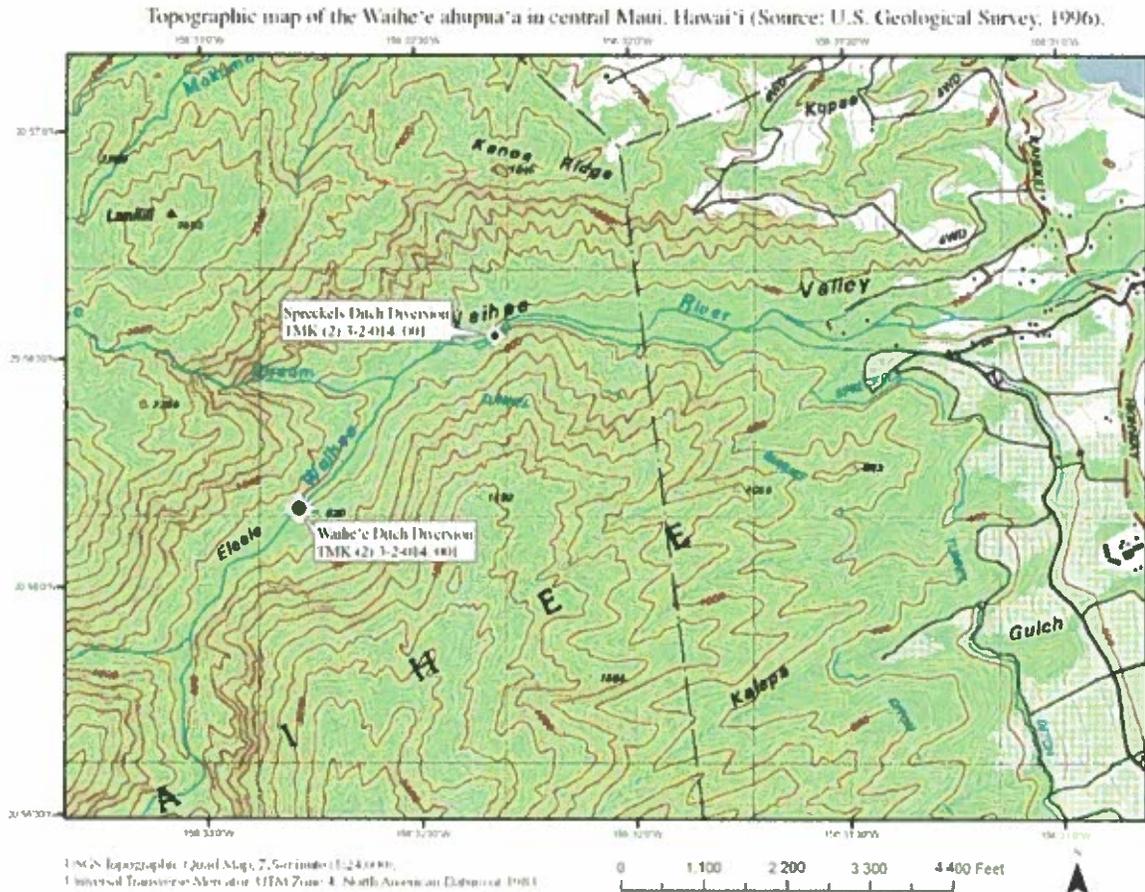
The restoration of our lo`i kalo will not interfere with existing legal uses. As kuleana users, we have first priority by law. We believe that the flow of Waihe`e River is able to accommodate the restoration of ancient lo`i kalo on our property. In fact, our use of water from Waihe`e River has been severely restricted by large plantation diversions upstream of the Spreckels Ditch Diversion, which supplies our `auwai with water, and this has limited the acreage that we can cultivate, necessitating this new use application.

3. Our Proposed Use Will Not Interfere with the Rights of the Department of Hawaiian Home Lands

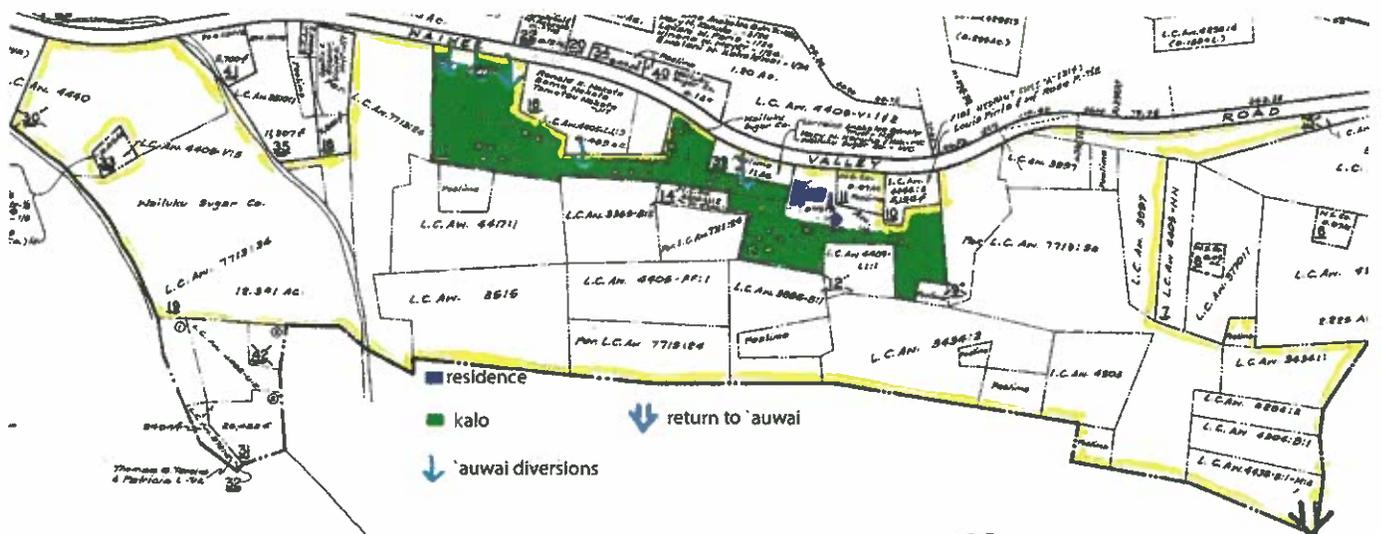
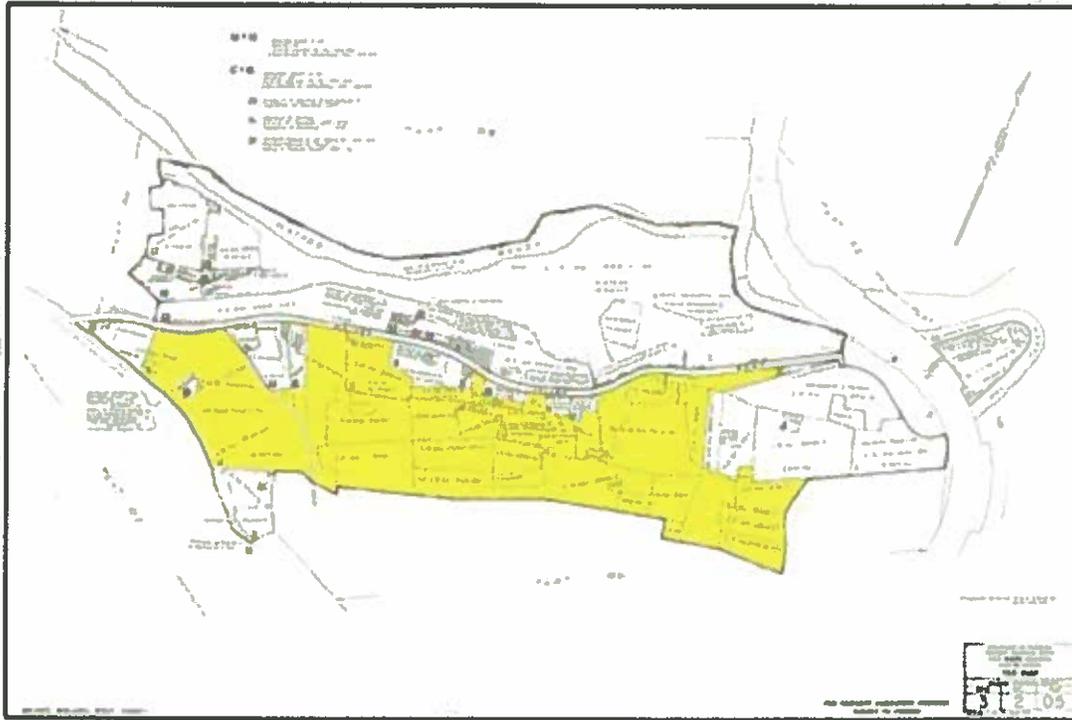
We are not aware of any DHHL lands using water from Waihe`e River. To the best of our knowledge, DHHL has not filed an application to use water from this source. While we are aware that DHHL has outstanding reservations for municipal water meters in Central Maui, our use will not interfere with those reservations, which are largely served by ground water sources. Instead, our proposed use will

actually help to protect DHHL's rights because all of the water we are requesting will remain in the watershed where it will recharge the aquifer, protecting the health of the aquifer system for DHHL's present and future groundwater uses.

Attachment B: Maps



USGS Topographical Quad Map showing
Waihe'e River and the Waihe'e and Spreckels diversions



The first TMK map (above) shows our property in relation to Waihe'e River and established property boundaries.

The second TMK map (above) details our diversions from the 'auwai and new water uses.

Attachment C: Pictures

Below are photos of our five intakes from the South Waihe`e Kuleana `Auwai on Parcels 17 & 39. The first three are actively utilized now, the last two will be more fully utilized when we re-open our lo`i kalo:



End use for Parcel 13:



Lo`i, pending restoration

End use for Parcel 15:



Lo`i pending restoration

End Use for Parcel 17:



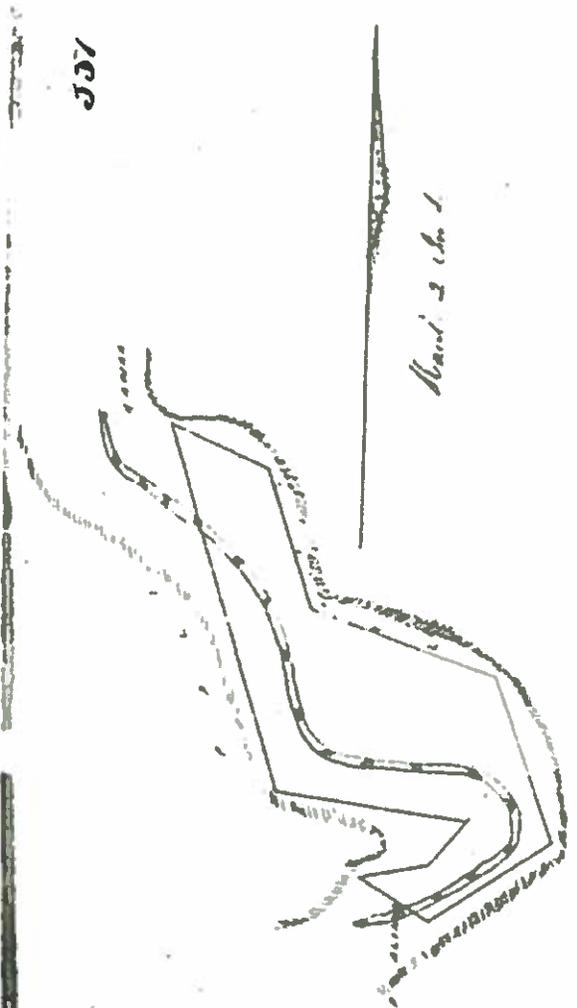
Lo'i, pending restoration (above)

`Auwai return flow (below)



Although difficult to see through the brush, the kuleana `auwai flows to our neighbors in this area. When we restore our lo'i, we will return our water to the `auwai in this general vicinity.

Attachment D: Land Commission Award 7686, Royal Patent No. 6284, Land Commission Awards 3770, 4444-B, & 4444, and Royal Patent Nos. 8066, 8065, & 6380, and Supporting Testimony



Ulu Pan Lee 6

W. L. Lee
J. M. Robertson
J. E. Kaula
J. M. Ch... ..

Amolelu 27 Oct 1852

Zeke i 686 Hoanua

Waikuu uliua

Apuna I Ali Papaina, 6 hema ka oia ma ke kiki hiki. Lapaohala. Apuna I
Aka 29 1/2. Amohana 125 Kaula. ma Lapaohala. Am 38 1/2 Am. 145 Kaul. ma Lapaohala
Hema 35. Kik 72 Kaul. ma Lapaohala. Am. 68 Am. 190 Kaul. ma. Kapa. Ak. 21. Am. 95
Kaul. ma. Pahiua. Am. 61 Am. 47 Kaul. ma. Pahiua. Ak. 25 1/2. Am. 57 Kaul. Lapaohala. Apuna
II Ak. 65 1/2. Kik 130 Kaul. ma Kaula. Ak. 16. Am. 97 Kaul. ma Kaula. Ak. 60 1/2. Kik 80 Ak.
ma. Amoi. Hema 31 1/2. Kik. 88 Ak. ma. Pahiua. Ak. 70. Kik 192. Am. 10. P. Hema. Am. 1210

Mahele o *Aia* *66*
o ai hi oia, o au hi mai paha. Oe, he mea i ho Aupuni no mahele a ma no mahele o pua.
Ma *Mahele*
no mahele i mahele ma ho AUP AUP mahele o no mahele mahele, o no mahele mahele, o no mahele mahele, o no mahele mahele o ho Pua Absolute o
ho mahele o mahele mahele i ho mahele i ho mahele

A mahele mahele, ho mahele mahele, o no mahele mahele o ho mahele mahele
Mahele mahele i ho mahele *65*
o *Mahele* *Mahele*

Burt Sakata
Peter Fritz
Mahele mahele
Mahele mahele

No. 7686 - Kawanai Waihee, Feb. 7, 1848

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To the Land Commissioners, Greerings: I, Kawanai, hereby state my claim which is held under Z. Kawanai, for 7 lo'i and some small kulas and 4 inherited lo'i which I am re-making because they are so small.

This place of which I tell you is in Waihee in an 'Ili named Papaina. I also have a house site there.

Furthermore, in the Ahupua'a of Kono'ohau on the island of Maui, in the 'Ili named Panioi, are 33 lo'i and a section of water-course, a kula planted in sweet potatoes and my house site. This is my own, it does not belong to a konohiki.

At the time when my Haku'aina dispossessed me, I was a luna under the konohiki for his work days, but this is my own property, not his, therefore, I was dispossessed in 1844 and it was given to someone else and I was deprived. I live in sorrow and regret the burden of laboring for the food of the land which someone else

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will consume. I asked for a place to grow food but none was received. Therefore I present it to you, the commissioners, for action. The length of my occupancy was from 1834. That is the right which is stated here. Respectfully,

KAWANAI

No. 7711 - Kaiheekai, I. H.

To the Land Commissioners: Here is my claim for land in Lahaina: Puahoovali Ahupua'a. That is my claim. Respectfully,

Honolulu, Feb. 3, 1848

I. H. KAIHEEKAI

No. 7719 - Haia Lahaina, Jan. 29, 1848

Hear ye, ye Land Commissioners, the Honorable persons sitting in the city of Honolulu. Here is my message to you -- kindly enter my 15 lo'i and a kula.

HAIA

No. 7724 - Faholopu Lahaina, Feb. 2, 1848

Greetings to the Land Commissioners: I have been delayed in writing because of my illness.

I have a taro land which is spread out, with 33 lo'i in it, and in it are 3

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lauhala clumps and four breadfruit -- three of which I planted with my own hands. In this taro land I have some kulas planted in sweet potatoes: they are not large.

My land is in the Ahupua'a of Kuholilea, and this is where there are the separate streams of Lahainaluna /and Kuholien/ and these streams unite towards the sea.

14

A 1/2 is divided into 4 parts by 1/2, 1/4, 1/8, 1/16, 1/32, 1/64, 1/128, 1/256, 1/512, 1/1024, 1/2048, 1/4096, 1/8192, 1/16384, 1/32768, 1/65536, 1/131072, 1/262144, 1/524288, 1/1048576, 1/2097152, 1/4194304, 1/8388608, 1/16777216, 1/33554432, 1/67108864, 1/134217728, 1/268435456, 1/536870912, 1/1073741824, 1/2147483648, 1/4294967296, 1/8589934592, 1/17179869184, 1/34359738368, 1/68719476736, 1/137438953472, 1/274877906944, 1/549755813888, 1/1099511627776, 1/2199023255552, 1/4398046511104, 1/8796093022208, 1/17592186044416, 1/35184372088832, 1/70368744177664, 1/140737488355328, 1/281474976710656, 1/562949953421312, 1/1125899906842624, 1/2251799813685248, 1/4503599627370496, 1/9007199254740992, 1/18014398509481984, 1/36028797018963968, 1/72057594037927936, 1/144115188075855872, 1/288230376151711744, 1/576460752303423488, 1/1152921504606846976, 1/2305843009213693952, 1/4611686018427387904, 1/9223372036854775808, 1/18446744073709551616, 1/36893488147419103232, 1/73786976294838206464, 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Section 1

The Commission is composed of the following members: [illegible]
The Commission is organized into three sub-committees: [illegible]

Section 2

The Commission is organized into three sub-committees: [illegible]
The Commission is organized into three sub-committees: [illegible]

Section 3

The Commission is organized into three sub-committees: [illegible]
The Commission is organized into three sub-committees: [illegible]

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No. 2422 Kaale (cont.)

this land from Kuihelani. Kuihelani had received this land from M. Kekuanoa, no objection.

Section 1 - Taro section at Puhanelu

Mauka	Government enclosure
Kahakuloa	Kapahuwai
Makai	Kahoe
Wailuku	Waipukua ili

Section 2 - Taro section and pasture in Kapoho

Mauka	Eukao
Kahakuloa	Stream
Makai	Kukao
Wailuku	Kapiu

No. 4287 Kalaikaloho

July 24, 1849

Pg. 252

Namakahi sworn He has seen 2 sections in the ilis of Waiehu as listed below. First section from Kawahinokuapuu in 1843, land from Kuihelani to Kawahinokuapuu. Section 2 from Puana in 1843. Puana's land from Kuihelani, no objection. 1 poalima in section 1

Section 1 - Taro moo in Kakaaka ili

Mauka	Konohiki
Kahakuloa	Kaloleikailikapu
Makai	Poalima
Wailuku	Koahi

Section 2 - 1 patch and house lot at Pahaalele ili

Mauka	Pahaalele pasture
Kahakuloa	Kaole
Makai	Malahi
Wailuku	Kaluahine

No. 3515 Kuamoo

July 24, 1849

Kuamoo sworn He has seen 1 section in Kalepelepe 2 ili of Waihee - a whole section. Land had been for Kuamoo's father at the time of Kam. I, no objection Land is for Kuihelani at present. 3 poalimas are ther.

Mauka	Paulani ili
Kahakuloa	Papaina ili
Makai	Holu ili
Wailuku	Mookahi ili

No. 7686 Kawaa

July 24, 1849

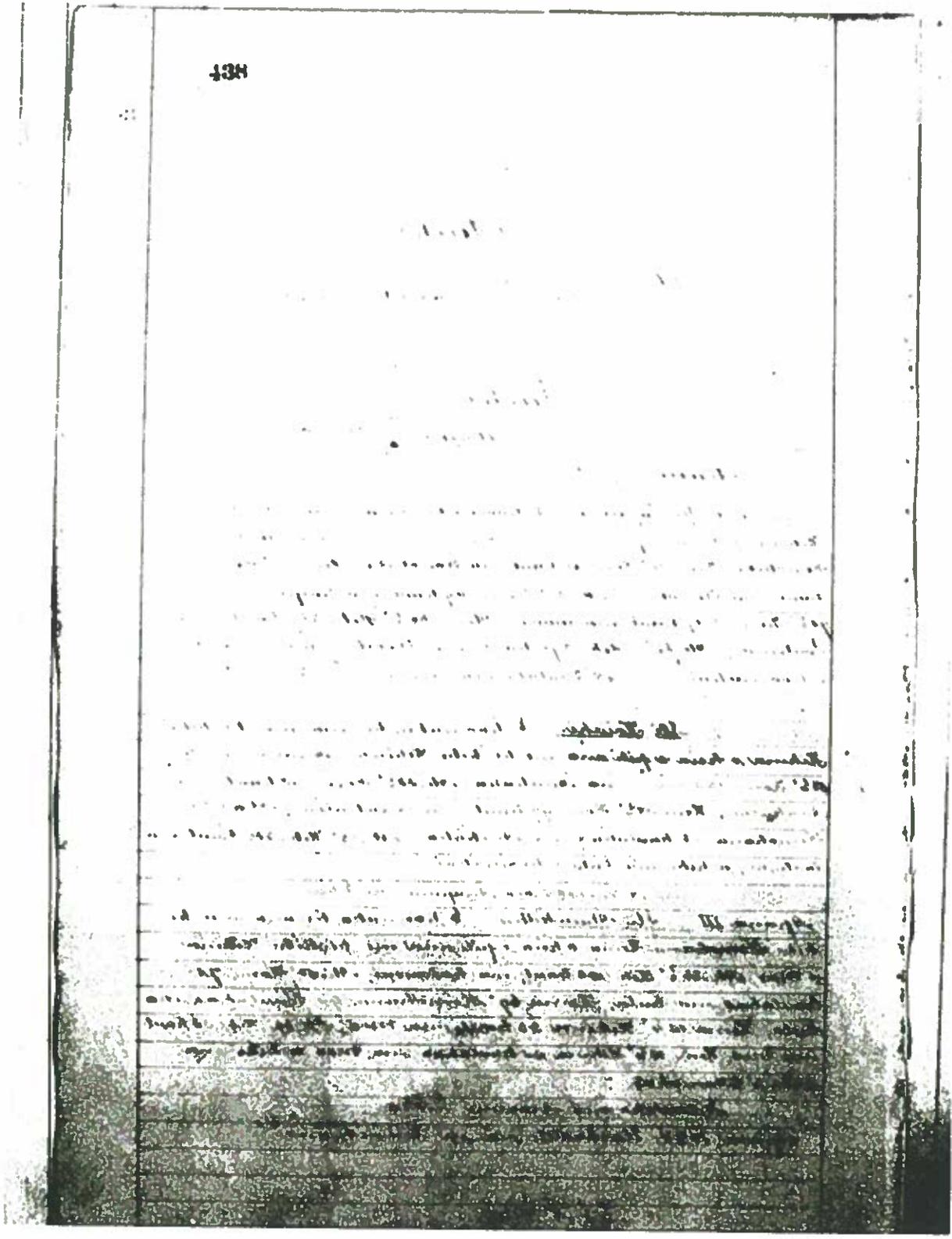
I.S. Kawaa sworn He has seen 1 section in the ili of Papaina in Waihee, 7 sections are in Paniol ili of Honokohau which totals 8 sections. Kapeahi has stirred provocation for that land in Honokohau. The section in Waihee was from Z. Kahuwai in 1845 *. Land to Kahuwai had been from Kaeo (blind) in 1838. Pg. 253 Land in Honokohau from Kaaimalo in 1833. Kawaa has done Poalima work on these lands. Kapeahi stirred for the land at the time of Kaaimalalo's death in 1844. Section in Waihee.

Mauka	Laupahulu
Kahakuloa	Poalima
Wailuku	Laupahulu

The boundaries of the 7 sections in Paniol of Honokohau will be established properly by the surveyor.

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43H



No. 3767 - Alawa Kan, Jan. 18, 1848 Page 121

Greetings to the Land Commissioners: I hereby petition for my house and the land boundary wall. The land is at Keawawa and is used for cattle.

ALAWA

No. 3766 - Akaku

Greetings to you, the Land Commissioners: I hereby petition to you. There are sixteen . . . /Translator's note: See Foreign Testimony V.7, p.281 and Native Testimony V.5, p.145./

AKAKU

No. 3768 - Aio KaaNapali, Jan. 19, 1848

Greetings to the Land Commissioners: I hereby petition for my little lot claim. It was from ancient times, however it was originally a palau. My claim in this lot is that formerly we planted coconuts in it. After 17 years, I made an adobe wall which enclosed it completely, which I paid for with my own money. The konohiki did not assist, but he now denies that the coconuts are mine. In my mind, they are for me, since I and my punalua, Aumai, planted them, and I should be compensated with the coconuts since I alone cared for them.

See the original letter, since this has not been completely copied. /Possibly a note by the scribe./

AIO

/No data./

No. 3770B - Paiki Waihee, Jan. 1, 1848 Page 122

'Ili of Papaina, 16 lo'i, which I received from Kawao.
Kolahi, 7 lo'i which I received from Kanahelo.
Ahukolea, 5 lo'i which I received from Kaiaia.
Ohia, 1 lo'i which I received from Fuka. 1 kula at Ninole II.
Stream branch which I received from Kumaolelani.

PAIKI

No. 3770 - Alauka Waihee, Jan. 1, 1848

'Ili of Kolahi, 16 lo'i which I received from Kauakahi.
'Ili of Kolahi, 12 lo'i from Kauakahi. On the north is Hule's /land/,
On the south is Kalepelepe, on the west is Keula's /land/, on the
east is Alauka's /land/.

ALAUKA

No. 3772 - Alapai

Greetings to the Land Commissioners: I hereby write my claim for

Wick.

Two bounded trunks, by the Polina Co. established by
 same trunks by Joseph East. Polina, by East's land.

(C. 244. 4. 2. 4)

Two bounded trunks, by the Polina Co. established by
 same trunks by Joseph East. Polina, by East's land.

No. 1 is 5 trunks

No. 2 is 2 trunks

No. 3 is 2 trunks

The trunks received from the Polina Co. with the
 exception of No. 1 were properly received all from the
 same relative in 1842 and the same 2 trunks in 1843.
 No. 1 is not a part.

No. 1 is bounded trunks by Joseph East. Established by
 Polina Co. other two sides by my land.

No. 2 is bounded trunks, by Joseph East established
 by the Co. of Polina in 1842, by the Polina Co. 7 trunks,
 established land.

No. 3 is bounded trunks, by the Polina Co. established
 by the Co. of Polina in 1842, by the Co. of Polina established by
 land.

(C. 244. 4. 2. 4) (iron and iron)

Two bounded trunks, by the Polina Co. established by
 same trunks by Joseph East. Polina, by East's land.

No. 1 is 37 trunks and one half

No. 2 is 10 trunks

The trunks received from the Polina Co. in 1842 are
 the same as those received by the Polina Co. in 1843.
 There is Polina Co. in 1842.

Hawaii State Archives

No. 4438 - Kemeki Waihee, Dec. 28, 1848 Page 171

'Ili of Waiakaonaona, 17 taro lo'i, received from Puhī. It is for you to administer this.

KEMEKI

No. 4440B - Hapailua Waihee, Dec. 29, 1847

'Ili of Puulolo, 21 lo'i, one hala clump.

HAPAILUA

No. 4440C - Kekaula Waihee

'Ili of Mookahi, 12 lo'i? received from Kuihelani. Kapoho, 1 pond, received from Kahaole.

KEKAULA

No. 4440 - Keino Waihee

'Ili of Puulani, 45 lo'i, received from Anakalea. Two kula. Three of us.

KEINO

No. 4441 - Kapahi

Greetings to the Land Commissioners: I, Kapahi, hereby state my claim for 15 lo'i, and also a kula which is there, at Lamalii. I received my right to them from Pupuka and Moanalua. The bounds are as follows: on the north, a stream, on the east, Lemukee and the 7 lo'i, on the south, the land boundary wall, on the west, the lo'is of Pupuka. At Kalua are 4 lo'i. No opposition.

KAPAHĪ

No. 4442 - Kapu Waihee, December 30, 1847

At/ Pahihī, 34 taro lo'i, one kula, which I have had from ancient times. My occupancy was in the time of Kaauwai. The witnesses are Nakahaa and Naoho.

KAPU

No. 4443 - Keapu Waihee, Dec. 20, 1847 Page 172

'Ili of Papaina, 4 lo'i, received from Kaahu. At Nelu, 8 lo'i, received from Ku. At Wailua, a stream branch received from Puana.

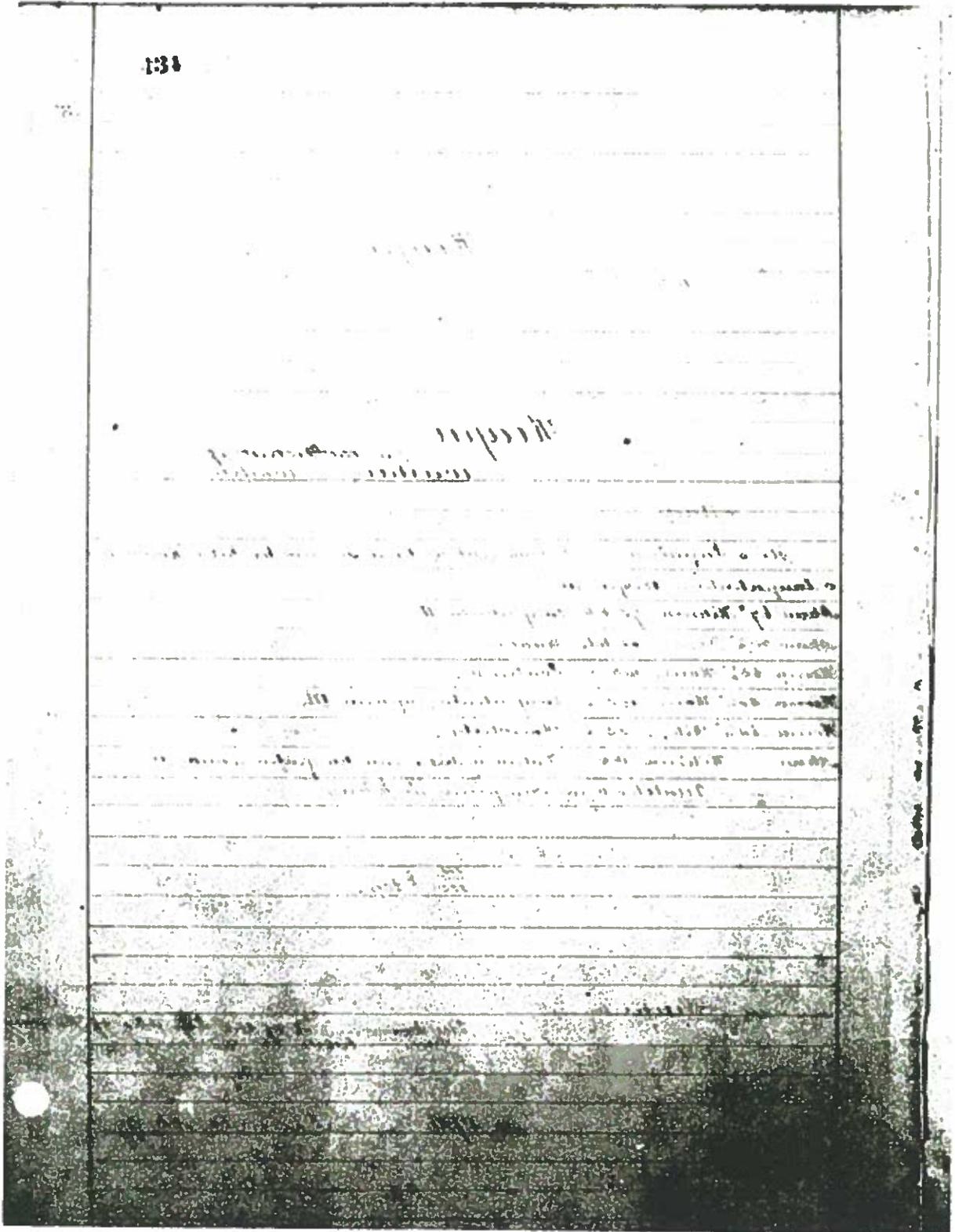
Wailuku Ahupua'a, 'Ili of Papohaku, 4 lo'i, received from Kauwai. At Nehe, 3 lo'i received from Kahulu. 1 lo'i was received from Kua. That is my claim.

KEAPU

No. 4444 - Kaahu Waihee, Dec. 27, 1847

'Ili of Papaina, 10 lo'i received from Kaava.

KAAHU



Maunakulu 27 Oct 1852

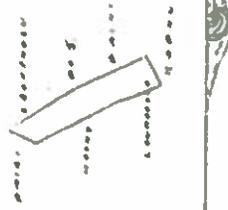
Hohele Lohi Kaeopue

Uaeha Meaui

Ma. Papeina E hooahe ke ana ma ke hiki. Kooheana. Loohehaha. A Apama
Ahaun 67 Hiki 15 Ma. Loohehaha A
Ahaun 20 1/2. Ahaun. 55 Ma. Ahaun
Ahaun 63 1/2. Ahaun. 125.
Ahaun 56 1/2. Ahaun. 125.
Ahaun 64 1/2. Hiki 55.
Ahaun 60 Hiki 162.
Ahaun. 14/100 Eha.

Maunakulu July 1, 1852

John S. Loomis
Puna ana aini



Ma 2 1/2

Ulu Lau Lau 8 1/2

P. L. Lee
S. M. Roberts
J. Makamaka
C. H. Smith

Maunakulu 30 Oct 1852

No. 3517 Kamuheana (con't.)

from Kuihelani. This is old land from Kamuheana's father at the time of Kam. II, section 2 from Nailima in 1837. Section 3 from Kamuheana's older brother Panihu. No objections. Two poalimas in the first section.

Section 1 - Taro paku and pasture at Kalainuiahehe.

Mauka, Road/poalima; Kahakuloa, Prisoners' patch; makai, Pahukanila ili; Wailuku, Stream.

Section 2 - Taro paku and houselot at Pahukaui.

Mauka, Kahimu; Kahakuloa, Prisoners' patch; makai Kaulahiwa; Wailuku, Waihee stream

Section 3 - 1 taro patch in Kanaale 2 ili.

Mauka and Kahakuloa, Kamakaheana; makai, Nuihi, Wailuku, Stream.

No. 4289 Kanihou

25 July 1849

Kapahuai sworn he has seen 2 sections in Wailua ili of Waihee.

Section 1 - Taro paku and pasture.

Section 2 - Taro paku and pasture.

Land from Kuihelani in 1843. Kuihelani's interest from M, Kekuanaoa, *Pg. 266 no objections. 4 poalima patches, 1 wauke patch, 1 coffee grove, total 6 poalimas.

Section 1

Mauka and Kahakuloa, pali; makai, Kumuhoia; Wailuku, stream

Section 2

Mauka, pali; Kahakuloa, stream; makai, Kumuhoia, Wailuku, pali.

No. 4377 Keave

25 July 1849

Kahimu sworn he has seen 4 sections in the ilis of Waihee. First section from Kahimu in 1839. Section 2 from Halevaa in 1839, section 3 from Kamuheana in 1842. This is and old land for Kamuheana. Section 4 from Kamaka at the time of Z. Kaawai, no objections.

Section 1 - Paku patch at Halepahu.

Makai and Wailuku

Kahina's land

Mauka

Lauhue ili

Kahakuloa

Kahilinamaia

Section 2 - 4 patches at Kalainuiahehe.

Mauka

Kamuheana's land

Kahakuloa and makai

Poalima

Wailuku

Stream

Section 3 - 5 patches in Pahukaui.

This section has been joined with section 2, but Nailima has the makai and of section 3.

Section 4 - 3 patches at Kahilinamaia.

Mauka, Poalima; Kahakuloa and makai, Kamaka; Wailuku, section 1.

No. 4444B Keapu

25 July 1849

Kawaa sworn he has seen 1 section of 4 patches in the ili of Papaina in Waihee. This was from Kaahu in 1846, Kaahu's land from Walawala in 1833, no objections. Mauka and Kahakuloa, poalima*; Makai Kaahu's land; *Pg. 267 Wailuku, Kalua.

No. 4444 Kaahu

25 July 1849

This interest has been included in grant no. 4444 B Keapu. Kawaa sworn he has seen 3 sections in the ili of Papaina in Waihee. All of these sections to Kaahu from Walawala in 1833, no objections.

Wickham 39

His bounded lands, by the Division his lands, by the
 same Division by the Division his lands, by the Division his lands.

(C. 1444. G. 1444)

His bounded lands, by the Division his lands, by the
 same Division by the Division his lands, by the Division his lands.

The Commission received from the Division his lands, by the
 same Division by the Division his lands, by the Division his lands.

His bounded lands, by the Division his lands, by the
 same Division by the Division his lands, by the Division his lands.

(C. 1445. G. 1445)

His bounded lands, by the Division his lands, by the
 same Division by the Division his lands, by the Division his lands.

The Commission received from the Division his lands, by the
 same Division by the Division his lands, by the Division his lands.

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No. 4444 Kaahu (cont.)

<u>Section 1</u> - 5 Taro patches	
Mauka	Keapu's land
Kahakuloa	Poalima
Makai and Wailuku	Kawan's land
<u>Section 2</u> - 2 Taro patch	
Mauka	Kaakina
Kahakuloa	Papaina 2 ili
akai	Poalima
Wailuku	Kaakina
<u>Section 3</u> - 4 Taro patch	
Mauka	Poalima
Kahakuloa	Papaina 2 ili
Makai	Koiahi ili
Wailuku	Kawan's land

No. 3299 Wahalehe and Ana July 25, 1849

Kaakauehema sworn He has seen 2 sections in the ili of Pahihī in Waihee. Land from Palulu in 1843 and it is an old land. No one has objected. 1 Poalima in section 2.

<u>Section 1</u> - Taro moo	
Mauka	Palulu's land/ditch
Kahakuloa	Kaakauehema's land
Makai	Palulu's land
Wailuku	I.S. Kaawa's land
<u>Section 2</u> - Taro moo	
Mauka	Pahaalelo
Kahakuloa	Makaaka ili
Makai	Pu
Wailuku	Kaakauehema's land

No. 3299 3 Nahalau July 25, 1849 Page 268

This claim has been included in grant number 3299 Wahalehe.

Z. Kaauwai sworn He has seen 1 taro section and pasture in Waiaolohe ili of Waihee. This is Nahalau's old land, no objection. 3 Poalimas are in there. Z. Kaauwai's boundaries surrounded this section.

No. 4278 Kuahewa July 25, 1849

Kahinu sworn He has seen 4 sections in the ilis of Waihee. The first section was from Makaele prior to 1839. The section (2) was from Puhi prior to 1839. The third section was from Hehena prior to 1839. The fourth was from Kaalo prior to 1839. No objection to Nahalau.

<u>Section 1</u> - Taro moo and pasture at Waiahaonaona	
Mauka	Stone wall
Kahakuloa	Kuanea
Makai	Poalima
Wailuku	Stream
<u>Section 2</u> - Taro moo and pasture at Waiahaonaona	
Mauka	Aupuni
Kahakuloa	Kuanea
Makai	Poalima
Wailuku	Stone wall
<u>Section 3</u> - 2 Taro patches and pasture at Waiahaonaona	
Mauka, Kahakuloa and makai	(Kanehekili
Wailuku	Stens wall

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No. 4438 - Kemekei Waihee, Dec. 28, 1848 Page 171

'Ili of Waiakaonaona, 17 taro lo'i, received from Puhī. It is for you to administer this.

KEMEKEI

No. 4440B - Hapailua Waihee, Dec. 29, 1847

'Ili of Puulolo, 21 lo'i, one hala clump.

HAPAILUA

No. 4440C - Kekaula Waihee

'Ili of Mookahi, 12 lo'i? received from Kuihelani. Kapoho, 1 pond, received from Kahaole.

KEKAULA

No. 4440 - Keino Waihee

'Ili of Puulani, 45 lo'i, received from Anakalea. Two kula. Three of us.

KEINO

No. 4441 - Kapahi

Greetings to the Land Commissioners: I, Kapahi, hereby state my claim for 15 lo'i, and also a kula which is there, at Lamalii. I received my right to them from Pupuka and Moanalua. The bounds are as follows: on the north, a stream, on the east, Lemukee and the 7 lo'i, on the south, the land boundary wall, on the west, the lo'is of Pupuka. At Kalua are 4 lo'i. No opposition.

KAPAHĪ

No. 4442 - Kapu Waihee, December 30, 1847

/At/ Pahihī, 34 taro lo'i, one kula, which I have had from ancient times. My occupancy was in the time of Kaauwai. The witnesses are Nakahaa and Kaoho.

KAPU

No. 4444B - Keapu Waihee, Dec. 20, 1847 Page 172

'Ili of Papaina, 4 lo'i, received from Kaahu. At Nelu, 8 lo'i, received from Ku. At Wailua, a stream branch received from Puana. Wailuku Ahupua'a, 'Ili of Papohaku, 4 lo'i, received from Kauiwi. At Nehe, 3 lo'i received from Kahulu. 1 lo'i was received from Kua. That is my claim.

KEAPU

No. 4444 - Kaahu Waihee, Dec. 27, 1847

'Ili of Papaina, 10 lo'i received from Kaava.

KAAHU

Maloko o *Pua* Apene *32* Eka
a oi iki aku, a emi iki mai paha. Ua koe nse i ke Aupuni na miao minereka a me na metela a pau.
No *Kaahu*
na aina la i haawia ma ke *Ano Alodio* a no kona mau booilina, a ma kona waihoana; ua pili nse ke kuhua
a ka Poe Ahoolo e kau like hi ma na aina alodio i kela manawa i kela manawa.
A I MEA K UEA AI, ua kau au i ko'u inoa, a ma ka Sila Nui o Ke Hawaii Pae
Aina ma Honolulu i keia la *2* o *Feb* 18*92*.

*By the Honorable
The Register of the Lands
J. B. Hutchins.* *Wanohana Sakata*

HELU 6380



PALAPALA SILA NUI

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

NO KA MEA, Ua hahala na Luna Hoona i na kumu kuleana aia i ka olelo, he kuleana oia ho
 Kuleana Hilo *1944*
 ma ke **Ano Aloalo** iho o kahi i oleloia malalo.

Nolaila, ma keia Palapala Sila Nui, he hooke aku nei o Kamehameha V. ke Alii Nui a ke Akua i
 Kuna hokomaiho i hounoho ni mauiua o ka Haaui Pae Aina, i na kaula a pau, i keia la nuna oia, a ma
 kona mau hope ali, ua haaui aku oia, ma ke **Ano Aloalo** ia *Maui*
 i keia wahi a pau loa ma *Maui*
 ma ke Mokuapuni o *Maui* penei na waiho:

Ap. II. Papeina. E hoomaka ma ke kahi. Oke. Lompahulu II.
No. 67. No. 2.20 Paul. ma Lompahulu II.
Ok. 261. . 1.34 Keapu a Hon. hiki
. 76. Ok. . 60 Oowai
No. 22. . 80 Palima
Ok. 67. . 1.80 Hawaii
No. 16. . 30 Hawaii
a hiki i kahi i hoomaka. No. Eke.

Ap. II. Papeina. E hoomaka ma ke kahi. Oke. Hawaii (Oke)
No. 241. No. .99 Paul. ma Hawaii
Ok. 541. . 62 Palima
No. 83. No. .90 Oke
No. 628. . 64 Oke
a hiki i kahi i hoomaka. No. Eke.

Ap. III. Papeina. E hoomaka ma ke kahi. Oke. Hawaii
Hama 611. No. .76 Paul. ma Hawaii
. 212. Ok. 42
. 60. No. .38
Ok. 421. . 22 Palima
. 30. . 106 Oke
No. 651. No. .11 Oke
No. 43. . 90 Oke
a hiki i kahi i hoomaka. No. Eke.

No. 3517 Kamuheana (con't.)

from Kuihelani. This is old land from Kamuheana's father at the time of Kan. II, section 2 from Nailima in 1837. Section 3 from Kamuheana's older brother Panihu. No objections. Two poalimas in the first section.

Section 1 - Taro pauku and pasture at Kalaimuahehehe.

Mauka, Road/poalima; Kahakuloa, Prisoners' patch; makai, Pahukaula ili; Wailuku, Stream.

Section 2 - Taro pauku and houselot at Pahukaula.

Mauka, Kahinu; Kahakuloa, Prisoners' patch; makai Kaulahiwa; Wailuku, Waihee stream

Section 3 - 1 taro patch in Kanaele 2 ili.

Mauka and Kahakuloa, Kamakheana; makai, Nuhi, Wailuku, Stream.

No. 4289 Kauihou

25 July 1849

Kapahuwa sworn he has seen 2 sections in Wailua ili of Waihee.

Section 1 - Taro pauku and pasture.

Section 2 - Taro pauku and pasture.

Land from Kuihelani in 1843. Kuihelani's interest from M. Kekuanooa, Pg. 266 no objections. 4 poalima patches, 1 mauka patch, 1 coffee grove, total 6 poalimas.

Section 1 Mauka and Kahakuloa, pali; makai, Kumuhoia; Wailuku, stream

Section 2 Mauka, pali; Kahakuloa, stream; makai, Kumuhoia, Wailuku, pali.

No. 4377 Keawe

25 July 1849

Kahinu sworn he has seen 4 sections in the ilis of Waihee. First section from Kahinu in 1839. Section 2 from Halevaa in 1839, section 3 from Kamuheana in 1842. This is an old land for Kamuheana. Section 4 from Kamaka at the time of 2. Kahuwai, no objections.

Section 1 - Pauku patch at Halepahu.

Makai and Wailuku	Kahina's land
Mauka	Leuhue ili
Kahakuloa	Kahilinamaia

Section 2 - 4 patches at Kalaiminachehe.

Mauka	Kamuheana's land
Kahakuloa and makai	Poalima
Wailuku	Stream

Section 3 - 5 patches in Pahukaula.

This section has been joined with section 2, but Nailima has the makai and of section 3.

Section 4 - 3 patches at Kahilinamaia.

Mauka, Poalima; Kahakuloa and makai, Kamaka; Wailuku, section 1.

No. 4444B Keapu

25 July 1849

Kauna sworn he has seen 1 section of 4 patches in the ili of Papaina in Waihee. This was from Kaahu in 1846, Kaahu's land from Walawala in 1833, no objections. Mauka and Kahakuloa, poalima; Makai Kaahu's land; Pg. 267 Wailuku, Kalua.

No. 4444 Kaahu

25 July 1849

This interest has been included in grant no. 4444 B Keapu. Kauna sworn he has seen 3 sections in the ili of Papaina in Waihee. All of these sections to Kaahu from Walawala in 1833, no objections.

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