



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

For Official Use Only:
RECEIVED
COMMISSION ON WATER
RESOURCE MANAGEMENT
2009 APR 30 PM 4:00
WUP 134

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.

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 WAHI HO'OMALU LIMITED PARTNERSHIP		Applicant's Contact John A. Russell		2. SOURCE LANDOWNER'S NAME WAILUKU WATER COMPANY, LLC		Source Landowner's Contact Clayton Suzuki	
Applicant's Mailing Address, or Principal Place of Business P.O. Box 351 Kula, Hawaii 96790-0351				Source Landowner's Mailing Address, or Principal Place of Business 255 E. Waiko Road Wailuku, Hawaii 96793			
Applicant's Phone 808-876-0222	Applicant's Fax 808-876-0222	Applicant's E-mail jarussell@hawaiiantel.net	Source Landowner's Phone 808-244-2208	Source Landowner's Fax 808-242-7068	Source Landowner's E-mail csuzuki@wailukuwater.com		

SOURCE INFORMATION

3. SURFACE WATER HYDROLOGIC UNIT: Island: MAUI Hydrologic Unit: IAO Hydrologic Unit Code: 6024

4. INSTREAM FLOW STANDARD (IFS) FOR HYDROLOGIC UNIT IF 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:

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

6b. TMK OF PROPOSED DITCH DIVERSION LOCATION: 3 - 3 - 0 0 2 : 0 0 1
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: Reservoir

7b. WILL THE DIVERTED WATER BE RETURNED TO THE STREAM OR DITCH?
 Yes. How much water will be returned?
 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.
 Weir but not taking water

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

9. TOTAL QUANTITY OF WATER REQUESTED: 924,516 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, LLC 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
 Signature: John A. Russell
 Print: JOHN A. RUSSELL Date: 4/28/09

17. SOURCE LANDOWNER
 Signature: _____
 Print: _____ Date: _____

FILE ID: SWUP 2351.6
 DOC ID: 0374

ORIGINAL

APPLICATION FOR SURFACE WATER USE PERMIT - PROPOSED NEW USE

TABLE 1: LAND USE CONSISTENCY / EFFICIENCY

(Attach additional copies of Table 1 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												
Domestic	3	3	0 0 2	0 0 1	Agriculture	<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	834.016 acres	GPD	180,000	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
						<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
						<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
						<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										180,000 ¹²	GPD	
Uses that do not require potable water												
Agriculture	3	3	0 0 2	0 0 1	Agriculture	<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	168 acres	GPD	739,200	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Agriculture	3	3	0 0 2	0 2 6	Agriculture	<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	0.886 acres	GPD	5,316	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
						<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
						<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										744,516 ¹³	GPD	
TOTAL QUANTITY OF WATER REQUESTED (Sum of Total Potable Use and Total Non-Potable Use above) =										924,516 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												

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.)																						
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3	-	3	-	0	0	2	:	0	0	1																			
Zone		Sec		Plat		Parcel																							
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3	-	3	-	0	0	0	:	0	2	6																			
Zone		Sec		Plat		Parcel																							
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9. COMMENTS:

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	Wailuku Water Company use of municipal water for customers is cost prohibitive	Water for non potable use is not available from the municipal source
Wastewater reuse	The Kahului Wastewater Treatment plant has no feeder lines in the area, the cost to install a distribution line from the treatment plant to Wailuku's Ditch System is cost prohibitive	The Kahului Wastewater Treatment plant has no feeder lines in the area, the cost to install a distribution line from the treatment plant to Wailuku's Ditch System is cost prohibitive
Ditch system	There are no other ditch systems available	There are no other ditch systems available
Desalinization	There are no Desalinization plants on Maui	There are no Desalinization plants on Maui
Ground water	Pumping of ground water is cost prohibitive	Pumping of ground water is cost prohibitive
Other (specify)	Storm water reclamation has no facilities as of this date	Storm water reclamation has no facilities as of this date

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.
The new use, which is a continuation of the macadamia nut production which began in the early 1900's, (see Addendum) will maximize beneficial use and will be in the public interest because the land will be put to productive agricultural uses.

2. Explain below how your proposed new use(s) will not interfere with any existing legal use(s).
When Wahi Ho'omalulu bought this land it entered into a contract with Wailuku Agribusiness, now Wailuku Water Company, for the delivery of water out of reservoir #37 and #45 and Wahi Ho'omalulu has been paying a quarterly fee for that water. So we do not know that the proposed new use will interfere with any existing legal use.

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.
There are four DHHL residential subdivisions north and makai of this land and we think all of those homes have County water, thus we do not think that the proposed new use will interfere with the rights of the Department of Hawaiian Home Lands.

TABLE 4-4: OAHU WATER REQUIREMENTS FORECAST FOR SELECTED CROPS

Crop	Gals/Day	1988 Actual		Estimated		Forecast							
		Acres	MGD	Acres	MGD	1988		2000		2005		2010	
						Acres	MGD	Acres	MGD	Acres	MGD	Acres	MGD
SUGARCANE w/	6,000	24,200	105.24	24,200	105.01	21,001	100.47	19,030	134.00	17,005	121.75	10,100	100.00
PINEAPPLE w/	1,000	13,002	13.00	13,000	13.40	12,520	12.23	10,010	10.01	0,734	0.73	0,004	0.00
AQUACULTURE w/	20,000	400	14.01	470	10.00	000	10.01	000	22.00	710	20.57	701	20.40
FEED AND FORAGE w/	7,700	020	2.00	000	2.00	02	0.71	25	0.10	7	0.00	2	0.01
FLORICULTURE & NURSERY TOTAL w/w/	7,400	400	3.00	427	2.10	014	4.00	702	0.20	700	0.04	070	0.00
FOLIAGE PLANTS	0,000	144	0.72	177	0.00	002	1.01	220	1.11	241	1.20	200	1.20
DENDROBIUM ORCHID	2,000	07	0.22	00	0.23	70	0.27	01	0.22	103	0.20	110	0.40
PROTEA	2,000	0	0.02	10	0.02	12	0.00	13	0.03	10	0.04	10	0.04
BANANA w/	3,010	040	1.00	000	1.77	711	2.10	034	2.02	007	2.00	1,000	3.20
GUAVA w/	4,000	070	1.04	400	1.70	401	2.10	077	2.04	002	2.01	700	3.20
MACADAMIA NUTS w/	4,000	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
PAPAYA w/	0,000	40	0.22	00	0.22	70	0.20	70	0.20	02	0.41	00	0.44
PASSION FRUIT	10,000	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
LEAFY VEGETABLES	4,720	001	1.00	000	1.00	040	1.13	000	0.07	177	0.04	102	0.72
SOLANACEOUS & CUCURBIT CROPS w/	0,700	041	1.02	070	1.04	000	2.21	000	2.00	441	2.00	400	3.22

TABLE 4-4: OAHU WATER REQUIREMENTS FORECAST FOR SELECTED CROPS

Crop	Gal/Acre/Day	Actual		Estimated		Forecast								
		1988	MGD	1988	MGD	1988		2000		2005		2010		
		Acres	MGD	Acres	MGD	Acres	MGD	Acres	MGD	Acres	MGD	Acres	MGD	
OTHER VEGETABLES														
BITTERMELON a/f	7,500	4	0.03	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0
CARROTS a/f	8,700	1	0.00	2	0.01	1	0.01	1	0.01	0	0.00	10	0.07	0
CORN, SWEET f	908	105	0.00	170	0.10	100	0.17	202	0.10	1	0.00	0	0.00	0
DARK CHERRY a/f	1,811	60	0.14	11	0.02	130	0.22	107	0.27	212	0.19	220	0.20	0
DASHEN a/f	17,500	2	0.03	4	0.00	4	0.07	4	0.07	297	0.33	265	0.41	0
LOTUS ROOT a/f	8,900	0	0.00	20	0.17	27	0.10	20	0.10	4	0.07	0	0.00	0
PEAS, CHINESE a/f	30,000	1	0.02	3	0.00	0	0.00	10	0.07	27	0.10	20	0.17	0
POTATO a/f	7,400	1	0.00	30	0.20	3	0.00	3	0.00	11	0.07	12	0.00	0
PUMPKIN a/f	40,000	1	0.04	3	0.14	41	0.20	43	0.32	3	0.00	3	0.00	0
RADISH a/f	3,500	0	0.00	0	0.00	3	0.12	3	0.11	45	0.33	48	0.35	0
SQUASH, ORIENTAL a/f	5,000	4	0.02	12	0.00	0	0.00	10	0.00	2	0.10	2	0.00	0
SWEET POTATO a/f	7,400	10	0.07	15	0.11	13	0.00	13	0.07	10	0.00	10	0.00	0
TARO f	8,000	0	0.00	0	0.00	17	0.12	17	0.07	14	0.07	11	0.04	0
DIVERSIFIED AG. TOTAL		3,168	20	3,422	32	3,950	30	4,270	40	4,700	45	5,200	50	50

Notes:
 Average forecasts developed by State Department of Agriculture. Water requirements based on the indicated gallons per acre per day.
 a/ Food and Forage - includes grains, grass, legume crops, and pineapple green chop.
 b/ Acres for Oahu not available. 25% of the State total assumed.
 c/ Calculations derived from the State Statistics of Hawaiian Agriculture, 1988, and data from the Department of Agriculture.
 d/ Department of Agriculture. Based on pan evaporation rates of 2 to .25 inches per day (reflect of water retention and wind) for drip irrigation.
 e/ Depreciate - drip irrigation assumed for 80 percent of average.
 f/ Duxolan Analytic Hawaii, Inc., An Economic Development Strategy & Implementation Program for Maui

ADDENDUM

Wahi Ho'omalua Limited Partnership, a Hawaii limited partnership, acquired approximately 843.016 acres of land from Wailuku Agribusiness Co., Inc. in 2003. The land is described as Lot A-1 of the Iao Valley Large Lot Subdivision and is designated on the tax maps of the State of Hawaii as Tax Map Key (2) 3-3-02-01. A USDA NRCS map showing the boundaries of the land is enclosed with this Application under Tab A.

This land was part of the Wailuku Sugar Company sugar cane lands planted in sugar in the early 1900's. Sugar was grown continuously on these lands until about 1982. Thereafter, the lands were planted in macadamia nuts, and active cultivation of macadamia nuts stopped in 1999. Thus these lands were in continuous agricultural use for nearly 100 years and the plants were watered with surface water.

The macadamia trees located on Fields 36 and 37 in the north east portion of the lands owned by Wahi Ho'omalua are still growing and the irrigation system is in place, although it needs repair. Also enclosed with this application are three maps showing the locations of Fields 36 and 37 under Tab B and photographs showing some of the existing macadamia nut trees and the on-site water filtration system used for the irrigation water under Tab C. Wahi Ho'omalua may also expand the macadamia orchards to include agricultural lands to the southwest of Fields 36 and 37.

This TMK 3-3-02-01 includes about 19 Land Commission Awards along the South Fork of the Waiehu Stream including TMK 3-3-02-26, and includes several Land Commission Awards along the Iao Stream, and parcel -01 itself borders on these Streams, and thus these lands have appurtenant and riparian water rights, as confirmed in the cases: *Territory v. Gay*, 31 Haw. 376 (1930), *Reppun v. Board of Water Supply*, 65 Haw. 531 (1982) and *McBryde Sugar Co. v.*

Robinson, 54 Haw. 174 (1973). These kuleanas also have the right to running water by HRS § 7-1, which says:

"Where the landlords have obtained, or may hereafter obtain, allodial titles to their lands, the people on each of their lands shall not be deprived of the right to take firewood, house-timber, aho cord, thatch, or ki leaf, from the land on which they live, for their own private use, but they shall not have a right to take such articles to sell for profit. The people shall also have a right to drinking water, and running water, and the right of way. The springs of water, provided that this shall not be applicable to wells and watercourses, which individuals have made for their own use."

The paragraph 9 TOTAL QUANTITY OF WATER REQUESTED includes: (1) 739,200 gallons per day to water 168 acres of macadamia nut trees, 4,400 gallons per acre per day (the suggested amount from the Oahu Water Requirements Forecast; attached), (2) plus an additional 180,000 gallons per day to produce 108,000 gallons per day of potable water for domestic use for 60 connections on 30 lots; and (3) taro on tax parcel -26, 0.886 acre, at 6,000 gallons per day for one acre, 5316 gallons per day. This is a grand total of 924,516 gallons per day.

Wahi Ho`omalulu is asking for 108,000 gallons of potable water for future domestic use. We are advised that using a single stage treatment system would reduce the yield of potable water to 60% of the surface water put in. Thus we are asking for 180,000 gallons of surface water for this purpose. This water would come from a water treatment plant which can be built on the Wahi Ho`omalulu land, and which water treatment plant would supply potable water to other users in the area, including Hale Mua Properties LLC, TMK (2) 3-3-02-31.

Also enclosed with this Application under Tab D is a copy of Tax Map Second Division 3-3-02 showing the areas where the macadamia nut trees are growing outlined in green, the additional agricultural lands to the southwest of Fields 36 and 37 where future macadamia trees may be planted shown in yellow and the locations of Reservoir #45 and Reservoir #37 from which irrigation water will be supplied to Wahi Ho`omalulu by Wailuku Water Company.

Included under Tab E are 3 aerial photographs which show the Wahi Ho`omalu lands; on the makai side is the brown line of the Spreckels Ditch, the two County water tanks are further mauka in the middle of the lands, reservoir #37 is mauka and to the left and south of the water tanks, and reservoir #37 (Top), which will also supply irrigation water to Wahi Ho`omalu, is at the top of the macadamia nut tree planting.

Reservoir #45 is fed from the Iao Stream. Water flows out of reservoir #45 into Maniania Ditch and down to Wailuku Country Estates into its agricultural water system, and then the water travels further down the Maniania ditch to reservoir #37 (Top) and waters Field 37. Reservoir #37 is fed from the Waihee Ditch and waters Field 36.

Enclosed under Tab F are photographs of Reservoir #37 with the two plastic pipes, Reservoir #37 (Top), which is dry and has trees falling into it, and of water coming out of the spillway from reservoir #45.

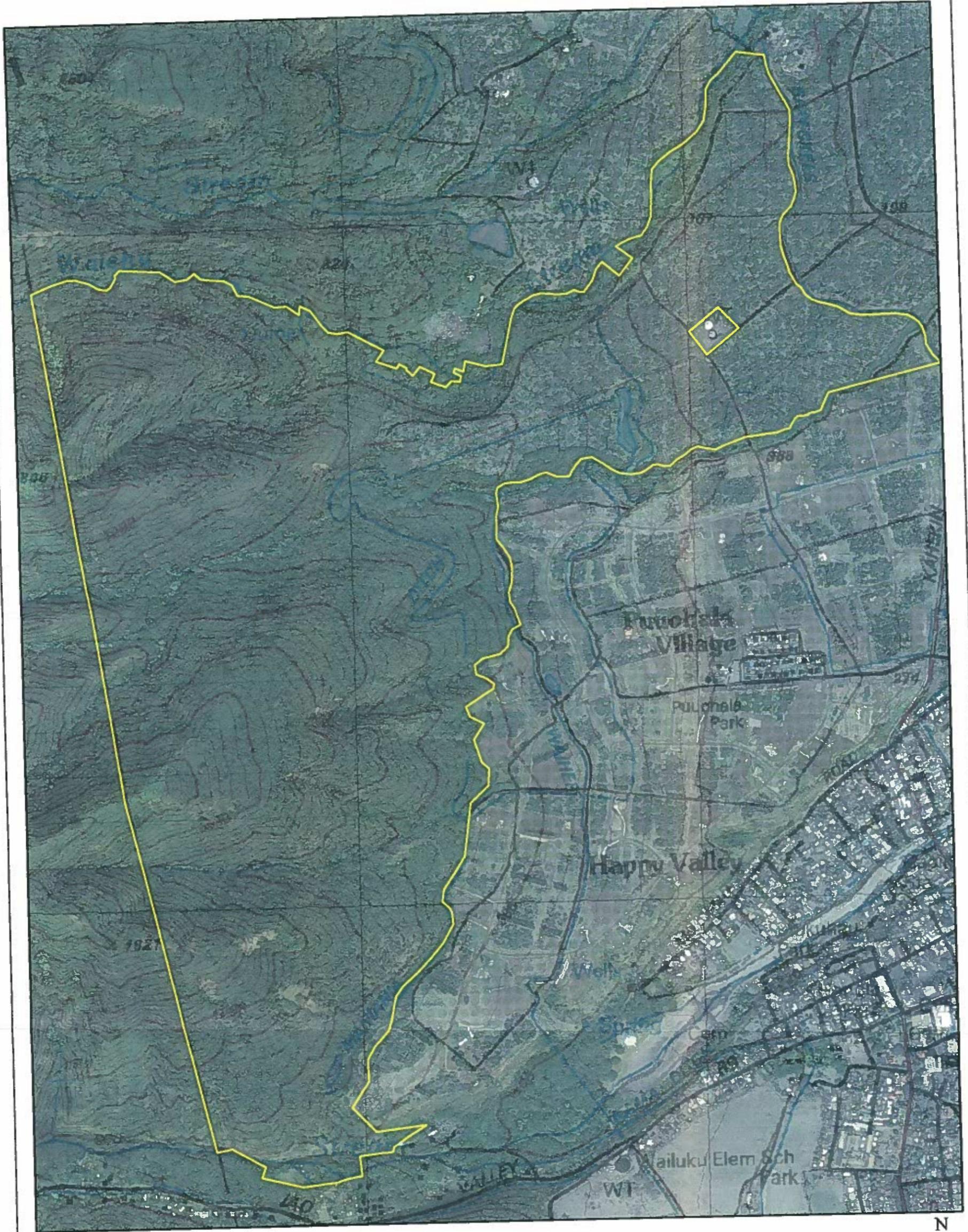
Property Map

Customer(s): JOHN A RUSSELL

Field Office: WAILUKU SERVICE CENTER

Agency: USDA-NRCS

Assisted By: James J Ino



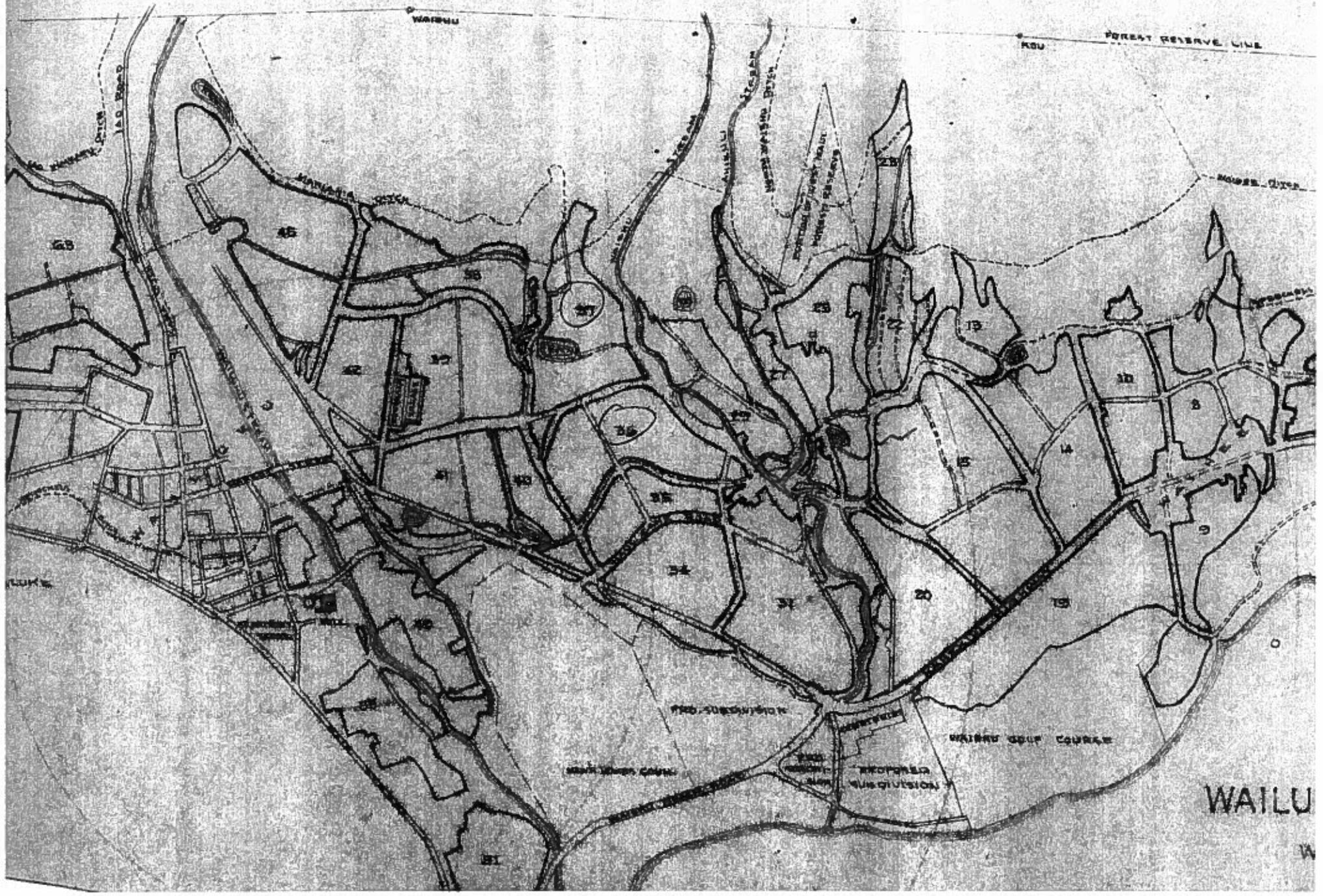
Legend

 Consplan_John_Russell



2 MILES FROM HILL

R E S E R V E



WAIKRU

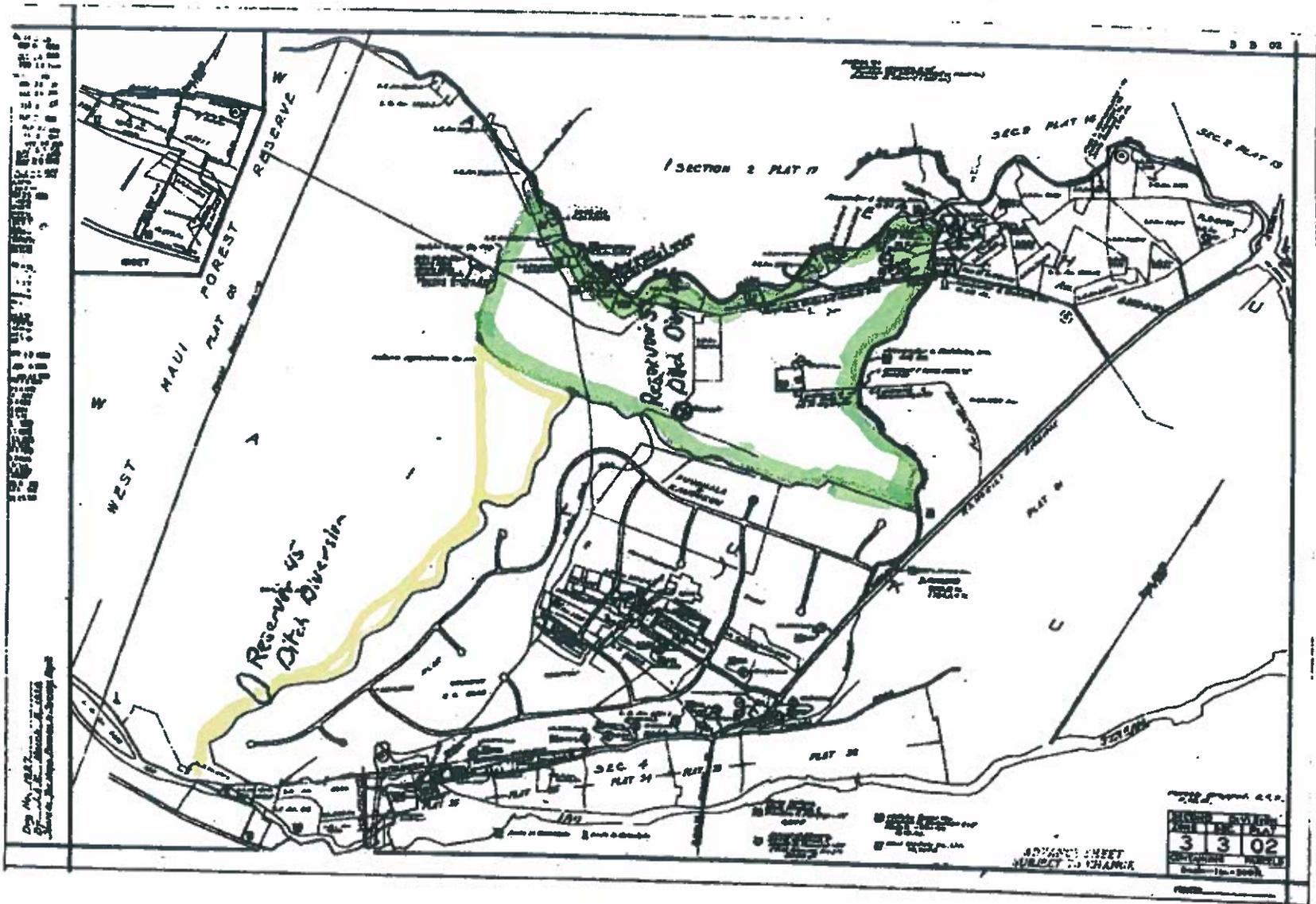












DEP. No. 1282
 State of Hawaii
 Department of Public Works
 Office of the Engineer

ADVANCE SHEET SUBJECT TO CHANGE		
3	3	02
<small> SHEET NO. 3302 PROJECT NO. 1282 DRAWN BY: [illegible] CHECKED BY: [illegible] </small>		









Reservoir 37
Waihee Ditch



Reservoir 37 Top
Iao-Maniania Ditch

