



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

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

For Official Use Only:

RECEIVED
 COMMISSION ON WATER
 RESOURCE MANAGEMENT

2009 MAY -1 AM 10:10

POSTMARK 4.30.09 ET

FORM SWUPA-E (NA WAI EHA, MAUI)

For detailed instructions on filling out this application, refer to the attached instructions.

Event ID:

APPLICANT INFORMATION: Note: In accordance with §174C-51(1)(B), HRS, in the event a lessee, licensee, developer, or any other person with a terminable interest or estate in the land, which is the water source of the permitted water, applies for a water permit, the landowner shall also be stated as a joint applicant for the water permit.

1. APPLICANT'S NAME Fred W. Coffey		Applicant's Contact Fred W. Coffey		2. SOURCE LANDOWNER'S NAME Wailuku Water Company LLC		Source Landowner's Contact Avery chumbley	
Applicant's Mailing Address, or Principal Place of Business 1271 Malaiehi Road Wailuku, HI 96793-8708				Source Landowner's Mailing Address, or Principal Place of Business 255 East Waiko Road Wailuku, HI 96793			
Applicant's Phone	Applicant's Fax	Applicant's E-mail		Source Landowner's Phone	Source Landowner's	Source Landowner's E-mail	
				244-7079	242-7068	abc@aloha.net	

EXISTING SOURCE INFORMATION

The following must be attached before this application is accepted as complete:

- Portion of 7.5-Minute Series USGS topographic map (scale 1:24,000) labeled with stream and diversion locations and quad map name.
- Property Tax Map Key (TMK), showing stream or diversion location, and location of water use referenced to established property boundaries.
- Photograph(s) of the surface water diversion works and end use.

3. SURFACE WATER HYDROLOGIC UNIT AND CODE: Waihee/602 Waiehu/6023 Iao/6024 Waikapu/6001

4. DIVERSION LOCATION: Choose the appropriate category and enter information in either 4a or 4b.

4a. TMK OF STREAM DIVERSION LOCATION:	3	-	2	-	014	:	001
	Zone		Sector		Plat		Parcel
4b. TMK OF DITCH DIVERSION LOCATION:	3	-	2	-	018	:	003
	Zone		Sector		Plat		Parcel

5. STREAM DIVERSION: How is water diverted from the stream to your property? Check all that apply.

- Pipe Pump Ditch/auwai Other Describe:

Is the diverted water returned to the stream or ditch? Yes. No. If yes, how much water is returned? see attachment

6. FLOW MEASUREMENT INFORMATION:

Does the stream diversion have a flowmeter with totalizer or other device to measure diverted amounts?

- Yes. Enter the installation date:

Describe the device and enter measured amounts in Table 1.

- No. Explain how you are measuring flow to justify amounts shown in Table 1 in the space below
see attachment

EXISTING USER INFORMATION

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

8. END USER INFORMATION: Are you an end user on an existing water system? Yes No
 If yes, who is the operator of the water system? Wailuku Water Company

9. REGISTRATION AND DECLARATION OF WATER USE: Do you have a Registration and Declaration of Water Use with the Commission?

- Yes. List the file reference name(s): Gammie PM, Maui
 No

SWUP No. 111

10. STREAM DIVERSION WORKS PERMIT (SDWP):

Have you ever been issued a SDWP by the Commission?

- Yes. List the permit number(s):
 No

FILE ID: SWUP.2355.6
 DOC ID: 3381

NOTE: Signing below indicates that the signatories understand and affirm that the information provided on this application is accurate and true to the best of their knowledge. Furthermore, the signatories understand that: 1) if necessary, further information may be required before the application is considered complete; 2) if a water use permit is granted by the Commission, this permit will be subject, but not limited, to any existing legal uses, changes in sustainable yields and instream flow standards, Hawaiian Home Lands uses, and any other conditions imposed by the Commission; and 3) the applicant is responsible for paying the required public notice fees associated with this application.

11. APPLICANT		12. SOURCE LANDOWNER	
 Signature Fred W. Coffey Print		 Signature Print	
 Date 4-30-09		 Date	

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

TABLE 1: 12-MONTH AVERAGE DAILY USE
Measured or Calculated Use of Water at the Source: (Check one) Stream Ditch Auwai
As of the Effective Date of Designation, April 30, 2008

MONTH / YEAR	AVERAGE DAILY USE FOR THE MONTH IN GALLONS PER DAY (GPD)	Check one item per box				OTHER Please describe
		METERED	ESTIMATED	ACTIVE BUT UNKNOWN	INACTIVE	
May 2007	666.6	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
June 2007	666.6	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
July 2007	666.6	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
August 2007	608.3	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
September 2007	666.6	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
October 2007	633.3	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
November 2007	666.6	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
December 2007	640	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
January 2008	633.3	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
February 2008	616.6	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
March 2008	616.6	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
April 2008	616.6	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
SUM OF AVERAGE DAILY USE FOR THE MONTH	7697.7					GPD
AVERAGE DAILY USE (Average of the above)	641.5					GPD

**SURFACE WATER USE PERMIT APPLICATION
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TABLE 2: LAND USE CONSISTENCY/EFFICIENCY
(Attach additional copies of Table 2 if necessary)

LAND USE CONSISTENCY						EFFICIENCY OF USE					
1. PURPOSE / WATER USE CATEGORY	2. USE TMR ATTACH THE FOLLOWING: • Property tax map, showing use location in reference to established property boundaries • Photograph of the area of use	3. STATE LAND USE DISTRICT	4. CDUP REQ'D Enter either: Yes and Date approved, or Yes and not acquired, or No	5. COUNTY ZONING CODE	6. SMAP REQ'D Enter either: Yes and Date approved, or Yes and not acquired, or No	7. REQUESTED QUANTITY OF USE Gallons per Day (GPD)	8. SUB-METERED? (Yes or No)	9. UNITS OR NET ACREAGE	10. APPLICANT'S JUSTIFICATION FOR REQUESTED QUANTITY OF USE FOR ITEM 7. If applicable, attach sheets to show how this number was calculated. For irrigation uses, fill in Table 3.		
Uses that require potable (drinking) water											
	____ - ____ - ____ : ____ Zone Sector Plat Parcel										
	____ - ____ - ____ : ____ Zone Sector Plat Parcel										
	____ - ____ - ____ : ____ Zone Sector Plat Parcel										
	____ - ____ - ____ : ____ Zone Sector Plat Parcel										
TOTAL POTABLE USE						0		GPD			
Uses that do not require potable water											
DOM	3 - 2 - 018 : 003 Zone Sector Plat Parcel	AG	no	AG	no	600	no	1 unit	see attachment		
AGRON	3 - 2 - 018 : 003 Zone Sector Plat Parcel	AG	no	AG	no	41.5	no	1 unit	see attachment		
	____ - ____ - ____ : ____ Zone Sector Plat Parcel										
	____ - ____ - ____ : ____ Zone Sector Plat Parcel										
TOTAL NON-POTABLE USE						641.5		GPD			
TOTAL USE REQUESTED (Sum of Total Potable Use and Total Non-Potable Use above) =						641.5		GPD			
If total use requested is not equal to the total monthly average in Table 1, please explain. n/a											
In accordance with §174C-51(5), please explain if there are any limitations (legal, contractual, etc.) on the use(s) of water described above. n/a											

**SURFACE WATER USE PERMIT APPLICATION
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TABLE 3: IRRIGATION INFORMATION

List all crops as separate line items and include landscape and golf course irrigation, grown in the 12 months prior to April 30, 2008. Attach additional copies of Table 3 if necessary.

1. USE TAX MAP KEY (TMK) Attach map outlining area and photo.	2. CROP	3. TOTAL ACREAGE	4. NET IRRIGATED ACREAGE	5. BEGIN ROWTH PERIOD (Month)	6. END GROWTH PERIOD (Month)	7. IRRIGATION SYSTEM (Refer to Instructions.)	8. IRRIGATION PRACTICE (Refer to Instructions.)
3 - 2 - 018 : 003 <small>Zone Sector Plat Parcel</small>	diversified agriculture	.613	.5157	year round	year round	other: hose	field capacity
3 - 2 - 018 : 003 <small>Zone Sector Plat Parcel</small>	collection of potted plants	613	.0550	year round	year round	other: hose	field capacity
- - - : <small>Zone Sector Plat Parcel</small>							
- - - : <small>Zone Sector Plat Parcel</small>							
- - - : <small>Zone Sector Plat Parcel</small>							
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- - - : <small>Zone Sector Plat Parcel</small>							

**SURFACE WATER USE PERMIT APPLICATION
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TABLE 4: ALTERNATIVES ANALYSIS

	Potable Alternatives Attach additional sheets if necessary.	Non-Potable Alternatives Attach additional sheets if necessary.
Municipal sources	n/a	see attachment
Wastewater reuse	n/a	see attachment
Ditch system	n/a	see attachment
Desalinization	n/a	see attachment
Ground water	n/a	see attachment
Other (specify)	n/a	n/a

PUBLIC INTEREST

§174C-2(c) states that: *The state water code shall be liberally interpreted to obtain maximum beneficial use of the waters of the State for purposes such as domestic uses, aquaculture uses, irrigation and other agricultural uses, power development, and commercial and industrial uses. However, adequate provision shall be made for the protection of traditional and customary Hawaiian rights, the protection and procreation of fish and wildlife, the maintenance of proper ecological balance and scenic beauty, and the preservation and enhancement of waters of the State for municipal uses, public recreation, public water supply, agriculture, and navigation. Such objectives are declared to be in the public interest.*

Explain below how the uses in your application are consistent with the public interest as described above. Attach additional sheets if necessary.

see attachment

Coffey, Fred W.
TMK: 3-2-018-003

ATTACHMENTS

Portion of 7.5 minute-series USGS topographic map labeled with Waihee River and diversion location, North Waiehu Stream and diversion location. Wailuku quad map.

TMK 3-2-018-003 map showing diversion location, location of water use.

Photographs showing diversion works and end use.

Page 1, Box 2: Source Landowner

Not applicable because applicant does not have a terminable interest in the land, which is the source of the permitted water. According to the Water Commission's records, which have not been verified, Wailuku Water Company claims to be the source landowner.

Page 1, Box 5: Stream Diversion

Water is from the **kuleana auwai** that runs along **Malaihi Rd.** The auwai receives water from Waihee Ditch, after Waihee Ditch receives water from the Waihee River and North Waiehu Stream.

Water is diverted from Waihee River at the Waihee diversion into Waihee Ditch. Water is diverted from North Waiehu Stream into the **North Waiehu ditch**, then into Waihee Ditch. Water from the Waihee Ditch flows into a pipe and weir, then into an open ditch. The water continues makai in the ditch and pipes. Water enters TMK 3-2-018-003 via pipe for a non-commercial garden and a portion to a shade house situated within a loi. Any unused water is absorbed into the ground and does not return to the auwai or stream.

Page 1, Box 6: Explanation – see explanation for Table 2 Box 10, below.

Page 1, Box 7: Appurtenant Rights

Property had appurtenant rights because it was in kalo at the time of the Mahele, however, a deed transferring the property reserved the water rights. As a result, it appears the property's appurtenant rights may be extinguished, although I reserve the right to claim appurtenant rights in the future, based on further information.

Table 2, Box 10: Justification for requested Quantity

Estimated the existing domestic water use, including watering the yards and non-commercial gardens of two households, by applying the 2002 State of Hawaii Water

System Standard for Maui County of 600 gallons per single family home. Domestic use includes cultivating edibles: herbs, ginger, tomatoes, peppers, pineapple, bananas, papayas, figs, avocados, mango, coffee, lychee, coconuts, lemons, limes, oranges, grapefruit, calamondin, breadfruit, dry-land taro and non edibles: ti and tropical flowers.

A fill tank is used to measure volume of water applied to a collection of ornamental potted plants located in a 2,400 sq. ft. shade house situated within a loi.

Table 4: Alternative Analysis

Owner maintains a non-commercial garden providing vegetables, fruits, flowers and other useful plants. These items feed family, and are shared with neighbors and community members. As shown below, each potentially available alternative water source is impractical for a small, non-commercial user like me.

MUNICIPAL SOURCES. Historically, the auwai water has been used on this property for agricultural needs. Requiring me to pay for municipal water instead would impose an unfair and impracticable cost on this use.

WASTE REUSE. As a small user engaged in non-commercial gardening, I do not have the means to hook up to and use reclaimed water. The closest wastewater treatment plant is located in Kahului.

DITCH SYSTEM. Currently using water from an existing auwai, although water is not available consistently and in sufficient amounts to support the existing uses on this system, including my own uses. As a small user engaged in non-commercial gardening, the cost of taking water from, or constructing another ditch is not practical. First, the other ditch systems in Na Wai Eha do not consistently have enough water to support additional users. Second, I lack the property, access, permissions and funding necessary to permit and construct an additional ditch diversion.

DESALINIZATION. Desalinization of brackish water is not a practical alternative because there is no such plant in operation on Maui. According to County estimates, a plant is expected to be built in 2013 at the earliest.

GROUND WATER. Even if I were able to secure the permits necessary to drill a well, and pump ground water for my uses, installing and operating such a well to provide flowing water would be extremely burdensome. As a small user with a garden to provide for family and neighbors, I do not have the means to install and maintain such infrastructure.

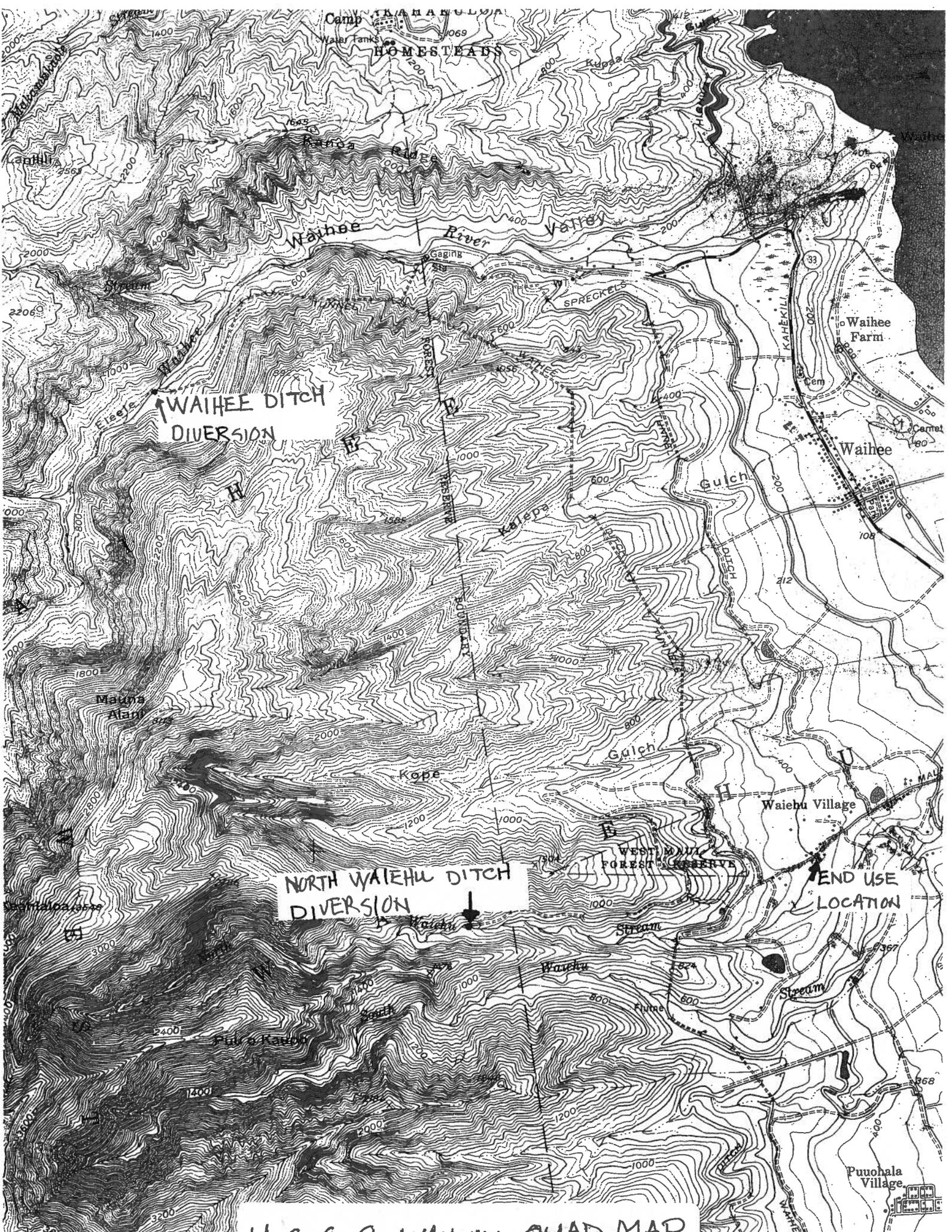
Table 4: Public Interest

Existing Use is Consistent with the Public Interest

“As a general matter, water use for diversified agriculture on land zoned for agriculture is consistent with the public interest.” In re Waiahole Ditch Combined Contested Case, 94 Hawaii 97, 162, 9 P.3d 409, 474 (2000) (“Waiahole I”). HRS 174C-2(c) provides that agriculture and the maintenance of proper ecological balance and scenic beauty are in the public interest.” The plantings on this property maintain ecological balance and scenic beauty. As such, the existing use of stream water is consistent with the public interest.

Existing Use is “Reasonable-Beneficial”

Existing use is “reasonable-beneficial.” “Reasonable-beneficial” is defined as “the use of water in such a quantity as 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, the planted garden on this property is consistent with state and county land use plans and the public interest. It is also “economic and efficient” because only what is needed is used. Pipes have been installed for efficiency. I am conservation minded. I am actively in control of each irrigation of this property. Therefore, my use is “reasonable-beneficial.”

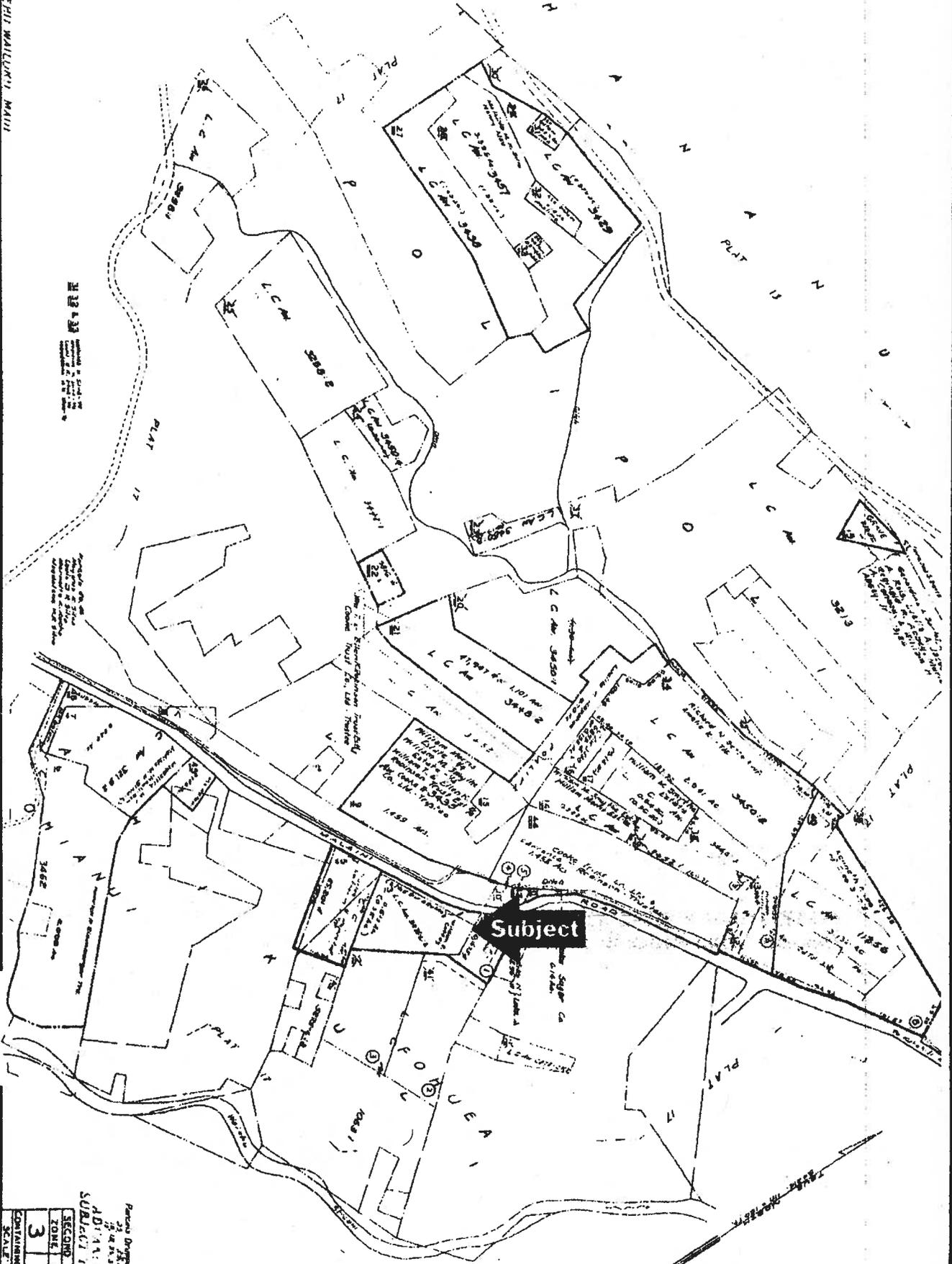


WAIHEE DITCH
DIVERSION

NORTH WAIHEHU DITCH
DIVERSION

END USE
LOCATION

PLAT 13



Planning Division 424242424
 AD 11-3 SHEET
 SUBJECT TO CHANGES
 SECOND DIVISION
 ZONE SEC. PLAT
 3 2 18
 CONTAINING PARCELS
 SCALE 1" = 100 FT.
 PRINTED



MALAIHI R.D.

77
LATER
STERS
PROPERTY



.5157ac

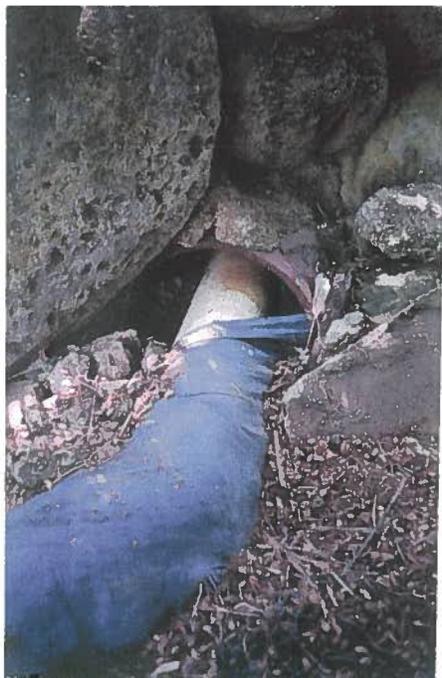


TMK: 3-2-018-003
TMK ACREAGE = .613ac

CALCULATIONS:
AG = .5708ac
NON AG = .0421ac



DIVERSION INTAKE FROM THE NORTH WAIEHU KULEANA AUWAI.

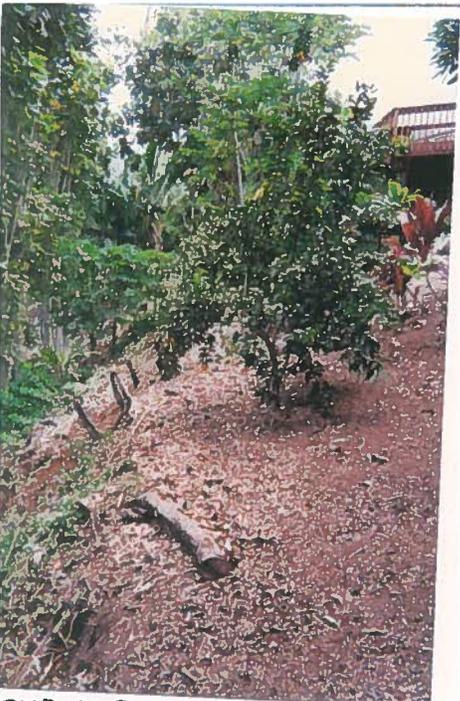


DIVERSION PIPE ENTERING TMR 3-2-018-003.



FILL TANK - MEASUREMENT.

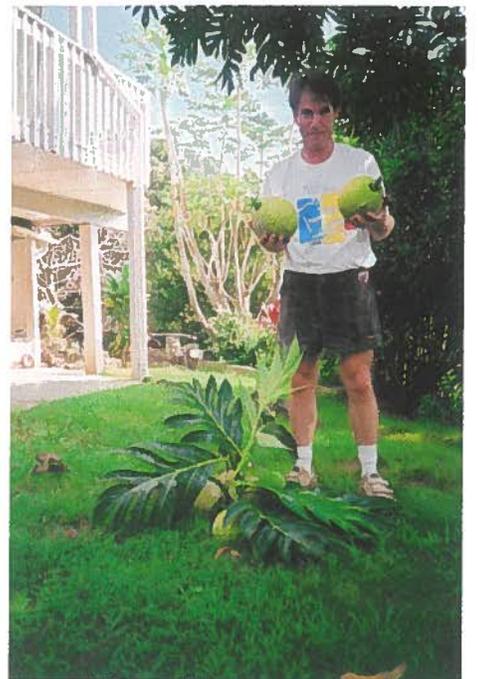
END USE, SHADE HOUSE ON LOI.



END USE: CITRUS, PAPAYA, COCONUT, BREADFRUIT, AVOCADO, Ti.



END USE: MANGO, TROPICALS.



END USE: BREADFRUIT, PAPAYA.