



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

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

FORM SWUPA-N

- Application for New use
 Application to Modify SWUP No. _____

For Official Use Only:
RECEIVED
COMMISSION ON WATER
RESOURCE MANAGEMENT
2009 APR 23 PM 4:06

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 YOSHIE SUEHIRO AND NATALIE HASHIMOTO		Applicant's Contact NATALIE HASHIMOTO	2. SOURCE LANDOWNER'S NAME WAILUKU WATER COMPANY LLC		Source Landowner's Contact AVERY CHUMBLEY
Applicant's Mailing Address, or Principal Place of Business 915 Malaihi Road Wailuku, HI 96793			Source Landowner's Mailing Address, or Principal Place of Business 255 East Waiko Road Wailuku, HI 96793		
Applicant's Phone	Applicant's Fax	Applicant's E-mail	Source Landowner's Phone (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: WAIHEHU Hydrologic Unit Code: 6023

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

5. CAN YOUR PROPOSED USE(S) BE ACCOMMODATED WITHIN THE ABOVE AMOUNTS: Yes No
 Explain how your proposed use(s) can be accommodated within the existing IFS for the above hydrologic unit:
 See attachment page 1.

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

6b. TMK OF PROPOSED DITCH DIVERSION LOCATION: [] - [] - [] : []
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/fauwai Other Describe: See attachment page 1.

7b. WILL THE DIVERTED WATER BE RETURNED TO THE STREAM OR DITCH?
 Yes. How much water will be returned? See attachment page 1.
 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 page 2.

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

9. TOTAL QUANTITY OF WATER REQUESTED: 600 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: _____ 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): SUEHIRO Y No

15. STREAM DIVERSION WORKS PERMIT (SDWP): Do you have a SDWP from the Commission?
 Yes. List the permit number(s): N/A No

NOTE: Signing below indicates that the signatories understand and affirm that the information provided on this application is accurate and true to the best of their knowledge. Furthermore, the signatories understand that: 1) if necessary, 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 <u>Natalie Hashimoto</u> Signature <u>Natalie Hashimoto</u> Print Date: <u>4/19/09</u>	17. SOURCE LANDOWNER Signature Date
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FILE ID: SWUP 2363.6
 DOC ID: 3475

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	THINK 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													
DOM	3	2	016		Rural	<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired <input checked="" type="checkbox"/> No	Rural 0.5 & Interim District	<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired <input checked="" type="checkbox"/> No	1 houselot	600	600	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	See attachment page 2.
	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 NON POTABLE USE											600	GPD	
TOTAL QUANTITY OF WATER REQUESTED (Sum of Total Potable Use and Total Non-Potable Use above) =											600	GPD	
15. Please explain if there are any limitations (legal, contractual, etc.) on the use(s) of water described above. §174C-51(5) HRS N/A													

APPLICATION FOR SURFACE WATER USE PERMIT - PROPOSED NEW USE

TABLE 2: IRRIGATION INFORMATION

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

1	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.)
2 - 3 - 016 : 021 <small>Zone - Sec - Plat : Parcel</small>	Diversified Agriculture	0.2 acres	0.16 acres	Year round	Year round	Other: Hose	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>							
<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:
See attachment page 1-2.

APPLICATION FOR SURFACE WATER USE PERMIT - PROPOSED NEW USE

TABLE 3: ALTERNATIVES ANALYSIS AND ADDITIONAL REQUIREMENTS

	A. Analysis of Potable Alternatives (Attach additional sheets if necessary.)	B. Analysis of Non-Potable Alternatives (Attach additional sheets if necessary.)
Municipal sources	N/A	See attachment page 2-3.
Wastewater reuse	N/A	See attachment page 2-3.
Ditch system	N/A	See attachment page 2-3.
Desalinization	N/A	See attachment page 2-3.
Ground water	N/A	See attachment page 2-3.
Other (specify)	N/A	N/A

C. ADDITIONAL REQUIREMENTS:

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

1. Explain below how your proposed new use(s) will maximize beneficial use(s) and how they will be deemed to be in the public interest as defined by the State Water Code above.
See attachment page 3-4.

2. Explain below how your proposed new use(s) will not interfere with any existing legal use(s).
See attachment page 3-4.

3. Explain below how your proposed new use(s) will not interfere with the rights of the Department of Hawaiian Home Lands as provided in Section 221 of the Hawaiian Homes Commission Act.
See attachment page 4.

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: (i)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, Thermolectric Cooling, Power Development
INDFP	Fire Protection
INDMI	Mining, Dust Control
INDOTH	Industrial – Other
IRRIGATION	
IRRG	Golf Course
IRRH	Habitat Maintenance
IRRHOT	Hotel
IRRLA	Landscape/Water Features
IRROTH	Other
IRRPCA	Parks
IRRS	Schools
MILITARY	
MIL	Military
MUNICIPAL	
MUNCO	County
MUNPR	Privately owned and operated but defined as a public system by the Department of Health
MUNST	State

2. USE TMK: The Tax Map Key number of the parcel over which the water 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.*

ATTACHMENT A

Attachments

Appended hereto as Attachment B is a copy of the 7.5 minute-series USGS topographic map depicting Waiehu Stream and the site where we would like to re-install our pump. Attachment C is a TMK map showing the location of our property as well as a close-up of the property showing the areas where we would like to situate our pump as well as our area of proposed use. Attachment D contains true and correct copies of photographs of the area where we would like to situate our pump, as well as our end uses. These pictures accurately depict the conditions when the photos were taken on January 31, 2009. Attachment E contains Māhele documents establishing that our land was in kalo at the time of the Māhele of 1848 and is described in more detail below.

Box 4 & 5: Instream Flow Standards

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

Box 7(a&b): Proposed Stream Diversion

We are riparian landowners along Waiehu Stream. For years we pumped water from the stream and used it on our property for domestic and agricultural purposes. Recently, however, our pump broke. So, we were not using water from Waiehu stream on April 30, 2008. We would, however, like to use water from the stream once again and are filing this application to re-new our former use. We will, as we have always done, place a pump on our property (on the bank of Waiehu Stream) and pump water for our domestic, agricultural, and other needs. We have a small non-commercial garden and grow fruits and vegetables for our home use. Since our property is riparian, any water that is not consumed by our garden can flow back to the stream. The precise amount returned will vary, depending on climactic conditions.

Box 8: See explanation for Table 1 Box 11, below.

Box 12: Appurtenant Rights

Our property has appurtenant rights because it was in kalo cultivation at the time of the Māhele of 1848. Appended hereto as Exhibit E is Land Commission Award 3434 and other documentation establishing our property's appurtenant rights. In addition, we do not believe that these appurtenant rights have been extinguished. We have no evidence, indication, or any other reason to believe that my appurtenant rights have been extinguished. This application should be granted pursuant to HRS § 174C-63.

Table 1, Box 11: Justification for Requested Quantity

We estimated our domestic water use, including our use of water outside the home to water the yard and non-commercial garden, by applying the 2002 State of Hawai'i Water System Standard for Maui County of 600 gallons per single family home. Even though our domestic water use is relatively small, we are still applying for and would like a Water Use Permit for our use.

Table 3, Box B: Alternatives Analysis

Because our land has an appurtenant right to stream water, which is in the nature of an easement that was conveyed with the land at the time of the Māhele, we do not need to demonstrate that we have no practicable alternative source of water. Our appurtenant right is for stream water, not to water from some other source, and our exercise of this appurtenant right enjoys maximum protection and first priority under the law.

Even if we did not have protected rights to water from Waiehu Stream, there is no potentially available alternative source that is economically practicable. We have a small non-commercial garden including starfruit, banana, lilikoi, guava trees, grapefruit trees, ginger, and some tropical flowers. The fruits, vegetables, and flowers we grow feed our family and are shared with neighbors and community members. As explained above, we are filing this new use application to continue our family tradition of using water from the stream on our riparian land. As shown below, each potentially available alternative water source is impracticable for a small, non-commercial user like us.

Municipal Sources. As long as we can remember, we have always used water from the stream. Requiring us to pay for municipal water instead would impose an unfair and impracticable cost on this use.

Wastewater reuse. Reusing wastewater is impracticable because, as a small user engaged in non-commercial gardening, we do not have the means to hookup to and use that water. The closest wastewater treatment plant is in Kahului.

Ditch system. Getting water from other ditch systems is not practicable. The kuleana 'auwai along Malaihi Road does not reach our property; it flows into a culvert and goes under the road mauka of our property. Moreover, the other ditch systems in Nā Wai 'Ehā do not consistently have enough water to support additional users. We also lack the property, access, permissions, and funding necessary to permit and construct an additional ditch diversion. As a small user engaged in non-commercial gardening, 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 would be extremely burdensome. As a small user engaged in non-commercial gardening, we do not have the means to install and maintain such infrastructure.

Table 3, Section C: Additional Requirements

1) My proposed new use(s) will maximize beneficial use(s) and are in the public interest

HRS § 174C-2(c) provides that agriculture and the maintenance of proper ecological balance and scenic beauty are “in the public interest.” Because our use of stream water will support our non-commercial garden and help to preserve ecological balance and scenic beauty, it is consistent with the public interest.

Our Proposed Use is a Protected Public Trust Purpose

Because any unused water will be returned to Waiehu Stream, our use supports other existing 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.

Our Proposed Use Supports Beneficial Instream Uses

Because we will return any unused water to Waiehu stream, our proposed use also supports beneficial instream uses such as: (1) the maintenance of fish and wildlife habitats; (2) outdoor recreational activities; (3) maintenance of ecosystems such as estuaries, wetlands, and stream vegetation; (4) aesthetic values such as waterfalls and scenic waterways; (5) maintenance of water quality; (6) the conveyance of irrigation and domestic water supplies to downstream points of diversion; and (7) the protection of traditional and customary Native Hawaiian rights. See HRS § 174C-3.

Our Proposed Use is a “Reasonable-Beneficial Use”

“Reasonable-beneficial use” is defined as “the use of water in such a quantity as is necessary for economic and efficient utilization, for a purpose, and in a manner which is both reasonable and consistent with the state and county land use plans and public interest.” HRS § 174C-3. As indicated, our proposed use of stream water is consistent with state and county land use plans and the public interest. It will also be “economic and efficient” because we will only use the amount we need. We will take steps to make our water use efficient. For instance, we will use pipes to minimize water loss. Therefore, the water we have requested is for a “reasonable-beneficial use.”

2) Our proposed use(s) will not interfere with any existing legal use

Our proposed use will not interfere with existing legal uses. We believe the flow of Waiehu Stream is able to accommodate our use (see attached photo depicting adequate flow as the stream passes our property). As mentioned above, any unused water will go back to Waiehu

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

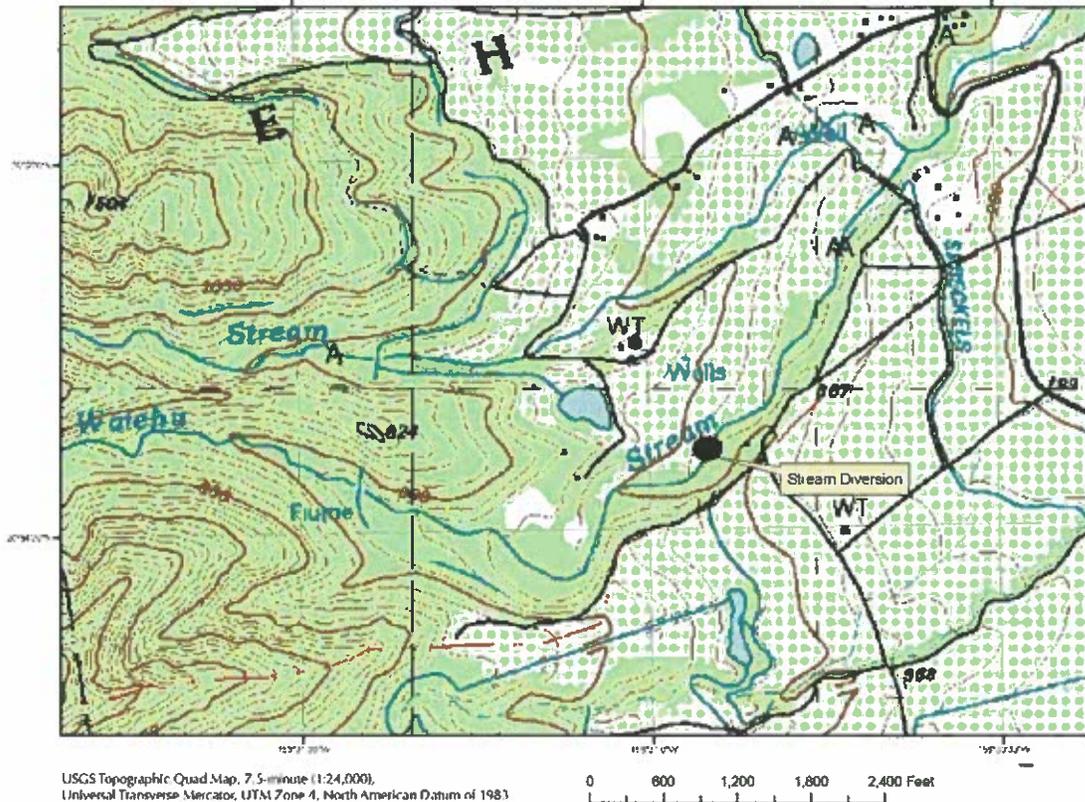
3) Our proposed use(s) will not interfere with the rights of the Department of Hawaiian Home Lands

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

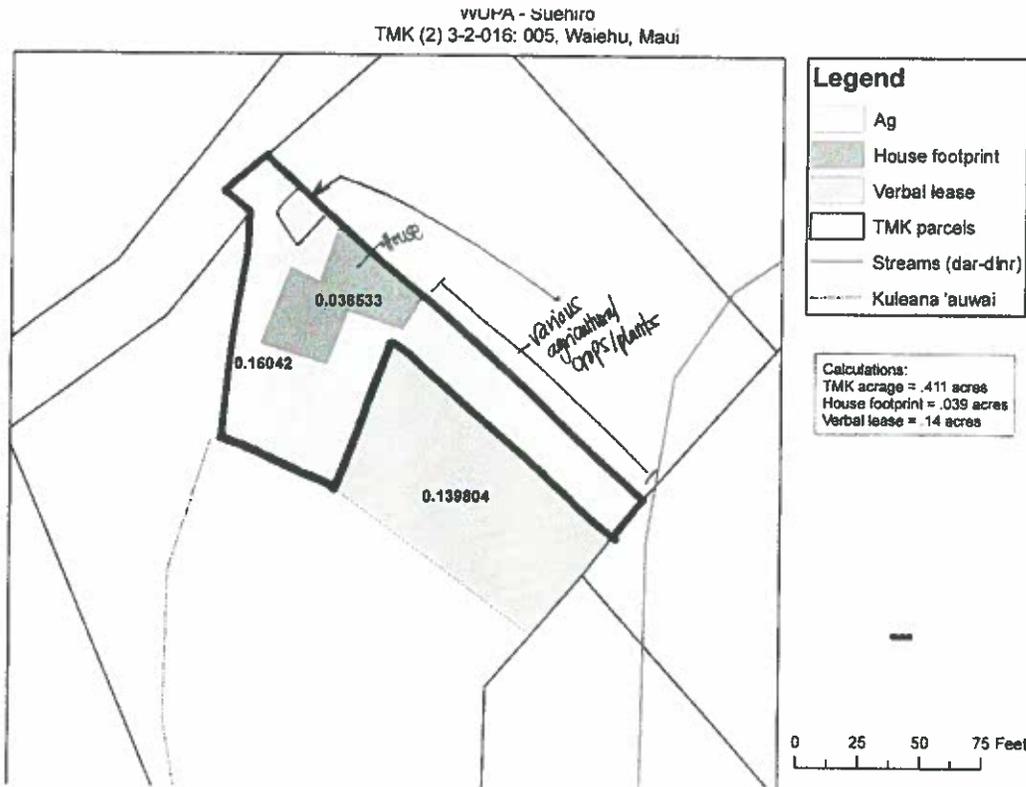
ATTACHMENT B: USGS MAP

This is a true and correct copy of a USGS map depicting the area where we would like to install a pump to irrigate our non-commercial garden.

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



ATTACHMENT C: TMK MAP



This is a true and correct copy of the TMK map for TMK No. 3-2-16: 021 showing our non-commercial garden in relation to established property boundaries. We have a small garden including starfruit, banana, lilikoi, guava trees, grapefruit trees, ginger, and some tropical flowers that we cultivate in the two areas indicated on this map. We would like to place our pump on our property where it abuts the stream (bottom right corner of the parcel).



This is a true and correct copy of an aerial shot of TMK No. 3-2-16: 021, showing the area where our property intersects the stream.

ATTACHMENT D: PICTURES

The photo below is taken from our property. Waiehu Stream flows through our parcel on the South-Eastern end. As this photo demonstrates, the flow can support our requested use.



The photo below shows where we would like to place our pump. You can also see some of the banana trees and ti leaves on our property.



The photo below shows some of our end uses (star fruit trees).



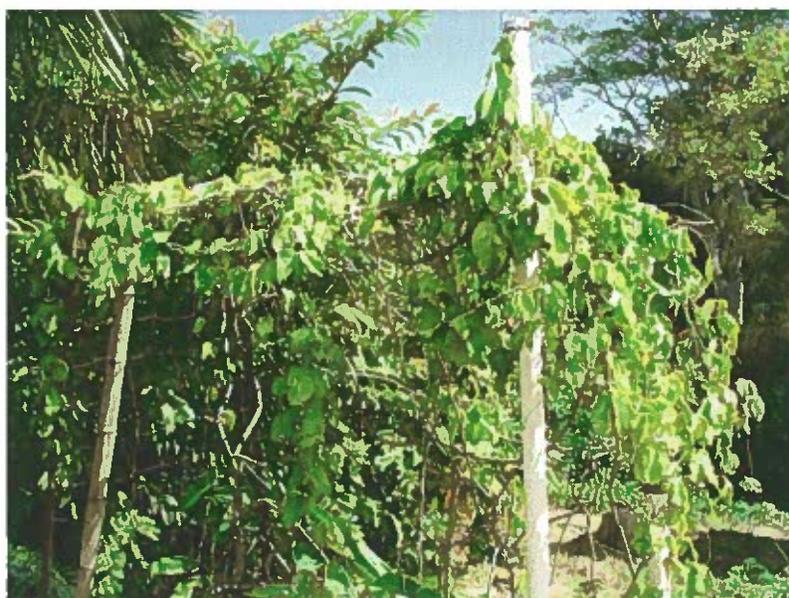
The photo below shows more of our end uses, including tropical flowers and guava.



The photo below shows additional end uses, including tropical flowers and avocado trees.



The photo below shows more end uses, including our liliko'i trellis.



26

i wa luma hono kulanu ha hoi
 mai ka lile ia makou. mowai la
 hou ia luma nui ou ia. Eia ouai hoi
 nuleana loi kula meka hana, aia
 ma Pehalawa i Polipoli 61 loi, i hoi
 ia e luma hou ou i hoi kulanu
 iina hoi ka Mahalo
 Polipoli 35 Dec. 1968 Kulanu

3432

Kula

Alha ma luma hono kulanu.

Ua
 iina ouai aia i Pomas 26 loi, 3 fuhala,
 ilua hoi Kulanu i Pomas ilua 6 loi
 Kula me hoi hoi malaila, i Poma
 pabile 4 loi, i Pahapaha hoi loka
 Kahakumaka ka iina, ia loka, i
 Kubimama 1 loi, i Pahapahamala
 hoi wahi kula me ka hoi. Pomas
 Pomas 2, Pomepabile 3 Pahapahawala
 Waiala 35 Dec. 1968 Ka Kula

3433

Kuanu

Polipoli 31 loi, 1 kula

Ua
 Pomas Kuanu e hoi hoi ouai
 ou loi, nani ka loka hoi, ka
 lile e ka hoi hoi moai ia makou
 Alha ouai ma luma hono me ka
 Mahalo Ka Kuanu
 Waiala 35 Dec. 1968

3434

Ua

Kapuni

Kapuni iki, aia ouai

227	<p>Handwritten text in Japanese, likely describing land parcels or water rights. Includes terms like 'Shimizu' and 'Kawachi'.</p>
228	<p>Handwritten text in Japanese, continuing the list of parcels or rights. Includes terms like 'Kawachi' and 'Kawachi'.</p>
229	<p>Handwritten text in Japanese, continuing the list of parcels or rights. Includes terms like 'Kawachi' and 'Kawachi'.</p>
230	<p>Handwritten text in Japanese, continuing the list of parcels or rights. Includes terms like 'Kawachi' and 'Kawachi'.</p>

HELU 666

PALAPALA SILA NUI

A ke Alii, mamuli o ka olelo a ka Poe Hoona Kuleana,

NO KA MEA *Keap-mak* Ua hooloko na Luna Hoona i na luma hokema aia i ka olelo, he kuleana aia i
 ma ke AHO Ahoilo Hoko a kahi i olelo maia. Kuleana Hoko *1984*
 N-414, na keia Palapala Sila Nui, ka hoko aia i ka Kuleana IV. he Aia noi a ke Aha i hoko i hoko i lona
 oi maia i ka Hawaii De Aha, i na kuleana a pau, i keia la aia iho, a no koma ma hoko aia, na lona aia aia, ma ke AHO
 Ahoilo aia. *Keap-mak* wahi a pau iho ma *St. Peter* *Wai*
 ma ka hoko aia i *Maui* penei an maia.

(hoomaka ma ke olelo ma - aia)

<i>Kama 33' K&K</i>	<i>2.80</i>	<i>stair</i>	<i>ma i hoko aia</i>
<i>Maui 78</i>	<i>- 41</i>	<i>-</i>	<i>Postma</i>
<i>Kama 9</i>	<i>- 98</i>	<i>-</i>	<i>-</i>
<i>" 84 1/2</i>	<i>1.11</i>	<i>-</i>	<i>Kamala</i>
<i>Maui 2 1/2 aia</i>	<i>2.30</i>	<i>-</i>	<i>Postma</i>
<i>" 37 K&K</i>	<i>4.50</i>	<i>-</i>	<i>Kalawai</i>
<i>" 44 1/2 Maui</i>	<i>2.60</i>	<i>-</i>	<i>Kama</i>
<i>Kama 41</i>	<i>5.77</i>	<i>-</i>	<i>Pa</i>
			<i>1.84 Pa</i>

Halohe 1884 apana 1884 512
a ohi aha, a emi iki maai paha. Ua hoo aia i ke Aupuni o na minereka a me na metela o pa.
No Naapohahua
na aha ia i haawia ma ke Aieo Alodhi a no hooa maai kooi'ia, a me hooa waihoaa; ua pii'ia ma ka eaha a ka Poe Ahaolelo a
kaa ike a i na aa aia aia i ke hooa maai i ke hooa maai.

A : Ua i ke Aieo Alodhi, ua hooa maai i ke hooa maai, a me ka Sika Nui o ka Hawaii Paa

Aha ma Hooolelo i ke hooa

o December 1887

Kamehameha V.

By the King
(M. K. Robinson)

land in Shimizu, Sapporo, Honshu
 The land was acquired by the late Shimizu in 1898 and
 his title was never disputed. There are 2 portions of land in it.
 The boundary between the two portions is by the Shimizu line
 between the Shimizu land and the Shimizu land.

C. 3356 Saka

The land consists of 2 lots, Saka, and Saka in one
 piece. The boundary between the two lots is by the
 late Saka from the date of acquisition. There are 2 portions
 of land in it.
 The boundary between the two portions is by the Saka line
 between the Saka land and the Saka land.

C. 3357 Saka

The land consists of 2 lots, Saka and Saka in one
 piece. The boundary between the two lots is by the
 late Saka from the date of acquisition. There are 2 portions
 of land in it.
 The boundary between the two portions is by the Saka line
 between the Saka land and the Saka land.

C. 3358 Saka

The land consists of 3 lots in Saka, Honshu
 No. 1 is 2 lots and Saka in Saka
 No. 2 is 3 lots and Saka in Saka
 No. 3 is 4 lots and Saka in Saka
 The boundary between the two lots is by the Saka line
 between the Saka land and the Saka land.

<p>> Kani</p>	<p>142</p> <p>This is a piece of land and belongs to the title of Hashiro. The title is in the title of Hashiro. The boundary of this land was in 1172 and it is from the title of Hashiro and the title was never disputed. This is bounded to the north by Hashiro's land and to the east by the boundary of Hashiro's land and to the west by Hashiro's land. This is bounded to the north by Hashiro's land and to the west by Hashiro's land and to the east by Hashiro's land.</p>
	<p><u>C. 142 Hashiro's land No. 142</u></p> <p>This is a piece of land consisting of one piece of land of 17 in the title of Hashiro's land. The title of this land was in 1141 and it is from the title of Hashiro's land and it is not disputed. There are 17 in the title of Hashiro's land. This is bounded to the north by Hashiro's land and to the east by Hashiro's land and to the west by Hashiro's land.</p>
	<p><u>C. 143 Hashiro's land</u></p> <p>This is a piece of land consisting of one piece of land and one in the title of Hashiro's land. The title of this land was in 1141 and it is from the title of Hashiro's land and it is not disputed. There are 3 in the title of Hashiro's land. This is bounded to the north by Hashiro's land and to the east by Hashiro's land and to the west by Hashiro's land.</p>
	<p><u>C. 144 Hashiro's land</u></p> <p>This is a piece of land consisting of one piece of land and belongs</p>