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WATER USE PERMIT APPLICANT PRO SE

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAII

Surface Water Use Permit Applications,	)Case No. CCH-MA15-01
Integration of Appurtenant Rights and)
Amendments to the Interim Instream Flow	)TESTIMONY OF FRANCISCO CERIZO,
Standards, Na Wai Eha Surface Water	)EXHIBITS "2307-CERIZO-1 (12/28/17) TO
Management Areas of Waihee, Waiehu, Iao	)2307-CERIZO-21 (12/28/17);
&Waikapu Streams, Maui	EXCEPTIONS
	)TO THE HEARINGS OFFICER'S FINDINGS
	)OF FACT, CONCLUSIONS OF LAW, &
	)DECISION AND ORDER; CERTIFICATE OF
	)SERVICE
_____)

TESTIMONY OF FRANCISCO CERIZO

1. This testimony is provided in support of the Surface Water Use Permit Application Nos. 2307 and 2308N. The hearing officer's November 1, 2017 proposed findings of fact, conclusions of law and decision and order states "the commission was unable to make a determination in the provisional recognition process, even after supplemental information was provided. (Provisional Order, Attachment C, Revised Exh. 7, p. 17.)" in regards to my requests for recognition of appurtenant rights. The above Provisional Order was dated December 31, 2014. [Prop HO FOF 387, November 1, 2017, p 130, lines 15-17]

2. The Commission On Water Resources (Commission) had meetings on October 14, 2014 and November 21, 2014 to allow Appurtenant rights applicants to provide information and evidence on their respective claims. The October 14, 2014 hearing officer's findings and recommendations for the Provisional Recognition of Appurtenant Rights was presented. It stated in part relative to my application in Exhibit 7, page 70 " No appurtenant right documentation provided. Deny without prejudice."

3. At the second Appurtenant Rights information and documentation meeting held by Commission on November 21, 2014, I submitted documentation in support of my claim for appurtenant rights. There was another Appurtenant right applicant that requested

additional time and was granted to file additional material no later than January 31, 2015. I left the meeting with an understanding that I would be able to submit additional material in support of my claim if needed, up to January 31, 2015.

4. The Commission adopted the "Na Wai Eha Provisional Order on Claims That Particular Parcels Have Appurtenant Rights " on December 31, 2014. Page 3 of the Provisional Order states in part, "Therefore, provisionally, and subject to further amendments as necessary, the Commission hereby : 1. Adopts the Hearings Officer's October 14, 2014 Findings and Recommendations (Attachment "A") as modified by the Hearing Officer's December 31, 2014 Amended and Revised Findings and Recommendations (Attachment "B"); 2. Adopts the Revised December 31, 2014 Exhibit 7 (Attachment "C"), subject to a) the rights of those Applicants who requested more time to file additional material January 31, 2015; b) the need of the Commission staff to update information that was or may be received in the future; and c) later determination by the Commission. Any such further revisions to the Revised December 31, 2014 Exhibit 7 may only be done with the written approval of the Commission. 3. Reserves the right to issue further orders addressing both procedural and substantive matters as needed. 4. Confirms that this Provisional Order is not a final order."

5. The revised December 31, 2014 Exhibit 7, p. 17 states in part relative to my claim, "Supplemental documentation provided, but cannot accurately determine boundary of LCA 8859-B Apana 20. No historic documentation to support water use on LCA. ~~No appurtenant right documentation provided~~".

6. On or about January 16, 2015 I met with with the Commission staff on any deficiencies on my November 21, 2014 documentation. The staff indicated that additional information was needed on the Land Commission Award affecting our property, dwelling usage and cultivation at the time of the Mahele. On January 30, 2015, I submitted to the Commission staff an 18 paged addendum to my documentation to further support my appurtenant rights claim.

7. The January 30, 2015 addendum included 21 Figures or exhibits. All of the Figures may be viewed online for the Contested Case Hearing for CCH-MA15-01, Hearing information dated January 24, 2017 "Summary Table of Filings, include links to Surface Water Use Permit Applications and Appurtenant Rights Documentation", SWUPA No. 2307/2308N, 5th document listed on the Commission on Water Resources Management website. A table of the 21 Figures is below:

Exhibits submitted to the Commission on January 30, 2015

FIGURE NO.	DESCRIPTION	REFERENCES	RECD INTO EVIDENCE
1	True and correct copy of p. 1 of LCA 8559B:20 to WmC Lunalilo	Mahele Awards Volume 10 p. 481	
2	True and correct copy of p. 2 of LCA 8559B:20 to WmC Lunalilo	Mahele Awards Volume 10 p. 482	
3	True and correct copy of Plan Map of Waiehu, Maui in its entirety in 1875. The area of the Ahupuaa of Waiehu is 2,909 acres which excludes the Ili of Hananui 's 467 acres	State of Hawaii "Registered Map no." 772 (downloaded from the ags.hawaii.gov)	
4	True and correct copy of Map of Waiehu 1887 Government Survey, - colored map of the Konohiki awards to Lunalilo along with crown, government and kuleana lands.	Registered Map no. 1435	

FIGURE NO.	DESCRIPTION	REFERENCES	RECD INTO EVIDENCE
5	True and correct copy of Map of Portion of Waiehu 1887 Government Survey - more detailed colored map of the Konohiki awards to Lunalilo (LCA 8559B:20 & 8559B:21), along with crown, government and kuleana lands along with streams, ditches, roads, stone walls, fences and dwellings. (A dwelling on the future tmk parcel 3-3-002:12 (parcel 12) is shown within the Lunalilo Estate.).	Registered Map no. 1436	
6	True and correct color copy of portions of Registered Map no. 1436 showing a dwelling on our future parcel 12 site within the Konohiki lands owned by the Lunalilo Estate.	Registered Map no. 1436	
7	True and correct copy of tax map plat 2-3-013 showing LCAs 8559B:20 & 8559B:21	State of Hawaii Tax Map Plat 3-2-013	

FIGURE NO.	DESCRIPTION	REFERENCES	RECD INTO EVIDENCE
	8 True and correct copy of tax map plat 3-3-002 showing parcel 12.	State of Hawaii Tax Map Plat 3-3-002	
9 - 11	Registered Map no. 1436 by Monsarrat (1887) and the current tax map plat 3-3-002 were copied with an engineer's scale shown on the respective maps to verify that the dwelling shown on 1887 Monsarrat's map would be located on parcel 12.	Registered Map no. 1436 and tax map plat 3-3-002	

FIGURE NO.	DESCRIPTION	REFERENCES	RECD INTO EVIDENCE
12	<p>True and correct copy of Portion of the Wailuku Sugar Co (WCo) Title Map (1937) by RM. Towill showing the boundary of Exchange Deed 78 between WCo and Kapohuli that will be the future parcel 12. Also shown is Kapohuli's family owned LCAs directly across and one abutting Waiehu Stream across from future parcel 12.</p>	<p>WCo Title Map (1937). Notes on the map indicate maps compiled from maps made by E.D. Baldwin, A.C. Alexander and the engineering department of Wailuku Sugar Co. Alexander (1871-1901) and Baldwin (1882-1908?) both worked with the Hawaiian Government Survey Office. (Susan Shaner, Hawaiian Government Survey 1870-1915, p. 3)</p>	
13-15	<p>True and correct copy of the Exchange Deed No. 78 between WCo. and Kapohuli (s) executed on April 8, 1897. The Kapohulis conveyed their one third interest in LCA 2489 and RP no 5287 for a one acre parcel</p>	<p>Deed was recorded with the Bureau of Conveyances, Book 168, pp 292-294</p>	

FIGURE NO.	DESCRIPTION	REFERENCES	RECD INTO EVIDENCE
16	The WSCo title map was copied with a engineers scale shown. Conclusion: Dwelling shown on the Monsarrat (1887) is located on parcel 12 of the current tax map plat 3-3-002.	WSCo title map (1937)	
17	True and correct copy of a satellite view showing the approximate locations of the current dwelling, taro patches and auwai system.	Google map	
18-19	True and correct copy of portion of tax map plat 3-3-002 showing eight LCA properties with a total of 36 taro patches documented by native and foreign testimony. Most if not all would use the same auwai system as parcel 12. The auwai system ends at the S. Waiehu Stream after flowing through parcel 12.	Tax map plat 3-3-002 showing affected LCAs on the same (south) side that our parcel is located. Documentation from SWUPA #2351N for Wahi Ho'omalua Ltd Partnership	

FIGURE NO.	DESCRIPTION	REFERENCES	REC'D INTO EVIDENCE
20	<p>True and correct copy of the approximate location of the auwai system is shown on portion of the WSCo title map starting approximately at LCA 3275E:6 to Kaleo at the South Waiehu stream intake and flowing through or above seven other LCA properties including LCA 3275E:3 to Kaleo which the native and foreign testimony stated 22 taro patches were located on Apana 3 then onto and ending after flowing through parcel 12.</p>	<p>WSCo title map (1937)</p>	
21	<p>Picture of the auwai along a steep sloped terrain adjacent to LCA 3259.</p>		
Unnumbered Figures	<p>Two pictures showing family members working on our taro patches on parcel 12.</p>		

1. The office of Hawaiian Government Survey was established in 1870. "It's organization was prompted by the increased public demand for additional grants of government land in the late 1860's and the government ignorance of the amount or location of government land still available for lease or sale. It was also surmised that a survey and its resultant maps, besides determining the extent of remnant government lands, would provide useful to private individuals and other government agencies, especially tax assessors, boundary commissioners and the courts, since no district maps existed....". " Previous surveys in the Kingdom were predominately those initiated by the Land Commission (kuleanas) and the Interior Department (government grants)....." "These surveys wereoften inaccurate and subsequently added greatly to the burden of the new Government Survey". ... "They would establish primary triangulation station and base lines....While setting up stations, they would sketch a map of the area putting in prominent topographical features (to facilitate relocating the stations) and record all of the surveyed kuleanas and Grants on a map of the district."...." Durning the 1870s and 1880s work concentrated on establishing triangulation stations, delineating government lands, drawing maps and resurveying kuleanas on Maui, Hawaii, and Oahu." (Susan Shaner, Hawaiian Government Survey 1870-1915, pp. 1,2)

8. Attached are additional documentation and Mahele documents for SWUPA Nos. 2307 and 2308N to further support that LCA no. 8559B:20.1 was cultivated in wetland kalo. Approximately 320 feet mauka of LCA no. 8559B:20.1 or parcel 12 is a neighboring LCA no. 3275E:3 To Kaleo.

9. Attached as "2307-CERIZO-1" is a true and correct copy of LCA No. 3275E: 3 to Kaleo. Apana 3 of the LCA No. 3275E shows "3 Apana V Ill Ohianui, ", (the 3 was a hand written revision of the Apana no. which was documented in royal patents 5154 and 6072) indicates that this Apana is for a chief. And the following testimonies indentifies the largest number of lo'i on one Apana on this auwai on the south side South Waiehu stream. Also included are supporting foreign testimony, native testimony, and lot area confirmed by Royal Patent 5154 and 6072.

10. Attached as "2307-CERIZO-2 and 2307-CERIZO-3 to 4 " are true and correct respective copies of native testimony which says "Ap 3. 22 lo'i kalo ma Lualailua i Waiehu". And the foreign testimony which says "No.3 is 22 lo'i in Lualailua, Waiehu"

11. Attached as "2307-CERIZO-5 thru 8 are true and correct copies of Royal Patents 5154 and 6072 stating that LCA No. 3275E:3 to Kaleo has an area of 6.62 acres. Based on Commission's conclusion that 150,000 gallons of water per acre per day for taro lo'i is a reasonable use. With 6.62 acres of lo'i in cultivation, 993,000 or nearly a million gallons of water per day could have been used in the time of the Mahele. Typically, used water is returned to the auwai or original source stream or South Waiehu Stream.

12. Attached as "2307-CERIZO-9 is a true and correct copy of map showing the topography and approximate boundary for LCA 3275E:3 to Kaleo (LCA). The approximate location of the existing auwai that would have provided water for the LCA is shown. The topography of the LCA shows that there is sufficient grade to allow water used on the LCA to return to the existing auwai. The above is confirmed by the same topographic map which shows a diversion channel collecting runoff from the upper slopes including the LCA to a channel adjacent to parcel 12 that leads to South Waiehu Stream. The diversion channels were installed when the cane fields were converted to macadamia nuts. In the process of the conversion, portion of the existing auwai was modified and piped under the diversion channel.

13. LCA 3275E:3 could have used nearly one millions gallons of water a day in the cultivation of 22 lo'i. It is therefore likely that 320 feet makai to LCA 8559B:20.1 there would be also kalo cultivated in the 8 lo'i on LCA 8559B:20.1 before the water is finally returned to South Waiehu Stream.

14. The State's Registered Map No. 1436 is dated December 1887 and made by M.D. Monsarrat who worked for the Hawaiian Government Survey office from 1877-1911. (Susan Shaner, Hawaiian Government Survey 1870-1915, p. 4.) Dwellings are shown adjacent to the LCAs 3275E:3 to Kaleo and within portion of 8559B:20 to WmC. Lunalilo (noted on the colored map legend as Konohiki, Lunalilo Estate) on the Registered Map No. 1436. Attached as "2307-CERIZO- 10 " is a true and correct copy of the map as noted above and as shown as Figure 6 of my addendum submitted to the Commission staff on January 30, 2015.

15. Attached as "2307-CERIZO-11 to 15" are true and correct copies of the deed as recorded in the State Bureau of Conveyance, from the estate of the then deceased WC Lunalilo to Waihee Sugar Company recorded on February 4, 1890, Book 67, pp. 107-111, conveying three parcels of land. First was a 14.16 acre tract that was partially described as ""That parcel of taro and cane land...". The Second was a shoreline tract of 207.86 acres that was partially described as " that parcel or tract of cane and pasture land". And lastly, the Third tract was partially described as "That parcel or tract of taro, cane, pasture and mountain land containing 879.66 acres.....". Since dwellings were shown on the Hawaiian Government Survey 1887 map when the Lunalilo estate still owned the property before the sale to Waihee Sugar Co.(1890), and subsequent re-sales to Wailuku Sugar Co.(WSCo) (1895) and Kapohuli (1897 Exchange deed for one acre with WSCo), and that "taro" is prominently listed on the third tract (LCA 3559B:20) , it is therefore likely that kalo existed

on that portion of LCA 3559B:20 along with a dwelling for WmC Lunalilo or his estate or tenant at the time of the Mahele. The recorded Lunalilo to Waihee Sugar Co deed describes the boundary line shared between the Ahupuaas of Wailuku and Waiehu 2 (LCA 3559B:20 to WmC Lunalilo) on page 110, starting on course no. 30. LCA 3275:E-3 is located along course no. 38. LCA 3559B:20.1 is adjacent to but does not coincide with course no. 39, i.e., LCA 8559B:20.1 in totally within the LCA 8559B:20 to WmC Lunalilo. The courses can be viewed on State's Registered Registered Map No. 772. Most of the course lengths were revised and are lightly penciled on the same map. A true and correct copy of Map No. 772 is shown in Figure 3 of my January 30, 2015 submittal to the Commission.

16. At least a dozen lo'i exist in good condition along the auwai above LCA 8559B:20.1 or parcel 12. Because of the high tree canopy, many of the lo'i are grassed or lightly wooded which may make them easy to restore. The 8 lo'i on LCA 8559B:20.1 were in all kalo when it was purchased by our family in 1951. The 8 lo'i is of traditional construction whereby cold water incoming from the auwai enters individually into each lo'i and then into an outgoing auwai that collects waters from the other lo'i's and return all the waters to the South Waiehu Stream. The incoming waters could also bypass all the 8 lo'i when maintenance is required. LCA 8559B:20.1 should have been good candidate for a kuleana or native tenant award at the time of the Mahele. The award would have made it the second highest lo'i count against the 22 lo'i identified on LCA 3275E:3 to Kaleo located on the same auwai.

17. In Moore and Fitzpatrick's book on surveying the Mahele, "According to its final report, the Land Commission heard 13,514 claims for land yet made only 9,337 awards. Many of the unawarded claims were duplicates, some were not granted, and about 1,500 were not acted upon, probably because the claimants had died or failed to appear." They also said, "Several scholars have pointed out that kuleana lands tended to be the richest farm land in Hawai'i, whereas the huge acreages given to the ali'i and konohiki included vast stretches of desert, mountain lands, and forests. Recent attention, however, has focused on the fact that only a small percentage of maka 'ainana benefitted from the mahele. Based upon her extensive research into the mahele records, Lilikala Kame'eleihiwa argues that there were actually 14,195 claims for kuleana lands and only 8,421 actual grants. Some were multiple claims by a single person and some were additional claims by ali'i and konohiki." ("Surveying the Mahale: mapping the Hawaiian land revolution" (1995) by Moore and Fitzpatrick p. 50)

18. LCA 3559B:20.1 or Parcel 12 was the result of an exchange deed between Kapohuli, wife Kini and WSCo recorded on April 8, 1897, Book 168, pp. 292-294. A true and correct copy of Book 168, pp.292-294 on file with the Bureau of Conveyances is attached as Exhibit "2307-CERIZO-16 to 18". The deed conveys Kapohuli's, wife Kini's one third interest of 3.14 acres in Royal Patent 5287, LCA 2487 to Kahue to WSCo in exchange for a one acre portion of LCA 3559B:20. Attached as Exhibit "2307-CERIZO-19" is a true and correct copy of a portion of the WSCo 1937 title map showing LCA 2487 to Kahue and

the one acre parcel being directly across Kapohuli's other LCA 4149:1. Attached as Exhibit "2307-CERIZO-20 to 21" are true and correct copies of the native and foreign testimonies for LCA 2487 both of which indicate that 70 lo'i were located on LCA 2487. It is therefore likely that the land exchanges were for similar lo'i lands and that the 8 lo'i on LCA 3559B: 20.1 did exist in wetland kalo at the time of the Mahele.

EXHIBIT LIST

EXHIBIT NO	DESCRIPTION	REFERENCES	RECD INTO evidence
2307-CERIZO-1 (12/28/17)	True and Correct Copy LCA No 3275E:3 to Kaleo	Papakilo Database	
2307-CERIZO-2 (12/28/17)	True and Correct Copy Native Testimony LCA 3275E:3 to Kaleo	OHA KIPUKA Database	
2307-CERIZO-3 to 4 (12/28/17)	True and Correct Copy Foreign Testimony LCA 3275E:3 to Kaleo	OHA KIPUKA Database	
2307-CERIZO-5 (12/28/17)	True and Correct Copy Royal Patent 5154 p1	OHA KIPUKA Database	
2307-CERIZO-6 (12/28/17)	True and Correct Copy Royal Patent 5154 p2	OHA KIPUKA Database	
2307-CERIZO-7 (12/28/17)	True and Correct Copy Royal Patent 6072 p1	OHA KIPUKA Database	
2307-CERIZO-8 (12/28/17)	True and Correct Copy Royal Patent 6072 p2	OHA KIPUKA Database	
2307-CERIZO-9 (12/28/17)	True and Correct Copy topographic map LCA 3275E:3 & por LCA 3559B: 20.1	Maui County Land Use And Code Admin- Prelim Subd Map No 3.1723	
2307-CERIZO-10 (12/28/17)	True and Correct Copy Registered Map 1436 (1887)	State of Hawaii online dags.hawaii.gov	
2307-CERIZO-11 (12/28/17)	True and Correct Copy Deed Lunalilo Estate to Waihee Sugar Co p107	State Bureau of Conveyances Book 67	
2307-CERIZO-12 (12/28/17)	True and Correct Copy Deed Lunalilo Estate to Waihee Sugar Co p108	State Bureau of Conveyances Book 67	

EXHIBIT NO	DESCRIPTION	REFERENCES	RECD INTO evidence
2307-CERIZO-13 (12/28/17)	True and Correct Copy Deed Lunalilo Estate to Waihee Sugar Co p109	State Bureau of Conveyances Book 67	
2307-CERIZO-14 (12/28/17)	True and Correct Copy Deed Lunalilo Estate to Waihee Sugar Co p110	State Bureau of Conveyances Book 67	
2307-CERIZO-15 (12/28/17)	True and Correct Copy Deed Lunalilo Estate to Waihee Sugar Co p111	State Bureau of Conveyances Book 67	
2307-CERIZO-16 to 18 (12/28/17)	True and Correct Copy of an Exchange Deed Kapohuli, wife Kini and Wailuku Surgar Co	State Bureau of Conveyances Book 168, pp. 292 to 294	
2307-CERIZO-19 (12/28/17)	Portion of Wailuku Sugar Co title map showing LCAs 2487, 4149:1 and one acre exchange deed parcel	Wailuku Sugar Co title map (1937)	
2307-CERIZO-20 (12/28/17)	True and Correct copy of native testimony for LCA 2487 to Kahue	OHA KIPUKA Database	
2307-CERIZO-21 (12/28/17)	True and Correct copy of the Foreign Testimony for LCA 2487 to Kahue	OHA KIPUKA Database	

EXCEPTIONS TO HEARINGS OFFICERS'S PROPOSED

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION AND ORDER

I am submitting the following written exceptions to the Hearings Officer's proposed Finding of Fact, Conclusion of Law, Decision and Order as it relates to the Surface Water Permit Applications 2307 and 2308N, and the recognition and quantification of our appurtenant water rights. Written exceptions to sections d, and the additions of sections g, h, and i to the Findings of Fact (FOF) 387 and sections c, d, e, h and addition of i, of the Conclusions of Law (COL) 266. Text to be deleted has been struck through, and text to be added is underlined. The notes in bold italic are for reference only and not needed to be included.

FINDINGS OF FACT:

d. The Commission was unable to make a determination in the provisional recognition process, ever after supplemental information dated November 21, 2014 was provided. (Provisional Order, Attachment C, Revised Exh. 7, p.17.)

g. Cerizo submitted an "Addendum to November 21, 2014 SWUPA" dated January 28, 2015 to the Commission staff on January 30, 2015. The " Na Wai Eha Provisional Order on Claims That Particular Parcels Have Appurtenant Rights" dated December 31, 2014 was not updated to reflect Cerizo's submittal. The January 15,2015 submittal included the following:

a. Several historical maps for which the konohiki award 's acreage and other contents was provided. A copy of the state registered map no. 1435 identified the Lunalilo (WmC Lunalilo) Estate as Konohiki lands. The map titled "Map of Waiehu" situated Ahupua'a of Waiehu between the Ahupua'as of Wailuku and Waihee. Registered map no. 772 provides the total area of Waiehu as 3,376 acres. The area of Hanahui was given as 467 acres. Upon the visual review of map 1435, the area colored as the Lunalilo Estate in Waiehu Valley is approximately 1100 acres. In the LCA 3559B:20 to WmC Lunalilo , the Lunalilo Estate was described as the Ahupuaa of Waiehu 2. (WT, June 30, 2015 Figure nos. 1,2 3&4)

b. A copy of the state registered map no 1436 shows upon visual review, all of the LCA awarded kuleana lands within the Waiehu Valley , Lunalilo Estate. When compared with map no. 1435, the Land Commission Awards is less one third of Lunalilo's award or approximately 350 acres. Therefore, the net land area of LCA 3559B:20 is approximately 750 acres most of which is in the mountain valley or the coastal sand dune. (WT , January 30, 2015 Figures 4 & 5)

c. Cerizo identified an existing dwelling on the copy of the 1887 government survey registered map no. 1436 in the vicinity of parcel 12. The current tax map plat 3-3-002 shows parcel 12 and its location to be completely within LCA 3559B:20. Portion of the Wailuku Sugar Co. (WSCo) Title Map dated 1937 shows how parcel 12 was created by an exchange deed no 78 and that the parcel is totally within LCA 3559B:20. Based on photographed measurements of a engineering scale on the respective maps, Cerizo concluded that the existing dwelling shown on registered map no 1436 is on parcel 12. (WT, January 30, 2015, Figures 6-16)

d. A copy of the exchange deed between Kapohuli, wife Kini and Wailuku Sugar Company which conveys Kapohuli's, wife Kini's one third interest of 3.14 acres in Royal Patent 5287, LCA 2487 to Kahue to WSCo in exchange for a one acre portion of LCA 3559B:20. This would be the future parcel 12. (WT, January 30, 2015, Figures 13-16)

e. A copy of the WSCo title map showing the location of LCA 2487 relative to exchange lot to Kapohuli. The exchange lot is directly across two LCAs awarded to Kapohuli, LCAs 4149:1 & 4149:3. (WT, January 30, 2015 Figure 12)

f. A copy of a tax map plat 3-3-002 showing parcel 12 along with eight LCAs that have a total of 36 taro patches documented with native and foreign testimony submitted within the SWUPA no. 2351N. (WT, January 30, 2015, Figures 18-19)

g. A copy of the WSCo title map, showing the approximate location of the auwai starting on the south side of S. Waiehu Stream, in the vicinity of LCA 3275E:6 to Kaleo and passing through or adjacent to the other LCAs including LCA 3275E:3 to Kaleo which contained 22 lo'i, the most on the auwai system before the auwai enters in parcel 12. The auwai is described as needing constant maintenance. Portions of the auwai is six feet deep as it cuts into the steep S. Waihee Stream slopes. (WT, January 30, 2015, Figure 20, p. 17)

h. A copy of the state registered map no. 1436 shows the eight LCAs identified in the above paragraph "f". The map shows the pali or steep slopes along the common boundary between the Ahupua'as of Wailuku and Waiehu, and along the LCAs. All of the LCAs are on the bottom of the pali except for LCA 3275E:3 to Kaleo making vehicular access from the south side of S. Waiehu Stream not possible except the LCA to Kaleo. This is the reason why most of the LCAs are mostly well preserved.(WT, January 30, 2015, Figure 6)

i. A photograph showing the steep slopes along the auwai adjacent to LCA 3259. LCA 3259 obtained its water directly from the stream due to the elevation difference. (WT, January 30, 2015, Figure 21.)

j. Cerizo stated that he sees many existing lo'i laying at rest when maintenance work on the near mile long auwai is done. He further stated that due to light

vegetation, many of the lo'i may be easily restored. The existing auwai system and eight lo'i on parcel 12 provides evidence or cultural land features consistent with lo'i kalo usage established for the LCA s above Parcel 12. Photographs were provided of the existing auwai and lo'i on parcel 12 (WT January 30, 1015, p1, 15,18).

h. Cerizo provided additional documentation and Mahele documents to support that LCA 8559B:20.1 was in wetland kalo. The additional sub-paragraph nos. continues from the above FOF paragraph "g" above:

k. Copies of the neighboring LCA 3275E:3 to Kaleo (LCA) along with the Royal Patents 5154 and 6072 , native and foreign testimonies documenting that 22 lo'i were located on the LCA. Cerizo noted that the neighboring LCA is approximately 320 feet from parcel 12 or LCA 8559B:20.1. (WT December 28, 2017, pp. 9-10, paragraphs (para.) 8-11)

l. Copy of a topographic map showing that waters from the auwai could enter the LCA to Kaleo and outlet into the existing auwai before flowing through LCA 3889B:20.1. (WT December 28, 2017, p. 10, para. 12)

m. With nearly one million gallons a day flowing through the LCA to Kaleo back to the auwai, it was likely that the same water would be used for the cultivation of lo'i kalo as it flows into the existing auwai, onto and through LCA 8559B:20.1 before returning to the S. Waiehu Stream. (WT December 28, 2017, p. 10, para. 13)

n. Copy of a 1890 deed from the WC Lunalilo Estate to Waihee Sugar Company conveyed three parcels totaling to 1101.68 acres. The third parcel of the deed by its description describes the LCA 8559B:20 to Lunalilo that is located above the government road to Waihee. The description states "Third. That parcel or tract of taro, cane pasture and mountain lands...." Cerizo noted that course no. 39 is adjacent to LCA 8559B:20.1. Cerizo also noted that government survey of 1887 identified a dwelling on LCA 8559B:20.1 and with the identifying the contents of taro, cane, pasture and mountains in the sale of the Lunalilo Estate lands, that it would be likely that taro was being grown on the property for Lunalilo, his estate or by his tenant. (WT December 28, 2017, p. 10-11, para. 15)

o. Cerizo state that the site of LCA 8559B:20. was a likely site for a kuleana award however cited Moore and Fitzpatrick's book on surveying the Mahele whereby in the final report of the Land Commission cited of the 13,514 claims for land, only 9, 337 were awarded. The authors said "many of the unawarded claims were duplicates, some were not granted, and about 1,500 were not acted upon, probably because the claimants had died or failed to appear." The authors also said " Based upon her extensive research into the mahele record, Lilikala

Kam'eleihiwa argues that there were actually 14,915 claims for kuleana lands and only 8,421 were actual grants." (WT December 28, 2017, p. 11, para. 17)

n. Copies of the LCA 2487 to Kahue, Royal Patent 5287, native and foreign testimony, and 1897 exchange deed between Kapohuli, wife Kini and Wailuku Sugar Company (WScO), transferring Kapohulis' one third interest in LCA 2487 to Kahue & Royal Patent 5287 to WScO. This new parcel would become parcel 12 or LCA 8559B:20.1. Native and foreign testimony indicate that LCA 2487 included 70 lo'i. The land exchange likely involved lands of similar uses and area therefore supports that the eight lo'i kalo existed at the time of the exchange and likely further existed at the time of the mahele. (WT December 28, 2017, p. 11-12, para. 18)

i. The Commission should review Cerizo's supplement information provided on January 30, 2015 and with additional supplemental information provided in his written testimony dated December 28, 2017. And that a favorable revision of the December 31, 2014 "Provisional Order "be granted in accordance to the conditions nos. 2-4 of the same order.

CONCLUSION OF LAW

Note: All of the following revisions applies if the there is a favorable review and approval by the Commission on our claim for appurtenant rights

~~c. The Commission was unable to make a determination in the provisional recognition process, even after supplemental information was provided.~~

c. The Commission had granted provisional approval of appurtenant rights based on the updated information received on January 30, 2014 and additional documentation dated December 28, 2017. The Provisional Order was updated. (Provisional Order, Attachment " ", Revised Exh. 7, p. 17).

d. Cerizo ~~nevertheless~~ submitted documents and testimony for the CCH:

i. Parcel 12 is portion of the konohiki award to Lunalilo, LCA 8559B: 20.1.

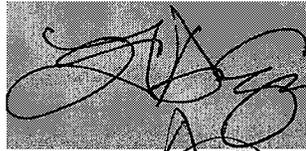
ii. Parcel 12 abuts South Waiehu stream , has eight terraced lo'i fed by the 'auwai, and was likely cultivated in lo'i kalo from records supporting ~~two~~ four neighboring LCAs. ***Note: The other two LCAs were added with the new documentation: LCA s 2487 and 3275E:3***

~~e. Cerizo appurtenant rights request is denied, and he may reapply. approved. Parcel 12 is a portion of the konohiki award, for which the acreages and other contents were determined. are not known.~~

h. He is issued a permit for 69,000 gpd (.46 acres x 150,000 gad), of which 12,400 gpd (his existing use) ~~is~~ are in Category 2., ~~and the remainder, or 56,600, is in Category 3.~~

i. Parcel 12 was identified to have kalo and a dwelling. Appurtenant rights would be equivalent to 95,000 gpd (.95 acre {1/4 acre removed for dwelling} x 100,000 gad). All of the permitted 69,000 gpd are in Category 2, because they are less than the Cerizo's appurtenant rights.

Dated: Wailuku, Maui, Hawaii, December 28, 2017



FRANCISCO CERIZO, TRUSTEE

THE MODESTA F CERIZO TRUST

WATER USE PERMIT APPLICANT PRO SE

451

Ulu Pan...
 P...
 S. M. ...
 S. ...
 S. H. ...

Honolulu 31 Iuk 1852

Kulu 3275 E Kalia Hauhu, Maui

1. **Apana III** Ili, Lualaba. E hoomaka ma ke kiki Hihira o keia, Ate 9^o Num 678 klu ma ke Kahawai, Num 25^o Ate 568 klu ma ke Pa Num 19^o Num 211 klu ma ke Pa Num 73^o Ate 57 klu ma ke Pa, Ate 19^o Ate 76 klu ma ke Pa, Num 74^o Ate 175 klu ma ke Pa, Ate 75^o Ate 607 klu ma Kula, a hiki ma kahi i hoomaka i, a walete via anapuni, 1^o/₂ Eha.

Palama. E hoomaka ma ke kiki Kamehameha Maui o keia, ma ke pa ma o keia Kula, Ate 30^o Ate 243 klu, Num 7^o Num 158 klu, Num 81^o Ate 81 klu, Ate 7^o Ate 158 klu, Ate 81^o Num 81 klu, a hiki ma kahi i hoomaka i, a walete via anapuni, 1^o/₂ Eha.

2. **Apana IV** Ili Panama. E hoomaka ma ke kiki Kamehameha, o keia, Ate 64^o Ate 866 klu ma ke Kahawai, Num 68^o Ate 347 klu ma Kahawai, Num 83^o Num 1126 klu ma Pa, a hiki ma kahi i hoomaka i, a walete via anapuni, 1^o/₂ Eha.

3. **Apana V** Ili Panama. E hoomaka ma ke kiki Kamehameha o keia, Ate 55^o Ate 53 klu ma ke pa ma o keia, Num 44^o Ate 1287 klu, ma ke Pa, Num 38^o Num 551 klu, ma Kula, Ate 41^o Num 1268 klu ma Kula, a hiki ma kahi i hoomaka i, a walete via anapuni, 6^o/₁₀ Eha.

4. **Apana VI** Ili Kamehameha. E hoomaka ma ke kiki Kamehameha o keia, Ate 56^o Num 316 klu ma Kula, Ate 16^o Ate 248 klu ma Kula, Ate 49^o Ate 327 klu ma Kahawai, Num 1^o Ate 852 klu ma ke Kapahele, Ate 79^o Num 656 klu ma Palama, Num 14^o Num 68 klu ma ke Palama, Num 73^o Ate 67 klu ma Palama, Num 81^o Num 123 klu ma ke Kapahele, Ate 88 Num 201 klu ma ke Palama, Num 35^o Num 56 klu ma ke Palama, Num 85^o Ate 291 klu ma ke Palama, Num 47^o Num 277 klu ma Kula, a hiki ma kahi i hoomaka i, a walete via anapuni, 1^o/₂ Eha.

5. **Apana VII** Ili, Uhihi. E hoomaka ma ke kiki Kamehameha o keia, Ate 54^o Ate 280 klu ma Kula, Ate 38^o Num 181 klu ma Kula, Num 21^o Num 224 klu ma Kula, a hiki ma kahi i hoomaka i, a walete via anapuni, 2^o/₁₀ Eha.

6. **Apana VIII** Ili Kapahele. E hoomaka ma ke kiki Kamehameha o keia, Ate 66^o Ate 430 klu, Num 63^o Ate 1150 klu ma Kahawai, Num 60^o Num 69^o klu ma Palama, Num 25^o Num 174 klu ma Kula, Ate 66^o Num 1355 klu ma Pa, a hiki ma kahi i hoomaka i, a walete via anapuni, 3^o/₁₀ Eha.

Honolulu, Oct 13, 1852.

John S. Linn
 Notary Public

Kamehameha maui 53

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In Oct or 4 of Dec 1838 His title was never
disputed.
It is bounded Maucka, by Peli's peninsula, Waikua, by the
ile of Paviava, Makai, by Kamaki's land Maalaea, by the Creek
of Waikua.

C. 3275 d K. Kuluwa area.

Heke, Sr. I wrote out and sent in this claim in Dec^r 1847. The
Old lands consists of 6 pieces.

- N^o 1. is a hale & hula in Taulu, Waikua
- N^o 2. is one lot in the ile of Whiarui, Ahikuli.
- " 3. " " " " " " " "
- " 4. " 3 lots " " " " " "
- " 5. " 16 " " " " " " " "
- " 6. " 6 " " " " " " " "

N^o 1. he rec^d from his parents in the days of Lamohamohu
and the pieces N^o 2, 3 & 4. from Heke in the year 1845
and he from Kaarudani in a want-time, N^o 5 & 6, from his
wife, who had them from her parents, who possessed them from
the days of Lamohamohu. His title is not disputed except to
N^o 2. (which dispute has no foundation, this was the conclusion
reached after a long and tedious investigation) There are two pen-
insula lots in N^o 5.

- N^o 1. is bounded Maucka, by Tufuhuli's land Waikua, by the
Pali, Makai, by the Land of Keliuini. Maalaea, by the Creek.
- N^o 2. is bounded Maucka and all sides, by Maki's land.
- N^o 3. is bounded Maucka and all sides, by Maki's land.
- N^o 4. is bounded Maucka and all sides, by Maki's land.
- N^o 5. is bounded Maucka & Waikua sides, by Kamaki's land
Makai, by Niwaini's land. Maalaea, by the Creek of Ahikuli.
- N^o 6. is bounded Maucka and all sides, by Niwaini's land.

C. 3275 E Kuluwa

The Old made out that he wrote and sent in his claim Dec

34. 1847. The Old Land consist of 8 pieces, one is Kaitake and

- 1. a section of his in Punaia, Kaitake
- 2. a section of his in Punaia, Kaitake
- 3. a section of his in Punaia, Kaitake
- 4. a section of his in Punaia, Kaitake
- 5. a section of his in Punaia, Kaitake
- 6. a section of his in Punaia, Kaitake
- 7. a section of his in Punaia, Kaitake
- 8. a section of his in Punaia, Kaitake

No. 1. he rec^d from the King in the year 1843, and No. 2, 3, 4, 5, 6, 7 & 8 from Eleka in the days of Kamehameha II. He had them through his parents. His title is not disputed. There is one *paalima* fee in No. 1.

No. 1. is bounded. Maunua and Waikae sides, by the King's land.

No. 2. is bounded. Maunua, by my land Kaitake, by Kaitake, aka's land. Waikae, by the Paakoa's land. Maalaea, by the Kaitake's land.

No. 3. is bounded. Maunua and Waikae sides, by the King's land. Waikae, by the Paakoa's land. Maalaea, by the King's land.

No. 4. is bounded. Maunua and Waikae sides, by the King's land. On other two sides, by the King's land.

No. 5. is bounded. Maunua and Waikae sides, by the King's land. Maunua, by the King's land. Maalaea, by the King's land.

No. 6. is bounded. Maunua, by the King's land. Waikae, by the King's land. Waikae, by the King's land. Maalaea, by the King's land.

No. 7. is bounded. Maunua and Waikae sides, by the King's land. Waikae, by the King's land. Maalaea, by the King's land.

No. 8. is bounded. Maunua, by the King's land. Waikae, by the King's land. On other two sides, by the King's land.

Kaitake July 23rd 1849.

C. 3275 - Hane

Hane I know that Kaitake wrote out the Claims of Hane and that it was sent in to the Commission in Dec^r 1847



No. R.P. 6072

HELU.....5154

PALAPALA SILA NUI.

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

NO KA HEI, Ua hoolohoe na Lona Hoona i na kumu kuleana aing i ka olelo, he kuleana oiaio ko
Suleo Kuleana Hele.....275

ma ke **Ano Alodio** iloko o kahi i oleloia malalo.

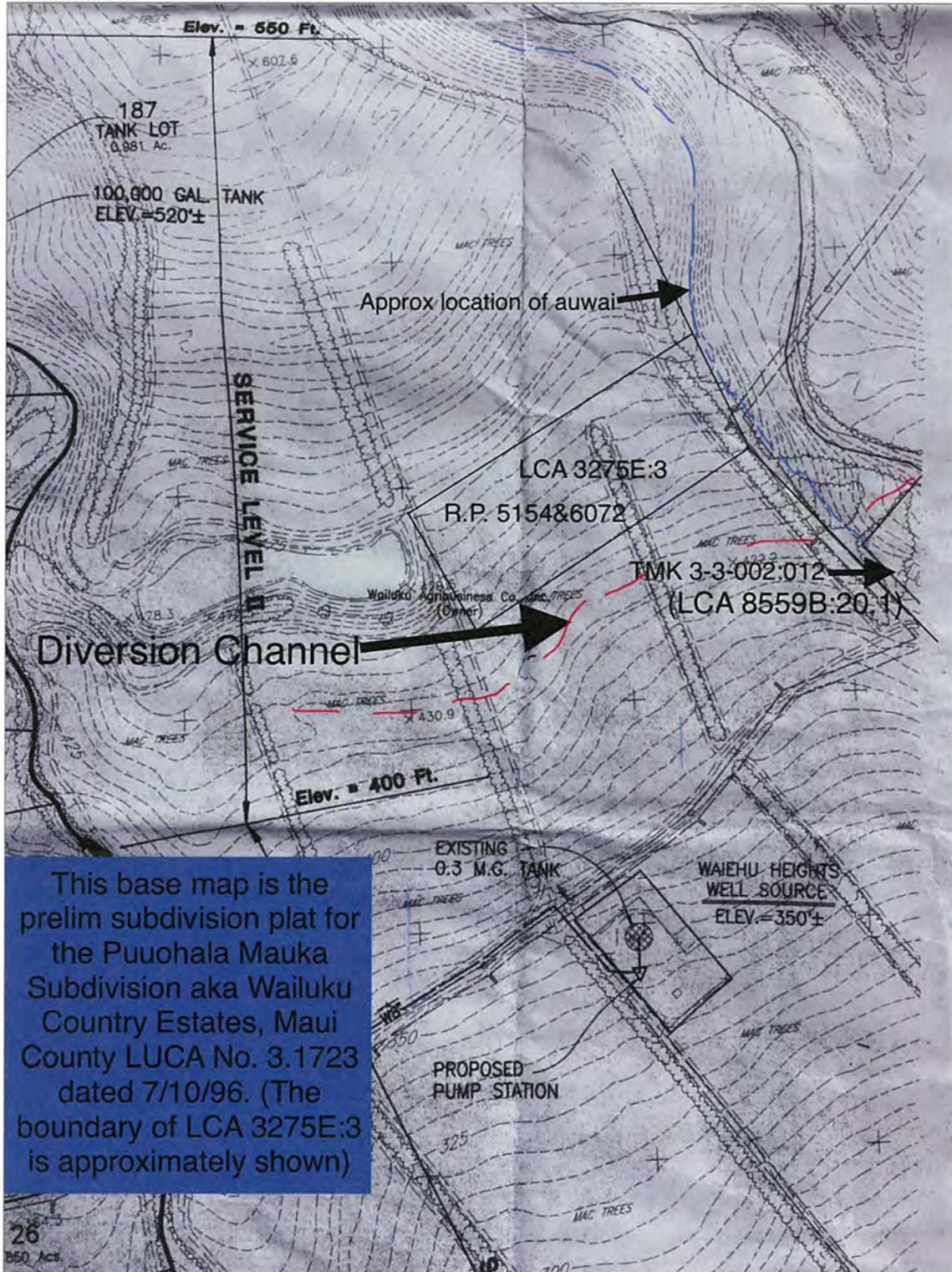
Noiaia, ma keia Palapala Sila Nui, ke hoike aku nei o Kamohamoha IV, ke Alii nui a ke Akua
 i kona lokomaikai i hoonoho ni maluna o ko Hawaii Pae Aiea, i na kasaka a pau, i keia la mana iho,
 a no kona mau hope ahi, ua haawi aku oia ma ke **Ano Alodio** ia *Suleo*
 i kela wahi a pau loa ma *Waihu*
 ma ka mokupuni o *Mau* peni na mokuna,

Ap. 1	N. Kualaitoa	Koomaka ma ke ahi Kila			
Man	9' Kom	6.78	hual	ma	Hahawai
Koma	2 1/2 "	5.68	"	"	"
"	10 3/4 "	3.10	"	"	"
"	7 1/2 Kila	50	"	"	"
Man	19 1/4 "	96	"	"	"
Koma	7 1/4 "	1.75	"	"	"
Man	75 3/4 "	1.07	"	"	Kula
				1.32 (Ka 12 ke 1.20 hual)	
Ap. 2	N. Puncu	Koomaka ma ke ahi Kom			
Man	6 1/2 Kila	8.60	hual	ma	Hahawai
Koma	68 "	3.07	"	"	"
"	8 1/2 Kom	11.26	"	"	Kila
				ke 1.12 (Ka)	
Ap. 3	N. Ohia nui	Koomaka ma ke ahi Kom			
Man	55 1/2 Kila	5.30	hual	ma	Kila (maluna)
Koma	40 1/4 "	12	"	"	Pae o Kula
"	49 Kom	5.09	"	"	Kula
Man	41 "	12.68	"	"	"
				ke 6.62 (Ka)	
Ap. 4	N. Amucawiliwili	Koomaka ma ke ahi Kom			
Man	26 1/2 Kom	3.30	hual	ma	Kula
"	16 1/4 Kila	4.40	"	"	"
"	69 1/2 "	3.27	"	"	Hahawai
Koma	"	1.82	"	"	Kapaha
Man	79 1/4 Kom	1.56	"	"	Palema
Koma	14 1/4 "	68	"	"	"
"	75 1/4 Kila	1.67	"	"	"

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 ① Manu 5 - Ni Uka - Ni Uka - Ni Uka - Ni Uka
 Manu 5 1/4 Kik 2.80 Kamb Ana Kahiue
 " 28 Kamb 1.80 " " " "
 Kama 21 " 3.24 " " " "
 ② Manu 6 - Ni Uka - Ni Uka - Ni Uka - Ni Uka
 Manu 6 1/2 Kik 4.20 Kamb
 Kama 62 1/2 " 12.80 " Ana Kahiue
 " 60 Kamb 69 " " " "
 " 25 " 1.75 " " " "
 Manu 66 " 12.25 " " " "
 2.29 Kama

Maloko o *Ni Uka* apapa 14 1/2 Eka
 a oi iki aku, a emi iki mai paha. Ua kua nae i ke Aniani na mine minerals a me na metela a pau.
 No *Kama*
 ua aino ia i haawia ma ke **Aho Alodio** a no kona mau hoolina, a me kona waihoua; na pili nae ke anuan a ke Poe Ahoolelo e
 kuu like ai ma na aino alodio i kela manawa i kela manawa.
 A I MEA E IKAIA AI, ua kua wau i ko'u inoa, a me ka Sila Nui o ke Hawaii Pae
 Aino o Honolulu i kela la
 o *1867*
 By the King
 Wm. W. Robinson
 Kamehameha B.

TOPOGRAPHIC MAP OF LCA 3275E:3 AND PORTION OF LCA 3559B:
20.1



PORTION OF STATE OF HAWAII REGISTER MAP NO. 143

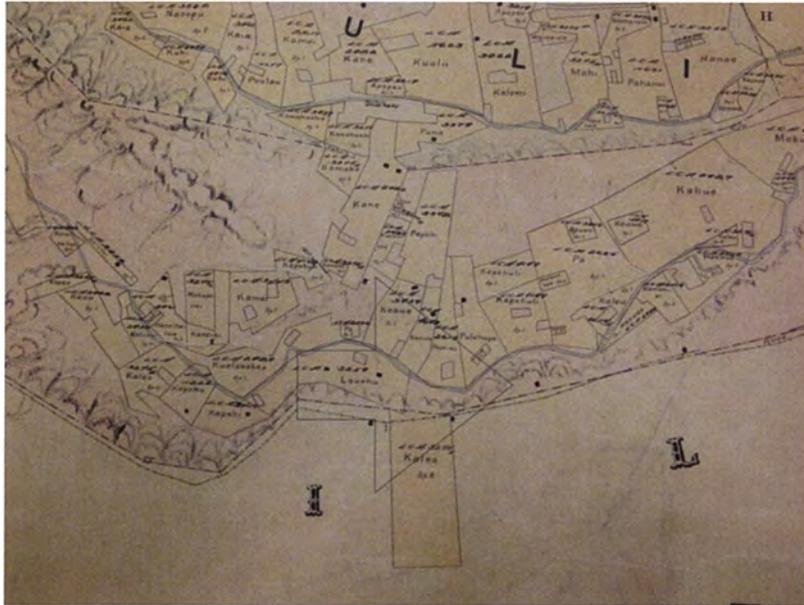
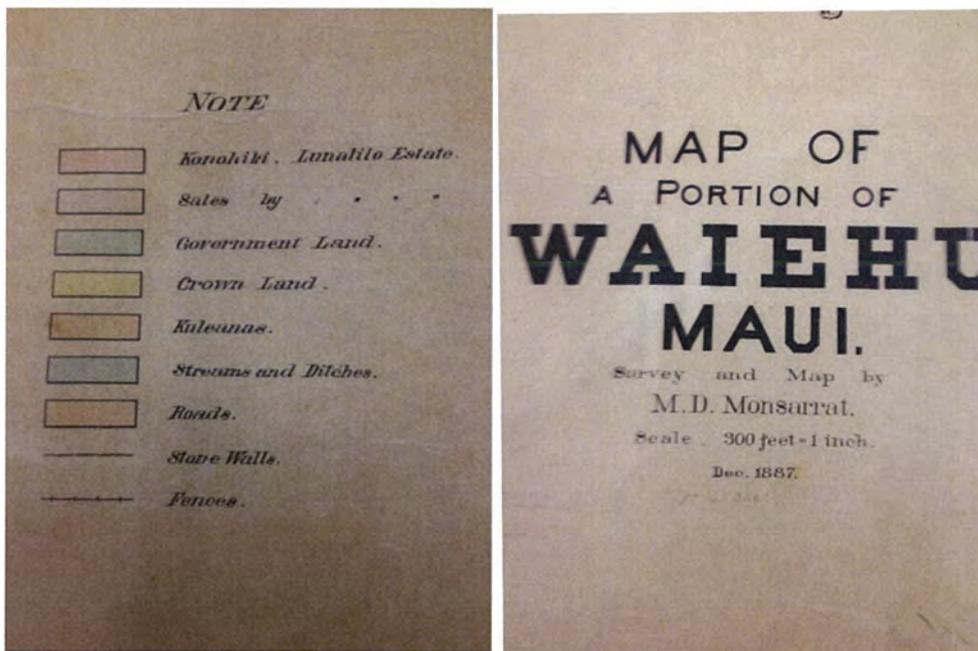
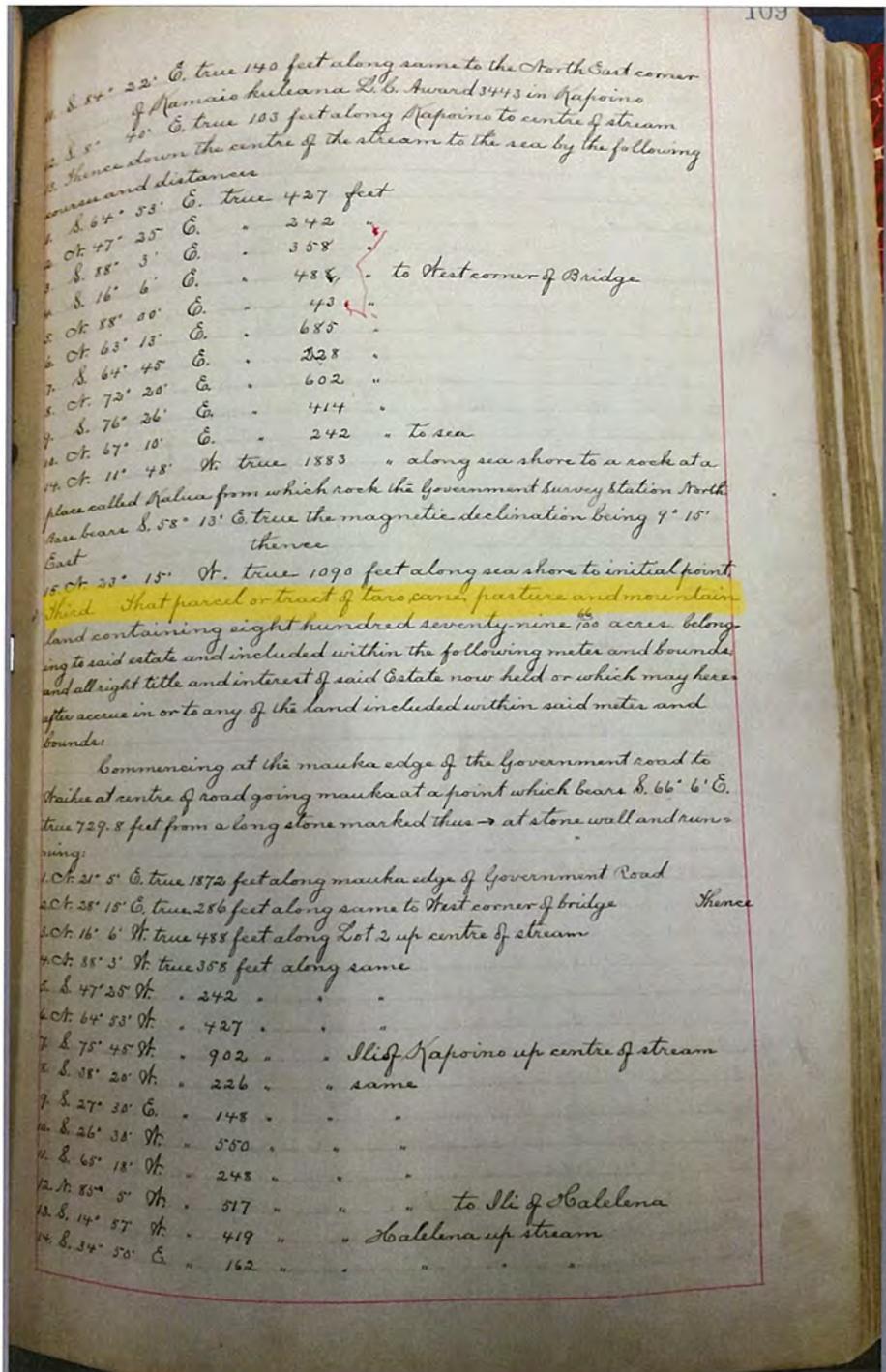


Figure 6 Government Survey Registered Map no. 1436 (1887)



RECORDED DEED: ESTATE OF WC LUNALILO TO WAIHEE SUGAR COMPANY P. 109



RECORDED DEED: ESTATE OF WC LUNALILO TO WAIHEE SUGAR COMPANY P. 110

110

12. S. 22° 20'	Ht.	- 232	"	"
13. S. 29° 48'	Ht.	- 140	"	"
14. S. 77° 30'	Ht.	- 522	"	Sli of Kalelona to point little south of stream
15. S. 48° 30'	Ht.	- 173	"	Kalelona up ridge
16. S. 56° 40'	Ht.	- 505	"	same
17. S. 30° 2'	Ht.	- 317	"	Sli of Ahikuli to flat at edge of gulch
18. S. 45° 5'	Ht.	- 348	"	Ahikuli along edge of gulch a rock
19. S. 55° 40'	Ht.	- 1304	"	Ahikuli a large rock
20. S. 57° 22'	Ht.	- 202	"	same to a rock
21. S. 75° 55'	Ht.	- 549	"	" " " " at foot of ridge
22. S. 72° 35'	Ht.	- 1347	"	" " " " up ridge to an old at junction of ridges
23. S. 80° 10'	Ht.	- 2818	"	same up centre of ridge to a called
24. S. 77° 12'	Ht.	- 1517	"	" " " " " " " "
25. S. 77° 26'	Ht.	- 3330	"	" " " " " " " "
26. S. 72° 55'	Ht.	- 3710	"	" " " " " " " "
27. S. 28° 36'	Ht.	- 3080	"	" " " " " " " "
28. S. 71° 3'	C.	- 1720	"	the head of this Lot adjoining Waialeale along Waialeale down centre of ridge
29. S. 80° 36'	C.	- 2161.5	"	same to junction of ridges called Kahoolawe
30. S. 68° 36'	C.	- 6385.5	"	along same to point on ridge called Pua o Kaupua
31. S. 83° 6'	C.	- 3445.3	"	same to end of ridge
32. S. 89° 51'	C.	- 1039.5	"	" " " " a black rock marked thus → at edge of gulch
33. S. 71° 21'	C.	- 427.7	"	feet along same to along edge of gulch
34. S. 16° 51'	C.	- 569.6	"	" " " " a point near a large black stone marked thus →
35. S. 66° 36'	C.	- true 803.9	"	feet along same
36. S. 46° 6'	C.	- 937.2	"	" " " " " " " "
37. S. 46° 21'	C.	- 1029.6	"	" " " " " " " "
38. S. 49° 36'	C.	- 1025.0	"	" " " " " " " "
39. S. 20° 30'	Ht.	- 128	"	to stone marked thus →
40. S. 22° 15'	C.	- 244	"	" " " " " " " "
41. S. 11° 44'	Ht.	- 310	"	" " " " " " " "
42. S. 57° 58'	C.	- 264	"	" " " " " " " "
43. S. 40° 30'	C.	- 753	"	" " " " " " " "
44. S. 70° 00'	C.	- 674	"	" " " " " " " "
				along stone wall
				long stone marked thus → From which the above mentioned

RECORDED DEED: ESTATE OF WC LUNALILO TO WAIHEE SUGAR COMPANY P. 111

marked stone bears S. 70° 25' W. true 11458.6 feet thence
 45. S. 66° 6' E. true 729.8 feet along same down centre of road to
 natural point.

To have and to hold the granted premises with all the rights
 privileges and appurtenances to the same belonging or in anywise
 appertaining to the said Waiehe Sugar Company its successors and
 assigns forever.

And we the said Mary S. Parker, W. O. Smith, and
 Henry Waterhouse trustees as aforesaid hereby covenant with the said
 Waiehe Sugar Company and its successors and assigns that we are
 the legal trustee under the last will of said W. C. Lunaliilo, that the said
 W. C. Lunaliilo died seized of the granted premises, that they are free from
 all encumbrances made or suffered by us, and that we will warrant
 and defend the same forever against the lawful claims of all persons
 claiming by through or under us.

In witness whereof we the said
 Mary S. Parker, W. O. Smith and Henry Waterhouse hereunto set our
 hands and seals this 20th day of January A. D. 1890.

Executed in presence of } William O. Smith 0
 J. H. Cobron } Mary S. Parker 0
 } Henry Waterhouse 0

Trustees under Will of W. C. Lunaliilo

Hawaiian Islands, Island of Oahu &c. On this 3rd day of Febru-
 ary A. D. 1890 personally appeared before me W. O. Smith, Henry Waterhouse
 and Mary S. Parker Trustees under Will of W. C. Lunaliilo known to me to be
 the persons described in and who executed the foregoing instrument and
 they severally acknowledged to me that they executed the same freely and
 voluntarily for the uses and purposes therein set forth.

Thos W. Cobron

Notary Public

Recorded & compared this 4th day of Feb. A. D. 1890 at 1:55 O'clock P. M.
 Maloela Town Deputy Registrar of Conveyances

Lukona ^{at} Deed. To J. M. Stuppelbeon

Stamp 11th

Eike auanei na kanaka a pau loa ke nana mai lakou i keia
 palapala o makou a Kekulu (w) Kekona (w) Kealakaulea (K) me Hauia
 haawii (wahine mare a Kealakaulea) na hoolilana mo ke kanawai o
 Hawaii a i make no Kilo, Hawaii. Ke Hawaii Oe Aina, no ke dala
 hoo hoo i haawii pakehi ia mai ila ke o ko makou lima (like me eha
 dala) a ha makou mo o luna alaha James Marshall Stuppelbeon, a no
 ke makou aloha iaia, nolaila, ua haawii, ua kuai aku, ua hoolilo
 la i ke mau makou i James Marshall Stuppelbeon a i kona mau hoo
 i ke mau hoo i ke mau hoo i ke mau hoo i ke mau hoo i ke mau hoo
 i ke mau hoo i ke mau hoo i ke mau hoo i ke mau hoo i ke mau hoo
 i ke mau hoo i ke mau hoo i ke mau hoo i ke mau hoo i ke mau hoo

EXCHANGE DEED BETWEEN KAPOHULI, WIFE KINI AND WAILUKU
SUGAR COMPANY (1897) p. 2

at Manna's post which bears S. 69 3/4 N. 50 1/2 S. in the, from West gate post, of gate situated on Wailuku boundary of Wailuku road and running,

1. N. 69° 10' N. 3.86 chs, down pali to stake at stream.
2. S. 27° N. 2.43 " along stream to post.
3. S. 56° E. 3.18 " up the pali to road.
4. N. 39° E. 3.30 " along Road to the initial point. Containing an area of One acre, together with the tenements hereditaments and appurtenances thereunto belonging or in any wise appertaining in exchange of and for the lands and interest in land herein before mentioned, of the said party of the first part.

To have and to hold the said premises with the appurtenances and every part thereof to the said party of the first part, their heirs and assigns forever in exchange of said lands herein before mentioned. Provided always, nevertheless and these presents are upon this condition, and it is the true intent and meaning of the parties hereto that if it shall happen that either of the said parties to these presents, their executors administrators, successors or assigns, shall at any time hereafter, during the said respective terms above granted by color or means of any former or other conveyance, or otherwise howsoever, be ousted or evicted off and from the possession of either of said messuage or tenements, and other premises, so respectively granted in exchange as aforesaid, or any part thereof, then and in any such case the grant and conveyance made by these presents shall be utterly void and of no effect; and therefore it shall and may be lawful to and for the party or parties, so ousted or evicted, into their or its said former messuage or tenement and premises, with all and singular the appurtenances, to re-enter and to have again, re-possess and enjoy, as of their and its former estate or estates, anything herein contained to the contrary not withstanding.

In witness whereof the parties to these presents have hereunto set their hands and seals the day and year first above written.

Executed in presence }
M. P. Hainoiole

Kapohuli

Kini

Wailuku Sugar Co.

by its President S. S. Allen

by its Treasurer Geo. H. Robertson

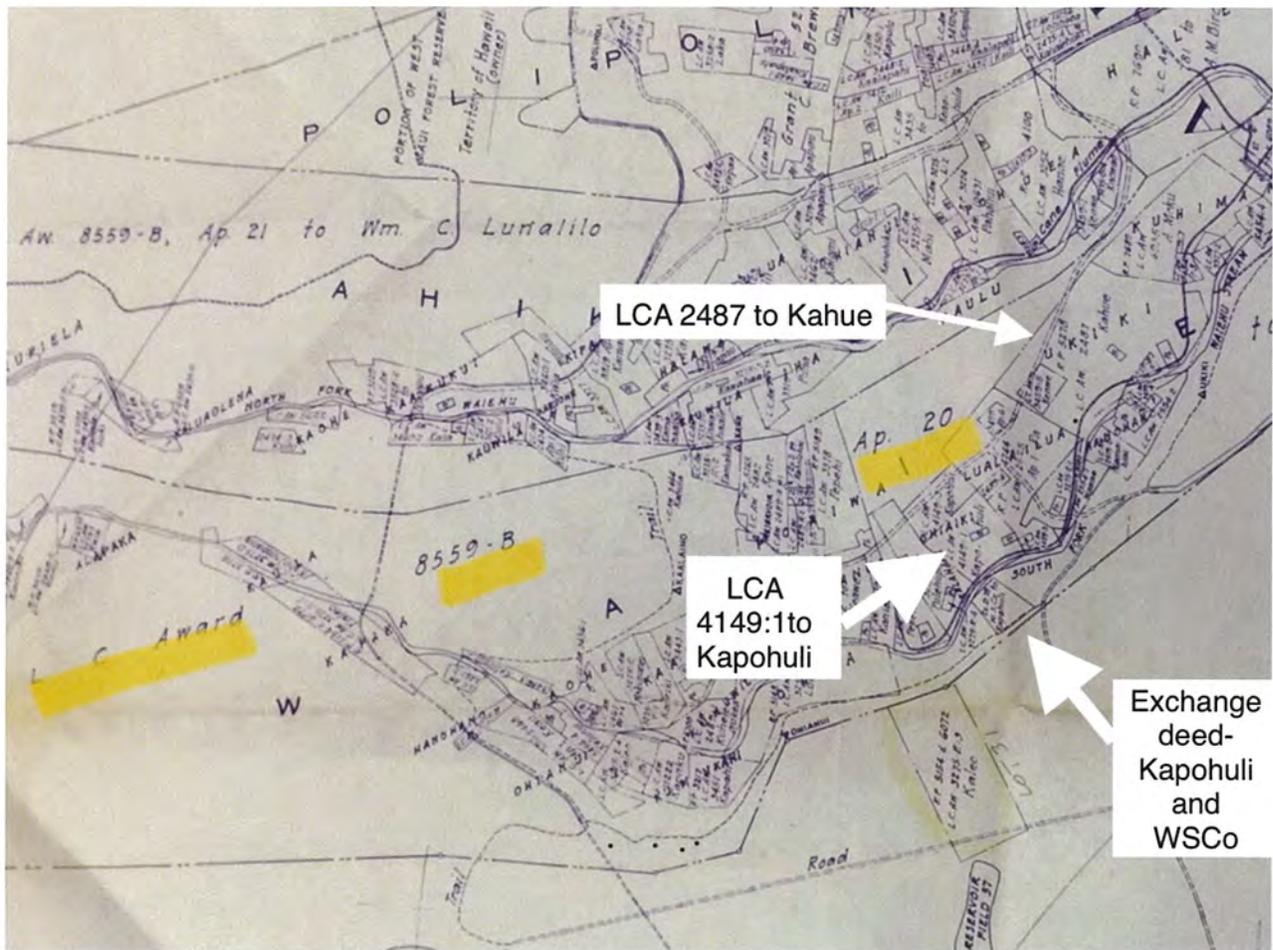
Island of Maui, }
Hawaiian Islands }^{As}

On this 8th day of April A. D. 1897 personally appeared before me Kapohuli (w), and Kini (w) his wife to me known to be the persons described in, and who executed the foregoing instrument, and they severally acknowledged to me that they executed the same freely and voluntarily, and for the uses and purposes therein set forth. And Kini (w), wife of the said Kapohuli (w) upon examination by me separate and apart from her husband acknowledged that she executed the same freely and voluntarily and without compulsion, fear or restraint from her said husband.

A. N. Kapoikoi Notary Public

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PORTION OF WAILUKU SUGAR CO TITLE MAP (1937)



ha. Eia kaia kuleana ou, he wahi kama
 haka i pili ana no me kaia mau loi
 M.K. 1851 ka loa ana i kaia kuleana iau
 Na Hawaiki kama
 kama

3487 Kahue
 E ike oukou na Luna Lani a ka
 kuleana Ma ka Ili ana o Ukuhi, he 70 Loi
 i kama mahalohe. i 3 pihala no Pileamae
 he ia mau loi iu nana no i haawi mai
 iau
 Na hoike { Kapohuli
 Wawae
 Kukulauakea
 Na Kahue Waiehu
 Ike 27 1857

Maui

C. 2482. *Maui*

Maui Sw. The title land is one piece of kula and kula land, in the isle of *Pouina, Waikoa, Maui.*

The Claimant rec^d it from his mother in law who possessed it in the days of *Kamohamohoa*. His title has never been disputed. There is one *prahmas* too in it.

It is bounded. *Waikeo*, by *Pohi's* and *Saukaka's* land. *Waikeo*, by *Whakahi*. *Maui*, by *Kamaka's* and *Pihauka's* land. *Whakahi*, by *Munhu's* land.

He has also 3 pieces of kula land and kula, in the isle of *Kamohi, Whakahi, Maui.*

His title to this is the same as the first piece. It is bounded. *Waikeo*, by *Kamaka's* land. *Waikeo*, by *Pohi's* land. *Maui*, by *Whakahi's* land. *Waikeo*, by *Waikeo*.

*C. 2483. *Maui**

Maui Sw. The title land consist of one piece of *Servaty* too and one kula in the isle of *Maui, Waikoa, Maui.*

The title rec^d these lands from *Pohi* in 1836, and his title has never been disputed. There is one *prahmas* too and one *Waikeo*, and one *prahmas*.

It is bounded. *Waikeo*, by *Pihauka's* land. *Waikeo*, by the *Crack of Whakahi*. *Maui*, by *Pohi's* land. *Waikeo*, by the *Crack of Waikeo*.

C. 2484. *Kohekapuli*

Kohekapuli Sw. The title land is one piece in the isle of *Kohekapuli,*

FRANCISCO CERIZO TRUSTEE OF MODESTA F. CERIZO TRUST

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WATER USE PERMIT APPLICANT PRO SE

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAII

Surface Water Use Permit Applications,	)	Case No. CCH-MA15-01
Integration of Appurtenant Rights and)	
Amendments to the Interim Instream Flow)	
Standards, Na Wai Eha Surface Water	)	CERTIFICATE OF SERVICE
Management Areas of Waihee, Waiehu, Iao)	
& Waikapu Streams, Maui)	
_____)	

CERTIFICATE OF SERVICE

I hereby certify that on January 3, 2018, TESTIMONY OF FRANCISCO CERIZO, EXHIBITS 2307-CERIZO-1 (12/28/17) TO 2307-CERIZO-21 (12/28/17), EXCEPTIONS TO HEARINGS OFFICER'S PROPOSED FINDING OF FACT, CONCLUSIONS OF LAW, & DECISION AND ORDER; CERTIFICATE OF SERVICE was served on the Commission on Water Resource Management, by US mail and electronic service, and on the parties listed below, by electronic service.

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