MEMORANDUM

TO: Mr. Johnson H. Wong, Supervisor
Division of Land/Transportation
Office of the Attorney General

ATTN: Mr. William Tam, Deputy Attorney General

FROM: Rae M. Loui, Deputy Director

SUBJECT: Application to be a Party in a Contested Case Hearing

Attached is an application to be a party in a contested case hearing for all water use permit applications in the Kawela Ground Water Management Area, Molokai.

We request that a determination be made concerning the validity of the request and, if valid, whether the applicant does indeed have standing. At the September 15, 1993 Commission meeting on Molokai, the applicant requested a contested case if any of the water use permit applications in the Kawela Ground Water Management Area were approved. As you know, the Commission deferred action to go to public hearing.

We believe that the contested case request is premature. However, an application to be a party was filed but we do not know its legal implications. We believe that Mrs. Grambusch has the right and can request a contested case hearing at the public hearing or at a Commission meeting where action on the individual applications in the Kawela area are to be acted upon.

RH:ko
Attach.
APPLICATION TO BE A PARTY IN A CONTESTED CASE HEARING
BEFORE THE COMMISSION ON WATER RESOURCE MANAGEMENT

NOTE: THIS PETITION IS TO BE FILED IN PERSON OR MAILED AND POSTMARKED WITHIN 10 DAYS OF PUBLIC HEARING OR COMMISSION MEETING AT WHICH THE REQUEST FOR A CONTESTED CASE HEARING IS MADE.

IF MAILED, SEND TO:
Commission on Water Resource Management
P.O. Box 621
Honolulu, Hawaii 96809

Please provide the following information:

1. NAME: Wilma Kamakana Grambusch
   PHONE: [redacted]

2. ADDRESS: P.O. Box 614,
   Kaunakakai, HI 96748

3. ATTORNEY (IF ANY): Williamson B. C. Chang, Esq.

4. ATTORNEY ADDRESS: 969 Ahuwale Place
   Honolulu, HI 96821
   PHONE: (808) 377-1205

5. SUBJECT MATTER: Objection to water permit applications

6. DATE OF PUBLIC HEARING/COMMISSION MEETING: September 15, 1993

7. LEGAL AUTHORITY: Intervention pursuant to Water Code section 174C-60 (contested Cases). Petitioner Grambusch has a property interest in the area in which permits are sought.

8. WHAT STATUTORY OR OTHER RIGHT OF YOURS IS BEING AFFECTED?
   Applicant's use will interfere with standard water use permit conditions 3(c) and 3(g) "existing legal right" to use water by members of the Kalamaula Homestead Association, including petitioner. (see Petition for Contested Proceeding 9/15/93 and letter of 9/13/93)

8. SPECIFIC LEGAL ISSUE: The Commission must protect Native Tenancy and Native Tenant's rights under the Water Code. Applicants have not shown a need for amounts requested and the Commission must protect the right of those who have not yet applied for water from the aquifer.

9. PROVIDE YOUR TAX MAP KEY AND THE TAX MAP KEY OF THE PROPERTY
CONSIDERED IN THIS ISSUE. ARE YOU AN ADJACENT OR NEIGHBORING PROPERTY OWNER? DESCRIBE THE NATURE AND EXTENT OF YOUR INTEREST IN THIS MATTER. Petitioner is adjacent to some of the properties in question and draws from the same aquifer as all of the applicants seeking permits. See tax map keys attached.

10. WHAT IS YOUR SPECIFIC DISAGREEMENT REGARDING THIS ISSUE?
As outlined in petition to intervene/petition for Contested Proceeding of 9/15/93, Petitioner's right to develop her property for agriculture as well as the right's of those Homestead Association members she represents will be threatened by the "water banking" which applicants seek via the permits in question. As a native tenant, her water rights supercede those of surrounding landowners.

11. OUTLINE THE SPECIFIC ISSUES. 1. Can the Commission permit the use of a substantial portion of an aquifer (36%) without a comprehensive plan to protect those who have not yet applied? 2. The Commission must limit any permit to an amount the applicant can prove a need for to limit "water banking". 3. The Commission must protect the rights of native tenants who have a superior claim to the water. (for individual permit objections see attached Petition)

12. OUTLINE OF THE BASIC FACTS: Applicants have sought a combined 36% share of the Kawela aquifer. This threatens the water interests of all landowners over the aquifer. Water must be given out fairly, equitably and a primary right must rest with the native tenants.

13. WHAT RELIEF OR REMEDY DO YOU SEEK: Petitioner seeks denial of the permits, or in the alternative, a reduction in the amount to that which can be proved is necessary. Further, petitioner seeks a showing by the Commission that Native Rights are being protected. (see attached)

If there is not sufficient space to fully answer any of the items noted above, please use additional sheets of paper).

The above-named person hereby requests and petitions the Commission on Water Resource Management for a Contested Case Hearing in the matter described above.

Mrs. Wilma Kamakana Hambusch
Petitioner
TAX MAP KEYS

Kawela Plantation

5-4-01-29 1/2 owner
5-4-01-94
5-4-01-63
5-4-01-41 1/2 owner
5-4-01-65 1/2 owner

Iaea and Granger

as above plus

5-4-01-18 1/2 owner
5-4-01-15 1/2 owner
5-4-01-14 1/2 owner

Curtis and Hawaiian Research

all Keys referenced above
BEFORE THE COMMISSION ON WATER RESOURCES MANAGEMENT

STATE OF HAWAI\l


PETITION TO INTERVENE

AND

CERTIFICATE OF SERVICE

WILLIAMSON B.C. CHANG, ESQ. 1696-0
MICHAEL FOUKES
969 AHUWALE PLACE
HONOLULU, HAWAII 96821
TEL: 808-377-1205
ON BEHALF OF INTERVENOR
MRS. WILMA KAMAKANA GRAMBUSCH
BEFORE THE COMMISSION ON WATER RESOURCES MANAGEMENT

STATE OF HAWAII

In the Matter of the
Application of
Use Permits for
David Curtis, R.M.
Granger, Kawela Plantation Homeowners Association, John
Wm. Iaea, Sr., and Maui Water Department of Water Supply for Water Use Permits,
Kawela Ground Water Management Area, Molokai

Petition for Contested Proceeding on Applicants' Request for Water Permits

Certificate of Service

PETITION TO INTERVENE

INTERVENOR, MRS. WILMA GRAMBUSCH, RESIDENT OF KAWELA, MOLOKAI, STATE OF HAWAII, an individual and Native Hawaiian tenant residing within the Ahupua'a bequeathed to her by her ancestors, petitions for unrestricted status as an intervenor in this proceeding. ON Behalf OF HERSELF AND HER LEGAL HEIRS objects to the application of the above noted applicant.

I. NATURE OF PETITIONERS STANDING AND STATUTORY OR OTHER RIGHT

Petitioner seeks to intervene pursuant to the right to a contested case hearing under section 174C-60 [contested Cases] as set forth in the state water code. Petitioner Grambusch has a property interest in the area in which applicant seeks a permit and thus has statutory power to petition and seek a contested case proceeding under the water code. In addition petitioner Grambusch possesses appurtenant water rights, which, pursuant to the common law of Hawaii, have priority over applicant's claims to correlative water rights, whether or not petitioner Grambusch's property is overlying the aquifer or is riparian to the water source.

II. REASONS FOR REJECTION OF PETITIONER'S REQUEST
1. THE NUMBER OF APPLICATIONS FOR GROUNDWATER FOR THE KAWELA AQUIFER REQUIRE DEFERRING THE ISSUANCE OF ANY PERMITS UNTIL ALL INFORMATION CAN BE OBTAINED.

In the "background" section of the submittal, the staff reports indicates that a total of 23 applications for permits have been submitted for the Kawela aquifer system. This application seeks 5 permits. The purpose of the water code was to provide all parties with legal rights to an aquifer a fair right to their appropriate share of water. The issuance of permits herein would prejudice other applicants, including those who plan to file in the near future. Moreover, the water code requires that no permit be issued in contravention of the common law of the state of Hawaii. Since the groundwater law of the state is that of correlative rights and such correlative uses are protected under the statute constitution, all overlying landowners, pursuant to the City Mill decision, have a right to a share of water. The issuance of the permits sought herein would prejudice overlying landowners such as intervenor Grambusch.

2. COMMISSION ACTION AT THIS TIME WOULD BE INCONSISTENT WITH ITS PROPOSED FUTURE ACTIONS

It would clearly be premature to grant these permits since the staff report admits that so far, only one permit, for 2,000 gpd has been granted. It is admitted that nine permits require action, eight are scheduled to be heard on November 11, and five are incomplete pending further augmentation of their application. Intervenor Grambusch asserts that as the possessor of appurtenant water rights, a matter which she can prove to the commission, the constitution of the state of Hawaii, and the water code, give her a priority as to the appropriate quantity of water due to appurtenant right holders.

In this situation, the water code clearly contemplated a aquifer-wide adjudication of all rights at once. Indeed, the doctrine of correlative water rights is derived from mutual respect for the rights of all landowners with property near or overlying an aquifer. The large volume of potential withdrawal from this aquifer [0.31 mgd] constitutes a strong rationale for preventing parties from "gun-jumping" in an attempt to secure water permits ahead of other rightful claimants.

3. APPLICANT CURTIS SHOULD BE DENIED A PERMIT BASED ON FAILURE TO COMPLY WITH THE REQUIREMENTS FOR A PUMP INSTALLATION PERMIT

Petitioner Curtis is seeking a water use permit although he
has failed to comply with the legal requirements that called for an earlier application for a pump installation permit. In light of the above general reasons for denying all permits at this time, Mr. Curtis appears before the Commission with "unclean hands" and should not be allowed a permit as if his prior flouting of commission rules has no consequence. Apparently the Staff and the MWG feel that since the amount requested is small, no penalty should be levied for his prior wrongful acts. There is no relationship between violation of the code and the present size of the application. To award a permit would be tantamount to sanctioning disregard of Commission rules that have been applied with vigor to other parties. The applicant can face a variety of penalties for the knowing failure to apply for the pump installation permit. Clearly, the applicant sought to grandfather a questionable existing use by pumping without application for a pump installation permit on the eve of designation. This is exactly the kind of conduct that constitutes the worst exploitation of the designation process and was raised during testimony during designation. It appears that the staff is confused in its own reasoning when it refers to the applicant’s use as "genuine" albeit conduct clearly designed to avoid the appropriate regulations. Applicant should be facing enforcement of penalties rather than the possible award of a permit.

4. APPLICANT GRANGER HAS FAILED TO PROVIDE THE COMMISSION WITH HONEST AND RELIABLE INFORMATION AS TO INTENDED USES AND BE DENIED A PERMIT.

The applicant is clearly seeking to bootstrap a small use into a much larger use where there is strong likelihood that the applicant intends to improperly change the nature of the water received under a permit. He presently admits only a 3,700 gpd use and has applied for a 25,000 gpd. There is no verification as to what crops he intends to plant, and the fact that he has not begun such planting nor disclosed the nature of a plant which requires 16,000 gpd undermines the credibility of applicant’s request which is limited to four acres. The staff has placed no limitation on applicant preventing him from transferring water to other plots, or from using the water for other large scale uses. The staff recommendation allows a margin of error of 600 per cent. It appears that the applicant will not be using the water for corn, nor is he willing to disclose his intended plans. The staff’s failure to require further details violates the letter and spirit of the water code and the state water plan.

5. APPLICANT KAWELA PLANTATION MISREPRESENTS THE INTENDED PURPOSE OF ITS APPLICATION AND ITS APPLICATION SHOULD BE DENIED
The Staff recommends that the objector, Mrs. Grambusch be allowed a public hearing on this applicant's request. Hence, Intervenor is agreement with the staff recommendation. Kawela Plantation is clearly seeking a much larger amount of water than its present needs indicate and furthermore, is seeking water for irrigation purposes. A site visit of the applicant would show that the applicant clearly intends to develop housing and other urban uses and that the irrigation quantification is an erroneous factor to be used.

6. APPLICANT IAEA'S APPLICATION SHOULD BE DENIED AS INCOMPLETE.

The applicant has failed to supply sufficient data for the Commission to make a proper ruling. The staff has made an error in concluding that 1) since applicant has failed to supply information 2) his request fall below the threshold of concern of the Commission and 3) therefore it should be granted. Any code exemption for small users is predicated on the users proof of that small usage. Until applicant provides sufficient information his application should be denied.

7. APPLICANT MAUI DWS SHOULD BE DENIED ITS REQUEST FOR .432 MGD SINCE THE APPLICANT HAS NOT CONCURRENTLY APPLIED FOR A PUMP INSTALLATION PERMIT, PROVEN THAT ITS WITHDRAWAL WILL NOT DETRIMENTALLY AFFECT THE INTERVENOR AND HAS FAILED TO SHOW THAT ITS WITHDRAWAL IS CONSISTENT WITH THE MOLOKAI GENERAL PLAN.

Moreover, Intervenor Grambusch wishes to prove at trial that DWS will interfere with intervenor's exercise of appurtenant water rights which protected by the state constitution and the water code.

II. PETITIONER GRAMBUCH'S INTEREST WILL NOT BE REPRESENTED BY OTHER PARTIES

In addition to objecting to the application on the above grounds, Intervenor requests a contested case proceeding if any adverse actions are taken. No other party present before the commission can adequately represent her interest as she is asserting her rights as native Hawaiian tenant with appurtenant water rights who can demonstrate a continuity of title from the Mahele.

III. NONE OF THE ABOVE APPLICATION SHOULD BE GRANTED SINCE THE STAFF RECOMMENDS THAT A PUBLIC HEARING ON INTERVENOR'S INTERESTS
Intervenor contends that all applicants are, under the common law of the state of Hawaii, hold correlative water rights, and as such, no party can be awarded a right to water until the full extent of the rights of all parties are adjudicated in an aquifer-wide proceeding. This is required under the City Mill decision which is still in effect as part of the common law. The issuance of permits to some but not all applicants would violate the water code's assurance that present legal rights not be violated by the issuance of permits.

IV. INTERVENOR'S REQUEST WILL ASSIST IN THE DEVELOPMENT OF A COMPLETE RECORD, AND SERVE THE PUBLIC INTEREST

This request for a contested case proceeding is the first of its kind as a designated groundwater area. It will assist the commission in developing a process for implementing a basin-wide adjudication in keeping with the law of correlative water rights. In this sense, intervenor appears before this body in a respectful, relevant and timely manner. This petition is filed before the date of the scheduled hearing of September 15, and in any event is filed in advance of staff's recommendation for a November hearing. It is thus timely. Intervenor asserts that law and logic require that all parties seeking claims to the Kawela aquifer necessarily participate in the proposed November hearing.

VII. PRAYER FOR RELIEF

In the event that the Commission seeks to issue permits to
any of the contested applicants, intervenor seeks a contested case, under HRS Chapter 91, as referenced in the state water code, with full review before the Hawaii Supreme Court [as provided in the state water code.]

Dated: Molokai, Hawaii, September 14, 1993

Williamson Chang, Esq and Michael Foulkes [admission to the California Bar pending] on behalf of Intervenor Mrs. Wilma Grambusch
CERTIFICATE OF SERVICE

I hereby certify that on September 15, 1993, I served a copy of the foregoing petition to Intervene and Certificate of Service by hand delivery or certified mail to the following and at the following addresses:

Commission on Water Resources Management
Kalanikou Building
Honolulu, Hawaii [fifteen copies plus original]

David W. Curtis
P.O. Box 1829
Kaunkakai, Hi 96748

R.M. Granger
P.O. Box 371
Kaunkakai, Hi 96748

Kawela Plantation Homeowners Assn
P.O. Box 698
Kaunkakai, Hi 96748

John Wm Iaea
P.O. Box 405
Kaunkakai Hi 96748

Maui Department of Water Supply
P.O. Box 1109
Wailuku, Maui HI 96793

Dated: September 15, 1993, Kaunkakai, Hi,

Michael Foulkes, for the Intervenor
Mrs. Wilma Grambusch
Counsel for Kalamaula Homestead Association, an Unincorporated Association, Mrs. Wilma Grambusch, President

September 13, 1993

Commission on Water Use Management  
Mr. Keith Ahue, Chairperson  
P.O. Box 621  
Honolulu, HI 968020

Re: Matters raised at Meetings on Molokai, September 15th, 1:30 at Mitchel Pauoli Center and at 6:00 at Molokai High School

I. Request for Deferral of Several Matters scheduled for 1:30 until 6:00

On behalf of the Kalamaula Homestead Association, I wish to request deferral of decision-making on items 7-13 of the agenda for the Meeting of COWRM scheduled for 1:30 on September 15. Unfortunately, many of the members of the association, including myself, acting as counsel for the association have work commitments which prevent us from attending the 1:30 meeting. We request that you keep open the record on these items, defer decision making and allow us to testify at the 6:00 meeting. The Kalamaula Homestead Association, asserts that it has appropriate standing on all of these issues as its lands are sufficiently proximate to the applicants proposed use such that the association has an adequate property interest. The Association relies on the language of the HHCA, particularly section 221, which strongly states that the waters of Molokai, shall be first used to place homesteaders on the land.

II. Specific Objections to Applications:

a. Item 8 -- application of Curtis, et al, Kawela Plantation Homeowners Association. The Kalamaula Homeowners Association objects to the application of David Curtis et al on numerous grounds:

1. The applicant’s use will interfere with the 3(c)[see
standard water use permit conditions) and 3(g) "existing legal right" to the use of water by members of the Kalamaula Homestead Association. The rights of Homesteaders are defined by both congressional and state law and the barrier to homesteading has been the inability to obtain water. The rights of the association extend island-wide and thus all uses other than those for homesteading are subordinate to the rights of homesteaders not able to live on their lands due to failure to supply water. The strength of this right is obvious, since it is repeated a number of times in different parts of the standard water use permit conditions, particularly in 9(g) and section 6. Any issuance of a water use permit on Molokai should be deferred until the public hearing on the proposed rule. Chronologically, only after the rule reserving waters is finalized, including the scope of aquifers which are affected, can water permits be issued on Molokai.

2. Request for Contested Case Proceeding: In the event that the Commission sees fit to proceed with the issuance of a water permit for the applicants in item 8, the Kalamaula Homestead Associations exercises its rights under Chapter 91 in seeking a contested case proceeding. The request for such a hearing requires the Commission to defer decision making.

b. Item 9 --

a. Request of DHHL for Water Use Permits: Kalamaula Homestead Association requests that this matter be consolidated with the proposed rule to be heard at 6:00 P.M. The reservation of amount sought by DHHL coheres with the amount proposed by the Molokai Working Group. Kalamaula Homestead Association asserts that the rights to water of Hawaiian Homesteaders is not subservient to the rulemaking authority of COWRM and that the amounts set forth are grossly inadequate to meet the needs of the Kalamaula Homestead Association and its future plans. Objector, Kalamaula Homestead Association protests the arrangements made by DHHL for sharing water with the Department of Water Supply and the complete failure of DHHL to act as a fiduciary representative of the native Hawaiian beneficiaries. The limitation stated on page 3 limiting the issuance of interim permits, which is to be temporary until the reservations are set by rule, is a limitation that should be placed on all permits on Molokai. Under the original version of the Hawaiian Homes Commission Act, all waters, for domestic or agricultural use, were to be first used for the benefit of Homesteaders.

b. The Kalamaula Homestead Association asserts that COWRM has no legal authority to issue interim permit subject to conditions that are based on federal restrictions.

c. In addition, the Kalamaula Homestead Association asserts that the Supremacy Clause of the United States Constitution nullifies the right of COWRM to set limitations on water use of

Item 10: Kalamaula Homestead Association, acting on behalf of Mr. Harry Aki, and other residents of Mauna Loa town, objects to applicant Molokai Ranch's request, and objects to the staff recommendation as to nos. 2 and 3, on the grounds that Molokai Ranch, under equitable doctrines of law, is acting with "unclean hands" in that it has failed to comply with the federal Safe Drinking Water Act in its delivery of water to Mauna Loa Town. Until this violation of federal standards is rectified, the applicant should not receive further sources of water.

Item 11: Kalamaula Homestead Association objects to the applicant, Maui Department of Water Supply to use 171,000 gallons for municipal use on the grounds that the Department of Water Supply has "unclean hands" in failing to enforce the intent of the consent decree[ between the state and Molokai Ranch] as to the quality of water delivered to Mauna Loa Town. Kalamaula Homestead Association is willing to put on evidence of the failure of DO and Maui County to meet the terms of the decree and the terms of the Safe Drinking Water Act. Moreover, Kalamaula Homestead Association objects to the issuance of a water use permit to the County when there is present evidence of the county's failure to fully comply with environmental laws in terms of the proper closing of the landfill and dumpsite that exists on Kalamaula Homestead Property. The County should not be rewarded with permits for more water when they have failed to meet the quality requirements as to existing uses.

Item 13 -- Kalamaula Homestead Association objects to applicants proposal and agrees with the staff recommendation for a deferred public hearing on November 10. Objector asserts that the original purposes and terms of the Waikolu source have been violated to the benefit of the County and the detriment of Objector. Objector wishes to have the ability to prove its case at a later date.

Item 7 -- Objector, Kalamaula Homestead Association, opposes the staff recommendation on the grounds that the permit should be issued only after all needs of the native Hawaiian beneficiaries have been met. Moreover, it does not make any sense to grant such a permit prior to the full hearing and final determination of the rule to be heard on the reservation of homestead waters.
In conclusion, Objector seeks a consolidation of the 1:30 agenda with the 6:00 rule making agenda and finds that the attempt to proceed with permitting without a final rule as to reserved waters violates the intent of the state legislature. Objector thus reserves its right to seek judicial review, by way of a contested case proceeding, or otherwise as to all permits issued prior to finalizing the issues as to the rule reserving waters for Homesteaders.

DATED: September 13, 1993. Honolulu, Hawaii

Yours,

Williamson B.C. Chang
Counsel for Objector, Kalamauala Homestead Assn, Professor of Law, University of Hawaii
Mr. Melvin R. Perrells  
P.O. Box 651  
Kaunakakai, HI 96748  

Dear Mr. Perrells:  

Application for a Water Use Permit  
Kawela Ground Water Management Area, Molokai  

We acknowledge receipt of your water use permit application for the Perrells #1 Well (Well No. 0456-11), on July 9, 1993.  

However, your application was not accompanied by the filing fee of $25.00. Please submit a check for $25.00 payable to the Department of Land and Natural Resources. Upon receipt of the filing fee, we will continue to process your application and will send you a copy of the public notice and any further information regarding your application status. In addition, we may need to visit and verify your proposed water source and use sites if we have not done so already under our registration program.  

If you have any questions, please contact Roy Hardy at 587-0274 or Lenore Nakama at 587-0218.  

Sincerely,  

[Signature]  

RAE M. LOUI  
Deputy Director  

LN:fc
APPLICATION FOR WATER USE PERMIT

1. (a) APPLICANT: Melvin R. Perrells
   Firm/Name: Same
   Contact Person: P.O. Box 344
   Address: Honolulu, Hawaii 96808
   Phone: 533-3441

2. LANDOWNER OF SOURCE: S. M. D. Kawell
   Island: Molokai
   Address: 546 6th St. 10-01-01-20
   Tax Map Key: S-9-4-1
   (Attach a USGS map, scale 1" = 2000', and a property tax map showing source location referenced to established property boundaries.)

3. (a) EXISTING WELL/DIVERSION NAME AND STATE NUMBER: PERRELLS #1 0452-11
   (b) PROPOSED (NEW) WELL/DIVERSION NAME: PERRELLS

4. SOURCE TYPE (check one): Stream
   Method of Taking Water (check one): Artesian
   Well & Pump
   Diverted Surface
   Other (explain)

5. METHOD OF TAKING WATER (check one): Diverted Surface
   Other (explain)

6. LOCATION OF PROPOSED WATER USE: (If possible, show on same maps as source location. Otherwise, attach similar maps)
   (a) Proposed use of water is: Existing
   (b) Tax Map Key: S-9-4-1-20
   (If location of use is over multiple TMKs, please complete Table 1 on back of application)
   (c) Address:
   (d) Current Land Use District (check one):
   (e) Current County Zoning Code:

7. QUANTITY OF WATER REQUESTED: 7010 gallons per day

8. METHOD OF MEASUREMENT: Flowmeter

9. QUALITY OF WATER REQUESTED: Freshwater

10. PROPOSED USE: Municipal (including hotels, stores, etc.)
   Individual Domestic
   Industrial
   Other

For questions 12 & 13: If multiple TMKs are involved, please complete Table 1 on back of application.

11. TOTAL NUMBER OF RESIDENCES TO BE SERVED: 1

12. TOTAL ACRES TO BE IRRIGATED AND TYPE OF CROP:
   (acre)

13. PROPOSED TIME OF WATER WITHDRAWAL OR DIVERSION: 9 a.m. 3 p.m.
   (daytime hours of operation, ex. 7 a.m. to 2 p.m.)

14. APPLICANT MUST BRIEFLY DESCRIBE FOLLOWING POTENTIAL RESTRICTIONS ON WATER USE:
   (a) Impact on Sustainable yield (?):
   (b) Instream Flow Standards affected (?):
   (c) Hawaiian Home Land Use affected (?):
   (d) Other existing legal uses affected (?):

15. REMARKS, EXPLANATIONS:
   Wells been use for 100 yrs.

For Official Use Only:
Date Received: Date Accepted: Hydrologic Unit No.: Diversion Works No.: State Well No.:

NOTES: Signing below indicates that the applicant understands that, if a water use permit is granted by the Commission on Water Resource Management, a permit is subject to prior use conserved uses, changes in sustainable yields and instream flow standards, reserved uses as defined by the Commission, and Hawaiian Home Land policies. In addition, unless understands that, upon permit approval, a year's storage must be satisfied to the Commission's satisfaction.

Applicant (print):
Date: 6-2-95

Landowner (print):
Date: 6-2-95
My pumps run on solar at peak if taken pump 5 gpm from 9am to 3pm at this 1960 gal per pump per day. x 4 = 7840 total gal per day in summer.

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<th>TMK</th>
<th>CURRENT COUNTY CODE</th>
<th>ZONING CODE</th>
<th>NET ACRES</th>
<th>GPD/ACRE</th>
<th>TOTAL GPD</th>
<th>% OF TOTAL TO BE USED OVER NEXT 4 YEARS</th>
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FIELD MEMORANDUM

DECLARANT (File Reference): PERRELLS M

SITE VISIT DATE: February 6, 1993

PRESENT: Mr. Melvin Perrells
Sterling Chow

STATUS: (1) Dug well currently in use. Well index number 0456-11 (Perrells #1) will be assigned to this well.

(2) Unused dug well. Well index number 0456-12 (Perrells #2) will be assigned to this well.

SOURCE(S): (1) TMK: 5-4-1:20. USGS Kamalo quad (Mo-4). Kawela aquifer system. Well #1 to be assigned number 0456-11 (Perrells #1).

(2) TMK: 5-4-1:20. USGS Kamalo quad (Mo-4). Kawela aquifer system. Well #2 to be assigned number 0456-12 (Perrells #2).

USE(S): (1) TMK: 5-4-1:20. USGS Kamalo quad (Mo-4). Water used for one home (1 person) and crop irrigation (1 acre of pikake).

(2) Well #2 is not in use.
FIELD NOTES:

(1) Well 0456-11 (Perrells #1)

1. Source: Dug well with circular cross section, 8 feet in diameter, 16-1/2 feet total depth, and 5 feet of water. Water is withdrawn using a solar powered 5 gpm pump with a 3/4 inch PVC intake and outlet.

2. Use: Water is pumped from the well into a 500 gallon storage tank and used to supply water for 1 home (1 person) and for irrigation of 1 acre of pikake. Mr. Perrells estimated that the pikake plants are watered with a drip system for 6 hour a day.

3. Quantity: The quantity used is not being measured. An estimated use based on a 5 gpm pump running 5 to 6 hours a day (estimated usable daylight hours for the solar pump) is 1500 to 1800 gallons per day or 45,000 to 55,000 gallons per month.

4. Location: Source and use, TMK: 5-4-1:20. As measured from latitude = 21 deg 04 min 14 sec N, USGS quad map: longitude = 156 deg 56 min 49 sec W

5. Ownership: Land owned by Lukela Estate. Mr. Perrells is a beneficiary of the estate.

6. A 3 hp gasoline motor and pump of unknown capacity with a 2 inch diameter PVC inlet and outlet is used every 6 months to purge the well of silt.

7. Well number 0456-11 (Perrells #1) will be assigned to this well.

8. Chloride Concentration: 106 ppm chlorides for a water sample obtained from house faucet. Mr. Perrells has a water filter at the well and a charcoal filter in the home for drinking water.
PART I: USE OF WATER

1. Tax Map Key where the water is used: 5 - 4 - 1 : 20. Does the declarant own this land? NO
   If not, who does? LUCILE ESTATE, M. PERRELLS = BENEFICIARY

2. What is the water used for? DomESTIC AND CROP IRRIGATION
   If for irrigation, how many acres are being irrigated by crop type? 1 BLEUE PUMPE
   If for livestock, how many and what kind?
   If for drinking, at how many houses? 1 HOME by how many people? 1 PERSON

3. Is the quantity of water use being measured? NO
   If yes, document the location of the measurement point and method of measurement; also get use records if these were not submitted previously.

4. If this person takes from a multi-user pipe or ditch system:
   How is the water taken from the system?
   What is the capacity for taking (gpm)?
   How often is it taken (used)? (NEW)

PART II: WATER SOURCE

1. Source #: 0456-11 Name: PERRELLS #1
   Where does the water come from / what kind of source is this? DUG WELL, CIRCULAR CROSS SECTOR, 8 FT DIAMETER, 160 FT TOTAL DEPTH, 5 FT WATER
   Types of sources include:
   1) Wells (drilled, dug, tunnel)
   2) Diversions (ditch, pipe, pump, or livestock from a stream, spring, swamp, pond)
   3) Multi-source systems. (Declared use cannot be traced to a single well or diversion)
   NOTE: If a multi-user system: take from pipe or ditch (need to determine whether this is a multi-source or single-source system before the data can be input to the computer)
   4) Instream (i.e., crops planted along water edge)
   Show the source location on maps, determine latitude and longitude, and document the nature of source development by measurements, sketches, and photographs. How is the water taken? From SHAD MAP: LAT: 21°04'14" N, LONG: 113°58'49" W
   What is the capacity for taking (gpm)? 5 GPM SOLAR DIVERTED PUMP
   How often is it taken (used)? DAILY CURRENT AVAILABLE SUNLIGHT

2. Tax Map Key at the source: 5 - 4 - 1 : 20. Determine declarant's relation to source. Does the declarant:
   1) Operate and maintain the source? YES
   2) Own the land at the source? NO
   3) Use the water from this source? YES
   4) Own the land where the water is being used? NO
   5) None of the above? YES If so, why did they file?

3. Does anyone else also use water from this source? NO
   If yes, is their use included in this user's declaration? Who are the other users? Did they file?

VERIFIED BY: STEELE NG DATE: 2-6-93

NOTE: WELL PURGED EVERY 6 MONTHS WITH 3 HP 6GS MOTOR & PUMP WITH UNKNOWN CAPACITY. 2" PVC INLET/OUTLET.
Mapped, edited, and published by the Geological Survey
Control by USGS, USGS, and Hawaii State Survey
Selected hydrographic data compiled from USC&GS Charts 4121 (1966) and 4130 (1964)
This information is not intended for navigational purposes
Polyconic projection. Old Hawaiian datum
10,000-foot grid based on Hawaii coordinate system, zone 2
1000-meter Universal Transverse Mercator grid ticks, zone 4, shown in blue

Mo-4
## Kawela Plantation Wells

<table>
<thead>
<tr>
<th>Well No.</th>
<th>Well Name</th>
<th>type</th>
<th>Lat – Long</th>
</tr>
</thead>
<tbody>
<tr>
<td>0456-04</td>
<td>Breadfruit (Ag Well 2)</td>
<td>dug</td>
<td>21 04 03; 156 56 46</td>
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<tr>
<td>0456-06</td>
<td>Old DW 3 (Mon)</td>
<td>PER</td>
<td>21 04 15; 156 56 41</td>
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<tr>
<td>0456-07</td>
<td>Exploratory Well 2</td>
<td>(drill)</td>
<td>21 04 00; 156 56 11</td>
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<td>0456-08</td>
<td>Old DW 2 (Mon)</td>
<td>PER</td>
<td>21 04 15; 156 56 25</td>
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<td>0456-09</td>
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<td>0456-18</td>
<td>DW 2A</td>
<td>ROT</td>
<td>21 04 13; 156 56 27</td>
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<td>0456-19</td>
<td>DW 3A</td>
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<td>21 04 15; 156 56 41</td>
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<tr>
<td>0457-03</td>
<td>Exploratory Well 1</td>
<td>(drill)</td>
<td>21 04 08; 156 56 40</td>
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<td>Ag Well 1</td>
<td>PER</td>
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## Other Kawela Wells

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<tr>
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<th>Well Name</th>
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<tbody>
<tr>
<td>0456-01</td>
<td>Kamakana</td>
<td>dug</td>
<td>21 03 55; 156 56 24</td>
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<td>0456-02</td>
<td>Kawela</td>
<td>dug</td>
<td>21 03 60; 156 56 46</td>
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<td>0456-03</td>
<td>TH</td>
<td>ROT</td>
<td>21 04 02; 156 56 49</td>
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<td>0456-05</td>
<td>Nalulua</td>
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<td>21 03 51; 156 56 35</td>
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<td>0456-10</td>
<td>Sutcliffe-Mulloy</td>
<td>dug</td>
<td>21 03 58; 156 56 28</td>
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<td>0456-11</td>
<td>Perrels 1</td>
<td>dug</td>
<td>21 04 03; 156 56 39</td>
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<td>0456-12</td>
<td>Perrels 2</td>
<td>dug</td>
<td>21 04 03; 156 56 38</td>
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<td>0456-13</td>
<td>Kawela - Foster</td>
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<td>0456-14</td>
<td>Kawela – Iaea 1</td>
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<td>– Iaea 3</td>
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<td>0456-17</td>
<td>Kawela-Johnson</td>
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<td>0457-01</td>
<td>Kawela Shaft (MDWS)</td>
<td>SHF</td>
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