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State of Hawaii, Department of Land and Natural Resources

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CCH-MA13-02

Provisional Recognition of Appurtenant Rights, Na Wai Eha Surface Water Management Area, Waihee, Waiehu, Iao, Waikapu Streams, Maui, Hawaii

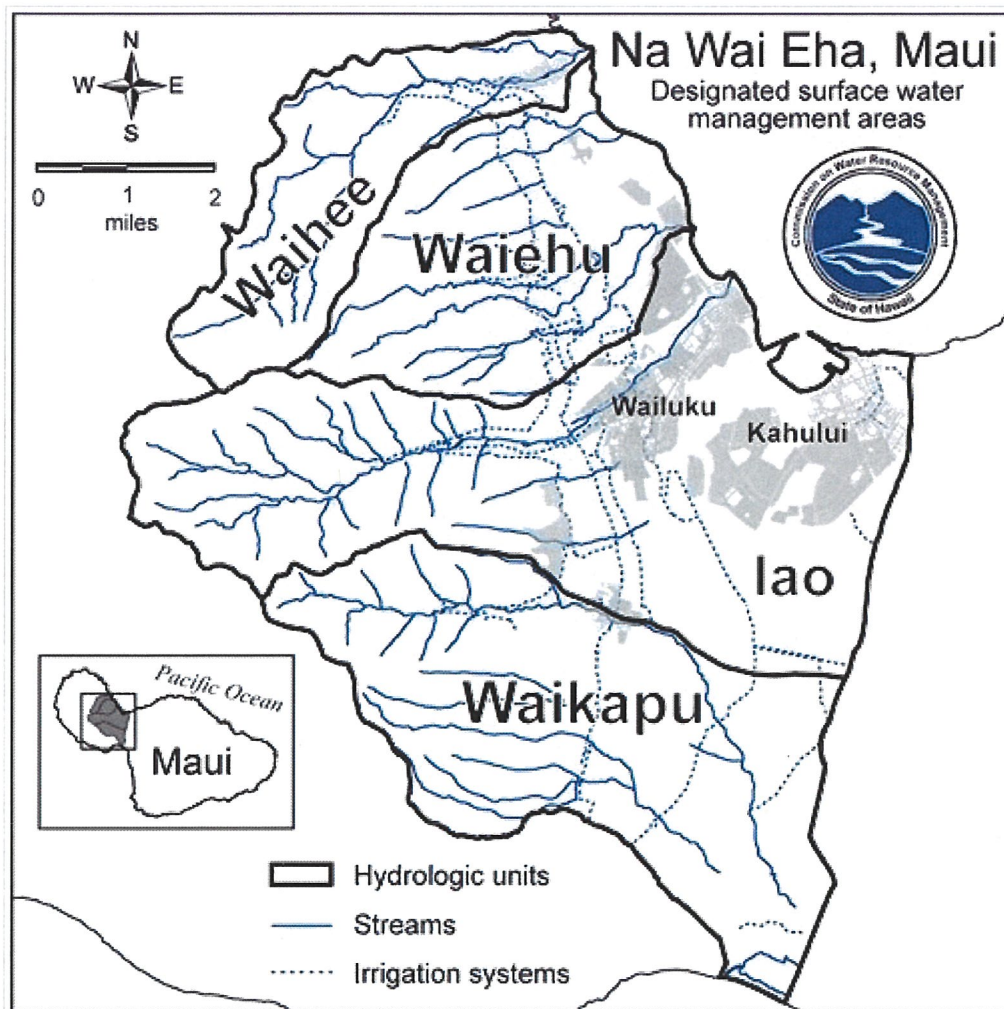


(<http://dlnr.hawaii.gov/cwrm/files/2013/01/slider1.jpg>)

The Commission has the legal authority to determine Appurtenant rights pursuant to HRS § 174C-5(15) which provides that, in addition to its other powers and duties, the Commission “[s]hall determine Appurtenant water rights, including quantification of the amount of water entitled to by that right, which determination shall be valid for purposes of this chapter.” This obligation derives from Common law and from Hawaii Constitution Article XI, Section 7. The Commission is also authorized to issue water use permits in regulated water management areas pursuant Hawaii Revised Statutes Chapter 174C, Part IV Regulation of Water Use.

Land areas affected by the current Appurtenant rights determination are located in the Wailuku District (Waihee, Waiehu, Iao and Waikapu), Na Wai Eha Surface Water

Management Areas, Maui (see map below). They include Tax Map Keys from (2) 3-1-006:001 to (2) 3-8-087:093 and from (2) 4-1-001:017 to (2) 4-8-001:002.



<u>Date</u>	<u>Action</u>
Dec. 31, 2014	Provisional Recognition of Appurtenant Rights, Na Wai Eha Surface Water Management Area, Waihee, Waiehu, lao, Waikapu Streams, Maui, Hawaii. The Commission issued a Na Wai Eha Provisional Order On Claims That Particular Parcels Have Appurtenant Rights [16.5 MB] (http://files.hawaii.gov/dlnr/cwrm/cch/cchma1302/CCHMA1302-20141231-CWRM.pdf) .
Aug. 6, 2013	Notice to Applicant and Those Filing Objections: Provisional Recognition of Appurtenant Rights, Na Wai Eha Surface Water Management Area, Waihee,

Waiehu, Iao, and Waikapu Streams, Maui, Hawaii
<http://files.hawaii.gov/dlnr/cwrn/notice/2013/nt20130806.pdf>

The Commission will hold a due process hearing in Wailuku, Maui to receive and act on the Hearings Officer's Findings and Recommendations regarding the Provisional Recognition of Appurtenant Rights for the Na Wai Eha Surface Water Management Area.

CANCELED

Friday, August 30, 2013

9:00 am to 5:00 p.m.

Vlema McWayne Santos (Wailuku) Community Center

395 Waena Place

Wailuku, Maui, HI 96793

- Hearings Officer's Findings and Recommendations: Provisional Recognition of Appurtenant Rights, Na Wai Eha Surface Water Management Area [11.7MB]
<http://files.hawaii.gov/dlnr/cwrn/submittal/2013/sb20130830.pdf>

Aug. 6, 2013

Notice to Applicant and Those Filing Objections: Provisional Recognition of Appurtenant Rights, Na Wai Eha Surface Water Management Area, Waihee, Waiehu, Iao, and Waikapu Streams, Maui, Hawaii
<http://files.hawaii.gov/dlnr/cwrn/notice/2013/nt20130806.pdf>

The Commission will hold a due process hearing in Wailuku, Maui to receive and act on the Hearings Officer's Findings and Recommendations regarding the Provisional Recognition of Appurtenant Rights for the Na Wai Eha Surface Water Management Area.

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<http://files.hawaii.gov/dlnr/cwrn/submittal/2013/sb20130830.pdf>

Feb. 25, 2013

Public Notice To Announce Appurtenant Rights Claims in Na Wai Eha Surface Water Management Areas (Waihee, Waiehu, Iao and Waikapu Streams) by the Commission on Water Resource Management
<http://files.hawaii.gov/dlnr/cwrn/notice/2013/nt20130225.pdf>

Appurtenant rights claims and any supporting documentation received by the Commission, can be viewed by clicking on the hyperlinks in the Public Notice above. The link below is a modification of the Feb. 25, 2013 Public Notice and provides hyperlinks to all objections to Appurtenant rights claims received by the Commission.

- Listing of Objections to Appurtenant Rights Claims in Na Wai Eha Surface Water Management Areas (Waihee, Waiehu, Iao and Waikapu Streams) (<http://files.hawaii.gov/dlnr/cwrn/notice/2013/nt20130225O.pdf>)

Aug. 24, 2012

Public Notice To Announce Appurtenant Rights Claims in Na Wai Eha Surface Water Management Areas (Waihee, Waiehu, Iao and Waikapu Streams) by the Commission on Water Resource Management (<http://files.hawaii.gov/dlnr/cwrn/notice/2012/nt20120824.pdf>)

Appurtenant rights claims and any supporting documentation received by the Commission, to date, can be viewed by clicking on the hyperlinks in the Public Notice above. The link below is a modification of the Aug. 24, 2012 Public Notice and provides hyperlinks to all objections to Appurtenant rights claims received by the Commission.

- Listing of Objections to Appurtenant Rights Claims in Na Wai Eha Surface Water Management Areas (Waihee, Waiehu, Iao and Waikapu Streams) (<http://files.hawaii.gov/dlnr/cwrn/notice/2012/nt20120824O.pdf>)

Oct. 26, 2011

Public Notice To Announce Appurtenant Rights Determination in Na Wai Eha Surface Water Management Areas (Waihee, Waiehu, Iao and Waikapu Streams) by the Commission on Water Resource Management (<http://files.hawaii.gov/dlnr/cwrn/notice/2011/nt20111026.pdf>)

Process for Determining Appurtenant Rights

Date

Action

Aug. 15, 2012

The Commission approved to delegate authority to the Chairperson to appoint a Hearings Officer to handle the Appurtenant rights claims for Surface Water Use Permit Applications in the Na Wai Eha Surface Water Management Areas, Maui. In this matter, the appointed Hearings Officer shall hear the legal and material evidence pertaining to the applications for appurtenant rights claims to which objections have been received and make appropriate recommendations to the Commission.

- Staff Submittal: Delegation of Authority to the Chairperson to Appoint a Hearings Officer for Appurtenant Rights Claims (<http://files.hawaii.gov/dlnr/cwrn/submittal/2012/sb201208C1.pdf>)

Aug. 24, 2012

The Commission approved a process for noticing, recognizing, and determining Appurtenant rights. The three-step process is summarized as follows: 1) Notice to potential claimant of the Commission's intent to process and recognize claims for Appurtenant rights as part of the surface water use permitting process; 2) Determination of Appurtenant rights; and 3) Quantification of Appurtenant rights. For a more detailed explanation of the process, view the staff submittal below.

- [Staff Submittal: Process for Determining Appurtenant Rights \(http://files.hawaii.gov/dlnr/cwrm/submittal/2011/sb201109D1.pdf\)](http://files.hawaii.gov/dlnr/cwrm/submittal/2011/sb201109D1.pdf)

Appurtenant rights claims and any supporting documentation received by the Commission, to date, can be viewed by clicking on the hyperlinks in the [August 24, 2012](#) Public Notice above.

Objecting to an Appurtenant Rights Claim

Written objections may be filed by any person or entity with a legal or material interest in the Appurtenant rights claim using the form (Form APRT-OBJ) provided by the Commission. Written objections shall address and provide (as applicable): 1) documentation demonstrating that the parcel was not used as a residence or for cultivation at the time of the Mahele; 2) documentation demonstrating that the Appurtenant right has been reserved or extinguished; and 3) evidence suggesting there are materially false statements or representations in the application.

Any person filing objections must serve copies of the written objections on the applicant at the address provided [and](#) on the Commission at Commission on Water Resource Management, P.O. Box 621, Honolulu, HI 96809. Applicants will be given the opportunity to submit a brief in support of their application / rebuttal to the written objections.

- [Form APRT-OBJ: Filing of Objection to an Appurtenant Rights Claim \(http://files.hawaii.gov/dlnr/cwrm/forms/APRT-OBJ.pdf\)](http://files.hawaii.gov/dlnr/cwrm/forms/APRT-OBJ.pdf)