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Attorneys for Petitioners

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI'I

In the Matter of the Petition )  
of: ) DOCKET NO. A15-798  
)  
) DIRECT TESTIMONY OF HÖKŪAO  
WAIKAPŪ PROPERTIES, LLC; MTP )  
LAND PARTNERS, LLC; WILLIAM S. )  
FILIOS, Trustee of the William )  
S. Filios Separate Property )  
Trust dated APRIL 3, 2000; and )  
WAIKAPŪ PARTNERS, LLC, )  
)  
)  
To Amend the Agricultural Land )  
Use District Boundaries into )  
the Rural Land Use District for )  
certain lands situate at )  
Waikapū, District of Wailuku, )  
Island and County of Maui, )  
State of Hawaii, consisting of )  
92.394 acres and 57.454 acres, )  
bearing Tax Map Key No. (2) 3- )  
6-004:003 (por) and to Amend )  
the Agricultural Land Use )  
District Boundaries into the )  
Urban Land Use District for )  
certain lands situate at )  
Waikapū, District of Wailuku, )  
Island and County of Maui, )  
State of Hawaii, consisting of )  
236.326 acres, 53.775 acres, )  
and 45.054 acres, bearing Tax )  
Map Key No. (2) 3-6-002:003 )  
(por), (2) 3-6-004:006 and (2) )  
3-6-005:007 (por). )



1 nīnauele 'ana o nā kūpa o ka 'āina a pēlā wale aku nō. 'O nā  
2 pepa noi'i nui pū a'u i kākau a'e ai e pili ana no Nā Wai 'Ehā a  
3 Waikapū ho'i.

4 Aloha, my name is Hōkūao Pellegrino. I was born in  
5 1979 on the island of Maui and raised in Waikapū which is in the  
6 famous district of Nā Wai 'Ehā. I am part Native Hawaiian and  
7 live on ancestral kuleana land named Noho'ana, a traditional  
8 subdivision in Waikapū, a land division famous for its gusty  
9 winds. It is there that I currently reside with my wife Alana  
10 Ka'ōpūiki and raise our family as well as cultivate wetland  
11 kalo.

12 My Hawaiian ancestors on my mother's side are both  
13 from Wailuku and Waikapū. My great grandfather (x4) named  
14 Nā'ili'ili was born and raised in Wailuku and was a konohiki  
15 who managed the traditional subdivision called Pōhakuokauhi  
16 during the time of the Great Māhele which was around the year  
17 1850. Another great grandfather (x4) of mine named Edward  
18 Bailey was hired by the Kingdom of Hawai'i at the time of the  
19 Great Māhele to survey all of the kuleana parcels of land in the  
20 district of Nā Wai 'Ehā which encompassed the land divisions of  
21 Waikapū, Wailuku, Waiehu, and Waihe'e. He also conducted  
22 surveys in other districts and land divisions throughout Maui.

23 Outside of my strong ancestral ties to Nā Wai 'Ehā and  
24 the fact that I was born, raised and continue to reside in this

1 region, I have spent over 20 years thoroughly conducting  
2 extensive research on each of the respective four ahupua'a in  
3 Nā Wai 'Ehā (Waikapū, Wailuku, Waiehu, Waihe'e). My research  
4 within Nā Wai 'Ehā includes but is not limited to; traditional  
5 stories and legends, land use from the time of the Māhele  
6 through the current state, Hawaiian language newspapers,  
7 Māhele land records and survey maps, historical maps, artifacts,  
8 cultural landscapes, archaeological records, historical  
9 photographs, cultural and natural resources, evolution of the  
10 sugar industry and plantation era, and interviewing numerous  
11 elders and residents. I have written and published numerous  
12 articles, research papers, contributed pieces in books and  
13 articles authored by others regarding Nā Wai 'Ehā and Waikapū  
14 in particular and conducted many presentations on my research.

15 I graduated from Notre Dame de Namur University in  
16 2001 where I studied Cultural Anthropology and Sociology with  
17 an emphasis on Social Justice. I later pursued another degree  
18 and graduated from the University of Hawai'i at Hilo in 2007  
19 where I studied Hawaiian language with an emphasis on Hawaiian  
20 Ethnobotany. Upon graduating, I worked for the University of  
21 Hawai'i at Hilo where I taught Hawaiian Ethnobotany and an  
22 agricultural course related kalo cultivation. I also worked at  
23 'Imiloa Astronomy Center as the Cultural Landscape Curator.  
24 When I moved home in 2008, I began employment at Kamehameha

1 Schools. I am currently a Land Administrator in the 'Āina  
2 Engagement Department where I manage statewide 'Āina Ulu  
3 collaborations on Kamehameha Schools agriculture and  
4 conservation land. I am also a cultural practitioner and kalo  
5 farmer on my family kuleana land in Waikapū. Along with my  
6 'ohana, we established and manage Noho'ana Farm which  
7 focuses on traditional lo'i kalo cultivation and agriculture  
8 as well as the implementation of a bilingual cultural ag  
9 education program. Throughout my entire life and especially  
10 over the last 20 years, I have had the ability to study, train,  
11 learn and apprentice under different cultural experts,  
12 cultural practitioners, plant and cultural landscape experts  
13 and kūpuna. Although many have passed on, I consider myself a  
14 perpetual learner and continue to engage with practitioners  
15 and leaders in our culture and community who provide guidance  
16 over my knowledge and training.

17 In 2013, I was asked to prepare a Cultural Impact  
18 Assessment (CIA) for the proposed development project titled  
19 Waikapū Country Town. The CIA was a key component of an  
20 Environmental Impact Assessment being conducted for this  
21 project. I commenced my work in May of 2013 and completed a  
22 draft CIA in January 2014. The work included gathering  
23 information relating to the historical uses of the lands  
24 involved, to whether the lands were used in connection with

1 traditions, resources and cultural practices, to whether the  
2 lands were used in connection with traditions, resources, and  
3 cultural practices on other nearby lands, to whether the lands  
4 might be currently used for traditions, resources, cultural  
5 practices and by cultural practitioners, and to whether the  
6 lands might be a home for plants or animals that would be used  
7 for traditions, cultural practices and by cultural  
8 practitioners.

9           Gathering this information required review of  
10 historical information on uses of the lands from the pre-contact  
11 period to the present as well as going on the lands to make  
12 personal observations. It also involved contacting persons  
13 within the community who have knowledge of the area.

14           As I gathered the information, further work was  
15 required which I conducted and completed in January 2016.  
16 The research and work that I conducted renders no opinion on my  
17 part about the Waikapū Country Town project. Rather, it allowed  
18 me to prepare a thorough report which focused on the cultural  
19 history, traditions, resources and cultural practices in the  
20 entire ahupua'a of Waikapū, its relationship to the greater  
21 district of Nā Wai 'Ehā and the specific project area which  
22 encompassed over 500 acres. The CIA that I completed adhered  
23 to all guidelines and requirements by the Hawai'i State Office  
24 of Environmental Quality Control (OEQC) and compliant with

1 reports intended to accompany an Environmental Impact Survey  
2 compliant with Chapter 343 HRS, as well as fulfilling the  
3 requirements of the County of Maui Planning Department and the  
4 Department of Land and Natural Resources (DLNR) with respect to  
5 permit approvals for land-altering and development activities.

6 In addition, my work ensured that all potential  
7 effects and impacts on the Hawaiian culture, cultural beliefs,  
8 practices, cultural landscapes, resources of Native Hawaiians  
9 and other ethnic groups, and traditional and customary rights  
10 of Native Hawaiians were documented, assessed and the impacts on  
11 those beliefs, practices, landscapes, resources, groups and  
12 rights addressed.

13 The completed CIA for Waikapū Country Town was  
14 divided into 3 Volumes and is attached as Appendix "F" to  
15 Exhibit "25." Volume 1 was the overall CIA Report and was 114  
16 pages which included numerous interviews. Volume 2 is 254  
17 pages and includes an index of all Māhele land claims and a  
18 detailed description of land use at the time of the Māhele, as  
19 well as copies of original claims, awards, land surveys in the  
20 Hawaiian language. Translations were provided for each  
21 associated Māhele land document and parcel of land within the  
22 Waikapū Country Town Project Area. Volume 3 was a  
23 continuation of Volume 2 and included an additional 204  
24 pages. The total amount of pages completed from Volumes 1-3

1 of the Waikapū Country Town CIA was 572 pages.

2            Provided below is a detailed summary of the  
3 Conclusion and Potential Impacts and Recommendations portion  
4 within the CIA. It was later expanded upon in the Ka Pa'akai  
5 Analysis I completed in December 2016. The highlighted  
6 information is relevant to this project and the surrounding  
7 cultural resources and landscape that may potentially be  
8 impacted by the project. The below information clearly shows  
9 that there are historical and current cultural traditions,  
10 practices of Native Hawaiians in relationship to the land and  
11 natural resources that will be impacted by the project. To my  
12 knowledge prior and since the completion of the Ka Pa'akai  
13 Analysis in 2016, the developer for the proposed Waikapū  
14 Country Town project has addressed, and continues to address, the  
15 following impacts specified below.

16            A comprehensive Cultural Impact Assessment was  
17 developed for the proposed development and clearly outlined  
18 specific traditional Hawaiian practices and access rights  
19 found within the project area. The CIA formalized a collective  
20 review of prior cultural, archaeological and ethno-historical  
21 studies related to the Waikapū ahupua'a, along with a wide  
22 range of interviews with living kama'āina and lineal  
23 descendants of Waikapū. It seems that both historical and  
24 current traditional Hawaiian practices have not differed over



1 time. What has changed however, is the extent for which these  
2 Hawaiian cultural practices are occurring. What once was a  
3 vast cultural landscape within the Waikapū, has diminished  
4 drastically due to the alterations of the land and natural  
5 resources caused by plantation era activities. Despite a  
6 fragmented cultural landscape, evidence of cultural Hawaiian  
7 practices occurring within and directly adjacent to the project  
8 area continues to exist.

9           The following valued cultural, historical and natural  
10 resources are currently being utilized for cultural Hawaiian  
11 practices: access and utilization of Waikapū Stream; access to  
12 water via 'auwai systems for traditional lo'i kalo cultivation  
13 on kuleana lands; access to the interior part of the Waikapū  
14 Valley and watershed for gathering endemic and native medicinal  
15 plants as well as other Hawaiian food crops, native forest and  
16 habitat restoration, archaeological stabilization and cultural  
17 resource management of kuleana lands; and access to privately  
18 owned kuleana lands. The following paragraphs will address  
19 specific details regarding the above cultural Hawaiian  
20 practices by: 1) the extent to which those resources including  
21 traditional and customary native Hawaiian rights will be  
22 affected or impaired by the proposed development; and 2) the  
23 feasible actions, if any, to be taken by the LUC to  
24 reasonably protect native Hawaiian right if they are found to

1 exist.

2           The Waikapū Stream has and continues to be a very  
3 important cultural resource for Native Hawaiian cultural  
4 practitioners and practices such as lo'i kalo cultivation.  
5 The proposed project area includes a plantation era irrigation  
6 and traditional 'auwai system that provides water for South  
7 Waikapū kuleana lo'i kalo farmers. An ancient 'auwai  
8 historically provided water for South Waikapū kuleana lo'i kalo  
9 farmers which commenced on Government Grant 1844 to Joseph  
10 Sylva, now currently part of the proposed project area. The  
11 use of the po'owai or intake portion of this 'auwai was  
12 discontinued when Wailuku Sugar Co. built the south Waikapū dam  
13 intake within the Waikapū Valley around the turn of the 20<sup>th</sup>  
14 century. Currently, the south Waikapū dam and intake is owned  
15 by Wailuku Water Co. which diverts Waikapū Stream water about 2  
16 miles into the Waikapū Valley, delivers water through the South  
17 Waikapū ditch system and into Reservoir #1 which is on the  
18 developer's proposed project. From Reservoir #1, a portion of  
19 water is released via a 6" pvc pipe into a smaller open ditch  
20 and connects with the remaining portion of the ancient 'auwai  
21 that delivers water to the south kuleana lo'i kalo farmers.  
22 As of December 2016, six south kuleana land owners have been  
23 identified as utilizing this ditch commonly called south  
24 Waikapū kuleana 'auwai for kalo cultivation: (TMK 3-6-005:019,

1 TMK 3-6-006:027, TMK 3-6-006:025, TMK 3-6-006:029, TMK 3-6-  
2 006:003, TMK 3-6-006:013). There are numerous other south  
3 kuleana lands that are privately owned and consist of former  
4 lo'i kalo terraces, however are not in use. Lineal descendants  
5 of these lands through the State Water Use Permit process have  
6 expressed interest in utilizing or returning to their ancestral  
7 lands to restore and farm lo'i kalo. These lands are  
8 identified as (TMK 3-6-005:014, TMK 3-6- 005:067, TMK 3-6-  
9 005:001, TMK 3-6-006:017, TMK 3-6-006:032, TMK 3-6-006:033,  
10 TMK 3-6-006:001, TMK 3-6-005068, TMK 3-6-007:010).

11 To ensure that current and future Native Hawaiian  
12 practices associated with access to kuleana water for lo'i kalo  
13 cultivation are protected, the following information has been  
14 provided by existing south kuleana lo'i kalo farmers. They  
15 expressed that the irrigation system which provides water to  
16 their lands via the plantation ditch found within the proposed  
17 project area, is inefficient and causes limitations. The  
18 limitations include lack of and consistent water for lo'i kalo  
19 cultivation as well as warm water that comes from Reservoir #1  
20 rather than straight from the stream as it historically did via  
21 an 'auwai system that belongs to Avery Chumbley and partners of  
22 which Mike Atherton is a partner (a.k.a Makani 'Olu Ranch. They  
23 have shared that the water entering the ditch comes from a  
24 reservoir which causes some warming of the water rather than

1 fresh stream water directly from the Waikapū Stream. Although  
2 the amount of water released via a 6" pvc pipe may be sufficient  
3 at this current time, the estimated 1 mile long open ditch has  
4 numerous leaks and along with absorption into the ground along  
5 the ironwood trees. When the water finally enters the ancient  
6 'auwai system near the kuleana lands, it has been said that the  
7 amount is minimal and does not provide sufficient amount of  
8 water for the current and growing needs of existing kuleana lo'i  
9 kalo farmers on the south side of the Waikapū Stream.

10           The proposed project area has identified the  
11 plantation era irrigation and 'auwai system will be located  
12 within a greenway. Although the development will not adversely  
13 Hawaiian cultural practices related to lo'i kalo cultivation on  
14 neighboring properties that access water via the developer's  
15 land, a proposed improvement of the infrastructure and overall  
16 system should be implemented to mitigate their concerns.

17           Kuleana lo'i kalo farmers who are Native Hawaiian  
18 and have appurtenant rights to stream water,  
19 would like the developer to allow a direct in-flow from the  
20 diversion ditch prior to entering Reservoir #1 or the original  
21 'auwai system that it once utilized prior to the construction of  
22 the South Waikapū intake and ditch system. If the plantation  
23 era open ditch along the ironwood tree line is to be enclosed,  
24 it should be done so with a large pipe to minimize water loss

1 prior to entering the traditional 'auwai. This they believe  
2 will ensure the protection of existing and future access rights  
3 to this important cultural and natural resource. Prior to any  
4 work, it would be advised that the developer of the proposed  
5 project consult with neighboring south kuleana lo'i kalo  
6 farmers and Hui o Nā Wai 'Ehā to ensure that  
7 infrastructure improvements has minimal to no adverse effects  
8 to their traditional and customary rights and practices.

9           Traditional and customary rights in relationship to  
10 Waikapū water and lo'i kalo cultivation are also occurring  
11 extensively on the north side of Waikapū Stream on 15 kuleana  
12 lands directly across from the proposed project area. An  
13 intact traditional 'auwai known as the north kuleana 'auwai  
14 accesses Waikapū Stream water directly from the Waikapū Stream.  
15 (TMK 3-5-012:031, TMK 3-5-012:028, TMK 3-5-012:041, TMK 3-5-  
16 012:027, TMK 3-5-012:026, TMK 3-5-012:049, TMK 3-5-012:048, TMK  
17 3-5-012:047, TMK 3-5-012:023, TMK 3-5-012:021, TMK 3-5-012:020,  
18 TMK 3-5-004:028, TMK 3-5-004:32, TMK 3-5-012:016, TMK 3-  
19 5-012:016, TMK 3-5-012:015, TMK 3-5-012:10, TMK 3-5-  
20 012:012, TMK 3-5-012:013, TMK 3-5-012:009, TMK 3-5-012:008,  
21 TMK 3-5-012:007, TMK 3-5-012:006, TMK 3-5-012:005, TMK 3-5-  
22 012:003, TMK 3-5-012:001).

23           The State Commission on Water Resource Management set  
24 the Interim Instream Flow Standards (IIFS) for Waikapū Stream

1 as 2.9 mgd in 2014 through a settlement agreement between the  
2 following parties: Earthjustice; Hui o Nā Wai 'Ehā;  
3 Wailuku Water Company; Hawaiian Commercial Sugar Company; Maui  
4 Tomorrow; County of Maui; and Office of Hawaiian Affairs. The  
5 amount of water that has been released into Waikapū Stream does  
6 not account for appurtenant rights, traditional and  
7 customary rights for kuleana lo'i kalo farmers which is a  
8 protected right under State Law. Currently, Waikapū Properties  
9 who owns the land for the proposed project has a delivery  
10 purchase agreement from Wailuku Water Company for diverted  
11 Waikapū Stream water to be used for commercial agricultural  
12 and agro-tourism activities. The amount of water being  
13 utilized has directly impacted traditional and customary  
14 rights and practices for kuleana lo'i kalo farmers on the north  
15 side of the Waikapū Stream. The amount of water remaining in  
16 the Waikapū Stream is insufficient and does not satisfy the  
17 current and future use of kuleana lo'i kalo farmers on the  
18 north side of the Waikapū Stream. Waikapū Properties however,  
19 has consulted with north kuleana users as well as Hui o Nā Wai  
20 'Ehā and has provided a clear mitigation plan stating that they  
21 will end all surface water use from Waikapū Stream except for  
22 cattle water troughs (250 gad/acre). Waikapū Properties  
23 commercial ag activities will be transitioning throughout 2017  
24 to relocate to lands that will be irrigated via Waihe'e Ditch

1 and agricultural wells developed on the proposed  
2 development project area. There is currently an ongoing  
3 contested case through the State Water Commission for  
4 issuance of Water Use Permits as well as revising the Interim  
5 Instream Flow Standards for Waikapū Stream.

6           The interior valley of Waikapū watershed includes a  
7 diverse native forest with an array of endemic plants, insects,  
8 snails and mammals. Traditional access and trails into the  
9 Waikapū Valley are along the Waikapū Stream which is partially  
10 owned by the developer of the proposed project. In addition to  
11 the river, are two plantation era access points adjacent to  
12 Reservoir #1. There are a number of Hawaiian cultural  
13 practices identified in relationship to accessing the Waikapū  
14 Valley for gathering and stewarding highly sensitive cultural  
15 and natural resources.

16           There are endemic medicinal plants such as ko'oko'olau  
17 (bidens sp.) and māmaki (pipturus albidus) that have been  
18 identified by lineal descendants of Waikapū for gathering and  
19 use in lā'au lapa'au (Hawaiian herbal medicine). These  
20 native plants and others grow in very specific regions within  
21 the valley and ridges. A Hawaiian family shared about a  
22 specific ko'oko'olau plant that they would gather fresh leaves  
23 from which was located along a ridge and dry gulch in the  
24 valley named Kapiliiki. The leaves were used to treat a family

1 member who has high blood pressure. The proposed project does  
2 not adversely impact the area in which traditional cultural  
3 practice of gathering herbs exist. The proposed project will  
4 continue to allow access to the Waikapū Valley for  
5 traditional and customary Native Hawaiian practices  
6 through a greenway or potential cultural reserve adjacent to the  
7 Waikapū Stream and near the opening of the valley on a trail  
8 below Reservoir #1.

9           Lineal descendants of Waikapū have also been  
10 identified as having scattered the ashes of their ancestors  
11 within the valley. The cultural practices conducted by lineal  
12 descendants are reliant on access through the proposed  
13 development in order to honor their kūpuna. The proposed  
14 project will continue to allow access to the Waikapū Valley  
15 for traditional and customary practices through a greenway or  
16 potential cultural reserve adjacent to the Waikapū Stream and  
17 near the opening of the valley on a trail below Reservoir #1.

18           Hui Mālama o Waikapū, a non-profit organization  
19 affiliated with Tri-Isle RC&D, was established in 2009 and  
20 currently has a 15 year lease with the developer for a 5 acre  
21 parcel of land adjacent to the proposed project. The mission  
22 of the organization is "E mālama a ho'okā'oi i ka mo'omeheu,  
23 kaiameaola kūlohelohe a me ka wai o kō Waikapū ahupua'a" or  
24 "To preserve and enhance the cultural, biological, and water



1 resources of the Waikapū ahupua'a". Hui Mālama o Waikapū is  
2 comprised of four Waikapū residents who have lineal and  
3 genealogical ties to the ahupua'a and have committed themselves  
4 to protecting the culturally and environmentally rich  
5 landscape through cultural practices. The members of Hui  
6 Mālama o Waikapū (HMOK), conduct cultural practices on the  
7 leased parcel of land in addition to lands in and around the  
8 project area. These practices include gathering of seeds and  
9 cuttings of endemic plant cultivars for propagation and  
10 restoration of the leased native dryland forest owned by the  
11 developer. They also gather native plants and material for  
12 traditional implements used during activities on the leased  
13 land such as lo'i kalo, Hawaiian food crop cultivation and  
14 lā'au lapa'au. In addition, the group has sought and received  
15 funding to initiate a natural and cultural resource  
16 management and education program in the leased area. Access and  
17 protection to this highly sensitive cultural sight is critical  
18 for both cultural practices and educational program  
19 implementation. Hui Mālama o Waikapū has brought over 1,000  
20 students since their inception and continue to grow their  
21 educational programs to include formal partnerships with  
22 educational institutions on Maui. Currently the land owner  
23 provides access via an old plantation road leading up to the  
24 reservoir and access point to HMOW leased lands. The proposed

1 project will continue to allow access to their lease lands for  
2 traditional and customary Hawaiian practices through a greenway  
3 or potential cultural reserve adjacent to the Waikapū Stream and  
4 near the opening of the valley on a trail below Reservoir #1.

5           The founders and members of Hui Mālama o Waikapū  
6 and who are from the Waikapū ahupua‘a, have extensive knowledge  
7 of the cultural sites and practices within and adjacent to the  
8 proposed development project. HMOK has recommended that a  
9 cultural preserve be established to ensure that all cultural  
10 sites, existing and future cultural practices within the  
11 developers’ land base be protected in perpetuity. These sites  
12 include kuleana lands with lo‘i kalo terraces, ‘auwai systems,  
13 house sites, other cultural and archaeological features, and  
14 native plant species. Hui Mālama o Waikapū proposes to work  
15 alongside developer to ensure that there is a plan to mitigate  
16 any potential adverse impacts on these highly sensitive cultural  
17 lands.

18           Through the development of the CIA, two privately  
19 owned kuleana parcels of land were identified. They are  
20 called the “Mahi parcels”. Both parcels are located directly  
21 in the middle of where the proposed urban lots were to be  
22 developed in the mauka section. These parcels are currently  
23 vacant and in the middle of a pasture used by the developer  
24 and neighboring land owner for grazing cattle. Lineal

1 descendants of the Mahi family who now live on O'ahu, were  
2 contacted through this process and expressed a deep interest  
3 in returning to their ancestral land someday along with a  
4 permanent access easement to their property. The developer for  
5 the project has been made aware of this and has since moved the  
6 urban lots and road away from the Mahi kuleana parcels. In  
7 addition to the Mahi family, are also the Kauihou family who  
8 have genealogical ties to Waikapū. Their kuleana lands are  
9 adjacent to the Waikapū Stream and along a flat joined by the  
10 proposed project. Access to both the Kauihou and Mahi parcels  
11 are through the proposed project area. Mitigation measures to  
12 ensure access by the developer has been taken to minimize any  
13 potential impacts. A permanent easement for these families is  
14 recommended to ensure that both Native Hawaiian families are  
15 able to exercise any traditional practices in the future.

16           Given the cultural-historical, archaeological and  
17 Hawaiian land tenure background presented above, combined with  
18 cultural/oral historical studies conducted during the CIA, it  
19 is the finding of the current analysis that there are specific  
20 valued cultural, historical and natural resources present and  
21 traditional and customary Native Hawaiian rights being  
22 exercised within the proposed Waikapū Country Town development.  
23 The Ka Pa'akai Cultural Analysis addresses specific mitigation  
24 measures to ensure that there are minimal to no adverse effects

1 on any of the cultural practices identified within the CIA. It  
2 is further recommended that the Land Use Commission follow up  
3 with the applicant to ensure that Native Hawaiian rights and  
4 practices are preserved and that mitigation measures are  
5 formalized prior to securing their entitlements.

6 In addition to my work on the CIA, it was also  
7 important that I review the Archaeological Inventory Survey  
8 conducted for this project. Because I have a background in both  
9 Hawaiian culture and Hawaiian archaeology, it is imperative that  
10 the work between the culture and archaeology are intimately tied  
11 together and essentially go hand in hand in relationship to an  
12 overall analysis of the scope of the proposed project. I  
13 therefore conducted a short analysis that I provided in the Ka  
14 Pa'akai Report based on my review of the AIS completed by  
15 Archaeological Surveys of Hawai'i in 2013. A short summary can  
16 be found below.

17 An archaeological inventory survey (AIS) was  
18 conducted for the proposed Waikapū Country Town development by  
19 Archaeological Services Hawai'i LLC. Of the 1,576 acres of land  
20 in which the developer consists of, the planned development will  
21 have a footprint of about 500 acres of the total land base of  
22 1,576 acres. The project area extends all the way to the  
23 southern edge of the Waikapū Stream, however the development  
24 will remain at least 100 ft. from the stream, such that the

1 former cane access road which parallels the stream, as well as  
2 the steep to moderate slopes down to the stream's edge will not  
3 be encroached upon by development. This 100 ft. buffer zone  
4 was mandated in 1992 by the State Land Use District Boundary  
5 Review for Maui, Molokai, Lanai, Honolulu where a 100-ft  
6 corridor on both sides of Waikapū Stream was placed into a  
7 Conservation District (Office of State Planning: 31).

8           Developing a cultural reserve or corridor is one such  
9 mitigation measure that has been proposed in the latter part of  
10 this study as a way to ensure protection of these cultural sites  
11 in perpetuity. The AIS scope of work consisted of dividing the  
12 project area into five zones based primarily on the current  
13 TMK's (ASH 2013). From mauka to makai the zones are as  
14 follows: Parcel 3 Mauka, constitutes the mauka section of TMK  
15 3-6-004:003; Parcel 3 Waena is the middle and remaining section  
16 of TMK 3-6- 004:003; Parcel 5 is TMK 3-6-004:006; Parcel 7 is  
17 the current Maui Tropical Plantation landholdings 3-6- 004:007  
18 and Parcel 3 Makai is within TMK 3-6-002:003. The  
19 investigation was conducted to determine presence/absence,  
20 extent, and significance of historic properties within the  
21 proposed development area and to formulate future mitigation  
22 measures for these remains and the project area.

23           Due to the extensive grading and tilling activities  
24 associated with Waikapū and Wailuku Sugarcane Company

1 cultivation and the construction of the Maui Tropical Plantation  
2 commercial buildings and agro-tourism facilities, no surface  
3 structural remains associated with the pre-Contact and post  
4 Contact periods were evident; however features associated with  
5 sugarcane cultivation was frequently found. Remnant  
6 subsurface historic properties such as rock alignments, buried  
7 cultural deposits, pits and human burials were not found in the  
8 over 150 trenches that were dug. The likelihood of  
9 encountering subsurface features throughout the actual  
10 development, was dependent upon the depth of the sugarcane till  
11 zone. A majority of the project area has undergone compounded  
12 surficial disturbances from commercial and small scale  
13 agricultural and animal husbandry pursuits providing little  
14 evidence of surface historic properties. This area was  
15 however intensively settled from the pre-contact period  
16 through the historic era as evidenced by the numerous kuleana  
17 land records via Land Commission Awards (LCAs), several large  
18 Government Grant lots, coupled with archival research and  
19 prior archaeological studies around the project area. Due to  
20 these alterations across the project area, the AIS procedures  
21 consisted of a pedestrian survey and subsurface investigations  
22 through mechanical excavations.

23           There were numerous features and historic properties  
24 found, most of which were associated with the plantation era,

1 such as the Waihe'e Ditch (circa 1907) and a plantation ditch  
2 deriving from Reservoir #1. In addition, a traditional 'auwai  
3 which continues to flow and feed kuleana lands and lo'i kalo  
4 adjacent to the planned development exists. Lastly, there was  
5 an L-shaped retaining wall adjacent to the 'auwai that was  
6 likely part of a lo'i kalo complex.

7           Because of the numerous amount of former LCA's and  
8 Grants, as well as historic properties found within the  
9 proposed project area, the AIS recommended there be  
10 archaeological monitoring of Parcel 3 Mauka and Waena.

11           Furthermore, the conducting of spot monitoring  
12 inspections of other localities not expressed in above analysis  
13 was recommended. Parcels 6 and 7 contain numerous LCA's and  
14 Grants; thus monitoring should initially be full time until  
15 the nature of the subsurface conditions in relationship to the  
16 proposed ground-altering activities is determined. Similarly  
17 for Parcel 3 Makai, monitoring should initially be full-time  
18 with the primary focus along the eastern and western perimeters,  
19 which are close to Wai'ale and East Waikō Roads, areas known  
20 and documented in Government Grant 2747 to Eugene Bal which  
21 contain sand dune burials. Prior to the commencement of  
22 construction, an Archaeological Monitoring Plan (AMP) detailing  
23 the localities to undergo monitoring procedures will be  
24 prepared and submitted to SHPD for review and approval.

1 I have come to the conclusion that the proposed  
2 Waikapū Country Town is within an existing community rich with  
3 cultural and natural resources as well as ongoing Native  
4 Hawaiian traditional practices. An understanding of how these  
5 traditional practices, as well as access to land and  
6 resources, will to continue to thrive (as opposed to just  
7 surviving) into the future as it relates to this project is  
8 going to be essential and will require mitigation measures,  
9 strategies and engagement from both community stakeholders,  
10 kuleana land owners and developers. While many of the above  
11 issues have begun to be addressed, my recommendation to the  
12 Land Use Commission is to ensure that the developer follows  
13 through on all proposed findings, facts and recommendations.

14 Mahalo nui for allowing me the opportunity to address this  
15 commission through the work that I have completed for the  
16 proposed Waikapū Country Town development.

17 DATED: Wailuku, Hawaii, October 31, 2017.

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HOKIAO PELLEGRINO