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Attorneys for Petitioners

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition)	DOCKET NO. A15-798
of:)	
)	DIRECT TESTIMONY OF HÖKŪAO
WAIKAPŪ PROPERTIES, LLC; MTP)	PELLEGRINO
LAND PARTNERS, LLC; WILLIAM S.)	
FILIOS, Trustee of the William)	
S. Filios Separate Property)	
Trust dated APRIL 3, 2000; and)	
WAIALE 905 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).)	

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1 DIRECT TESTIMONY OF HŌKŪAO PELLEGRINO

2 Aloha, 'o Hōkūao Pellegrino ko'u inoa. Ua hānau 'ia a
3 hānai au ma ka mokupuni 'o Maui i ka moku 'o Nā Wai 'Ehā i ka
4 makahiki 'umi kumamāiwa kanahiku kumamāiwa. He kupa a mahi'ai
5 kalo nō ho'i au ma 'ili 'o Noho'ana ma ka 'āina o ka makani
6 kokololio, 'o ia ho'i o ke ahupua'a 'o Waikapū. I laila nō i
7 noho pa'a ai māua 'o ka'u wahine 'o Alana Ka'ōpūiki a ke hānai
8 'ia nei ka'u mau keiki.

9 No ke ahupua'a 'o Wailuku lāua 'o Waikapū mai ko'u mau
10 kūpuna Hawai'i ma ka 'ao'ao o ko'u makuahine. He konohiki ma
11 ka 'ili 'āina 'o Pōhakuokauhi ma ke ahupua'a o Wailuku ku'u
12 kupuna kāne kuahā kapa 'ia 'o Nā'ili'ili i ka wā o ka Māhele
13 Nui 'o ia ho'i 'o ka makahiki 'umi kumamāwalu kanalima. Ua hai
14 'ia kekahi kūpuna kāne o'u e ke Aupuni Hawai'i i ana mai ai i nā
15 kuleana 'āina a pau ma Nā Wai 'Ehā nei i ka wā o ka Māhele
16 Nui. 'O Edward Bailey kona inoa.

17 Ma waho o kēia mau pilina nui o ku'u mo'okū'auhau, ua
18 noi'i nui au no iwakālua makahiki a 'oi i kēia wahi kaulana 'o
19 Nā Wai 'Ehā i ka holo'oko'a. No ko'u noi'i 'ana, 'o ia ho'i nā
20 mo'olelo kahiko, ka ho'ohana 'āina 'ana mai ka wā o ka Māhele
21 Nui a hiki i kēia manawa 'ānō, nā nūpepa 'Ōlelo Hawai'i, nā
22 palapala Māhele a me nā palapala 'āina, ka hi'onaina 'ōiwi,
23 nā palapala hulikoehana, nā ki'i kahiko, nā koehana, nā
24 kumuwaiwai mo'omehau a kūlohelohē, ka wā o ka mahikō, ka

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 20th
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