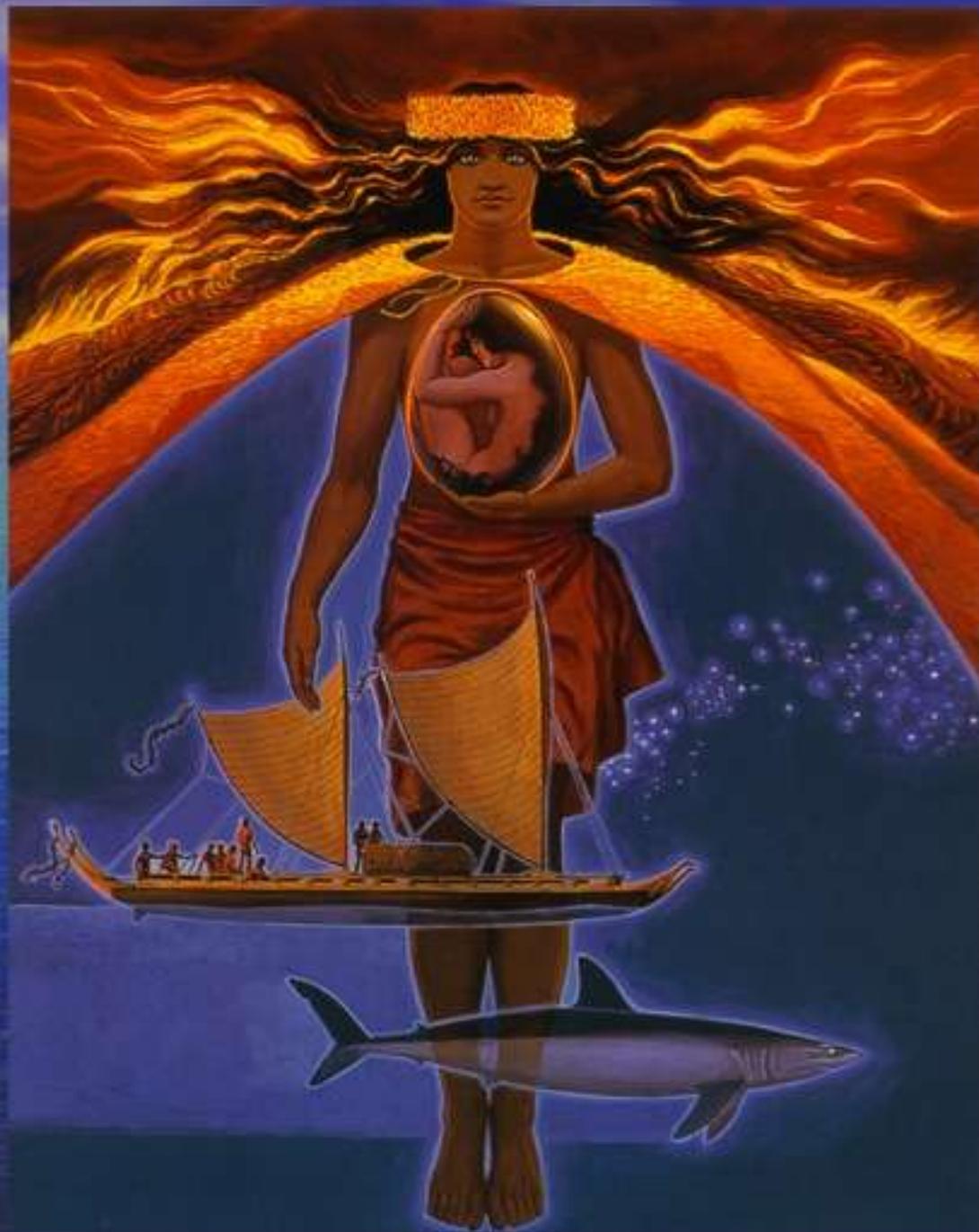
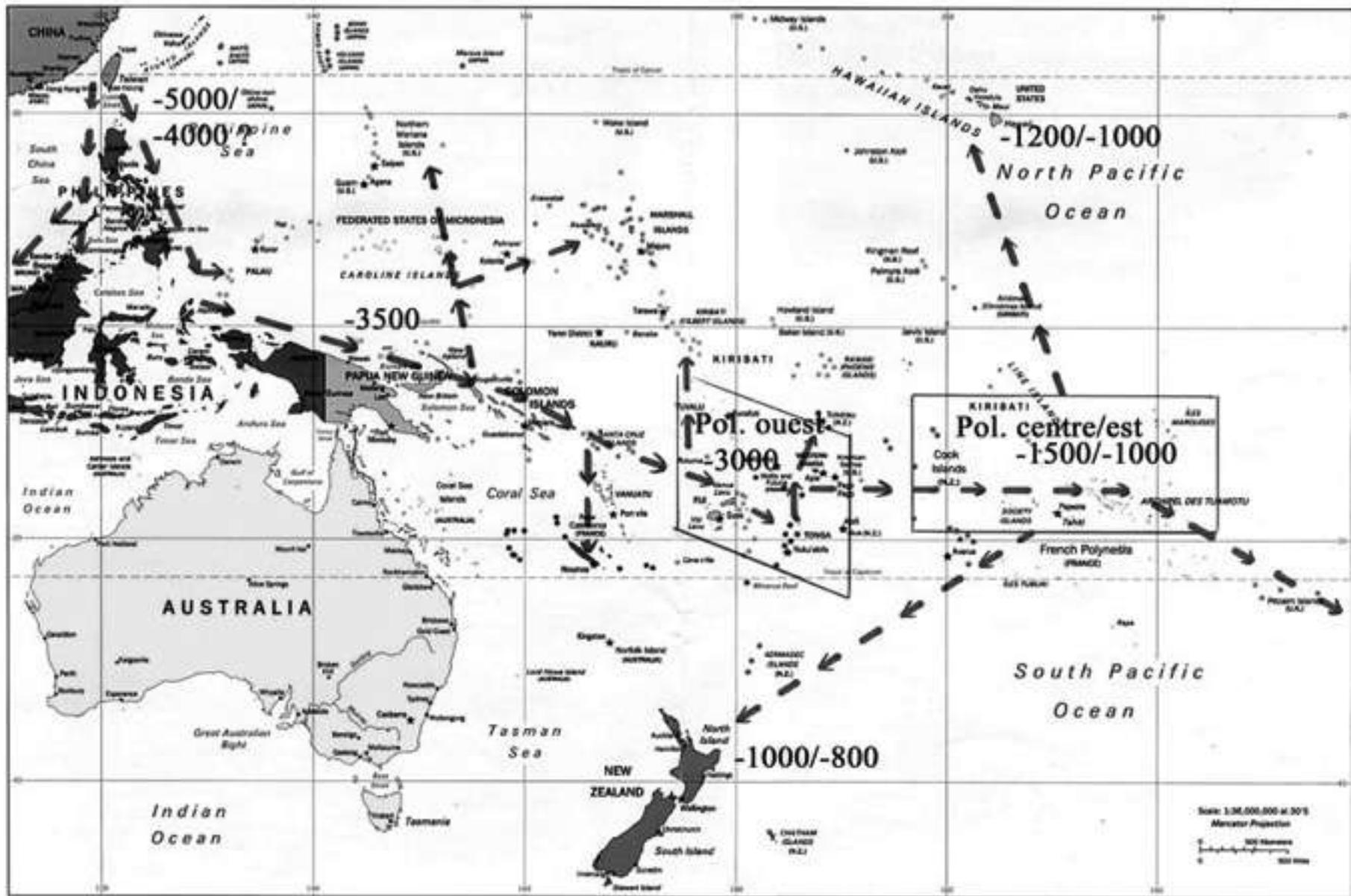




Na Wai Te Moana Nui a Kiva?







Ke Alanui Polohiwa a Kāne

Ke Kai Popolohua a Kane

Ke Ala i Kahiki

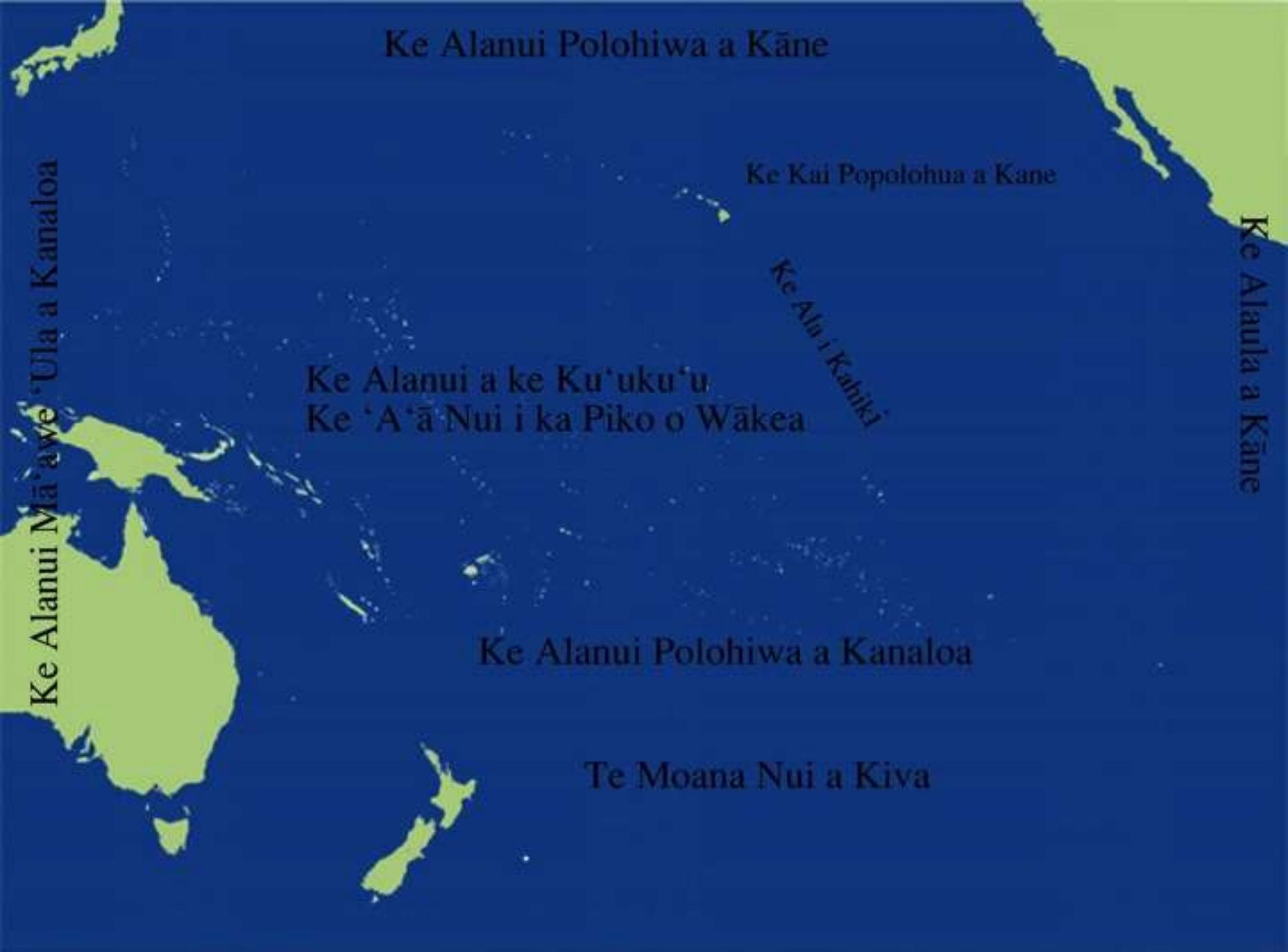
Ke Alanui a ke Ku'uku'u
Ke 'A'ā Nui i ka Piko o Wākea

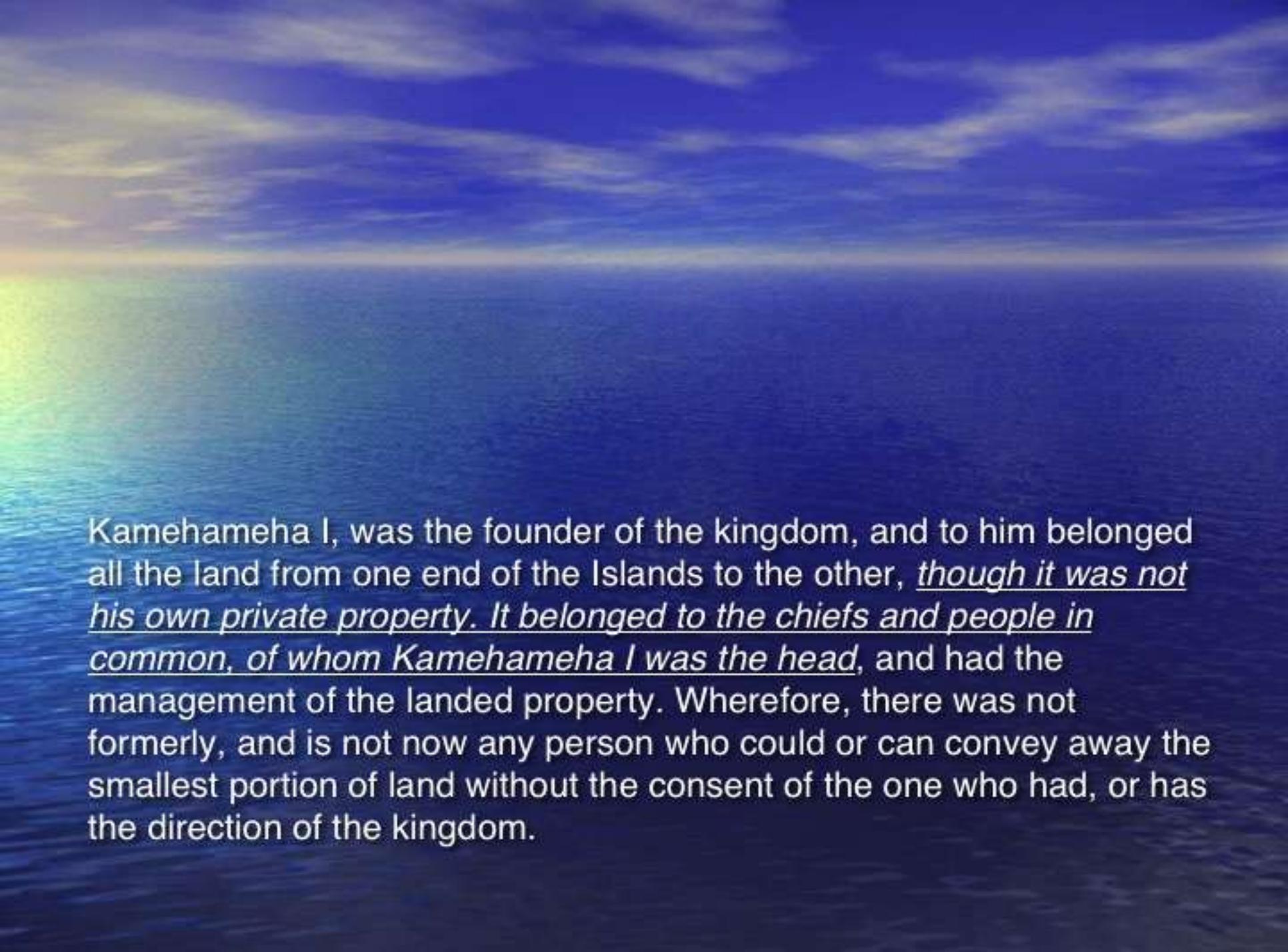
Ke Alanui Polohiwa a Kanaloa

Te Moana Nui a Kiva

Ke Alanui Mā'awe 'Ula a Kanaloa

Ke Alaula a Kāne





Kamehameha I, was the founder of the kingdom, and to him belonged all the land from one end of the Islands to the other, though it was not his own private property. It belonged to the chiefs and people in common, of whom Kamehameha I was the head, and had the management of the landed property. Wherefore, there was not formerly, and is not now any person who could or can convey away the smallest portion of land without the consent of the one who had, or has the direction of the kingdom.

His Majesty the King hereby takes the fishing grounds from those who now possess them from Hawaii to Kauai, and gives one portion of them to the common people, another portion to the landlords, and a portion he reserves to himself.

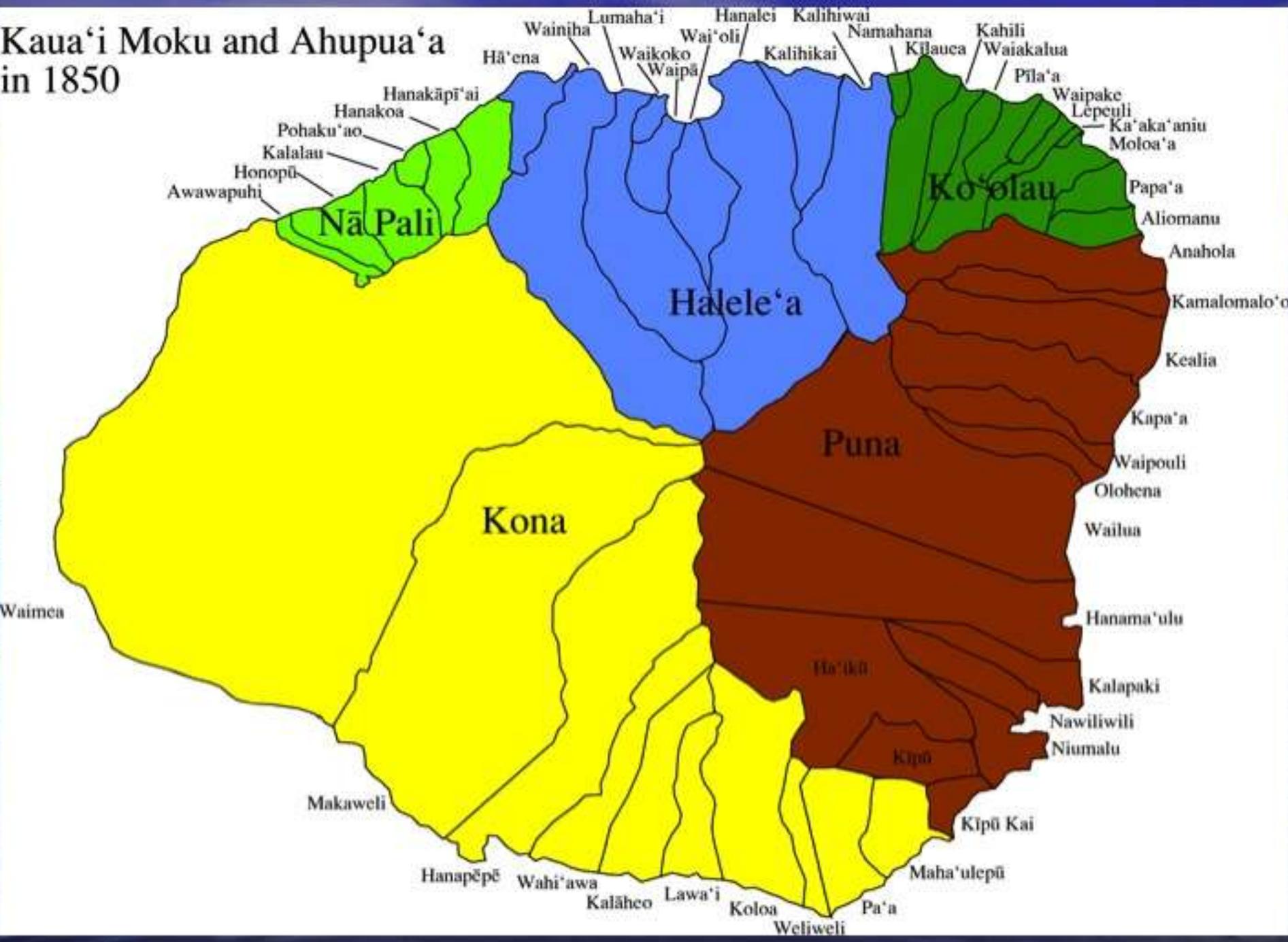
These are the fishing grounds which His Majesty the King takes and gives to the people: The fishing grounds without the coral reef, viz: the Kilohee grounds, the Luhee ground, the Malolo ground, together with the ocean beyond.

But the fishing grounds from the coral reef to the sea beach are for the landlords and for the tenants of their several lands, but not for others.¹



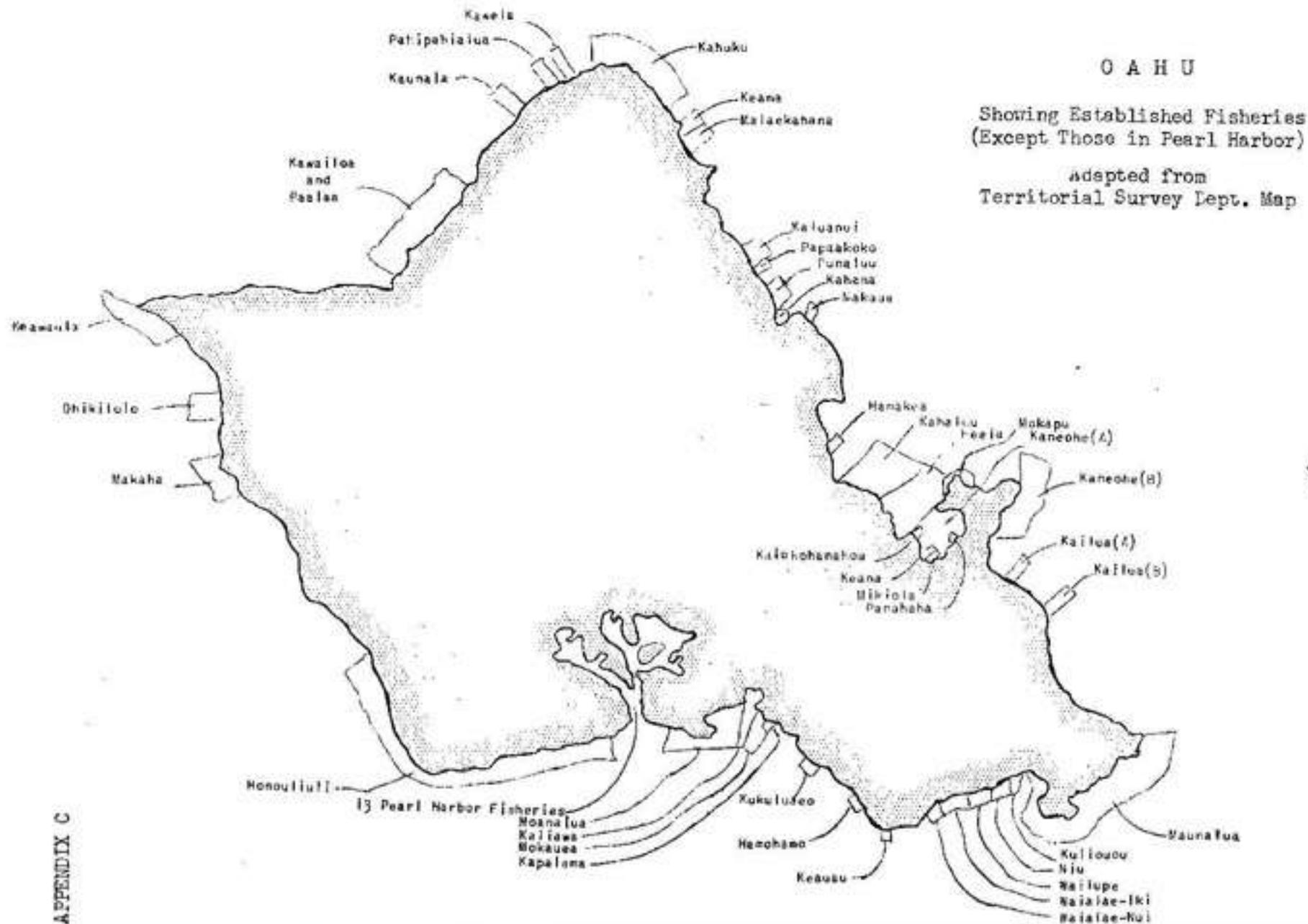
‘Āina

Kaua'i Moku and Ahupua'a in 1850





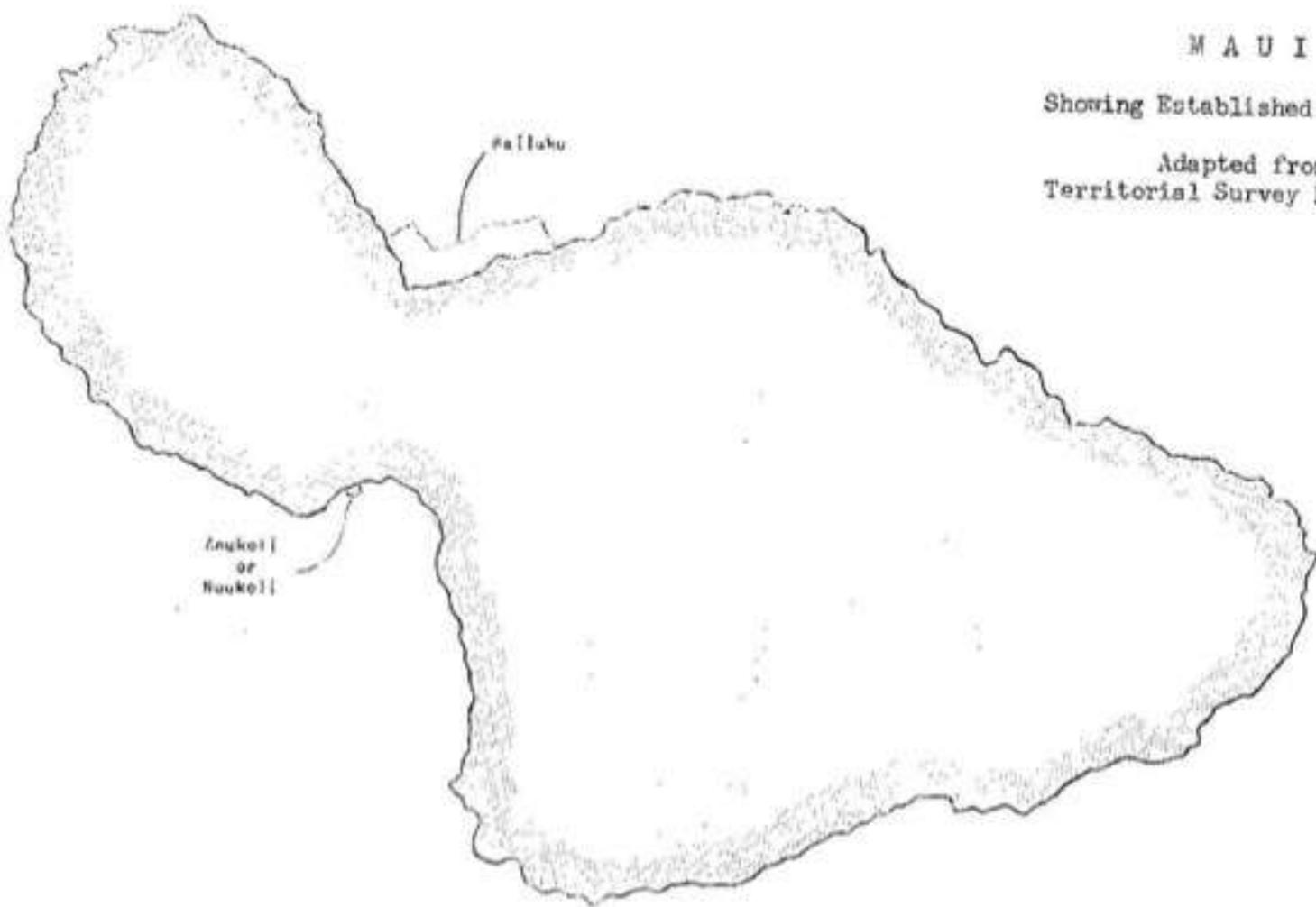
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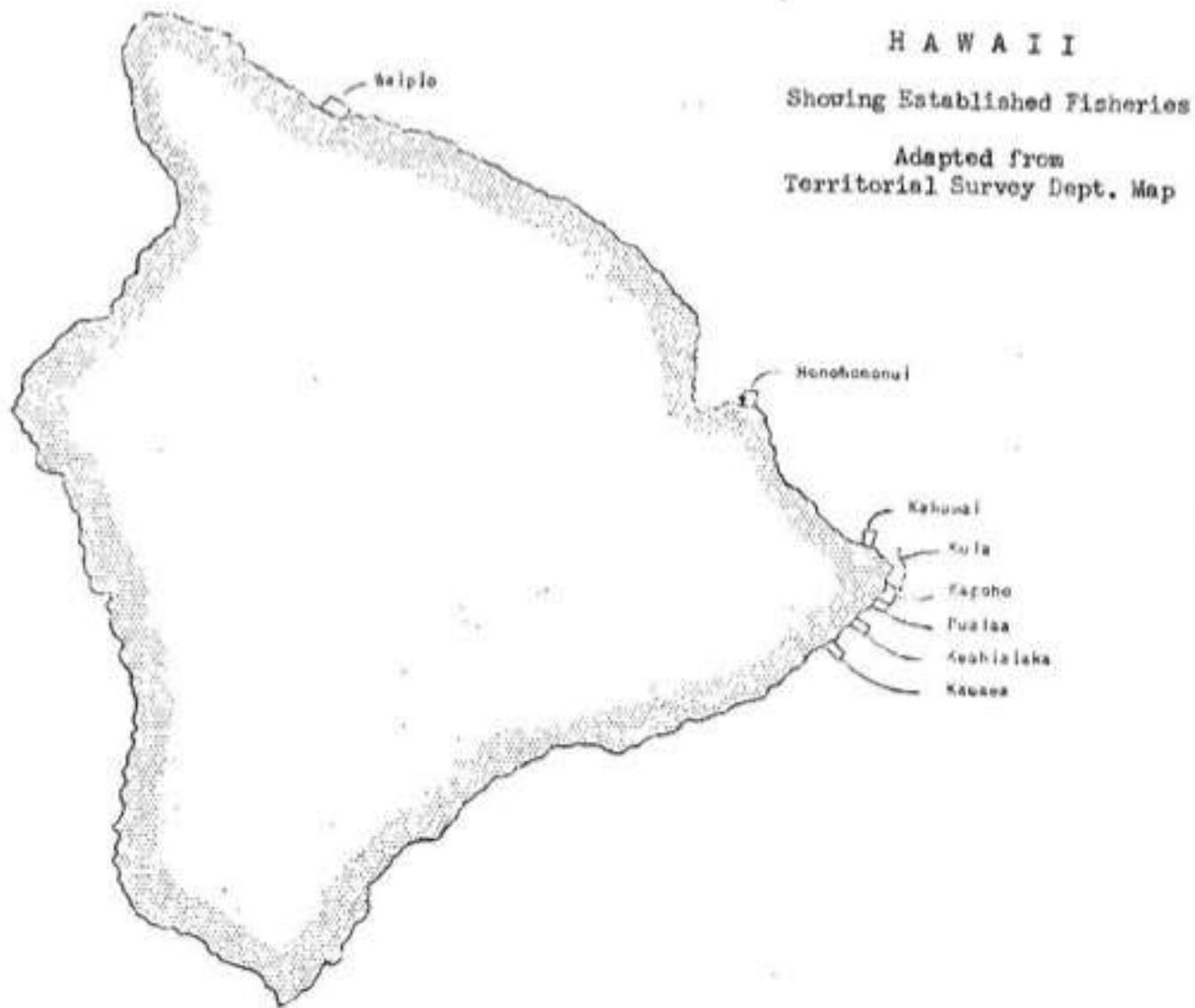


M A U I

Showing Established Fisheries

Adapted from
Territorial Survey Dept. Map

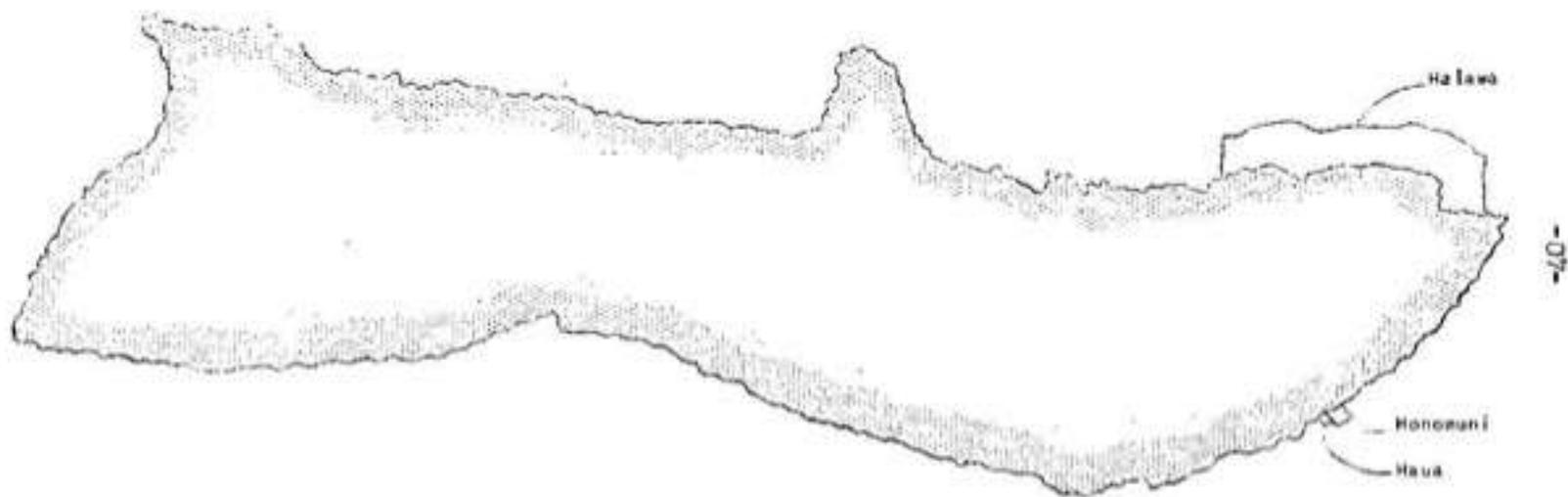




M O L O K A I

Showing Established Fisheries

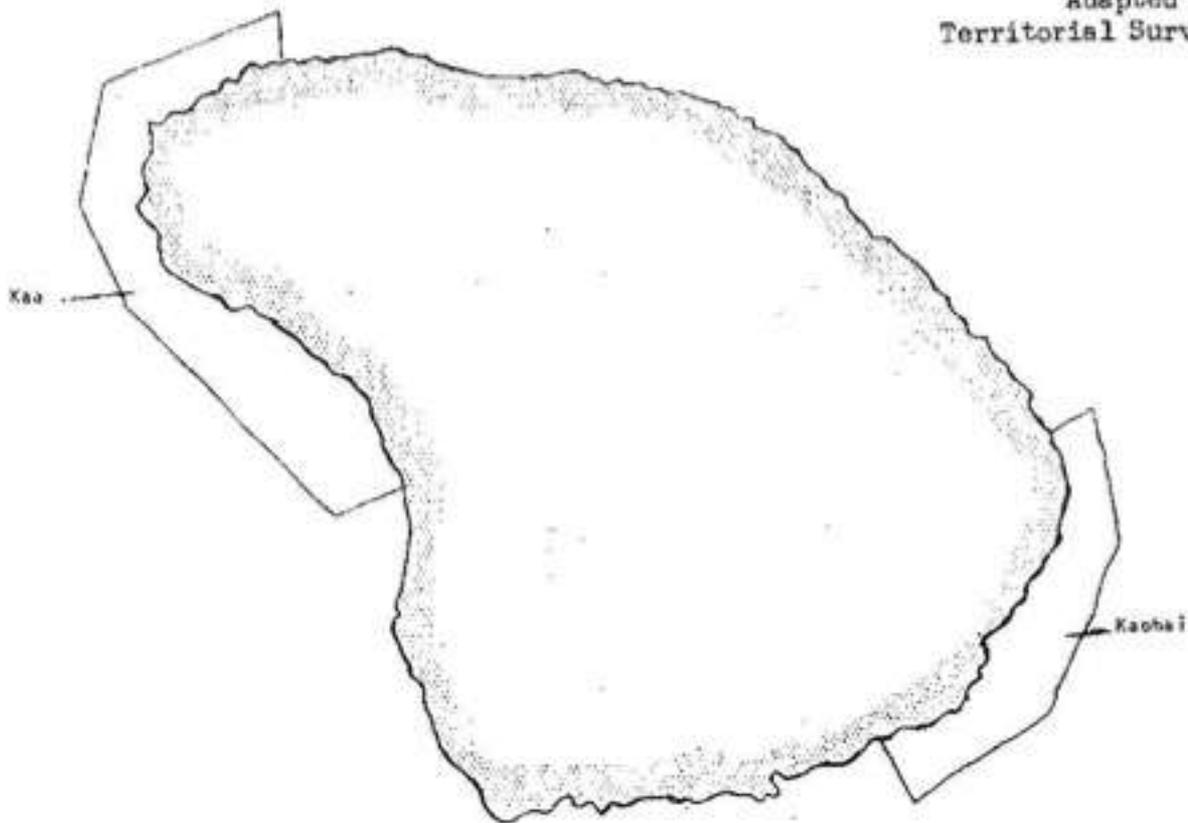
Adapted from
Territorial Survey Dept. Map



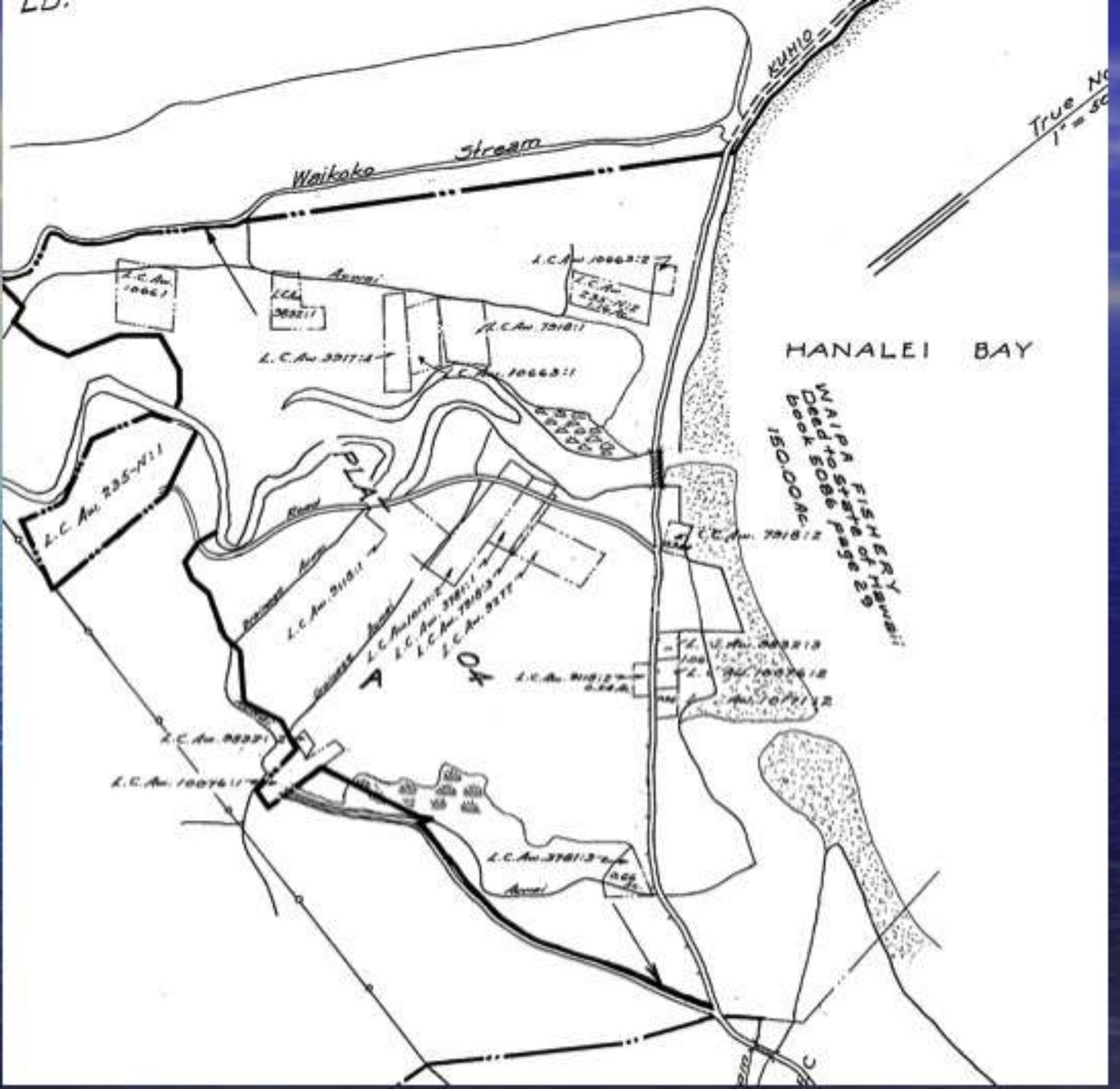
L A N A I

Showing Established Fisheries

Adapted from
Territorial Survey Dept. Map



LD.



CIVIL CODE OF 1859 AND REVISED LAWS OF 1945
IN RE KONOHIKI FISHING RIGHTS

For the purpose of comparison, the currently effective sections pertaining to konohiki fishing as found in the Revised Laws of Hawaii, 1945 are set forth in the right column alongside the original sections of the Civil Code of 1859.

Civil Code of 1859

Revised Laws of Hawaii, 1945

Section 387. The fishing grounds from the reefs, and where there happen to be no reefs, from the distance of one geographical mile seaward to the beach at low water mark, shall, in law, be considered the private property of the konohikis, whose lands, by ancient regulation, belong to the same; in the possession of which private fisheries, the said konohikis shall not be molested, except to the extent of the reservations and prohibitions hereinafter set forth.

Section 388. The konohikis shall be considered in law to hold said private fisheries for the equal use of themselves, and of the tenants on their respective lands; and the tenants shall be at liberty to use the fisheries of their konohikis, subject to the restrictions imposed by law.

Section 389. The konohiki shall have power each year, to set apart for themselves one given species or variety of fish natural to their respective fisheries, giving public notice, by viva voce proclamation, and by at least three written or printed notices posted in conspicuous places on the land, to their tenants and others residing on their lands, signifying the kind and description of fish which they have chosen to be set apart for themselves.

Sec. 1204. Konohiki rights. The fishing grounds from the reefs and where there happen to be no reefs, from the distance of one geographical mile seaward to the beach at low water mark, shall, in law, be considered the private property of the konohikis, whose lands, by ancient regulation, belong to the same; in the possession of which private fisheries, the konohikis shall not be molested, except to the extent of the reservations and prohibitions hereafter in this chapter set forth.

Sec. 1205. Tenants' rights. The konohikis shall be considered in law to hold the private fisheries for the equal use of themselves and of the tenants on their respective lands, and the tenants shall be at liberty to take from such fisheries, either for their own use, or for sale or exportation, but subject to the restrictions imposed by law, all fish, seaweed, shellfish and other edible products of such fisheries.

Sec. 1206. Konohiki's notice of tabu fish. A konohiki shall have the power each year to set apart for himself one given species or variety of fish natural to his fishery, giving public notice, by at least three written or printed notices posted in conspicuous places on the land or the fishery, to his tenants and others residing on his land, signifying, by name, the kind of fish which he has chosen to be set apart for himself. Notice shall be substantially in the following form:

NOTICE:

Fishing for (name of fish) in this private fishery is hereby tabued for the year

 Owner or Lessee.

Civil Code of 1859

Section 394. If that species of fish which has been taboed by any konohiki, shall go on to the grounds which have been, or may be, given to the people, such fish shall not be taboed thereon. It shall be taboed only when caught within the bounds of the konohiki's private fishery. Nor shall it be lawful for a konohiki to taboo more than one kind of fish upon any fishing grounds which lie adjacent to each other.

Section 395. Every konohiki or other person who shall wilfully deprive another of any of his legal rights to fish on any fishing ground, which now is, or may become, free to the use of the people, or who shall wilfully exact from another any portion of the fish caught on any public fishing ground, or who shall wilfully exact of another, for the use of any private fishery, a greater amount of fish than by law he is entitled to receive as his share, and any tenant or other person who shall wilfully deprive any konohiki of his fishing rights, by appropriating to himself the taboed fish of said konohiki, or otherwise, shall be punished by a fine not exceeding one hundred dollars for every such offense, in the discretion of the Court, and in default of the payment of such fine, be imprisoned at hard labor not exceeding three months.

Revised Laws of Hawaii, 1945

Sec. 1210. Tabu fish free, where. If that species of fish which has been tabued by any konohiki shall go on to the grounds which have been, or may be, given to the people, such fish shall not be tabued thereon. It shall be tabued only when caught within the bounds of the konohiki's private fishery. Nor shall it be lawful for a konohiki to tabu more than one kind of fish upon fishing grounds which lie adjacent to each other.

(Sec. 1213.) Violation of rights; penalty. Any person who shall catch and appropriate to himself any fish which the owner or lessee of a vested fishing right has set apart for himself under and by virtue of the vested fishing right or to which the owner or lessee is otherwise entitled by law; or who shall aid or abet such catching and appropriating by others, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding one hundred dollars for each offense.

1. Certain areas of the sea, from the reefs and, where there happen to be no reefs, from the distance of one geographical mile seaward to the beach at low watermark, are the private fisheries of the konohikis.

2. Within these private ocean fisheries, fishing is restricted to the konohikis and the hosainas or tenants of the lands (ahupuaas) to which the fisheries were originally attached.

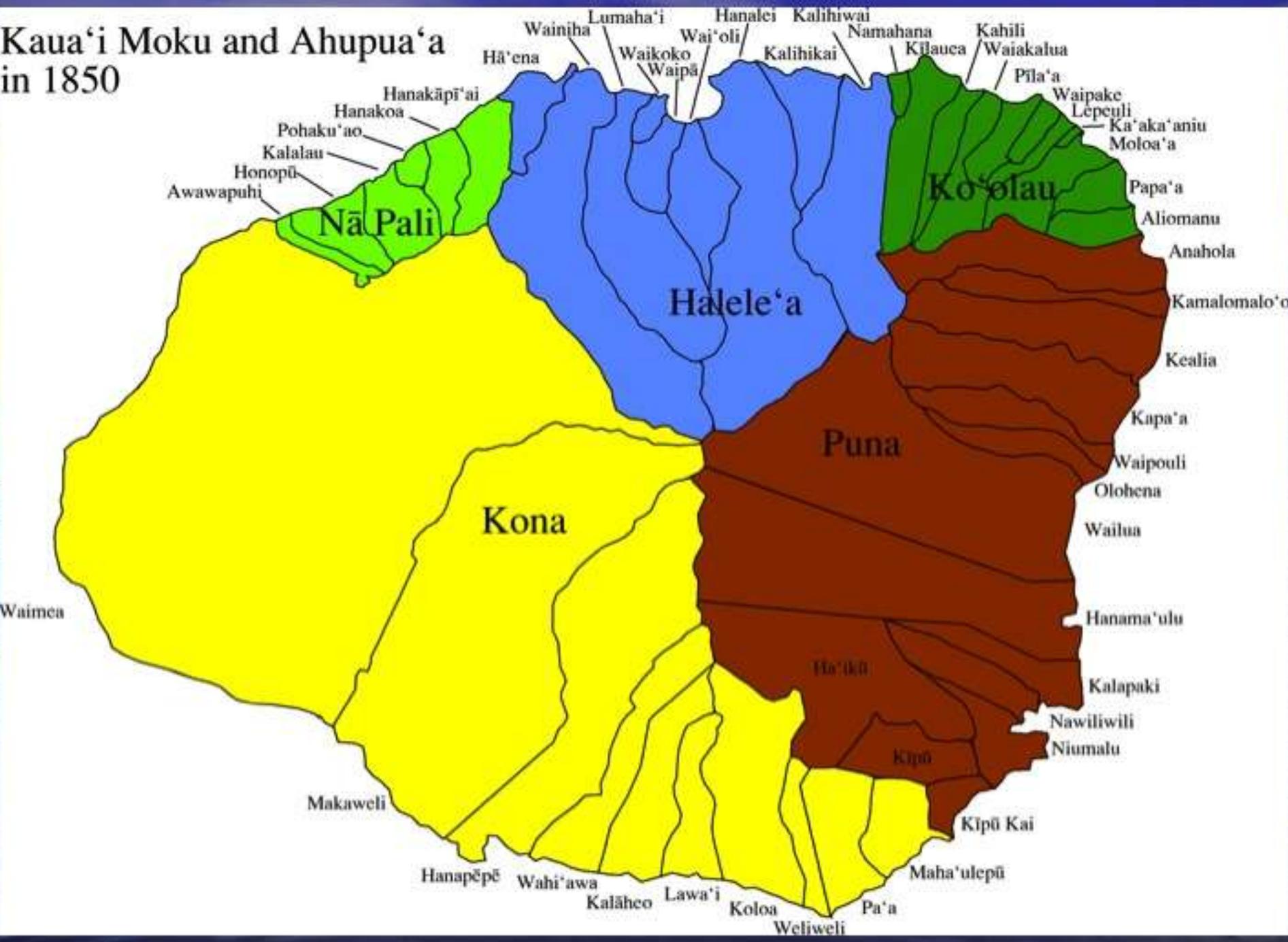
3. The konohikis can regulate the fishing within the fisheries by one of the following two methods:

(a) By setting aside or placing a tabu on one specific type of fish for their exclusive use; or

(b) After consultation with tenants, by prohibiting fishing during certain months of the year and, during the fishing season, to exact from each tenant one-third part of all the fishes caught in the fishery.

There are approximately 80 registered and therefore legally recognized konohiki fisheries in existence today. However, it should be noted that many of the owners currently seem to exercise no konohiki rights over their fisheries.

Kaua'i Moku and Ahupua'a in 1850





Sust 'Āina ble