

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

December 8, 2017

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No.: 98KD-116

KAUAI

Approve and Delegate to Chairperson Authority to Execute Settlement Agreement with Hawaiian Telcom, Inc. Relating to Use of Communications Tower Site on Kaua'i Under Board Action February 11, 1983, Item F-11; Delegate Authority to Chairperson to Administer the Settlement Agreement, Including to Issue Final Approval of Work Under the Agreement; Terminate Occupancy Under Board's Prior Action February 11, 1983, Item F-11, *Direct Lease Public Utility Purposes*; Approve Issuance of Immediate Construction Right-of-Entry to Hawaiian Telcom, Inc.; Summit Camp, Waialua, Kawaihau, Kaua'i; Tax Map Key: (4) 4-2-001:002 por.

APPLICANT:

Hawaiian Telcom, Inc., a Hawaii corporation ("HTI")

LEGAL REFERENCE:

Sections 171-6, -7, and -55 Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government (Crown) Land at Wailua, Kawaihau, Kaua'i, Hawaii, identified by Tax Map Key: (4) 4-2-001:002 por. as shown on the attached map labeled Exhibit A.

AREA:

1,485 sq. ft., more or less

ZONING:

State Land Use Commission: Conservation District  
County of Kaua'i: Protective

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act  
DHHL 30 entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Public utility, radio station site purpose.

TERM OF UNEXECUTED LEASE:

Based on the direct lease approval,<sup>1</sup> term of sixty-five (65) years, commencing January 1, 1984, through December 31, 2049.

ANNUAL RENTAL UNDER UNEXECUTED LEASE:

\$11,500, from January 1, 1994 to December 31, 2003

RIGHT-OF-ENTRY CHARACTER OF USE:

For purposes of: (a) decommissioning, deconstructing and removing the communications tower and all other improvements from the premises and restoring the premises to a condition that is in good order and repair and blends with surrounding landscape and environment; (b) providing suitable ground cover planting to prevent future erosion, which shall be approved by the Division of Forestry and Wildlife; (c) conducting a Phase I and any subsequent assessments and/or a complete abatement and disposal, if appropriate or necessary, in accordance with the standards set forth by the Federal Environmental Protection Agency, the Department of Health, and the Department of Land and Natural Resources, including, but not limited to, 40 C.F.R. 312.1 *et seq.*

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<sup>1</sup> Due to a historical oversight, a lease agreement was never finalized and parties operated under the terms set out in submittal Item F-11, approved by the Board on February 11, 1983. Staff mailed a proposed lease for the site to HTI on March 23, 2017. However, HTI declined to execute the lease, opting instead to surrender the premises as discussed below.

TERM OF RIGHT-OF-ENTRY:

Effective immediately and terminating automatically on the date of final approval, as set forth in Paragraph II.6 of the Settlement Agreement.

CONSIDERATION FOR RIGHT-OF-ENTRY:

Gratis.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (“HAR”) Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources (“Department”) approved by the Environmental Council and dated June 5, 2015, the request for a construction right-of-entry permit and all work to be performed pursuant to the Settlement Agreement are exempt from the preparation of an environmental assessment pursuant to:

**Exemption Class No. 1:** “Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing,” and its **Item 51:** “Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing.”

**Exemption Class No. 4:** “Minor alteration in the conditions of land, water, or vegetation,” and its **Item 12:** “Establish temporary or permanent vegetative cover including trees, shrubs, grasses, and sod for landscaping, reforestation, soil stabilization, watershed protection, native wildlife habitat, native ecosystem restoration, and rare plant preservation; provided, however, that this exemption shall not apply to vegetation that is likely to be invasive or for tree plantings for which harvesting is planned or is reasonably foreseeable.”

**Exemption Class No. 8:** “Demolition of structures, except those structures located on any historic site as designated in the National Register or Hawaii Register as provided for in the National Historic Preservation Act of 1966, Public Law 89-665, or Chapter 6E, Hawaii Revised Statutes,” and its **Item 2:** “Demolition and removal of existing structures, facilities, utilities, and other improvements on state lands, except those structures located on any historic site as designated in the National Register or Hawaii Register as provided for in the National Historic Preservation Act of 1966, 16 U.S.C §§470 et. seq., as amended, or Haw. Rev. Stat. Chapter 6E.”

These exemptions are summarized in the Exemption Notification, attached hereto as Exhibit B, and incorporated herein.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>x</u>	NO <u>  </u>
Registered business name confirmed:	YES <u>x</u>	NO <u>  </u>
Good standing confirmed:	YES <u>x</u>	NO <u>  </u>

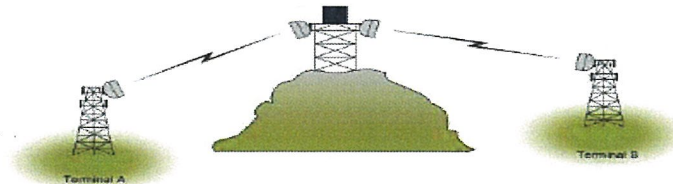
BACKGROUND:

In 1982, there was only one existing aerial cable system that provided telephone service to Hanalei, Kilauea, and Princeville. To address the impending growth of these areas and customers' increasing needs, particularly in the then new Princeville condominium development, Hawaiian Telephone Company<sup>2</sup>, HTI's predecessor in interest, proposed to construct a microwave repeater tower<sup>3</sup> in the Lihue-Koloa Forest Reserve in Wailua, Kawaihau, Kaua'i ("Summit Camp"). At its meeting of July 9, 1982, under agenda Item H-7, the Board of Land and Natural Resources ("Board") approved Conservation District Use Application, KA-1/21/82-1426, to Hawaiian Telephone Company for the subdivision and establishment of a radio station site at Summit Camp together with permission to land helicopters for construction and on-going maintenance of the facility<sup>4</sup>. See Exhibit C.

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<sup>2</sup>Effective December 29, 1987, Hawaiian Telephone Company changed its name to GTE Hawaiian Telephone Company Incorporated and, effective July 5, 2000, further changed its name to Verizon Hawaii Inc., and, further still, effective May 2, 2005, changed its name to Hawaiian Telcom, Inc., a Hawaii corporation.

<sup>3</sup>Repeater towers use microwaves to transmit telephone and television signals to other microwave towers. They are known as "line of sight" technology. These type of towers provide a relay point to allow for amplification of the signal and a "jump" to the next tower as illustrated below. Repeater towers are situated in areas so that signals can be redirected around obstructions like hills and mountains.



<sup>4</sup>Item H-7 was a resubmittal of Hawaiian Telephone Company's initial CDUA request with the added requirement of subdivision approval.



At its meeting of September 24, 1982, under Item F-11, the Board authorized a public hearing to withdraw the 1,495 sq. ft. site from the Lihue-Koloa Forest Reserve. See Exhibit D. On October 5, 1982, approval was given by the governor to hold a public hearing on the withdrawal of the site from the Lihue-Koloa Forest Reserve. See Exhibit E

At its meeting on December 17, 1982, under Item C-2, the Board approved to withdraw the site from the Lihue-Koloa Forest Reserve. See Exhibit F.

At its meeting on February 11, 1983, under agenda Item F-11, the Board approved the issuance of a direct lease for the premises to Hawaiian Telephone Company, subject to the following:

Term – 65 years, rent to be determined by independent appraisal and a rental reopening every 10 years, including the 60<sup>th</sup> year of the lease.

Use – Limited to public utility purpose as a radio station site. The standard conditions of a telecommunication lease, including the shared use of the facility by government users.

The conditions in Cдуа KA-1/21/82 - 1426.

See Exhibit G.

On February 16, 1983, the governor concurred with the approval for the direct lease. See Exhibit H. On October 31, 1983, Governor's Executive Order No. 3213 issued withdrawing the site from the Lihue-Koloa Forest Reserve. See Exhibit I.

The improvements to the Summit Camp site consist of a 30-foot high steel tower with a 10-foot wide square base. The equipment mounted on the tower includes a radio repeater, photovoltaic cell panels, storage batteries and two 8-foot diameter parabolic antennas: one facing the Princeville Switching Center and the other facing the Lihue Switching Center.

On June 5, 1996, an appraisal by John Child and Company establishing the annual lease rent for the first two 10-year periods (1/1/84 to 12/31/93 and 1/1/94 to 12/31/03), at \$1,000 and \$11,500, respectively, was accepted by GTE Hawaiian Telephone

Incorporated. A check payable to State of Hawaii was issued from HTI's predecessor, Verizon Hawaii<sup>5</sup>, for payment of lease rent owed from 1/1/84 to 12/31/03 of \$125,000, plus the balance of the appraisal cost.

On July 20, 2016, the State's appraisal by Appraisal Hawaii, Inc., setting forth the appraised value of the annual lease rent for the third and fourth 10-year periods (1/1/04 to 12/31/13 and 1/1/14 to 12/31/23) of \$32,400 was rejected by HTI. HTI then submitted its appraisal by Colliers International Valuation & Advisory Services, dated November 30, 2016, of \$11,000. Based on the market value estimates of the two vastly different appraised values, the Land Division of the Department of Land and Natural Resources ("Department") and HTI embarked upon mediation pursuant to Section 171-17, Hawaii Revised Statutes. Parties appointed Esther H.C. Price, MAI, of The Hallstrom Group, CBRE, Valuation and Advisory Services ("CBRE"), as the mutually agreed upon mediator.

## MEDIATION

Mediation was held at the CBRE office, located at 1003 Bishop Street, Suite 1800, Honolulu, Hawaii, on April 11, 2017. In attendance for HTI were John Komeiji, Esq., Chief Administrative Officer and General Counsel; Liane Nomura-Siu, Esq., Executive Director and Assistant General Counsel; Keola Siafuafu, Director, Support Services; and Julianne Hughes, Manager, Real Estate Portfolio. In attendance for the Department were Russell Tsuji, Land Division Administrator; Blue Kaanehe, Appraisal and Real Estate Specialist; and David Day, Esq., Deputy Attorney General.

At the mediation, HTI, for the first time, contended that monies owing prior to October 28, 2010, were discharged pursuant to HTI's Chapter 11 Bankruptcy proceedings in *In re Hawaiian Telcom Communications, Inc., et al.*, Case No. 08-02005, in the United States Bankruptcy Court for the District of Hawaii. Additionally, HTI stated that the site had been inactive for ten years and was slated to be decommissioned.<sup>6</sup> The mediation ended at an impasse with HTI agreeing to provide the Department a detailed report as to its discharge claim and with the Department agreeing to provide specificity on the required terms for the termination of the tenancy.

HTI submitted its report and copy of the *Order Confirming the Joint Chapter 11 Plan of Reorganization of Hawaii Telcom Communications, Inc. and its Debtor Affiliates*,

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<sup>5</sup> See FN 2.

<sup>6</sup> While sometimes repeater towers can be retrofitted to address current cellular needs, HTI's appraiser opined that the physical characteristics of the site is not well situated to meet modern cellular requirements.

effective October 28, 2010, and the Department provided HTI with the requisite conditions for the return of the subject site to the State. Parties, thereafter, began direct negotiations and reached a settlement agreement, subject to Board approval.

### SETTLEMENT AGREEMENT

In summary, the Settlement Agreement, attached as Exhibit J, requires HTI to fully remediate the property and pay the State \$120,000.00 in exchange for the release of claims relating to HTI's use of the property, including for back rent. Specifically, the Settlement Agreement requires HTI to deconstruct and remove the tower and all improvements from the property, and restore the property to good order, including the planting of suitable ground cover, at its sole cost and expense. HTI is required to conduct a Phase I environmental site assessment and any subsequent assessments satisfactory to federal standards.

Upon HTI's satisfaction of its obligations, the Settlement Agreement calls for the Chairperson to finally approve HTI's work in writing. HTI is required to pay \$120,000.00 to the State within one year of the effective date of the contract or, as conditionally set forth in the agreement, the date of the Chairperson's final approval. In exchange for all of this, the State agrees to release HTI of claims relating to HTI's use and/or occupancy of the property from January 1, 2004 to the date of the Chairperson's final approval.

The Settlement Agreement has already been signed by HTI's General Counsel, and has been reviewed and agreed as to form by the Department of the Attorney General. The Office Conservation and Coastal Lands and the Division of Forestry and Wildlife were consulted extensively and have no objections.

Land Division is of the opinion that the Settlement Agreement will satisfactorily accomplish its main objectives of fully remediating the property and providing significant compensation to the State in light of what is otherwise a situation with obvious historical and legal complexities.

### RECOMMENDATION: That the Board:

- A. Declare that, after considering the potential effects of the proposed disposition (immediate construction right-of-entry) as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment;



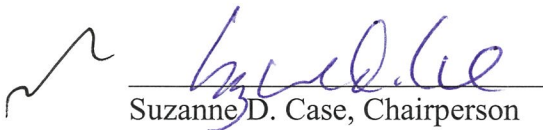
- B. Approve and delegate to the Chairperson authority to execute the Settlement Agreement substantially in the form of Exhibit J attached hereto in full;
- C. Delegate authority to the Chairperson to administer the Settlement Agreement, including the authority to issue final approval pursuant to Paragraph II.6 of the Settlement Agreement;
- D. Terminate the occupancy pursuant to the Board's prior action on February 11, 1983, under agenda Item F-11;
- E. Authorize an immediate construction right-of-entry permit<sup>7</sup> to Hawaiian Telcom, Inc. subject to the following:
  - 1. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time; and
  - 2. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Russell Y. Tsuji  
Land Division Administrator

APPROVED FOR SUBMITTAL:

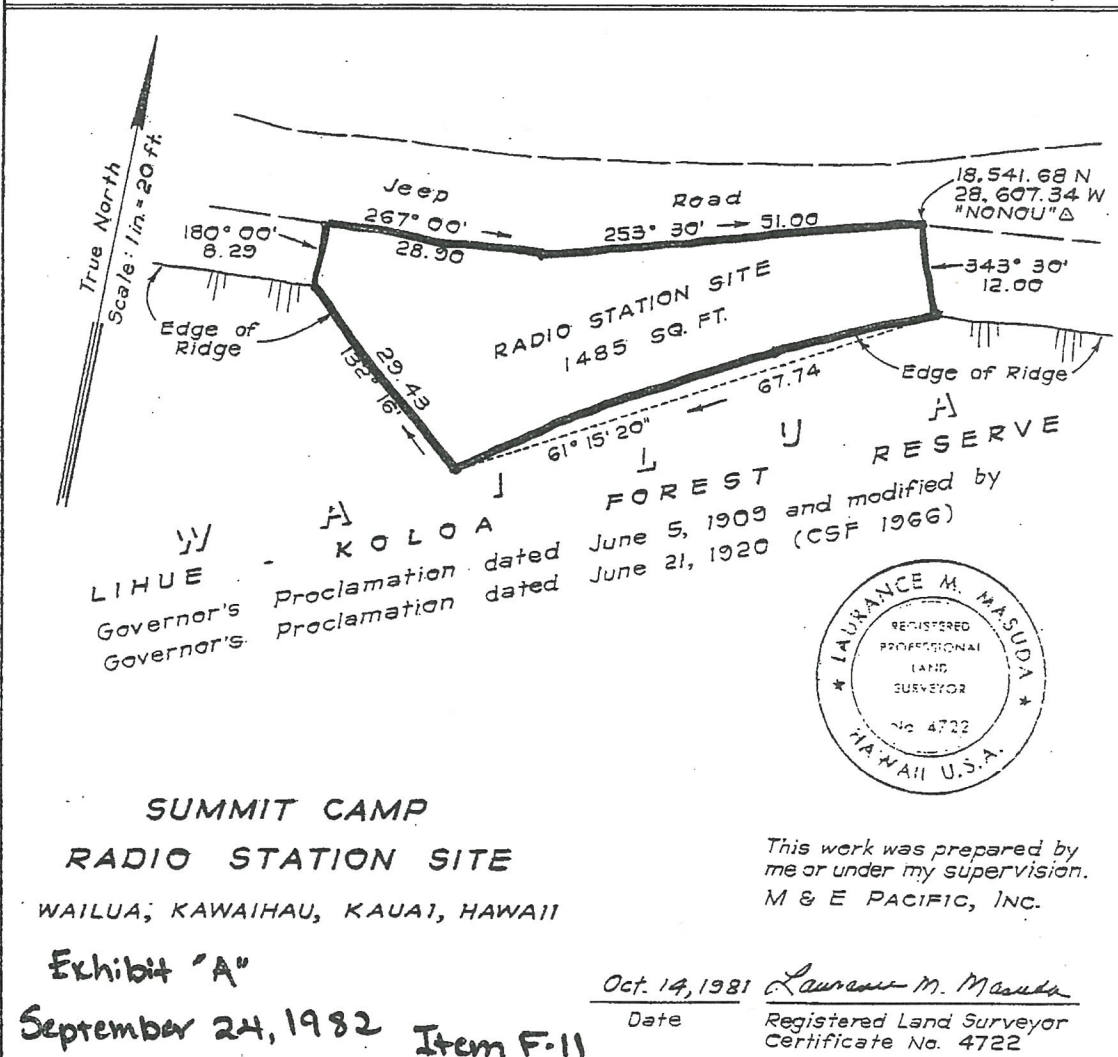
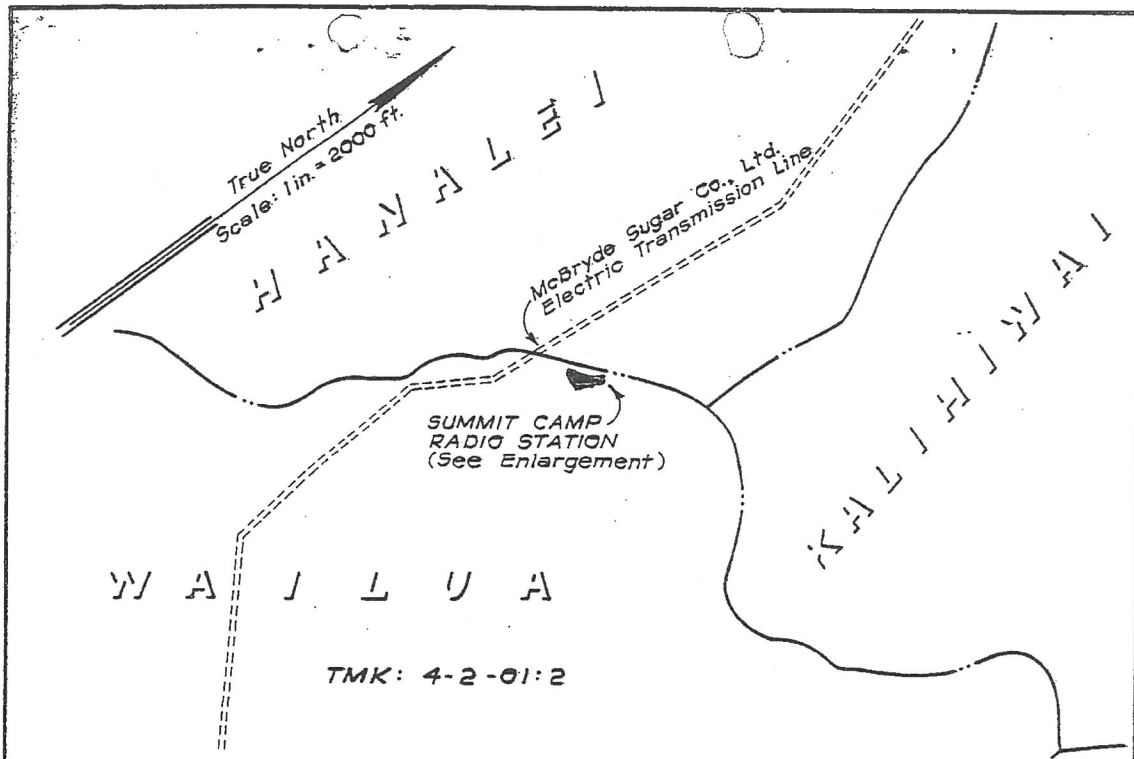


Suzanne D. Case, Chairperson

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<sup>7</sup> Because HTI has no written disposition to use the site, HTI will need a construction right-of-entry to remove the improvements and restore the site to a condition that is in good order and repair and which blends with the surrounding landscape and environment. Staff recommends that there be no separate charge to HTI for the right-of-entry.





Tax Map Key: 4-2-01:2 (por.)

Exhibit A

## EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title:	Issuance of Immediate Construction Right-of-Entry to Hawaiian Telcom, Inc.
Project / Reference No.:	PSF No. 98KD-116
Project Location;	Summit Camp, Waialua, Kawaihau, Kaua'i, Tax Map Key: (4) 4-2-001:002
Project Description:	Issuance of Immediate Construction Right-of-Entry to Hawaiian Telcom, Inc. for purposes of: (a) removing communications tower and all other improvements from the premises and restoring to original condition; (b) providing suitable ground cover planting to prevent future erosion, which shall be provided by the Division of Forestry and Wildlife; (c) conducting a Phase I and II environmental site assessment and a complete abatement and disposal, if appropriate or necessary, in accordance with the standards set forth by the Federal Environmental Protection Agency, the Department of Health, and the Department of Land and Natural Resources, including, but not limited to, 40 C.F.R. 312.21 <i>et seq.</i>
Chap. 343 Trigger(s):	Use of State Land
Exemption Class No.:	<p>In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to:</p> <p><b>Exemption Class No. 1:</b> “ Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing,” and its <b>Item 51:</b> “Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing.”</p>

Exhibit B

**Exemption Class No. 4:** “Minor alteration in the conditions of land, water, or vegetation,” and its **Item 12:** “Establish temporary or permanent vegetative cover including trees, shrubs, grasses, and sod for landscaping, reforestation, soil stabilization, watershed protection, native wildlife habitat, native ecosystem restoration, and rare plant preservation; provided, however, that this exemption shall not apply to vegetation that is likely to be invasive or for tree plantings for which harvesting is planned or is reasonably foreseeable.”

**Exemption Class No. 8:** “Demolition of structures, except those structures located on any historic site as designated in the National Register or Hawaii Register as provided for in the National Historic Preservation Act of 1966, Public Law 89-665, or Chapter 6E, Hawaii Revised Statutes,” and its **Item 2:** “Demolition and removal of existing structures, facilities, utilities, and other improvements on state lands, except those structures located on any historic site as designated in the National Register or Hawaii Register as provided for in the National Historic Preservation Act of 1966, 16 U.S.C §~470 et. seq., as amended, or Haw. Rev. Stat. Chapter 6E.”

Consulted Parties:

Office of Conservation and Coastal Lands; Division of Forestry and Wildlife

Recommendation:

That the Board find this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

GEORGE R. ARIYOSHI  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

P. O. BOX 621  
HONOLULU, HAWAII 96809

FILE NO.: KA-1/21/82-1426  
180-Day Exp. Date: 7/20/82

DIVISIONS:  
CONVEYANCES  
FISH AND GAME  
FORESTRY  
LAND MANAGEMENT  
STATE PARKS  
WATER AND LAND DEVELOPMENT

July 9, 1982

Board of Land and  
Natural Resources  
State of Hawaii  
Honolulu, Hawaii

Gentlemen:

Resubmittal of a  
Conservation District Use Application for Subdivision and  
Establishment of a Radio Station Site at Summit Camp  
with Permission to Land Helicopters for Construction  
at Wailua, Kawaihau, Kauai

APPLICANT: Hawaiian Telephone Company  
P. O. Box 2200  
Honolulu, Hawaii 96841

LANDOWNERSHIP: State-owned land, Lihue-Koloa Forest  
Reserve

LOCATION: TMK: 4-2-01: 02 (por.)

AREA OF PARCEL/USE: 7396.0 acres/1,485 square feet

SUBZONE: Resource

DESCRIPTION OF AREA:

The proposed radio station site is located in the Kawaihau District  
in the Lihue-Koloa Forest Reserve.

Access to the site is provided by an approximately 7-mile long,  
State-owned foot and jeep trail stretching from the Wailua  
Reservoir area, by an approximately 6-mile long State-owned foot  
and jeep trail from the Princeville Ranch area, or by helicopter..

Physical characteristics of the area include: 1) average rainfall  
of about 150 inches; 2) general terrain characterized as steep  
to precipitous lands of mountains and gulches; and 3) soil  
consists of layer of silty clay loam overlying indurated iron-  
stone layer which overlies clay loam and soft weathered rock  
extending to a depth of more than 70 inches.

CURRENT USE: Forest Reserve.

PROPOSED USE:

This Conservation District Use Application is a request for a  
subdivision of State-owned land for the purpose of establishing  
a radio station site at Summit Camp at Wailua, Kauai. Tele-  
communication services to Hanalei, Kilauea, the Princeville  
Resort, and surrounding areas on the north coast of Kauai are

*Approved*  
*July 9, 1982*  
ITEM H-7

Exhibit C



Board of Land and  
Natural Resources

KA-1426  
July 9, 1982

currently provided by aerial cable from Lihue. Increased development of the area, primarily in Princeville will necessitate additional circuit capacity by June 1983 to meet growth requirements. To satisfy customer requirements, Hawaiian Telephone Company is planning to establish a new digital microwave system between Princeville and Lihue. Because no direct line of sight exists between the two points, a new repeater will be needed at Summit Camp located within the Halelea Forest Reserve, where unobstructed line of sight to both Lihue and Princeville is available. The proposed Summit Camp Radio Station, serving as a transmission relay point, will alleviate anticipated circuit congestion and improve service reliability by providing route diversity between Lihue and the north coast of Kauai, preventing loss of service in the event either the cable or radio system becomes inoperative.

The proposed Summit Camp Radio Station site will require an area of approximately 1,500 square feet, on which Hawaii's first solar powered repeater will be established. The repeater will make use of a non-polluting natural energy resource and therefore require no commercial power. The site will be improved with a 30-foot high steel tower with a base 10-feet wide. All necessary equipment, including two 8-foot diameter antennas, radio repeater, storage batteries, and photovoltaic cell panels will be painted with non-reflective paint to blend with the surrounding area and diminish visibility.

The importance of establishing the proposed Summit Camp Radio Station is summarized as follows:

1. Increases available circuit capacity between Lihue and the north coast of Kauai, to alleviate forecasted congestion.
2. Improves service reliability by providing diverse routing (by cable and by radio) between Lihue and the north coast of Kauai, essential in maintaining uninterrupted communication services.

SUMMARY OF COMMENTS:

This application was sent to the following agencies for review and comment: the United States Department of Transportation, Federal Aviation Administration, the Federal Communication Commission; the County of Kauai Planning Department, Department of Public Works, and the Department of Water Supply; the State Department of Defense, Department of Health, Office of Environmental Quality Control, Environmental Quality Commission, the Department of Regulatory Agencies, and the Office of Hawaiian Affairs and the following Department of Land and Natural Resource Divisions: Aquatic Resources, Forestry and Wildlife, Land Management, State Parks/Historic Sites section, Water and Land Development, Natural Area Reserves System and the Division of Conservation and Resources Enforcement.

Their comments follow:

Board of Land and  
Natural Resources

KA-1426  
July 9, 1982

The Department of Transportation, Federal Aviation Administration  
comment:

Receipt is acknowledged of your letters CPO-4642: KA-1/29/82-1450 and CPO-4660: KA-1/21/82-1426 dated March 4, 1982, concerning Conservation District Use Applications for certain electronic facilities on the island of Kauai.

We have reviewed these proposals and feel that there would be no adverse impact on aeronautical activities.

The State of Hawaii, Department of Defense provides the following review and information:

I have reviewed the subject request for a radio station at Summit Camp, Kauai, by the Hawaiian Telephone Company and can see no reason to deny the application.

In line with decisions and conditions stipulated by your department in prior radio site applications and supported by this department, we recommend that if approval is granted it be done on a nonexclusive shared site basis with possible future government radio communication users. This is similar to Williwilinu on Oahu and other sites, thereby judicious and coordinated co-location in the public interest on a non-exclusive basis.

The State Department of Health comments:

Our staff has reviewed this request and do not foresee any major adverse environmental affects arising from this project.

Please be informed that we have no objections to granting the permit.

The County of Kauai Planning Department provides the following comments:

1. The property is not located within the Special Management Area of the County of Kauai and is, therefore, exempt from the SMA Rules and Regulations.
2. The property is designated "Open" on the Kauai General Plan.
3. We support the applicant's proposed utilization of earth-tone, non-reflective paint on the structure to match the surrounding area in order to mitigate any potential visual impacts.

Thank you for giving us the opportunity to comment on this matter.

Board of Land and  
Natural Resources

KA-1426  
July 9, 1982

The County Department of Water comments:

We do not have a water system in this area. We, therefore, have no comments to this Conservation District Use Application.

The County Department of Public Works have no comments to offer on the subject application.

The Department of Land and Natural Resources, Division of Aquatic Resources has no objections to the proposal.

The Division of Forestry and Wildlife provides the following comments:

Attached is a copy of our previous comments concerning establishing a radio station near the summit of the Powerline Trail. Our previous comments are still valid.

The latest proposal includes an additional request for subdividing the parcel for the installation site. If this is accomplished, we recommend that the parcel remain included within the Lihue-Koloa State Forest Reserve status for continuity of overall wildland management including regulation controls.

The Division's previous comments are:

Applicant:	Hawaiian Telephone Company
Owner:	State of Hawaii
Location:	Halelea Forest Reserve at saddle along Powerline Trail. TMK 4-2-01: 02 (1,485 sq. ft. portion of 7,396 acre parcel).
CD Subzone:	R. (Resource) County plan - Open Kauai Forestry Managment Type - General Forest Environment
Use Requested:	Erect and maintain a 30 ft. high two parabolic dish antenna solar powered radio station.
Description:	The proposed site and surrounding area is as described in the September 1981 Environmental Impact Assessment except that:  1. The proposed work is within "Resource" subzoned conservation district land, not "Protective".



Board of Land and  
Natural Resources

KA-1426  
July 9, 1982

2. The powerline trail is considered a foot and horse trail, not a jeep trail by the Kauai District Division of Forestry and Wildlife. It is opened at times by Kauai Electric for accomplishing maintenance on the powerline, but is not designated for safe travel by vehicle, nor is it maintained for that purpose by the State.
3. The northern portion of the Powerline Trail is not exclusively on state land.
4. A review of this site was not made previously by a biologist on the DLNR staff on Kauai, but the statement "... the site is not a natural habitat of the Shearwater birds" is correct.

Comments: This appears to be the most practical solution to providing additional telephone coverage to the North Shore. We support the use of helicopters for construction and maintenance purposes. If jeep trail access by vehicle is attempted, use for that purpose should be obtained from Kauai Electric. Concerning esthetics, the saddle area is usually under cloud cover, but on clear days it is visible from the Wailua homestead area. The structure should be painted to blend in with the surrounding vegetation and the operation should not include any permanent lights or beacon. A solar powered unit such as is proposed is favored for use in this remote area.

Recommendation:

Recommend approval with consideration for the comments stated above.

The Division of State Parks comments:

Recreation Interests:

There are no known recreation interests beyond wildland/hunting opportunities within the jurisdiction of the Division of Forestry and Wildlife.

The Historic Sites section comments:

Thank you for the opportunity to review the subject undertaking. A review of our records indicates that this project does not occur on historic properties that are listed on the Hawaii Register or the National Register of Historic Places, or that have been determined eligible for inclusion on the National Register of Historic Places. However, there is a high probability that previously unidentified resources



Board of Land and  
Natural Resources

KA-1426  
July 9, 1982

exist in the proposed project area. This is based on existing archaeological research data which recognizes this probability. Archaeological surveys on Kauai has shown that all portions of the island were used by the Hawaiians in prehistoric times.

Therefore, we recommend that, prior to any project activity that may have an effect on resources, a reconnaissance survey be conducted by a qualified archaeologist within the proposed area, and that the survey results be forwarded to our office for evaluation. Should the existence of significant resources be substantiated, we may provide additional recommendations to avoid, mitigate, or negate any adverse effects.

If the undertaking has any federal involvement (e.g. funding, loan guarantee, permit or license), the applicant should verify with the federal agency that the provisions of 36 CFR 800 (Advisory Council on Historic Preservation's Procedures for the Protection of Historic and Cultural Properties) are being complied with.

The Division of Land Management provides the following comment and report:

The proposed use does not affect Land Management's programs and therefore, we have no objections.

The following report is accompanied by photographs appended here as Exhibit F.

The site is situated in extremely rough country five miles south and east of Princeville. For all practical purposes, the area is not accessible over land from Wailua. The only feasible way to approach Summit Camp is from the Hanalei direction.

The location is situated at a high point along the saddle that forms part of the boundary between the Kawaihau and Hanalei Districts and is located approximately 500 feet east of Power Pole No. 59.

The site is described as being located on a level, unvegetated portion of a ridge. Vegetation surrounding the proposed installation is typical mountain vegetation consisting of a mix of waiawe, ohia, uluhe fern, melestoma and other wild growth.

The application calls for the subdivision of the site from the larger parcel and for a future disposition of land rights by Land Management.

In either case, we have no objection, providing that the parcel is not withdrawn from Forest Reserve status.

Since the installation will occur on a spot that is already eroded, caution should be exercised during construction.

Board of Land and  
Natural Resources

KA-1426  
July 9, 1982

Perhaps suggesting that the applicant provide ground cover might be in order.

The Division of Water and Land Development has no objections specific to Division of Water and Land Development programs.

The Natural Area Reserves System comments:

The proposed land use or boundary amendment in land use will have no effect on the existing natural area reserves program.

The Division of Conservation and Resources Enforcement, Kauai, has no objection to the applicant's proposed use.

SUMMARY OF PUBLIC HEARING:

A public hearing is authorized by the Board of Land and Natural Resources in that the proposed use is a subdivision of Conservation-zoned land.

The Board of Land and Natural Resources held a public hearing on this matter on January 21, 1982 at 7:00 p.m. at the State Office Building at Lihue, Kauai, Hawaii.

Concerns were expressed relating to the following items:

1. Access - how will the applicant have access to the area?

Answer: Access for construction and maintenance will be by helicopter.

2. Thirty (30) foot tower - will this tower be seen from the road?

Answer: No, it is located in a mountainous area and will be painted to blend with the vegetation; there will be solar panels, and these will not be painted.

3. Once completed, how often will the station be checked?

Answer: Perhaps once or twice a year.

4. Is a helipad needed?

Answer: No, area is flat, and the applicant chooses to avoid disturbing the area by constructing a helipad.

5. Is a permit required for helicopter landing for construction and maintenance?

Board of Land and  
Natural Resources

KA-1426  
July 9, 1982

Answer: Staff suggests that this may be incorporated into the current request.

6. In amending the application to include subdivision; does the county need to be involved at this time?

Answer: They can be informed; they need not be involved unless proposal is within the Special Management Area.

In response to the Public Hearing notice, Staff has also received comments from landowners whose property abuts the subject property.

Princeville Development Corporation (TMK: 5-2-01: 04) comments:

Please be advised that we are the landowners of the property abutting the proposed Hawaiian Telephone radio station site. The tax map key for our property is 5-2-01: 04. Kindly be informed that we strongly support the proposed application because improved telephone facilities and service are needed for the Hanalei and Princeville areas of Kauai's North Shore.

Lihue Plantation Company, Ltd. comments:

The Lihue Plantation Company has no objections to Conservation District Use Application No. KA-11/3/81-1426 by Hawaiian Telephone Company for radio station use at TMK: 4-2-01: 02 (por.) Wailua, Kawainui, Kauai.

ANALYSIS:

Following review and acceptance of the application, for processing, the applicant, by letter dated March 4, 1982, was notified that:

1. The proposed use, subdivision, establishment and use of a site for radio station purposes, is a conditional use of the Resource Subzone of the Conservation District according to Title 13, Chapter 2, Departmental Administrative Rules, as amended;
2. A public hearing pursuant to Chapter 183-41, Hawaii Revised Statutes, as amended, will be required; and
3. A negative declaration in accordance with Section 1:30 of the EIS Regulations has been determined for the proposed use and written clearance from the County of Kauai regarding SMA requirements has been obtained.

The objective of the Resource Subzone is to develop, with proper management, areas to ensure sustained use of the natural resources of those areas.



Board of Land and  
Natural Resources

KA-1426  
July 9, 1982

Subchapter 21, relating to standards, requires all applications to be reviewed in such a manner that the objective of the subzone is given primary consideration.

Our Division of Land Management has requested that the application be amended to provide for subdivision approval and that the applicant submit for land tenure to the Division of Land Management.

The applicant has discussed the subdivision and tenure issue with the Land Management Division and upon Conservation District Use Application (CDUA) approval will submit a request to lease the radio station site in accordance with Hawaii Revised Statutes, Section 171-95.

The State Department of Defense has indicated that approval of the subject CDUA and the subsequent lease should be done on a non-exclusive shared site basis in order to accommodate future government radio-communication users. They indicate this action would be similar to Wiliwili on Oahu and other sites, where coordinated co-location on a non-exclusive basis is employed.

This request is consistent with the State Comptrollers recent request to consider co-location of communication facilities in view of the fact that ideal radio sites are few and shared use of such sites is very desirable. (see Appendix A).

Staff wishes to point out that, initially, when this submittal was prepared, the applicant had agreed to accommodate future government radio-communication users on a non-exclusive shared site basis in accordance with the State Department of Defense request.

However, at the June 25, 1982, Board meeting, the applicant expressed concern regarding the requirement as set forth in Condition 5, requiring non-exclusive shared government use of the site. The matter was deferred for one meeting.

In the interim, the applicant provided a letter addressing their concerns (see Appendix B).

Staff has further discussed the matter with the Department of Accounting and General Services, Telecommunications Branch, who explained their concerns as presented in the April 6, 1982, Memorandum from the State Comptroller.

The matter was also discussed with the Division of Land Management Administrator. The conclusion reached is simply that Hawaiian Telephone Company and the Department of Accounting and General Services concerns should be addressed in Land Management's subdivision/lease action.

Staff concurs in that the Conservation District Use Application and permit should address solely the issue of land use. Staff agrees that conditions requiring mutual agreement between State



Board of Land and  
Natural Resources

KA-1426  
July 9, 1982

and public utility where State land is concerned are best addressed in the Division of Land Management's disposition of the land in question.

Staff also wishes to point out that on private lands as well as State lands within the Conservation District future expansion of use to accommodate government agencies, would, in any case, require an amendment to an approved Conservation District Use permit, enabling the concerns expressed by both Hawaiian Telephone and Department of Accounting and General Services to be addressed on a site by site basis, protecting both the State and the public utility.

As such, the previously recommended Condition 5 addressing the need for non-exclusive shared use of sites is deleted from the recommendation, and shall be addressed in the subdivision action following Conservation District Use Application approval.

In addressing the land use in question, Staff maintains that the proposed use is consistent with the objective of the subzone in that the site is adjacent to existing powerline and is presently vacant with little vegetation.

The proposed improvements will not seriously impact the existing resources and may well serve to improve site conditions in that if approval is given, an appropriate ground cover to prevent erosion, will be required.

In this case, Staff also maintains that public benefit will outweigh any impact to the Conservation District.

The proposal is consistent with the policies stated in State Conservation Lands Plan; specifically the proposed use when implemented, will, with proper landscaping, control erosion at the site.

In addition, the Division of Land Management requests that the parcel subdivided and leased, shall not be withdrawn from the Forest Reserve; as such, wildland management of the area and surrounding forest reserve is maintained. The applicant indicates they will proceed to construct the facility upon approval of the Board of Land and Natural Resources, according to and in compliance with all applicable regulations, Federal, State, and County and specifically the conditions and guidelines prescribed in Departmental Administrative Rules, Title 13, Chapter 2, as amended.

As such, Staff recommends as follows:

RECOMMENDATION:

That this application for subdivision and construction of a radio station site at Summit Camp with permission to land helicopters for construction and thereafter for periodic maintenance at Wailua, Kawaihau, Kauai, on property identified as TMK: 4-2-01: 02 (por.) in the Resource Subzone of the Conservation District be approved subject to the following conditions:

Board of Land and  
Natural Resources

KA-1426  
July 9, 1982

1. That the applicant comply with all applicable statutes, ordinances, rules and regulations of the Federal, State and City and County governments, and applicable parts of Section 13-2-21 of Title 13, Chapter 2, Departmental Administrative Rules, as amended;
2. The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
3. Other terms and conditions as prescribed by the Chairman;
4. In that this approval is for use of conservation lands only, the applicant shall obtain appropriate authorization through the Division of Land Management, State Department of Land and Natural Resources for the occupancy of State lands;
5. In the event any unanticipated sites or remains such as shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings, or walls are encountered during construction, the applicant shall stop work and contact the Historic Preservation Office at 548-7460 or 548-6408;
6. That an archaeological reconnaissance survey be conducted by a qualified archaeologist within the proposed area and that the survey results be forwarded to the Historic Preservation Office for evaluation;
7. That the applicant comply with all applicable Public Health Regulations;
8. A fire contingency plan, acceptable to the Division of Forestry and Wildlife shall be implemented during and after the construction of the radio station site;
9. That no permanent lights or beacons shall be installed;
10. That the applicant provide a suitable ground cover planting to prevent future erosion of the site. The selected ground cover plant shall be provided by the Department of Land and Natural Resources, Division of Forestry and Wildlife.

Respectfully submitted,

Attachments

APPROVAL FOR SUBMITTAL:

*S. Ono*

SUSUMU ONO, Chairman  
Board of Land and Natural Resources

*Sherrie Samuels*  
D  
SHERRIE SAMUELS  
Staff Planner





NORTH

EXHIBIT A

CDUA no. KA-1426 Exhibit A.

APPLICANT HAWAIIAN Telephone Company

AGENT N/A.

TMK 4-2-01: 02 (por.)

SCALE ---

SUBZONE



PROTECTIVE

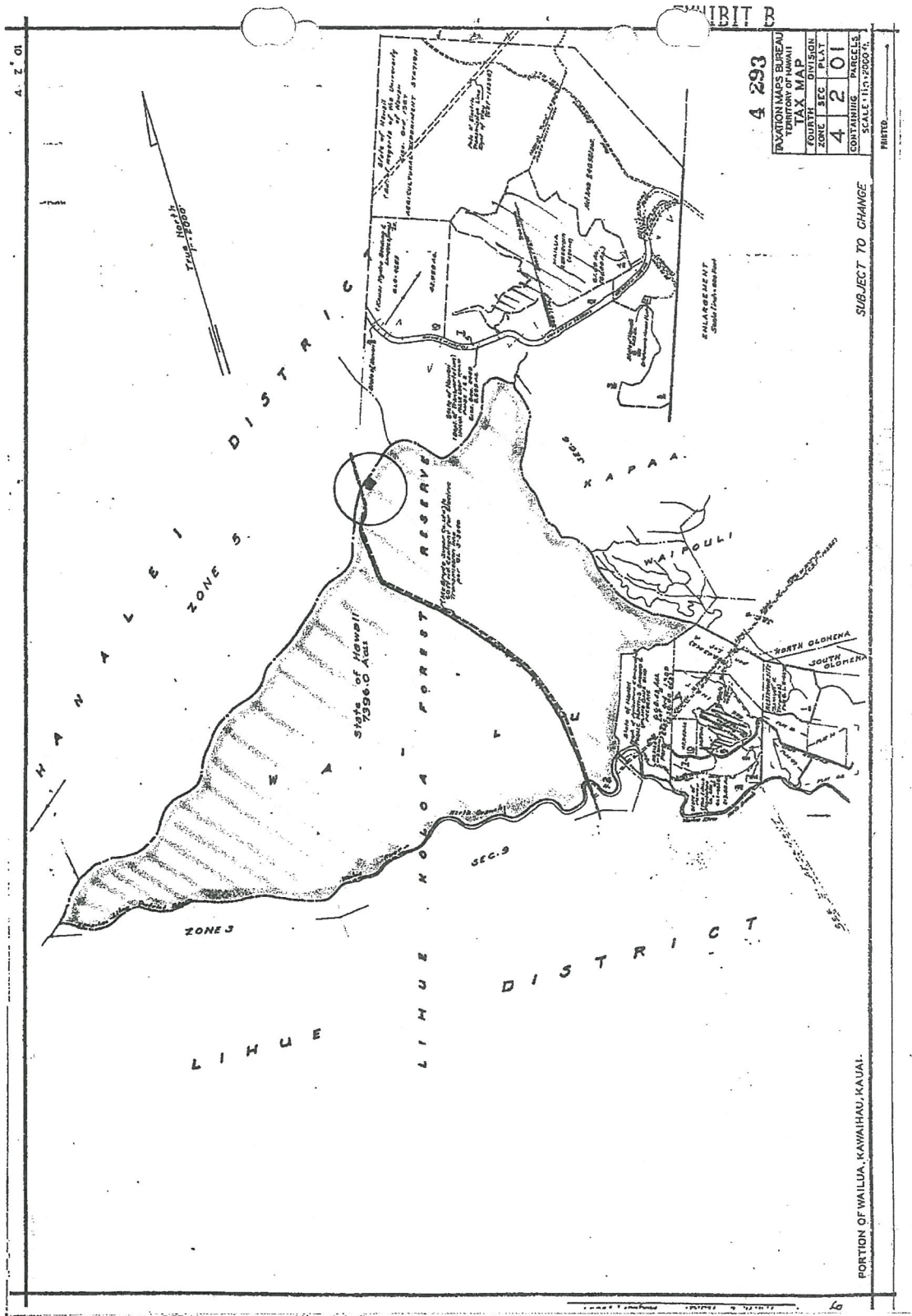
RESOURCE

LIMITED

GENERAL

PROJECT AREA





4 293

TAX MAP			
FOURTH	DIVISION	PLAT	SECTION
4	2	01	
CONTAINING PARCELS			
SCALE: 111,2000'			

SUBJECT TO CHANGE

PHOTO

PORTION OF WAILUA, KAWAIHAU, KAUAI



NORTH

EXHIBIT B

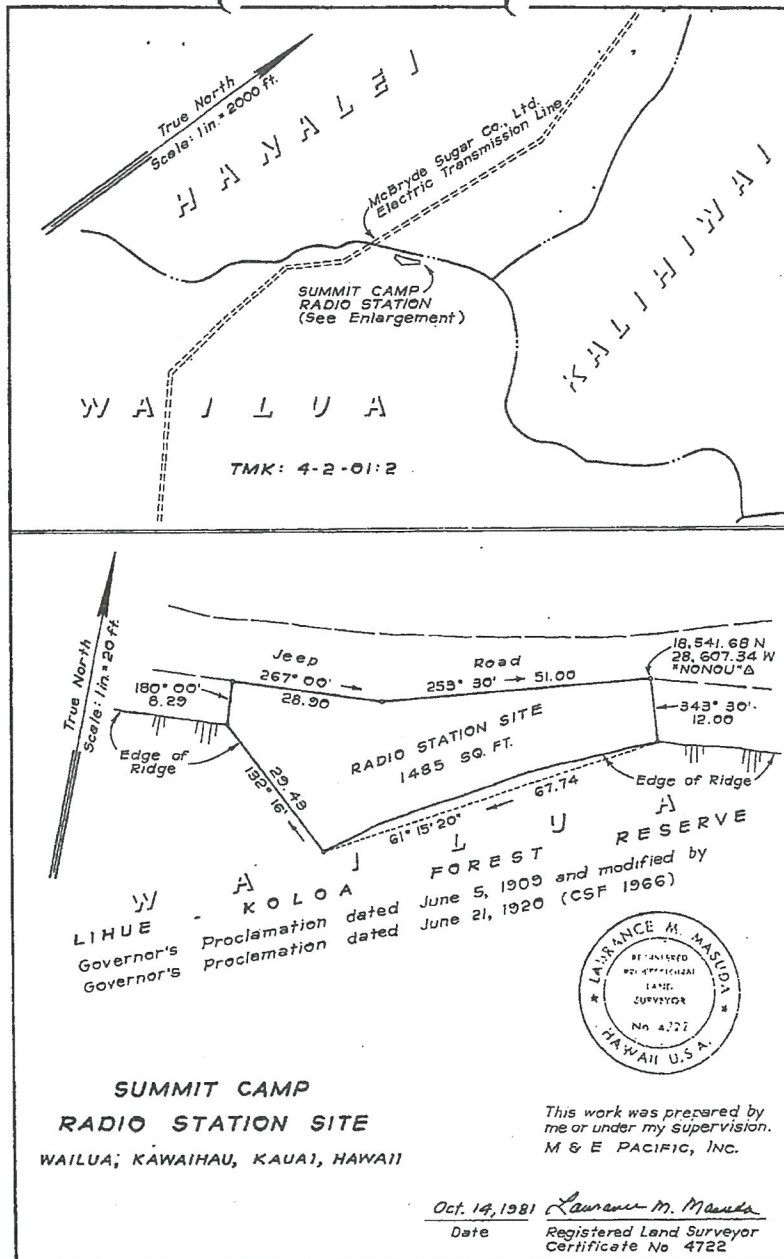
CDUA no. RA-1426 Exhibit B  
 APPLICANT Hawaiian Telephone Company.  
 AGENT NH  
 TMK 4-2-01: 02 (POR.)  
 SCALE —

SUBZONE

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<input type="checkbox"/>
<input type="checkbox"/>

PROTECTIVE  
 RESOURCE  
 LIMITED  
 GENERAL  
 PROJECT AREA





Top Map Key: 4-2-01: 2 (por.)

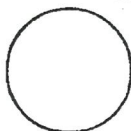
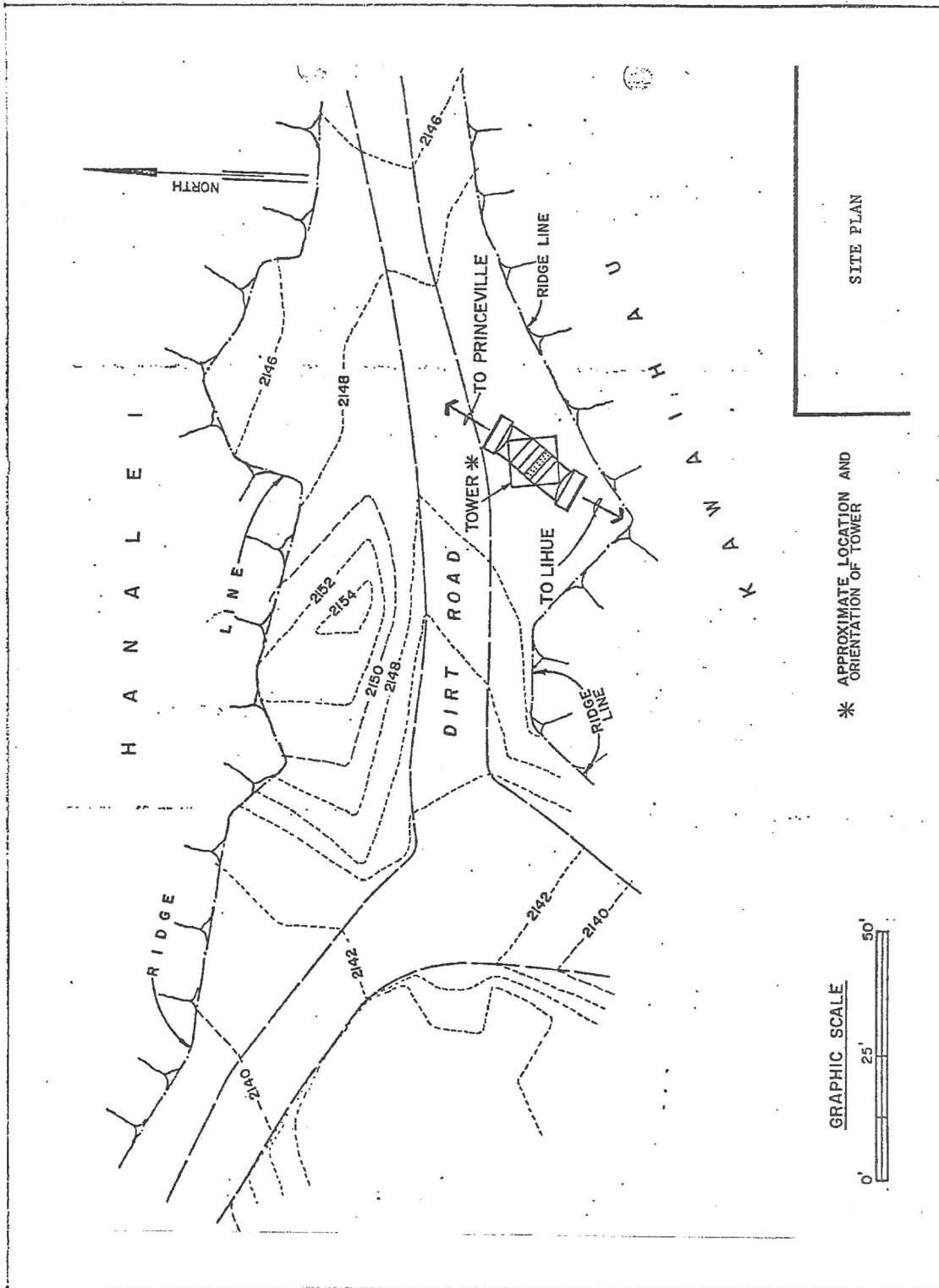


NORTH  
EXHIBIT C

CDUA no. KA-1426, Exhibit C  
 APPLICANT Hawaiian Telephone Company  
 AGENT N/A  
 TMK 4-2-01: 02 (por.)  
 SCALE -

SUBZONE

☐ PROTECTIVE  
☒ RESOURCE  
☐ LIMITED  
☐ GENERAL  
 PROJECT AREA



NORTH

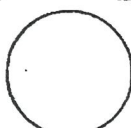
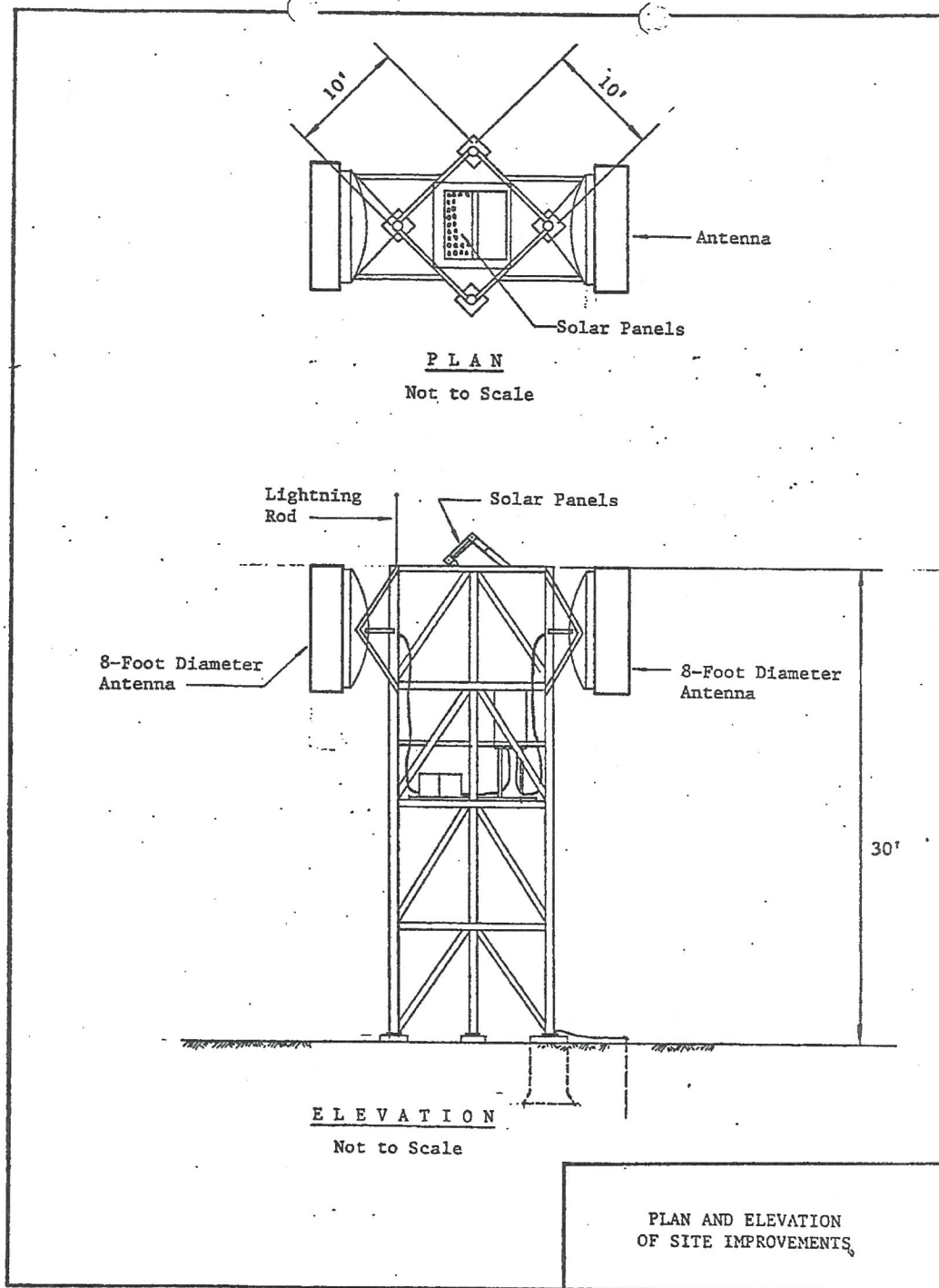
EXHIBIT D

CDUA no. KA-1426, Exhibit D  
 APPLICANT Hawaiian Telephone Company  
 AGENT N/A  
 TMK 4-2-01: 02 (por.)  
 SCALE 1" = 100'

SUBZONE



PROTECTIVE  
 RESOURCE  
 LIMITED  
 GENERAL  
 PROJECT AREA

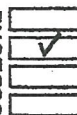


NORTH

EXHIBIT E

CDUA no. KA-1426, Exhibit E.  
 APPLICANT Hawaiian Telephone Company.  
 AGENT M/A.  
 TMK 4-2-01:02 (por.)  
 SCALE -

SUBZONE

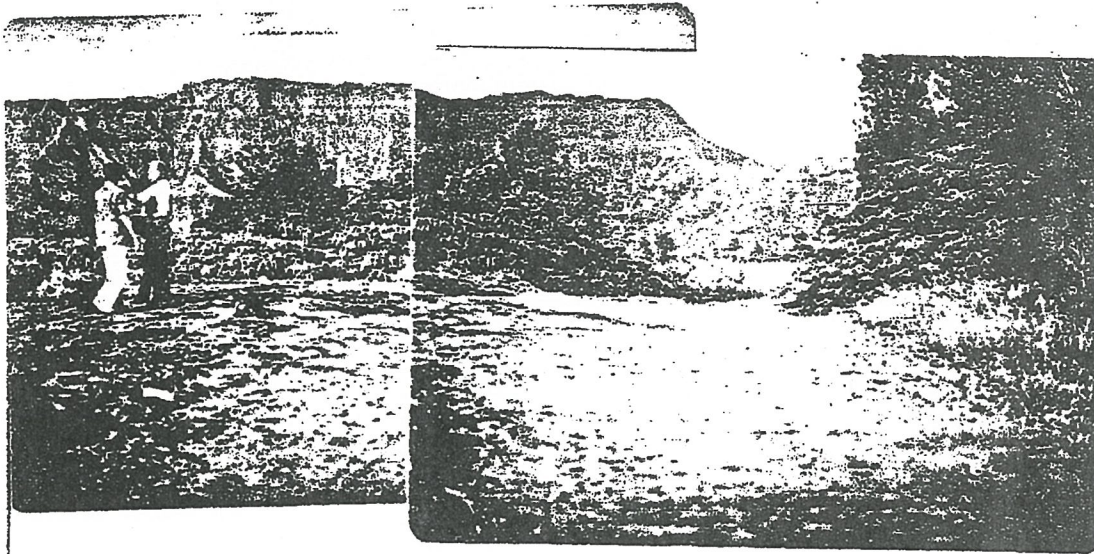


PROTECTIVE  
 RESOURCE  
 LIMITED  
 GENERAL  
 PROJECT AREA





photo of site in foreground  
note bare ground conditions.



composite photo showing portion of  
powerline road and the proposed  
location where 2 men are standing



NORTH

EXHIBIT F

CDUA no. KA-1426, Exhibit F  
 APPLICANT Hawaiian Telephone Company.  
 AGENT N/A.  
 TMK 4-2-01: 02 por.  
 SCALE -

SUBZONE

☐  
☒  
☐  
☐

PROTECTIVE  
 RESOURCE  
 LIMITED  
 GENERAL  
 PROJECT AREA



GEORGE R. ARIYOSHI  
GOVERNOR OF HAWAII



STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES

DIVISION OF LAND MANAGEMENT

P. O. BOX 621

HONOLULU, HAWAII 96809

DIVISIONS:  
CONVEYANCES  
FISH AND GAME  
FORESTRY  
LAND MANAGEMENT  
STATE PARKS  
WATER AND LAND DEVELOPMENT

September 24, 1982

Board of Land and  
Natural Resources  
State of Hawaii  
Honolulu, HI

Gentlemen:

KAUAI

Subject: Authorization to Hold Public Hearing -  
Withdrawal of Land from the Lihue-Koloa  
Forest Reserve, Wailua, Kauai

Hawaiian Telephone Company has requested the issuance of a 65-year lease covering approximately 1,485 square feet of State land within the Lihue-Koloa Forest Reserve at Wailua, Kauai as shown on the map labeled Land Board Exhibit "A" appended to the basic file, for the proposed Summit Camp Radio Station site.

At its meeting of July 9, 1982, under agenda Item H-7, the Board approved CDUA KA-1/21/82 - 1426 for subdivision and construction of a radio station site at Summit Camp together with permission to land helicopters for construction and thereafter for periodic maintenance at Wailua, Kawaihau, Kauai, on property identified as TMK 4-2-01:por. 2 in the Resource Subzone of the Conservation District subject to the following:

1. That the applicant comply with all applicable statutes, ordinances, rules and regulations of the Federal, State and City and County governments, and applicable parts of Section 13-2-21 of Title 13, Chapter 2, Departmental Administrative Rules, as amended;
2. The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
3. Other terms and conditions as prescribed by the Chairman;
4. In that this approval is for use of conservation lands only, the applicant shall obtain appropriate authorization through the Division of Land Management, State Department of Land and Natural Resources for the occupancy of State lands;

ITEM F-11  
Exhibit D

5. In the event any unanticipated sites or remains such as shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings, or walls are encountered during construction, the applicant shall stop work and contact the Historic Preservation Office at 548-7460 or 548-6408;
6. That an archaeological reconnaissance survey be conducted by a qualified archaeologist within the proposed area and that the survey results be forwarded to the Historic Preservation Office for evaluation;
7. That the applicant comply with all applicable Public Health Regulations;
8. A fire contingency plan, acceptable to the Division of Forestry and Wildlife shall be implemented during and after the construction of the radio station site;
9. That no permanent lights or beacons shall be installed;
10. That the applicant provide a suitable ground cover planting to prevent future erosion of the site. The selected ground cover plant shall be provided by the Department of Land and Natural Resources, Division of Forestry and Wildlife.

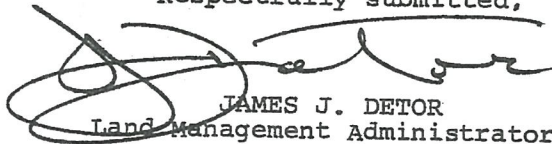
In order to withdraw the subject area from the Lihue-Koloa Forest Reserve and subsequently lease said area to Hawaiian Telephone Company for a radio station site, a public hearing must be held pursuant to Chapter 183, Hawaii Revised Statutes.

The subject area is covered by Governor's Proclamation dated June 5, 1909, which was modified by Governor's Proclamation dated June 21, 1920.

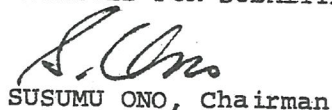
RECOMMENDATION:

That the Board approve of and recommend to the Governor of Hawaii that a public hearing be held on the Island of Kauai covering the proposed withdrawal of the subject area from the Lihue-Koloa Forest Reserve and that Mr. Libert K. Landgraf, State Forester, be appointed Master. The time and place of the public hearing to be determined by the Chairman with the approval of the Governor.

Respectfully submitted,

  
JAMES J. DETOR  
Land Management Administrator

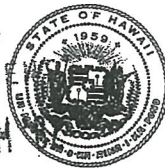
APPROVED FOR SUBMITTAL:

  
SUSUMU ONO, Chairman

GEORGE R. ARIYOSHI  
GOVERNOR OF HAWAII

RECEIVED  
DIVISION OF  
LAND MANAGEMENT

OCT 7 2 39 PM



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
P. O. BOX 621  
HONOLULU, HAWAII 96809

RECEIVED

82 OCT 7 P 1

DEPT. OF LAND  
& NATURAL RESOURCES  
STATE OF HAWAII

SUSUMU ONO, CHAIRMAN  
BOARD OF LAND & NATURAL RESOURCES

EDGAR A. HAMASU  
DEPUTY TO THE CHAIRMAN

DIVISIONS:  
AQUACULTURE DEVELOPMENT  
PROGRAM  
AQUATIC RESOURCES  
CONSERVATION AND  
RESOURCES ENFORCEMENT  
CONVEYANCES  
FORESTRY AND WILDLIFE  
LAND MANAGEMENT  
STATE PARKS  
WATER AND LAND DEVELOPMENT

OCT 4 1982

Honorable George R. Ariyoshi  
Governor of Hawaii  
State Capitol Building  
Honolulu, HI

Dear Sir:

Subject: Public Hearing Concerning the Withdrawal  
of Lands from the Lihue-Koloa Forest  
Reserve, Wailua, Kauai

At its meeting of September 24, 1982 under agenda Item F-11 (copy enclosed), the Board of Land and Natural Resources voted to approve and recommend to the Governor that a public hearing be held on the Island of Kauai covering the proposed withdrawal of approximately 1,485 square feet of State land within the Lihue-Koloa Forest Reserve for subsequent lease of said area to Hawaiian Telephone Company for a radio station site. The Board recommended that the time and place of the public hearing be determined by the Chairman of the Board of Land and Natural Resources and further recommended that Mr. Libert Landgraf, State Forester, be appointed Master of such hearing.

The proposed additions are shown outlined in green on the enclosed survey map.

Inasmuch as the statutes (Sections 183-12, 183-13, H.R.S.) require that a full hearing be given by the Governor and the Department of Land and Natural Resources, and that the Notice of Hearing setting forth the time and place be given by the Governor, your approval of the following is requested:

- A. That a public hearing be held on the Island of Kauai for the purpose of hearing evidence and arguments, either for or against the proposed withdrawal from the Lihue-Koloa Forest Reserve.



Exhibit E



Honorable George R. Ariyoshi  
Governor of Hawaii  
Page 2

- B. That the time and place of hearing shall be determined by the Chairman, Board of Land and Natural Resources. The Notice of Hearing to be executed by the Governor and the Chairman, Board of Land and Natural Resources.
- C. That Mr. Libert K. Landgraf, State Forester, be appointed Master for such hearing.

Should you have no objections to the above, kindly signify your approval in the space provided for same below and return one (1) signed copy of this letter.

Very truly yours,

*Eugene A. Haman*  
for SUSUMU ONO  
Chairman of the Board

APPROVED/~~DISAPPROVED~~:

*George R. Ariyoshi*  
George R. Ariyoshi, Governor  
*Oct 5*, 1982

Enclosure



State of Hawaii  
Department of Land and Natural Resources  
Honolulu, Hawaii

DIVISION OF FORESTRY AND WILDLIFE

December 17, 1982

Board of Land and  
Natural Resources  
Honolulu, Hawaii

Gentlemen:

Subject: Master's Report on Public Hearing

In accordance with the Notice of Public Hearing published in the Honolulu Advertiser and The Garden Island on November 10 and 17, 1982, and as authorized by Governor George R. Ariyoshi, I have conducted a public hearing relative to the withdrawal of approximately 1,485 square feet of State land within the Lihue-Koloa Forest Reserve, Wailua, Kauai for the subsequent lease to Hawaiian Telephone Company for a radio station site.

Minutes of the public hearing, public hearing notice, and Board's approval (Item F-11) dated September 24, 1982 are attached.

RECOMMENDATION:

That the Board approve the withdrawal of approximately 1,485 square feet of State land within the Lihue-Koloa Forest Reserve, Wailua, Kauai.

Respectfully submitted,

  
LUBERT K. LANDGRAF  
Administrator

Attachments

APPROVED FOR SUBMITTAL:



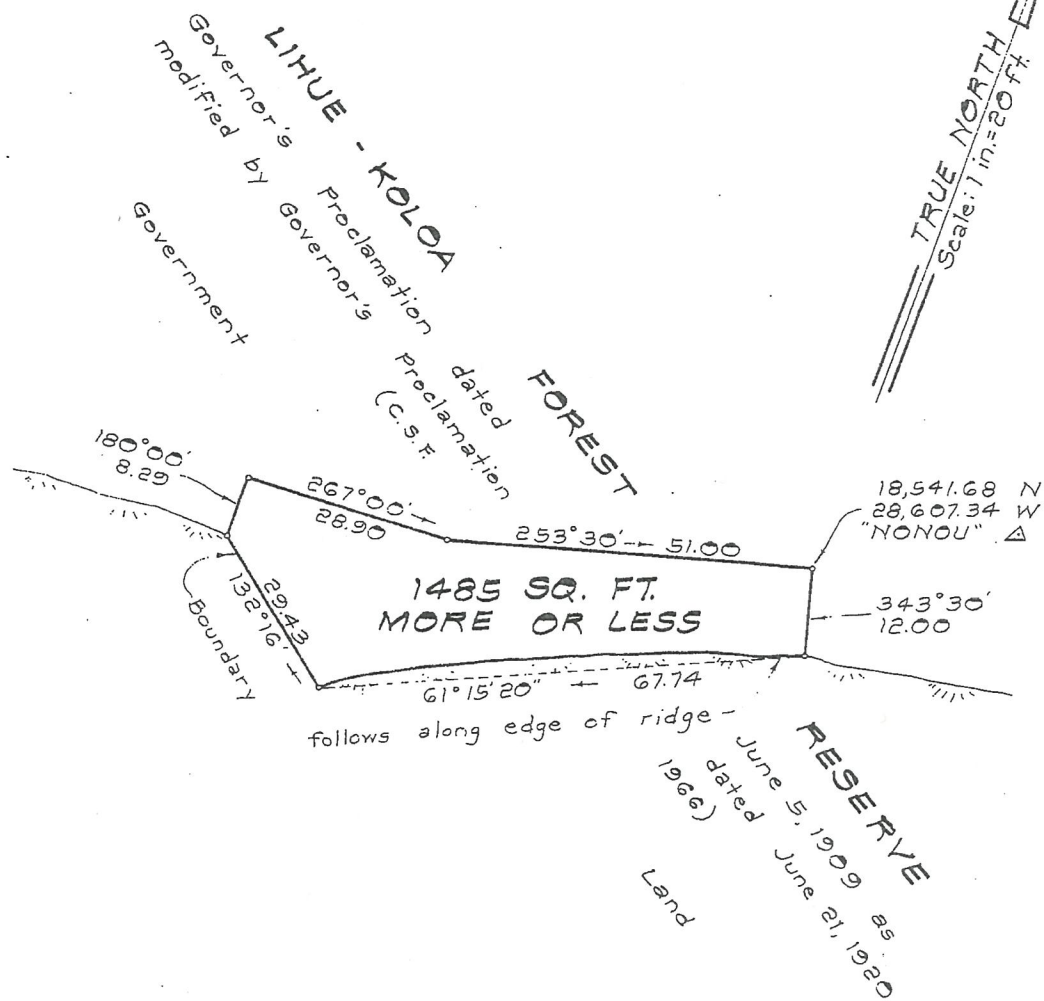
SUSUMU ONO, Chairman

APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON

12/17/82

ITEM C-2

Exhibit F



WITHDRAWAL

PORTION OF LIHUE - KOLOA FOREST RESERVE

Governor's Proclamation dated June 5, 1909 as modified by Governor's Proclamation dated June 21, 1920

Wailua, Kawaihau, Kauai, Hawaii

Scale: 1 inch = 20 feet

SURVEY DIVISION

PUBLIC HEARING  
for  
WITHDRAWAL OF APPROXIMATELY 1,485 SQUARE FEET  
OF STATE LAND WITHIN LIHUE-KOLOA FOREST RESERVE  
WAILUA, KAUAI

Date: December 1, 1982

Time: 7:00 p.m.

Place: Council Chamber  
County Building

IN ATTENDANCE:

Staff

Libert K. Landgraf, DLNR, DOFAW  
Ralph E. Daehler, DLNR, DOFAW

The public hearing was commenced at 7:00 p.m. by Master Libert K. Landgraf to receive testimonies, orally or in writing, concerning the withdrawal of approximately 1,485 square feet of state land within the Lihue-Koloa Forest Reserve, Wailua, Kauai, TMK 4-2-01:por. 2., for the subsequent lease to Hawaiian Telephone Company for a radio station site.

There was no one present to present neither written nor oral testimonies. Hearing Master Landgraf waited until 7:30 p.m. at which time he formally adjourned the meeting.

GEORGE R. ARIYOSHI  
GOVERNOR OF HAWAII



DIVISIONS:  
CONVEYANCES  
FISH AND GAME  
FORESTRY  
LAND MANAGEMENT  
STATE PARKS  
WATER AND LAND DEVELOPMENT

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF LAND MANAGEMENT  
P. O. BOX 621  
HONOLULU, HAWAII 96809

February 11, 1983

Board of Land and  
Natural Resources  
State of Hawaii  
Honolulu, HI

Gentlemen:

KAUAI

DIRECT LEASE  
PUBLIC UTILITY PURPOSES

STATUTE: Chapter 171, Hawaii Revised Statutes

APPLICANT: HAWAIIAN TELEPHONE COMPANY

FOR: Portion of the Lihue-Koloa Forest Reserve at Wailua, Kawaihau, Kauai, as shown and described on the map labeled Exhibit "A" appended to the basic file, Tax Map Key 4-2-01; portion of 2.

STATUS: Governor's Proclamation dated June 5, 1909 and modified by Governor's Proclamation dated June 21, 1920 - Lihue-Koloa Forest Reserve.

AREA: 1,485 sq. ft., more or less (Exact area to be determined by Survey Division, Department of Accounting and General Services).

PURPOSE: Public utility purposes - radio station site.

ZONING: State Land Use Commission: Conservation District  
County of Kauai: Protective

TERM: Sixty-five (65) years, commencement date to be determined by the Chairman.

RECOMMENDED  
ANNUAL RENTAL: To be determined by independent appraisal, same subject to review and approval by the Chairman.

RENTAL  
REOPENING: At the end of the 10th, 20th, 30th, 40th, 50th and 60th years of the lease term.

PAYMENT: Annually in advance.

ITEM F-11

Exhibit G



REMARKS:

At its meeting of July 9, 1982, under agenda Item H-7, the Board approved CDUA KA-1/21/82 - 1426 for subdivision and construction of a radio station site at Summit Camp together with permission to land helicopters for construction and thereafter for periodic maintenance at Wailua, Kawaihau, Kauai, on property identified as TMK 4-2-01:por. 2 in the Resource Subzone of the Conservation District subject to the following:

1. That the applicant comply with all applicable statutes, ordinances, rules and regulations of the Federal, State and City and County governments, and applicable parts of Section 13-2-21 of Title 13, Chapter 2, Departmental Administrative Rules, as amended;
2. The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
3. Other terms and conditions as prescribed by the Chairman;
4. In that this approval is for use of conservation lands only, the applicant shall obtain appropriate authorization through the Division of Land Management, State Department of Land and Natural Resources for the occupancy of State lands;
5. In the event any unanticipated sites or remains such as shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings, or walls are encountered during construction, the applicant shall stop work and contact the Historic Preservation Office at 548-7460 or 548-6408;
6. That an archaeological reconnaissance survey be conducted by a qualified archaeologist within the proposed area and that the survey results be forwarded to the Historic Preservation Office for evaluation;
7. That the applicant comply with all applicable public Health Regulations;
8. A fire contingency plan, acceptable to the Division of Forestry and Wildlife shall be implemented during and after the construction of the radio station site;
9. That no permanent lights or beacons shall be installed;

10. That the applicant provide a suitable ground cover planting to prevent future erosion of the site. The selected ground cover plant shall be provided by the Department of Land and Natural Resources, Division of Forestry and Wildlife.

At its meeting of September 24, 1982, under agenda item F-11, the Board approved of and recommended to the Governor of Hawaii that a public hearing be held on the Island of Kauai covering the proposed withdrawal of the subject 1,485-sq.-ft. area from the Lihue-Koloa Forest Reserve and that Mr. Libert K. Landgraf, State Forester, be appointed Master. The time and place of the public hearing to be determined by the Chairman with the approval of the Governor.

Master Landgraf held a hearing on December 1, 1982 at 7:00 p.m. in the Kauai County Council Chamber.

The results of the foregoing hearing were presented to the Board at its meeting of December 17, 1982 under agenda item C-2. In addition, the Board at said meeting and under the same agenda item authorized the withdrawal of approximately 1,485 sq. ft. from the Lihue-Koloa Forest Reserve. Staff is presently preparing the appropriate executive order which will accomplish the aforementioned withdrawal.

RECOMMENDATION:

That the Board:


- A. Find the Hawaiian Telephone Company does not have suitable lands of its own for the proposed usage.
- B. Find that the area in question to be economic unit in terms of the use to which the area will be put.
- C. Authorize the direct issuance of a lease of the subject area to Hawaiian Telephone Company under the above-listed terms and conditions, which are by this reference incorporated herein and subject to the following terms and conditions:
  1. That the lessee shall use the area for public utility (radio station site) purposes only.
  2. The lessee shall not at any time during said term construct, reconstruct, place, maintain and install on said premises any building, structure or improvements of any kind and description whatsoever except in accordance with such plans and specifications submitted by the lessee to and approved by the Chairman.

3. The lessee shall promptly repair or restore at its own cost and expense, to the satisfaction of the lessor, all damages to existing improvements or to the surface of the land by virtue of such construction, reconstruction, maintenance and installation of improvements or use of the premises.
  4. Upon expiration or sooner termination of the lease, if desired by the lessor, the lessee, at its own expense, shall remove any and all improvements installed or constructed hereunder and restore the premises to the same or as good condition as that which existed prior to the exercise by the lessee of its rights hereunder; such restoration to be effected to the satisfaction of the Chairman.
  5. Lease performance bond in an amount equal to twice the annual lease rental. Lessee shall be allowed to assign the lease to Hawaiian Trust Company as Trustee for the bondholders.
  6. Conditions 1., 2., 5., 6., 7., 8., 9., and 10., described herein under CDUA KA-1/21/82 and approved by the Board on July 9, 1982 (Item H-7).
  7. Concurrence of the Governor of Hawaii.
  8. The radio station site shall be allowed to be shared by government radio users at no cost. The government's use shall be limited to only those radio services required for public health, safety and welfare, and which are governed under Federal Communications Commission's Rules and Regulations, Part 90, Private Land Mobile Radio Services. The shared use of the site shall be upon those terms and conditions determined by Hawaiian Telephone Company, same subject to review and approval of the Lessor.
  9. Other terms and conditions of the standard draft lease form unless modified above and as may be prescribed by the Chairman.
- D. Grant Hawaiian Telephone Company a right of entry to the subject area and permission to construct the radio facility building subject to the following conditions:
1. Conditions 1., 2., 5., 6., 7., 8., 9. and 10. described herein under CDUA KA-1/21/82, approved by the Board on July 9, 1982 (Item H-7).



2. Standard indemnity and hold-harmless clause.
  3. Concurrence of the Governor of Hawaii.
  4. Grantee shall submit construction plans for review and approval by the Chairman prior to construction.
  5. Grantee shall notify our Kauai District Forester and our Kauai District Land Agent of the commencement date, and, also, the completion date.
  6. All debris and rubbish from the work activity shall be removed from the silt and disposal of at the County sanitary landfill site.
  7. All structures shall be painted to blend with the environment.
  8. Grantee shall comply with all appropriate County, State, and Federal rules, laws and ordinances.
  9. Other terms and conditions as may be prescribed by the Chairman.
- E. The disposition shall be subject to disapproval by the Legislature at its next regular or special session following the date of disposition.

Respectfully submitted,

  
JAMES J. DETOR  
Land Management Administrator

APPROVED FOR SUBMITTAL:

  
SUSUMU ONO, Chairman

GEORGE R. ARIYOSHI  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
P. O. BOX 621  
HONOLULU, HAWAII 96809

SUSUMU ONO, CHAIRMAN  
BOARD OF LAND & NATURAL RESOURCES  
EDGAR A. HAMASU  
DEPUTY TO THE CHAIRMAN

DIVISIONS:  
AQUACULTURE DEVELOPMENT  
PROGRAM  
AQUATIC RESOURCES  
CONSERVATION AND  
RESOURCES ENFORCEMENT  
CONVEYANCES  
FORESTRY AND WILDLIFE  
LAND MANAGEMENT  
STATE PARKS  
WATER AND LAND DEVELOPMENT

MEMORANDUM

TO: Honorable George R. Ariyoshi  
Governor of Hawaii

FROM: Susumu Ono, Chairman  
Board of Land and Natural Resources

SUBJECT: Hawaiian Telephone Company Request for Radio  
Station Site Lease at Wailua, Kawaihau, Kauai

We are in receipt of an application from the Hawaiian Telephone Company for a radio station site lease covering a 1,485-sq.-ft. parcel of State land at Wailua, Kawaihau, Kauai, being a portion of the Lihue-Koloa Forest Reserve encumbered under Governor's Proclamation dated June 21, 1920 and shown and described on the attached survey parcel map. In addition, pending disposition of the lease, Hawaiian Telephone Company has requested a right of entry to the subject proposed lease premises for the purpose of constructing the radio station facility.

At its meeting of July 9, 1982, under agenda Item H-7, the Board of Land and Natural Resources approved Conservation District Use Application No. KA-1/21/82 - 1426 filed by Hawaiian Telephone Company for construction of a radio station site.

Inasmuch as the subject area is encumbered under Governor's Proclamations dated June 5, 1909 and June 21, 1920, your concurrence to the foregoing is required.

Accordingly, should you have no objections to the foregoing request by Hawaiian Telephone Company, kindly acknowledge this fact in the space provided for same at the end of the letter and return one (1) executed copy of this letter.

SUSUMU ONO

APPROVED/DISAPPROVED

Governor

Att.

1983

Exhibit H

WITHDRAWING PORTION OF LAND FROM OPERATION OF  
GOVERNOR'S PROCLAMATION DATED JUNE 5, 1909, AS  
MODIFIED BY GOVERNOR'S PROCLAMATION DATED JUNE 21, 1920

WHEREAS, by Governor's Proclamation dated June 5, 1909, as modified by Governor's Proclamation dated June 21, 1920, certain lands situate in Wailua, Kawaihau, Kauai, Hawaii, were set aside as Lihue-Koloa Forest Reserve; and

WHEREAS, the Hawaiian Telephone Company has requested an area of approximately 1,485 square feet within said Proclamation dated June 5, 1909, as modified by Proclamation dated June 21, 1920, be withdrawn for a radio station site; and

WHEREAS, the Board of Land and Natural Resources, at its meeting held on December 17, 1982, approved the withdrawal.

NOW, THEREFORE, I, GEORGE R. ARIYOSHI, Governor of the State of Hawaii, by virtue of the authority vested in me under Section 171-11, Hawaii Revised Statutes, do hereby order that the portion of the Lihue-Koloa Forest Reserve, containing an area of 1,485 square feet, more or less, more particularly described in Exhibit "A" and delineated on Exhibit "B", both of which are attached hereto and made parts hereof, said exhibits being, respectively, a survey description and survey map prepared by the Survey Division, Department of Accounting and General Services, State of Hawaii, both being designated C.S.F. No. 19,735 and dated May 26, 1983, be, and the same is, hereby



withdrawn from the operation of Governor's Proclamation dated  
June 5, 1909, as modified by Governor's Proclamation dated June  
21, 1920.

SUBJECT to disapproval by the Legislature by  
two-thirds vote of either the Senate or the House  
of Representatives or by majority vote of both, in  
any regular or special session next following the  
date of this Executive Order.

In Witness Whereof, I have hereunto set my hand  
and caused the Great Seal of the State of Hawaii to be affixed.  
Done at the Capitol at Honolulu this 31st day of  
October, Nineteen Hundred and 83.

  
Governor of the State of Hawaii

Approved as to form:

  
Deputy Attorney General

# State of Hawaii

## Office of the Lieutenant Governor

This is to Certify That the within is a true copy of Executive Order No. 3213  
Governor's Proclamation dated June 5, 1909,  
withdrawing land from the operation of ~~Executive Order No. 3213~~ as modified June 21, 1920, the original of  
which is on file in this office.

In Testimony Whereof, the Lieutenant Governor of the  
State of Hawaii, has hereunto subscribed his name  
and caused the Great Seal of the State to be affixed.

DONE in Honolulu, this ..... day of  
....., A.D. 19.....

Executive Order No. 3213

### Withdrawing Land from the

Operation of ~~Executive~~ GOVERNOR'S

PROCLAMATION DATED JUNE 5, 1909,

~~Order No. 3213~~ XXXXXXXXXXXXXXXX

AS MODIFIED JUNE 21, 1920

Land .....

Purpose .....

Date .....



STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES

HONOLULU

C.S.F. No. 19,735

May 26, 1983

WITHDRAWAL

PORTION OF LIHUE-KOLOA FOREST RESERVE

Governor's Proclamation dated June 5, 1909 as modified  
by Governor's Proclamation dated June 21, 1920

Wailua, Kawaihau, Kauai, Hawaii

Being a portion of the Government (Crown) Land of Wailua.

Beginning at the northeast corner of this parcel of land,  
the coordinates of said point of beginning referred to Government  
Survey Triangulation Station "NONOU" being 18,541.68 feet North and  
28,607.34 feet West, thence running by azimuths measured clockwise  
from True South:-

1. 343° 30' 12.00 feet along the remainder of Lihue-Koloa  
Forest Reserve to the edge of ridge;

Thence along the remainder of Lihue-Koloa Forest Reserve, along  
the edge of ridge for the next two (2) courses, the direct azimuths  
and distances between said points along said edge of ridge being:

2. 61° 15' 20" 67.74 feet;
3. 132° 16' 29.43 feet;
4. 180° 00' 8.29 feet along the remainder of Lihue-Koloa  
Forest Reserve;
5. 267° 00' 28.90 feet along the remainder of Lihue-Koloa  
Forest Reserve;
6. 253° 30' 51.00 feet along the remainder of Lihue-Koloa  
Forest Reserve to the point of be-  
ginning and containing an AREA OF  
1485 SQUARE FEET, MORE OR LESS.

SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
STATE OF HAWAII

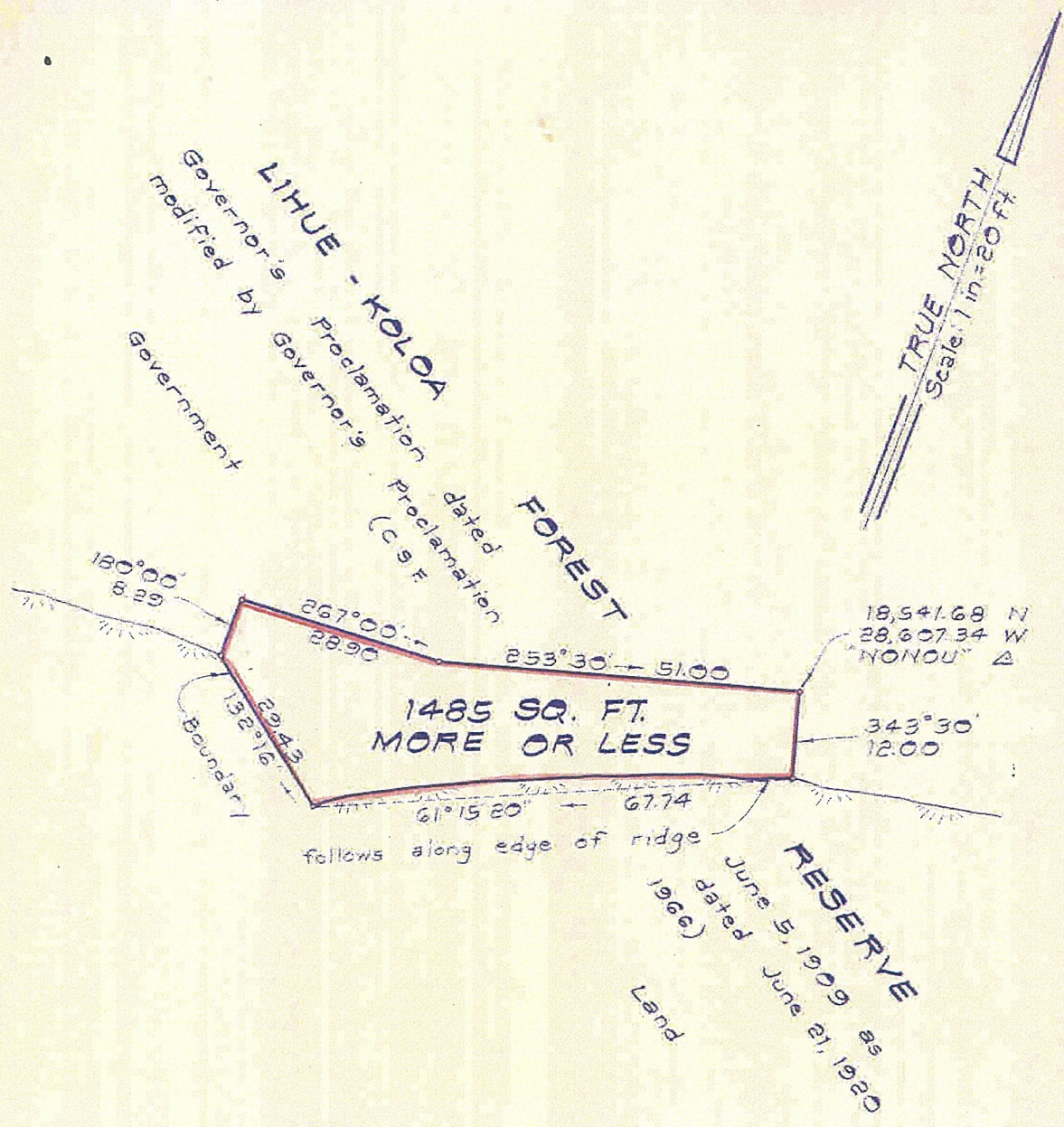
Compiled from map & desc.  
furn. by M & E Pacific,  
Inc. and Govt. Survey  
Records.

By: Melvin M. Masuda  
Melvin M. Masuda  
Land Surveyor

jc

EXHIBIT "A"





**WITHDRAWAL**  
**PORTION OF LIHUE - KOLOA FOREST RESERVE**  
 Governor's Proclamation dated June 5, 1909 as modified by  
 Governor's Proclamation dated June 21, 1920  
 Wailua, Kawaihau, Kauai, Hawaii  
 Scale: 1 inch = 20 feet

JOB K-50(83)  
 C. BK 10, MASUDA

TAX MAP 4-2-01

SURVEY DIVISION  
 DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
 STATE OF HAWAII

EXHIBIT "B"

C. S. F. No. 19,735

M.M.M. May 26, 1983



## SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement"), effective \_\_\_\_\_ ("Effective Date"), is made and entered into by and between the STATE OF HAWAII ("State"), by its Board of Land and Natural Resources ("Board"), and HAWAIIAN TELCOM, INC., a Hawai'i corporation, whose address is P.O. Box 2200, Honolulu, Hawai'i 96841 ("HTI").

### RECITALS

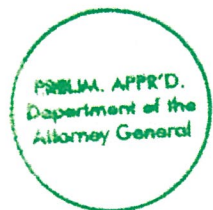
WHEREAS, at its meeting on July 9, 1982, Agenda Item H-7, the Board approved Conservation District Use Application KA-1/21/82-1426 to Hawaiian Telephone Company, HTI's predecessor in interest, for the Subdivision and Establishment of a Radio Station Site at Summit Camp with Permission to Land Helicopters for Construction at Wailua, Kawaihau, Kauai;

WHEREAS, at its meeting on February 11, 1983, Agenda Item F-11, the Board approved the issuance of a sixty-five year direct lease to Hawaiian Telephone Company for 1,485 square feet, more or less, of conservation district land located in the Lihue-Koloa Forest Reserve (the "Property") for the construction of a radio station site;

WHEREAS, no later than September 25, 1987, Hawaiian Telephone Company completed construction of a microwave repeater radio station ("Station") upon the Property;

WHEREAS, no lease agreement was ever executed by the State or Hawaiian Telephone Company or its successors, including HTI;

WHEREAS, pursuant to fair market annual rents set by an appraisal report, dated May 10, 1996, of the Property performed by John Child & Company, Verizon Hawaii, Inc., HTI's predecessor in interest, paid the State \$125,000 for the use of the



Property from January 1, 1984 through December 31, 2003, by check dated October 14, 2004;

WHEREAS, neither HTI nor its predecessors have paid any moneys to the State for the use of the Property since October 14, 2004;

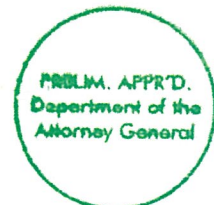
WHEREAS, on April 11, 2017, representatives of the Department of Land and Natural Resources, the Department of the Attorney General, and HTI met at the offices of mediator Esther Price to attempt to mediate a resolution of the fair market rent of the Property from January 1, 2004 to December 31, 2023;

WHEREAS, at the mediation, HTI contended that all claims against HTI for moneys owed arising prior to October 28, 2010, were discharged pursuant to bankruptcy proceedings in *In re Hawaiian Telcom Communications, Inc., et al.*, Case No. 08-02005, in the United States Bankruptcy Court for the District of Hawaii;

WHEREAS, HTI states that the Station has been inoperational for over a decade and that it wishes to cancel the lease and fully remediate the Property at its own expense; and

WHEREAS, the State and HTI (collectively, the "Parties") desire to fully, finally, and completely resolve, release, discharge, terminate, settle, compromise, and reach a settlement of all claims for rental payments owed by HTI to the State for use and occupancy of the Property, and to fully remove all improvements from the Property and restore the land to its original condition, on the terms and conditions set forth herein.

NOW, THEREFORE, in mutual consideration of the terms, covenants, and conditions of this Agreement, the Parties hereby agree as follows:





I. EXECUTION OF AGREEMENT AND EFFECTIVE DATE

1. Execution of Agreement by HTI. Prior to the submission of this Agreement to the Board as set forth in Paragraph I.2, this Agreement shall be executed by an authorized representative of HTI. After execution by HTI, this Agreement will be reviewed for approval as to form by the Attorney General of the State of Hawai'i or an authorized Deputy Attorney General.

2. Board Approval. Upon the execution of the Agreement as set forth in Paragraph I.1, the Department of Land and Natural Resources will present the Agreement to the Board for approval at a regularly scheduled meeting of the Board. HTI agrees and understands that this Agreement shall not be effective or binding until executed by the Chairperson of the Board following approval by the Board.

3. Effective Date. The Effective Date of this Agreement shall be the date that the Chairperson of the Board signs the Agreement.

II. PROMISES AND COVENANTS

1. Monetary Consideration. HTI agrees to pay the State ONE HUNDRED TWENTY THOUSAND DOLLARS AND ZERO CENTS (\$120,000.00) in full satisfaction of all rent owed or owing to the State stemming from HTI's use and/or occupancy of the Property. This payment shall be made within ONE (1) year of the Effective Date; provided that if HTI completes its obligations under Paragraphs II.4 and II.5 within ONE (1) year of the Effective Date and final approval set forth in Paragraph II.6 has not been granted for reasons outside of HTI's control, then such payment deadline will be extended until final approval has been granted.



2. Release. In exchange for the good and valuable consideration described herein, and upon both payment of the Monetary Consideration described in Paragraph II.1 and HTI obtaining final approval under Paragraph II.6, the State does hereby fully and finally release, acquit, and forever discharge HTI from and against any and all claims against HTI relating to HTI's use and/or occupancy of the Property from January 1, 2004, to the date of final approval set forth in Paragraph II.6 ("Released Claims").

3. Covenant Not to Sue. The State agrees that it will forever refrain and forbear from commencing or instituting any lawsuit or other proceeding or making any claim based upon the Released Claims. This covenant does not cover or affect claims as may arise from failure to perform the obligations contained in this Agreement.

4. Removal of Improvements and Restoration of Land. HTI agrees to deconstruct and remove the Station and all improvements from the Property at its sole cost and expense. HTI agrees to restore the Property to a condition that is in good order and repair and blends with surrounding landscape and environment and provide, as needed, suitable ground cover planting to prevent future erosion of the Property at its sole cost and expense. The selected ground cover plant shall be provided by the Division of Forestry and Wildlife. HTI may consult on the issue of appropriate ground cover with the Department of Land and Natural Resources, including the Division of Forestry and Wildlife and the Office of Conservation and Coastal Lands.

5. Phase I Environmental Site Assessment. HTI shall conduct a Phase I environmental site assessment and any subsequent assessments if appropriate or necessary to complete its obligations under Paragraph II.4 satisfactory to the standards set forth or required by the Federal Environmental Protection Agency, the Department of Health, and the Department of Land and Natural Resources, including, but not limited to, 40 C.F.R.

§ 312.1 *et seq.*

6. Final Approval. HTI's obligations under Paragraphs II.4 and II.5 will not be deemed to have been satisfied until its obligations under said paragraphs has been finally approved in writing by the Chairperson of the Board. HTI shall seek final approval of its obligations under Paragraphs II.4 and II.5 within ONE (1) year of the Effective Date.

7. Compliance with Laws and Regulations. HTI shall comply with all of the requirements of all county, state, and federal authorities and observe all county, state and federal laws applicable to the premises, including Conservation District Use Application KA-1/21/82-1426, now in force or which may be in force. HTI will comply with all Department of Land and Natural Resources and Office of Conservation and Coastal Land requirements, including obtaining site plan approval from the Office of Conservation and Coastal Lands for removal of the Station and improvements from the Property and restoration work.

### III. OTHER

1. No Representations. HTI admits that no statement of fact or opinion has been made by the State or by anyone acting on behalf of State to induce execution of this Agreement, other than as expressly set forth in this Agreement, and that this Agreement is executed freely by HTI upon advice of counsel.

2. Captions or Headings. In this Agreement, the captions or headings of paragraphs are inserted for convenience, reference, and identification purposes only, and shall not control, define, limit, or affect any provisions of this Agreement.





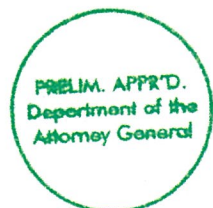
3. Further Assurances. The Parties shall take such other or further actions, and execute such other or further instruments, as any of them shall reasonably request in order to effectuate the purposes of this Agreement.

4. Binding on Successors. This Agreement, including the obligations and releases herein contained, shall be binding upon and inure to the benefit of each of the Parties hereto and each of their respective successors-in-interest.

5. Authority to Execute and Warranties. By signing this Agreement, HTI represents and warrants that it has the authority to execute and bind itself to the Agreement.

6. Release and Indemnity Relating to Work. HTI is solely responsible for any and all work to be performed under this Agreement. HTI shall release, indemnify, defend, and hold the State harmless from and against any claim or demand for loss, liability, or damage, including claims for bodily injury, wrongful death, or property damage, arising out of or resulting from: 1) any work performed under this Agreement; 2) any act or omission on the part of HTI relating to HTI's use, occupancy, maintenance, or remediation of the Property; 3) any failure on the part of HTI to maintain the Property in a safe condition up to the date of final approval set forth in Paragraph II.6; and 4) from and against all actions, suits, damages, and claims by whomsoever brought or made by reason of HTI's non-observance or non-performance of any of the terms, covenants, and conditions of this Agreement or the rules, regulations, ordinances, and laws of the federal, state, or county governments that apply to HTI's use, occupancy, maintenance, or remediation of the Property.

7. Non-Warranty. The State does not warrant the conditions of the Property.



8. Hawai'i Law. This Agreement is entered into in the State of Hawai'i, and shall be construed and interpreted according to its laws.

9. Historic Preservation. In the event any historic properties or burial sites, as defined in section 6E-2, Hawaii Revised Statutes, are found on the Property, HTI and its agents, employees, and representatives shall immediately stop all work and contact the Historic Preservation Office in compliance with Chapter 6E, Hawaii Revised Statutes.

10. Amendment. This Agreement shall not be amended except by a written instrument executed by the Parties and approved by the Board.

11. Counterparts. This Agreement may be executed in one or more counterparts. Duplicate, unexecuted pages may be discarded and the remaining pages assembled as one instrument.

12. Extension of Time. Notwithstanding any provision contained in this Agreement, when applicable, the Board may for good cause shown, allow additional time beyond the time or times specified in this Agreement for HTI to comply, observe, and perform any of the Agreement's terms, conditions, or covenants.

13. Entire Agreement. The Parties have not made any agreement or promise to do or omit to do any act or thing not mentioned in this Agreement. This Agreement contains the entire agreement between and among the Parties with regard to the matters set forth herein. There are no other understandings or agreements, verbal or otherwise, in relation hereto, between the Parties. It is mutually understood that each party fully participated in the drafting of this document and that in no case, including in the case of an ambiguity, should the terms of this Agreement be construed against the drafter because of its status as the drafter.



HAWAIIAN TELCOM, INC.

STATE OF HAWAI'I



#16-235

By [Signature]  
its **John Komeiji**  
Chief Admin. Officer & General Counsel  
Date: **OCT 10 2017**

By \_\_\_\_\_  
Chairperson, Board of Land and  
Natural Resources  
Date: \_\_\_\_\_

APPROVED AS TO FORM:

[Signature]  
Deputy Attorney General  
Attorney for  
STATE OF HAWAI'I

Settlement Agreement Between State of Hawai'i and Hawaiian Telcom, Inc.

PRELIM. APPR'D.  
Department of the  
Attorney General