STATE OF HAWAI`I
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
HONOLULU, HAWAI`I

September 14, 2012

180-Day Deadline: October 1, 2012

BOARD OF LAND AND
NATURAL RESOURCES
STATE OF HAWAII
HONOLULU, HAWAII

REGARDING:	Conservation District Use Application **(CDUA) MA-3624** for the Maui Police Department Waiakeakua Communication Facility
APPLICANT:	Chief Gary Yabuta, County of Maui, Police Department
AGENT:	Michael Munekiyo, Munekiyo & Hiraga, Inc.
LOCATION:	Ka'ohai, Monroe Trail, County of Maui, Island of Lana'i
TMK:	(2) 4-9-002:001 (por.)
AREA OF PARCEL:	86,000 acres
AREA OF USE:	0.190 acres (8500 ft^2)
SUBZONE:	Resource

DESCRIPTION OF AREA AND CURRENT USE:

The proposed Maui Police Department (MPD) Waiakeakua Communications Facility (WCF) will be located on the remote eastern edge (toward the island of Maui) of the southern ridge of Mt. Lanaihale at approximately 3200 ft above sea level (asl) **(Exhibit A)**. The project site is set back approximately 90-feet from the "Monroe Trail", a single-lane dirt road established in 1955, **(Exhibit B)** which was created from former dirt trails and agricultural roads that cover the western portion of the island. Monroe Trail is suitable only for off-road capable vehicles with a high ground clearance.

The subject parcel encompasses approximately 95% of the land area of the Island of Lana'i while the proposed project site requires only a minimal portion of the entire parcel. The project site will be sited a fair distance from urban centers such as Lana'i City, located approximately 4.5 miles northeast of the project site; the Manele Small Boat Harbor located 4.5 miles southwest of the project site; Lana'i Airport located 5.5 miles from the project site and approximately 8 miles from the main commercial seaport, Kaumalapau Harbor. Access to the site is via the Monroe Trail which connects to Manele Road, located approximately 1.5 miles north of Lana'i City.

The project site is characterized by undeveloped conservation lands vegetated with scattered Cook Island Pines interspersed with low-saturated ferns, primarily the native uluhe fern (*Dicranopteris linearis*) and common shrubs (**Exhibit C**). The native flora has been encroached upon by invasive species and numerous accounts of the biological resources of the summit area reveal that the spread of non-native species of flora has been exacerbated by the progressive ingress of non-native ruminants. In recent years the previous owner of Lana'i, Castle & Cooke, has been installing fencing to exclude these invasive fauna from the summit area as part of a comprehensive watershed conservation project.

The summit area, which was once considered a native "cloud forest", is still characterized by wind-driven clouds and relatively dense fog cover; although the site averages only 35 inches/year of precipitation, much less than corresponding regions of the other Hawaiian islands. The summit of Mt. Lanaihale doesn't receive a large amount of rainfall due in part to the wind shadow effect from the West Maui Mountains. Consequently the Cook Island Pines "collect" moisture from clouds, thus feeding the limited hydrology of the area.

The proposed new MPD communications facility will be located approximately 300-feet south and downhill along a ridge from the existing Harmer Radio and Electronics communications facility (Harmer) (**Exhibit D**). The Harmer communications facility was approved under Conservation District Use Permit (CDUP) **LA-2990** in June, 1998 by the Board of Land and Natural Resources (BLNR). Additional authorizations have been granted for the Harmer Site including a Site Plan Approval (SPA) **LA-03-28** authorized the construction of an additional equipment shelter; a SPA **LA-08-11** which authorized the replacement of Verizon's omni- and uni-directional antennae and a SPA **LA-08-10** which authorized the construction of accessory structures and new antennae for Sprint-Nextel. The Harmer Site is serviced by an underground power connection which runs from an existing County Water Well system (Well #5) supplying single-phase power at 480V to the Harmer site. The Harmer Site consists of two (2) equipment shelters, one (1) emergency generator, one (1) fuel tank and one (1) 70-foot tall duel mast communications tower which house a variety of private telecommunication antennae. Currently the MPD utilizes the Harmer Site for limited microwave and Land-Mobile Radio (LMR) coverage while the majority of the Harmer site is utilized by privately owned commercial telecommunications entities.

Resource and Environment

In August, 2011 a biological survey was completed for the Area of Potential Effect (APE) to document the flora and fauna in the vicinity of the proposed project. The vegetation of the project is a mixture of native and non-native species in a mesic (*ecosystem with a moderate supply of moisture*) forest setting. The summit area has been encroached upon by invasive species via the existing roads and trails which allow for the ingress of non-native axis deer (*Axis axis*), sheep and non-native predators (e.g., feral cats). As these animals have penetrated the forest the native plant species have been severely impacted, laying the groundwork for non-native plants to become established. All of the non-native plant species found in the APE are considered to be widespread and common, such as the firetree (*Morella faya*), New Zealand tea (*Leptospermum scoparium*), swamp mahogany (*Eucalyptus robusta*) and strawberry guava. These four common non-native plants found in the APE are considered serious invasive species in Hawaii while the other non-native plants observed are of no particular interest or concern. All of the native plant species

found during the survey (e.g., Uluhe Ferns) are widespread and relatively common and can be found on multiple Hawaiian Islands. No endangered or threatened plant species were found within the project area during the survey, nor were there any candidates for such a status. No special plant habitats were found in the APE although there is a 10 acre sanctuary which contains two endangered plant species; Hāhā (*Cyanea munroi*) and *Viola Lanaiensis*, located approximately ½ mile (3000 ft) north of the project site in the North Awehi Gulch.

Numerous tracks of the invasive axis deer were observed along the eastern ridge of the project area as axis deer are common throughout much of the summit forest. Similarly, other common non-native fauna are expected to reside in the vicinity including rats, mice and feral domestic cats (*Felis catus*). A special effort was made to observe a Hawaiian Hoary bat by conducting two separate night surveys of the project site; while visibility was excellent, no bats were observed. Additionally a bat detection device (Batbox IIID) was deployed on site to monitor the common frequency of bat echolocation (27,000 hertz); no bats were documented using this device.

Birdlife was sparse in species representation but moderate in numbers within the project site. Three species of non-native bird species were observed during two site visits, the house finch (*Carpodacus mexicanus*), the Japanese white-eye (*Zosterops japonicas*) and Erkel's francolin (*Francolinus erckelii*). While the house finch was common to the project site, the Francolin and White-eye were of uncommon occurrence. Populations of native seabirds, the Endangered Hawaiian petrel (*Pterodroma sanwichensis*) and the threatened Newell's shearwater (*Puffinus newelli*) are known to nest during the summer and fall months on the wet summit ridges starting approximately ½ mile from the project site although exact numbers, and specific flight corridors of these species is not well documented at the project site. Because of this the applicant has contracted an environmental firm to conduct a nighttime avian survey of the project site. The primary goal of the survey is to determine "baseline" data of passage rates, flight direction and flight altitudes of avian species. These passage rates will be used to estimate the fatality rates associated with the development of the new facility. At this time the methodology for the avian survey has been provided to the Pacific Islands Fish and Wildlife Office and continued coordination with the FWS will ensure that impacts to avian fauna, if any, will be mitigated.

Only one of the eight (8) insect species indentified at the project site, the long tail blue butterfly (*Lanpides boeticus*) was considered common while the majority were considered uncommon; none are considered endangered or threatened. A single individual each of two native species was observed: the Hawaiian stink bug (*Oechalia pacifica*) and an unidentifiable nymph of a plant hopper (*Nesosydne* sp.) neither of which is considered rare in Hawaii. No reptile or mollusk species were observed or discovered during the survey.

Architecture and Archeology

It is recognized that the summit area of Mt. Lanaihale has a long history of use, although not as a center of population for pre-contact or historic Hawaiian communities. A discovery of historical material and human remains within the broader upland area has been documented and these inadvertent finds have been registered with the State Historic Preservation Division (SHPD). This inadvertent discovery of human remains in the upper reaches of Lana'i Island was brought to the attention of the applicant during a cultural informant interview, conducted for the proposed MPD communications facility project. It is further noted that this inadvertent find was discovered over

3000-feet away from the project site and the project APE. The discovery was made during excavation in conjunction with an approved project undertaken by Castle & Cooke, the previous landowners of the subject parcel.

Following a consultation with the State Historic Preservation Division (SHPD), Maui office, an archeological field inspection was conducted on *August 19, 2011* of the proposed project site and access driveway. It should be noted that during the survey portions of the project area were heavily vegetated limiting the surface visibility and the detection of surface features. During the course of the field inspection there was no evidence of any above ground cultural resources noted within the project area, the APE or the traversed portions of the Monroe Trail. A previous Archeological Inventory Survey (AIS) was conducted in the vicinity of the project site during the permitting of the Harmer Site in 1998. At that time the SHPD determined that there was no evidence of any historic structures, but recommended that in the case of inadvertent finds SHPD be contacted immediately should any material be discovered. As a result the consultant has recommended to the applicant that precautionary archeological monitoring be conducted for any earth disturbance activities at the project site; this recommendation follows the previous and current SHPD recommendations for any discovery of inadvertent finds.

Culture, Hawaiian Native Uses and Rights

As discussed previously, no surface archeological features, midden sites or other material cultural remains or signs of subsurface features were noted during the survey. This observation indicates that it is unlikely that the project site would have been a significant gathering place for cultural practices. With that said, Mt. Lanaihale and the sub-peak Mt. Ha'alelepa'akai are some of the more notable paces in the highland areas of Lana'i and could include other storied places yet to be discovered.

Under the direction of the Department of Hawaiian Homelands (DHHL) two community members familiar with the history of Lana'i were interviewed on the history and cultural practices of pre-contact and historic Lana'i, as well as the broader Hawaiian Islands. The project site is located in the ahupua'a of Kaohai and is similar to the four (4) other ahupua'a in that Kaohai spans across the island from shoreline to shoreline. While the project site is not in the vicinity of any population centers, native Hawaiians in the pre-contact era would have utilized this region for transitory practices such as passage and transport of resources. Trails throughout Hawaii's landscape are important to note as many of them have origins as native foot trails, or *alahele* such as sections of the Munro Trail which follows an old *alahele*.

While some named and storied places are located in the vicinity of the project site, the proposal should not impact or affect any of these practices. The proposed project will not interfere with passage along the ridge via Munro Trail, nor will it block passage along the Kaohai auhpua'a. An archeological monitoring plan will be in place to protect against impacts to any uncovered historical sites or material. During the construction phase Munro Trail will remain open to public access, although deliveries and some construction activities may result in temporary delays along the private road.

PROPOSED USE:

In addition to housing the Maui Police Department (MPD) radio transmitters and equipment, the existing Harmer site hosts multiple commercial tenants (e.g., Verizon, Sprint) and various County radio and communication operations. Consequently, due to the limited site area, topography and layout of the Harmer site, any microwave transmission to the Lana'i Police Station is not possible from this location. For this reason, and other reasons such as limited security, limited transmission capability and site size, the MPD is proposing the development of a new communications facility that will meet its current and future needs (**Exhibit E**).

The proposed project site will consist of:

- One (1) 700 ft^2 concrete-masonry unit (CMU) Radio Equipment Building to accommodate a 356 ft^2 radio equipment room, a 98 ft^2 battery room and a 200 ft^2 emergency generator room (**Exhibit F**).

- One 100-foot tall, four (4) leg self supporting tower (20' x 20') which will support 14 individual antennae, including two (2) 15-foot diameter, four (4) 12-foot diameter, four (4) 10-foot, two (2) 8-foot, and two (2) 6-foot diameter antennas. The tower will also support six (6) whip Land Mobile Radio (LMR) antennas and a discreet lighting rod. The lightning rod will be the tallest feature of the tower site, reaching a maximum height of 125-feet above grade. The tower will not require any guy-wires as each of the tower's four legs will be anchored using 4 (four) drilled piers reaching approximately 30-feet into the ground (**Exhibit G**).

Additionally the new communication facility will require utility improvements in order to accommodate the increased electrical load. The proposed project will require that MECO upgrade from the current single-phase electrical service to a three-phase electrical service to accommodate the new facility. A new electrical meter and transformer will be installed on a new 6' x 6' concrete pad near the Harmer site. Approximately 350-feet of buried conduit, tying the Harmer Site to the New MPD Site, will be emplaced and will generally follow the alignment of the existing Monroe Trail to minimize new impacts from excavation and grading. One new transformer will be installed at the new MPD communications facility to accommodate the new utility.

Some grading, grubbing and excavation will be required to prepare the site for the new facility. Minor native landscaping and re-planting of graded and cleared areas will also be conducted to minimize erosion impacts and invasive species propagation at the project site.

The purpose of the proposed MPD communications facility is to add to the network of microwave communication facilities throughout the County of Maui and serve as a 'repeater' site, providing coverage to Lana'i, West Maui, and the surrounding region. The proposed facility will be used exclusively by governmental entities to provide voice and data services for the County data network, with the MPD as the primary user. The proposed site will also transmit emergency calls made from Lana'i to the 911 dispatch, located at the Maui Police station in Wailuku, for first responder agencies. Other government agencies will be able to use surplus microwave bandwidth as part of the County of Maui Management Information Systems (MIS) program.

SUMMARY OF COMMENTS:

The Office of Conservation and Coastal Lands (OCCL) referred the application to the following state agencies for review and comment. Comments received from the following agencies have been summarized by staff as follows:

U.S. Department of Transportation – Federal Aviation Administration (FAA)
Per Federal Aviation Regulation (FAR) Part 77, Notice of Proposed Construction or Alteration, we request an airspace review be conducted by the proponent through submittal of FAA Form #7460-1, Notice of Proposed Construction or Alteration. An airspace analysis will be conducted upon submittal of the information. The information (i.e., Form #7460-1) should be submitted on the following website: https://oeaaa.faa.gov/oeaaa

Applicant response:
Notice of Proposed Construction or Alteration (FAA Form 7460-1) was submitted to the FAA through the Obstruction Evaluation/Airport Airspace Analysis (OE/AAA) web portal and a Determination of No Hazard to Air Navigation was issued on April 20, 2012. It is noted that the FAA OE/AAA requires the follow-up form, FAA Form 7460-2, and a Notice of Actual Construction or Alteration be completed and returned to the OE/AAA. The applicant will submit form 7460-2, Part II to the OE/AAA within five (5) days after lower construction reaches its greatest height.

U.S. Army Corps of Engineers, Honolulu District
Based on our review of the submitted documents, it appears that the project location consists entirely of uplands. In accordance with Section 10 and Section 404, **a Department of the Army (DA) permit will not be required** for the proposed project.

U.S. Department of the Interior – Fish and Wildlife Service (FWS)
The comments have been condensed for ease of review:

Due to the presence of a large extant population of Hawaiian petrels at Mt. Lanaihale, as well as smaller remnant populations of Newell's shearwaters in the same area, the FWS recommends that nocturnal avian radar surveys be conducted during the seabird breeding season to assess potential impacts resulting from the construction of proposed communications tower and other project-related appurtenances.

The Service recommends that measures to minimize the amount of glare from outdoor lighting installations be incorporated into the proposed action. Outdoor lighting should be constructed in a manner that fully shields lighting sources and directs light downwards.

If funding or permitting of the construction or operation of the proposed communications tower originates from a Federal agency, then said agency must formally consult with the Service per Section 7(a)(2) of the Endangered Species Act (ESA) as the implementation of the proposed project may result in "take" of listed seabirds.

Applicant response:
Pursuant to the Service's letter of May 23, 2012, impacts to all but one (1) of the listed species are not expected or are avoided by the mitigation measures proposed with the subject project. However, a colony of the Hawaiian petrel is known to exist near the summit of Mt. Lanaihale, but because there is no data to quantify the colony's approximate size or to define the movement corridors the impacts of developing the steel lattice tower cannot be analyzed efficiently.

The MPD has contracted an environmental services company to perform a nighttime avian survey. The primary objective of the study is to collect baseline data on flight directions, passage rates, and flight elevation to better estimate the potential number of petrels that may be in the vicinity of the proposed tower. Passage rates determined by the avian survey will be used to estimate the fatality rates associated with the development of the tower as proposed. The data and the model will then be used to initiate consultation with the Service on behalf of the FCC.

Outdoor lighting best management practices will be implemented as outlined in the Final Environmental Assessment (FEA)

State of Hawaii - Department of Accounting and General Services (DAGS)
The State of Hawaii gives its full support to the development of this communications facility by the County of Maui. The State recognizes the need and importance of this facility for public safety communications.

State of Hawaii – Dept. of Education (DOE)
The DOE has no comments.

State of Hawaii – Dept. of Hawaiian Homelands (DHHL)
The Department notes that a true Cultural Impact Assessment (CIA) was not provided in the Draft EA per HRS Chapter 343 and the OEQC guidance on preparation of CIA's. Please consult with the recently completed Practice and Implementation of HEPA, January 2012, available on the OEQC website.

DHHL strongly suggests that additional consultation with Hawaiian Homesteaders who may have knowledge of the legends and histories of that area of the island take place.

DHHL suggests that the archeological monitoring plan be revised to include the information gleaned from the interview with Mr. Maly, as there is some contradiction in the two sets of statements about the significance of the area as well as no mention of the record of past inadvertent discovery of human remains and disturbance to other cultural features due to unmonitored grading of the Monro Trail and the access to the proposed project site.

Please include all correspondence with DLNR-SHPD, whether by formal letter or in emails, as well as a copy of the revised, SHPD-approved archeological monitoring plan, with the Final Environmental Assessment.

Applicant response:
Interviews with two (2) informants familiar with the island of Lana'i, its culture, and history were conducted in the preparation of the Draft EA. For each, either an interview summary or a

transcript of the interview was included in the Draft EA. The recently completed Practice and Implementation of HEPA, 2012, which includes OEQC guidelines, has been reviewed for guidance and the Final EA will be revised to provide additional information.

Although MPD is open to meeting with Lana'i Homestead residents, no request from residents to meet in person has been formalized at this time.

An archeological monitoring plan (AMP), which was prepared to DLNR – SHPD standards has been submitted to the SHPD for review and approval. The AMP outlines the area of impact and includes a summary of the archeological field inspection. Kepa Maly indicated in his interview that inadvertent finds had occurred during construction of the Monro Trail, although these finds were well outside the area of impact, approximately 3000' from the project site.

State of Hawaii - Department of Health (DOH)
No comments. See standard conditions on Dept. of Health website.

Applicant response:
The applicable standard comments found on the Department of Health website were considered during the design of the subject project and during the preparation of the Draft EA. All applicable rules and regulations will be complied with during the construction and operation of the facility.

Commission on Water Resource Management (CWRM)
No comments.

State of Hawaii - Department of Transportation (HDOT)
Given the nature and location of the proposed project, HDOT does not anticipate any significant impact to its transportation facilities. However, the applicant should be informed that a permit is required from the DOT Highways Division, Maui District to transport oversized and/or overweight equipment/loads on the State highway facilities.

Applicant response:
The applicant acknowledges the requirement to obtain a permit from the Department of Transportation (DOT) Highways Division, Maui District Office if oversized or overweight loads are to be transported on State Highway Facilities.

Office of Hawaiian Affairs (OHA)
OHA has no objections to the anticipated "Finding of No Significant Impact" determination in the DEA and we have no other comments to offer at this time.

State of Hawaii – DLNR, Department of Parks and Recreation
No comments.

State of Hawaii – DLNR, Engineering Division
Please take note that the project site, according to the Flood Insurance Rate Map (FIRM) is located in Flood Zone X. The Flood Insurance Program does not have any regulations for developments within Flood Zone X.

Applicant response:
It is noted that the project site is located in the Flood Zone X and that the National Flood Insurance Program (NFIP) has no regulations for developments within this flood zone.

State of Hawaii – DLNR, Division of Forestry and Wildlife (DOFAW)
The proposed lattice design of the tower will make it visible to birds, therefore it is recommended that fencing around the structures use white polytape to enhance fence visibility, and painting the structure a white or grey color to make it more visible and reduce the risk of impacts. The MPD stated that trees would remain around the project site as much as possible to deter birds from flying directly at the structure; similarly the proposed minor clearing of vegetation for the project is not problematic.

Applicant response:
The preliminary design of the tower is in accordance with the representations made to DOFAW and has incorporated the specific suggestions presented by DOFAW. Should any substantive changes be included, MPD will consult with DOFAW and update the plan as needed.

County of Maui – Department of Environmental Management
Solid Waste Division: No comments.
Wastewater Reclamation Division (WWRD): No comments; there is no County wastewater system in the area of the subject project.

County of Maui – Dept. of Fire and Public Safety
We reserve the right to comment on the proposed project during the building permit review process when fire department access, water supply for fire protection, and fire and life safety requirements will be addressed. At this time our office has no specific comments or objections in regards to the application.

County of Maui – Dept. of Housing and Human Concerns
Based on our review, we have determined that the subject project is not subject to Chapter 2.96, Maui County Code. At this time the Department has no additional comments.

Applicant response:
We appreciate your review of the document and that you're conveying that the proposed project is not subject to Chapter 2.96, Maui County Code

County of Maui – Dept. of Planning
The land use designations for the project area are as follows:

a) State Land Use: Conservation
b) Lanai Community Plan: Open Space
c) County Zoning: N/A
d) Other: Not within the Special Management Area (SMA)

Please submit a Zoning and Flood Confirmation Form to the Department's Zoning Administration & Enforcement Division (ZAED) for land use designation clarification.

Consideration should be given to the Lanai Planning Commission to provide comments on the Draft EA or to otherwise have the ability to review and comment on the proposed project prior to its construction.

Applicant response:
A Zoning and Flood Confirmation Form for the subject site has been submitted to the Department's ZAED which provides official verification of the underlying land use designations. Conservation District land uses come under the jurisdiction of the Office of Conservation and Coastal Lands (OCCL) who facilitates public input through the application process. The Board of Land and Natural Resources will meet prior to issuing a permit for the proposed project.

Based on numerous communication requests Captain Jeff Amaral has been our designated point of contact on this project and he will be available to discuss with individuals, any questions or comments that may be raised.

County of Maui – Department of Transportation
No comment.

County of Maui – Department of Water
We understand that the facility will be unmanned and will not require potable water service for domestic uses or for fire protection.

Above ground fuel tanks generally pose a potential risk for groundwater contamination and degradation. We note that the proposed tank contains leak detection and overfill protection systems. However, we recommend that the following Best management Practices (BMP) be considered:

1. Permanently installed tanks are to be surrounded by a dike system. The dike shall be of sufficient height to provide a volume within the dike area.
2. Outlets from the tank area shall have positive control to prevent the uncontrolled discharge from the tank area of spilled fuel.
3. The outlet shall have a sump for the collection of small spills. It shall be cleaned weekly to minimize the contamination of storm water.
4. During the wet season, accumulated storm water shall be released frequently.

To further protect groundwater resources, we also recommend that the mitigation measures below be implemented during construction:

1. Limit construction to dry periods.
2. Prevent cement products, oil, fuel, and other toxic substances from falling or leaching into the water.
3. Properly and promptly dispose of all loosened and excavated soil and debris material from drainage structure work.
4. Keep run-off on site.
5. Construct drainage control features, such as berms.
6. Install silting basins where warranted.
7. Maintain drainage structures, detention, silting, and debris basins.

Applicant response:
As noted in your letter the fuel will be stored in a 1000-gallon, above-ground, double walled concrete fuel tank equipped with various measures to prevent spills that may result from leaks or overflow. The applicant has considered the BMPs provided by the Department of Water Supply (DWS) and is taking the necessary precautions in the design of the fuel tank.

The applicant further acknowledges the potential impacts associated with construction activities and the construction BMPs suggested by the DWS. The construction period is expected to take a minimum of 18 months and these activities will be orchestrated as to minimize runoff and siltation that may be caused by winter storms.

Temporary erosion control measures, which include the placement of silt fences or silt barriers, will be used during construction activities to prevent runoff and contain surface flow within the areas of construction.

The design drawings will include water pollution and erosion notes related to sediment and erosion control practices for exposed ground and the use of materials within the project area. The project will comply with HAR, Chapters 11-54 and 11-55, as applicable, and discharge resulting from the construction or operation of the facility.

Maui Electric Company, Ltd. (MECO)
No comments.

Castle and Cooke – Lana'i

1. What evidence of feral pigs, were found near or close to the proposed project site?
2. Please refer to the report titled "Burial Site Component of an Archeological Data Recovery Plan for State Inventory of Historic Properties No. 50-40-98-1961: Kaohai Ahupua'a, Lahaina District, Lana'i Island; TMK (2) 4-9-002:001 (por).
3. Extreme caution is recommended for the proposed grubbing and grading work.

Applicant response:

1. *Evidence of the presence of feral pigs was not observed by the biological consultant during the survey. The statement made in the Drat EA regarding the long-term impact of non-native wildlife on the remnant cloud forest will be revised in the Final EA to remove all references to feral pigs.*

2. *We acknowledge the previous inadvertent discovery of human burials near the project site and an Archeological Monitoring Plan (AMP) which addresses the protocol for monitoring has been prepared and submitted to the SHPD for approval.*

3. *As indicated above, and AMP prescribing the activities during which archeological monitors must be present while construction, grading and grubbing activities take place.*

ANALYSIS:

Following review and acceptance for processing, the Applicant's Agent was notified, by letter dated *April 5, 2012* that:

1. The new MPD telecommunications facility is an identified land use within the Conservation District Resource Subzone, pursuant to Hawai`i Administrative Rules (HAR) §13-5-22, **P-6 PUBLIC PURPOSE USES (D-1)** *Not for profit land uses undertaken in support of a public service by an agency of the county, state, or federal government, or by an independent non-governmental entity, except that an independent non-governmental regulated public utility may be considered to be engaged in a public purpose use. Examples of public purpose uses may include but are not limited to public roads, marinas, harbors, airports, trials, water systems and other utilities, energy generation from renewable resources, communication systems, flood or erosion control projects, recreational facilities, community centers, and other public purpose uses, intended to benefit the public in accordance with public policy and the purpose of the conservation district.* This use requires a **Board Permit**. The final decision as to whether to grant, modify, or deny the permit lies with the Board of the Department of Land and Natural Resources;

2. Pursuant to HAR §13-5-40 *Hearings*, no public hearing will be required;

3. In conformance with Chapter 343, Hawaii Revised Statutes (HRS), as amended, and Chapter 11-200, HAR, a Finding of No Significant Impact (FONSI) to the environment is anticipated for the proposed project; and

4. The proposal does not appear to be in the Special Management Area (SMA).

A Finding of No Significant Impact (FONSI) was published in the **August 8, 2012** edition of the Office of Environmental Quality Control's *Environmental Notice*.

§13-5-30 CRITERIA:

The following discussion evaluates the merits of the proposed land use by applying the criteria established in HAR §13-5-30.

1) *The proposed use is consistent with the purpose of the Conservation District.*

The objective of the Conservation District is *to conserve, protect and preserve the important natural resources of the State through appropriate management and use to promote their long-term sustainability and the public health, safety and welfare.*

The significant natural resources of the Mt. Lanaihale summit area include undeveloped lands, natural vistas and view planes, local hydrology, along with a native "Cloud Forest" ecosystem. The proposed MPD Communications facility project will be constructed within an area of Mt. Lanaihale that includes an existing communications facility and associated out-buildings, towers, access roads and fencing. By siting the new MPD

communications facility in the vicinity of the existing Harmer site the applicant has reduced the need for trenching new utility lines, grading and grubbing for road building and additional influences on scenic view planes.

While the project area has been observed to be impacted heavily by invasive flora and fauna, the applicant has designed the site to incorporate the existing site flora (e.g., Cook Island Pine Trees) to reduce impacts to native or endemic species. The proposed project will implement minor landscaping and re-vegetation of cleared areas to further minimize impacts to any native flora, while working to remove invasive species on the project site. The improvements being proposed for the new MPD communications facility will play an integral part in a public service that promotes the health, safety and welfare as this new site replaces the inadequate communications system presently in place for the residents of Lana'i.

The project has been designed to reduce impacts on the surrounding environment and was developed in coordination with applicable state, federal and county agencies. As the Archeological and Historical survey found no historic and cultural resources and the biological survey did not observe significant flora or faunal resources, impacts to these resources appear minimal to non-existent. Additionally, influences on potential groundwater resources from construction activities on the subject parcel are considered minimal to non-existent as there will be no off-site water access. Staff is of the opinion that the proposed land use, therefore, is consistent with the purpose of the Conservation District and the proposed action will not negatively impact the natural resources of the area

2) *The proposed land use is consistent with the objectives of the Subzone of the land on which the use will occur.*

The objective of the Resource Subzone is *to ensure, with proper management, the sustainable use of the natural resources of the area.* The proposed use under Hawaii Administrative Rules (HAR) §13-5, PUBLIC PURPOSE USES, is an identified land use in the Conservation District Resource Subzone for projects that serve to fulfill a mandated governmental function, or service for public benefit.

As the area of permanent disturbance associated with the project is 8500 ft^2 staff believes that the proposed improvements do not represent a use that is contrary with the purpose of the Resource Subzone. The management of the site will include pre- and post-construction mitigation efforts including landscaping, invasive species removal and erosion and runoff controls. Similarly, the size of the project site does not involve the commitment of significant portions of land and therefore the OCCL believes that the region will maintain its character as a forested summit area.

The MPD Communications Facility will bolster the LMR coverage that serves the police and other first responder agencies and will enable microwave data transmission to the Maui Police Station is Lanai City as well as emergency calls to the 911 dispatch in Wailuku, Maui. As this use will be undertaken by the MPD to fulfill a mandated

government function for public health and safety, staff believes that the proposed use is consistent with the objectives of the subzone.

3) *The proposed land use complies with the provisions and guidelines contained in Chapter 205A, HRS entitled "Coastal Zone Management", where applicable.*

While the project site is located away from coastal areas, potential impacts to coastal resources have been addressed below and are separated by the type of potential impact.

Recreational Resources:

Development of the proposed MPD communications facility will not interfere with any coastal recreational resources as the summit area of Mt. Lanaihale is located approximately three (3) miles from the nearest shoreline, and 4.5 miles from the nearest boat harbor. The proposed project will not permanently impact or impede any travel along the Monro Trail (other than during construction) or any other access roads local people may use to cross the Island of Lanai to get to the coast.

Historical Resources:

No surface or archeological features were identified during the archeological field inspection which was completed for the proposed project. Cultural interviews in conjunction with the project, as well as a lack of records involving place names, indicate the area would not likely have been inhabited. SHPD has concurred that since no cultural resources were discovered during the archeological inspection, precautionary monitoring during construction activities is recommended for the project site. An archeological monitoring plan (AMP), which was prepared to DLNR – SHPD standards, has been submitted to the SHPD for review and approval. In the event human skeletal remains are inadvertently disturbed, the SHPD Maui office, the Maui SHPD Cultural Historian, and the Maui/Lana'i Islands Burial Council regional geographic representative shall be notified, and appropriate mitigation action will be determined at that time; photographs of skeletal remains will not be taken.

Scenic and Open Space Resources:

As the project is located a significant distance from the shoreline this office believes that the view planes to and from the shoreline will not be impacted. The ridge along Mt. Lanaihale is known for its tall Cook Island Pine trees which can reach an elevation of 85-95 feet; as the new tower and lightning rod reach a maximum elevation of 125-feet, the OCCL believes that the additional cover provided by the tall trees will minimize any impacts to view planes at the project area. Additionally, the proposed placement of the facility minimizes the need for the removal of trees and should require only minor maintenance trimming of branches and trees in the vicinity of the tower site.

Coastal Ecosystems/Beach Protection/Marine Resources:

Mitigation measures for soil erosion control will be implemented during construction even though the proposed project is not in the vicinity of coastal ecosystems. Approximately 40% of the building and tower area will be surfaced with a 4-inch gravel layer underlain with a geotextile fabric lining to allow for infiltration of surface flows which will minimize runoff to adjacent areas. The perimeter of the facility site will also be surrounded by a 12-inch deep gravel strip to retain surface flow on the project site to minimize runoff. Additionally, silt-fencing and/or silt-barriers will be placed to prevent surface runoff from entering adjacent areas and impacting groundwater or surface water resources. The project site access driveway off of the Monro Trail will also be surfaced with gravel to allow infiltration of flows and minimize additional runoff. The site design utilizes measures to mitigate storm water runoff and to ensure that downstream and adjoining areas will not be adversely affected during construction and operation of the proposed facility.

The proposed communications facility, located in the summit area of Mt. Lanaihale, will comply with applicable requirements of the County's Outdoor Lighting Ordinance and will not require obstruction lighting or tower lights. Exterior lights will face downward and be shielded, and nighttime use will be limited to working hours only while lights will utilize timers to minimize unnecessary light pollution.

4) *The proposed land use will not cause substantial adverse impact to existing natural resources within the surrounding area, community or region.*

The proposed land use is limited to the development of a single communications facility with an area of permanent disturbance to be approximately 8,500 ft^2. Related improvements include the installation of a new electric meter and transformer at the project site, a new transformer at the existing Harmer site and approximately 350 linear feet of underground cable to connect the MPD site with the Harmer site. Situating the proposed facility in proximity to the Harmer site reduces potential impacts that may come from the construction of new utility lines, grading of new access roads and major clearing.

Staff believes that the constrained scope of the proposed project, the siting of the facility near an existing communications facility, and the proposed mitigation measures will minimize or eliminate any adverse impacts to existing natural resources within the project area. For added protection the radio equipment building will be constructed using interior thermal and acoustical insulation to minimize the loss of cooling and reduce the heating of the building. In addition, the design drawings will be stamped to show that the building and related improvements will meet the County of Maui Building Energy Conservation Code.

5) *The proposed land use, including buildings, structures and facilities, shall be compatible with the locality and surrounding areas, appropriate to the physical conditions and capabilities of the specific parcel or parcels.*

The specific location of the site was based on several weighted criteria, including radio coverage and line-of-site. The site location, at an elevation of 3200' asl, provides the line-of-site requirements necessary for microwave and LMP transmission and reception that meets the MPD's current and future needs. Other factors that influenced the site election include terrain and vegetative cover, and the proximity to an existing privately-owned communications facility. The siting of the facility limits the impacts to natural resources, but also concentrates similar development in an area with a largely undeveloped landscape, minimizing the geographic spread of development.

6) *The existing physical and environmental aspects of the land, such as natural beauty and open space characteristics, will be preserved or improved upon, whichever is applicable.*

The area surrounding the project site, once a native cloud forest, is now characterized by undeveloped lands vegetated with woody native and non-native trees, as well as native shrubs, ferns, and non-native grasses. The specific project site is largely undeveloped and vegetated primarily with the native uluhe fern and surrounded by tall Cook Island Pine trees. The impact on view planes, as discussed above, will be minimized by the placement of the tower on the eastern edge of the ridge, towards Maui and away from Lanai's population centers. The tower was also placed in a location that avoided triggering the requirement for obstruction lighting per FAA rules, and minimizes the need for the removal of large trees which is not anticipated.

Within the proposed MPD communication site, accessory structures have been consolidated and any project components that can practically be located inside the equipment building have been designed to do so. Only the tower, fuel tank, transformer and water catchment tank will be visible which preserves as best as possible the open-space characteristics and natural beauty of the area. Staff believes that the proposed project does not conflict with any State or County policies for the protection of scenic resources.

7) *Subdivision of land will not be utilized to increase the intensity of land uses in the Conservation District.*

Not applicable. The proposed project does not involve the subdivision of Conservation District land.

8) *The proposed land use will not be materially detrimental to the public health, safety and welfare.*

The proposed MPD communications facility would have long-term positive impacts on public health and safety by ensuring a direct microwave connection to the MPD Lanai Police Station and to transmit emergency calls from the public to the 911 dispatch in Wailuku, Maui. The facility also includes LMR transmitters and receivers which will provide better LMR radio services throughout central Lana'i and parts of Maui to Police and other first responder's agencies (e.g., Fire, Ambulance). Additionally the site will be surrounded with a security fencing which will not only protect the facility, but to ensure safety of hikers and others in the general area.

No other foreseeable actions have been identified in the vicinity of the MPD communications facility project site that would cause a cumulative impact to safety and health; secondary and cumulative impacts are not expected. Staff believes that the proposed project will not be detrimental to the public health, safety and welfare.

DISCUSSION:

The proposed MPD communications facility will include the construction of a new communication tower, generator, equipment building, fuel tank and utility lines which will provide a comprehensive public safety communication system that is currently deficient for the Island of Lana'i.

The department of Hawaiian Homelands (DHHL) expressed concern over the construction portion of the project citing a history of inadvertent finds in the vicinity of the project site. The applicant conducted an Archeological Inventory Survey (AIS) and extensive personal interviews with local stakeholders, familiar with the site and its history. Similarly, the SHPD was contacted to provide guidance on impacts from construction activity and the protection of historical and cultural resources. The applicant provided responses to these concerns in the Final Environmental Assessment (FEA) and after a thorough review staff believes these concerns have been satisfactorily addressed and that the project is an acceptable conditional use of Conservation District lands.

Additional concerns regarding the natural environment, including the fuel tank spills and runoff from site construction were addressed during the comment period by the applicant. Adequate mitigation protocols have been proposed which minimize the potential impacts to nearby natural and cultural resources. The design drawings will include *water pollution and erosion* notes related to erosion and sediment control practices for exposed areas and for long-term site management. There will also be sections on *Environmental Controls* and *Pollution Controls* which set forth the requirements to be implemented during construction to protect the area from runoff and the discharge of pollutants. To further minimize potential spills the interstitial spaces between the walls of the fuel tank contain leak detection and overflow detection devices. Contractors and MPD personnel will conduct maintenance on the facility and test critical facility equipment on a monthly basis in order to ensure the facility is proper working order.

An alternative analysis was conducted for the proposed project, including a no-action alternative and site-location alternatives. The no-action alternative means that the MPD would continue to utilize the existing Harmer commercial site. Under this scenario, options for expansion would be limited as the site characteristics would not allow for any improvement to the current communication system that serves the MPD and the citizens of Lana'i. For the MPD to remain on the existing site would severely limit the availability of first-responders to react to a crisis on Lana'i. Similarly, security issues may arise as the security of the equipment and the data cannot be guaranteed at the existing Harmer site. Furthermore the no-action alternative does not allow for the establishment of direct microwave transmission to the Lana'i City Police Station, which has been deemed a priority for the MPD. The site-location alternatives presented by the applicant show that the current proposed site selected by the MPD suits departmental needs in terms of line-of-site for both the LMR and land-based radio systems. Numerous studies for the placement of

the communications facility reveal that the proposed location: satisfies line-of-site requirements, area requirements, will minimize impacts from construction, and provide the future expansion capability. If another location was to be proposed, additional site-location and line-of-site studies would have to be conducted in areas not previously reviewed. In addition to offering the ideal line-of-site and communication coverage, the site location just off the Monro Trail will alleviate the need for the grading of new access roads and the placement of new utility attachments.

Staff believes that proposed project activities will comply with applicable federal, State and County regulations and standards, and employ best management practices to minimize construction related impacts. Noise and air quality potential impacts will be mitigated through compliance with the Department of Health regulations and through the mitigation policies outlined the Final Environmental Assessment (FEA). The placement of the project site within an area where development (e.g., Harmer Communication Facility and Monro Trail) has previously altered the land will further minimize potential impacts. Staff believes that no historic, archeological, natural or environmental resources will be impacted by this proposal and this project will greatly benefit public health and safety for the citizens of Lana'i and Maui.

RECOMMENDATION:

Based on the preceding analysis, Staff recommends that the Board of Land and Natural Resources APPROVE this application for the construction of the new Maui Police Department Communications Facility located in Ka'ohai, Monroe Trail, County of Maui, Island of Lana'i, on TMK: *(2) 4-9-002:001*, subject to the following conditions:

1. The permittee shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, State and county governments, and the applicable parts of HAR §13-5-42;

2. The permittee, its successors and assigns, shall indemnify and hold the State of Hawai`i harmless from and against any loss, liability, claim or demand for property damage, personal injury or death arising out of any act or omission of the permittee, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;

3. The permittee shall comply with all applicable Department of Health administrative rules. Particular attention should be paid to HAR §11-60.1-33, "Fugitive Dust" and to Chapter 11-46, "Community Noise Control," and Chapter 11-54 "National Pollutant Discharge Elimination System";

4. Before proceeding with any work authorized by the Department of the board, the permittee shall submit three (3) copies of the construction plans and specifications to the chairperson or an authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Two (2) of the copies will be returned to the permittee. Plan approval by the chairperson does not constitute approval required from other agencies;

5. Unless otherwise authorized, any work or construction to be done on the land shall be initiated within one (1) year of the approval of such use, in accordance with construction

plans that have been approved by the Department; further, all work and construction of the infrastructure must be completed within three (3) years of the approval. The permittee shall notify the department in writing when construction activity is initiated and when it is completed;

6. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the permittee shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;

7. All representations relative to mitigation set forth in the accepted environmental assessment or impact statement for the proposed use are incorporated as conditions of the permit;

8. The permittee understands and agrees that this permit does not convey any vested rights or exclusive privilege;

9. In issuing this permit, the Department and Board have relied on the information and data that the permittee has provided in connection with this permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;

10. Where any interference, nuisance or harm may be caused, or hazard established by use, the permittee shall be required to take measures to minimize or eliminate the interference, nuisance, harm or hazard;

11. Obstruction of public roads, trails, and pathways shall be avoided and minimized. If obstruction is unavoidable, the permittee shall provide alternative roads, trails, or pathways acceptable to the department;

12. The permittee acknowledges that the approved work shall not hamper, impede, or otherwise limit the exercise of traditional, customary, or religious practices of native Hawaiians in the immediate area, to the extent the practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law;

13. In the event that unrecorded historic remains (i.e., artifacts, or human skeletal remains) are inadvertently uncovered during construction or operations, all work shall cease in the vicinity and the permittee shall immediately suspend all work and shall contact the State Historic Preservation Division (SHPD) Maui Office, and the Lana'i/Maui Islands Burial Council;

14. The applicant will continue to consult with the US Fish and Wildlife Service (FWS) regarding the results of the Night-time Avian Survey and any applicable regulatory requirements;

15. Use of the area shall conform with the program of the appropriate soil and water conservation district or plan approved by and on file with the department, where applicable;

16. The permittee shall obtain a county building or grading permit or both if necessary for the use prior to final construction plan approval by the department;

17. Artificial light from exterior lighting fixtures, including but not limited to floodlights, uplights, or spotlights used for decorative purposes, shall be prohibited if the light directly illuminates or is directed to project across property boundaries or towards the shoreline and ocean waters, except as may be permitted pursuant to section 205A-71, HRS. All exterior lighting shall be shielded to protect the night sky;

18. The permittee acknowledges that the approved work shall not hamper, impede, or otherwise limit the exercise of traditional, customary, or religious practices of native Hawaiians in the immediate area, to the extent the practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law;

19. Other terms and conditions as prescribed by the chairperson; and

20. Failure to comply with any of these conditions may render this Conservation District Use Permit (CDUP) null and void.

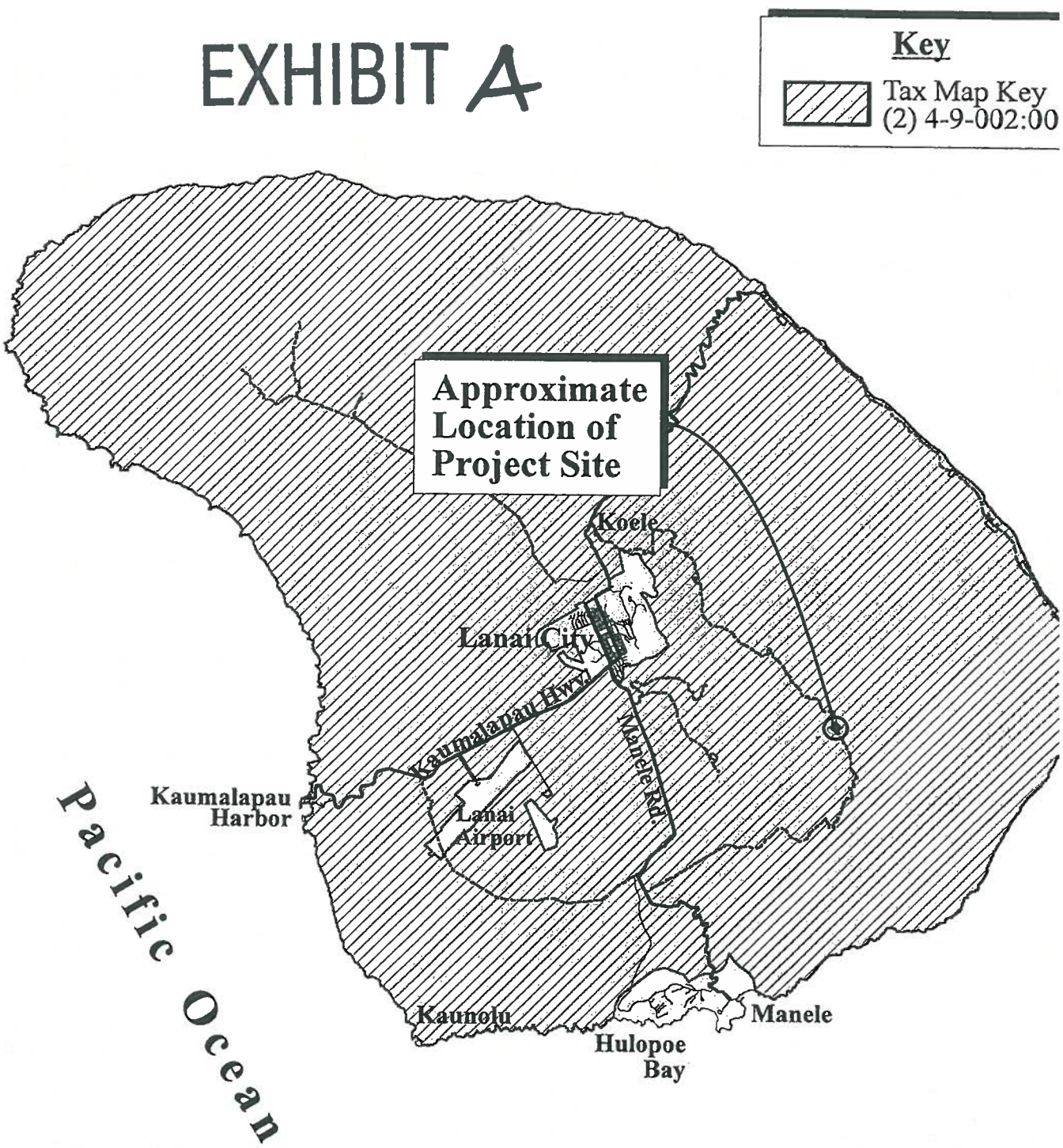
Respectfully submitted,

Alex J. Roy, M.Sc.
Staff Planner
Office of Conservation and Coastal Lands

Approved for submittal:

William J. Aila, Jr., Chairperson
Board of Land and Natural Resources

EXHIBIT A



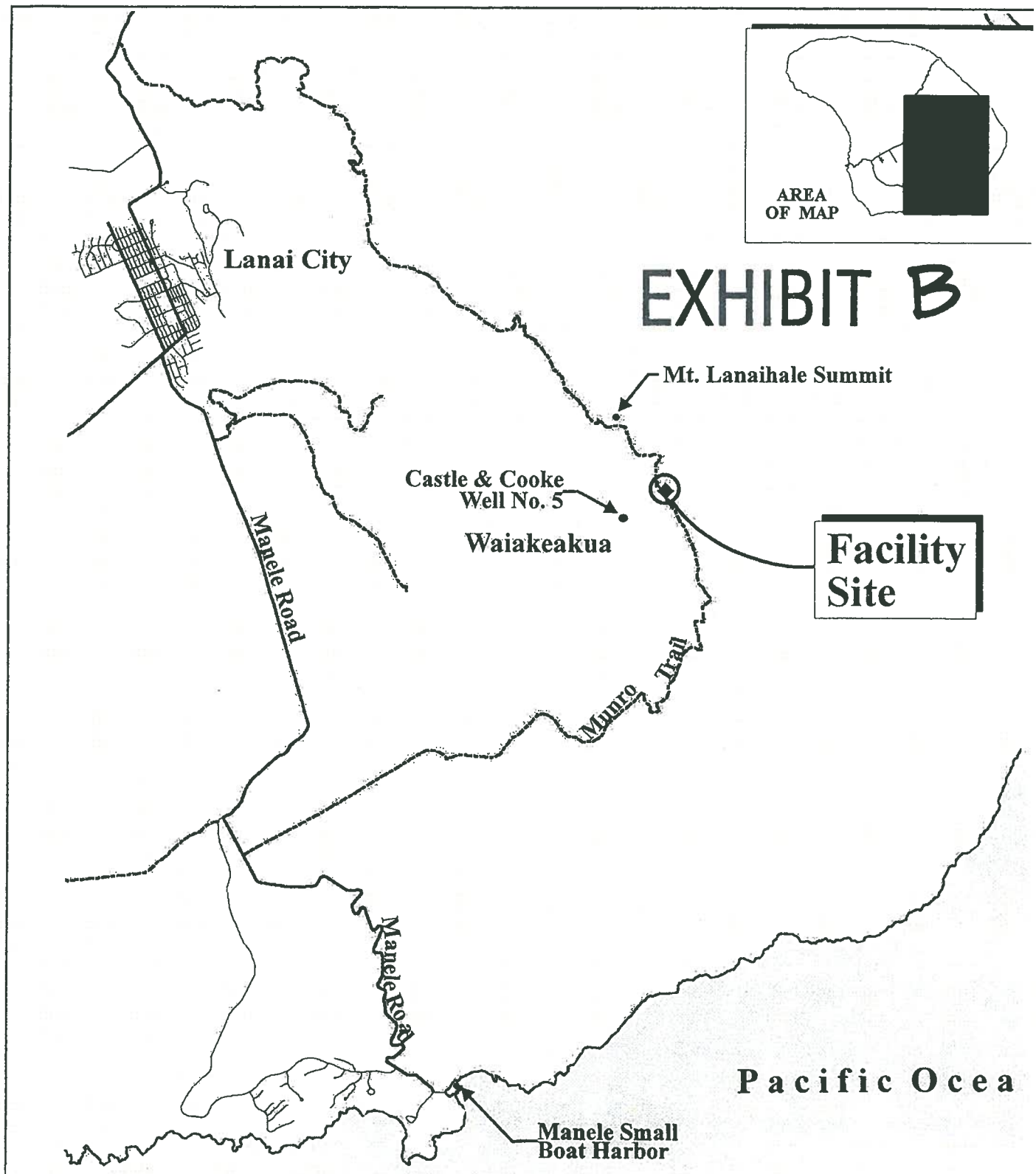
Source: County of Maui, Planning Department, 2010, Maui County Geographic Services Division, Department of Managen

Figure 3 Proposed Maui Police Department Waiakeakua Communications Facility
TMK Identifier Map

0 .75 1.5

Prepared for: County of Maui, Police Department

MUNEKIYO & HIRAGA, I



Sources: Maui County Geographic Services Division,
Department of Management
USGS Geographic Names Information System

Figure 1 Proposed Maui Police Department
Waiakeakua Communications Facility
Regional Location Map

0 .25 .50

Prepared for: County of Maui, Police Department

MUNEKIYO & HIRAGA, I

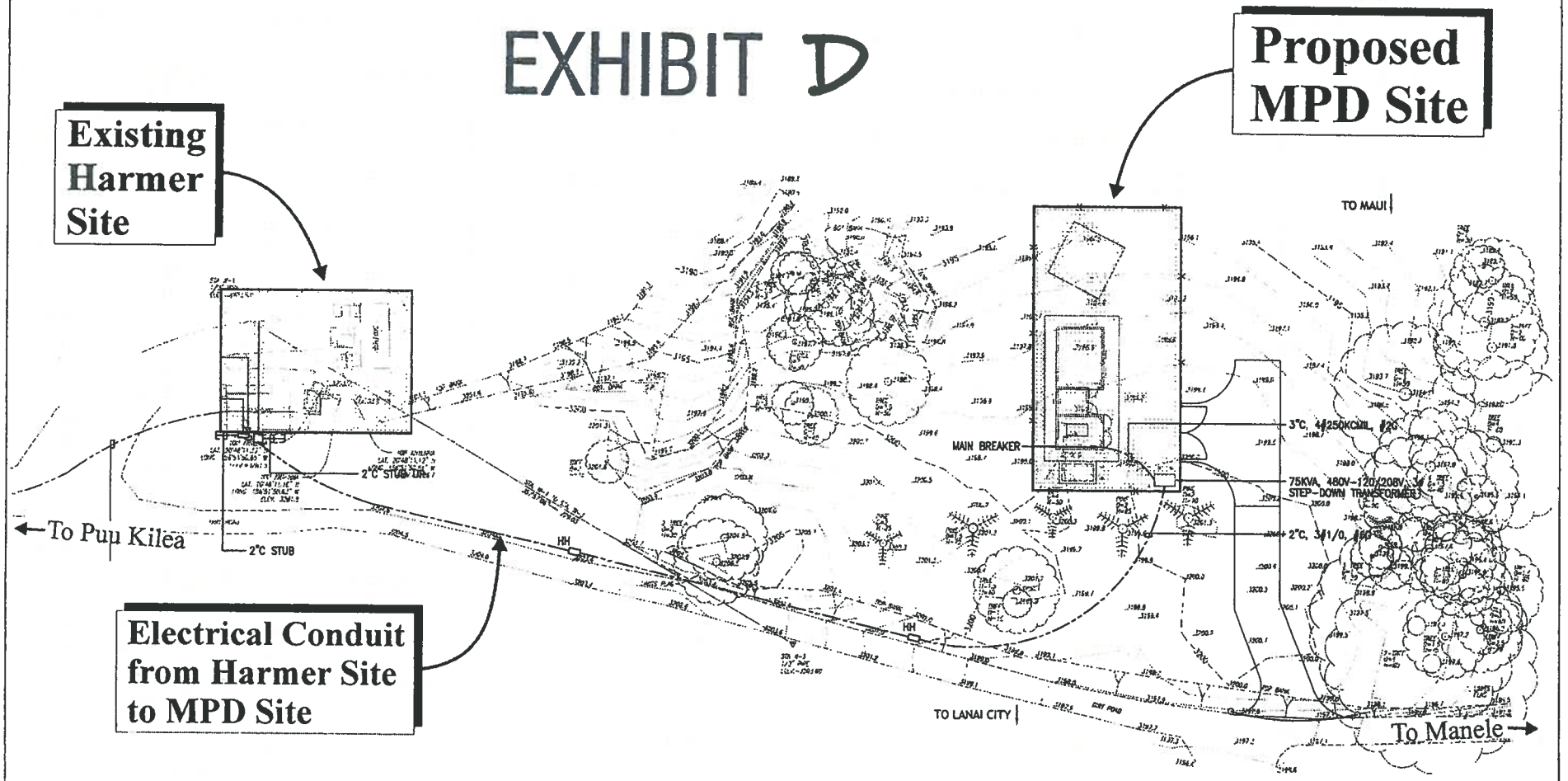
WOC\LanaiPolicTelecom

Figure 6: Previously cleared access corridor leading to the proposed project site, view to northeast.

Figure 7: Proposed radio tower project area overgrown with vegetation, view to the south.

EXHIBIT C

EXHIBIT D



Source: Wilson Okamoto Corporation

Figure 6

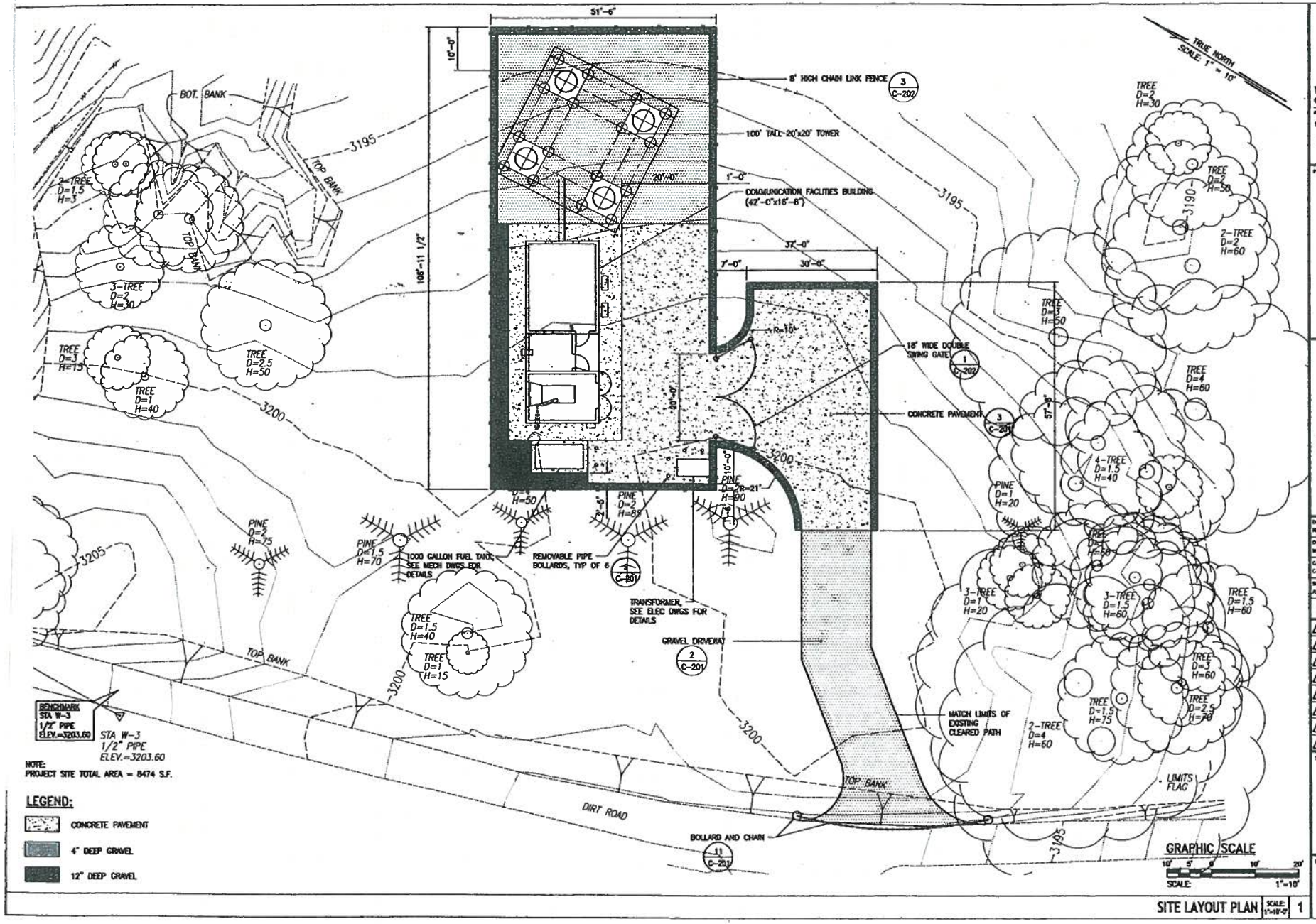
Proposed Maui Police Department
Waiakeakua Communications Facility
Facility Electrical Plan

NOT TO SCALE

Prepared for: County of Maui, Police Department

MUNEKIYO HIRAGA, INC.

WOC\LanaiPolicTelecom\electricplan



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www.wilsonokamoto.com

PROJECT ID

COMMUNICATION FACILITY AT WAIAKEAKUA (LANAI)

T.M.K.: (2) 4-9-002:001

MICHAEL M. FRUTA LICENSED PROFESSIONAL ENGINEER NO. 5305-C HAWAII, U.S.A.

This work was prepared by me or under my supervision and construction of this project will be under my observation. Observation of construction will be as defined by Chapter 115 (16-115-2) in the Rules and regulations of the Board of Registration of Professional Engineers, Architects, Land Surveyors and Landscape Architects, STATE OF HAWAII

DESIGNED BY: RG	SUPERVISED BY: MF
DRAWN BY: WOC	CHECKED BY: MF
CAD FILE: C-103.dwg	PROJECT NO.: 8564-01
SCALE: AS NOTED	DATE: APRIL 29, 2011

DATE	DESCRIPTION

SHEET TITLE

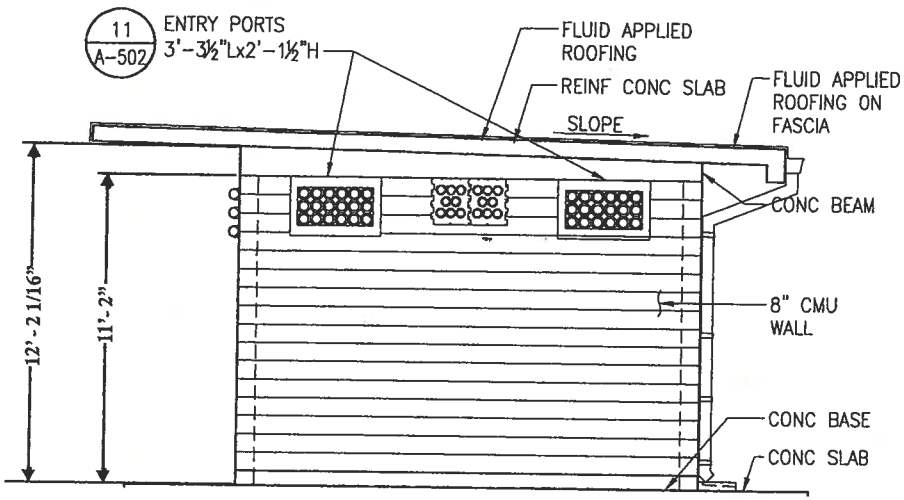
SITE LAYOUT PLAN

DRAWING NO.

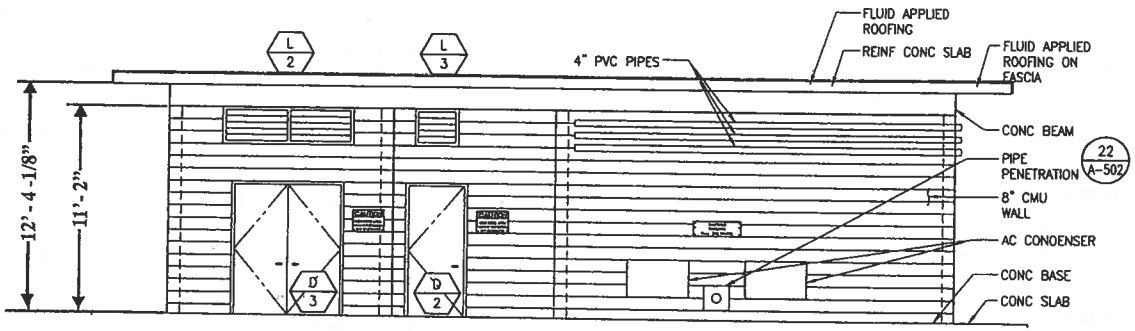
C-103

of 18 sheets

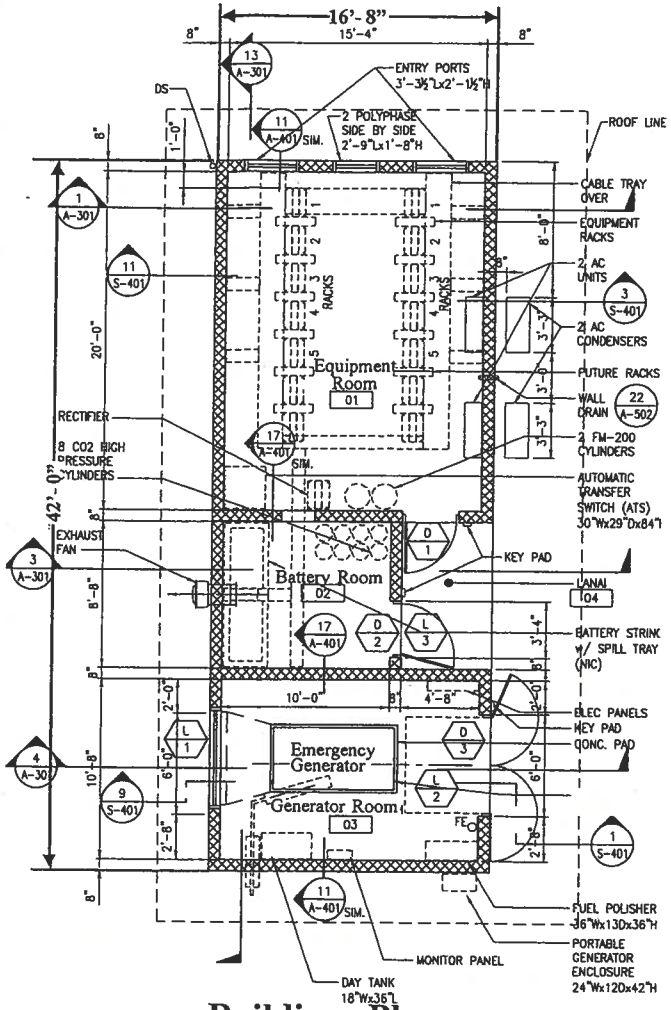
EXHIBIT E



Front Elevation



Side Elevation



Building Plan

Source: Wilson Okamoto Corporation

Figure 7

Proposed Maui Police Department Waiakeakua Communications Facility
Building Plan and Elevations

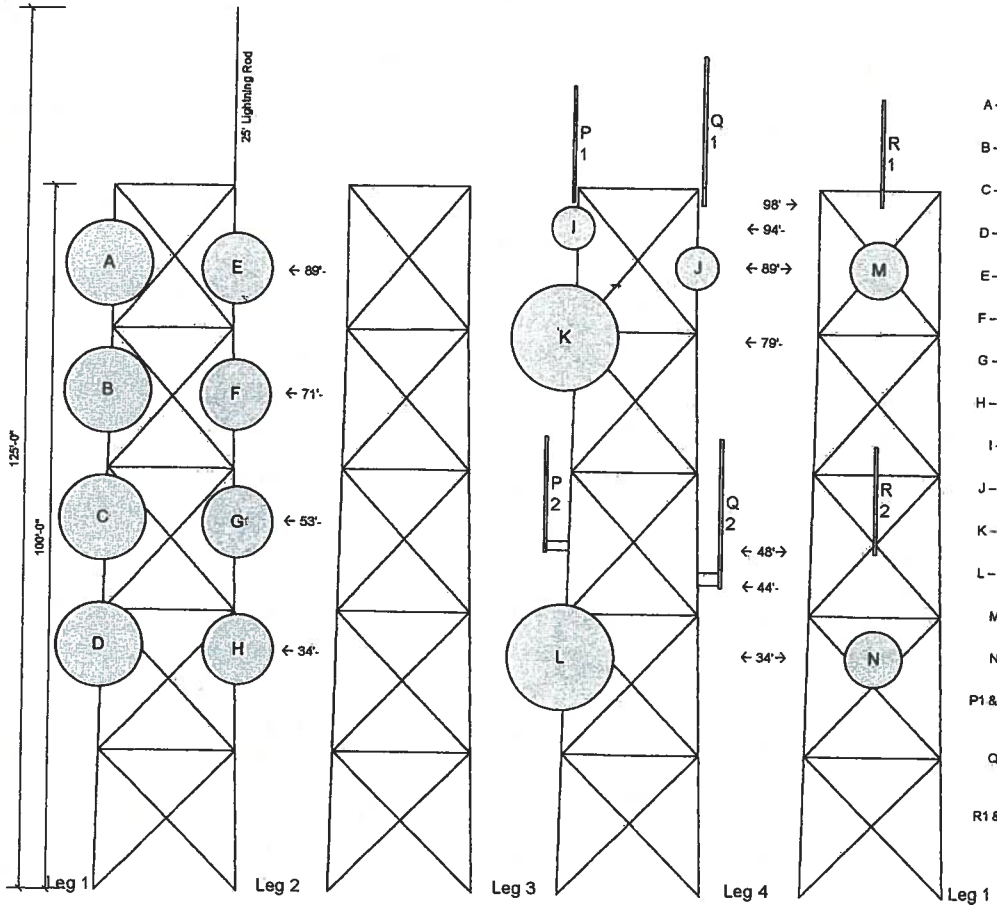
NOT TO SCALE

Prepared for: County of Maui, Police Department

MUNEKIYO & HIRAGA, INC

WOC\LanaiPoliceTelecom\BuildPlans

EXHIBIT F



Antenna Schedule

A – 12' WEUHX to Pu'umahoe Centerline @ 89'

B – 12' WEUHX to Pu'unianiau Centerline @ 71'

C – 12' WEUHX to Pu'umahoe Centerline @ 53'

D – 12' WEUHX to Pu'unianiau Centerline @ 34'

E – 10' WEUHX to Mähinahina Centeline @ 89'

F – 10' WEUHX to Lahainaluna Centerline @ 71'

G – 10' WEUHX to Mähinahina Centerline @ 53'

H – 10' WEUHX to Lahainaluna Centerline @ 34'

I – 6' WEUHX to Lāna'i PS Centerline @ 94'

J – 6' WEUHX to Lanai Airport Centerline @ @ 89'

K – 15' WEUHX to East O'ahu Centerline @ 79'

L – 15' WEUHX to East O'ahu Centerline @ @ 89'

M – 8' WEUHX to Seagull Centerline @ @ 89'

N – 8' WEUHX to Seagull Centerline @ @ 34'

P1 & P2 – 14.5' SC479-HF1LDF 700-800MHz Antenna Base @ 48' & 98'

Q1 & Q2 – 21' SC281-HL VHF Antenna Base at 44' & 98'

R1 & R2 – 13' SC381-HF2LDF UHF Antenna Base at 48' & 98'

Projected Antenna Load Plan

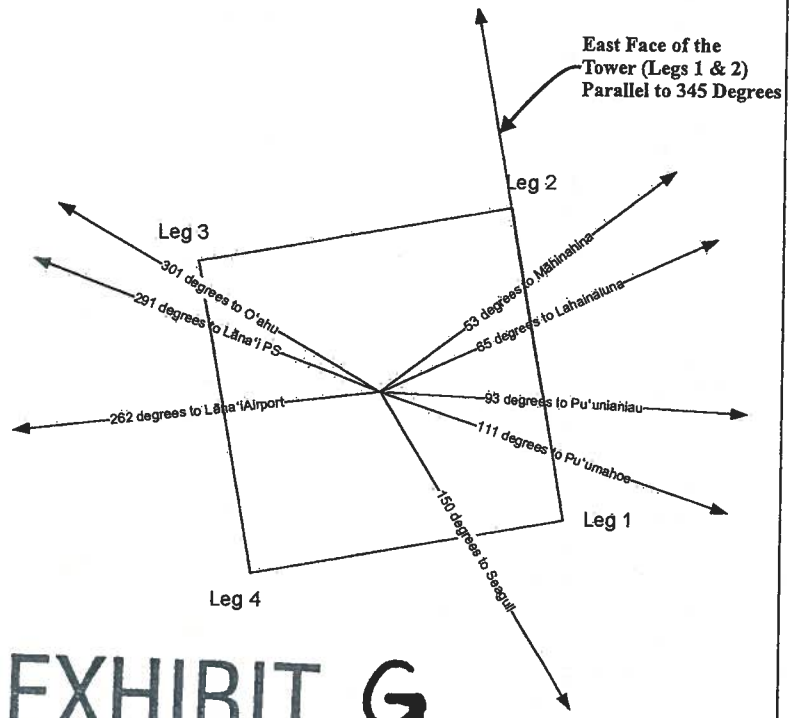


EXHIBIT G

Tower Azimuths

Source: Wilson Okamoto Corporation

Figure 8

Proposed Maui Police Department Waiakeakua Communications Facility
Preliminary Antenna Plan

NOT TO SCALE

Prepared for: County of Maui, Police Department

MUNEKIYO HIRAGA, INC.

WOC/LanaiPoliceTelecom/Antenna Plan