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STATE OF HAWAII
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LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT

OFC.
REF: OCEA:KCK QU.

FILE NO.: MA-9/28/93-2671
DOC. NO.: 4191

MAR 3 1994

MEMORANDUM

TO: Mr. Bruce Anderson, Acting Director
Office of Environmental Quality Control

FROM: KEITH W. AHUE, Chairperson *KAH*
Board of Land and Natural Resources

SUBJECT: Document for Publication in the OEQC Bulletin
Environmental Assessment for Conservation District
Use Application No. MA-9/28/93-2671 for a Private
Residential Ranch at Kaliae, Koolau, Maui,
TMK: 1-2-01: 04

The above mentioned Chapter 343 document was reviewed and a negative declaration was declared based upon the final environmental assessment provided with the CDUA.

Please feel free to call me or Roy Schaefer of our Office of Conservation and Environmental Affairs, at 587-0377, if you have any questions.

cc: Mr. Martin Cooper

Up

1994-03-23 - MA - FEA - Levy & Boteilho MAR 23 1994
Private Residential Ranch

CDKA # MA-2671 - Final E.A. - Appendix "B" and "C"

**Conservation District Use Application
Environmental Assessment Report
For**

Private Residential Ranch

**TMK 2-1-2-01:04
Kaliae, Maui, Hawaii**

**Prepared for: Fred Levy & Michael Boteilho
Prepared by: INTERISLAND DESIGN GROUP, Inc.**

August, 1993

Resubmitted February 23, 1994 with revisions to
the Table of Contents and additions of Addendums
"B" and "C".

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GENERAL INFORMATION:

1. Applicants:

Mr. Fred Levy, President
Pacific Land and Cattle, Inc.
4540 Kearny Villa Rd., #201
San Diego, CA 92123

Michael Boteilho
2116 Naalai Road
Kula, Maui, HI 96790

2. Approving Agency:

State of Hawaii, Department of Land and Natural Resources

3. Agencies Consulted in making assessment:

State of Hawaii, Department of Land and Natural Resources
Office of Conservation and Environmental Affairs
Mr. Roy Schafer

State of Hawaii, Department of Land and Natural Resources
State Historic Preservation Division
Ms. Theresa Donham

State of Hawaii, Department of Land and Natural Resources
Division of Forestry and Wildlife
Mr. Michael Baker

County of Maui, Planning Department
Mr. Keoni Fairbanks

LIST OF MAPS:

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- FIGURE "11" Rendering of Proposed Residence
- FIGURE "12" Landscape Plan
- FIGURE "13" Proposed Stable
- FIGURE "14" Proposed Open Air Stable
- FIGURE "15" Proposed Storage Shed

GENERAL DESCRIPTION:

Technical Characteristics

A. The Parcel:

The triangular shaped parcel contains 63.0 acres of land at Kaliae, Maui, Hawaii. [TMK: 2nd 1-02-01:04] Refer to Figure 1.

There are over 5,000 acres of State conservation land surrounding the parcel. There are cliffs on two of it's boundaries sides and ocean front bluffs on the third. Access is provided to the parcel by a fifteen foot wide parcel which extents approximately seven-tenths of a mile from Hana Highway. This access is in the process of recordation at the State of Hawaii Bureau of Conveyance.

The property is on a bluff with elevations varying from 590' to mean sea level. Makoloaka Island [State of Hawaii] and a large, exposed, coral shelf are directly north of Papiha Point.

The "Kings' Highway" switch-backs up the cliffs west of the property from Wailua-Iki Bay. It then transverses the property, and switch-backs again down the cliffs east of the property to Kopiliula Stream. The actual trail is not visible on the property's plateau, but it is evident at on the cliffs both east and west of the subject parcel. [Refer to Mike Bakers' letter of August 11, 1993.]

There are four existing dirt roads, which at times revert to simple dirt trails, on the parcel. The fifth "road" has been partially graded and may be the "old government road". [Refer to Figure 6.]

A sixty foot wide utility easement, in favor of Maui Electric Co., transverses the parcel. [Refer to Figure 6.]

B. Proposed Developments

The structures proposed are as follows:

Single Family Residence

A one story single family residence with a garage, lanais, and pool. Of a total of 6,675.5 square feet under roof, 5610.5 square feet is interior living space with and additional 1,065 square feet of lanai area. The residence is to be located towards the northwest portion of the property with a shoreline setback of 150 feet. [Refer to Figure 9.] The preliminary design material scheme call for barrel tile roofing with exposed wood and stucco finished. [Refer to Figures 10 and 11.]

Covered and Open Air Stables

Approximately 4,640 and 4,496 square feet under roof in size respectively. The use of the open stables will be dependant on the weather. [Refer to Figures 13 and 14.]

Storage Shed

Approximately 3,200 square feet under roof. The shed is for storage of machinery and feed. [Refer to Figure 15.]

Water Storage Tanks

Three 30,000 gallon tanks, supplied by rain water catchment systems, are to be constructed and located where shown on Figure 9.

Waste Water Treatment System

Department of Health requirements for an anaerobic septic system, with leach fields, for the residence are expected.

Roadways

Six to twelve inch gravel bases, set on existing dirt roads, and concrete paving over portions of roads with grades steeper than six percent.

Economic Characteristics

A. The Parcel:

The parcel has been used for cattle grazing since before statehood. Cattle were driven from the state highway to the parcel in the general vicinity of the access shown on Figure 4. The grassed portions of the parcel can support approximately 50 head of cattle.

Various plants and fruits may have economic value if harvested. [This is not proposed in this application.]

B. Proposed Developments:

Construction contracts and material purchases for the proposed developments, will provide immediate monies to the surrounding communities of Keanaie and Hana. Construction scheduled to take up to three years for completion.

Additional work will be provided to the local community in the form of employment of ranch hands and maintenance contracts.

Social Characteristics

A. The Parcel

The greatest social value of the parcel is the existence of the "Kings' Highway" crossing the parcel. Local fishermen and naturalist are known to have used this trail in the past. At the present moment the trail is overgrown and difficult to engage. State Trails and Access Specialist, Michael Baker will be visiting the site again to study the trail in further detail. [Refer to Michael Baker's letter of August 11, 1993.]

Further Hawaiian archaeological elements have not been found to date. State archaeologist Theresa Donham has not concluded her survey of the parcel for archaeological finds.

B. Proposed Developments

All proposed structures and improvements shall be sited and constructed to mitigate any possible negative impacts to either the "Kings' Highway" or additional archaeological elements that may be determined to exist by the state archaeologist.

Environmental Characteristics

A. The Parcel

The site is not protected from the prevailing trade winds. The annual rainfall for this area ranges from 90 to 160 inches. Natural vegetation consists of guava, hiogloss, kaimi clover, kukui and rattlegrass. Trees existing on the parcels consist of mango, ohia and pepper tree. Further inventory of the existing trees and vegetation has not been taken. [Undergrowth and some guava trees were cleared and burned recently. Permits were obtained.]

In a representative soil profile, the surface layer is dark brown silty clay about 9 inches thick. The upper part of the subsoil, about 18 inches thick, is dark brown and reddish-brown silty clay that has a subangular blocky structure. The lower part of the subsoil is very dark gray silty clay loam. The substratum is soft, weathered basic igneous rock.

The soil is very strongly acidic in the surface layer and strongly acidic to medium acidity in the subsoil. Water permeability is moderately rapid, runoff is slow and the erosion hazard is slight.

The parcel is in its natural state and free of man-made elements other than the entry gate and occasional fence lines along the perimeter of the cliffs. No hazardous materials were detected.

B. Proposed Development:

The construction of the proposed developments can lead to plant loss, increased erosion and soil run off into the neighboring

streams and adjacent ocean. Noise, dust and construction "odors" may occur, yet they can be effectively "confined" to the parcel.

Landscape treatment will be used to minimize the visual and erosion-al impact of the proposed structures. Buildings will be located within or near the existing tree groves, with supplemental tree and shrub plantings. Irrigation systems will not be used due to the area's annual rainfall.

SUMMARY DESCRIPTION OF THE EFFECTED ENVIRONMENT:

The effected environment consists of the immediate parcel, the coast line abutting the parcel and the adjacent forest reserve.

The parcel contains existing vegetation, drainage patterns and along with the adjacent forest reserve and coast line is pristine.

MAJOR IMPACTS:

Major impacts anticipated are:

1. Increased erosion resulting from building pad grading at the locations the proposed structures. This erosion can lead to soil material entering the ocean through natural drainage patterns existing on the parcel.
2. Increased noise and dust introduced into the immediate vicinity during the construction process. [Reasonable amounts of noise and dust will occur after occupancy of the improvements.]
3. Lost of existing vegetation in the immediate vicinity of the proposed structures and existing roads (and trails) where vehicular access is proposed.
4. Increased effluence will be introduced to the immediate area.

PROPOSED MITIGATION MEASURES:

Proposed mitigation measures consist of the following:

1. Control of erosion through use of control swales and retention ponds at all proposed building pad locations during grubbing and grading of same. Specific attention shall be paid to those areas with potential for drainage of soil and other materials into the ocean.
2. Dust shall be controlled by watering down exposed soil during construction. Construction related noise will be kept within Federal and State guide lines for general construction.

3. Undeveloped areas disturbed during construction will be revegetated with native plant material. All existing trees shall remain. Consistent maintenance and seeding of the property's plateau area's will help stabilize the soil and vegetation while further mitigating the temporary damages incurred during construction.
4. A septic system (or systems) as required by the State Department of Health, Waste Management Branch; will be designed and constructed to provide treatment of the additional effluence.
5. All structures are to be constructed to conform to the provisions of the Maui County Code and the Universal Building Code, as amended. Maximum heights and the placement of the structures is proposed such that visual impacts mitigated.

The storage shed and the stables are located such that they are not visible from the State highway. Additionally, the stables' siting and landscape treatment are such that they are not easily visible from either the residence or the storage shed. The storage shed is to be screened by landscaping as well.

The maximum allowable height of the residence, based upon Maui County Code, is 30'-0" from the grade to the highest portion of the roof structure. The residence is to be nestled between the existing mango trees at the northwest point of the parcel. These trees are more than 60'-0" in height. Therefore the silhouette of the trees surrounding the structure will remain the dominant visual element as people view the parcel from the State highway or any other areas with visual access to the property.

DETERMINATION AND REASONS:

The planned development maintains low density use of the parcel: one single family residence in 63 acres. The ratio of constructed floor area to undeveloped land area is: 1 to 412.67. The additional structures proposed are auxiliary in nature. Neither these structures, nor their domestic animal use, adversely affect the parcel or the adjacent environment.

There are no commercial activities proposed.

The probable impacts from the planned development are reduced by the mitigation measures proposed and these impacts are temporary in nature. The intended use is consistent with the intent of the conservation subzone of the parcel (General) and a negative declaration is anticipated.

APPENDIX A

JOHN WAIHEE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF FORESTRY AND WILDLIFE
54 SOUTH HIGH ST., 1ST FLOOR
WAILUKU, HAWAII 96793

August 11, 1993

KEITH W. AHUE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES

DEPUTIES

JOHN P. KEPPELER, II
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STATE PARKS
WATER AND LAND DEVELOPMENT

Mr. Martin V. Cooper
Interisland Design Group, Inc.
Gentry Pacific Center
560 N. Nimitz Highway, Suite 201F
Honolulu, Hawaii 96817

Dear Mr. Cooper:

Subject: Results of a Site Visit and Request for Additional Site Inspection to Determine the Location of the "King's Highway" or Old Government Road (Ala Aupuni) at the Eastern Property Boundary at Kaliae TMK: 1-2-01:4, Kaliae, Maui

This letter discusses the results of our site inspection on the subject parcel conducted on August 8, 1993.

The Trail was easily located at approximately 400 feet (ASL) on the eastern slope of Wailuaiki Gulch from Kaliae Ridge. An attempt was made to locate evidence of the trail while traversing the parcel from west to east for some 150 yards along the 400 foot contour.

Eastward of the ridge, evidence of stone paving, curbing or other attendant construction was not found. However, a recently machined road cut was observed to follow the same general trend of the mapped Trail. The excursion did not include examining the eastern boundary of the property for the Trail.

There is little doubt that the trail entering the subject property from the West at approximately 400 feet ASL is in fact the King's Trail. This determination is based on several lines of evidence. They include:

- 1) the trail's connection with the King's Highway at Wailuaiki Bay;
- 2) the presence of stream-rounded or wave-worn paving stones within a graded trail bed-typical of the Trail,
- 3) the presence of large mango trees found paralleling the Trail corridor, a common feature along the King's Highway; and
- 4) a 1:60,000 scale Hawaiian Government Survey Map published in 1885 by a W.D. Alexander depicting the trail crossing the subject property.

Letter to M. Cooper,
August 12, 1993
Page -2-

We have enclosed a copy of a portion of the Alexander Map for your examination.

Whether the trail structure was removed in the recent past or as a result of western-style agricultural practices over more than a century, or both, cannot be determined at this time.

An additional site visit is requested in order to accurately locate the eastern boundary connection to the Trail.

If you have any questions, please call me on Maui at 871-2521.



Michael Baker
Trails & Access Specialist

Enclosure

c: W. Wong, Dist. Mgr.
C. Meller, NAH Prog. Mgr.
T. Donham, Hist. Pres. Div.

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AUG-17-93 TUE 14:02 IDG INC HONOLULU

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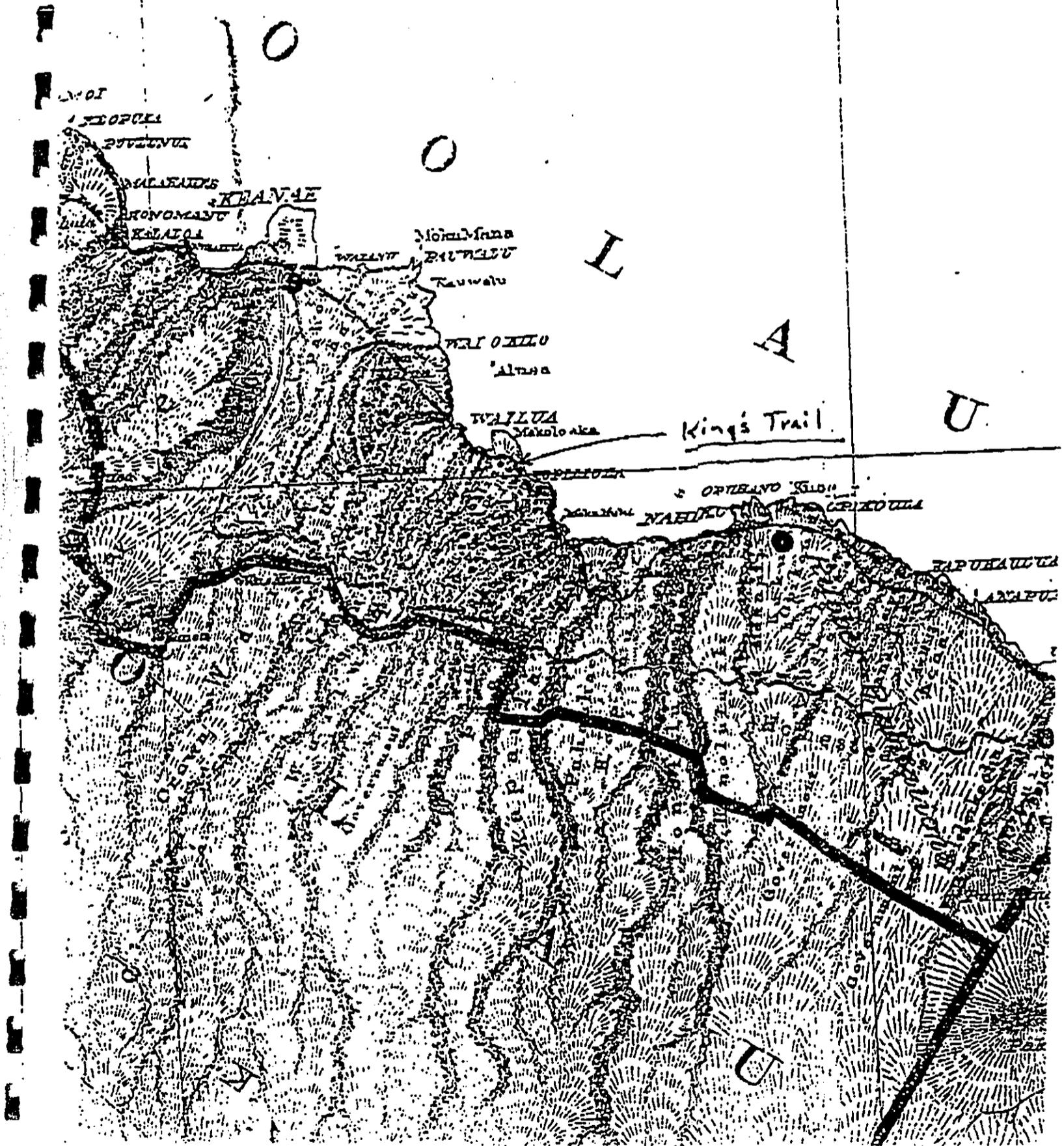
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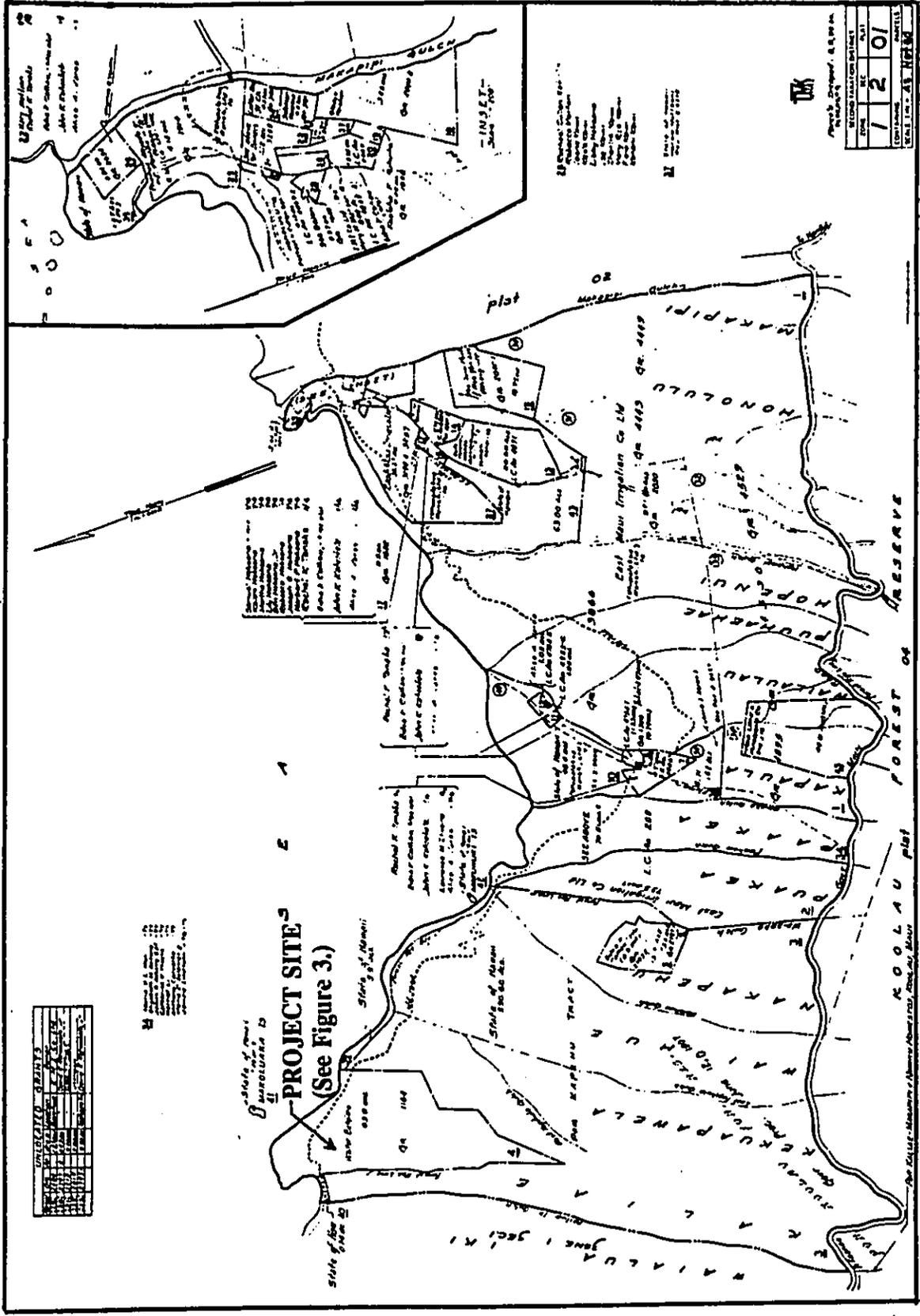


FIGURE 2.
TAX MAP KEY

LEVY \ BOTEILHO RESIDENTIAL RANCH
TMK 1-2-01-04, KALIAE, MAUI, HAWAII

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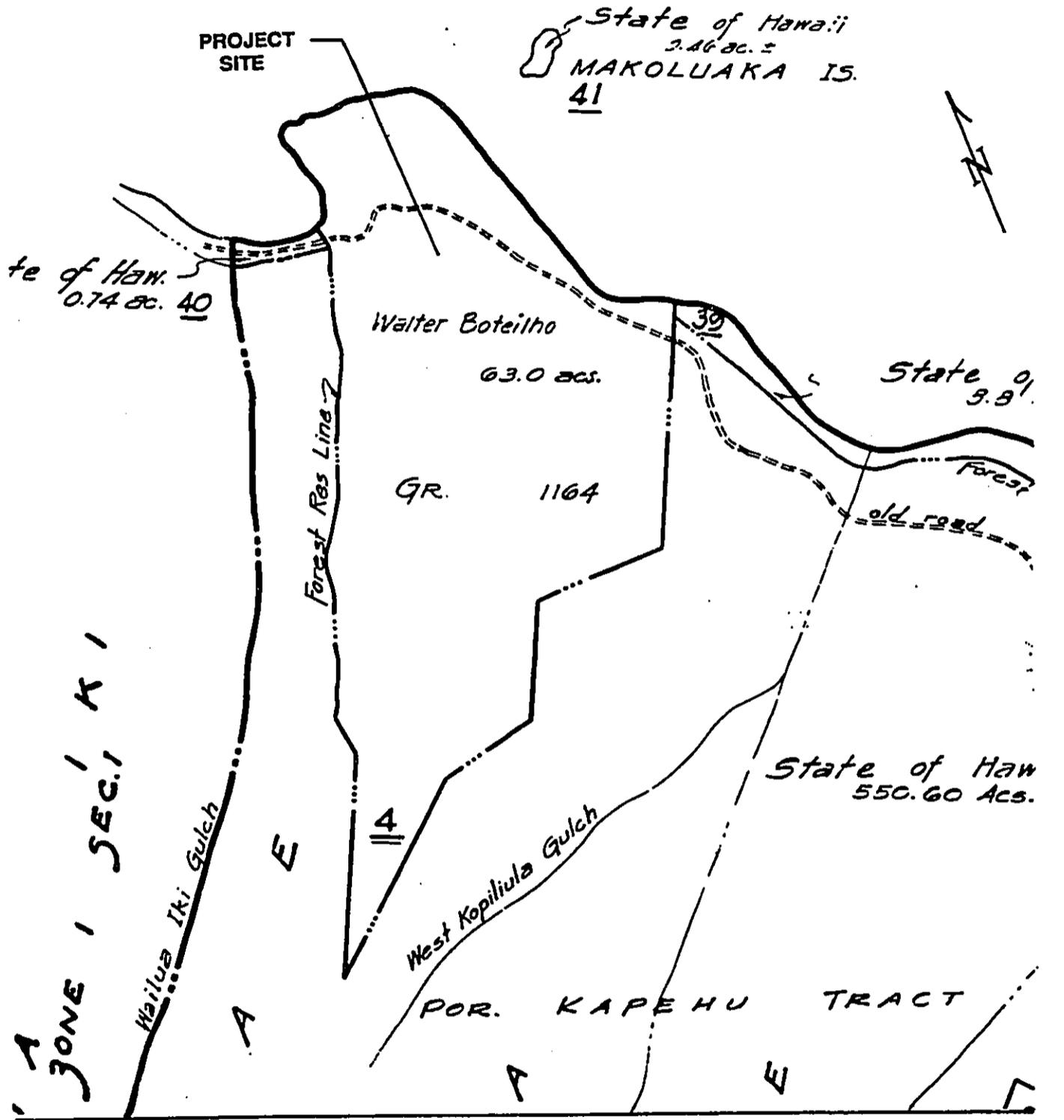
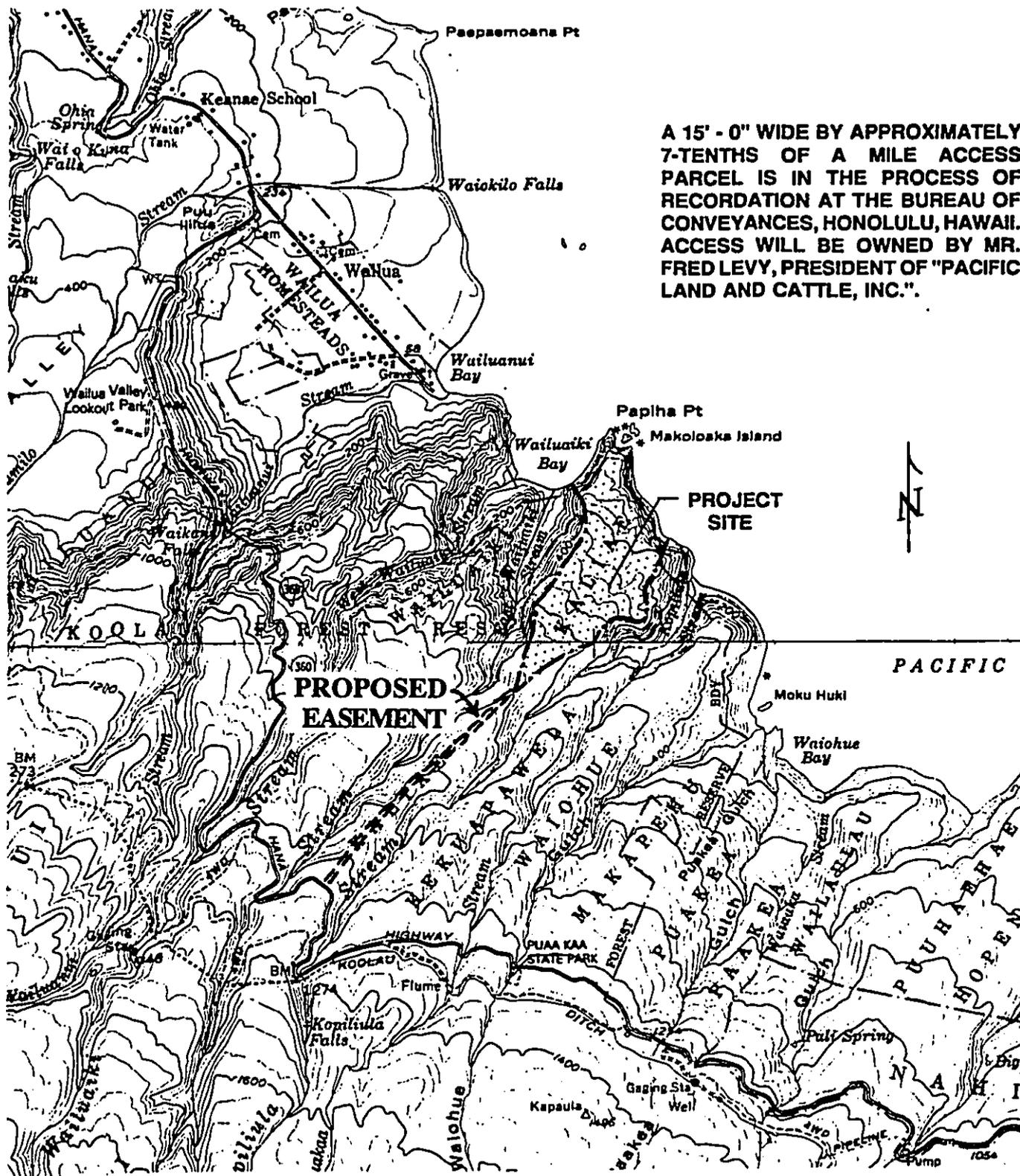


FIGURE 3.
ENLARGED PLAT MAP (From TMK)

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TMK 1-2-01:04, KALIAE, MAUI, HAWAII

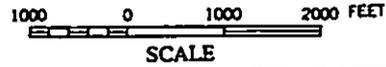
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A 15' - 0" WIDE BY APPROXIMATELY 7-TENTHS OF A MILE ACCESS PARCEL IS IN THE PROCESS OF RECORDATION AT THE BUREAU OF CONVEYANCES, HONOLULU, HAWAII. ACCESS WILL BE OWNED BY MR. FRED LEVY, PRESIDENT OF "PACIFIC LAND AND CATTLE, INC.".

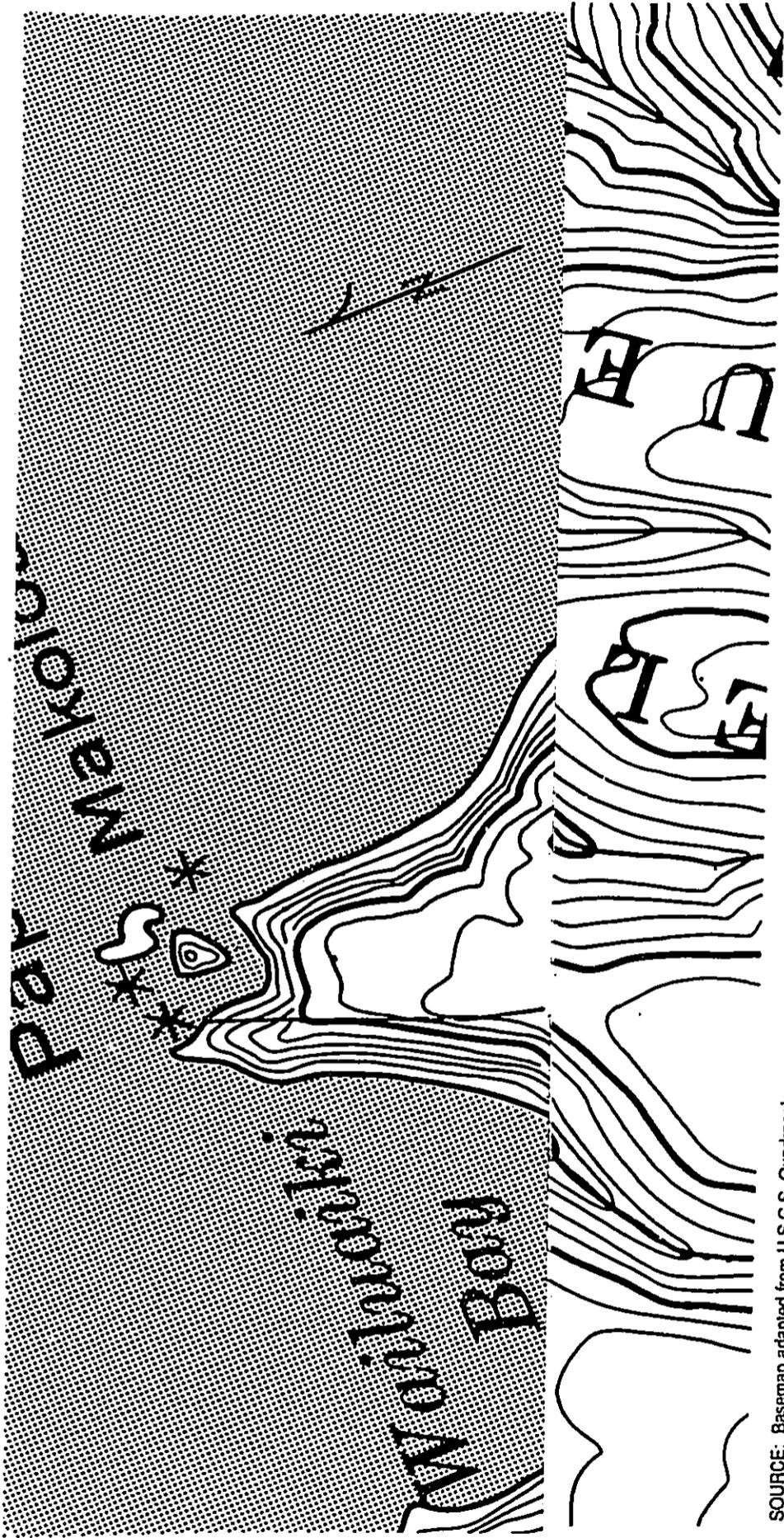
**FIGURE 4.
EXISTING ACCESS**

SOURCE: Base map adapted from U.S.G.S. Quadrangle



**LEVY \ BOTEILHO RESIDENTIAL RANCH
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SOURCE: Basemap adapted from U.S.G.S. Quadrangle



Legend

- • — Forest Reserve Boundary
- Property Boundary
- Property line

Note:
 Forest Reserve Boundary lines, property lines and Makoluaka Island's location are approximate and may vary between figures. This is due to aerial photograph distortions, and generalized interpretations of Forest Reserve and property lines on base maps used from different sources.

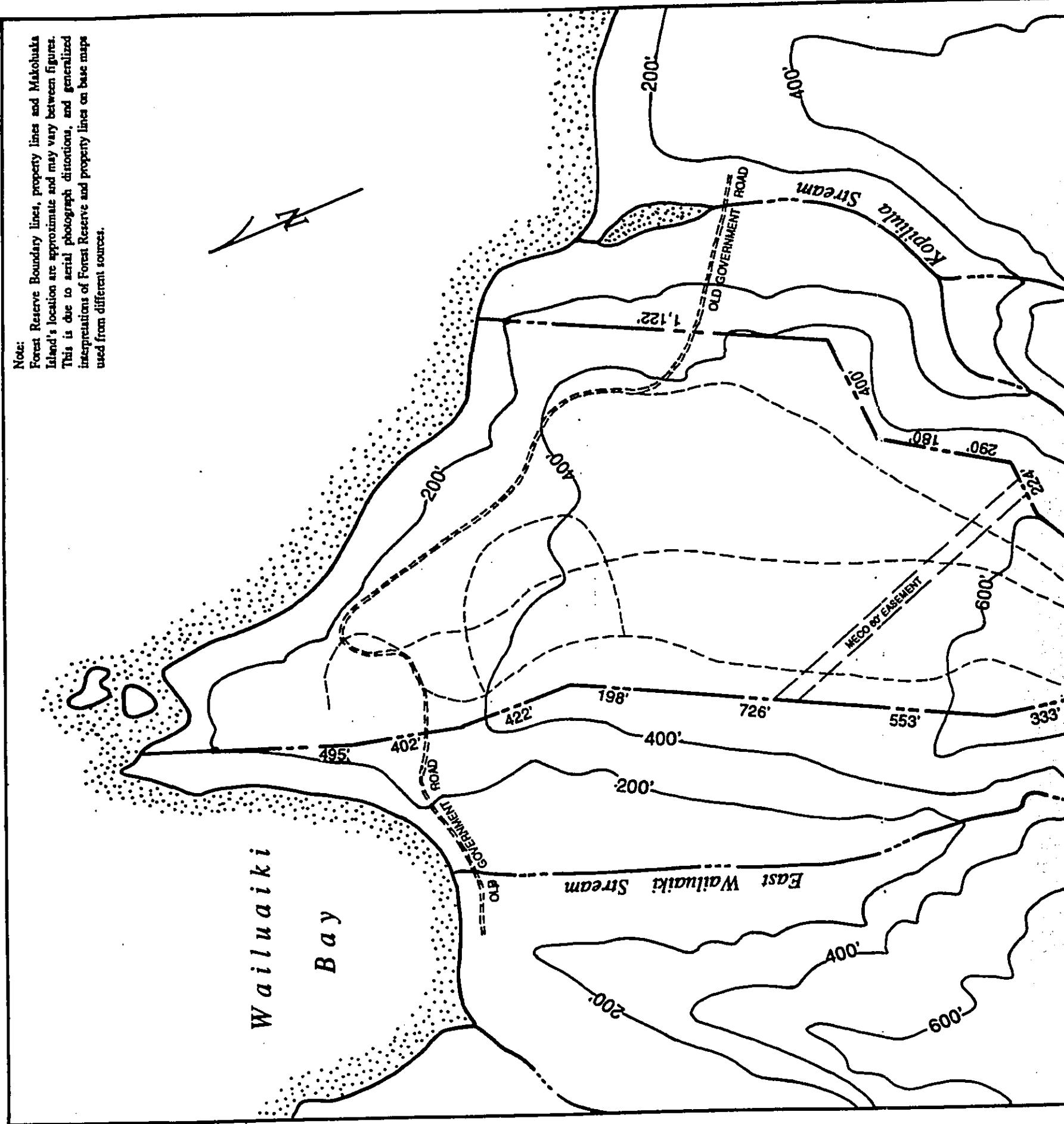
FIGURE 5.
 TOPOGRAPHY MAP

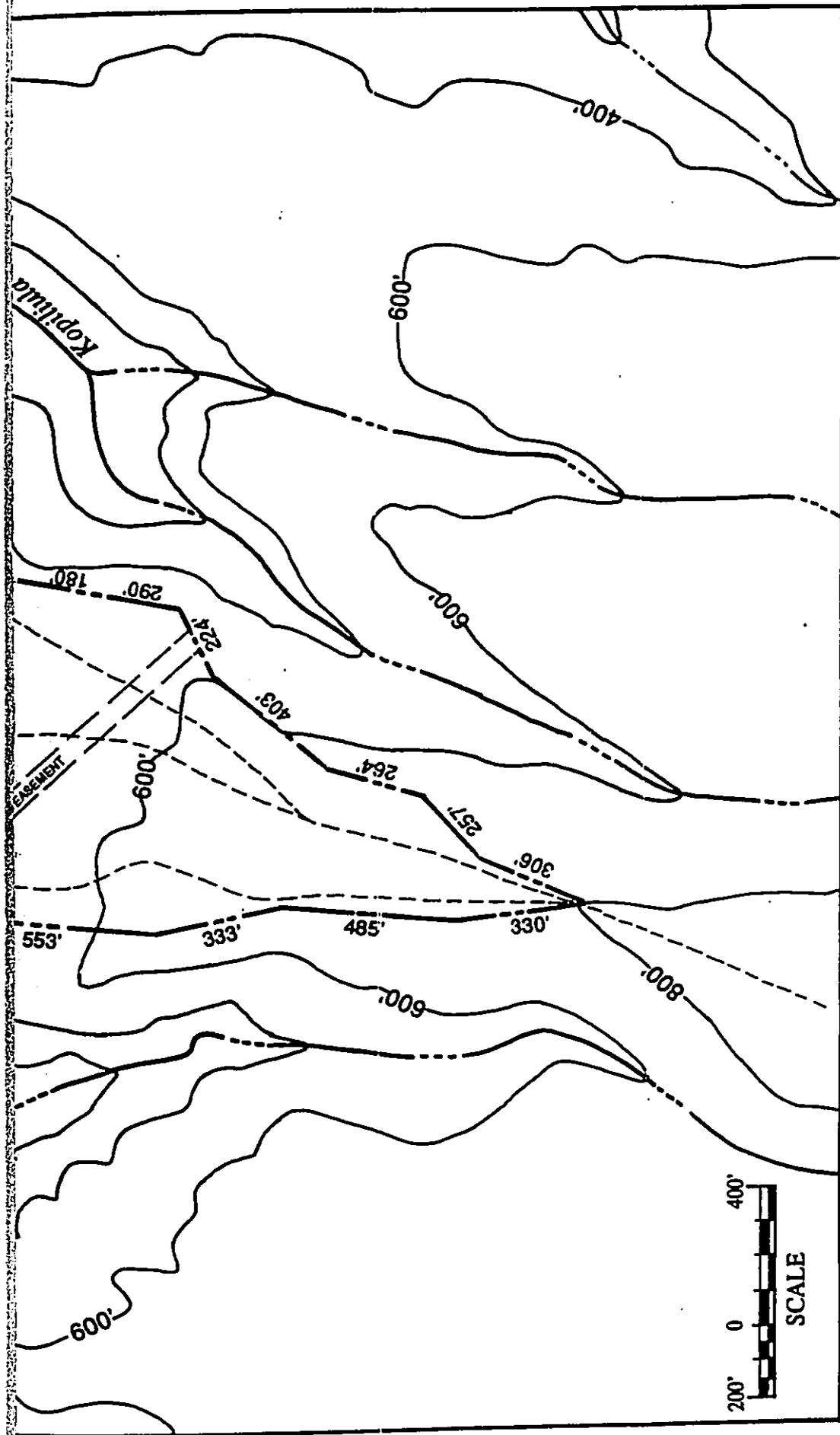
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Note:
Forest Reserve Boundary lines, property lines and Makohuaka Island's location are approximate and may vary between figures. This is due to aerial photograph distortions, and generalized interpretations of Forest Reserve and property lines on base maps used from different sources.





Legend

- Property Line
- ... Existing Trail
- ==== Old Government Road
- - - Maui Electric Company Utility Easement
(Placement on map is approximate.)

**FIGURE 6.
PROPERTY SITE MAP**

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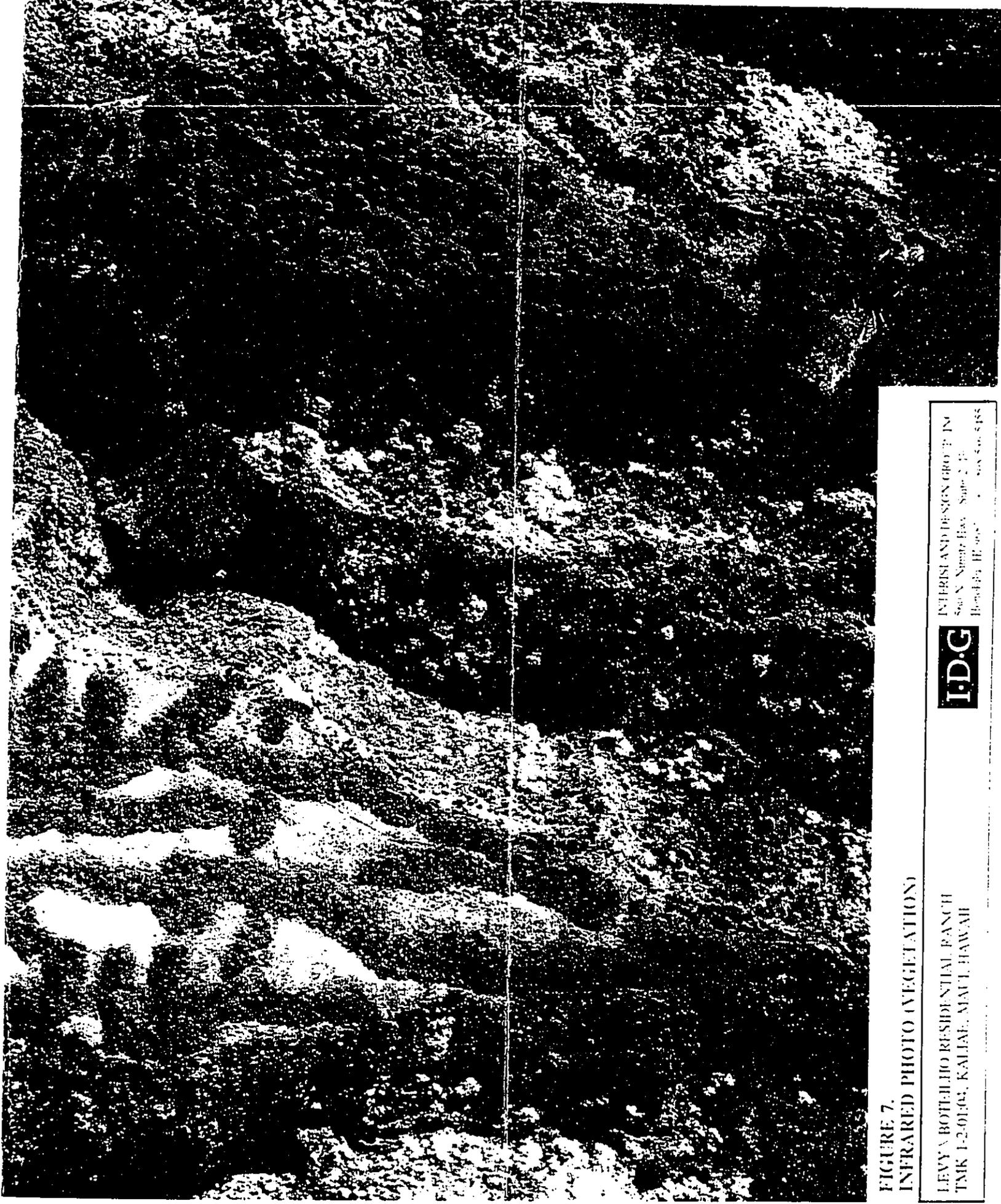


FIGURE 7.
INFRARED PHOTO (VEGETATION)

LEVY A. BOTHEHO RESIDENTIAL RANCH
TMK 1-2-01-04, KALIAE, MAUI, HAWAII

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The above photographs were taken after clearing the parcel's under-brush.
Please note that all the large Mango trees remain undisturbed.

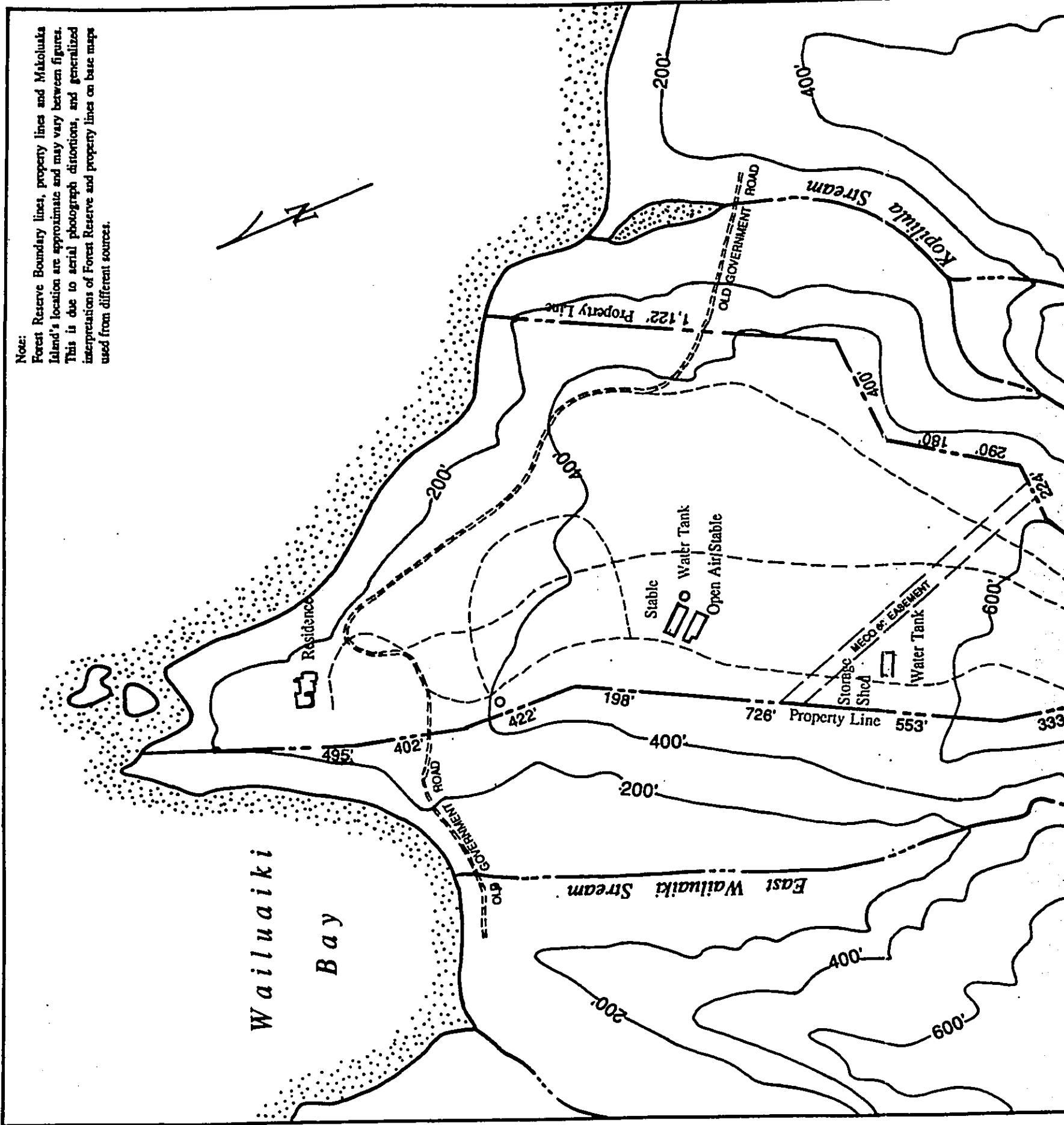
**FIGURE 8.
SITE PHOTOS**

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Note:
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Island's location are approximate and may vary between figures.
This is due to aerial photograph distortions, and generalized
interpretations of Forest Reserve and property lines on base maps
used from different sources.



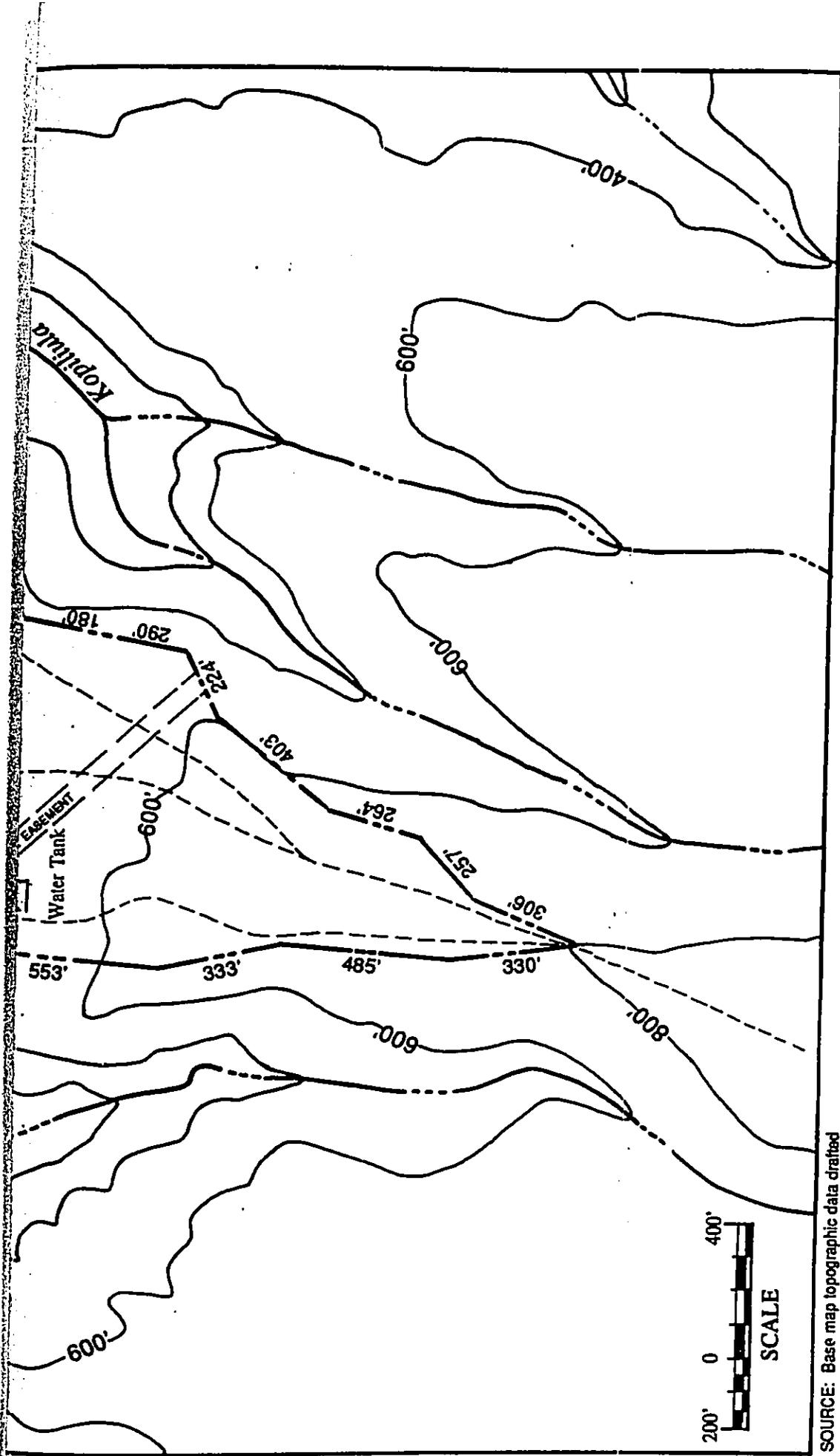
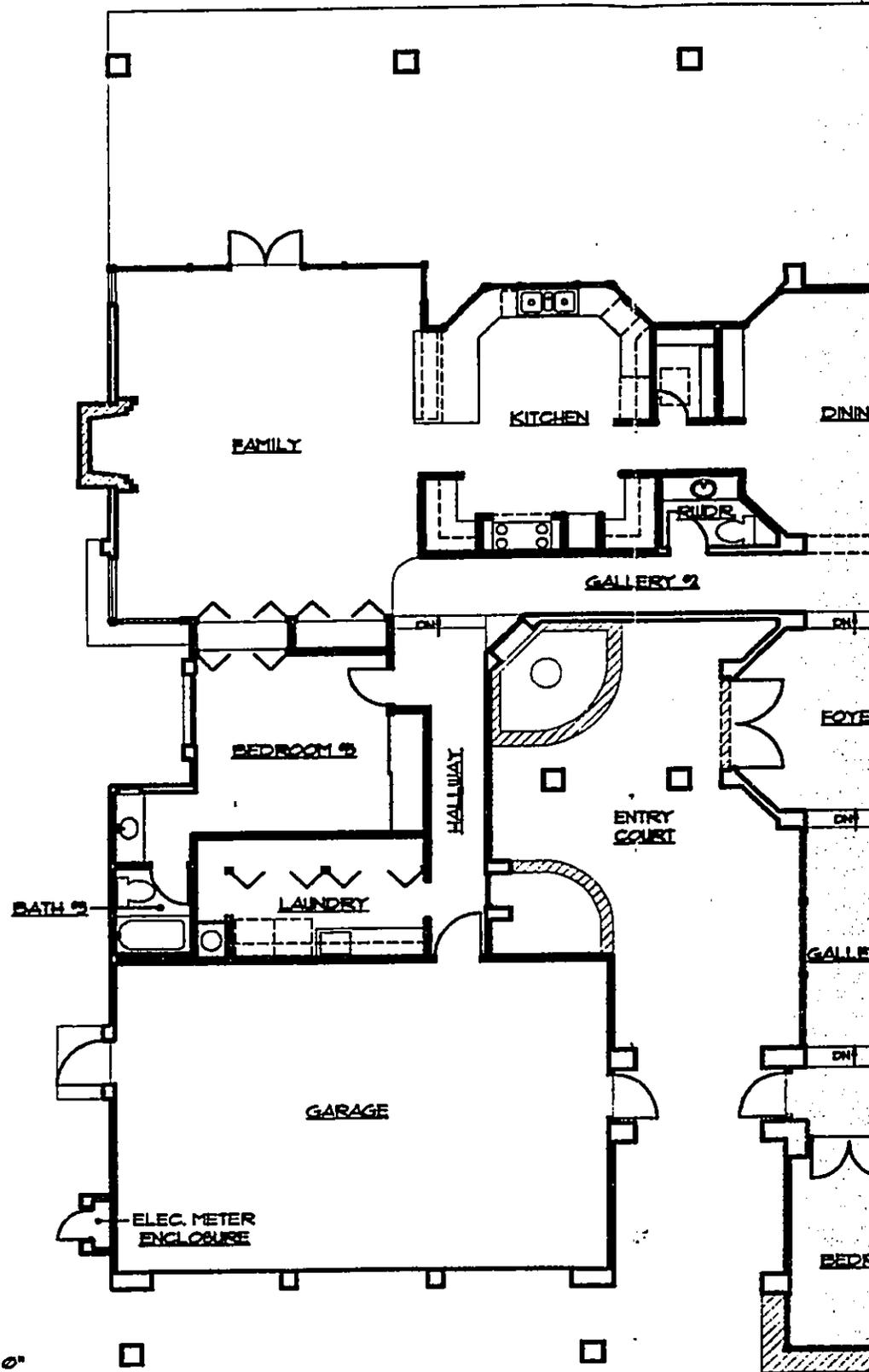


FIGURE 9.
CONCEPTUAL PLAN

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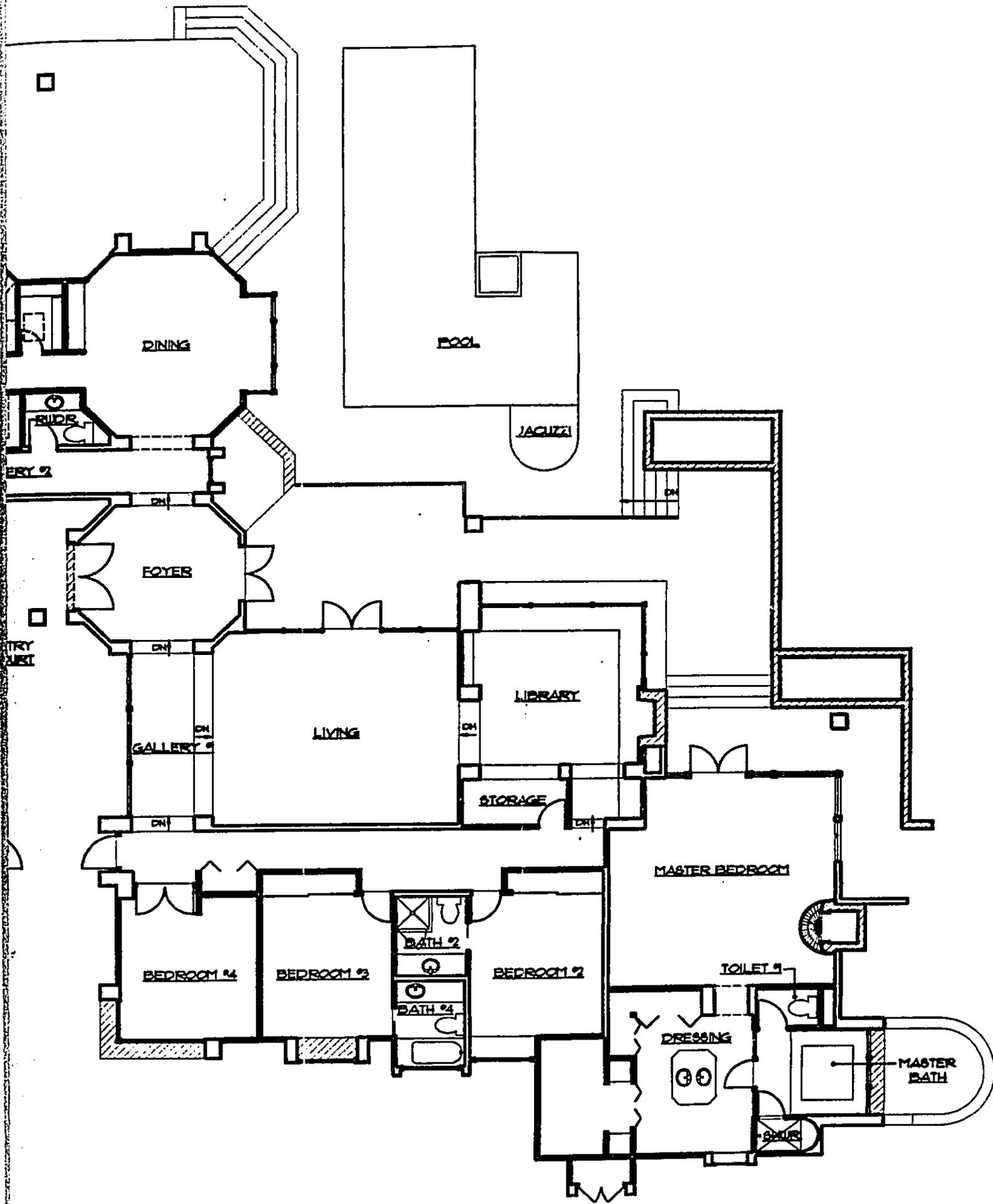
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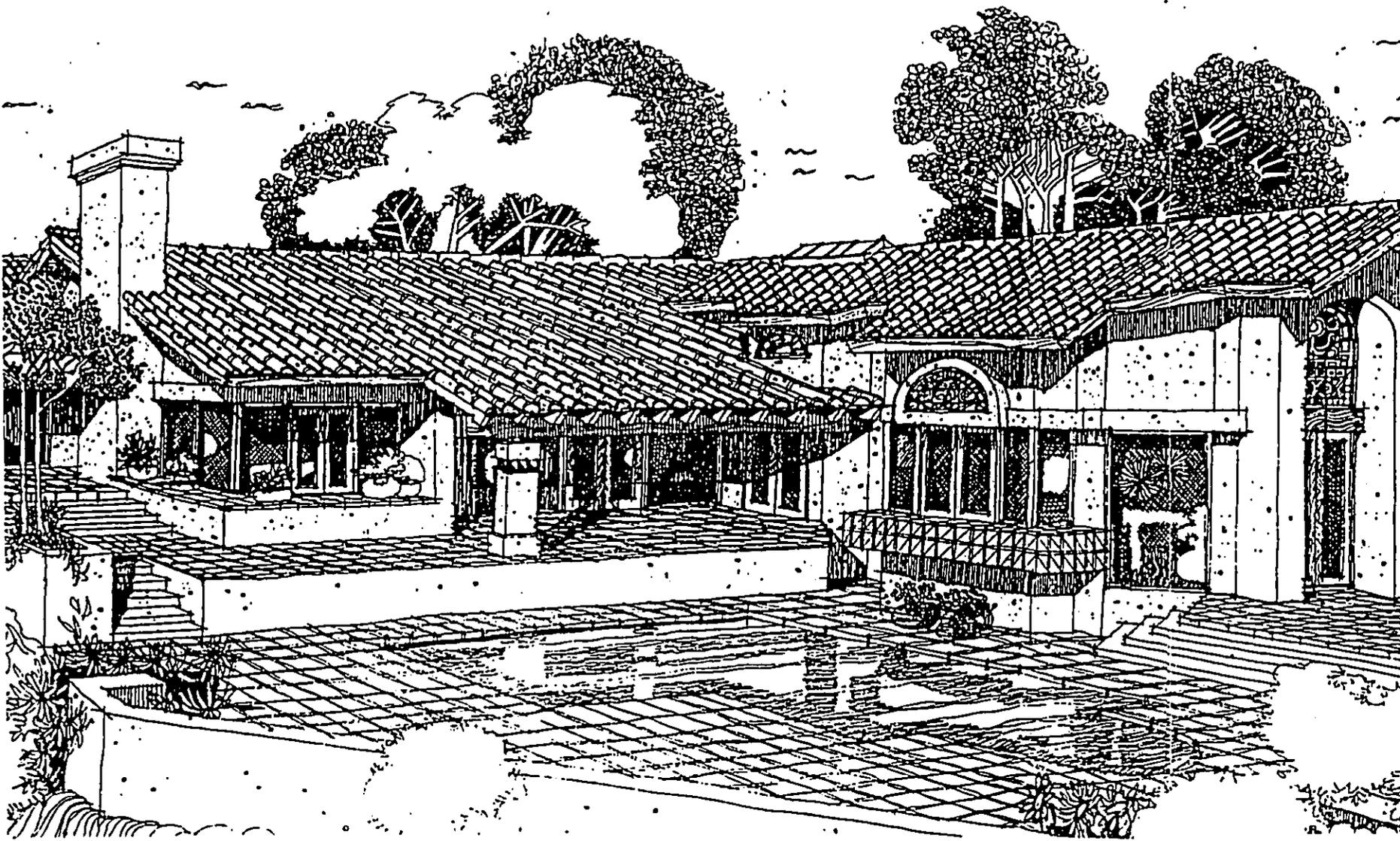
3/32" = 1'-0"

**FIGURE 10.
PROPOSED RESIDENTIAL FLOOR PLAN**

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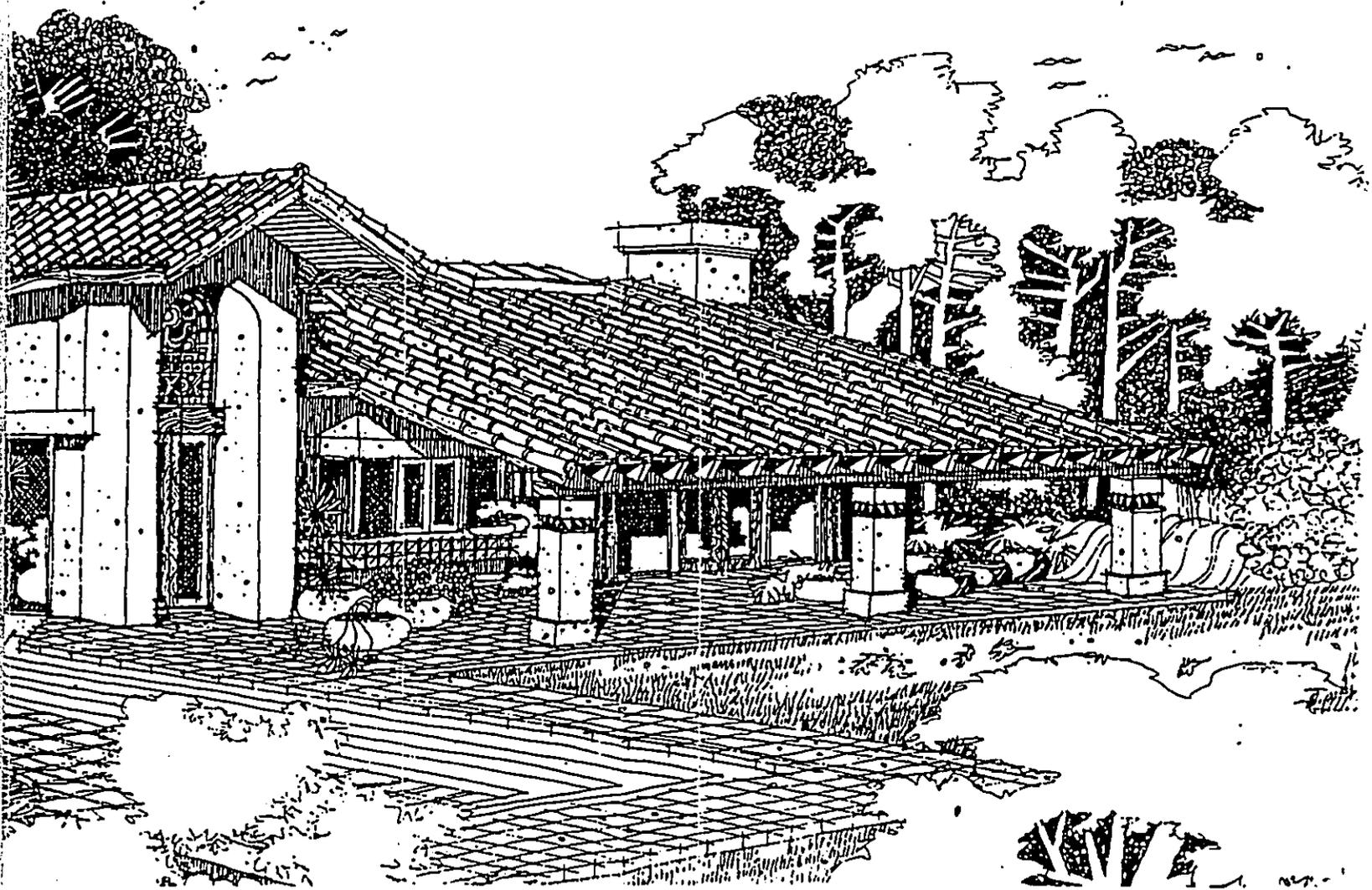


**FIGURE 11.
RENDERING OF PROPOSED RESIDENCE**

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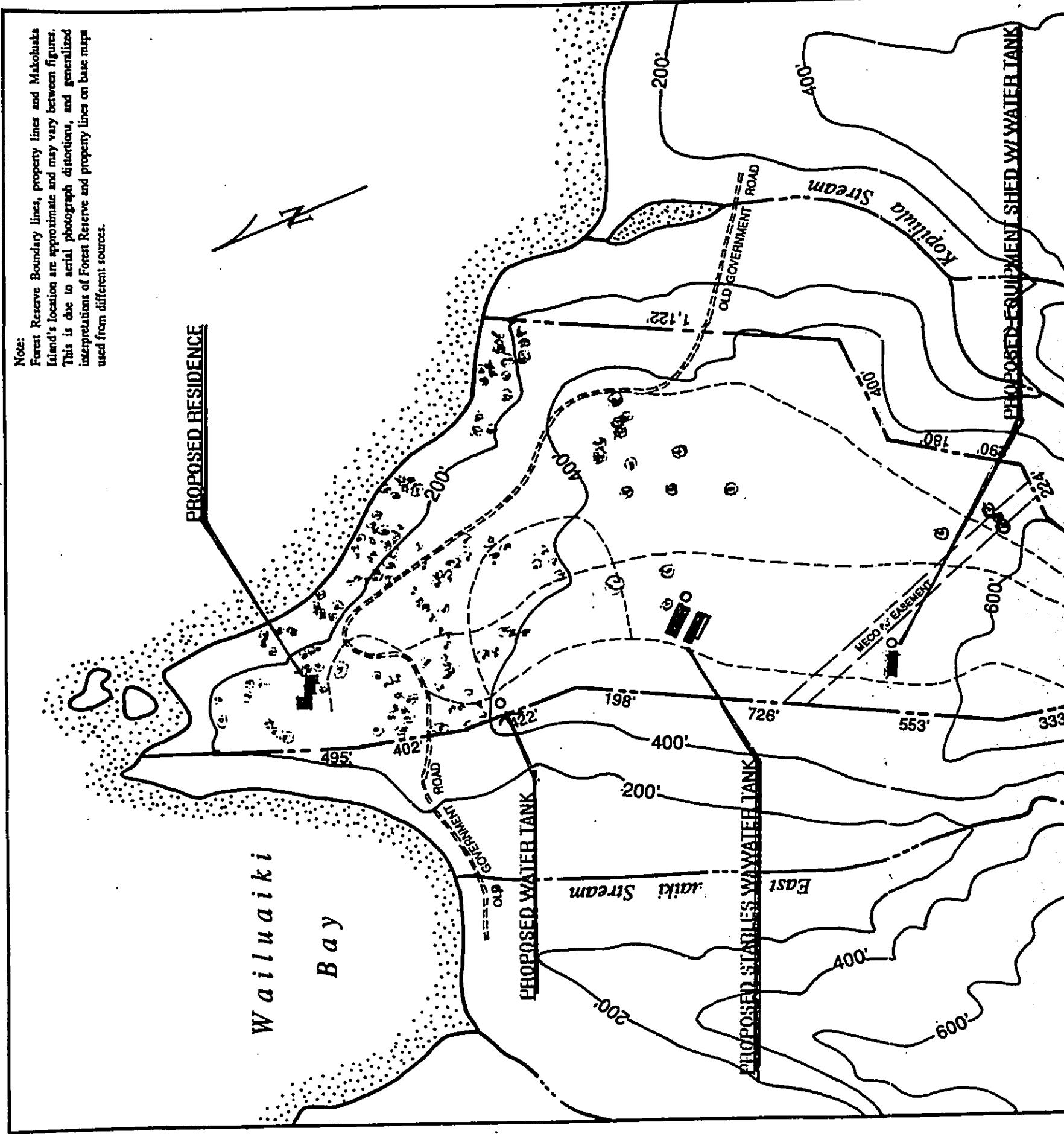
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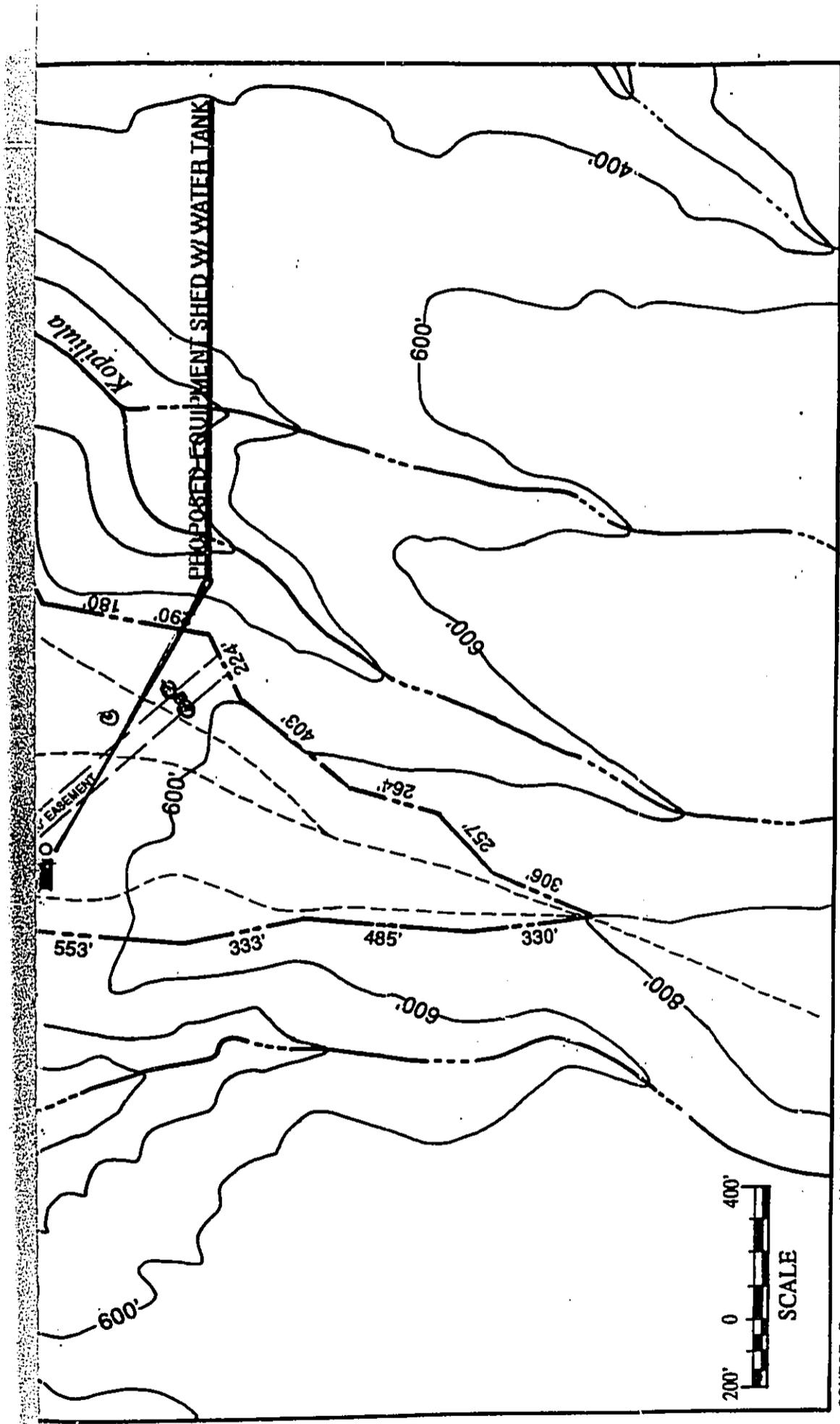
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SOURCE: Architects · Lorimer · Case

Note:
Forest Reserve Boundary lines, property lines and Makohuaki Island's location are approximate and may vary between figures. This is due to serial photograph distortions, and generalized interpretations of Forest Reserve and property lines on base maps used from different sources.





SOURCE: Base map topographic data drafted from U.S.G.S. Quadrangle

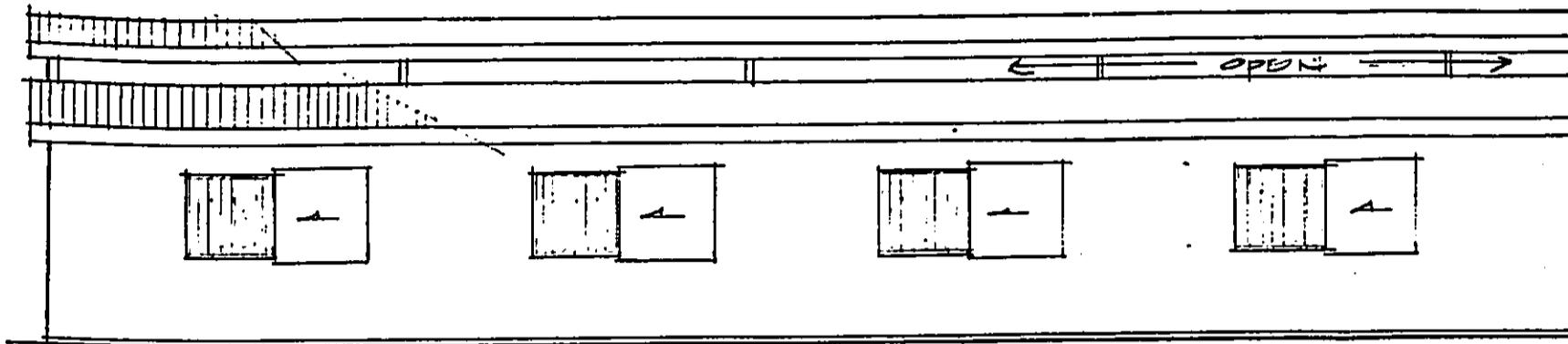
INDICATES EXISTING TREE GROWTH

FIGURE 12.
LANDSCAPE PLAN

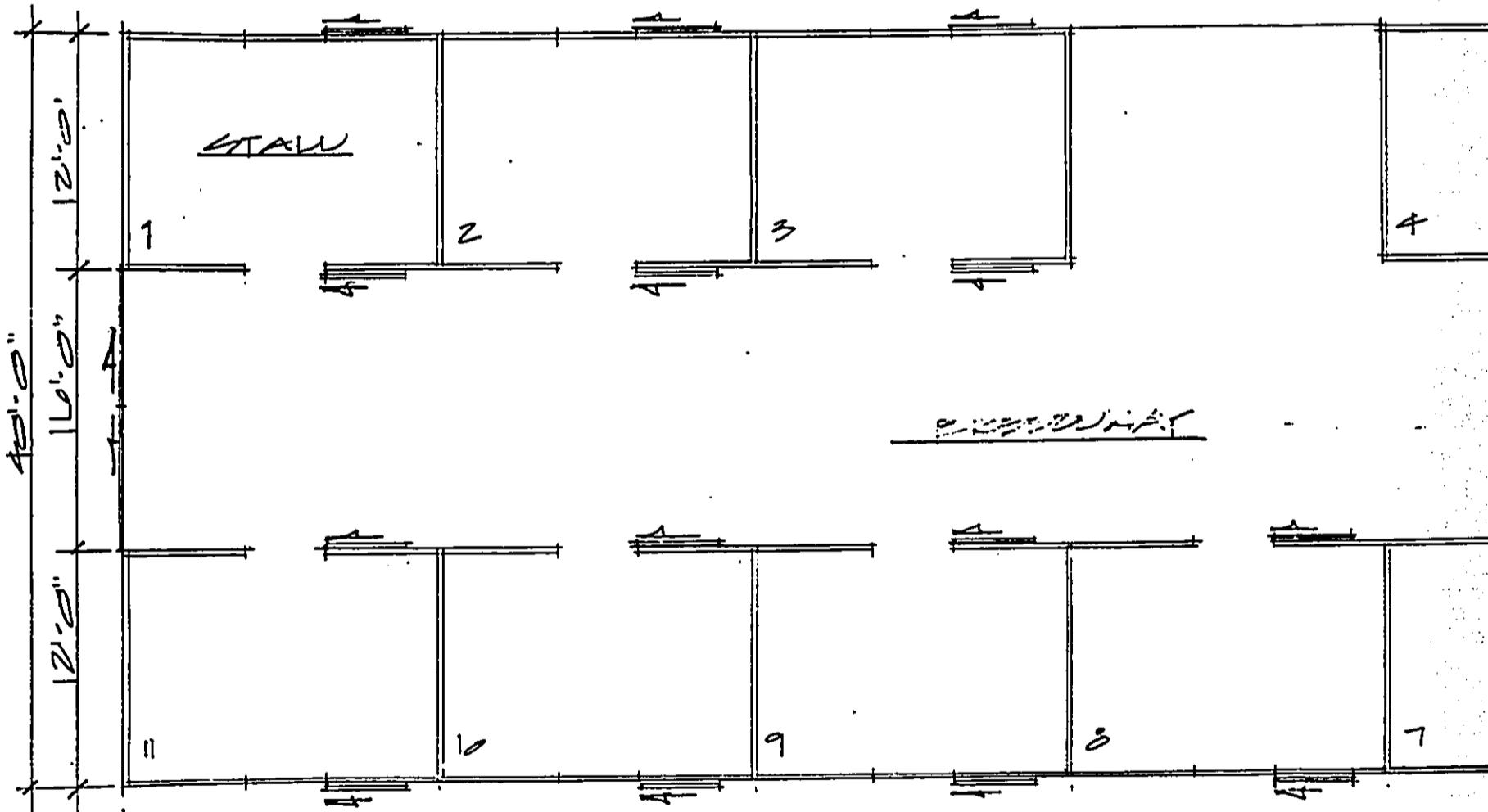
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ELEVATION
 $50 \frac{1}{8}'' = 1'-0''$



FLOOR PLAN

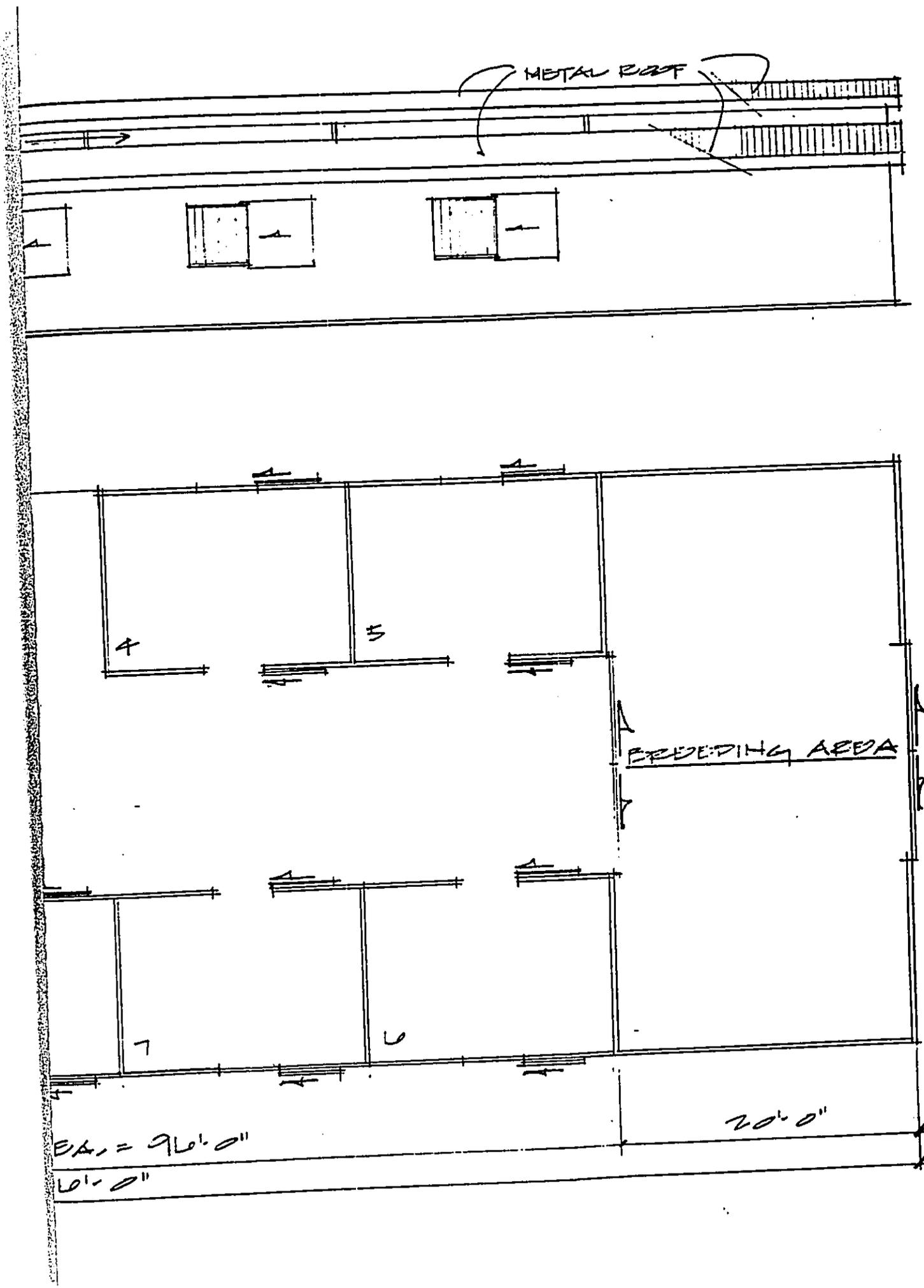
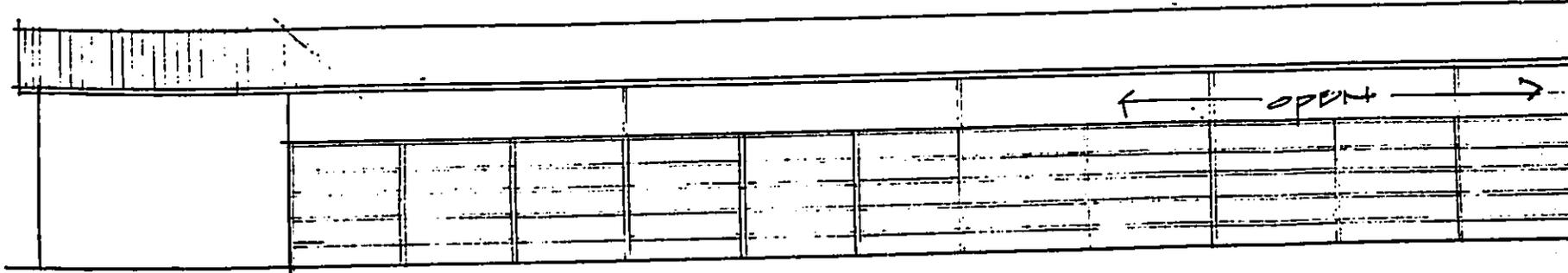


FIGURE 13.
PROPOSED STABLE

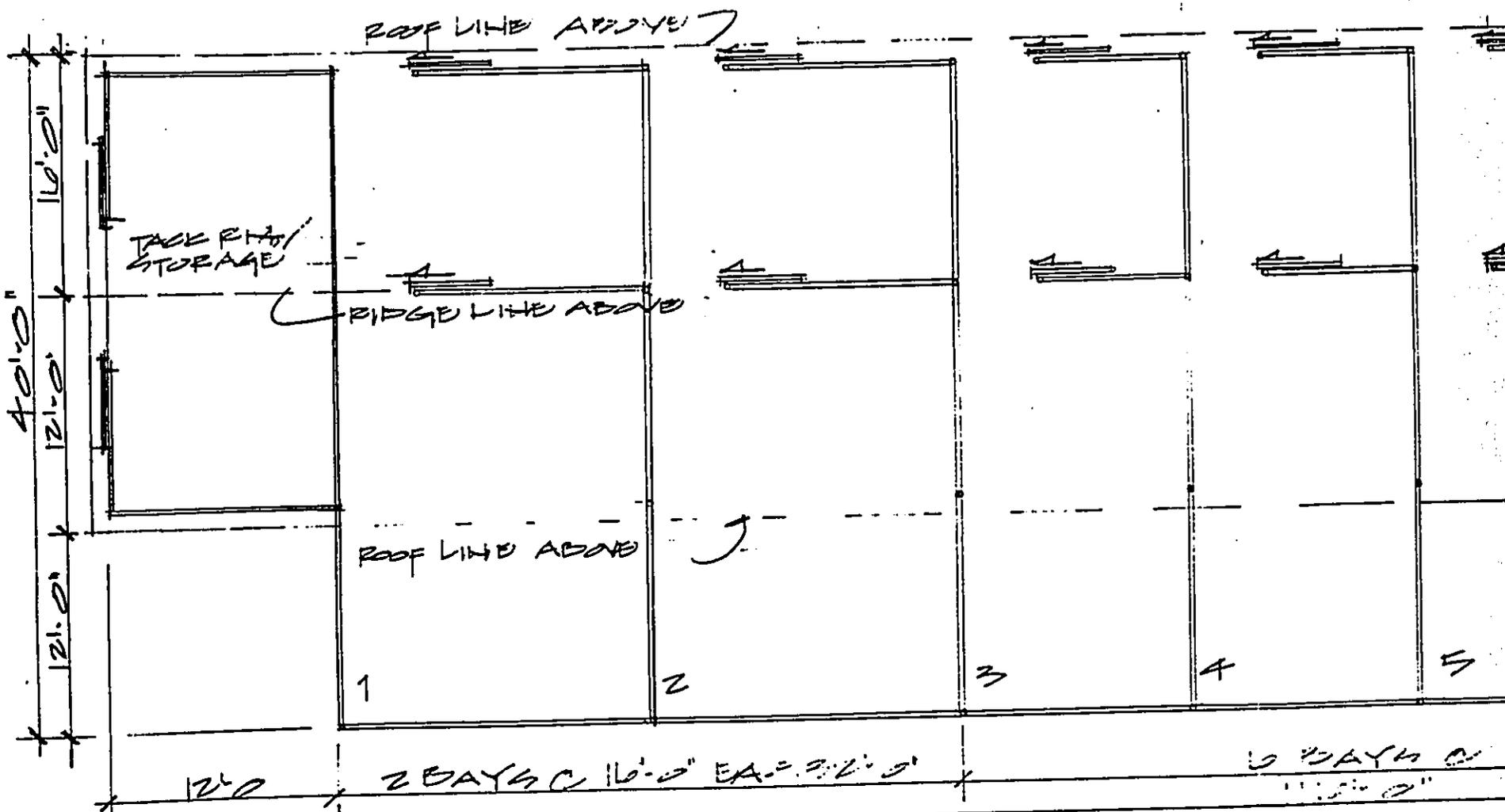
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I.D.G.

LEVY \ BOTEILHO RESIDENTIAL RANCH
TMK 1-2-01-04, KALIAE, MAUI, HAWAII



ELEVATION
 50' 1/8" = 1" = 0'



PLAN
 1/4" = 1' = 0'

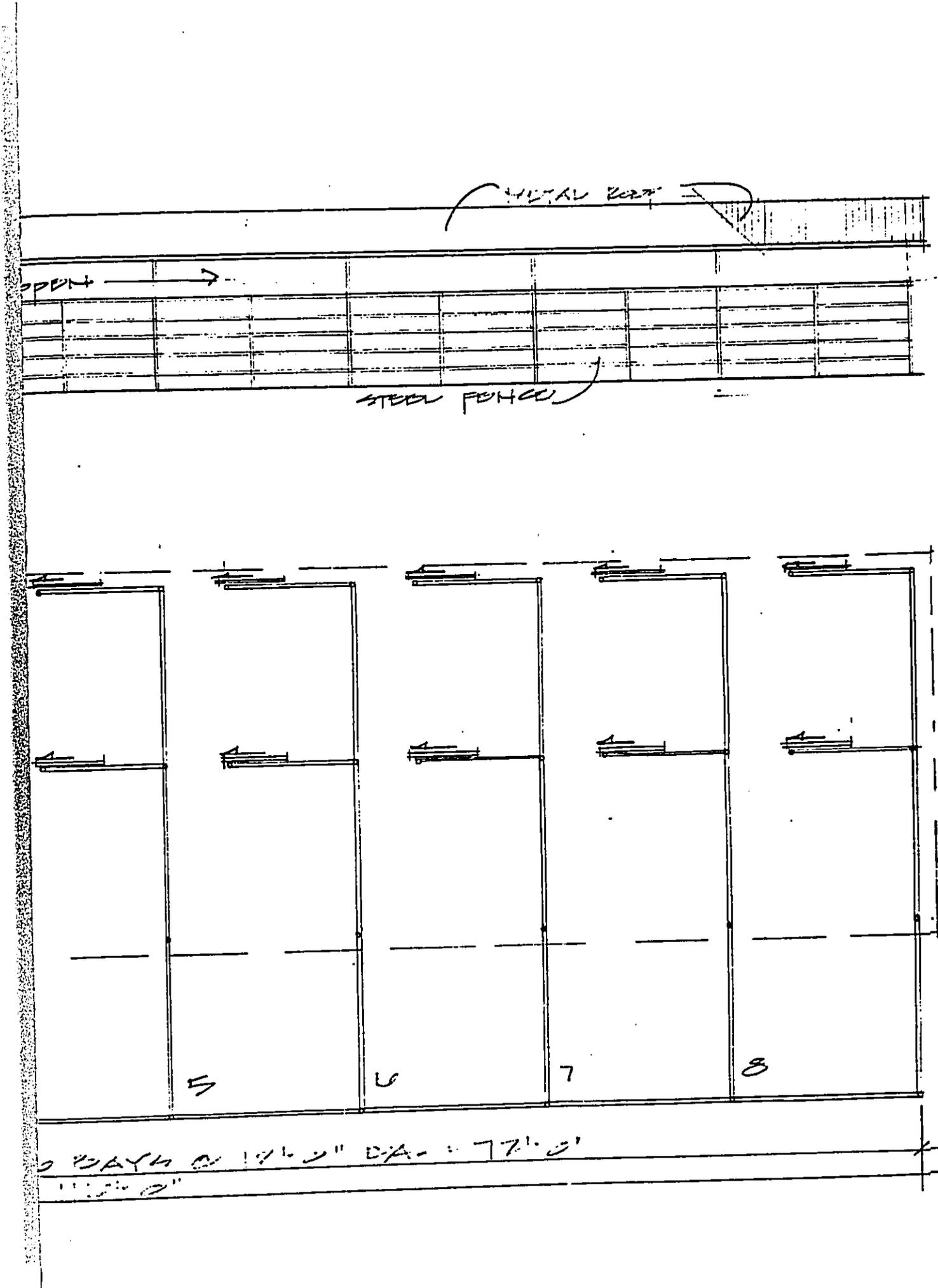
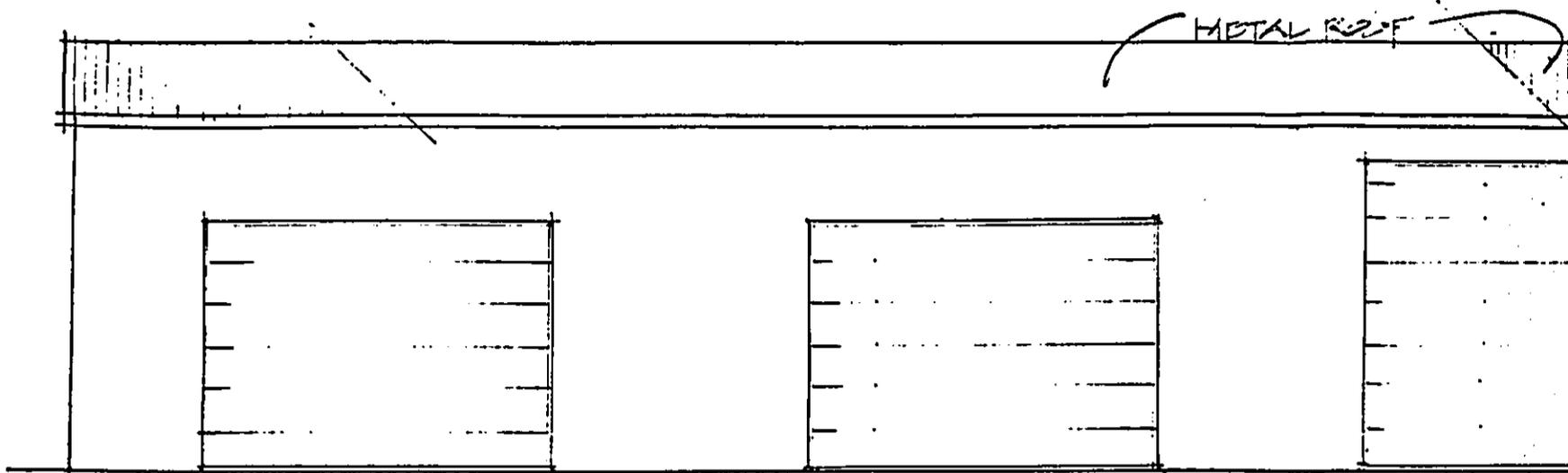


FIGURE 14.
PROPOSED OPEN AIR STABLE

INTERISLAND DESIGN GROUP, INC.
 360 N. Nimitz Hwy., Suite 201F
 Honolulu, HI 96817 • 808-536-3455

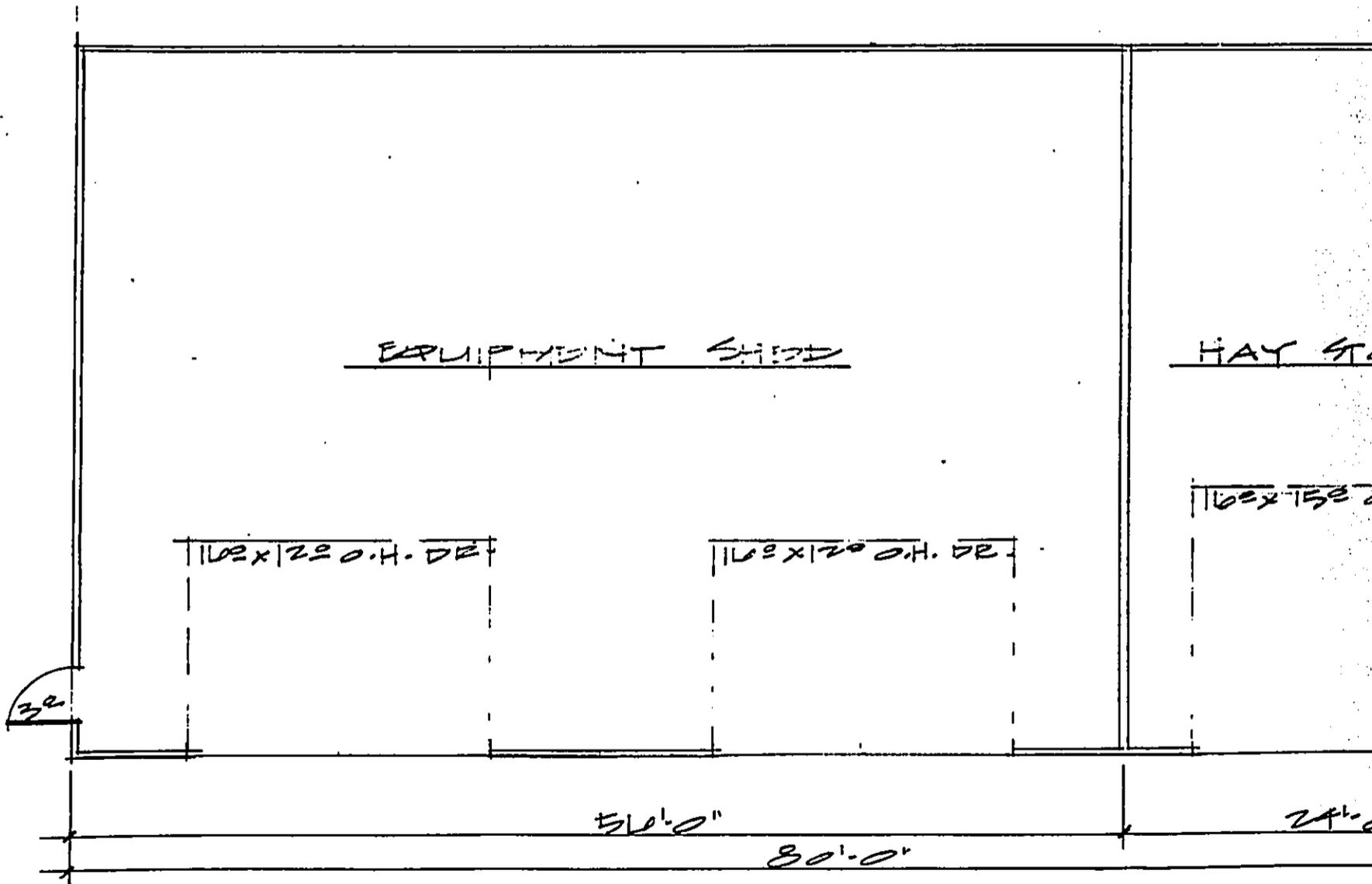
J.D.G.

LEVY \ BOTEILHO RESIDENTIAL RANCH
 TMK 1-2-01:04, KALIAE, MAUI, HAWAII



ELEVATION

40' x 18' 4" 0'



FLOOR PLAN

40' x 18' 4" 0'

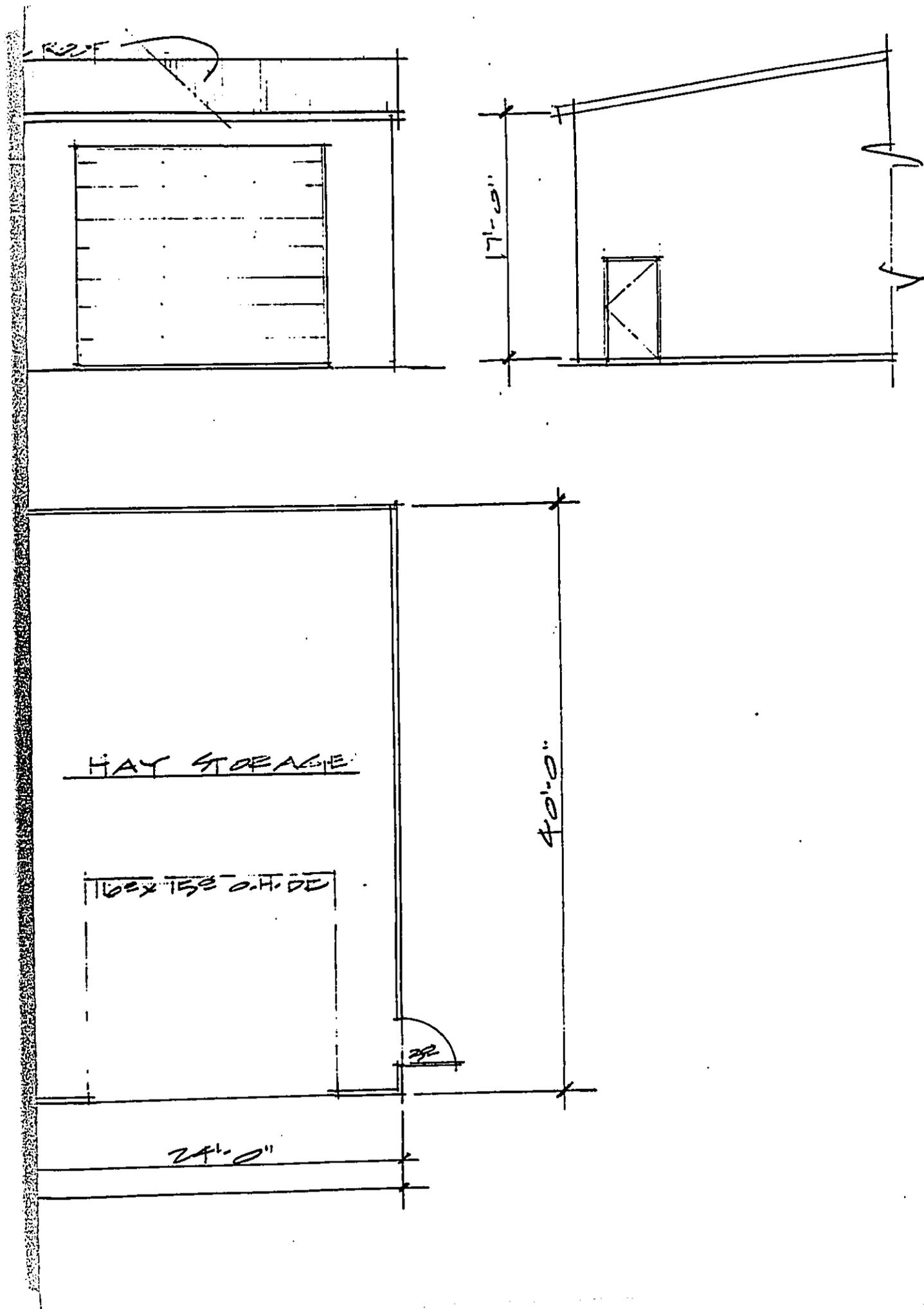


FIGURE 15.
PROPOSED STORAGE SHED

INTERISLAND DESIGN GROUP, INC.
560 N. Nimitz Hwy., Suite 201F
Honolulu, HI 96825 • 808-536-5455

I.D.G.

LEVY \ BOTEILHO RESIDENTIAL RANCH
TMK 1-2-01:04, KALIAE, MAUI, HAWAII

APPENDIX "B"

CHRONOLOGY OF FACTORS LEADING TO INITIAL CDUA APPLICATION :
(Prior to Revised Application on 9/21/93)

- 6/1/63 Approximate beginning date of grading and grubbing of parcel, as well as cutting of old government road, by Boteilho family. Coincides with State Division of Forestry and Wildlife seeding of surrounding 5000 acres of Forestry Land.
- 10/21/92 Approximate beginning date of grubbing only of parcel by Boteilho and Levy.
- 12/18/92 Notice and Order to cease activity. Grading or building of structure not allowed.
Letter [Exhibit 1]:
From: State Div. of Conservation, Keith Keau
To: Michael Boteilho
Re: Contact Ed Henry at Office of Conservation & Environmental affairs before 1/20/93
- 1/11/93 Letter [Exhibit 2]:
From: Fred Levy
To: William W. Paty, Chairperson, Board of Land and Natural Resources
Re: Request to proceed with grubbing, disking, seeding and to use a temporary storage container until necessary permits can be obtained. Master plan to be filed no later than 2/15/93. Also requested to proceed with installing electric meter.
- 2/1/93 Letter [Exhibit 3]:
From : William W. Paty, Chairperson, Board of Land and Natural Resources
To: Fred Levy
Re: Authorization to replant grubbed area and continue non-conforming grazing related land use activities.
- 2/21/93 Initial CDUA submitted to DLNR
[MA-3/2/93 2632]
- 3/15/93 Letter [Exhibit 4]:
From: John Keppeler, II, Acting Director, DLNR
To: Fred Levy
Re: Application rejected for processing because incomplete. Called for resubmittal of CDUA with more information. Reasons are listed.
- 3/16/93 Letter [Exhibit 5]:
From: Brian Miskae, Director, Planning Department, County of Maui
To: Fred Levy
Re: Authorization to replant grubbed area and continue non-conforming grazing activities.

5/5/93 Approximate issuing date of Agricultural Burning Permit (Expires 5/5/94)
Issued to: Fred Levy
By: Department of Health, Maui Office
[Exhibit 6]

5/5/93 Approximate beginning date of agricultural burning.

7/20/93 Field inspection of property by Ms. Theresa Donham, Maui staff archaeologist, DLNR; State Historic Preservation Division.

8/8/93 Field inspection of property by Michael Baker, Trails and Access Specialist, DLNR; Division of Forestry and Wildlife.

10/27/93 Field inspection of property by Michael Baker, Trails and Access Specialist, DLNR; Division of Forestry and Wildlife, and Mr. Bob Hobby, Forestry Manager, DLNR; Division of Forestry and Wildlife.

9/21/93 Revised Draft CDUA submitted to DLNR
[MA-9/28/93 2671]
Cover Letter Attached [Exhibit 7]

CHRONOLOGY OF COMMENTS REGARDING CDUA APPLICATION :
(Subsequent to Revised Application on 9/21/93)

10/8/93 Notice of acceptance of Preliminary Environmental Determination. [MA-9/28/93 2671]
Letter [Exhibit 8]:
From: DLNR, Keith Ahue, Chairperson
To: Fred Levy
Re: Acknowledging receipt and acceptance of application for processing.

10/8/93 Memorandum [Exhibit 9]:
From: Ralston Nagata, State Parks Administrator
To: DLNR Office of Conservation & Environmental Affairs
Re: MA-9/28/93 2671; No Comments.

10/8/93 Memorandum [Exhibit 10]:
From: Manabu Tagomori, Water & Land Development
To: DLNR Office of Conservation & Environmental Affairs
Re: MA-9/28/93 2671; No Comments.

10/8/93 Memorandum [Exhibit 11]:
From: Rai M. Loui, Water Commission
To: DLNR Office of Conservation & Environmental Affairs
Re: MA-9/28/93 2671; No Comments.

10/12/93 Memorandum [Exhibit 12]:
From: Betsy H. Gapri, Executive Secretary,
Natural Area Reserves System Commission
To: DLNR Office of Conservation & Environmental
Affairs
Re: MA-9/28/93 2671; Comments [Response At-
tached]

10/13/93 Letter [Exhibit 13]:
From: Brian J. J. Choy, Director, DLNR; Office
of Environmental Quality Control
To: DLNR Office of Conservation & Environmental
Affairs
Re: MA-9/28/93 2671; Comments [Response At-
tached]

10/13/93 Memorandum [Exhibit 14]:
From: Alan Tokunaga, District Land Agent, Maui
District; Division of Land Management
To: DLNR Office of Conservation & Environmental
Affairs
Re: MA-9/28/93 2671; Discussion of Access ease-
ment over State owned property. Comments [Re-
sponse Attached]

10/25/93 Letter [Exhibit 15]:
From: Brian Miskae, Director, Planning Depart-
ment, County of Maui
To: DLNR Office of Conservation & Environmental
Affairs
Re: MA-9/28/93 2671; Comments [Response At-
tached]

10/28/93 Memorandum [Exhibit 16]:
From: Rex D. Johnson, Director, Department of
Transportation
To: DLNR; Board of Land and Natural Resources
Re: MA-9/28/93 2671; Comments [Response At-
tached]

10/28/93 Memorandum [Exhibit 17]:
From: Don Hibbard, Administrator, DLNR; State
Historic Preservation Division
To: DLNR Office of Conservation & Environmental
Affairs
Re: MA-9/28/93 2671; Comments [Response At-
tached]

10/29/93 Letter [Exhibit 18]:
Separate Facsimile [Exhibit 18A]
From: Michael Baker, Trails and Access Special-
ist, DLNR; Division of Forestry and Wildlife
To: Martin Cooper
Re: Results of additional site inspection to
determine the location of the "King's highway."

10/29/93 Memorandum [Exhibit 19]:

From: Wayne F. Ching, Resource Management For-
ester, DLNR; Division of Forestry and Wildlife,
Maui District
To: DLNR Office of Conservation & Environmental
Affairs
Re: MA-9/28/93 2671; Comments [Response At-
tached]

- 11/2/93 Memorandum [Exhibit 20]:
From: Harold S. Masumoto, Director, Office of
State Planning
To: DLNR; Board of Land and Natural Resources
Re: MA-9/28/93 2671; Comments [Response At-
tached]
- 11/10/93 Memorandum [Exhibit 21]:
From: DLNR; Division of Aquatic Resources
To: DLNR Office of Conservation & Environmental
Affairs
Re: MA-9/28/93 2671; Comments [Response At-
tached]
- 11/10/93 Memorandum [Exhibit 22]:
From: Michael G. Buck, Administrator, DLNR;
Division of Forestry and Wildlife
To: DLNR Office of Conservation & Environmental
Affairs
Re: MA-9/28/93 2671; Comments [Response At-
tached]
- 11/12/93 Memorandum [Exhibit 23]:
From: Richard K. Paglinawan, Administrator,
Office of Hawaiian Affairs, State of Hawaii
To: Roger Evans, DLNR; Office of Conservation &
Environmental Affairs
Re: MA-9/28/93 2671; Comments [Response At-
tached]
- 11/15/93 Memorandum [Exhibit 24]:
Exchange Warranty Deed [Exhibit 24A]
Royal Patent No. 1164 [Exhibit 24B]
From: Ke'anae-Wailuanui Community Association
To: DLNR; Board of Land and Natural Resources
Re: MA-9/28/93 2671; Comments [Response At-
tached]
- 11/16/93 Letter [Exhibit 25]:
From: Patricia Tummons
To: Roy Schaefer, Planner, DLNR; Office of
Conservation & Environmental Affairs
Re: MA-9/28/93 2671; Comments [Response At-
tached]
- 11/17/93 Memorandum [Exhibit 26]:
From: David Craddick, Director, Department of
Water Supply, County of Maui
To: DLNR; Board of Land and Natural Resources
Re: MA-9/28/93 2671; Comments [Response At-

tached]

- 11/18/93 Memorandum [Exhibit 27]:
From: Neal S. Fujiwara, District Conservation-
ist; US Department of Agriculture, Soils Conser-
vation Service
To: DLNR Office of Conservation & Environmental
Affairs
Re: MA-9/28/93 2671; Comments [Response At-
tached]
- 11/19/93 Letter [Exhibit 28]:
From: Marc Hodges
To: Martin Cooper
Re: MA-9/28/93 2671; Comments [Response At-
tached]
- 11/29/93 Letter [Exhibit 29]:
From: Elaine Wender
To: Brian J. J. Choy, Director, DLNR; Office of
Environmental Quality Control
Re: MA-9/28/93 2671; Comments [Response At-
tached]
- 12/1/93 Letter [Exhibit 30]:
From: John C. Lewin, Director, Department
of Heath, State of Hawaii
To: Keith W. Ahue, Chairperson, DLNR
Re: MA-9/28/93 2671; Comments [Response At-
tached.]
- 12/1/93 Letter [Exhibit 31]:
From: George N. Kaya, Director, Department of
Public Works and Waste Management, County of
Maui
To: Keith W. Ahue, Chairperson, DLNR
Re: MA-9/28/93 2671; Comments [Response At-
tached.]
- 1/25/94 Field inspection of property by Mr. William Kenni-
son, BLNR Maui Board Member, Mr. Michael Baker,
Trails and Access Specialist, DLNR; Division of
Forestry and Wildlife, Mr. Roy Schaefer, Planner,
DLNR; Office of Environmental Affairs, and Mr. Martin
Cooper [Applicants' consultant],
- 2/25/94 Final Master Application submitted to DLNR
[MA-9/28/93 2671]

APPENDIX "C"

JOHN WAIHEE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF CONSERVATION AND RESOURCES ENFORCEMENT
54 SOUTH HIGH ST. 1ST FLOOR
WAILUKU, HAWAII 96793

EXHIBIT 1

WILLIAM W. PATY, CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES

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

December 18, 1992

Mr. Michael Boteilho
2116 Naalae Road
Kula, Maui, HI 96790

Dear Mr. Boteilho:

Please submit any future plans pertaining to this property to the Office of Conservation and Environmental Affairs before January 20, 1992.

Contact Mr. Ed Henry, Staff Planner, at 587-0377 for further assistance concerning this Notice.

A handwritten signature in black ink, appearing to read "Keith K. Keau".

Keith K. Keau
Enforcement Chief

HAWAII



WILLIAM W. PATTY, CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF CONSERVATION AND RESOURCES ENFORCEMENT
54 SOUTH HIGH ST., 1ST FLOOR
HAILUKU, HAWAII 96793

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

ORDER NO.: MA-001
FILE NO.:

NOTICE AND ORDER

Mr. Michael Boteilho

2116 Naalae Road

Kula, Maui, HI 96790

Dear Mr. Boteilho:

SUBJECT: Illegal Activity Within the Conservation District

NOTICE IS HEREBY GIVEN that you are in violation of Title 13, Chapter 2, entitled ADMINISTRATIVE RULES of the Department of Land and Natural Resources, State of Hawaii, Providing for Land Use Within the Conservation District, enacted pursuant to Chapter 193-41, Hawaii Revised Statutes.

An inspection of the premises on which your activity (has been/is being conducted) was made on 10/29/92 and 11/24/92, by the Department of Land and Natural Resources.

The premises, Tax Map Key: 1-2-01:04, is within the Conservation District and is classified as General Conservation Subzone. The General Conservation Subzone does not permit grading or building of structure without the written permission of the Department of Land and Natural Resources.

No permit has been issued to you by the Department of Land and Natural Resources for the above activity.

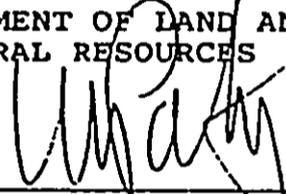
YOU ARE HEREBY ORDERED TO CEASE any further activity on the premises within the Conservation District. Should you fail to cease such illegal activity immediately and restore the premises to its natural state, the Department of Land and Natural Resources shall seek a court order to enforce Title 13, Chapter 2, and to include a five hundred dollar (\$500.00) fine per day, per violation, in addition to all administrative costs, after receipt of this NOTICE AND ORDER.

It is suggested that you contact our Office of Conservation and Environmental Affairs at 587-0377 for any further information.

Very truly yours,

DEPARTMENT OF LAND AND
NATURAL RESOURCES

By: _____


WILLIAM W. PATY
Chairperson and Member
Board of Land and
Natural Resources

Enc.

cc: Board Members
Land Management
DOCARE

Fred Levy Enterprises

(619) 565-8500

January 11, 1993

William W. Paty, Chairperson
Board of Land & Natural Resources
1151 Punchbowl St. #131
Honolulu, HI 96813

Mr. Paty:

On Monday, January 4th 1993, I and my partner, Michael Boteilho, met with Mr. Ed Henry of the Dept. of Land & Natural Resources office in Honolulu. Our meeting was in reference to a letter written to Michael and myself dated December 18, 1992. The letter referred to some grubbing and a storage container on our property in Maui. Mr. Henry was extremely helpful in explaining to us our need for certain permits in order to do various things to our ranch.

The question of grubbing was one of the issues. Mr. Boteilho's family has owned the ranch long before Hawaii became a state and before it was zoned a General Conservation area. The ranch has been grubbed many times in the past by the Boteilho family for the purpose of grazing and raising cattle and horses. The issues at hand now were not raised in the past, thus we were not aware that the actions taken were not allowed or fell under the scrutiny of your office. Mr. Boteilho told me that the grubbing was a common occurrence every couple of years to clear the Guava, Lantana and brush in general to permit grazing by the livestock.

The livestock raised by the Boteilho's over the years were not only a part of their livelihood, but were also given by the Boteilho's as contributions to various churches, hospitals and charitable organizations on Maui (including this last year). The grubbing, now as in the past, is an ongoing practice to operate the ranch. We would very much appreciate the opportunity to finish the job we've started. It is necessary to complete the discing and seeding of the area in order to prevent erosion by allowing the grass to seed.

We have already cut all of the waste plants and need only to mulch them. We would also like to burn some of the larger Lantana trees (we would of course obtain the proper burning permits) and then disc and seed the area to produce a lush green pasture for the grazing of our livestock. This is the primary purpose and intended use of the property.

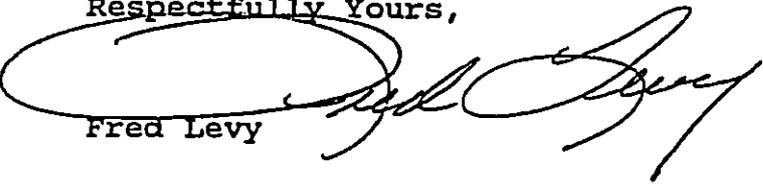
Page 2

The storage container on the property is again something we didn't know we needed a permit for. It is temporary housing for tools and feed for the ranch. There used to be an old shed where the container now sits but it was in such disrepair as to be unsalvageable. It was our intent to use the container as temporary storage until we filed our plans and obtained our permits to build housing and equipment and barn storage on the property. We would again appreciate your allowing us to maintain this temporary storage container on the property until we can go through the administrative process required to obtain all necessary permits, and to file our master plan within the next 30 days or no later than February 15, 1993.

I want to 'Thank You' for your time and consideration of my requests to complete the grubbing and seeding job already in progress and to maintain the storage facility. Let me assure you that it is my intention to protect the 'lifestyle' that the ranch has previously known and at the same time preserve the beauty of the property which attracted me to it in the first place. I would appreciate your office's approval of my requests.

I can be reached at any time in Maui at (808) 572-4127.

Respectfully Yours,


Fred Levy

P.S. We would also like permission to move forward with Maui Electric re: MECO No. M123153. Please see attached letter.

cc: Mr. Michael Boteilho
Mr. Keith K. Keau
Mr. Ed Henry

SENT BY:

8085870390

; 2-22-84 ; 9:28AM ;

DLNR / OCEA-

808 871 0751: # 1

EXHIBIT 3

REF:OCEA:6KK

FEB 1 1993

FILE NO.: 1993E-20
DOC. NO.: 2121

Mr. Fred Levy
4540 Kenry Villa Rd.
Suite 208
San Diego, CA. 92123

Dear Mr. Levy:

SUBJECT: Authorization to Replant Grubbed Area and Continue
Non-Conforming Grazing Related Land Use Activities
within the State Conservation District, TK: 1-2-01, 04

This letter serves to authorize identified land use activities on the
subject property, as requested in your letter of January 11, 1993.

Specifically, all grubbed material (i.e. guava, lantana, etc.) should be
immediately mulched on the property, or otherwise properly disposed of in
a County disposal site. Should you wish to obtain an agriculture
fire-burning permit, we direct you to the State Department of Health
and/or Department of Agriculture and appropriate agencies of the County of
Hawaii for pertinent approvals. You are also authorized to immediately
begin regrassing the disturbed graded areas.

Continued use of the temporary storage container is also granted,
pertinent to its use in your non-conforming grazing activities. However,
as staff explained, it is important that you identify this after-the-fact
use in the submittal of a Conservation District Use Application (CDUA) for
future land use activities (i.e., barn, fencing, single family residence,
etc.). It is our understanding that a CDUA, with an Environmental
Assessment, is currently being completed by you with anticipated submittal
to the department in February, 1993.

SENT BY:

; 2-22-94 ; 9:28AM ;

DLNR / OCEA-

808 871 0751:# 2

Mr. Y. Levy

-2-

File No.: MA93E-20

Our understanding of the electrical service request to the property is that it is limited to a small utility box placed on an existing pole within an existing utility easement. No additional poles or lines are required. The department does not consider this type of development to be a new, different or expansion of land use. As such, no land use permit is required. However, should additional wires or poles be required, send four (4) sets of construction plans, with a narrative description, to the department for our review and land use determination.

Thank you for your attention and cooperation during the land use review process. As landowners, whose property is situated within the Conservation District, it is important that you understand departmental rules and procedures distributed to you relative to future land use activities. Should you have any questions, please feel free to contact the Office of Conservation and Environmental Affairs, phone: (808)587-0377.

Very truly yours,

/s/ JOHN P. KEPPEL, II

WILLIAM W. PATY

cc: DOCARS, DOPAW
County of Maui, Dept. of Planning



JOHN WAIHEE
GOVERNOR OF HAWAII



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

REF:OCEA:SKK

FILE NO.: MA-3/2/93-2632
DOC. NO.: 2368

MAR 15 1993

EXHIBIT 4
BOARD OF LAND AND NATURAL RESOURCES

DEPUTIES

JOHN P. KEPPELER II
DONNA L. HANAIKE

AQUACULTURE DEVELOPMENT
PROGRAM
AQUATIC RESOURCES
CONSERVATION AND
ENVIRONMENTAL AFFAIRS
CONSERVATION AND RESOURCES
ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION PROGRAM
LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT

Mr. Fred Levy, President
Pacific Land and Cattle Inc.
4540 Kearny Villa Rd. #201
San Diego, CA. 92123

Dear Mr. Levy:

We are sorry to inform you that, after a review by our Department, your Conservation District Use Application for three single family residences, covered arena, barn, access road, work and storage shed, three catchment system storage tanks for water at Koolau, Maui; TMK: 1-2-1: 04 is considered incomplete, and has been rejected for processing for the following reasons:

1. As indicated by Permit, type B, all applicants for a Type B permit must fill out pages 1-4; and fill out pages 10, 11 for the Office of Environmental Quality Control Bulletin. In addition, the application needs to be filled out using print or type.
2. On page two, of the master application form, under Section V, Environmental Requirements; the applicant is required to answer in detail all questions from 1 through 9 relative to all proposed land uses. To assist you in complying with the environmental requirements (environmental assessment), we have provided a document for guidance entitled "Environmental Assessment Contents and Notices of Determination". In addition, a new master application form and the Hawaii Administrative Rules, Chapter 13-2, regarding Conservation District has been enclosed.
3. Page 3, needs to be completed, and the type of use requested should be conditional use. This means that the Board of Land and Natural Resources may deny your proposed land uses, or approve the proposed use with conditions attached to the permit. For your information, past Board practice in the General subzone, considered on a case by case basis, has been to allow only one single family residence per tax map key number, or property.

Mr. F. Levy

-2-

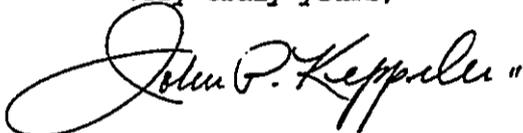
File No.: MA-2632

4. Page 4, needs to be completed in full, as your proposed land uses are conditional uses. In addition, all maps and plans must be reduced to 8 1/2 x 11 inches. Also, it is necessary to provide all details, including the dimensions of all structures such as the covered arena, barn, and work and storage shed, as well as details regarding the access road. If there are other land uses such as fencing, landscaping, or tree planting this needs to be included.
5. Please review Title 13, Chapter 2, of the Hawaii Administrative Rules regarding conservation Districts; specifically, "commercial purpose (use)" under Section 13-2-1 Definitions. After your review please provide all relevant details to back your claim that your proposed project is not commercial.

As such, we are returning 17 copies of the application, and your \$50 filing fee will be processed for a refund to you.

Please feel free to contact our Office of Conservation and Environmental Affairs staff at 587-0377 if we may be of assistance in completing the application.

Very truly yours,



JOHN P. KEPPELER, II
Acting Director

Enclosure

cc: Michael Boteilho

LINDA CROCKETT LINGLE
Mayor



BRIAN W. MISKAE
Planning Director

EXHIBIT 5

COUNTY OF MAUI
PLANNING DEPARTMENT
250 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793

March 16, 1993

Mr. Fred Levy
4540 Kearny Villa Road
Suite 205
San Diego, CA 92123

Dear Mr. Levy:

RE: Authorization to Replant Grubbed Area and Continue Non-Conforming Grazing Related Land Use Activities Within the State Conservation District, TMK: 1-2-01:04.

Please be advised that we have reviewed your subject request for grubbing of your site. At this time the Public Works Department does not allow large areas of grubbed material to be disposed at the County landfill.

The Solid Waste Division advises that within four months there will be a green-waste composting facility for public use.

In the meantime we strongly suggest that you conduct mulching and composting operations on site.

The Solid Waste Division asks that you contact them for further assistance on composting and recycling matters. They can be reached at 243-7875.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in dark ink, appearing to read "B. Miskae".

BRIAN MISKAE,
Planning Director

BWM/GU/sc
cc: DLNR
Public Works
Solid Waste Division
C. Jencks
C. Yoshida

GU/sc/b:CDUAGREN.LTR

EXHIBIT C

PHONE NO. : 808 244 6627

FROM :

STATE OF HAWAII
DEPARTMENT OF HEALTH
AGRICULTURAL BURNING PERMIT
IS HEREBY ISSUED TO

Fred Levy
(NAME)

c/o David Pico, 343 Alu Road, Wailuku, Hawaii 96793
(ADDRESS)

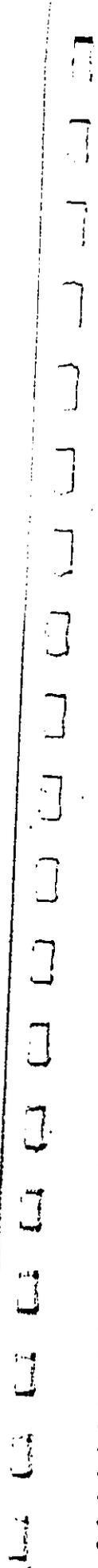
TNR: 1-2-01:4; Wailua
(BURN LOCATION)

subject to the State of Hawaii Department of Health, Administrative Rules, Title 11, Chapter 60, Air Pollution Control notices of "no burn" days for specified island(s) as provided on or before 4:00 p.m. by radio broadcast through the National Weather Service, or other appropriate means, applicable for the succeeding day, and to all of the following special conditions:

1. On Oahu, notify the Fire Alarm Bureau; on all other islands, contact the nearest fire station prior to each burn.
2. Refrain from burning large logs to prevent smoldering fires and provide water source to area during burn.
3. Fire must be attended or supervised by an adult and must be completely out at the end of each burning period.
4. Burning must be discontinued if smoke impacts on adjacent properties.
5. Burning permitted for controllable amounts, during favorable wind conditions and only during the hours of 9:00 a.m. to 6:00 p.m.
6. Permit must be available for viewing at burn site during burn.

Acceptance of this permit constitutes an acknowledgement and agreement that the holder will comply with all Rules and Orders of the Department and the conditions precedent to the granting of this permit. Violation of the above conditions may be reason for suspension or revocation of this permit.

PERMIT NO. AGP. **15871** EXPIRATION DATE May 5, 1994 BY [Signature]
Rev. 1290 DIRECTOR OF HEALTH





Interisland Design Group, Inc. • Professional Architectural Services

September 21, 1993

Mr. Keith W. Ahue
Chairperson
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

Subject: Draft Environmental Assessment (EA) for Private
Residential Ranch, TMK 1-2-1:04, Kaliae, Maui, Hawaii

Dear Mr. Ahue,

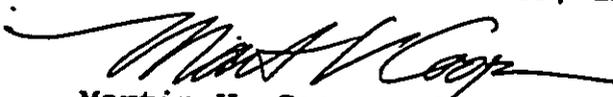
Our office has prepared a Conservation District Use Application and Environmental Assessment Report for Mr. Fred Levy and Mr. Michael Boteilho who own the above property. You will find enclosed the following items:

- A. Master Application Form, Pgg. 1-4
(Original with signatures, plus twentyone copies, stapled.)
- B. Environmental Assessment Report
(Twenty-two copies, Comb-bound.)
- C. OEQC Bulletin Publication Form, complete except for comment end date. (See disk for ascii file for project summary.)
- D. \$50.00 Filing Fee

Please advise us if you require anything further to expedite this application. You can contact us at 536 5455 (Honolulu Office) or 871 8166 (Maui Office). On Behalf of my client I thank you.

Sincerely,

INTERISLAND DESIGN GROUP, INC.


Martin V. Cooper, AIA
Principal

JOHN WAINIE
GOVERNOR OF HAWAII



STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES

P. O. BOX 521
HONOLULU, HAWAII 96809

REF:OCEA:SKK

OCT 8 1993

FILE NO.: MA-9/28/93-2671

180-Day Exp. Date: 3/27/94

DOC. ID.: 3539

EXHIBIT 8

Keith W. Ahue, Chairperson
BOARD OF LAND AND NATURAL RESOURCES

DEPUTY

John P. Keppeler, II
Dona L. Hanaike

AQUACULTURE DEVELOPMENT
PROGRAM
AQUATIC RESOURCES
CONSERVATION AND
ENVIRONMENTAL AFFAIRS
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
PROGRAM
LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT

Mr. Fred Levy, President
Pacific Land and Cattle, Inc.
4540 Kearny Villa Rd., Suite 201
San Diego, CA. 92123

Dear Mr. Levy:

NOTICE OF ACCEPTANCE AND PRELIMINARY ENVIRONMENTAL DETERMINATION
Conservation District Use Application No.: MA-9/28/93-2671

This acknowledges the receipt and acceptance for processing your application for a private residential ranch at Kaliae, Maui.

According to your information, you propose to build a private residential ranch as a main residence with additional facilities for animals.

Structures proposed include:

- A Single Family Residence with 6,650 square feet under roof.
- A Covered Stable with 4,640 square feet under roof.
- An Open Stable with 4,496 square feet under roof.
- A Storage Shed with 3,200 square feet under roof.
- Three Water Storage Tanks with 30,000 gallon capacity each.

The design objective is to retain the natural beauty of the parcel intact. Existing ocean fronts and cliffs will remain undisturbed. Other than providing building pads for the structures, the existing topography is to remain in its present state.

After reviewing the application, we find that:

1. The proposed use is a conditional use within the General subzone of the Conservation District according to Administrative Rules, Title 13, Chapter 2, as amended;
2. No public hearing pursuant to Section 183-41, Hawaii Revised Statutes (HRS), as amended, will be required; and

Mr. F. Levy

-2-

File No.: MA-2671

3. In conformance with Title 11, Chapter 200, of the Hawaii Administrative Rules, and Act 241, SLH 1992, a negative declaration is anticipated based on the draft environmental assessment.

As the applicant, please be advised that it will be your responsibility to comply with the provisions of Section 205A-29(b), Hawaii Revised Statutes, relating to Interim Coastal Zone Management (Special Management Area) requirements.

Negative action as required by law, on your application by the Board of Land and Natural Resources can be expected should you fail to obtain from the County thirty (30) days prior to the 180-day expiration date, as noted on the first page of this notice, one of the following:

1. A determination that the proposed development is outside the Special Management Area (SMA);
2. A determination that the proposed development is exempt from the provisions of the county ordinance and/or regulation specific to Section 205A-29(b), HRS; or
3. A Special Management Area (SMA) permit for the proposed development.

Pending action on your application by the Land Board in the near future, your cooperation and early response to the matters presented herein will be appreciated. Should there be any questions, feel free to contact Roy Schaefer of our Office of Conservation and Environmental Affairs staff at 587-0377.

Very truly yours,


KEITH W. AHUE

cc: Mr. Michael Boteilho
Mr. Martin V. Cooper
Maui Board Member
Maui Land Agent
Maui Planning Dept.
Maui DPW, DP&R, DWS
DOH/OHA/OSP/DOT

EXHIBIT 9

RECEIVED
DIVISION OF
STATE PARKS

OCT 8 2 00 PM '93

- _____ DIRECTOR
- _____ ASST. DIR.
- _____ DEPT. MGR.
- _____ DIST. MGR.
- _____ PROJ. CONTROL
- _____ SW. REG. PLAN.
- _____ CLERICAL STAFF
- _____ ADMIN. ASS'T.
- _____ ARCHAEOLOGISTS

STATE OF HAWAII
 DEPARTMENT OF LAND AND NATURAL RESOURCES
 Office of Conservation and Environmental Affairs
 Honolulu, Hawaii

- FOR:
- _____ CIRCULATE/POST
 - _____ COMMENTS & REC.
 - _____ DRAFT REPLY
 - _____ FILE
 - _____ FOLLOW UP
 - _____ INFO.
 - _____ RUSH (DUE _____)
 - _____ SEE ME

FILE NO.: MA-9/28/93-2671
 180-Day Exp. Date: 3/27/94
 SUSPENSE DATE: 21 Days
 DOC. NO.: 3541

OCT 8 1993

MEMORANDUM TO:

TO: Aquatic Resources; Conservation & Resources Enforcement;
 Forestry & Wildlife; Historic Preservation; Land
 Management; Natural Area Reserves System; State Parks;
 Water and Land Development; Water Commission; Boating and
 Ocean Recreation

FROM: TO: Office of Conservation and Environmental Affairs

SUBJECT: REQUEST FOR COMMENTS
 Conservation District Use Application

APPLICANT: Mr. Fred Levy

FILE NO.: MA-9/28/93-2671

REQUEST: Private Residential Ranch

LOCATION: Kaliae, Maui

TMK(s): 1-2-1: 04

PUBLIC HEARING: YES _____ NO X

DOCARE: Please conduct a field inspection on this project. Should you
 require additional information, please call Roy Schaefer at 7-0377.

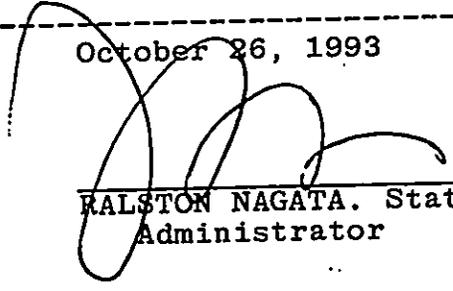
If no response is received by the suspense date, we will assume there are
 no comments.


 ROGER C. EVANS

Attachment(s)

October 26, 1993

No comments.


 RALSTON NAGATA, State Parks
 Administrator

RN:js

RECEIVED
 DLNR
 OCEA
 '93 OCT 28 PM 2:10

EXHIBIT 10

RECEIVED STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Office of Conservation and Environmental Affairs
93 OCT 8 P 3:12 Honolulu, Hawaii

DIV. OF WATER &
LAND DEVELOPMENT

FILE NO.: MA-9/28/93-2671
180-Day Exp. Date: 3/27/94
SUSPENSE DATE: 21 Days
DOC. NO.: 3541

OCT 8 1993

MEMORANDUM

FAM
TO:

Aquatic Resources; Conservation & Resources Enforcement;
Forestry & Wildlife; Historic Preservation; Land
Management; Natural Area Reserves System; State Parks;
Water and Land Development; Water Commission; Boating and
Ocean Recreation

to
FROM:

Office of Conservation and Environmental Affairs

SUBJECT:

REQUEST FOR COMMENTS
Conservation District Use Application

APPLICANT:

Mr. Fred Levy

FILE NO.:

MA-9/28/93-2671

REQUEST:

Private Residential Ranch

LOCATION:

Kaliae, Maui

TMK(s):

1-2-1: 04

PUBLIC HEARING:

YES NO

DOCARE: Please conduct a field inspection on this project. Should you
require additional information, please call Roy Schaefer at 7-0377.

If no response is received by the suspense date, we will assume there are
no comments.


ROGER C. EVANS

Attachment(s)

DONALD HAS NO COMMENTS


MANABU TAGOMORI

OCT 15 1993

RECEIVED
DLNR
OCEA
93 OCT 15 PM 2:49

EXHIBIT II
Dave Juliana

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Office of Conservation and Environmental Affairs
Honolulu, Hawaii

FILE NO.: MA-9/28/93-2671
180-Day Exp. Date: 3/27/94
SUSPENSE DATE: 21 Days
DOC. NO.: 3541

OCT 8 1993

RECEIVED
OCT 9 9 03:01

MEMORANDUM

TO: Aquatic Resources; Conservation & Resources Enforcement;
Forestry & Wildlife; Historic Preservation; Land
Management; Natural Area Reserves System; State Parks;
Water and Land Development; Water Commission; Boating and
Ocean Recreation

FROM: Office of Conservation and Environmental Affairs

SUBJECT: REQUEST FOR COMMENTS
Conservation District Use Application

APPLICANT: Mr. Fred Levy

FILE NO.: MA-9/28/93-2671

REQUEST: Private Residential Ranch

LOCATION: Kaliae, Maui

TMK(s): 1-2-1: 04

PUBLIC HEARING: YES NO

RECEIVED
93 NOV 2 AM 10:43

DLNR
OCEA

DOCARE: Please conduct a field inspection on this project. Should you
require additional information, please call Roy Schaefer at 7-0377.

If no response is received by the suspense date, we will assume there are
no comments.

ROGER C. EVANS

Attachment(s)

No comments.

Signed:
RAE M. LOUI

Date: 11/1/93

EXHIBIT 12
MA-2671

DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF FORESTRY AND WILDLIFE

RECEIVED
'93 OCT 12 PM 12:13

TO:

- CHAIRPERSON
- DEPUTY CHAIRPERSON
- NATURAL AREA RESERVES SYSTEM COMMISSION
- FISCAL OFFICE
- PERSONNEL OFFICE
- OFFICE OF CONSERVATION & ENV. AFFAIRS
- AQUATIC RESOURCES
- CONSERVATION AND RESOURCES ENFORCEMENT
- CONVEYANCES
- LAND MANAGEMENT
- STATE PARKS, OUTDOOR REC. & HISTORIC SITES
- WATER AND LAND DEVELOPMENT

- SIGNATURE
- INFORMATION
- RETURN → Roy Schaefer
- APPROPRIATE ACTION
- COMMENTS AND RECOMMENDATIONS
- DRAFT REPLY
- FILE
- _____
- _____
- _____

Wayne - Please note NAM already has comments on appendix A

REMARKS:

we have a concern re runoff & its potential effect on the main l. system. Also, what will be done about the build-up of kormansuel in stable area? Mitigation? The introduction of landscape plants of the potential for escape, such as Miconia should be avoided. Also, will access to old SWR road be blocked? Betsy H. Baker NARS Executive Secretary

RESPONSE TO :

10/12/93 Memorandum

From: Betsy H. Gapri, Natural Area Reserves System Commission
To: DLNR Office of Conservation & Environmental Affairs
Re: MA-9/28/93 2671

NARS voiced concerns regarding the following issues:

1. Run off and it's potential effect on the marine ecosystem.

This issue was addressed in the initial draft under Proposed Mitigation Measures: "Control of erosion through use of control swales and retention ponds at all proposed building pad locations during grubbing and grading of same. Specific attention shall be paid to those areas with potential for drainage of soil and other materials into the ocean."

The applicant is concerned with potential negative effects on the local ecosystems and will work to mitigate any such effects.

2. The build up of horse manure in stable areas.

This issue was addressed in the initial draft under Summary of Proposed Use: "Animal waste will be recycled for plant mulching. Excess waste will be offered to the community or transported to the appropriate landfill."

3. The introduction of landscape plants with the potential for escape.

As stated in the initial draft under Project Description "Areas disturbed during construction will be revegetated with native plant material." The applicant has consulted with the Forestry Division regarding the landscaping of the parcel with local plant types. The applicants' Landscape Architect will follow the Forestry Division recommendations for planting.

4. Will access of the "government road" be blocked?

As stated in the initial draft under Social Characteristics "All proposed structures and improvements shall be sited and constructed to mitigate any possible impacts to either the "King's Highway" or additional archaeological elements that may be determined to exist by the state archaeologist. Further, the applicant will be working with the Forestry Division to ensure that access to and across the King's Highway or Government Road will be provided.

EXHIBIT 13



JOHN WAIHEE
GOVERNOR

RECEIVED

BRIAN J. J. CHOY
Director

'93 OCT 14 AM 8:52

STATE OF HAWAII
OFFICE OF ENVIRONMENTAL QUALITY CONTROL DLNR
220 SOUTH KING STREET OCEA
FOURTH FLOOR
HONOLULU, HAWAII 96813
TELEPHONE (808) 586-4186

October 13, 1993

The Honorable Keith W. Ahue, Chairperson
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

Attention: Mr. Roy Schaefer, OCEA

Dear Mr. Ahue:

Subject: Draft Environmental Assessment for CDUA MA-2671 for a
Private Residential Ranch at Kaliae, Maui, TMK: 1-2-1:04

Thank you for the opportunity to review the subject document. We
have the following comments.

- 1) Please describe whether there are any archaeological sites
and/or rare natives plants present in the subject parcel.
- 2) Please report on the status of the Special Management Area
permit for the subject project.

If you have any questions, please call Jeyan Thirugnanam at
586-4185.

Sincerely,

Brian J. J. Choy

Brian J. J. Choy
Director

c: Mr. Fred Levy
Interisland Design Group, Inc.

RESPONSE TO :

10/13/93 Letter

From: Brian J. J. Choy, Director, DLNR; Office of Environmental Quality Control
To: DLNR Office of Conservation & Environmental Affairs
Re: MA-9/28/93 2671

OEQC voiced concerns regarding the following issues:

1. Please describe whether there are any archaeological sites and/or rare native plants present in the subject parcel.

Initial site inspections have been provided by Mike Baker, Trails and Access Specialist, DLNR; Division of Forestry and Wildlife and Theresa Donham, Archaeologist Maui County, DLNR; State Historic Preservation Division. Copies of the letters from Mr. Baker and Ms. Donham were submitted with the initial application.

At present the applicant has no knowledge of archaeological sites and/or rare native plants present on the parcel other than the "King's Trail" or "Government Road". The applicant is agreeable to having an archaeological consultant survey those area's of the parcel for with construction is proposed.

If archaeological sites and/or rare native plants are found to be present, the applicant will revise their plans to construct after consultation with DLNR State Historic Preservation Division and Office of Conservation and Environmental Affairs.

2. Please report on the status of the Special Management Area permit for the subject project.

Refer to Exhibit 15, letter from Mr. Brian Miskae, Director, Planning Department, County of Maui; to DLNR Office of Conservation & Environmental Affairs. In this letter, Mr. Miskae states that the project is exempt from the Special Management Area Rules and Regulations.

JOHN WAIHEE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF LAND MANAGEMENT
54 SOUTH HIGH STREET, 1ST FLOOR (RM. 101)
WAILUKU, HAWAII 96793

EXHIBIT 14

KEITH W. AHUE
WILLIAM W. PATY, CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES

DEPUTIES

JOHN P. KEPPELER, II
DONA L. HANAIKE

AQUACULTURE DEVELOPMENT PROGRAM
AQUATIC RESOURCES CONSERVATION AND ENVIRONMENTAL AFFAIRS
CONSERVATION AND RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT

October 19, 1993

R

MEMORANDUM

TO: Office of Conservation and Environmental Affairs
FROM: Alan Tokunaga, District Land Agent
Maui District
SUBJECT: CDUA No.: MA-9/28/93 2671 (Mr. Fred Levy,
TMK 1-2-01:04), Kaliae, Koolau, Maui

At its meeting on July 23, 1993 under Agenda Item F-2, the Land Board approved the direct sale of a 12' wide by 5,000' long access easement to Mr. Michael Boteilho over and across State-owned TMK 1-2-01:por. 03. An appraisal report to determine the selling price of the easement is being processed.

During the preliminary study prior to requesting Land Board approval for this easement, your office was informed that no CDUA or Environmental Assessment (EA) was necessary as the road was in existence since the mid-1960s and Mr. Boteilho was only to clear and maintain the existing roadway.

If Mr. Levy now intends to improve the easement in any way, the CDUA and EA would be necessary.

No permanent improvements should be constructed on or so near the "old Government Road" as to impede any future use.

The Keanae-Wailuanui Community Association at S.R. 1, Box 116, Haiku, HI 96708 should be asked to provide input on this application.

Alan Tokunaga
ALAN TOKUNAGA

DLNR
OCEA

93 OCT 20 AM 8:25

RECEIVED

AT:js
cc: Mr. W. Mason Young

RESPONSE TO :

10/13/93 Memorandum

From: Alan Tokunaga, District Land Agent, Maui District;
Division of Land Management
To: DLNR Office of Conservation & Environmental Affairs
Re: MA-9/28/93 2671

DLM stated the following:

1. If Mr. Levy intends to improve the easement [to TMK 1-2-01:04] in any way, the Cдуа and EA would be necessary.

The applicant plans to continue normal maintenance of the easement access.

2. No permanent improvements should be constructed on or so near the "old Government Road" as to impede any future use.

The applicant is aware of this condition and will submit all proposed improvements to DLNR; Division of Land Management, Maui District and DLNR; Office of Conservation & Environmental Affairs for approval prior to constructing any improvements.

EXHIBIT 15

Cal

LINDA CROCKETT LINGLE
Mayor



COUNTY OF MAUI
PLANNING DEPARTMENT
250 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793

October 25, 1993

BRIAN W. MISKAE
Director

SWEN Y. OHASHI
Deputy Director

DIENR
OCEA

RECEIVED
NOV 10 AM 10:58

R

Mr. Keith Ahue
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96806

Dear Mr. Ahue,

RE: CONSERVATION DISTRICT USE APPLICATION
for a private residential ranch, Levy/Botelho Ranch
TMK 1-2-1:4, Hana, Maui, Hawaii (MA-9/28/93-2671)

The Planning Department has reviewed the above Conservation District Use Application (CDUA) and has the following comments:

1. Pursuant to Chapter 205A-22, HRS, the proposed use is not considered a "development" and is therefore exempt from the Special Management Area Rules and Regulations.

2. The photographs included with the subject application do not depict the extensive grubbing and grading which has occurred at the site and which this department reported to your department approximately one (1) year ago. The Planning Department has not viewed a CDUA for the grubbing and grading of the lot and the subject application is silent about the issue.

3. There should be measures incorporated into the project's approval to prevent massive grading of the site in the future. Such an occurrence could have a significant impact on our nearshore waters.

4. The subject application indicates that portions of the "Kings Highway" have been located on the parcel and the owners are prepared to work with the Division of Forestry and Wildlife to preserve what remains of the trail. In addition, the Planning Department has met with the applicant and related concerns raised by members of the Waialua-Keanae community regarding customary shoreline access through the property along the King's Highway and also from Hana Highway. Also, long term preservation of the trail warrants discussion. These concerns are not addressed in the draft environmental assessment.

5. Public access to the shoreline should be provided.

(Signature)
JOHN WAIHEE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097
October 28, 1993

EXHIBIT 16 SIUS

REX D. JOHNSON
DIRECTOR

DEPUTY DIRECTORS
KANANI HOLT
JOYCE T. OMINI
AL PANG
CALVIN M. TSUDA

IN REPLY REFER TO:

HWY-PS
2.8949

R

TO: Keith W. Ahue, Chairperson
Board of Land and Natural Resources

FROM: Rex D. Johnson, Director
Department of Transportation *Rex*

SUBJECT: CONSERVATION DISTRICT USE APPLICATION MA-9/28/93-2671
FOR A PRIVATE RESIDENTIAL RANCH, KALIAE, MAUI
TMK: 1-2-01: 04

Thank you for your memorandum of October 8, 1993, requesting our review of the subject conservation district use application.

The proposed project's access to Hana Highway (Route 360) should provide adequate sight distances for safe egress and ingress.

In addition, plans for construction work within the State highway right-of-way must be submitted for our review and approval.

DLNR
OCEA

'93 OCT 29 AM 9:33

RECEIVED

Mr. Keith Ahue
October 25, 1993
page 2

6. The Planning Department is participating in a Cultural landscape Task Force staffed by the State Historic Preservation Division. (SHPD) The project area has been identified as a unique cultural landscape to be preserved. The Environmental Assessment should address visual impacts on the Keanae-Waiialua cultural landscape.

7. Due to the somewhat controversial nature of the proposal, the BLNR may wish to consider a public hearing in Keanae.

Thank you for the opportunity to comment. If further clarification is required, please contact this office.

Very truly yours,


BRIAN MISKAE
Director of Planning

cc: OEQC
SHPD
C. Suyama
K. Fairbanks
A. Cua
Project file

RESPONSE TO :

10/25/93 Letter

From: Brian Miskae, Director, Planning Department, County of Maui
To: DLNR Office of Conservation & Environmental Affairs
Re: MA-9/28/93 2671

The Maui Planning Department had the comments:

1. The project is exempt from SMA rules and regulations.
2. The photographs included with the application did not depict the extensive grubbing and grading which has occurred at the site...the subject application is silent about the issue.

Refer to Exhibit 5, March 16, 1993 letter from Mr. Brian Miskae, Director, Planning Department, County of Maui; to Mr. Fred Levy.

This letter is headed as follows:

RE: "Authorization to Replant Grubbed Area and Continue Non-Conforming Grazing Related Land Use Activities Within the State Conservation District, TMK 1-2-01:04.

In this letter Mr. Miskae states that "we have reviewed your subject request for grubbing of your site." Mr. Keoni Fairbanks, Planner, Maui Planning Department has been to the subject property and viewed the extent of the grubbing.

The applicant has no intent to hide the extensive grubbing that has taken place. The applicant was also aware of the Maui Planners' visit to the site prior to the submittal of the Cдуа MA-9/28/93 2671 and had the Directors' letter of March 14, 1994 in hand as well.

The applicant does, however, take issue with the term grading. The grubbing, disking and seeding of the parcel has been completed. No grading or cutting was contracted for.

3. There should be measures incorporated into the project's approval to prevent massive grading of the site in the future...

The applicant will accept said condition[s].

4. ...The Planning Department has met with the applicant and related concerns raised by members of the Waialua-Keanae community regarding customary shoreline access through the property along the King's Highway and also from Hana Highway...

As stated in the initial draft, the applicant is prepared to work with the Division of Forestry and Wildlife to preserve what remains of the trail. Further, Mr. Michael Botheilho walked the property with members of the local community circa February 7, 1994 and discussed the preservation of the King's Highway.

The applicant does take issue, however, with providing public access across the easement they purchased from the state and those portions of the parcel which are not related to the King's Highway. The applicant has fee Simple interest in the property and his deed does not provide for public access from Hana Highway to the ocean.

5. Public access to the shoreline should be provided.

The applicant is agreeable to provide public access to the shoreline through the preservation of the King's Highway.

6. ...The project has been identified as a unique cultural landscape to be preserved. The Environmental Assessment should address visual impacts on the Keanae-Waialua cultural landscape...

The applicants' consultant will provide a graphic presentation showing the views towards the subject structures from portions of Hana Highway, Wailua or Wailua Iki Bays, etc.

7. ...BLNR may wish to consider a public hearing in Keanae.

No public hearing is required. [Refer to HRS, Section 183-41]

RESPONSE TO :

10/28/93 Memorandum

From: Rex D. Johnson, Director, Department of Transportation
To: DLNR; Board of Land and Natural Resources
Re: MA-9/28/93 2671

DOT states the following:

1. The project's access to Hana Highway (Route 360) should provide adequate sight distances for safe egress and ingress.

The applicant will accept said condition[s].

2. ...Plans for construction work within the State highway right-of-way must be submitted for our review and approval.

The applicant will accept said condition.

JOHN WAIHEE
GOVERNOR OF HAWAII

RECEIVED

'93 OCT 29 AM 9:31



STATE OF HAWAII

DLNR
OCEA

DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION
33 SOUTH KING STREET, 6TH FLOOR
HONOLULU, HAWAII 96813

October 28, 1993

EXHIBIT 17

KEITH AILU, CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCE

DEPUTES

JOHN P. KEPPELER II
DONA L. HANAKE

AQUACULTURE DEVELOPMENT
PROGRAM

AQUATIC RESOURCES
CONSERVATION AND
ENVIRONMENTAL AFFAIRS
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES

FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
DIVISION
LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT

MEMORANDUM

LOG NO: 9739
DOC NO: 9310AG40

TO: Roger C. Evans, Administrator
Office of Conservation and Environmental Affairs

FROM: *Don Hibbard*
Don Hibbard, Administrator

SUBJECT: Historic Preservation Review of CDUA MA-2671 -- Private
Residential Ranch (Fred Levy)
Kaliae, Hana, Maui
TMK: 1-2-1: 4

The applicant proposes to construct a single family residence and several accessory structures. According to this application, this property was used for cattle grazing for many years.

In response to the applicant's consulting architect's request, a field inspection of this property was conducted by Theresa Donham, our staff archaeologist on Maui, on July 20, 1993. Extensive tree grubbing and some grading have occurred over most of the property. The inspection was hindered by rubble piles of trees and boulders. In addition, the entire parcel was not examined due to its large size. The architect did not have a map showing the location of the proposed structures, so we are uncertain whether the areas examined are indeed the proposed construction sites.

The tax map shows an "old road" through this property. The August 11, 1993 letter from Mr. Mike Baker of Na Ala Hele (attached to the EA as Appendix A) indicates that this old road was undoubtedly part of the Piilani trail. Ms. Donham was unable to identify any remains of this site on the level plateau since this area has been grubbed to the edge of the cliff. A cut on the bank along the western edge of the property was noted, but it was not verified whether this was the trail or a drainage cut.

Although no evidence of historic sites was observed and extensive grubbing has occurred, we believe that a systematic archaeological inventory survey of the entire property is necessary to determine if significant historic sites are present. Our staff's inspection

Roger Evans
Page 2

was very limited, and we have received verbal reports that paved sections of the trail were observed on this property. Also, Mr. Baker reported to our staff that a possible platform was seen during his August 8, 1993 inspection.

Therefore, we recommend that the following condition be attached to this permit, if approved:

Prior to the approval of the construction plans, an archaeological inventory survey shall be conducted to identify all significant historic sites, including any remains of the King's Trail. A copy of the final report shall be submitted to the State Historic Preservation Division (SHPD) for review and comments. If significant historic sites are identified, an acceptable mitigation plan shall be submitted to SHPD for approval prior to implementation.

We have also received verbal reports from adjacent residents of grubbing and burning on the property since our field inspection. If these activities are indeed taking place, we are concerned about their adverse effect on historic sites that may be present. We recommend that these activities cease until the archaeological survey is completed.

AG:jen

RESPONSE TO :

10/28/93 Memorandum

From: Don Hibbard, Administrator, DLNR; State Historic Preservation Division
To: DLNR Office of Conservation & Environmental Affairs
Re: MA-9/28/93 2671

SHPD states the following:

1. Although no evidence of historic sites was observed and extensive grubbing has occurred...Prior to the approval of the construction plans, an archaeological inventory survey shall be conducted to identify all significant historic sites, including and remains of the King's Trail...

The applicant understands that there is the possibility of significant historical sites being present on the property. We suggest however, that archaeological inventory surveys be conducted at the sites of the proposed construction only with said report submitted to SHPD for review and comment.

Please note that Ms. Donham did not find evidence of any historical sites [other than the King's Highway] and the possible platform referred in the letter [reported to SHPD by Mr. Baker of DOFAW] is not on the plateau area but within thick undergrowth just above the ocean cliffs. There are no plans for construction in this area due to applicants understanding that this may be a portion of the King's Highway.

2. We have received verbal reports from adjacent residences of grubbing and grading on the property...we recommend that these activities cease until the archaeological survey is completed.

There are no adjacent residences. As noted previously, the applicant has received both a letter authorizing grubbing and an agricultural burning permit for the above noted activities.

JOHN WAIHEE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF FORESTRY AND WILDLIFE
54 SOUTH HIGH ST., 1ST FLOOR
WAILUKU, HAWAII 96793

October 29, 1993

EXHIBIT 18

KEITH W. AHUE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES

DEPUTIES

JOHN P. KEPPELER, II
DONA L. HANAIKE

AQUACULTURE DEVELOPMENT
PROGRAM
AQUATIC RESOURCES
CONSERVATION AND
ENVIRONMENTAL AFFAIRS
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
PROGRAM
LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT

Mr. Martin V. Cooper
Interisland Design Group, Inc.
Gentry Pacific Center
560 N. Nimitz Highway, Suite 201F
Honolulu, Hawaii 96817

Dear Mr. Cooper:

Subject: Results of an Additional Site Inspection to Determine the Location of the "King's Highway" or Old Government Road (Ala Aupuni) at the Eastern Property Boundary at Kaliae TMK: 1-2-01:4, Kaliae, Maui

This letter discusses the results of a second site inspection on the subject parcel conducted on October 27, 1993.

The Trail was located at approximately 400 feet (ASL) on the northeast-facing slope of Kopiliula Gulch on the far northeastern corner of Kaliae Ridge. The trail was carefully inspected for evidence of use while descending the gulch toward the Kopiliula Stream estuarian pond.

The inspection revealed a well-defined foot trail overgrown with vegetation. However, the trail did not appear to have been used for some time, possibly one or two years. Evidence of use was represented by discarded fishing and camping gear found along the trail.

In general, the structural integrity of the trail appears to remain intact. As with the previous inspection of the trail on the western side of the property, large mango trees and stonework define the trail in many places.

We have attached a map depicting a more accurate location of the King's Trail where it enters and leaves the subject property from Wailuaiki Stream to Kopiliula Stream on either side of the property.

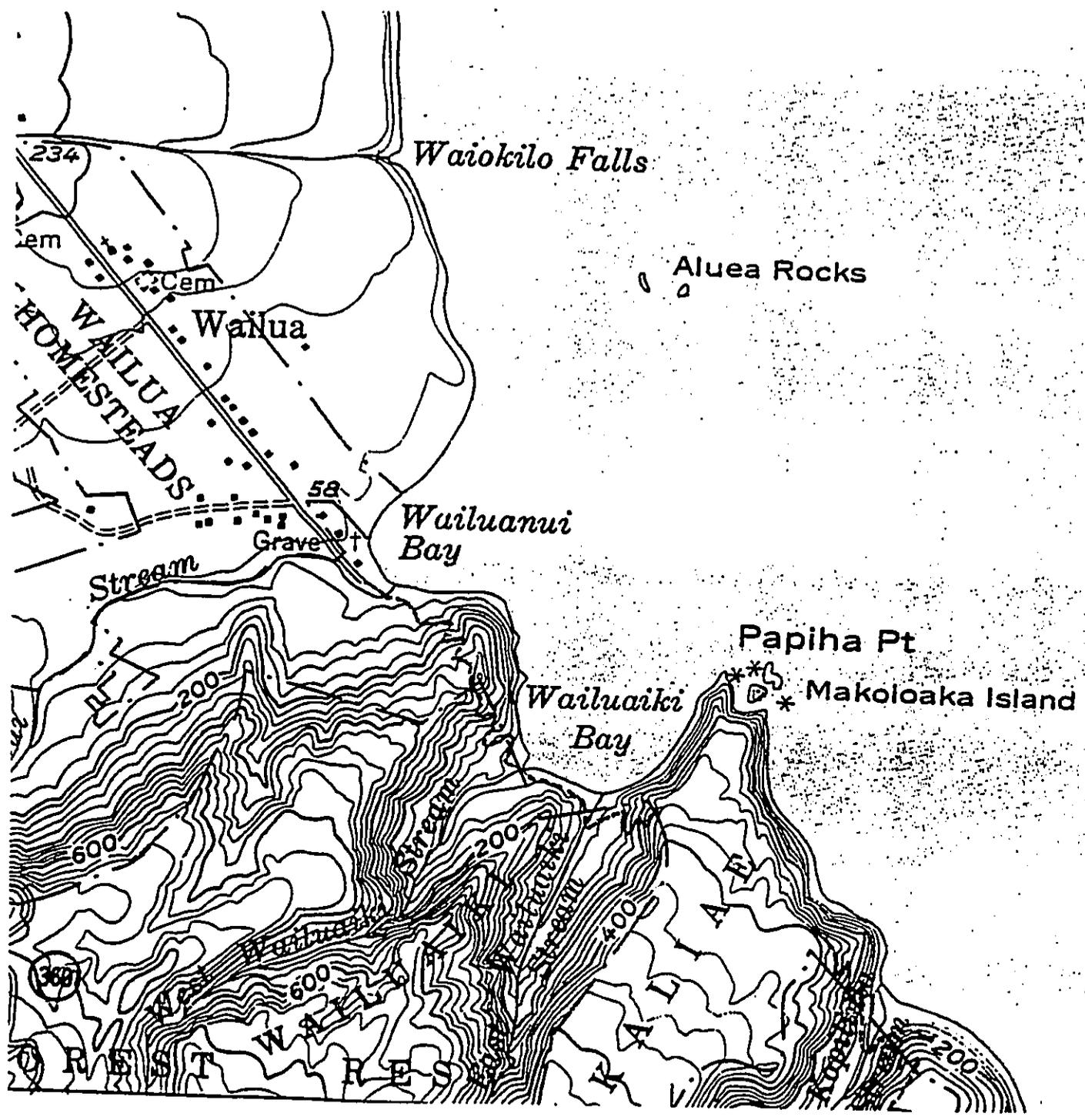
If you have any questions, please call me on Maui at 871-2521.


Michael Baker
Trails & Access Specialist

Attachment

c: W. Wong, Dist. Mgr.
C. Meller, NAH Prog. Mgr.
T. Donham, Hist. Pres. Div.

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100



DIVISION OF FORESTRY AND WILDLIFE
Department of Land and Natural Resources
54 South High Street
Wailuku, Hawaii 96793
FAX No. 808-243-5006
Phone No. 808-243-5352

FAX'D TO:

Date: 8-17-93
To: Martin Cooper
Organization: I.D.G.
FAX number: 528-3155
Phone Number: 536-5455

FAX'D FROM:

From: Mike Baker 871-2521

Number of pages 2 (Including this cover page)

Original is to be MAILED: Yes No

SPECIAL MESSAGE TO RECIPIENT:

Section of 1885 W.D. Alexander Map requested
Original of this FAX to follow. Trail is highlighted.
Call if you have any questions.

Mike

Maui DOFAW

ID:2435006

OCT 29 '93 14:57 No.005 P.01

EXHIBIT 19

DIVISION OF FORESTRY AND WILDLIFE
Department of Land and Natural Resources
54 South High Street Rm. 101
Waialuku, Hawaii 96793
FAX No. 808-243-5006
Phone No. 808-243-5352

FAX'D TO:

Date: October 29, 1993

To: Wayne F. Ching, Resource Management Forester

Organization: Honolulu-DOFAW

FAX number: 587-0160

Phone Number: 587-0166

FAX'D FROM:

From: Bob Hobdy, Maui-DOFAW  CDWA # MA-2671

Number of pages 3 (including this cover page)

Original is to be MAILED: Yes No

SPECIAL MESSAGE TO RECIPIENT:

RECEIVED

NOV 1 AM 8:54

DLNR
OCEA

FORESTRY
STATE OF HAWAII

93 OCT 29 P3:09

RECEIVED

DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Maui District

October 29, 1993

MEMORANDUM

TO: Wayne F. Ching, Resource Management Forester

FROM: Wesley H. C. Wong, Jr., District Manager

SUBJECT: CDUA MA-9/28/93-2671, Mr. Fred Levy for Private Residential Ranch, Kaliae, Hana, Maui

On October 27, 1993 we conducted an inspection of this project area and have the following comments:

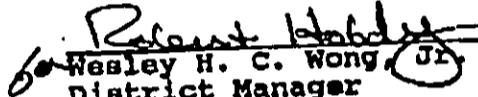
This 63.0 acre property lies on the top of a ridge overlooking the ocean east of Keanae. It is a gently sloping plateau bounded on two sides by deep gulches and by a 400 ft. sea-cliff along the ocean. The area has been grazed as a private ranch pasture for over 50 years and has been cleared of brush by bulldozer numerous times over the years. The vegetation consists of pasture grasses and widely scattered mango trees. A portion of the coastal old King's Trail (Alanui O Piilani) crosses the lower portion of this property from gulch to gulch.

The proposed residence lies on the top of a promontory at the top of the sea-cliff. This project will not adversely affect any native flora or fauna and no threatened or endangered species occur on or near this site.

If this project is approved we recommend the following conditions be established:

1. That upon completion of the project all litter and construction debris be removed from the site and deposited at an approved landfill.
2. That the owner be held responsible for the cost of extinguishment of any fires set in the course of this project.
3. That the house and other structures be constructed and finished so as to blend in with the surrounding environment.

4. That the King's Highway (Alanui O Piilani) Trail, where it passes through this property, be identified and delineated; as much as possible in cooperation with the Maui Na Ala Hele Trail Specialist, and kept open for local subsistence use as an access route between the adjacent valleys and coastline.


Wesley H. C. Wong Jr.
District Manager

RESPONSE TO :

10/29/93 Memorandum

From: Wayne F. Ching, Resource Management Forester, DLNR;
Division of Forestry and Wildlife, Maui District
To: DLNR Office of Conservation & Environmental Affairs
Re: MA-9/28/93 2671

DOFAW recommended the following conditions:

1. That upon completion of the project all litter and construction debris be removed from the site and deposited at an approved landfill.

The applicant will accept said condition.

2. That the owner be held responsible for the cost of extinguishment of any fires set in the course of this project.

The applicant will accept said condition.

3. That the house and other structures be constructed and finished so as to blend in with the surrounding environment.

The applicant will accept said condition.

4. That the King's Highway (Alanui O Piilani) Trail, where it passes through this property, be identified and delineated, as much as possible in cooperation with the Maui Na ALa Hele Trail Specialist, and kept open for local subsistence use as an access route between the adjacent valleys and coastline.

The applicant will accept said condition granted, however that the State negotiate with the applicant to provide liability insurance or some other resolution that provides indemnification, holds harmless and defends the land owner with respect to possible litigation or proceedings that arise from the public being provided access across the property.

EXHIBIT 20



OFFICE OF STATE PLANNING

Office of the Governor

MAILING ADDRESS: P.O. BOX 3540, HONOLULU, HAWAII 96811-3540
STREET ADDRESS: 250 SOUTH HOTEL STREET, 4TH FLOOR
TELEPHONE: (808)587-2846, 587-2800

FAX: Director's Office 587-2848
Planning Division 587-2824

Ref. No. C-324

November 2, 1993

R

DLNR
OCEA

RECEIVED
93 NOV 4 AM 9:32

MEMORANDUM

TO: The Honorable Keith W. Ahue, Chairperson
Board of Land and Natural Resources

SUBJECT: Conservation District Use Application for Private Residential Ranch,
Kaliae, Maui (MA-9/28/93-2671)

We have reviewed the subject application relative to the Coastal Zone Management (CZM) Program and offer the following comments:

It is a CZM objective to protect, preserve and where desirable, restore those natural and manmade historic and prehistoric resources in the coastal zone management area that are significant in Hawaiian and American history and culture. The "King's Highway" is one of our significant historic and cultural resources. We understand that the King's Highway traverses the subject property. This resource should be protected and preserved and, where needed, restored. To ensure protection of the full integrity of the resource, consideration should be given to limiting construction to areas mauka of the King's Highway. In addition, the Board may wish to consider a no-build buffer zone surrounding the King's Highway.

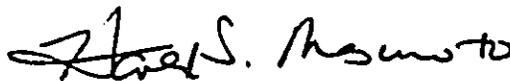
It is a CZM policy to ensure that new developments are compatible with their visual environment by designing and locating such developments to minimize the alteration of natural landforms and existing public views to and along the shoreline. We are concerned that the scale of the residence and the building materials proposed may not be compatible with the surrounding environment. It is possible that views to the shoreline from the State highway will be affected by the house. In addition, the residence may be seen from the King's Highway, and from neighboring shoreline properties. Therefore, the residence should be designed at a scale and built with materials to be compatible with the character of the area.

The Honorable Keith W. Ahue
Page 2
November 2, 1993

Another CZM policy is to provide adequate, accessible, and diverse recreational opportunities in the coastal zone management area by providing and managing adequate public access, consistent with conservation of natural resources, to and along shorelines with recreational value. We understand that there are a number of dirt roads and trails on the property leading to the shoreline. It is possible that one or more of these trails has become a public access through customary use. We suggest that this possibility be investigated. Dedication of a public access over this property may be reasonable. Of course, adequate separation of residential and public uses would be necessary.

Thank you for the opportunity to comment. If any questions arise concerning our comments, please call Valerie McMillan of our CZM Program at 587-2877.

Sincerely,



Harold S. Masumoto
Director

RESPONSE TO :

11/2/93 Memorandum

From: Harold S. Masumoto, Director, Office of State Planning
To: DLNR; Board of Land and Natural Resources
Re: MA-9/28/93 2671

OSP voiced concerns regarding the following issues:

1. ...The King's Highway traverses the subject property. This resource should be protected and preserved, and where needed, restored. To ensure protection of the full integrity of the resource, consideration should be given to limiting construction to areas mauka of the King's Highway. In addition, the Board may wish to consider a no-build buffer zone surrounding the King's Highway.

Limiting construction to areas mauka of the King's Highway or providing a no-build buffer would not ensure the "protection of the full resource". It would however deprive the applicant of reasonable use of the property which is owned in fee simple.

The applicant is aware of the cultural value of the King's Highway and will work with the DLNR Division of Forestry and Wildlife to protect and preserve it.

2. ...We are concerned that the scale of the residence and the building materials proposed may not be compatible with the surrounding environment. It is possible that the views to the shoreline from the State highway will be affected by the house... Therefore, the residence should be designed at a scale and built with materials to be compatible with the character of the area.

The siting of the proposed residence provides for the structure to be "sheltered" within a grove of existing mango trees and further buffered with landscaping. The design, scale, and proportions of the residence relative to the size of the parcel and the surrounding 5000 acres of State forestry land is appropriate.

Please note that there is one square foot of constructed floor area for every 412.67 square feet of undeveloped land area on the parcel and that the closest "neighbor" is across both Waialuanui and Waialuaiki bays.

The applicant will be submitting final construction plans to the DLNR Office of Conservation & Environmental Affairs prior to construction. At this time we anticipate participating in a closer review of the proposed materials and colors. The final construction plans will also be submitted to the Maui County Public Works, Building Department for Universal Building Code compliance review. The roof height will not exceed the 30'0" maximum allowable height within Maui County for residential structures.

3. In addition, the residence may be seen from the King's Highway, and from neighboring shoreline properties.

The proposed residence will be sited with in a grove of existing mango trees with a majority of the structure's view from the "King's Highway" being buffered by further landscaping.

The proposed site of the residence is at 400+ above sea level. The subject property's shoreline is not readily visible from the State highway. The applicants' consultant will provide a graphic presentation showing the view towards the subject structures from portions of Hana Highway, Wailua or Wailua Iki Bays, etc.

4. We understand that there are a number of dirt roads and trails on the property leading to the shoreline. It is possible that one or more of these trails has become a public access through customary use. We suggest that this possibility be investigated. Dedication of a public access over this property may be reasonable...

These dirt roads are used by the land owners for maintenance purposes. There are no dirt roads or trails that lead to the shoreline or provide public access (through customary use) to the shoreline other than the King's Highway.

State of Hawaii
Department of Land and Natural Resources
DIVISION OF AQUATIC RESOURCES

November 9, 1993

TO: Paul Kawamoto, Program Manager
Aquatic Resource & Environment Protection
FROM: Glenn R. Higashi, Aquatic Biologist GRH
SUBJECT: Comments on Conservation District Use Application
File No. MA-9/28/93-2671

Comment	Date	Request	Receipt
Requested by: <u>Roger Evans, OCEA</u>	of:	<u>10/08/93</u>	<u>10/08/93</u>

Summary of Project

Title: Private Residential Ranch
Project by: Mr. Fred Levy
Location: Kaliae, Maui; TMK: 1-2-1:04

Brief Description:

The applicant proposes to build a private residential ranch as their main residence with additional facilities for their animals.

Structures proposed include:

1. A single family residence with 6,650 square feet under roof.
2. A covered stable with 4,640 square feet under roof.
3. An open stable with 4,496 square feet under roof.
4. A storage shed with 3,200 square feet under roof.
5. Three water storage tanks with 30,000 gallon capacity each.

The areas for the proposed structures will be cleared and graded for the construction of the building pads. Proposed buildings will be located within or near existing tree groves, with supplemental tree and shrub planting.

The 63.0 acre triangular shaped parcel is on a bluff with elevations varying from 590 feet to mean sea level and is surrounded by 5,000 acres of State conservation land. It is bordered on the east and west by cliffs which descend into the East Wailuaiki and Kopiliula Streams respectively, and on the north by cliffs which descend into the ocean. Access is provided to the parcel by a fifteen-foot wide parcel which extends approximately seven-tenths of a mile from Hana Highway.

Paul Kawamoto
November 9, 1993
Page 2

RE: CDUA File No. MA-9/28/93-2671: Fred Levy; Private Residential Ranch;
Kaliae, Maui

Comments:

The applicant's request for the proposed construction of a private residential ranch is not expected to have any significant long term impact on the aquatic resource values in this area. However, since the proposed project parcel is situated on a bluff with streams on two sides and fronting the ocean, additional mitigation measures should be taken other than those proposed to prevent and minimize soil erosion into these aquatic habitats during construction activities. Mitigation measures should include the following:

1. site work should be scheduled for periods of minimal rainfall;
2. areas denuded of vegetation should be immediately replanted or covered as quickly as possible to control erosion; and
3. construction materials, petroleum products, debris and landscaping products should be prevented from falling, blowing or leaching into the aquatic environment.

Mitigation measures should also be included in preventing drainage and runoff from the developed residence and particularly stable areas from entering the streams or the ocean.

Public access to the shore area and the streams via the old King's trail (Old Government Road) should be recognized, maintained and preserved for possible use in the future.

Finally, based on information from our Maui Aquatic Biologist of a survey of the Kopiliula Stream adjacent to the site proposed for development (conducted on October 27, 1993 with DOFAW personnel), the stream was noted to be "exceptional" with all the major native freshwater species present: the 2 species of endemic mollusks, 5 endemic species of gobioid fishes, the endemic prawn, and the freshwater shrimp. It was noted that the land area for the proposed residential ranch had already been cleared and recent rains have already added to runoffs into Kopiliula Stream. This poses an immediate problem for soil erosion and sedimentation with the oncoming winter rainy season. Therefore appropriate soil conservation practices should be implemented immediately.

RESPONSE TO :

11/9/93 Memorandum

From: DLNR; Division of Aquatic Resources
To: DLNR; Office of Conservation and Environmental Affairs
Re: MA-9/28/93 2671

"Mitigation measures should include the following:"

1. Site work should be scheduled for periods of minimal rainfall;

The applicant will accept said condition.

2. Areas denuded of vegetation should be immediately replanted or covered as quickly as possible to control erosion; and

The applicant will accept said condition and has successfully reseeded the grubbed areas.

3. construction materials, petroleum products, debris and landscaping products should be prevented from falling, blowing or leaching into the aquatic environment.

The applicant will accept said condition.

Ocean
EXHIBIT 22

RECEIVED

Department of Land & Natural Resources

Division of Forestry and Wildlife

'93 NOV 15 PM 2 55

November 12, 1993

MEMORANDUM:

TO: DLNR
Rogee OCEA

FROM: Michael G. Buck, Administrator



SUBJECT: Mr. Fred Levy for Private Residential Ranch, Kaliae, Hana, Maui
File No. MA-2671

An inspection was conducted by the Maui DOFAW staff on October 27, 1993 of the project area. The 63-acre property lies on the top of a ridge overlooking the ocean east of Keanae. It is a gently sloping plateau bounded on two sides by deep gulches and by a 400-ft. sea-cliff along the ocean. The area has been grazed as a private ranch pasture for over 50 years and has been cleared of brush by bulldozer numerous times over the years. The vegetation consists of pasture grasses and widely scattered mango trees. A portion of the coastal old King's Trail (Alanui o Piilani) crosses the lower portion of this property from gulch to gulch.

The proposed residence lies on the top of a promontory at the top of the sea-cliff. This project will not adversely affect any native flora or fauna and no threatened or endangered species occur on or near this site.

Should the project receive approval, we recommend the following conditions be established:

- 1) that upon completion of the project, all litter and construction debris be removed from the site and deposited at an approved landfill.
- 2) that the owner be held responsible for the cost of extinguishing any fires set in the course of this project.
- 3) that the house and other structures be constructed and finished so as to blend in with the surrounding environment.
- 4) that any introduction of landscape plants with the potential for escape, such as *Miconia*, should be avoided.
- 5) that the King's Highway Trail (Alanui o Piilani), where it passes through this property, be identified and delineated as much as possible in cooperation with the Maui Na Ala Hele Trail Specialist, and kept open for local subsistence use as an access route between the adjacent valleys and coastline.

Roger Evans, OCEA
Page 2

- 6) that potential soil runoff due to the construction be monitored and a mitigation plan be adopted to facilitate this potential problem to the marine ecosystem.

cc: Maui DOFAW
Na Ala Hele
NARS

RESPONSE TO :

11/2/93 Memorandum

From: DLNR; Division of Forestry and Wildlife
To: DLNR; Office of Conservation and Environmental Affairs
Re: MA-9/28/93 2671

"Should the project receive approval, we recommend the following conditions be established:"

1. That upon completion of the project, all litter and construction debris be removed from the site and deposited at an approved landfill.

The applicant will accept said condition.

2. That the owner be held responsible for the cost of extinguishing any fires set in the course of this project.

The applicant will accept said condition.

3. That the house and other structures be constructed and finished so as to blend in with the surrounding environment.

The applicant will accept said condition.

4. That any introduction of landscape plants with the potential for escape, such as Miconia, should be avoided.

The applicant will accept said condition.

5. That the King's Highway Trail (Alanui o Piilani), where it passes through this property, be identified and delineated as much as possible in cooperation with the Maui Na Ala Hele Trail Specialist, and kept open for local subsistence use as an access route between the adjacent valleys and coastline.

The applicant will accept said condition granted, however that the State negotiate with the applicant to provide liability insurance or some other resolution that provides indemnification, holds harmless and defends the land owner with respect to possible litigation or proceedings that arise from the public being provided access across the property.

6. That potential soil runoff due to the construction be monitored and a mitigation plan be adopted to facilitate this potential problem to the marine ecosystem.

The applicant will accept said condition.

EXHIBIT 23



STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
711 KAPIOLANI BOULEVARD, SUITE 500
HONOLULU, HAWAII 96813-5249
PHONE (808) 586-3777
FAX (808) 586-3799

November 12, 1993

1993 NOV 17 AM 9:55
RECEIVED
DLNRA
OCEA

Mr. Keith W. Ahue, Chairperson
State of Hawaii
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

A large, stylized handwritten mark, possibly a signature or initials, resembling a large 'R' or '2'.

Re: CDUA MA-9/28/93-2671, Private Residential Ranch
Kaliae, Maui

Dear Mr. Ahue:

We have received a copy of the above-referenced CDUA. Thank you for the opportunity to review this matter. We have the following concerns and comments.

1. The anticipated size of the residence and out building is inappropriate in the conservation district; and
2. We urge preservation of and public access to the King's trail; and
3. We urge the State of Hawaii to assert title to the "Old Government Road" if it has not yet done so.

If you have any questions, please contact Lynn J. Lee in our Land and Natural Resources Division at 586-3777.

Sincerely,

A handwritten signature in cursive script that reads "Richard K. Paglinawan".
Richard K. Paglinawan
Administrator

cc: Clayton Hee, Chairperson
Board of Trustees

RESPONSE TO :

11/2/93 Memorandum

From: Richard K. Paglinawa, Administrator, Office of Hawaiian Affairs, State of Hawaii
To: DLNR; Office of Conservation and Environmental Affairs
Re: MA-9/28/93 2671

"We have the following concerns and comments":

1. The anticipated size of the residence and out building is inappropriate on the conservation district.

There are no set standards, for size of structure, in the conservation district as there may be in the urban districts. There are however, houses over 8000 s.f. approved by the Board of Land and Natural resources in the conservation district.

2. We urge preservation of the public access to the King's trail.

The applicant will accept said condition granted, however that the State negotiate with the applicant to provide liability insurance or some other resolution that provides indemnification, holds harmless and defends the land owner with respect to possible litigation or proceedings that arise from the public being provided access across the property.

3. We urge the State of Hawaii to assert title to the "Old Government Road" if it has not done so.

The applicant owns the property in Fee Simple and recognizes the public access easement across said property only.

SEND COPIES TO
APPROPRIATE PARTIES

EXHIBIT 2A

RECEIVED

93 NOV 17 PM MEMORANDUM

TO: Board of Land and Natural Resources
Attn.: "Roy" Schaefer

FROM: Ke'anae-Wailuanui Community Association

DATE: November 15, 1993

RE: Draft Environmental Assessment and Conservation
District Use Application/Levy and Boteilho Private
Residential Ranch, Kalia'e, Maui, TMK 1-2-01:04/
MA-9/28/93-2671

Enclosed are our comments on the subject Draft Environmental
Assessment (DEA) and Conservation District Use Application
(CDUA). Please send us copies of all of the documents in
this case, including future EAs and other reports. Please
address correspondence on this matter to Elaine S. Wender,
SR 93 Ke'anae, Ha'iku, Hawai'i 96708.

BOARD OF DIRECTORS

Charmaine K. Day
CHARMAINE K. DAY
PRESIDENT

Irmagard N. Kaaumano
IRMGARD N. KAAUAMO
VICE-PRESIDENT

Jill Christieson
JILL CHRISTIERSON
SECRETARY

Pualani Kimokeo
PUALANI KIMOKEO
TREASURER

Paul Sinenci, Jr.
PAUL SINENCI, JR.

Edward Wendt, Jr.
EDWARD WENDT, JR. KMD

Ekela Kaaumano
EKELA KAAUAMO

Wendy Kaaumano
WENDY KAAUAMO

copy to: Fred Levy
Martin Cooper, Interisland Design Group, Inc..

THE ALANUI; BULLDOZING AND EROSION

Four centuries ago Kiha-a-Pi'ilani returned to East Maui from the island of Hawai'i to reclaim his kingdom. So numerous were his war canoes that the first ones reached Hana while the last ones were still on Hawai'i. Arriving at Ka'uiki, the warriors found it well-defended, and after losing both men and canoes they fled to the open ocean. Kiha-a-Pi'ilani led them to the small harbor at Wailuaiki, and it was there that they beached their canoes, dismantling them and setting them upright so that they could fit. They then walked overland on the Alanui (King's Highway) to the site of victorious battle.

Today the waters at Wailuaiki are brown with the mud from Kalia's and the Alanui has been obliterated by a bulldozer. The highway has been used for centuries by Hawaiians of our community to travel between valleys and villages. Kupuna in our community of Ke'alahae-Wailuanui, less than a mile from Kalia's, tell of travelling by horse with cart over its stone paving to go to the store in Hana in the early part of this century, before the Hana Highway was completed. Residents have used it for generations to access the valleys which border Kalia's: Wailuaiki and Kopiliula, where we still go to fish and gather from the forest, the ocean and the streams.

The property description in the deed to Pacific Land and Cattle, Inc. (hereinafter PLC), the new part-owner of the subject property, specifies: "SUBJECT, HOWEVER, to the following:...4. An old road running over the northerly portion of the subject premises, as shown on tax map..." The road is clearly marked and labeled as "old road" on the tax map. It has been in continuous use for centuries by residents of our community.

By 1992 Kalia's was so overgrown with trees that tunnels had been created between the trees in order to follow the trail. In September, 1992 the road was observed to be clearly marked with survey ribbons, presumably by the owners. Despite this, in October, 1992 the entire road crossing Kalia's was bulldozed along with the rest of the 63 acre parcel, except for the large mango trees. No Conservation District Use Application (CDUA) was filed for this action. The present CDUA states that "...Applicants are prepared to work with the Division of Forestry and Wildlife to preserve what remains of the trail" but there is no mention that owners have destroyed the trail. Owners claim that the land has "been grubbed and seeded over the last few decades by the Boteilho family." However, residents of our community, who have travelled the trail for much longer than that, do not recall ever seeing the land grubbed. In fact the parcel was extremely overgrown with very large trees. Owners minimize their actions by stating that "under growth and

some guava trees were cleared and burned recently. Permits were obtained." In fact, no Conservation District Use Permit (CDUP) was obtained.

On October 23, 1992, the Maui County Planning Department (hereinafter MCPD) notified DLNR of the bulldozing. We also filed a written complaint on October 30, 1992 (see Exhibit A). Division of Conservation & Resources Enforcement (DOCARE) investigated and on November 10, 1992, Enforcement Chief Matsuzaki spoke with owner Fred Levy, President of PLC, and informed him that a CDUP was generally required for such work, and that Office of Conservation and Environmental Affairs (OCEA) and Division of Land Management (DLM) should be contacted (see November 20, 1992 memo from Matsuzaki to Evans/OCEA and Young/DLM and Report Number MA-93-077). Despite this, bulldozing continued after this date.

No action was taken on the violations. Owner assured OCEA that no further bulldozing was to take place. However, the attached photos in Exhibit B, taken on October 24, 1993, show clearly that fresh bulldozing has occurred in the past month or so. Most of the parcel is bare of any vegetation. Piles of trees with still-green leaves were observed.

A tremendous amount of erosion has occurred as a result of the repeated grubbing. Owners' statement that "...the erosion hazard is slight" could not be more untrue. Kalia'e is between Wailua and Nahiku. In 1990 Wailua had 135" of rain and Nahiku, the wettest inhabited place on Maui, had 258". The DEA incorrectly states 160" as the maximum at Kalia'e.

Kalia'e is a narrow sloped tableland with extremely steep dropoffs into the ocean and the two neighboring valleys. In many areas the land has been bulldozed right to the edge of the cliff. Very steep slopes have been cleared with no terracing or other erosion control. Brush was pushed into gulches, assuring that the loosened dirt would run off into the ocean. There are eroded gullies three feet deep which no doubt were roaring rivers during recent heavy rains. Yet owners have the audacity to state that "the design objective is to retain the natural beauty of the parcel intact. Existing ocean fronts and cliffs will remain undisturbed. Other than providing building pads for the structures, the existing topography is to remain in its present state...All existing trees shall remain." Obviously, no reseeding has taken place. No consultation with the Soil Conservation Service was conducted, and no management plan drawn up. This must be done.

A CDUA and an EA must be filed for the work and destruction that has already been done. This should have been required before the present application was even accepted for processing. Sec. 13-2-21 of the DLNR Rules has been

violated in that there was no approval by the chair for the clearing; some slopes over 40% were denuded, which requires the specific authorization of the chair. Cleared areas were not revegetated within 30 days as required. The work did not conform with the program of the Hana Soil and Water Conservation District, as required. The existing violations should be dealt with by the Board. Penalties should be assessed and remedial action, as far as possible, should be taken immediately.

Owners appear to have committed a National Pollutant Discharge Elimination System violation. Since runoff is being discharged into navigable waters, a permit from the Environmental Protection Agency must be obtained. A Department of Army permit may also be required. Permits from the State Department of Health should also be obtained. The waters of Wailuaiki Bay are classified as "Class AA Marine Waters." Kopiliula Stream is one of the most pristine streams in the state. It is from these waters that we get food to sustain our families. The polluting of the streams and ocean is not only an environmental violation but also an attack on our Hawaiian culture.

Since the Alanui has been destroyed, it is now necessary to reestablish its location before any further steps are taken on this application. Other archeological sites may also have been destroyed. A systematic inventory survey of the property must be done. As part of this survey owners' archeologist must meet on the property with those residents who use the Alanui, because only they can determine its location. We are ready to help with this endeavor. The Alanui should be staked out and mapped. One of the conditions of applicant's access easement over state forestry land, TMK 1-2-01:03 (hereinafter "parcel 3") is that "prior to the placement of cattle on his fee property, the grantee shall have his fee property surveyed, staked and flagged by a licensed land surveyor and a cattle stockproof fencing constructed around the perimeter boundary of his property" (recommendation 7.). There are cattle on the land now. The accurate location of the Alanui should be part of the survey. Gates must be constructed at both ends of the Alanui and at other traditional access points so that residents can exercise their rights without having to climb over fences.

This reestablishment of the Alanui must be done prior to any determination of building sites, etc., as will be discussed below.

There are other traditional trails on the property, some of them overgrown. One is a trail down the face of the cliff directly in front of the proposed building site. Access via these trails should not be cut off.

ACCESS FROM THE HANA HIGHWAY

The Alanui is one of two primary traditional accesses over the subject property. The other is via the road which runs for almost a mile from the Hana Highway through parcel 3, and then through parcel 4 to the edge of the cliff where it meets the Alanui. Prior to World War II, people would walk from the Hana Highway through parcel 3 and 4 (the subject parcel) and then down into Kopiliula Valley, or down the seacliff to the ocean. After the war, when residents acquired jeeps, this became a vehicle access. Use of this as a vehicle access by Ke'anae-Wailua residents exercising traditional rights was continuous until a few years ago, when the tree growth on parcel 4 became so dense that it was not possible to drive through. However, pedestrian use continued over parcel 4, and vehicle use over parcel 3.

Late last year DLNR allowed owners to lock the gate at the highway. Owners placed private property/no trespassing signs on the fence and erected horse statues atop the gate posts. Upon our request, the gate was unlocked. However, we are fearful that if owner builds a house on parcel 4 he will renew his efforts to turn a public forestry road into a private road. The gate must remain unlocked.

Owners have installed a locked gate (with 10 separate locks) at the presumed property line of parcel 4. Thus, the traditional vehicle access which had been established over more than forty years has been blocked.

We raised our concerns to DLNR (see Exhibits A and C). The HCPD raised our concerns about access from the Hana Highway with owners (see their October 25, 1993 comments) but nowhere is this mentioned in the CDUA/EA.

PLC's deed to parcel 4 contains a specific caveat that it is subject to the "Rights of Native Tenants" as contained in the original grant. Those rights include the right of access by residents of the area over the land for traditional purposes, such as fishing and gathering.

It should be a condition of any permit or easement granted to owners that (1) neither they nor their successors in interest will ever request that DLNR lock the gate at the highway and that (2) they will not block or interfere in any way with vehicle or foot access for traditional purposes over parcels 3 and/or 4.

OWNER'S EASEMENT OVER PARCEL 3

On September 25, 1991 applicant Boteilho requested from DLNR the sale of a perpetual non-exclusive easement 12 feet wide over parcel 3. Although the road had been used by

Boteilho's father, his predecessor in interest, and the easement approved by DLNR in 1976, he never paid for it or completed the paper work. The road had been used for occasional access to facilitate the Boteilho's cattle operation. In an apparent reply to the request, OCEA Administrator Evans on October 30, 1991 wrote: "Now you propose to establish roadway access to your land via a 24' wide...easement...the proposed roadway qualifies as a new and/or greater use...As such, a...CDUA would be required." Apparently there was reference to a 24' easement in documents which do not appear in the Maui DLNR file. Maui DLH land agent Tokunaga, in his memo dated January 14, 1992 to DLH Administrator Young referred to a 12' easement and stated that "gravel is necessary periodically...Not much more in the way of maintenance is contemplated at this time and we do not believe a CDUA is necessary since nothing more or different than what exists is planned."

On April 23, 1992 Boteilho conveyed an undivided 20% interest in parcel 4 to Convenience, Inc. On April 27, 1993 Convenience, Inc. conveyed the same property to Pacific Land and Cattle, Inc. Both deeds are recorded.

On May 26, 1992 Tokunaga wrote Evans, "all he [Boteilho] wants to do is legalize his use of the road, place gravel for traction when and where necessary and also to clear vegetation as necessary. Presently, neither DOFAW nor the applicant use the road with any regularity." He quoted Boteilho's "Summary of the proposed action to be published in the OEQC bulletin..." which stated that "no expansion of the present use is planned...Periodic maintenance will consist of the trimming of the lush vegetation and/or depositing of gravel for traction in muddy areas..." Tokunaga concluded that "Based on the foregoing facts, we do not believe that a CDUA is necessary." This same document, which is fact was not submitted to OEQC, specified that the use of the road was for cattle operation. On July 27, 1992 Evans replied to Young, agreeing that no CDUA was required. He added, "However, should the Boteilho's [sic] desire to expand or substantially improve the subject road easement, or maintain it for any purpose other than that which has historically occurred, and no different, a CDUA would be required." This same information was conveyed to owners' attorney, Paul Horikawa, in a letter from Maui DLH land agent Philip Ohta on August 11, 1992.

Sometime prior to September 6, 1992, the entire length of the road was bulldozed to a width of over 20 feet by owners. This was no mere "trimming of vegetation." Hugh trees were knocked down. No erosion control measures were taken. Hugh mounds of dirt were piled up on the sides of the road, left to wash into the streams below. We reported these facts to DLNR on October 30, 1992 and requested an investigation (see Exhibit C).

Subsequently the entire 5,000' length of the road was gravelled to a width of over 20 feet. The part which can be driven on measures 14' to 16' in most places. The work far exceeded any "normal" maintenance which had previously been done on the road.

On December 16, 1992 Tokunaga wrote to Young regarding the DOCARE report on the unauthorized use of land on parcels 3 and 4. He said, "The applicant has, indeed, sold a portion of his property to another party. The work being performed on this property may be in violation of Title 13, Chapter 2, but that is for OCEA to decide...The applicant has informed us that this property may be used to pasture and raise horses in addition to cattle. They may also construct stables, auxiliary buildings, perhaps even a dwelling. If and when they decide to do so, he was informed that a CUA would have to be approved prior to commencement and said application may even have to include the present roadway as more extensive use is a virtual certainty."

On December 23, 1992, a DEA was published in the OEQC Bulletin for "Boteilho Access Easement Request." Nowhere was the new ownership of parcel 4 revealed. The Summary contained the language quoted above from the previous document regarding use and maintenance. Under "Environmental Requirement" Boteilho stated, "The applicant proposes to maintain an existing dirt road by periodic trimming of vegetation and placement of gravel...No major impacts are anticipated. Rain runoff is expected but is not excessive...Periodic use of crusher waste is the only expanded maintenance being proposed." Further description was given: "Maintain present roadway by doing necessary clearing and laying of crusher waste in low spots for traction."

On July 9, 1993 Ohta wrote to Young that "...the proposed use does not differ from the past use...no intensification of use is contemplated" and that therefore no EA nor CUA was required.

On July 12, 1993 BLNR Chair Keith Ahue wrote to OEQC and withdrew the DEA, stating that "The proposed access easement will be within the existing road and not beyond its existing boundaries. Therefore, the proposed use is not an expansion or change of use beyond that previously existing and can be considered as an exempt class of action pursuant to section 11-200-8(1) of the Environmental Impact Statement Rules." That section defines as exempt those actions "involving negligible or no expansion or change of use beyond that previously existing."

On July 23, 1993 BLNR approved the direct sale of the subject easement to Boteilho, stating "The proposed use does

not differ from the past use...no intensification of use is contemplated" and that therefore a CDUA/EA was not required. One of the conditions stated is that "Prior to commencement of construction, the grantee shall obtain subdivision approval from the County of Maui for the subject easement." Apparently such approval has not yet been granted. DLNR Land Agent Tokunaga confirmed that the reference to "construction" is not to any building which might be done on parcel 4, but rather to the road work on parcel 3, the access easement. No mention is made of PLC or Levy, the new owner.

In Tokunaga's October 19, 1993 comments on the subject application, he states, "If Mr. Levy now intends to improve the easement in any way, the CDUA and EA would be necessary."

For over a year DLNR has chosen to ignore facts of which it has been well aware. Owners have already vastly widened and improved the access roadway; they have indeed "commenced construction." They have already expanded and intensified the use. They have already gone way beyond the easement granted to Boteilho. They have already made substantial unauthorized use of government land. They have already caused vast environmental damage. But they have not yet been held accountable.

Deliberate diversion cuts have been made to the edge of the Kopiliula cliff. We recently reported that in several places a six foot swath has been carved out of the almost vertical cliff face by the raging rivers of gravel and mud that flow over it during times of heavy rainfall. In one place all the vegetation below has been taken, except for a few trees whose roots were exposed up to a depth of several feet (see photos, Exhibit E).

Owners also misrepresent the width of the easement granted. State Historic Preservation Division archeologist Therese Donham was told that the easement was 20'; she found that the work had exceeded this width. The EA states that the access is 15'. In fact the access is, legally, 12'.

A CDUA/EA for the already completed work, as well as any now contemplated work (paving?) should have been part of the subject application. Citations should be issued and acted upon for unauthorized use of land.

PROPOSED BUILDINGS

The law states that Conservation districts

shall include areas necessary for protecting watersheds and water sources; preserving scenic and historic areas; providing park lands, wilderness, and beach

reserves; conserving indigenous or endemic plants, fish and wildlife...; preventing floods and soil erosion; ...open space areas whose existing openness, natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or surrounding communities, or would maintain or enhance the conservation of natural or scenic resources...

Because the subject parcel is zoned Conservation, the state has a special responsibility to regulate land use activities and construction. ELNR Rules, sec. 13-2-21, specifically provide the following conditions for land use in the Conservation district:

1. The use shall be compatible with the locality and surrounding areas, and appropriate to the physical conditions and capabilities of the specific parcel or parcels of lands;

2. The existing physical and environmental aspects of the subject areas, such as natural beauty and open space characteristics, shall be preserved or improved upon, whichever is applicable;

3. All buildings, structures, and facilities shall harmonize with physical and environmental conditions stated in this rule;

4. Provisions for...lighting...shall have the approval of the chairperson or an authorized representative...

Ka'anāe-Wailua is one of the last remaining traditional Hawaiian taro-farming and fishing communities. Our population is about 200, about 90% of whom are Hawaiian. The community is unique, composed mainly of small freehold Hawaiian taro farmers. There has been no disturbance from large scale mechanized agriculture or urban development. The area is quite remote and was not linked to other areas by automobile until 1926. Many Hawaiian cultural traditions persist, especially wetland taro cultivation which has created a unique Hawaiian landscape, and fishing and gathering. Just last week the taro farmers of Ka'anāe-Wailua were presented with a Landscape Preservation Award by the Maui Historical Society. The MCPD has chosen this area to serve as a prototype for an overlay regulatory mechanism in order to protect our cultural landscape. Kalia's lies less than a mile by boat from Wailua, and is visible from the Wailua road and other points.

Our homes are modest, many older homes consisting of less than 1,000 square feet. Newer homes are between 1,000-2,000

square feet, and mainly built with wood siding. They are not obtrusive; they blend well with the natural environment.

Into this cultural landscape Levy proposes to thrust a 6,675.5 square foot Southern California style stucco mansion. Its scale, style, materials and, most likely, color, are in jarring contrast to our current landscape. It is more than three times as large as any home in our community, and is much more suited for a resort area such as Wailea or Kaanapali. Although no design guidelines have yet been proposed for our community, the Hanalei Design Guidelines Handbook, proposed for a taro-growing community on Kauai, specifies, "Stucco and similar wall treatments were not used historically in rural Hawaii. Because they make a building appear heavier and more massive than traditional wood siding, they should be avoided." If the structure is white, it will stick out even more rudely. Earth tone would be more acceptable, and a green roof would be appropriate. Outdoor lighting in excess of normal modest residential lighting should not be allowed. High wattage security lighting could be seen from great distances and would interfere with the serenity of the night sky. It would also endanger the lives of native birds such as the 'a'o the 'ua'u and the 'ua'u kani, which fly between the mountain and the ocean and are disoriented by bright lights. The DEA does not include any description of birds in the area and potential effects on them.

BLNR has significant powers and responsibility under sec. 13-2-21 to regulate the nature, scale, lighting and design of the building. Those powers should be used to require applicant to redesign and scale down his planned structure.

After the Alanui is reestablished, we request an on-site visit with Levy to see exactly where he proposes to build. It is difficult to correlate the Conceptual Plan as shown in Figure 9 with the written description. Because the map provided is not topographical, it is not possible to determine the distances from the cliff, but it appears unlikely that the 150' required setback is adhered to on all three sides. Better topographical maps should be provided. The matter of placement of the building must be made clear, including staking of the area, before any permit is granted.

It is critical that the building not interfere in any way with free passage over the Alanui. Such interference could be other than blatant physical blocking of the way. The concept of ho'okipa, or hospitality, is very important in Hawaiian culture. Hawaiians will generally not go places where we feel we are not welcome. When hotels are built on beaches, Hawaiians stop fishing there--even though we retain the legal right to do so. The feeling of ho'okipa is gone, and we will not go where we do not feel comfortable. The

very presence of such a mansion near our fishing trail will intimidate many from ever travelling the trail. Thus any building should be put out of sight of the Alanui. This would be to the advantage of applicant, as well, as it would assure him greater privacy.

The social and economic impact of such a structure on the community must also be discussed. The development will no doubt result in a high increase in property values in the area. This is not a benefit to our community, but rather a tragedy. The increase in property taxes that will result will make it more difficult for us to hold on to our land. Most of our residents have been in the community for many generations. We do not want to sell our land; we want to pass it on to our children. In so many communities throughout Hawaii the native people have been forced to sell their land because they could not afford the skyrocketing taxes, and have become dispossessed people in their own land. We do not want to see this happen in our community. Allowing a mansion like this will also increase the likelihood that others will follow. The cumulative impact of this type of social, economic and cultural change must be discussed.

Levy proposes a total of 18,986 square feet under roof, plus three 30,000 gallon water tanks. This will total almost one-half acre under roof. Since the residence is at a lower elevation than the water tanks, apparently the water from its roof will not be utilized. There should be discussion of a plan for the disposal of the water from the residence roof, as well as the overflow from the other roofs. They have the potential of causing serious erosion.

THE APPLICATION

Ownership/Commercial Use

The CDUA is seriously deficient and should not have been accepted. The most glaring omission is one page one: "Section II. Applicant" has been marked "N/A". This entire section has been left blank. There is no signature at all! The form specifies: "Indicate interest in property; submit written evidence of this interest". No information is given. The form specifies that if application is for water use, this section can be omitted if applicant is landowner. But the pending CDUA is for land, not water, use. In actuality, no application exists at this time.

Under "V. Summary of Proposed Use", owners do give some information about ownership of the property; however, the information given is misleading at best. It states: "Mr. Fred Levy, the president and owner of Pacific Land and Cattle, Inc., has purchased the subject parcel from Mr. Michael Boteilho through an agreement of sale. Upon the

final transfer of the property, the deed will state Pacific Land and Cattle, Inc. as the land owner for estate planning purposes." No written evidence to support this statement is provided.

In fact, Boteilho has transferred an undivided 20% interest in the property to PLC via Convenience, Inc. Nowhere does this information appear on the application, but it does appear in the real property tax records of the County of Maui, and the deeds are recorded. However, no information regarding an agreement of sale appears in records of the tax office. Apparently the document has not been recorded. The deed from Boteilho to Convenience, Inc. refers to "that certain unrecorded Exchange Agreement between the Grantor and Grantee effective February 23, 1992".

Without seeing the document, there is no way to know what this Agreement of Sale really is. It could be an agreement to purchase which, until consummated, does not constitute a purchase.

These facts suggest strongly that the completion of the sale of the remaining 80% of the property is contingent on the obtaining of a CDUP. It appears that Boteilho is speculating on the obtaining of the permit, and that the parties have not recorded this agreement as they do not wish the Board to be aware of this. The Board should require the production of all documents relating to the ownership of the property. No speculation should be allowed on a CDUP.

PLC is not registered to do business in Hawai'i and thus it is may not be proper for it to engage in the buying of property in this state.

The CDUA states: "The owners raise and breed a select amount of quarter and paint performance horses and cattle as a hobby. There are no commercial activities proposed for the parcel." If this is true, then why is Levy taking title to the land through his corporation? The corporate charter should be produced to see whether it is within the purposes of the corporation to purchase land to pursue a hobby of the president of the corporation. Normally corporations are created to conduct commercial activities. Even if Levy is intending to use the land as a tax shelter, it would constitute a commercial use. Does he plan to tell the IRS that he is raising horses as a hobby? Incorporation does not give the owner of the corporation carte blanc to use corporate assets for personal pleasure. Diversion of corporate resources must be reported as income. Stalls are provided for 19 horses. It is hard to believe that someone would keep 19 horses just for a hobby.

Levy, as owner of Pure Platinum, a chain of strip bars, is obviously a sophisticated businessman and aware of all of

these implications. Land ownership and corporate documents should be produced to answer these questions.

We are led to suspect that it is owners' intention to avoid a public hearing, since if commercial use were admitted, such a hearing would be automatic. Enough questions have been raised both about this and other issue that a public hearing, in Ke'anae, should be mandated. We have submitted a petition with signatures of 33 residents requesting this.

Plans

The application does not include plans as required by DLNR Administration Rules sec. 13-2-20(f). No elevations of the residence are provided. There is no real landscaping plan. There is no maintenance plan for the roadways. The DEA specifies concrete paving over portions of roads with grades steeper than 6%. This would include almost all roads. There needs to be a plan for the runoff from these roads. There is no grading or soil disposal plan, nor is there a drainage plan. There is no discussion of the disposal of the presumably chlorinated swimming pool water. There has been no consultation with the Soil Conservation Service. It is not DLNR's responsibility to do an archeological survey. Applicants should be required to hire an archeologist to do a complete systematic inventory survey, including mapping of the Alanui with our assistance, before any decision is made on this application.

Description of the Environment and Impacts

The description of the environment is inaccurate, as stated above, and incomplete. No real survey was done of remaining plant life, not to mention that plant life that was obliterated. The presence of 'ohia trees indicates there may be other native species which are not described.

There is no mention of the outstanding native aquatic resources of East Wailuaiki and Kopiliula Streams nor of the nearshore fisheries, and of the effects of applicants actions on them. These resources are of extreme importance to us, and any threat to them is a threat to our culture and lifestyle. We depend on the streams for 'o'opu, 'opae and hihiwai. Several species of 'o'opu inhabit the streams. Kopiliula in particular is our most important stream for gathering hihiwai. Kopiliula is one of the most pristine streams in the state, and the presence of an outstanding hihiwai population make it extremely significant. Hihiwai are very sensitive to siltation; muddy water which flows into the stream presents a life-threatening situation for them.

There is no discussion of the nature of our community and of the social, cultural and economic impact of owners'

actions on our community and our fishing and gathering rights. There is no discussion of the impact of the bulldozing on historic sites, including the Alanui, which certainly involved the irrevocable commitment to loss and destruction of cultural resources.

Mitigation

The discussion of mitigation measures is inadequate. The DEA does not include copies of the Mitigation and/or Preservation Plans or a copy of the approval letter for the plans from the State Historic Preservation Program. The discussion of actual mitigation measures to be taken is too general and incomplete. Given that construction over a three-year period is planned, more detail must be provided. It seems unlikely that owners really plan to revegetate with native plant materials if in fact they plan to pasture their animals.

Alternatives

There are no alternatives to the proposed action discussed. Alternate sites and a scaled down, redesigned structure, as discussed above, must be considered, as well as the alternative of no action.

LACK OF CONSULTATION

Owners and DLNR failed to conduct the required consultation prior to publication of the DEA. "Guidelines for Preparing Environmental Assessments", published in the DEQC Bulletin, emphasizes the importance of the requirement of consulting early in the process "with agencies having jurisdiction or expertise as well as consultation with citizen groups and individuals."

We had a similar problem last year, when we were not consulted prior to publication on another proposal in our community. At that time we were told to send a letter to then Chair Paty asking to be consulted in all proposed actions in or near our community. We sent such a letter (see Exhibit D). In addition, in this case the HCFD made owners aware of our concerns. We also did so in our October 30, 1992 letters to DLNR (see Exhibits A and C). No attempt was made to obtain our input prior to publication of the CDUA/EA.

DLNR also failed to consult internally with its own agencies. The DEA was not circulated internally for review prior to publication, as is the usual procedure. Although the state archeologist did make one visit to the site, this was not as a result of notification by either the applicant or DLNR. Many agencies who should have been consulted, such as Aquatic Resources, Department of Health, Soil

Conservation Service, U.S. Army Corp of Engineers, U.S. Fish & Wildlife Service, Department of Agriculture, and Office of State Planning were not contacted. Neither were any conservation groups such as the Sierra Club or the Conservation Council for Hawaii.

CONCLUSION

Neither the CDUA nor the DEA contains accurate or sufficient information. The application should not have been accepted. A negative declaration should not be issued. The action meets the significance criteria of sec. 11-200-12 of the EIS Rules and would have a significant impact on the environment. An EIS should be prepared.

Thank you for this opportunity to comment.

KE'ANAE-WAILUANUI COMMUNITY ASSOCIATION
S.R. 1 BOX 116
HA'IKU, HAWAII 96708
October 30, 1992

Keith Keau
Maui County Branch Chief
Conservation and Resources Enforcement Division
Department of Land and Natural Resources
54 High Street
Wailuku, Hawaii 96793

RE: TMK 2-1-2-1-4 and 2-1-2-1-3

Dear Mr. Keau:

We are very concerned about possible violations on the above-noted parcels, both of which are zoned Conservation. Parcel 4 is privately owned and subzoned General; parcel 3 is State Forest Reserve subzoned Resource.

We have recently become aware that extensive grading has been done on parcel 4, presumably by the new owner, Pacific Land & Cattle Inc., 4540 Kearny Villa Rd., San Diego, CA. 92123. This parcel sits on a narrow tableland between the valleys of Wailuaiki and Kopiliula, both of which are important fishing and gathering grounds for our community. We believe that this work was done without a Conservation District Use Permit or any other permit. We fear that grading in this area could cause extreme erosion which could have a great impact on the waters of the streams and the ocean.

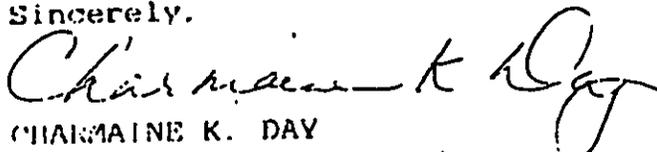
We also want to make sure that our traditional accesses into Kopiliula, both along the shoreline and ridge and from the highway are not interfered with in any way.

We are enclosing a copy of our letter to Wes Wong concerning parcel 3.

Please send us copies of any reports made pursuant to investigation of possible violations on these two parcels.

Thank you for your cooperation.

Sincerely,


CHARMAINE K. DAY
PRESIDENT

Encl.: 10/30/92 letter to W. Wong from KWCA

cc: Paty/Matsuzaki/Buck/Sakuda/Hau

EXHIBIT A

DOCUMENT CAPTURED AS RECEIVED



Steep slopes bulldozed - debris pushed into gulch



no erosion control -



Massive erosion creating gullies



All photos taken 10/24/93 - parcel 4

DOCUMENT CAPTURED AS RECEIVED



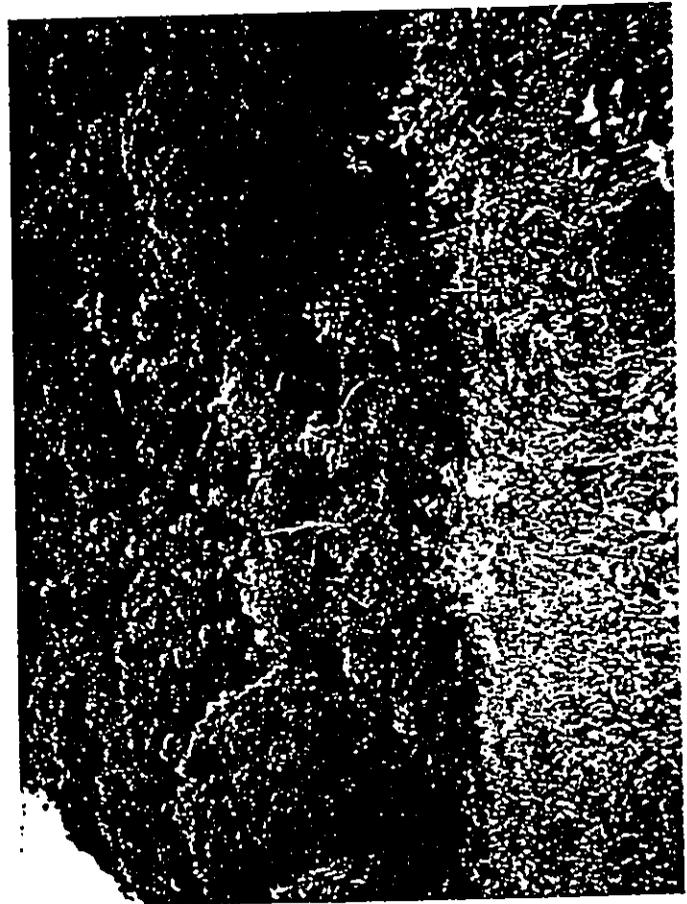
Deliberate drainage cut from road to edge of steep cliff above Kopiliula Valley - parcel 3



Looking down cliff into Kopiliula Valley - extreme erosion - parcel 3



Extensive bulldozing - parcel 4



Bulldozed trees - leaves still green - parcel 4

KE'ANAE-WAILUANUI COMMUNITY ASSOCIATION
S.R. 1 BOX 116
HA'IKU, HAWAI'I 96708
October 30, 1992

Wesley H. C. Wong, Jr.
District Manager
Forestry and Wildlife Division
Department of Land and Natural Resources
54 High Street
Wailuku, Hawai'i 96793

RE: Kaliae Road; TMK 2-1-2-1-3

Dear Wes:

We are very concerned about activity that has taken place on TMK 2-1-2-1-3, which is Forest Reserve land zoned Conservation/Resource. According to a conversation you had with Elaine Wender of our Association on October 27, 1992, you gave permission to Michael J. Boteilho, part-owner of adjacent parcel TMK 2-1-2-1-4 to lay gravel on the road to improve access to his parcel. He was instructed not to disturb more than the twelve-foot width of the previous road. However, considerable grading has been done, no erosion control measures have been taken, and the width of the road is far in excess of twelve feet. Dirt was simply pushed to the sides of the road and left piled there. The road goes through a narrow tableland with extremely steep drop-offs on either side into the valleys of Wailuaiki and Kopiliula. The dirt that has been piled up is washing down into the valleys and undoubtedly into the streams and the ocean, both of which are important fishing and gathering grounds for our community. An inspection in early September after heavy rains showed the lower part of the road, which had not yet been gravelled, to be a river of mud. On the upper part the gravel which had recently been laid was already washing away.

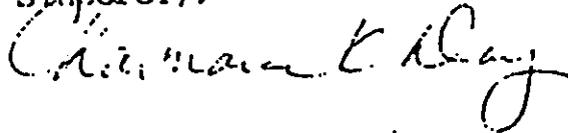
We ask that you take corrective action to require immediate erosion control, including removal of the dirt piles from the sides of the road and creation of run-offs.

We are also alarmed that a locked gate has been installed at the highway. The road has been used for many years by residents of our community to access Kopiliula Valley. There is no public justification for a locked gate. Its creation serves only the new mainland co-owner of the parcel 4, whom we understand hopes to build a vacation home there. We ask that the gate be kept unlocked.

Please send us a copy of any documents pertaining to this road including the easement granted to the owner of parcel 4.

Thank you for your cooperation.

Sincerely,



CHARMAINE K. DAY
PRESIDENT

EXHIBIT C

S.R. 1 Box 116
Ha'iku, Hawai'i 96708
June 8, 1992

William W. Paty, Jr., Chair
Board of Land and Natural Resources
and
Commission on Water Resource Management
1151 Punchbowl Street
Honolulu, Hawai'i 96813

Dear Mr. Paty:

Our organization wishes to be a consulted party in all proposed actions in and near our community, including the area between Kailua and Nahiku in East Maui. Please notify us when any applications or documents such as Conservation District Use Applications, land license agreements, dispositions of state lands, water use permits, environmental assessments or other documents are submitted to either BLNR or CWRM concerning this area. We wish to be consulted in the early stages; not only during public hearings which may take place late in the process.

Also please place us on the mailing list to receive the agendas and notices of your meetings and hearings.

Sincerely,

Charmaine K. Day
CHARMAINE K. DAY
PRESIDENT
KE'ANAE-WAILUANUI COMMUNITY ASSOCIATION

cc: Alan Tokunaga, Division of Land Management, Wailuku

EXHIBIT D

RESPONSE TO :

11/15/93 Memorandum

From: Ke'anae-Wailuanui Community Association
To: Roy Schaefer, Planner, DLNR; Office of Conservation & Environmental Affairs
Re: MA-9/28/93 2671

Members of the community voiced the following concerns:

1. The Alanui; Bulldozing and Erosion

"...in October, 1992 the entire road crossing Kalia'e was bulldozed along with the rest of the 63 acre parcel..."

The initial bulldozing of the "King's Highway" occurred circa 1963 therefore it has not been addressed in this application. The majority of the parcel was grubbed in October of 1992. Additionally burning, and seeding took place under permit and letter of authorization. Refer to exhibits 5 and 6 for the appropriate authorization. None of the slopes of the parcel were contracted to be "denuded". If this took place it was done in violation of the owner's direct orders to stay away from the edges of the slopes.

During a field trip to the parcel with Mr. William Kennison, BLNR member; Mr. Michael Baker, Trails and Access Specialist, DOFAW; Mr. Roy Schaefer, Planner, OCEA; and the Applicant's Consultant on January 25, 1994 numerous streams between the parcel and the airport were noted to be running due to the rainy weather. The majority of these were noted to be filled with brown sediment including the two streams adjacent to the parcel. This field trip was taken months after the a successful seeding of parcel and verifies previous sediment found in the adjacent streams can not be blamed solely on the previous grubbing of the parcel.

The pictures taken of the parcel were clearly taken from locations where the photographer would have to trespass to take said exposures. Further, until the parcel was grubbed, the only people on the property were the owners and, presumably other, trespassers growing marijuana. The "King's Highway" had not been used for at least one or two years. [Refer to exhibit 18.] The photographer could not know whether the erosion viewed was due to the grubbing or whether it is a condition of the property's natural drainage system.

In any event, initial erosion is anticipated after grubbing of such a large parcel. Further, said erosion from grubbing is presently controlled.

2. "...The other [traditional access] is via the road which runs for almost a mile from the Hana Highway through parcel 3, and then through parcel 4..."

The fact that, prior to World War II, individuals were trespassing across state and private properties to access portions of the shoreline does not guarantee the right to trespass forever.

The property was initially deeded as shown by Royal Patent No. 1164 in 1853. [Refer to exhibit 24B.] It makes provision for the local community: "Reserving the rights of native tenants.". Access was provided to the shoreline via the "King's Highway". As stated previously, the applicant will work with DOFAW regarding the resolution of this access.

In 1853 the Hana Highway, or State Highway, did not exist. Therefore, an easement for community access to the water via a road or trail from the highway to the shoreline could not be in the original deed. Nor is such an easement in the most recent Exchange Warrant Deed. [refer to exhibit 24A.]

The applicant owns the property in Fee Simple and recognizes the public access easement only along the "King's Highway" as it crosses said property.

3. Owner's easement over Parcel 3.

The CDUA is regarding TMK 1-2-01:04 only, not this parcel. All maintenance work performed on the access to said parcel was performed with knowledge of DLNR's Division of Forestry and Wildlife.

4. Proposed Buildings

"Ke'anae-Wailuanui is one of the last remaining traditional Hawaiian taro-farming and fishing communities....Our homes are modest....into this cultural landscape Levy proposes to thrust a 6,675.5 square foot Southern California style mansion..."

Ke'anae-Wailuanui is over a half mile from the subject parcel. The parcel is surrounded by 5000 acres of forest. It is isolated from, rather than being a part of, the communities of Ke'anae and Wailua-nui. The size and scale of the proposed residence would dramatically impact these communities if it was built within the center of the Wailua-nui community or on the Ke'anae peninsula. However, this is not the case, nor will any of the structures interfere with the "King's Highway".

There are no set standards, for size of structure, in the conservation district. There are however, houses over 8000 s.f. approved by the Board of Land and Natural resources within the conservation district.

The applicant will be submitting final construction plans to the DLNR's Office of Conservation & Environmental Affairs

pating in a closer review of the proposed materials and colors. The final construction plans will also be submitted to the Maui County Public Works, Building Department for Universal Building Code compliance review. The roof height will not exceed the 30'0" maximum allowable height within Maui County for residential structures.

...The social and economic impact of such a structure on the community must also be discussed...

Anticipating increased taxes from a structure over half a mile away is not reasonable. Properties values of an entire community to not increase overnight due to the introduction of one project such as this.

The applicant desires to provide on property jobs to the local community. This will introduce a positive social and economic stimulus. The applicant is also willing to preserve that which remains of the "King's Highway" after the 1963 bulldozing. The community will benefit from this as well.

5. Ownership./Commercial Use.

The application, along with its' cover letter, was submitted to the DLNR Office of Conservation and Environmental Affairs and was accepted. [Refer to Exhibit 8]

Mr. Levy and Mr. Boteilho own the parcel together. The specific relationship[s] between these two land owners is not the subject of the CDUA.

The applicant desires to continue the non-conforming grazing related land use activities within the state conservation district. The applicant does not intend to and is not requesting to increase the non-conforming commercial use.

The applicant understands that if they desire to introduce new, or increase the present, commercial use of the property that they must file a new CDUA and the request will be heard at a public hearing.

It is not a requirement of the DLNR that the applicant discuss his property holdings, hobbies, business, nor any other aspects of his personal life.

6. Plans

Final construction plans, including building sections, exterior elevations, lighting, pool related details, landscaping, exterior lighting, utility construction, drainage and soil erosion studies and archaeological surveys of the proposed construction sites will be submitted to the DLNR's Office of Conservation and Environmental Affairs [OCEA].

It would be unreasonable for said documents to be produced prior to the applicants receiving a negative declaration

prior to the applicants receiving a negative declaration regarding the CDUA. Those that have been specifically called for by the OCEA have been provided.

7. Description of the Environment and Impacts.

The applicant is concerned with potential negative effects of the project on local ecosystems, including aquatic resources, and will follow the recommendations of DLNR's Aquatic Resources department to mitigate any such effects.

At present the applicant has no knowledge of archaeological sites and/or rare native plants present on the parcel other than the "King's Trail" or "Government Road". The applicant is agreeable to having an archaeological consultant survey those area's of the parcel for with construction is proposed.

If archaeological sites and/or rare native plants are found to be present, the applicant will revise their plans to construct after consultation with DLNR State Historic Preservation Division and Office of Conservation and Environmental Affairs.

The local community was not using the portion of the trail which crosses the subject property. Nor were they exercising their traditional fishing and gathering rights along said trail prior to the field visit by Mr. Michael Baker on August 8, 1993. [Refer to exhibit 18.] Because the owner is willing to have what remains of the trail, on his parcel, preserved and agrees to providing access to the local community, the portion of the trail ascending the cliffs to and from his property are more likely to be maintained and used rather than remain in the disrepair that is evident today.

This is a service that is being provided to the local community in helping them preserve their traditional rights and culture.

8. Mitigation

The Applicant will work with both the DLNR's Office of Conservation and Environmental Affairs [OCEA] and DLNR's Division of Forestry and Wildlife [along with any other agencies noted by OCEA] to determine possible further mitigation measures.

9. Alternates

Alternates sites, structures or reductions in structure sizes have not been required by the DLNR. The applicant is applying to the DLNR's OCEA, not the Ke'anae-Wailuanui Community Association.

The applicant is however, willing to make accommodations for the enhancement of the overall community. Said accommoda-

tions, if necessary, should be proposed by a third and neutral party such as the DLNR.

10. Lack of Consultation

Contrary to the Associations' statements, the State archaeologist was specifically asked to visit and directed to the site by the applicant's consultant

The requirement for an Environmental Assessment [EA] was anticipated by the applicant and the DLNR/OCEA planner assigned to the application. Said EA was submitted and accepted by OCEA.

The Contract Documents for the project are far from being completed. Clearly, further consultation of those agencies responding to the Draft EA will be required in order to produce a set of documents which defines a scope of work for a construction contract which is responsive to the particularly sensitive needs of this project.

11. Conclusion

Clearly the Ke'anae-Wailuanui Community Association has a Socialistic viewpoint with regards to property rights. They seem to believe that the community has more property rights than the land owner. Although said rights are subject to the jurisdiction of the DLNR and it's respective administrative rules [providing for land use within the Conservation District] they are the property rights of the land owner.

The proposed project is for a private residential ranch at Kalia'e Maui. "The design intent is to retain the natural beauty of the parcel intact. Other than providing building pads for the structures, the existing topography is to remain in its present state." There are no additional commercial activities proposed. Therefore an EIS is not required.

The property has been grubbed, and seeded with the excess undergrowth burned under permit. It is beautiful. During the October of 1993 grubbing there may have been limited erosion. The remains of the "King's Highway" however, were found rather than destroyed. Representatives of the State Historic Preservation Division, the Office of Conservation and Environmental Affairs, the Department of Forestry and Wildlife, Maui Planning Department, the Community and the BLNR were invited to the site to give comment.

This project will help provide preservation of a cultural resource which is presently in disrepair [the "King's Highway"]. It will provide jobs for individuals in the nearby communities, during and after the proposed construction, and it will bring capital into the area without raising everyone's property taxes.

DOCUMENT CAPTURED AS RECEIVED

EXHIBIT 24A

R-18



LAND COURT REGULAR SYSTEM
AFTER RECORDATION, RETURN BY MAIL () PICK-UP (✓)

First American Title Company of Hawaii, Inc.
33 Lono Ave., Ste. 290
Kahului, Maui, Hawaii 96732
Escrow No. M-4592LH
Attn: Laurie Hollem



107136

TITLE OF DOCUMENT: EXCHANGE WARRANTY DEED

Tax Map Key: (2) 1-2-001-004
Located at: Kaliae, Koolau, Island and County of Maui

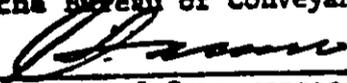
EXCHANGE WARRANTY DEED

This Deed, made this 23rd day of April, 1992, by Michael J. Botelho, unmarried, whose residence and mailing address is 2116 Naalae Rd., Kula, Maui, Hawaii 96790, hereinafter called the "Grantor", and Convenience, Inc., a Hawaii corporation, whose principal place of business is 1001 Bishop St., Pauahi Tower Suite 1500, Honolulu, Hawaii 96813, hereinafter called the "Grantee".

WITNESSETH:

For and in consideration of the promises made by Grantee, pursuant to the terms and conditions of that certain unrecorded Exchange Agreement between the Grantor and the Grantee effective February 23, 1992, and other good and valuable consideration to the Grantor

hereby certify that this is true copy from the records of the Bureau of Conveyances.


Registrar of Conveyances
Assistant Registrar, Land Court
State of Hawaii



paid by the Grantee, the receipt of which is hereby acknowledged, the Grantor does hereby grant, bargain, sell and convey unto the Grantee, its successors and permitted assigns, in fee simple, forever, an undivided **TWENTY PERCENT (20%) INTEREST** in the property, situated on the Island of Maui, State of Hawaii, and more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof.

And the reversions, remainders, rents, issues and profits thereof and all of the estate, right, title and interest of the Grantor, both at law and in equity, therein and thereto;

TO HAVE AND TO HOLD the same, together with all buildings, improvements, rights, easements, privileges and appurtenances thereon and thereto belonging or appertaining or held or enjoyed therewith, unto the Grantee according to the tenancy herein set forth, forever.

AND, in consideration of the premises, the Grantor does hereby covenant with the Grantee that the Grantor is seized of the property herein described in fee simple; that said property is free and clear of and from all liens and encumbrances, except for the lien of real property taxes not yet by law required to be paid, and except as may be specifically set forth herein; that the Grantor has good right to sell and convey said property, as aforesaid; and, that the Grantor will **WARRANT AND DEFEND** the same unto the Grantee against the lawful claims and demands of all persons, except as aforesaid.

The conveyance herein set forth and the warranties of the Grantor concerning the same are expressly declared to be in favor of the Grantee, its successors and permitted assigns.

The terms "Grantor" and "Grantee", as and when used herein, or any pronouns used in place of thereof, shall mean and include the masculine, feminine or neuter, the singular or plural number, individuals, partnerships, trustees or corporations and their and each of their respective successors, heirs, personal representatives, successors in trust and assigns, according to the context thereof. All covenants and obligations undertaken by two or more persons shall be deemed to be joint and several unless a contrary intention is clearly expressed elsewhere herein.

IN WITNESS WHEREOF, the undersigned executed these presents as of the day and year first above written.

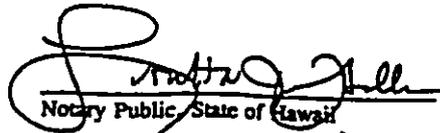

Michael J. Botelho

"Grantor"

DOCUMENT CAPTURED AS RECEIVED

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 23rd day of April, 1992, before me personally appeared Michael J. Botelho, unmarried, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.

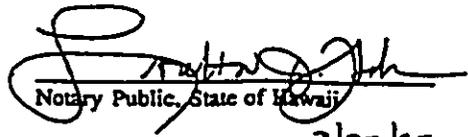

Notary Public, State of Hawaii
My Commission Expires: 3/27/95

Print & Use
ONLY

DOCUMENT CAPTURED AS RECEIVED

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 23rd day of April, 1992, before me personally appeared Michael J. Boteilho, unmarried, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.


Notary Public, State of Hawaii

My Commission Expires: 3/27/95

DOCUMENT CAPTURED AS RECEIVED

R-19



LAND COURT _____ REGULAR SYSTEM _____
AFTER RECORDATION, RETURN BY MAIL () PICK-UP ()

Pacific Land and Cattle, Inc.
4540 Kearny Villa Rd., Ste. 201
San Diego, CA 92123



107136

TITLE OF DOCUMENT:

EXCHANGE LIMITED WARRANTY DEED WITH ASSIGNMENT OF WARRANTIES

Tax Map Key: (2) 1-2-001-004
Located at: Kaliae, Koolau, Island and County of Maui

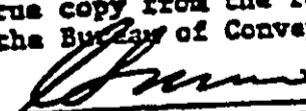
EXCHANGE LIMITED WARRANTY DEED
WITH ASSIGNMENT OF WARRANTY

This Deed, made this 27 day of April, 1992
Hawaii corporation, whose principal place of business is 1001 Bishop
1500, Honolulu, Hawaii 96813, hereinafter called the "Grantor", and
Inc., a California corporation, whose residence and mailing address
Ste. 201, San Diego, CA 92123, hereinafter called the "Grantee".

WITNESSETH:

For TEN DOLLARS (\$10.00) and other good and
Grantor paid by the Grantee, the receipt of which is hereby acknowledged,
hereby grant, bargain, sell and convey unto the Grantee, its successors

I hereby certify that this is
a true copy from the records
of the Bureau of Conveyances.


Registrar of Conveyances
Assistant Registrar, Land Court
State of Hawaii



in fee simple, forever, all of their TWENTY PERCENT (20%) INTEREST in the property, situated on the Island of Maui, State of Hawaii, and more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof.

And the reversions, remainders, rents, issues and profits thereof and all of the estate, right, title and interest of the Grantor, both at law and in equity, therein and thereto;

TO HAVE AND TO HOLD the same, together with all buildings, improvements, rights, easements, privileges and appurtenances thereon and thereto belonging or appertaining or held and enjoyed therewith, unto the Grantee according to the tenancy herein set forth, forever.

AND, in consideration of the premises, the Grantor does hereby covenant and agree with the Grantee that the Grantor has the good right to sell and convey the property herein described and that the Grantor has not heretofore done, committed, or willingly suffered to be done or committed any act or thing whatsoever whereby the title and estate hereby conveyed, or any part thereof, are or shall be charged or encumbered, except as aforesaid.

The Grantor does hereby also assign to the Grantee, **WITHOUT RECOURSE**, all of the warranties and covenants concerning the property herein described which the Grantor received from said Michael J. Boteilho, (hereinafter "Boteilho"), it being the intent of the Grantor that said warranties and covenants shall be direct between said Boteilho and the Grantee.

The conveyance herein set forth and the warranties of the Grantor concerning the same are expressly declared to be in favor of the Grantee, its successors and permitted assigns.

The terms "Grantor" and "Grantee", as and when used herein, or any pronouns used in place of thereof, shall mean and include the masculine, feminine or neuter, the singular or plural number, individuals, partnerships, trustees or corporations and their and each of their respective successors, heirs, personal representatives, successors in trust and assigns, according to the context thereof. All covenants and obligations undertaken by two or more persons shall be deemed to be joint and several unless a contrary intention is clearly expressed elsewhere herein.

IN WITNESS WHEREOF, the undersigned executed these presents as of the day and year first above written.

Convenience, Inc.

By Bruce Rosenberg 3/1/81
Its Vice President

"Grantor"

DOCUMENT CAPTURED AS RECEIVED

CONSENTED TO BY:

Michael J. Botelho
Michael J. Botelho

STATE OF HAWAII)
CITY AND COUNTY OF HONOLULU) SS.

On this ___ day of APR 27 1992, before me appeared Renee Rosenberg, who, being by me duly sworn did say that she is the Vice President, of CONVENIENCE, INC., a Hawaii corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and said officer acknowledged said instrument to be the free act and deed of said corporation.

E. Debra
Notary Public, State of Hawaii

My Commission Expires: December 17, 1992

DOCUMENT CAPTURED AS RECEIVED

EXHIBIT "A"

All of that certain parcel of land situate at Kaliae, Koolau, Island and County of Maui, State of Hawaii, containing an area of 63.0 acres, more or less, as described in R.P. 1164 issued in the name of Stephen Grant (TMK (2) 1-2-001-004.

"Excepting any portion of the above described property lying below the line of high water, said line of high water being defined as the vegetation line, and also excepting any artificial accretions to said property waterward of said high water line".

Being all of the land conveyed to the Grantor herein by the following:

- 1. Decree Determining Heirs and Distributing Real Property - Circuit Court of the Second Circuit - State of Hawaii - "In the Matter of the Estate of Walter Boteilho, Sr., Deceased", dated July 2, 1979, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 13828, Page 222.
- 2. Deed dated October 14, 1986, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 20288, Page 455.
- 3. Deed dated _____, 1992, recorded in the Bureau of Conveyances of the State of Hawaii as Regular System Document No. 92- 066016.

SUBJECT, HOWEVER, to the following:

- 1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
- 2. Rights of Native Tenants as contained in Royal Patent Grant No. 1164.
- 3. Shoreline setback lines as they may be established by the State Land Use Commission or by the County pursuant to Sections 205-31 to 37 inclusive of the Hawaii Revised Statutes.
- 4. ~~is~~ An old road running over the northerly portion of the subject premises, ~~is~~ shown on tax map.
- 5. Grant in favor of Maui Electric Company, Limited, a Hawaii corporation, and Hawaiian Telephone Company, a Hawaii corporation, dated September 6, 1966, recorded as aforesaid in Liber 5488, Page 423, granting an easement for utility purposes.
- 6. Any facts or findings a modern metes and bounds survey may reveal.

END OF EXHIBIT "A"

Printed & Mailed
HAWAII

EXHIBIT "A"

All of that certain parcel of land situate at Kaliae, Koolau, Island and County of Maui, State of Hawaii, containing an area of 63.0 acres, more or less, as described in R.P. 1164 issued in the name of Stephen Grant (TMK (2) 1-2-001-004.

"Excepting any portion of the above described property lying below the line of high water, said line of high water being defined as the vegetation line, and also excepting any artificial accretions to said property waterward of said high water line".

Being all of the land conveyed to the Grantor herein by Deed dated _____, 1992, recorded in the Bureau of Conveyances of the State of Hawaii as Regular System Document No. 92-066217.

SUBJECT, HOWEVER, to the following:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. Rights of Native Tenants as contained in Royal Patent Grant No. 1164.
3. Shoreline setback lines as they may be established by the State Land Use Commission or by the County pursuant to Sections 205-31 to 37 inclusive of the Hawaii Revised Statutes.
4. An old road running over the northerly portion of the subject premises, as shown on tax map.
5. Grant in favor of Maui Electric Company, Limited, a Hawaii corporation, and Hawaiian Telephone Company, a Hawaii corporation, dated September 6, 1966, recorded as aforesaid in Liber 5488, Page 423, granting an easement for utility purposes.
6. Any facts or findings a modern metes and bounds survey may reveal.

END OF EXHIBIT "A"

No. 1164
ROYAL PATENT.

Kamehameha III., By the grace of God, King of the Hawaiian Islands, by this his Royal Patent, makes known unto all men, that he has for himself and his successors in office, this day granted and given, absolutely, in Fee Simple unto

William Grant

for the consideration of *eighty three dollars*

put into the Royal Exchequer, all that certain piece of land, situated at *Waikele*
Koolau in the Island of *Mauai*
and described as follows:

Commencing at matai to East corner of this on top of pali by sea, and running along the boundary line of *Tekeupaa*, as follows. $S. 18^{\circ} W. 17.0$ chains; $S. 78^{\circ} \frac{1}{2} W. 6.06$ chains; $S. 27^{\circ} W. 2.43$ chains; $S. 24^{\circ} W. 4.40$ chains; $S. 76^{\circ} W. 3.00$ chains; $S. 53^{\circ} W. 6.12$ chains; $S. 31^{\circ} W. 4.07$ chains; $S. 61^{\circ} \frac{1}{2} W. 3.90$ chains; $S. 37^{\circ} W. 2.63$ chains; thence $N. 5^{\circ} E. 5.00$ chains; thence along down the boundary of *Wailua*, $N. 18^{\circ} \frac{1}{2} E. 7.35$ chains; $N. 1^{\circ} E. 5.00$ chains; $N. 18^{\circ} E. 9.38$ chains; $N. 19^{\circ} E. 11.00$ chains; $N. 18^{\circ} E. 3.00$ chains; $N. 6^{\circ} W. 6.40$ chains; $N. 2^{\circ} \frac{1}{2} E. 6.10$ chains; $N. 12^{\circ} E. 7.50$ chains to the pali by sea; thence along the sea coast to the place of commencement.

Reserving the rights of *Nature's Bounty*.

RECEIVED

'93 NOV 18 AM 9:58

187-C Hukulani St.
Hilo HI 96720-1776

November 16, 1993

Roy Schaefer
Office of Conservation ~~OCEA~~ Environmental Affairs
Department of Land and Natural Resources
P.O. Box 621
Honolulu HI 96809

RE: Levy and Boteilho Private Residential Ranch

Dear Mr. Schaefer:

I wish to submit the following comments on the environmental assessment prepared for the above-mentioned project and, more generally, the entire Conservation District Use Application that has been submitted in connection with this project.

I. Incomplete application

The application, as it appears in the EA, is incomplete. As such, I do not feel that it is proper yet to start the 180-day countdown for processing the application. You will note that question II ("APPLICANT") has not been filled in. Rather, there is the notation "N/A" (not applicable).

Filling out this question, and *signing* it, constitute a vital part of the application process. It is hard for me to imagine that any conditions attached to a CDUA become binding on an applicant if there is *no* applicant.

This is more than a technicality. It is absolutely essential that the applicant identify himself on the application and sign the application in the appropriate place. Until this occurs, the DLNR has no business accepting the application -- much less processing it or publishing notice of availability of an environmental assessment.

II. Inaccurate description of Levy's relation to property

On page two of the CDUA (also page two of the EA), there is the statement, under the "background" section, that Levy "has purchased the subject parcel from Mr. Michael Boteilho through an agreement of sale. Upon the final transfer of the property, the deed will state Pacific Land and Cattle, Inc., as the land owner for estate planning purposes."

This raises some interesting questions. First, if the agreement of sale is not yet consummated (as is suggested in the above paragraph), then the use of the phrase "has purchased" is

inaccurate in describing Mr. Levy's relationship to the parcel. At the present time, I believe Levy owns no more than a 20 percent undivided interest in the parcel, with his purchase of the remainder contingent upon the approval of his application by the Land Board.

This, in turn, suggests that Boteilho, the primary owner, is using the prospect of an approved application to increase the value of his property -- in other words, he is speculating in the Conservation District, banking (literally) upon Board action to put money in his pocket.

The way the Board should avoid this (and, in turn, the way that the OCEA should discourage this) is to require all applicants to disclose fully their ownership interest and, if applicable, any and all agreements of sale that would perfect their ownership interest (including any conditions of those agreements of sale).

III. Probable commercial use

If, as this "application" states, the ultimate owner of the land is to be Pacific Land and Cattle ("for estate planning purposes"), yet another interesting angle is raised. If Levy intends to use the ranch for nothing more than hobby purposes, why should his corporation be the owner? If these "estate planning purposes" (otherwise unspecified) involve the creation of a tax shelter centering on ownership of Conservation District land, that would suggest that far from the "residential ranch" being a non-commercial entity, it rather would be commercial to the very core. (Corporations, in other words, do not exist for other than commercial reasons -- unless they are non-profit corporations, which I doubt Pacific Land and Cattle is.)

The OCEA has been too lax, I would contend, in examining the purposes to which land in the Conservation District is intended to be put. In one case that I have followed closely, the applicant has told one story to the court (that he is holding the land entirely as a speculative venture to increase the value of a trust for the benefit of his son) while singing a completely different tune to the OCEA (that he is intending to build on the land). I suspect that something of the same thing may be going on here: That the land will be used as a tax shelter for corporate purposes, as far as the IRS is concerned, while ostensibly being a "private residential ranch" as far as the DLNR is concerned.

There is nothing inherently illegal about a commercial venture in the Conservation District, especially when the venture involves using the land for permitted purposes (as use of the land for pasture or ranch purposes would be in this case). However, commercial use does require that a public hearing be held on the CDUA. I believe that whenever the ultimate owner of a piece of Conservation District land is to be a corporation, a public

hearing (triggered by the commercial use aspect of the proposed CDUA) is in order.

IV. Resolution of King's Highway

The "applicant" acknowledges an old highway crossing the property. However, by his prior, unpermitted grading, he has obliterated all trace of the highway. Before this application can proceed, before the selection of a house site can occur, before this EA can be accepted as complete (and before the anticipated negative declaration can be issued), the location of the highway needs to be resolved.

I believe this can be accomplished in just one way: By having the "applicant" hire people with local knowledge -- people who have used the trail for years -- to stake, to the best of their ability, the contours and meanders of the highway.

The "applicant's" erasure of the highway should be considered a violation of Conservation District rules, inasmuch as it was accomplished without benefit of a permit. Fines appropriate to the violation should be imposed and collected before approval of the CDUA.

V. Additional violations

The easement over which the "applicant" has legal access to this parcel is a 12-foot-wide state-owned road. It is my understanding that the "applicant" has widened this road substantially -- and, once more, without benefit of permit. Fines should be imposed and collected as appropriate before further processing of this CDUA.

VI. Architectural concerns

The plans submitted with the "application" show one "bedroom" that has no closet, has double doors, and has no access to a bath without entering and traversing through another bedroom. I suggest that this is no "bedroom" at all, but is rather an office or study. I would ask that the description and intended use of this room be clarified before plan approval.

VII. Environmental concerns

The stables may be presumed to generate substantial animal waste. How is this to be managed? (The concentration of animal waste is far greater with this type of use than it would be with cattle ranging freely over the 63 acres, as occurred in the past.) Will some type of waste pond be required?

I would suggest that the Environmental Protection Agency be asked to provide some comment on what type of environmental regulations might apply to this proposed use. In this same connection, there

should be some description in the EA of the numbers of head of livestock that the "applicant" intends to keep on the property.

Also, will the swimming pool have a drain? If so, will the drain require an NPDES permit? Again, I would suggest checking with the Department of Health and/or the EPA.

The Department of Health does require installation of a septic tank system, as the EA indicates (page 5). However, the EA does not indicate where this septic tank and leach field will be with respect to the proposed house site. This is significant, inasmuch as the septic tank and leachfield might reasonably be expected to be downslope of the house (water does not run uphill yet). With the house to be situated so close to the cliffs, the placement of the septic tank and leach field may be difficult. This should be anticipated in the EA rather than glossed over.

The "applicant" states (page 6) that "Permits were obtained" for clearing and burning undergrowth and "some guava trees." The EA should provide the specifics of these permits (dates, by whom issued, etc.). Additionally, compliance with county grading ordinances should be confirmed.

The "applicant" states (page 8) that areas disturbed during construction "will be revegetated with native plant material." This is easily said, but not so easily done. If this replanting with native "material" is to be made a condition of the permit (and the "applicant" seems to be willing to have it be so), then there needs to be some flesh stuck on these bones. A description of native plants suitable and cultivable should be provided, as well as a landscape plan that shows what plants are to be used where.

Sincerely,


Patricia Tummons

cc: Brian Choy, OEQC

RESPONSE TO :

11/16/93 Letter

From: Patricia Tummons
To: Roy Schaefer, Planner, DLNR; Office of Conservation & Environmental Affairs
Re: MA-9/28/93 2671

Ms. Tummons voiced the following concerns:

1. The application, as it appears in the EA, is incomplete...

The application, along with its' cover letter, was submitted to the DLNR Office of Conservation and Environmental Affairs and was accepted. [Refer to Exhibit 8]

2. Inaccurate description of Levy's relation to property

Mr. Levy and Mr. Boteilho own the parcel together. The specific relationship[s] between these two land owners is not the subject of the CDUA.

3. Probable commercial use

The applicant desires to continue the non-conforming grazing related land use activities within the state conservation district. The applicant does not intend to and is not requesting to increase the non-conforming commercial use.

The applicant understands that if they desire to introduce new, or increase the present, commercial use of the property that they must file a new CDUA and the request will be heard at a public hearing.

4. Resolution of the King's Highway

The initial "obliteration" of the "King's Highway" occurred circa 1963 therefore it has not been addressed in this application.

As stated in the initial draft, the applicant will work with the DLNR; Division of Forestry and Wildlife Trails and Access Specialist regarding resolution of the "King's Trail".

5. Additional Violations

The CDUA is for a separate parcel than that of the access easement. Refer to exhibit 14.

6. Architectural Concerns

The final construction plans will be submitted to the Maui County Public Works, Building Department for Universal Building Code compliance review.

7. Environmental Concerns

"substantial animal waste..."

This issue was addressed in the initial draft under Summary of Proposed Use: "Animal waste will be recycled for plant mulching. Excess waste will be offered to the community or transported to the appropriate landfill."

"will the swimming pool have a drain?..."

"the placement of the septic tank and leach field..."

All swimming pools have drains. The majority of water lost from the pool will be through evaporation. An underground drywell will be constructed for drainage of the pool. This drywell, as well as the septic tank and leach field, can be sited at a higher elevation than the house with the use of sump pumps to maintain constant pressure.

"clearing and burning undergrowth and "some guava trees." "... Refer to exhibits 5 and 6 for the appropriate authorization.

"areas disturbed by construction "will be revegetated with native plant material."..."

As stated in the initial draft under Project Description "Areas disturbed during construction will be revegetated with native plant material." The applicant has consulted with the Forestry Division regarding the landscaping of the parcel with local plant types. The applicants' Landscape Architect will follow the Forestry Division recommendations for planting.

EA

Curm?

EXHIBIT 26



DEPARTMENT OF WATER SUPPLY
COUNTY OF MAUI
P.O. BOX 1109
WAILUKU, MAUI, HAWAII 96793-7109

DEPARTMENT OF LAND AND NATURAL RESOURCES
STATE OF HAWAII

November 17, 1993

DLNR 93-08

Mr. Keith W. Ahue, Chairperson
State of Hawaii
Department of Land and Natural Resources
Commission on Water Resource Management
P. O. Box 621
Honolulu, Hawaii 96809

[Handwritten mark]

Dear Chairperson Ahue:

RE: Proposed Private Residential Ranch for Pacific Land and Cattle, Inc. at TMK: 1-2-1:04, Kaliae, Maui; Request for Conservation District Use Permit No. MA-9/28/93 - 2671

The applicant will be required to have their private fire protection system certified by a licensed engineer and submit the plans to our department for review and approval. Further, the applicant will be required to enter into a private water system agreement with the department.

Sincerely,

[Handwritten signature: David R. Craddick]

David R. Craddick, Director
DDS

RECEIVED
1993 NOV 30 AM 8:33
DLNR
OCEA

"By Water All Things Find Life"

RESPONSE TO :

11/17/93 Letter

From: David R. Craddick, Director, Department of Water Supply, County of Maui
To: Mr. Keith W. Ahue, Chairperson, DLNR
Re: MA-9/28/93 2671

"The applicant will be required to have their private fire protection system certified by a licensed engineer and submit the plans to our department for review and approval. Further, the applicant will be required to enter into a private water system agreement with the department."

The applicant will accept said condition[s].

EXHIBIT 27

UNITED STATES
DEPARTMENT OF
AGRICULTURE

SOIL
CONSERVATION
SERVICE

70 S. HIGH STREET, RM. 215
WAILUKU, HAWAII
96793

Date: November 18, 1993

Mr. Roy Schaefer
Department of Land & Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

RE: Levy and Boteilho Private Residential Ranch
TMK: 1-2-01:04

Dear Mr. Schaefer,

Any grading and or grubbing on the parcel should meet guidelines stated within the County of Maui Grading Ordinance by obtaining a grading permit from Department of Public Works, Land Use & Code Administration, or secure an agricultural exemption in developing a conservation plan through the Hana Soil & Water Conservation District.

I understand that grading or grubbing has been initiated on the parcel. I recommend that if grading or grubbing has commenced, the applicant be required to meet the County's Grading Ordinance as a condition to the CDUA.

Sincerely,

Neal S. Fujiwara

Neal S. Fujiwara
District Conservationist

cc. Mr. Fred Levy & Michael Boteilho
✓ Mr. Martin Cooper
OEQC

RESPONSE TO :

11/18/93 Letter

From: Neal S. Fujiwara, District Conservationist, Soil Conservation Service, US Department of Agriculture
To: Roy Schaefer, DLNR; Office of Conservation and Environmental Affairs.
Re: MA-9/28/93 2671

"Any grading and or grubbing on the parcel..."

The grubbing of the parcel has been completed with the property being successfully reseeded. The applicant is willing to consult with the Department of Public Works, Land Use and Codes Administration to review the county's Grading Ordinance.

EXHIBIT 28

Marc Hodges
103 Kokomo Road
Haikū, Hawai'i 96708

11/19/93

Attention: Martin Cooper
Interisland Design Group, Inc.
560 North Nimitz Hwy #201F
Honolulu, Hawai'i 96817

**Re Levy and Boteilho Private Residential Ranch Draft Environmental
Assessment and CDUA # MA-92893-2671
@ TMK 1-2-01:04**

I am a wildlife biologist presently employed at the Field Research Division of Haleakalā National Park, Maui. I write to you now as an independent professional.

My duties at Haleakalā National Park are the development and implementation of monitoring protocols for the endemic Hawaiian stream fauna, including 'opae, 'o'opu, and hīhiwai found at 'Ohe'o Gulch, Kīpahulu, Maui. During the last three years I have conducted intensive research on the population ecology, population genetics, and conservation biology of the endemic Hawaiian stream fauna of Honomanu, Waiohue, and Hanawi Streams on the Hāmākualoa coast of Maui, and in Waikolu Stream on the north shore of Moloka'i. During these three years I have, in addition, investigated the aquatic populations of a large number of streams statewide, including those which occur between Nāhiku landing and Ke'anae-Wailuanui, Maui.

I have a strong professional interest in the populations of Hawaiian stream organisms occurring throughout Hawai'i. As a member of the biological community conducting research on Hawaiian stream ecology, protection and management, I have been recently asked by the State Commission on Water Resource Management (CWRM) to identify those streams in Hawai'i which merit protection because of high biological quality.

Much of my research has focussed on hīhiwai. Research is presently showing hīhiwai to be an indicator of high natural stream quality, and the species is, therefore, particularly vulnerable to degradation of water quality and other habitat characteristics.

On a number of occasions I have investigated the aquatic populations in Kopiliula Stream. Kopiliula runs just to the east of the property at TMK 1-2-01:04

which is the subject of the project described in Levy and Boteilho Private Residential Ranch Draft Environmental Assessment and CDUA # MA-92893-2671.

Kopiliula Stream contains a population of hīhiwai which is, on a statewide basis, extremely significant. The population of hīhiwai in Kopiliula has exhibited the highest density of large, adult hīhiwai that I have yet observed anywhere in Hawai'i. There can be no doubt that this population contributes in a highly significant manner to the health of this species on the Hāmākua coast, and, as a result, statewide.

I intend to inform the CWRM of the excellent quality of Kopiliula Stream and recommend the highest legal protection.

I am disturbed to learn that the Applicant and/or the agents of the Applicant have not adequately consulted those federal and state agencies, i.e. the U.S. Fish and Wildlife Service and/or the State of Hawai'i Department of Aquatic Resources, which both conduct research and make management recommendations regarding Hawai'i's valuable stream life. I understand that in addition to a lack of appropriate consultation, full discussion has not been offered by the Applicant or its agents of the effects of the proposed project on Kopiliula Stream and its resident organisms.

I understand that, subsequent to road improvements and bull-dozing that was carried out by the Applicant prior to completion of the environmental review process, significant erosion has already occurred at the site. Sediment-laden run-off from the project site has been reported to have already entered the Kopiliula watershed.

Full environmental assessment of the value of, and potential impacts of the project to, the valuable stream fauna populations present in Kopiliula Stream must be made before any further consideration is given to the project proposed by the Applicant.

Sincerely Yours,

Marc Hodges
Wildlife Biologist

cc: Office of Environmental Quality Control

Applicant: Fred Levy and Michael Boteilho c/o Pacific Land and Cattle Inc

Agency: Department of Land and Natural Resources

RESPONSE TO :

11/19/93 Letter

From: Mark Hodges
To: Martin Cooper
Re: MA-9/28/93 2671

Mr. Hodges voiced the following concerns:

1. "...I am disturbed to learn that..."

The applicant was not aware of the "extremely significant" population of hiliwai in the Kopiliula Stream prior to grubbing the property; however, the applicant does take issue with Mr. Hodges implying that their project presents a major danger to the stream life.

As stated previously, the applicant is willing to work with the DLNR's Division of Aquatic Resources to prevent and minimize soil erosion into the aquatic habitats during construction.

APPROPRIATE PARTIES

POSTED
NOV 29 1993

EXHIBIT 29

SR 93 Ke'anae
Ha'iku, Hawai'i 96708
November 29, 1993

'93 NOV 30 12:55

OFFICE OF ENVIRONMENTAL
QUALITY CONTROL

Brian J. J. Choy, Director
Office of Environmental Quality Control
220 South King Street
Central Pacific Plaza, Suite 400
Honolulu, Hawai'i 96813

RE: Draft Environmental Assessment and Conservation District Use
Application/Levy and Boteilho Private Residential Ranch,
Kalia'e, Maui, TMK 1-2-01:04/MA-9/28/93-2671

Dear Mr. Choy:

Recently the Ke'anae-Wailuanui Community Association sent to you our comments on the above proposal. By mistake we sent you two copies. Could you please give the extra copy to the Environmental Council?

Enclosed is a copy of my letter to Chair Keith Ahue of BLNR expressing our concerns about the difficulty of obtaining information on the proposal. We would appreciate whatever assistance you can give us in encouraging DLNR to make the changes I suggest.

In the interim, I request that we be sent two copies of the final EA when it is submitted.

] Hky: DLNR

As we noted in our comments on the DEA, we were not consulted in its preparation, despite a specific request to BLNR to be consulted in any actions affecting our community and despite the fact that other agencies alerted the applicant to our concern.

Thank you for your consideration.

Sincerely,

Elaine S. Wender

Encl.: 11/29/93 Wender to Ahue

c: Roy Schaefer, DLNR
Fred Levy and Michael Boteilho
Martin Cooper, Interisland Design Group, Inc.

SR 93 Ke'anae
Ha'iku, Hawai'i 96708
November 29, 1993

Keith Ahue, Chair
Board of Land and Natural Resources
1151 Punchbowl St.
Honolulu, Hawai'i 96813

RE: Draft Environmental Assessment and Conservation District Use
Application/Levy and Boteilho Private Residential Ranch,
Kalia'e, Maui, TMK 1-2-01:04/MA-9/28/93-2671

Dear Mr. Ahue:

The Ke'anae-Wailuanui Community Association has a number of concerns relating to the above application. We have submitted extensive comments to your Office of Conservation and Environmental Affairs (OCEA) and our community has petitioned you for a public hearing in this matter. To date we have not received a response to our request for public hearing. We renew our request for such a hearing, to be held after a final EA or EIS is accepted.

When I first saw the notice of the above project in the OEQC Bulletin I called OCEA and requested that a copy of the Draft Environmental Assessment (DEA) be sent to me. I was informed by Roy Schaefer that he had no extra copies and that I could get a copy from the Maui DLNR office by paying \$.50 a page. This I did.

Recently I went to the DLNR office on Maui to check the file on this project. I wanted to review the comments of other agencies and groups. I was surprised to find no such comments. On November 22 I called Roy Schaefer of OCEA and he informed me that his office does not provide any of the comments to the Maui office. The only way I could review the file would be to fly to Honolulu. He did offer to provide me with documents, at a cost of \$.50 per page. I therefore ordered from him a number of pages which I might or might not really want; it is impossible to know without seeing them. That was a week ago. I still have not received them.

Mr. Schaefer also informed me that we would not be sent copies of any other documents, such as the final EA, and that OCEA would not require the applicants to provide them to us. He suggested that it might be possible for us to get one of the four copies that his office would be providing to OEQC.

These policies of DLNR fly in the face of the requirements for public consultation required by the EIS process. I have commented on many DEAs, EAs and EISs in the past. In all prior cases I have been sent a copy of the document when I requested it, and have received copies of subsequent documents.

As a non-profit community association, we do not have the funds to fly someone to Honolulu to review the file. I urge you to make the following changes in your procedures:

1. DEAs, EAs, EISs and other documents subject to public review should be given free of charge to individuals and organizations wishing to comment.
2. A duplicate file should be maintained in the DLNR office on the affected island concerning any application. At a minimum, such files should be maintained when a request is made.
3. No charge should be made for duplication of materials from the files for non-profit organizations.
4. Any person or organization who has requested to be notified of and/or consulted concerning pending applications should be so notified and/or consulted.

Thank you for your attention to this matter. I look forward to your response.

Sincerely,



Elaine S. Wender

eci OEQC

RESPONSE TO :

11/29/93 Letter

From: Elaine Wender
To: Keith Ahue, Chairperson, BLNR
Re: MA-9/28/93 2671

Ms. Wender voiced the following concerns:

1. "...request for public hearing..."

No public hearing is required. [Refer to HRS, Section 183-41]

2. "As a non-profit community association, we do not have the funds to fly someone to Honolulu to review the file."

An additional copy of the Final CDUA will be left with DLNR/OCEA to be forwarded to the Maui DLNR office.

Law
JOHN WAIHEE
GOVERNOR OF HAWAII

RECEIVED



EXHIBIT 30

JOHN C. LEWIN, M.D.
DIRECTOR OF HEALTH

'93 DEC 7 AM 9:55
STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. BOX 3378
HONOLULU, HAWAII 96801

DLNR
OCEA

In reply, please refer to:

December 1, 1993

93-290/epo

To: The Honorable Keith W. Ahue, Chairperson
Department of Land & Natural Resources

From: John C. Lewin, M.D. *John C. Lewin*
Director of Health

Subject: Conservation District Use Application

Applicant: Mr. Fred Levy
File No: MA-9/28/93-2671
Request: Private Residential Ranch
Location: Kaliae, Maui
TMK: 1-2-2: 04

Thank you for allowing us to review and comment on the subject request.
We have the following comments to offer:

Wastewater

At this time, we have no objections to the proposed construction of a private residential ranch with additional facilities for animals, as we concur with the proposed method of wastewater treatment and disposal. The subject project is located in the critical wastewater disposal area as determined by the Maui Wastewater Advisory Committee. No new cesspools will be allowed in the subject area. Non-cesspool, treatment individual wastewater systems will be allowed and wherever possible, irrigation utilizing the treated effluent is encouraged.

All wastewater plans must conform to applicable provisions of the Department of Health's Administrative Rules, Chapter 11-62, "Wastewater Systems" and we reserve the right to review these plans.

If you should have any questions on this matter, please contact Ms. Lori Kajiwara of the Wastewater Branch at 586-4290.

c: Wastewater Branch

RESPONSE TO :

12/1/93 Letter

From: Dr. John C. Lewin, M.D., Director, Department of
Health, State of Hawaii
To: Keith Ahue, Chairperson, DLNR
Re: MA-9/28/93 2671

DOH stated the following:

"All wastewater plans must conform to applicable provisions of the Department of Health's Administrative Rules, Chapter 11-62, "Wastewater Systems" and we reserve the right to review these plans."

The Construction documents for the projects' "Individual Wastewater Treatment System" will be submitted to the Department of Health for review and comment.

Cow

LINDA CROCKETT LINGLE
Mayor
GEORGE N. KAYA
Director
CHARLES JENCKS
Deputy Director
AARON SHINMOTO, P.E.
Chief Staff Engineer



COUNTY OF MAUI
DEPARTMENT OF PUBLIC WORKS
AND WASTE MANAGEMENT

LAND USE AND CODES ADMINISTRATION
250 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793

December 15, 1993

5925
~~EXHIBIT~~ 31
RALPH NAGAMINE, L.S., P.E.
Land Use and Codes Administration
EASSIE MILLER, P.E.
Wastewater Reclamation Division
LLOYD P.C.W. LEE, P.E.
Engineering Division
DAVID WISSMAR, P.E.
Solid Waste Division
BRIAN HASHIRO, P.E.
Highways Division

RECEIVED
93 DEC 20 AM 10:20
DLNR
OCEA

Mr. Keith Ahue
State of Hawaii
Department of Land and Natural Resources
P.O. Box 621
Honolulu, HI 96809

SUBJECT: Conservation District Use Application for a Private Residential Ranch
File No.: MA-9/28/93-2671
TMK: 1-2-1:4

Dear Mr. Ahue:

We reviewed the subject application and have the following comments:

1. Comments from the Engineering Division:
 - a. No comments.
2. Comments from the Solid Waste Division:
 - a. Alternative means of disposal of grubbed material and rock shall be utilized other than disposed of at the County landfills.

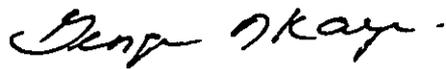
The applicant is requested to contact the Solid Waste Division at 243-7875 for additional information.
3. Comments from the Land Use and Codes Administration:
 - a. The Housing Code requires the entrance for the proposed master bedroom to be from within the dwelling.

Mr. Keith Ahue
Page 2 of 2
December 15, 1993

- b. The proposed access easement is required to be subdivided in conformance to Title 18 of the Maui County Code.

The applicant is requested to contact the Land Use and Codes Administration 243-7373 for additional information.

Very truly yours,



GEORGE N. KAYA
Director of Public Works

RMN:ey
1293f:page 56-57

xc: LUCA
Engineering Division
Solid Waste Division

RESPONSE TO :

12/15/93 Letter

From: Mr. George N. Kaya, Director, Department of Public Works and Waste Management, County of Maui
To: Keith Ahue, Chairperson, DLNR
Re: MA-9/28/93 2671

DPW stated the following:

1. Engineering Division : no comments.
2. Solid Waste Division :
 - a. Alternate means of disposal of grubbed material and rock shall be utilized other than disposed of at the County landfills.

The applicant will accept said condition.

3. Comments from Land Use and Codes Administration :
 - a. The Housing Code requires that entrance for the master bedroom to be from within the dwelling.

The applicant will accept said condition.

- b. The proposed access easement is required to be subdivided in conformance to Title 18 of the Maui County Code.

The applicant will accept said condition.