

U. S. DEPARTMENT OF AGRICULTURE  
FOREST SERVICE

COMMUNICATIONS USE LEASE

MARION BOARD OF COUNTY COMMISSIONERS, ATTN: RAY MULKEY, RADIO MANAGER of P.O. BOX 1987 OCALA, FL 34478

THIS LEASE, dated this 5<sup>th</sup> day of December, 2000, by and between the UNITED STATES OF AMERICA, acting through the Forest Service, Department of Agriculture (hereinafter called the "United States" or "Forest Service"), as authorized by the Act of October 21, 1976, (90 Stat. 2743; 43 U.S.C. 1761, et seq.), and MARION BOARD OF COUNTY COMMISSIONERS, its agents, successors, and assigns (hereinafter called the "Lessee").

The United States and the Lessee are jointly referred to herein as the "Parties". As used herein, the "Authorized Officer" refers to the Forest Service official having the delegated authority to execute and administer this lease. Generally, unless otherwise indicated, such authority may be exercised by the Forest Supervisor or District Ranger of the National Forest wherein the following described lands are located.

The United States, for and in consideration of the terms and conditions contained herein and the payment of the United States of a rental in advance by the Lessee, does hereby grant to the Lessee a lease for the following described lands in the County of Marion, State of Florida: Sec. 14, T. 15 S., R. 25 E., TALLAHASSEEMERIDIAN (hereinafter called the "property"). The Lessee accepts this lease and possession of the property, subject to any valid existing rights, and agrees not to use the property, of any part thereof, except as a site for only the construction, operation, maintenance, and termination of a communications facility.

The location of the property is shown generally on the site plan dated 10/19/2000 for the MARION CO. - FOREST Communications Site which is attached and made part hereof as Exhibit A.

The dated and initialled exhibit(s), attached hereto, are incorporated into and made a part of this instrument as fully and effectively as if they were set forth herein in their entirety.

The parties agree that this lease is made subject to the following terms and conditions.

I. TENURE, RENEWAL AND TRANSFERABILITY

A. This lease shall terminate at one minute after midnight on 12/31/2019. Termination at the end of the lease term shall occur by operation of law and shall not require any addition notice or documentation by the Authorized Officer. This lease is not renewable; but the Lessee has the right to request a new lease pursuant to Paragraph "C" below.

B. The Lessee shall undertake and pursue with due diligence construction and operation that is authorized by this lease.

C. If the Lessee desires a new lease upon termination of this lease, the Lessee shall notify the Authorized Officer accordingly, in writing. The notice must be received by the Authorized Officer at least one year prior to the end of the lease term. The Authorized Officer will determine if the use should continue and, if it is to continue, if a new lease should be issued to the Lessee and under what conditions. The Authorized Officer shall require payment of any amounts owed the United States under any Forest Service authorization before issuance of another authorization.

D. This lease is assignable with prior written approval of the Authorized Officer, except when the rental has been waived in whole or part. Renting of space does not constitute an assignment under this clause.

## II. RENTAL

A. The Lessee must pay in advance an annual rental determined by the Authorized Officer in accordance with law, regulation, and policy. The annual rental will be adjusted by the Authorized Officer to reflect changes in fair market value, annual adjustments using the Consumer Price Index - Urban (CPI-U), changes in tenant occupancy, or phase-in rental, if applicable.

B. Rentals are due at the close of business on January 1 of each year for which a payment is due. Payments due the United States for this use shall be deposited at USDA - FS, C/O Bank of America, File 71652, P.O. Box 60000, San Francisco, CA 94160-1652 in the form of a check, draft, or money order payable to Forest Service, USDA. If the due date for the rental or rental calculation statement falls on a non-work day, the charges shall not apply until the close of business on the next workday. This lease terminates if rent is not received by the Forest Service within 90 calendar days of the due date.

C. Pursuant to 31 U.S.C. 3717, et seq., interest shall be charged on any rental amount not paid within 30 days from the date the rental or rental calculation financial statement specified in this authorization becomes due. The rate of interest assessed shall be the higher of the rate of the current value of funds to the U.S. Treasury (i.e., Treasury tax and loan account rate), as prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins annually or quarterly or at the Prompt Payment Act rate. Interest on the principal shall accrue from the date the rental or rental calculation financial statement is due. In addition, an administrative penalty at a percentage rate prescribed by law or regulation will be assessed for failure to pay any portion of the debt that is more than 90 days past due. This paragraph shall survive the termination or revocation of this lease, regardless of cause.

D. Disputed rentals are due and payable by the due date. No appeal of rentals will be considered by the Forest Service without full payment of the disputed amount.

## III. RESPONSIBILITIES OF THE LESSEE

A. The Lessee is authorized to rent space and provide other services to customers and/or tenants and shall charge each customer/tenant a reasonable rental without discrimination for the use and occupancy of the facilities and services provided. The Lessee shall impose no unreasonable restrictions nor any restriction restraining competition or trade practices. By October 15 of each year, the Lessee shall provide the Authorized Officer a certified statement listing all tenants and customers, by category of use in the facility on September 30th of that year.

B. All development, operation and maintenance of the authorized facility, improvements, and equipment located on the property shall be in accordance with stipulations in the communications site plan approved by the Authorized Officer. If required by the Authorized Officer, all plans for development, layout, construction, or alteration of improvements on the property as well as revisions of such plans, must be prepared by a licensed engineer, architect, and/or landscape architect. Such plans must be approved in writing by the Authorized Officer before commencement of any work. After completion, as-built plans, maps, surveys, or other similar information will be provided to the Authorized Officer and appended to the communications site plan.

C. The Lessee will comply with applicable Federal, State, county, and municipal laws, regulations and standards for public health and safety, environmental protection, siting, construction, operation, and maintenance in exercising the rights granted by this lease. The obligations of the Lessee under this lease are not contingent upon any duty of the Authorized Officer, or other agent of the United States, to inspect the premises. A failure by the United States, or other governmental officials, to inspect is not a defense to noncompliance with any of the terms or conditions of this lease. Lessee waives all defenses of laches or estoppel against the United States. The Lessee shall at all times keep the title of the United States to the property free and clear of all liens and encumbrances.

D. Use of communications equipment is contingent upon the possession of a valid Federal Communication Commission (FCC) or Director of Telecommunications Management/Interdepartmental Radio Advisory Committee (DTM/IRAC) authorization, and the operation of the equipment is in strict compliance with applicable requirements of FCC or IRAC. A copy of each applicable license or authorization shall at all times be maintained by the Lessee for each transmitter being operated. The Lessee shall provide the Authorized Officer, when requested, with current copies of all licenses for equipment in or on facilities covered by this lease.

E. The Lessee shall ensure that equipment within his or her facility (including tenant and customer equipment) operates in a manner which will not cause harmful interference with the operation of existing equipment on or adjacent to the communications site. If the Authorized Officer or authorized official of the Federal Communication Commission (FCC) determines that the Lessee's use interferes with existing equipment, the Lessee will promptly take the necessary steps to eliminate or reduce the harmful interference to the satisfaction of the Authorized Officer or FCC official.

F. When requested by the Authorized Officer, the Lessee will furnish technical information concerning the equipment located on the property.

#### IV. LIABILITIES

A. The Lessee assumes all risk of loss to the authorized improvements.

B. The Lessee shall comply will all applicable Federal, State, and local laws, regulations, and standards, including but not limited to, the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., the Comprehensive Environmental Response, Control, and Liability Act, 42 U.S.C. 9601 et seq., and other relevant environmental laws, as well as public health and safety laws and other laws relating to the siting, construction, operation and maintenance of any facility, improvement, or equipment on the property.

C. The Lessee shall indemnify, defend, and hold the United States harmless for any violations incurred under any such laws and regulations or for judgements, claims, or demands assessed against the United States in connection with the Lessee's use or occupancy of the property. The Lessee's indemnification of the United States shall include any loss of personal injury, loss of life or damage to property in connection with the occupancy or use of the property during the term of this lease. Indemnification shall include, but is not limited to, the value of resources damaged or destroyed; the costs of restoration, cleanup, or other mitigation; fire suppression or other types of abatement costs; third party claims and judgements; and all administrative, interest, and other legal costs. This paragraph shall survive the termination or revocation of this lease, regardless of cause.

D. The Forest Service has no duty, either before or during the lease term, to inspect the property or to warn of hazards and, if the Forest Service inspects the property, it shall incur no additional duty nor any liability for hazards not identified or discovered through such inspections. This paragraph shall survive the termination or revocation of this lease, regardless of cause.

E. The Lessee has an affirmative duty to protect from damage the land, property, and interests of the United States.

E(1). The holder has an affirmative duty to protect from damage the land, property, and interests of the United States. The holder, as may be permitted by Florida section 768.28, FL Statute, shall indemnify the United States against any liability for damage to life or property arising from the occupancy and use of National Forest lands.

F. In the event of any breach of the lease by the Lessee, the Authorized Officer may, on reasonable notice, cure the breach for the account at the expense of the Lessee. If the Forest Service at any time pays any sum of money or does any act which will require payment of money, or incurs any expense, including reasonable attorney's fees, in instituting, prosecuting, and/or defending any action or proceeding to enforce the United States rights hereunder, the sum or sums so paid by the United States, with all interests, costs and damages shall, at the election of the Forest Service, be deemed to be additional rental hereunder and shall be due from the Lessee to the Forest Service on the first day of the month following such election.

#### V. OTHER PROVISIONS

A. Nondiscrimination. The Lessee shall at all times operate the described property and its appurtenant areas and its buildings and facilities, whether or not on the property, in full compliance with Title VI of the Civil Rights Act of 1964 and all requirements imposed by or pursuant to the regulations issued thereunder by the Department of Agriculture and in effect on the date this lease is granted to the end that no person in the United States shall, on

the grounds of race, sex, color, religion or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any of the programs or activities provided thereon.

B. Revocation, Termination and Suspension.

1. General. For purposes of this lease, termination, revocation, and suspension refer to the cessation of uses and privileges under the lease.

"Revocation" refers to an action by the Authorized Officer to end the lease because of noncompliance with any of the prescribed terms, abandonment, or for reasons in the public interest. Revocations are appealable.

"Termination" refers to the cessation of the lease under its own terms without the necessity for any decision or action by the Authorized Officer. Termination occurs automatically when, by the terms of the lease, a fixed or agreed upon condition, event, or time occurs. For example, the lease terminates at expiration. Terminations are not appealable.

"Suspension" refers to a revocation which is temporary and the privileges may be restored upon the occurrence of prescribed actions or conditions. Suspensions are appealable.

2. This lease may be suspended or revoked upon breach of any of the conditions herein or upon nonuse. Nonuse refers to a failure to operate the facilities on the property for a period of 1 year.

3. Except in emergencies, the Authorized Officer shall give the Lessee written notice of the grounds for revocation or suspension and a reasonable time, not to exceed 90 days, to complete the corrective action. After 90 days, the Forest Service is entitled to such remedies as provided herein.

4. This lease may be revoked at the discretion of the Forest Service when in the public interest. When revoked in the public interest, the Lessee shall be compensated subject to the availability of appropriated funds. Compensation shall be based upon the initial cost of improvements located on the lease, less depreciation as allocated over the life of the improvements as declared by the Lessee's Federal tax amortization schedules.

5. Any discretionary decisions or determinations by the Authorized Officer on revocation or suspension are subject to the appeal regulations at 36 CFR 251, Subpart C, or revisions thereto.

6. In the event the Authorized Officer decides not to issue a new lease, or the Lessee does not desire a new lease, the Authorized Officer and the Lessee shall, within six months prior to the termination date of this lease, agree upon a mitigation plan to restore and stabilize the site.

7. Upon termination or revocation of the authorization, delinquent fees and other charges associated with the authorization will be subject to all rights and remedies afforded the United States pursuant to 31 U.S.C. 3711 *et seq.* Delinquencies may be subject to any or all of the following conditions:

- a. Administrative offset of payments due the holder from the Forest Service.
- b. Delinquencies in excess of 60 days shall be referred to United States Department of Treasury for appropriate collection action as provided by 31 U.S.C. 3711 (g), (1).
- c. The Secretary of the Treasury may offset an amount due the debtor for any delinquency as provided by 31 U.S.C. 3720, *et seq.*

In the event this lease is revoked for noncompliance, the Lessee shall remove all structures and improvements within 180 days, except those owned by the United States, and shall restore the site as nearly as reasonably possible to its original condition unless this requirement is otherwise waived in writing by the Authorized Officer.

If the Lessee fails to remove all structures or improvements within the prescribed period, they shall become the property of the United States and may be sold, destroyed, or otherwise disposed of without any liability to the United States.

C. Members of Congress. No member of or Delegate to Congress or Resident Commissioner shall benefit from this lease whether directly or indirectly, except when the lease provides a general benefit to a corporation.

D. Reservations. This lease is granted subject to the following reservations by the United States:

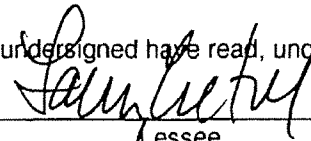
1. The right to all natural resource products now or hereafter located on the property unless states otherwise, and the right to utilize or dispose of such resources insofar as the rights of the Lessee are not unreasonably affected.
2. The right to modify the communications site plan as deemed necessary.
3. The right to enter upon the lease and inspect all facilities to assure compliance with the conditions of this lease.
4. The right of the United States to require common use of the property, and the right to authorize use of the property for compatible uses, including the subsurface and air space.

In the event of any conflict between any of the preceding printed clauses or any provisions thereof and any of the following clauses or any provision thereof, the preceding clauses shall control.

ACCEPTED this 5th day of December, 2000, I, the undersigned have read, understand and accept the terms and conditions of this lease.

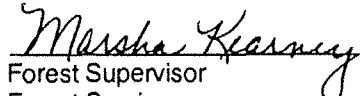
ATTEST:

  
David R. Ellspermann, Clerk

  
\_\_\_\_\_  
Lessee  
Larry Cretul, Chairman

IN WITNESS WHEREOF, the Forest Service, by its Authorized Officer, has executed this lease on the day and year first written above.

UNITED STATES OF AMERICA

  
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Forest Supervisor  
Forest Service  
Department of Agriculture

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0082.

This information is needed by the Forest Service to evaluate requests to use National Forest System lands and manage those lands to protect natural resources, administer the use, and ensure public health and safety. This information is required to obtain or retain a benefit. The authority for that requirement is provided by the Organic Act of 1897 and the Federal Land Policy and Management Act of 1976, which authorize the Secretary of Agriculture to promulgate rules and regulations for authorizing and managing National Forest System lands. These statutes along with the Term Permit Act, National Forest Ski Area Permit Act, Granger-Thye Act, Mineral Leasing Act, Alaska Term Permit Act, Act of September 3, 1954, Wilderness Act, National Forest Roads and Trails Act, Act of November 16, 1973, Archaeological Resources Protection Act, and Alaska National Interest Lands Conservation Act, authorize the Secretary of Agriculture to issue authorizations for the use and occupancy of National Forest System lands. The Secretary of Agriculture's regulations at 36 CFR Part 251, Subpart B, establish procedures for issuing these authorizations.

The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service.

Public reporting burden for this collection of information, if requested, is estimated to average 1 hour per response for annual financial information; average 1 hour per response to prepare or update operation and/or maintenance plan; average 1 hour per response for inspection reports; and an average of 1 hour for each request that may include such things as reports, logs, facility and use information, sublease information, and other similar miscellaneous information requests. This included the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information, including suggestions for reducing this burden.

## COMMUNICATIONS SITE PLAN OCALA NATIONAL FOREST

### I. Narrative Section

The Ocala Forest tower site was originally granted a special land use permit in 1979 and has been operated by Marion County for its own use and use by the USFS since that time. No changes in the site operation are requested at this time.

#### A. Existing Situation

This is an existing site. It is located on approximately 2.5 acres of land, 330' by 330'. This center is at Latitude N29-11-05 and Longitude W081-46-24 using NAD 27. The 300', Rohn 65 tower is located in the center with a 22.7' by 12' cinder block building 2' south of the tower. The building is divided in the center with the generator located on the west side and radio equipment on the east.

Electric power is supplied underground from a nearby electric substation owned by Clay Electric. The generator is automatic start, using propane fuel. Telephone service is also underground to the building with an outdoor type interconnect box just outside the building.

The site is accessed by an undeveloped road, from the existing power transmission line right of way.

Grounding was originally provided by a water well, placed at the site for that purpose. The well is capped and does not have a pump. Later, a radial ground field was added and the resistance is less than 10 ohms.

This is a remote site, with no public access. It should not pose a threat of radio frequency radiation to the public, as the nearest public facility is several miles away.

The original user of the tower was the county EMS system. Their antenna is mounted at the top of the tower with the tip reaching 320'. All antennas on the tower are of the folded dipole type.

The tower is registered with the FCC as number 1027519.

#### B. OBJECTIVES

This is an existing site and no changes are anticipated at this time. The site does use buried power and communication lines and uses a low resistance, radial ground system.

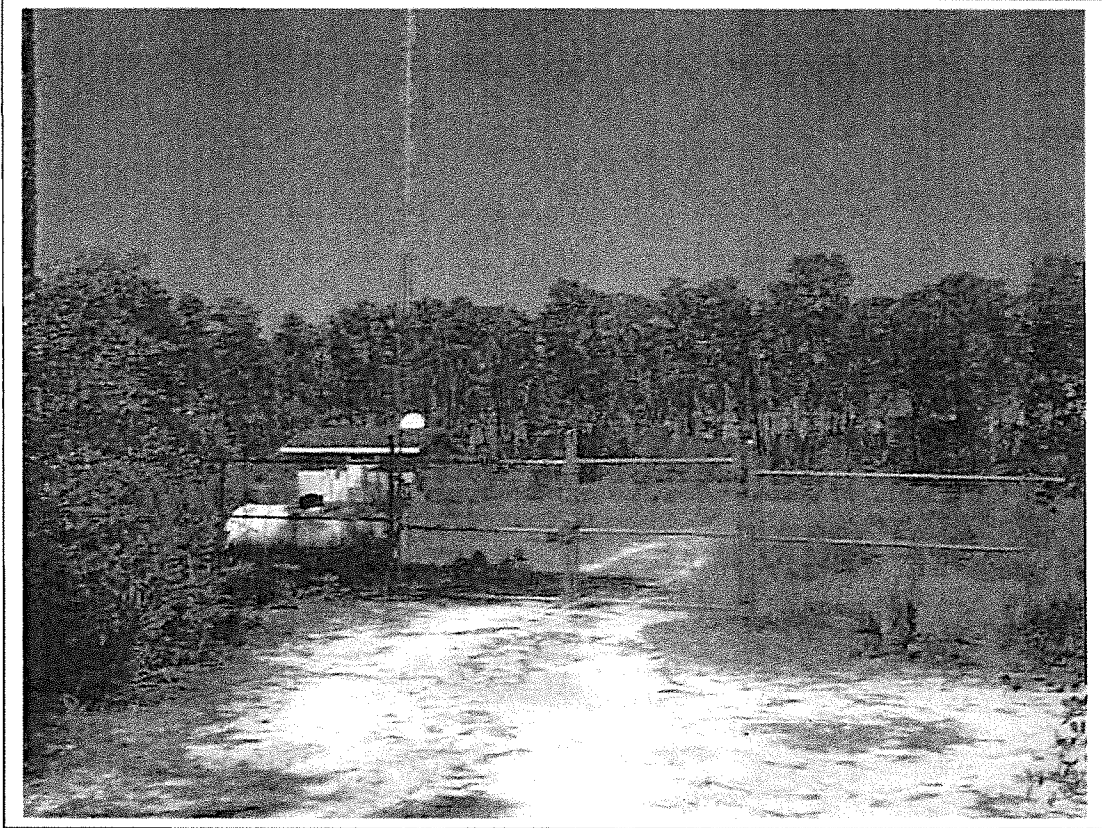
#### C. DEVELOPMENT

This site has existed since 1979, at the present time no changes are requested. The tower has reached its capacity with the existing users and would require strengthening or replacement before any additional equipment could be added.

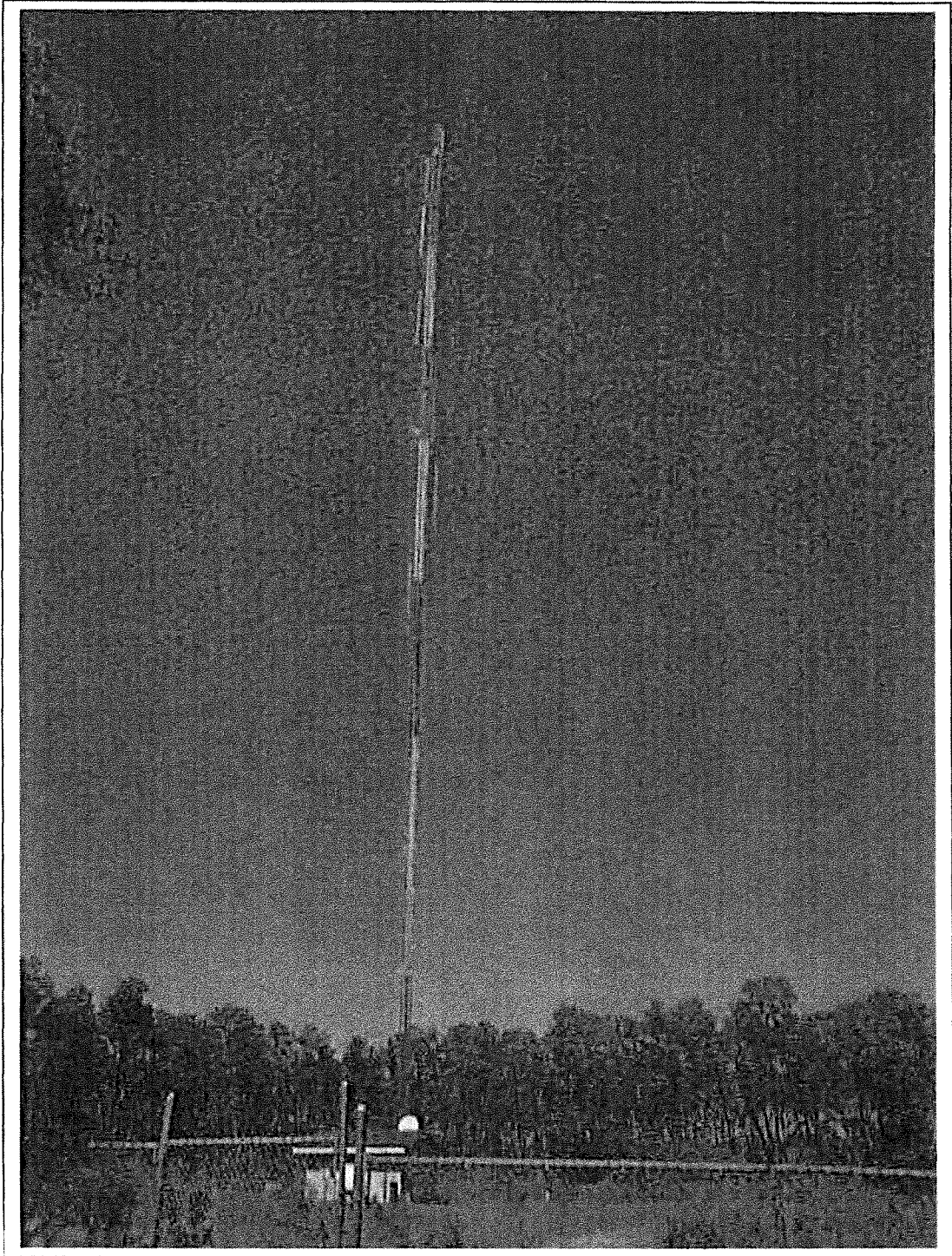
The building has also reached its capacity. Any new users would be required to build their own facilities to house their equipment.

## II GRAPHIC SECTION

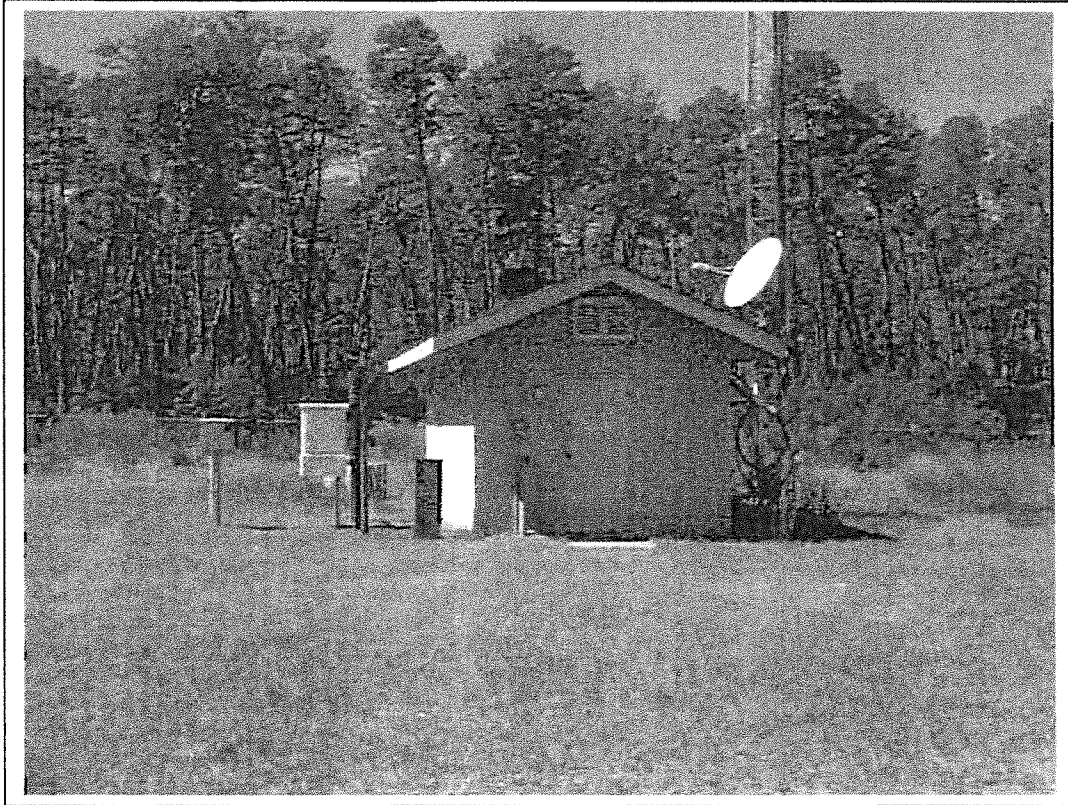
The following pictures give an overview of the site layout.



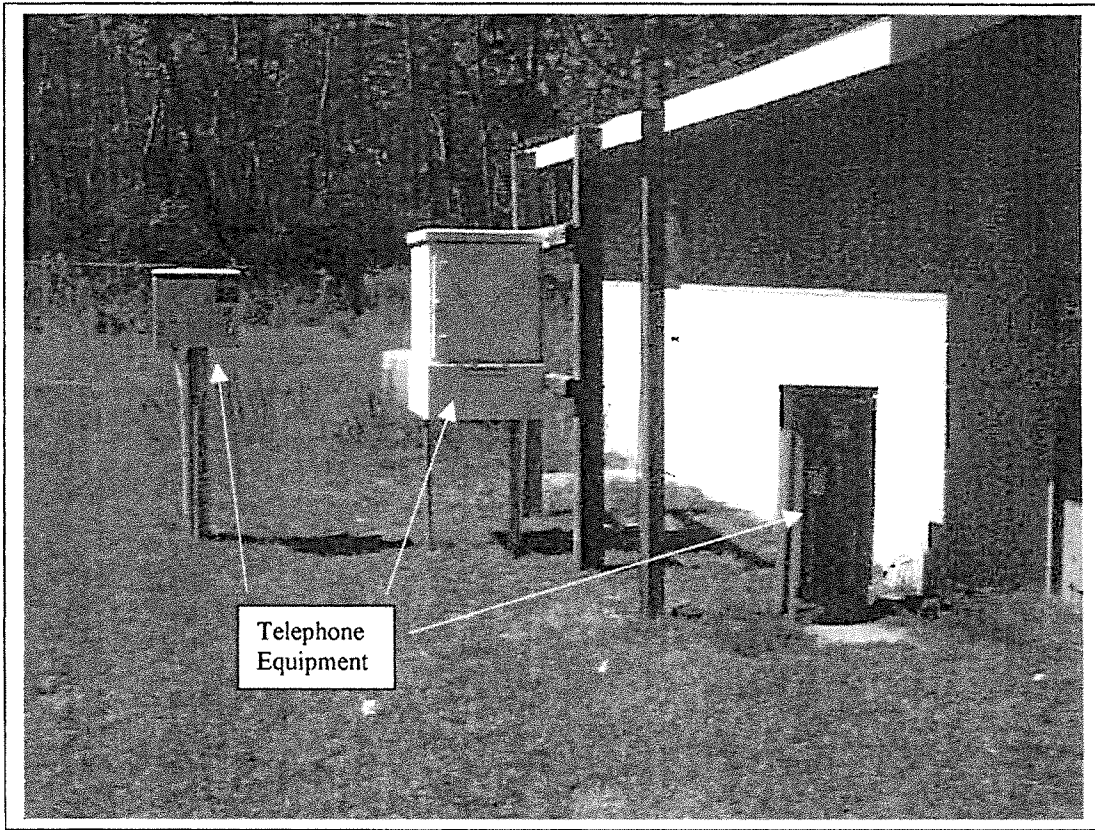
Entrance to Site

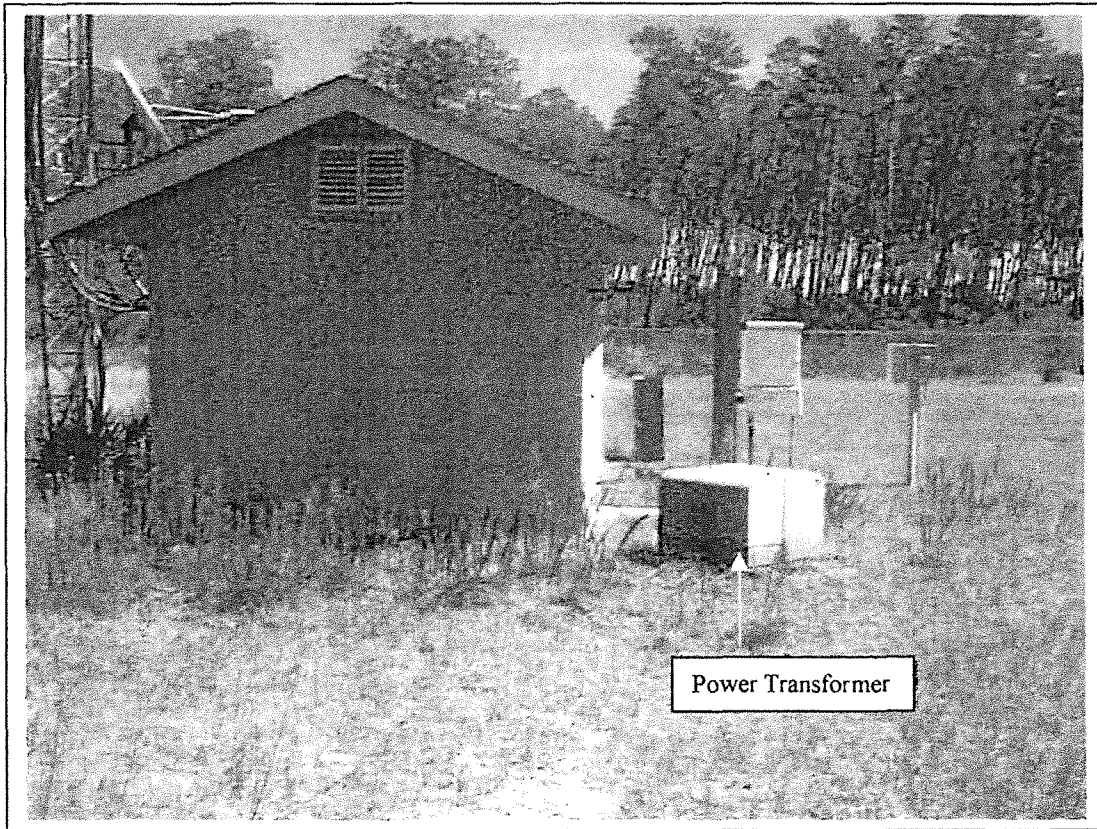


Rohn 65 Tower



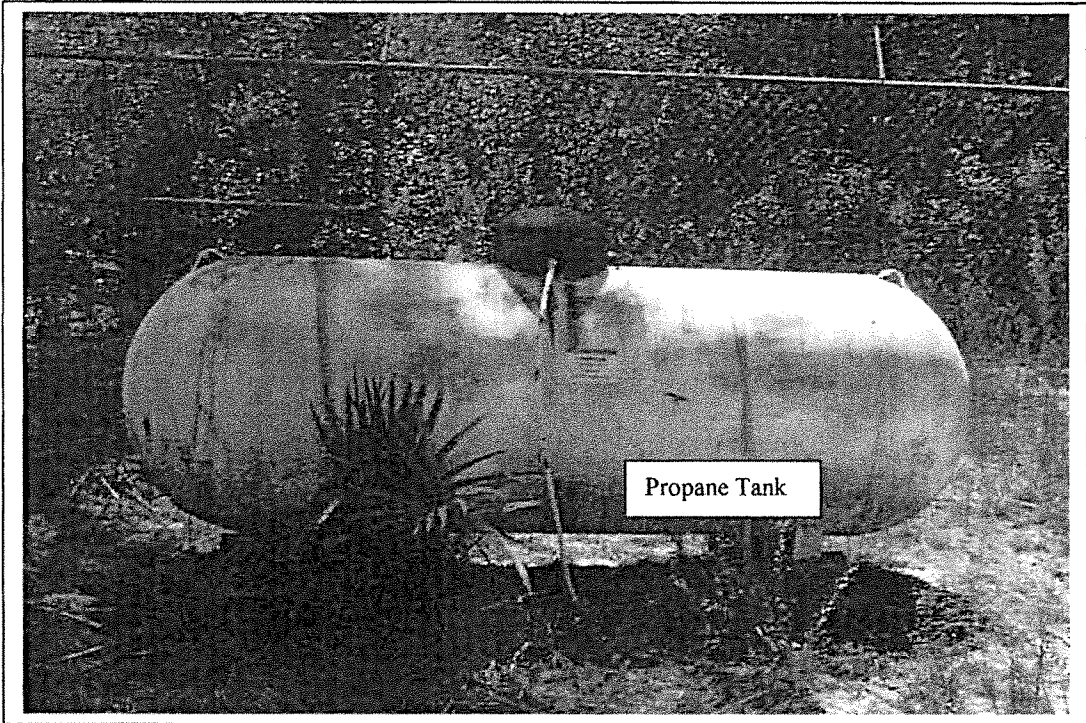
Front of Building

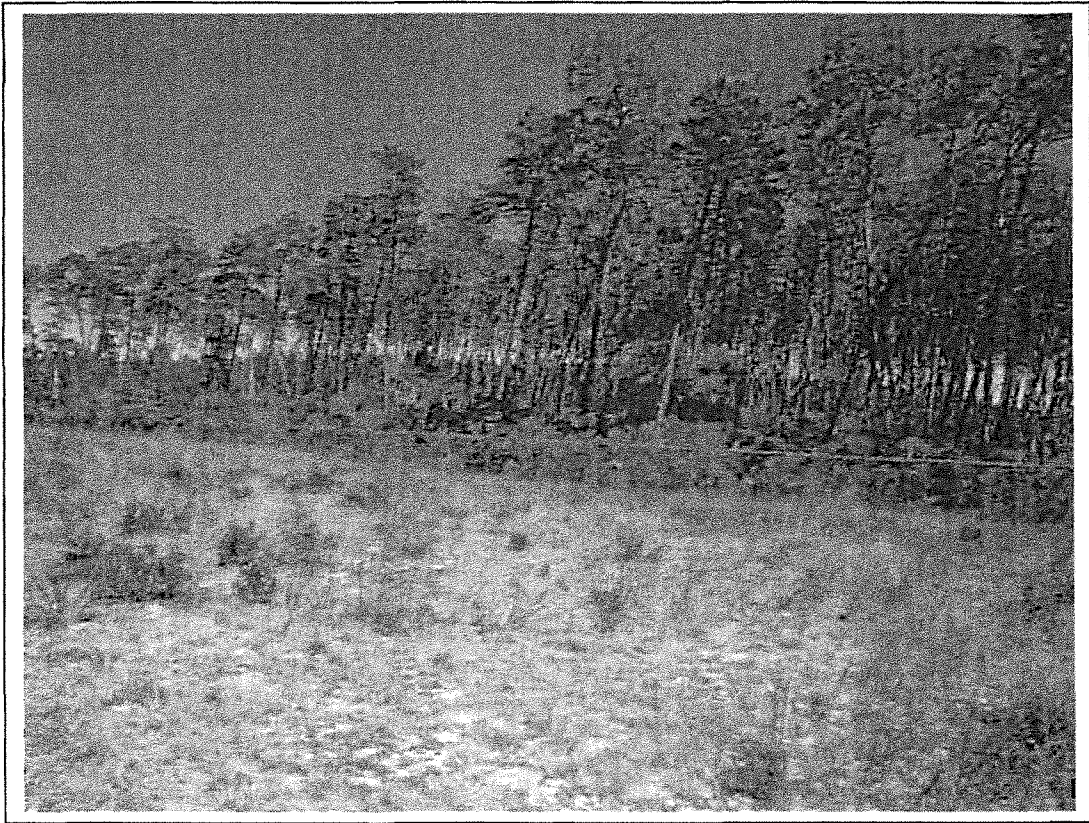




Power Transformer

Rear of Building





This gives an Idea of the surrounding landscape

### **III. Technical Section**

#### **A. Towers and Antennas**

It is the lease holder's responsibility to assure that any new or modified structure will not interfere electronically or physically with existing users or Forest Service communications. Prior to Forest Service approval of any new proposal, the lease holder is required to demonstrate noninterference to existing users.

#### **B. Electrical**

A common ground will be used and all communication equipment will be connected to the grounding system through a low resistance conductor. This system uses rings around the tower and a radial grounding system tied to each guy point. A water well is also installed at the site for the specific purpose of providing less than a ten  $\Omega$  ground. No pump is installed. Grounding is to be accomplished with straps and ground wire in accordance with the current edition of the National Electrical Code – AC and auxiliary power and grounding. All utility and telecommunication lines do follow and existing Forest Service road from the public road. Only use of 100% shielded transmission line, as warranted by the manufacturer will be permitted. All transmission lines are to be supported and connected in accordance with manufacturer's specifications. No transmission lines will be left unterminated. Lightning protection of structures and facilities will strictly adhere to the current National Fire Protection Association Number 78 standards. Applicable provisions of the current National Electrical Code will be followed.

#### **C. Electronic Equipment**

All authorized equipment shall be operated in full accordance with all applicable rules and shall have a current licenses or authorization posted on said equipment. The equipment shall also be labeled with the owner's name or service agency with a current twenty four hour contact phone number and transmitter frequencies.

#### **D. Interference**

The existing users on the site will have seniority with respect to the resolution of interference complaints. If a new installation of communications equipment or tower causes interference (electronic and/or physical), the user who installed the interfering equipment will be required to make adjustments, to solve the problem at their expense. Operation of the interfering equipment shall cease until the problem is corrected. If interference cannot be resolved or corrected within a reasonable time, authorization for the use will be terminated and the interfering user will be required to remove the interfering equipment from the site. All users shall maintain their equipment to industry and FCC standards.

#### **E. Radiation Safety**

The policy of the Forest Service is to maintain and manage communications sites to serve the public's needs while minimizing the exposure of the employee, user and public to high levels of radio radiation. All current applicable regulations and standards regarding radiation safety will be strictly complied with by all users including, but not limited to: 29CFR 1910.97 (Exhibit C), ANSI-C95.5 – Non-ionization Radiation, and 29 CFR 1910.268 (Exhibit D) – Telecommunications (Safety).

#### **F. Noise Floor Standards**

To maximize the effective sensitivity of a receiver, the level of site noise must be minimized. The following table describes site noise limits.

These standards are based on a 100-watt power output and no antenna gain at 50 $\Omega$ .

	<u>Recommended Limit</u>	<u>Maximum Permitted</u>
25-50 mHz Band	-130 dBw	-109 dBw
152-174- mHz Band	-135 dBw	-120 dBw
450-470 mHz Band	-135 dBw	-129 dBw

**G. Transmission Standards**

If and when new users occupy the site, each user will provide and install on all transmitters a protection isolator and band pass device. Transmitters sharing a common antenna should have a minimum of 120dB transmitter isolation.

