THE CITY OF SAN DIEGO

June 6, 2007

J. Gregory Turner, Esq.
Turner Law Group APC
402 West Broadway, Suite 400
San Diego, CA 92101

Reference: Right of Entry Permit

Dear Mr. Turner:

Enclosed for your records is an original, fully executed Right of Entry Permit between William McMurtry and the City of San Diego ("City"), which provides the conditions upon which the City may use a portion of the access road to the top of Lyons Peak. A check for the permit fee in the amount of $1,200 will follow shortly.

If you should have any questions, please contact me at clyoung@sandiego.gov or (619) 236-6081.

Very truly yours,

Carol L. Young
Property Agent

Enclosure

cc: David Hazlett, Deputy Director, Communications Division
Gary D. Jones, Asset Manager, Real Estate Assets

DIVERSITY BRINGS US ALL TOGETHER

Real Estate Assets
1200 Third Avenue, Suite 1700, MS 51A • San Diego, CA 92101-4199
Tel (619) 236-6020 Fax (619) 236-6706

RIGHT OF ENTRY PERMIT

THIS RIGHT OF ENTRY PERMIT ("Permit") is entered into by and between WILLIAM MCMURTRY, an individual, and THE CITY OF SAN DIEGO, a California municipal corporation ("CITY"), to be effective as of the date of execution by MCMURTRY (the "Effective Date"), when signed by the parties and approved by the San Diego City Attorney, as follows:

RECITALS

A. MCMURTRY is the owner of certain real property (the "MCMURTRY Property") located on Lyons Peak and more particularly described in **EXHIBIT A: MCMURTRY Property**, attached hereto.

B. CITY leases certain real property on Lyons Peak (the "CITY Leasehold") from the United States of America for use as a mobile radio communications facility.

C. The CITY Leasehold is currently accessible only by a road (the "Access Road") across the MCMURTRY Property, as shown in **EXHIBIT A: MCMURTRY Property**.

D. Under the terms and conditions of this Permit, MCMURTRY will allow CITY to use the Access Road for the sole purpose of ingress and egress to and from the CITY Leasehold.

NOW, THEREFORE, FOR VALUABLE CONSIDERATION, the sufficiency of which is acknowledged, the parties agree as follows:

1. Right to Enter. Subject to the terms and conditions of this Permit, MCMURTRY hereby grants permission to CITY, its employees, agents, contractors, and invitees to enter upon the Access Road solely for the purpose of ingress and egress to and from the CITY Leasehold to conduct routine maintenance, periodic replacement installations, and emergency repairs on the CITY Leasehold (the "Permit Use"), and for no other purpose whatsoever.

2. Use of Access Road. CITY may use the Access Road on a non-exclusive basis solely for the purposes of the Permit Use. Except in emergencies, CITY shall notify MCMURTRY by telephone at least 24 hours prior to using the Access Road. MCMURTRY may impose reasonable rules and restrictions as to CITY'S use of the Access Road, such as speed limits and times of day, provided such rules allow for emergency access by CITY.

3. Emergency Access. In emergencies, CITY may use the Access Road at any and all times without prior notice to MCMURTRY. MCMURTRY shall provide to CITY a means of entry through any gates or other security devices to allow such emergency use.

4. Term. The term of this Permit shall be five (5) years, commencing on the Effective Date. This Permit may be terminated by either party upon six (6) months prior written notice.

5. Permit Fee. CITY shall pay to MCMURTRY a permit fee in the amount of One Hundred

Dollars ($100) per month, payable annually.

6. Revocable License. This Permit is not a lease. It is a non-exclusive license to use the MCMURTRY Property.

7. Noninterference. CITY shall not unreasonably interfere with MCMURTRY'S use, operations, and activities on the Access Road, and CITY shall follow such procedures on the Access Road as shall result in the least inconvenience to MCMURTRY and other users of the Access Road.

8. Indemnification. CITY shall protect, defend, indemnify, and hold MCMURTRY harmless from and against any claims or liability directly related to the Permit Use and arising from the established active negligence, sole negligence, or sole willful misconduct of CITY, its elected officials, officers, representatives, agents, and employees.

9. Entire Permit. This Permit contains the entire agreement between the parties relating to the rights granted hereby and the obligations assumed herein. No modification of this Permit shall be valid unless in writing and signed by the party to be charged.

10. Legal Proceedings. In the event of any controversy, claim, or dispute relating to this Permit, the prevailing party shall be entitled to recover from the non-prevailing party all reasonable costs and expenses thereof, including without limitation attorney fees and costs.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

11. Notices. Unless otherwise provided, any notice, request, payment, demand, or other communication required or permitted to be given under this Permit shall be in writing and deemed received upon personal service, delivery by a reputable overnight service with receipt signature required, or delivery by United States mail, return receipt requested, postage prepaid, and addressed to the parties as follows:

MCMURTRY: WILLIAM MCMURTRY
PO BOX
661 JAMUL CA. 91935
Telephone: 619 668 3062

With a copy by First Class mail to: GREGORY TURNER, ESQ.
402 West Broadway, 4th Floor
San Diego, California 92101

CITY: THE CITY OF SAN DIEGO
Real Estate Assets Department
Attention: James F. Barwick, Director
1200 Third Avenue, Suite 1700 (MS 51A)
San Diego, California 92101
Telephone: (619) 236-6020

With a copy by First Class mail to: SAN DIEGO CITY ATTORNEY
Attn: Real Property Section
1200 Third Avenue, Suite 1100
San Diego, California 92101-4106

IN WITNESS WHEREOF, this Permit is executed to be effective as of the Effective Date.

Date: MAY 29 07

WILLIAM MCMURTRY, an individual

Date: 6/5/07

THE CITY OF SAN DIEGO, a California municipal corporation

BY: _____

Name: James F. Barwick, CCIM

Title: Director, Real Estate Assets

APPROVED AS TO FORM AND LEGALITY:

Date: 6/5/07

MICHAEL J. AGUIRRE, City Attorney

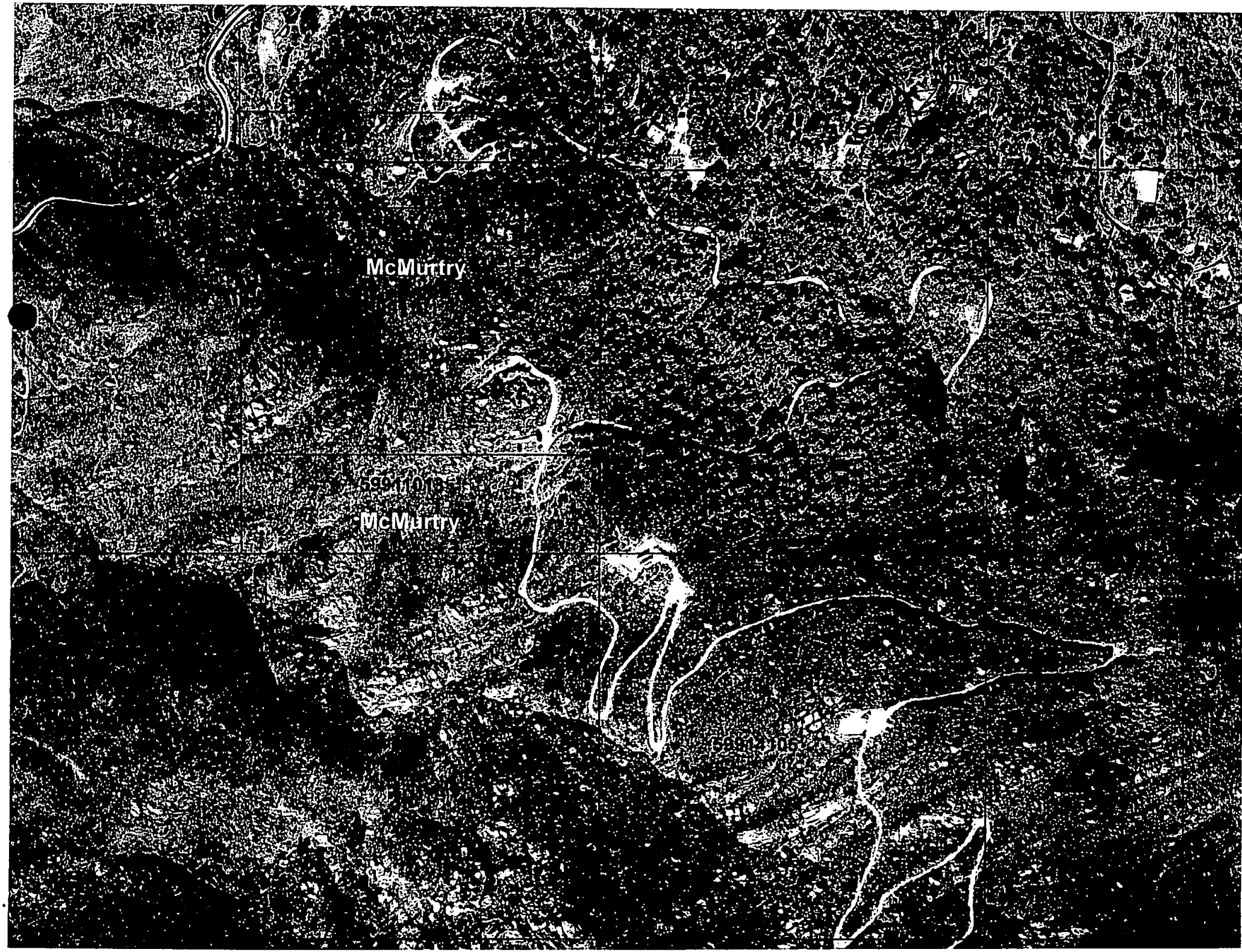
BY: _____

Name: BROCK LADEWIG

Title: CHIEF DEPUTY CITY ATTORNEY

EXHIBIT A: MCMURTRY Property

APN 599-110-12 and 599-110-13


McMurtry
McMurtry

DUPLICATE ORIGINAL

Authorization ID: DRD100202
Contact ID: DRD1002
Expiration Date: 12/31/2013
Use Code: 806

FS-2700-4a (05/03)
OMB 0596-0082

U. S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE
COMMUNICATIONS USE LEASE
AUTHORITY:
FEDERAL LAND POLICY AND MGMT ACT, AS AMENDED October 21, 1976

CITY OF SAN DIEGO, Property Dept. 1200 Third Avenue, Suite 1700, San Diego, CA 92101-.

THIS LEASE, dated this 07 day of December, 2004 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 CITY OF SAN DIEGO, 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 Cleveland 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 San Diego State of California, NW ¼ of Sec.15, T. 17 S., R. 2 E., SAN BERNARDINO PRINCIPAL MERIDIAN (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, or any part thereof, except as a site for only the construction, operation, maintenance, and termination of a Private Mobile Radio communications facility.

The location of the property is shown generally on the site plan dated 2/12/2003 for the LYONS PEAK Communications Site, which is attached and made part hereof as Exhibit A.

The dated and initialed 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 12/31/2014. 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. To the extent specified in Exhibit A operation shall commence on December 1, 2004. This lease shall terminate if operation does not commence by that date, unless the parties agree in writing, in advance, to an extension of the commencement date.

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

DOCUMENT NO. 20-19326
FILED NOV 22 2004
OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

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. Fees for this use have been exempted or waived in full pursuant to 36 CFR 251.57, or revisions thereto, and direction in FSH 2709.11, chapter 30.

~~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, Compensation, 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 judgments, 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 judgments; 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.

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 two years.

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 90 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.

E. Protection of Habitat of Endangered, Threatened, and Sensitive Species (X8). Location of areas needing special measures for protection of plants or animals listed as threatened or endangered under the Endangered Species Act of 1973, as amended, or as sensitive by the Regional Forester under authority of FSM 2670, derived from ESA Section 7 consultation, may be shown on a separate map, hereby made a part of this authorization, or identified on the ground. Protective and mitigative measures specified by the authorized officer shall be the responsibility of the authorization holder.

If protection measures prove inadequate, if other such areas are discovered, or if new species are listed as Federally threatened or endangered or as sensitive by the Regional Forester, the authorized officer may specify additional protection regardless of when such facts become known. Discovery of such areas by either party shall be promptly reported to the other party.

F. Superseded Authorization (X18). This authorization supersedes a special-use authorization designated: DRD100201.

ACCEPTED this 21 day of Nov, 2004 I JACK D. FITTRIS, the undersigned have read, understand and accept the terms and conditions of this lease.

Lessee

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

THOMAS F. GILLETT
District Ranger
Forest Service
Department of Agriculture

Approved as to form and legality
this 29th day of November 2004
CASEY GWINN, City Attorney
By
Deputy City Attorney

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,

0-19326

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.

Exhibit A

Lyons Peak City of San Diego
Communications Site Plan Maps

Note: The Lyons Peak Communications Site is designated for use by government agencies only. Currently a Site Plan for Lyons Peak Communications Site is being developed, but is not yet completed. When the Lyons Peak Communications Site plan is complete, the plan and the provisions it contains will then become an integral part of the lease authorizing the City of San Diego's communications facility on Lyon's Peak.

FS INITIAL _____ CITY OF SD INITIAL _____

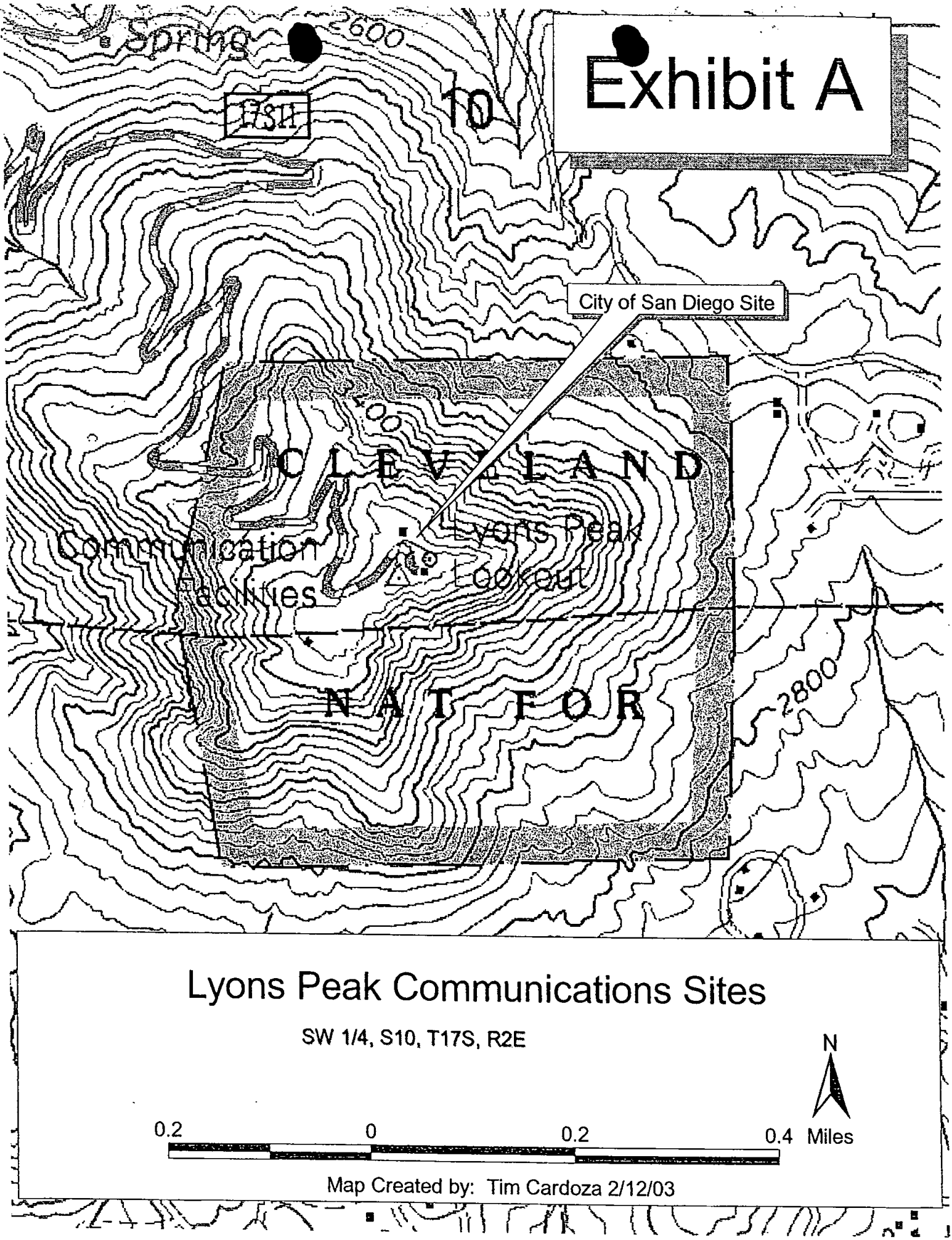
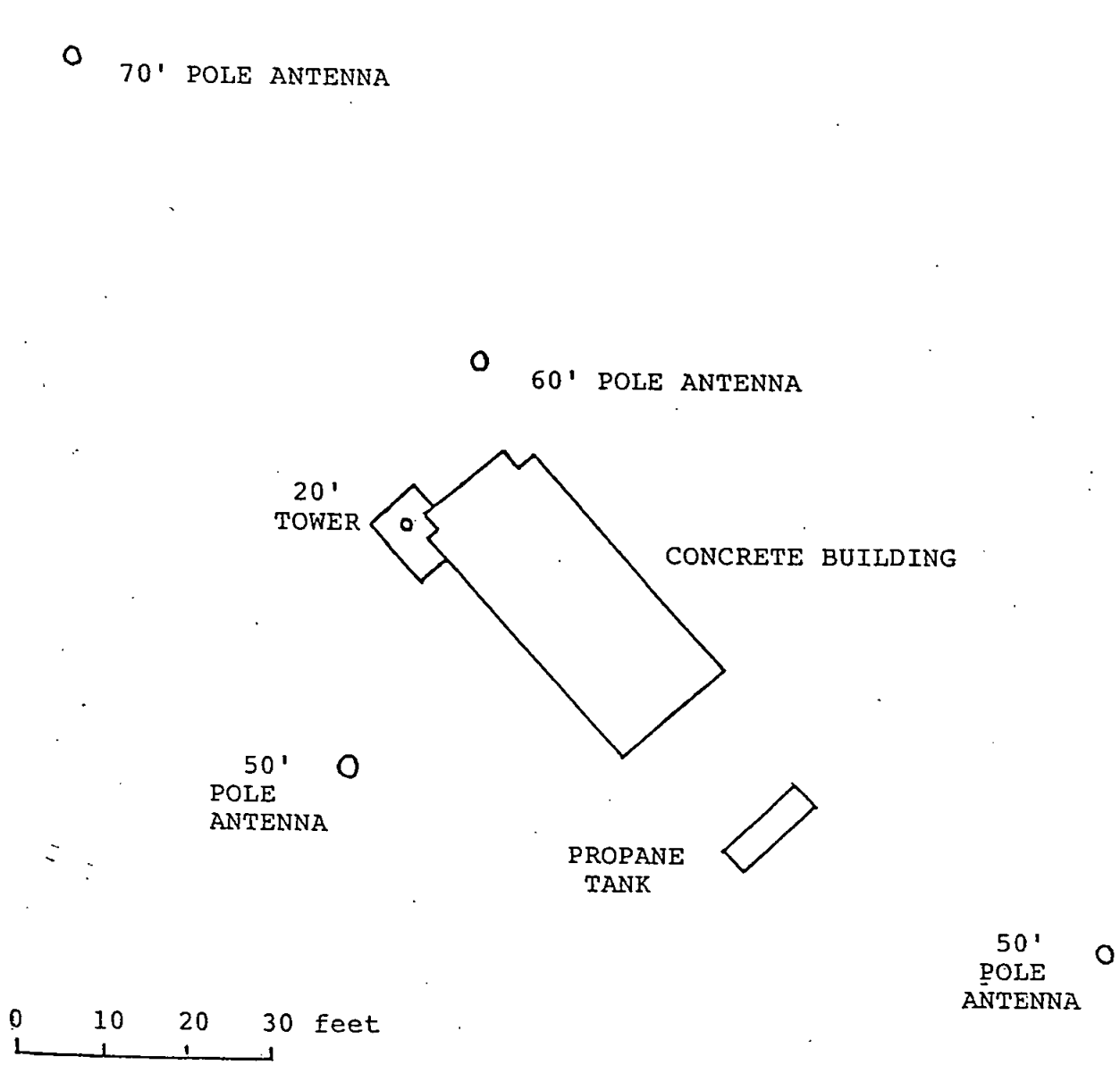


Exhibit A
Spring
2600
T17S
10
City of San Diego Site
CLEVELAND
Communication
Facilities
Lyons Peak
Lookout
NATFOR
2800
Lyons Peak Communications Sites
SW 1/4, S10, T17S, R2E
N
0.2
0
0.2
0.4 Miles
Map Created by: Tim Cardoza 2/12/03

2728 SPECIAL USES
LYONS PEAK

CITY OF SAN DIEGO PROPERTY DEPARTMENT
DESCANSO DISTRICT, CNF

MAPPED BY -
NORM MACHADO
HERB ARKLIN
OCT. 9,1997



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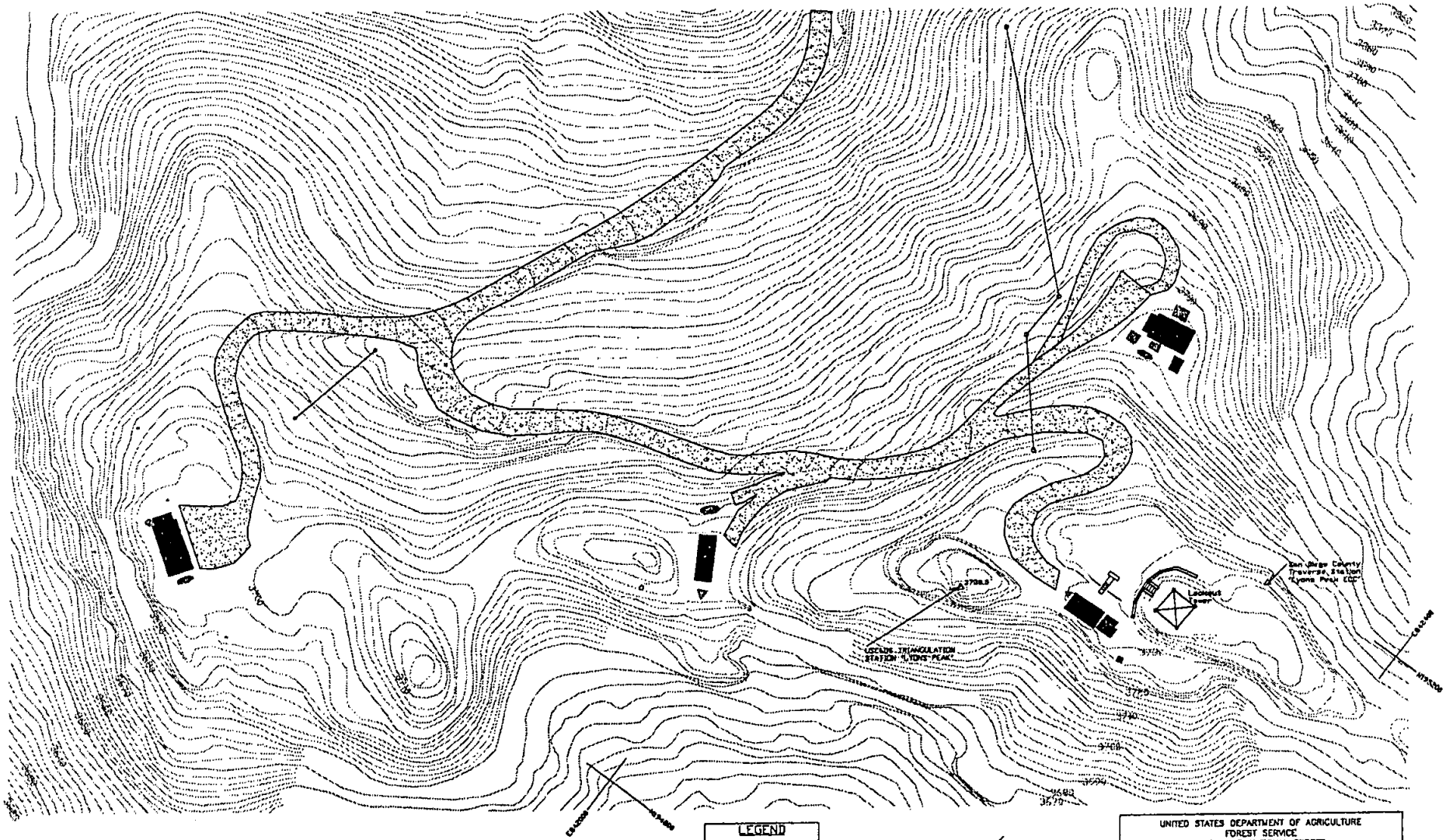

Note: Adopted from 12/01/1987 Pacific Bell Topographic Map of Lyons Peak on file in the case files.

LEGEND

- Buildings
- Towers
- Fence
- Propane
- Roads
- Powerline
- Rocks

Scale 1"=40'

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
CLEVELAND NATIONAL FOREST

Lyons Peak Communication Site

T. 17 S., R. 2 E. Section 10

REVIEWED	
APPROVED	
DRAWN b.mcbath	SCALE On drawing
DATE 06-25-2002	SHEET 1 OF 1
DRAWING NO. lyons.dwg	

(O-2005-53)

ORDINANCE NUMBER O- 19326 (NEW SERIES)

ADOPTED ON NOV 2 2 2004

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A COMMUNICATIONS USE LEASE WITH THE UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE, FOR THE LYONS PEAK COMMUNICATIONS SITE.

WHEREAS, the United States Department of Agriculture, Forest Service, owns property commonly identified as Lyons Peak which is located in the Cleveland National Forest, twenty-four miles due east of downtown San Diego; and

WHEREAS, the City of San Diego currently has a communications facility at the Lyons Peak location which is a base station facility for mobile communications for the City of San Diego Police, Fire, and Water Departments; and

WHEREAS, the City of San Diego and the United States Department of Agriculture, Forest Service, have negotiated a lease for the Lyons Peak location for the construction, operation, and maintenance of a mobile communications facility; and

WHEREAS, the fees for this lease have been waived by the United States Department of Agriculture, Forest Service. The term of the lease is ten years, commencing on December 1, 2004, and terminating one minute after midnight on December 31, 2014; NOW THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That the City Manager is authorized to execute, for and on behalf of the City of San Diego, a Communications Use Lease with the United States Department of Agriculture,

Forest Service, for the lease of a portion of Lyons Peak located in the Cleveland National Forest for a term of ten years, for no fee, under the terms and conditions set forth in the Communications Use Lease on file in the office of the City Clerk as Document No. OO-_____.

Section 2. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: CASEY GWINN, City Attorney

By _____
Elisa A. Cusato
Deputy City Attorney

EAC:dm
10/21/04
Or.Dept:READ#95
O-2005-53
Job: 220316
MMS#840

Passed and adopted by the Council of The City of San Diego on November 22, 2004 by the following vote:

YEAS: PETERS, ZUCCHET, ATKINS, MAIENSCHEIN, FRYE, INZUNZA, MAYOR MURPHY.

NAYS: MADAFFER.

NOT PRESENT: NONE

VACANT: DISTRICT 4

AUTHENTICATED BY:

DICK MURPHY
Mayor of The City of San Diego, California

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California

(Seal)

By: Esther Ramos, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of ORDINANCE NO. **19326** (New Series) of The City of San Diego, California.

I FURTHER CERTIFY that said ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on November 8, 2004 and on November 22, 2004.

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California

(Seal)

By: Esther Ramos, Deputy