

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
 9 SOUTH CALIFORNIA ST., SUITE 200
 VENTURA, CA 93001
 (805) 641-0142

TW8

STAFF REPORT: REVOCATION REQUEST

APPLICATION NO.: R-4-98-219
Filed: March 1, 1999
49th Day: N/A
180th Day: N/A
Staff: MHC-V
Staff Report: August 17, 1999
Hearing Date: 9/14-17/99

APPLICANT: Remote Communications

PROJECT LOCATION: Castro Peak, Malibu; Los Angeles County

PROJECT DESCRIPTION: Erection of one 170 foot and two 120 foot communication towers, and appurtenant facilities.

PERSON REQUESTING REVOCATION: Alan M. Luryas representing SoCal Communications, 4199 Campus Drive, Suite 700, Irvine, Orange County.

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit Malibu/Santa Monica Land Use Plan

PROCEDURAL NOTE: The California Code of Regulations, Title 14 Division 5.5, Section 13105 states that the grounds for the revocation of a coastal development permit are as follows:

Grounds for revocation of a permit shall be:

- a) *Intentional inclusion of inaccurate, erroneous or incomplete information in connection with a coastal development permit application, where the Commission finds that accurate and complete information would have caused the Commission to require additional or different conditions on a permit or deny an application;*
- b) *Failure to comply with the notice provisions of Section 13054, where the views of the person(s) not notified were not otherwise made known to the Commission and could have caused the Commission to require additional or different conditions on a permit or deny an application. 14 Cal. Code of Regulations Section 13105.*

APPLICANT'S CONTENTION:

The request for revocation contends that the grounds in Section 13105(a) exist because the applicant gave inaccurate and erroneous information to the Commission in the coastal development permit application. The contentions as to incorrect information include the following:

- 1) The applicant intentionally included inaccurate, erroneous, and incomplete information regarding the need for the facilities and the use of the least visually obtrusive tower design, the effects of radio transmission on the surrounding land uses and wildlife, the impacts of the project on the access road serving the property. (See Exhibit 3.)
- 2) The applicant failed to comply with the notice provisions of Section 13054, by failing to provide the Commission with a current mailing address for the adjacent property owner requesting the subject revocation. (See Exhibit 3.)

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission deny the request for revocation on the basis that no grounds exist for revocation under either Section 13105(a) or (b).

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Denial

The Commission hereby denies the request for revocation on the basis that (1) there was no intentional inclusion of inaccurate, erroneous or incomplete information in connection with the coastal development permit application where accurate and complete information would have caused the Commission to require additional or different conditions on the permit or deny the application; and (2) there was no failure to comply with the notice provisions of Section 13054 where the views of the persons not notified were not otherwise made known to the Commission and could have caused the Commission to require additional or different conditions or deny the application.

II. Findings and Declarations

The Commission hereby finds and declares as follows

A. Project Description and Background

On March 9, 1999 the Commission approved Coastal Development Permit 4-98-219 (Remote Communications) for the construction of a 120-foot transmission tower as part

of an expansion of Phase I of a previously approved telecommunication facility (Coastal Development Permit 4-97-074). Additionally, the project, as approved by the Commission, authorized the development of two additional phases of the project site. Phase II consists of 4 prefabricated communications buildings (10 x 40 feet), a 170 foot tower, electrical generator, a 1000 gallon fuel tank, security building (10 X 35 feet), emergency lighting and fencing. Phase III consists of a prefabricated communications building (10 X 40 feet), 120 foot tower, electrical generator, 1000 gallon fuel tank, emergency lighting, and fencing. The expansion of Phase I and the addition of Phase II and III will not require any grading, and will be serviced via an existing road and driveway. (See Exhibits 1 and 2 with exhibits attached thereto.)

The purpose of the proposed development is to provide a wide range of communication services, including broadcasting, cellular telephone transmissions, pager signal transmissions, and facsimile transmissions for both private and governmental agencies (e.g., U.S. Marshall, U.S. Secret Service, U.S. Customs Service).

The subject site is located on a 20.18 acre lot on the Castro Peak ridgeline within the unincorporated area of Malibu. Access to the site is by Castro Peak Motorway, an unpaved fire road with access from Latigo Canyon Road. The Phase I site is currently developed with a series of temporary antennas and three storage vaults which were previously approved by the Commission in past permit action. (See Exhibits 1 and 2 with exhibits attached thereto.)

B. Grounds for Revocation

Section 13105(a)

Pursuant to 14 California Code of Regulations (C.C.R.) Section 13108, the Commission has the discretion to grant or deny a request to revoke a coastal development permit if it finds that any of the grounds, as specified in 14 C.C.R. Section 13105 exist. 14 C.C.R. Section 13105 states, in part, that the grounds for revoking the permit shall be as follows: (1) that the permit application intentionally included inaccurate, erroneous or incomplete information where accurate and complete information would have caused the Commission to act differently; and (2) that there was a failure to comply with the notice provisions of Section 13054, where the views of the person(s) not notified were not otherwise made known to the Commission and could have caused the Commission to act differently.

The South Central Coast District office has received a written request for revocation of the subject coastal development permit from Alan M. Lurya, representing Social Communications Sites, LLC (Exhibit 3.). The request for revocation is based on the grounds that the applicant submitted inaccurate, erroneous, or incomplete information and that there was inadequate notice.

The first ground for revocation in 13105© contains three essential elements or tests which the Commission must consider:

- a. Did the application include inaccurate, erroneous or incomplete information relative to the coastal development permit?
- b. If the application included inaccurate, erroneous or incomplete information, was the inclusion intentional (emphasis added)?

- c. If the answer to a and b is yes, would accurate and complete information have caused the Commission to require additional or different conditions or deny the application?

The request for revocation states that the applicant, Remote Communications, gave inaccurate and erroneous information as part of the Coastal Development Permit Application. In order to qualify for grounds for revocation the request must factually demonstrate the above. As indicated above, the first standard consists, in part, of the inclusion of inaccurate, erroneous or incomplete information in connection with a coastal development permit application.

The request has asserted that inaccurate and erroneous answers were given in regards to the need for the facilities and the use of the least visually obtrusive tower design, the effects of radio transmission on the surrounding land uses and wildlife, and the impacts of the project on the access road serving the property. (See Exhibit 3.)

The Commission notes that, in order to satisfy 13105(a), the applicant must have submitted the incorrect information.

The individual grounds for revocation are discussed and evaluated separately below:

* Need for the facilities and use of least visually obtrusive tower design

The applicant for revocation asserts that the project applicant did not submit adequate information regarding the need for the facilities. The applicant submitted complete and accurate information regarding the purpose of the facilities, and detailed information (including scaled graphic depictions of the towers) as part of the Coastal Development Permit Application. This information was considered sufficient to file the application and prepare a staff report and recommendation to the Commission. No new information regarding the purpose or the visual effects of the proposed development has been provided as part of the request for revocation which contradicts the information previously provided by the applicant. It should be noted that the Commission has previously approved the development of communications on this site, and other facilities on Castro Peak. Further, Special Condition #2 regarding future redesign of telecommunication facilities applies to future technological changes, and to future conditions.

Therefore, the applicant did not submit inaccurate, erroneous or incomplete information. (See Exhibit 4.)

* Effects of radio transmission on the surrounding land uses and wildlife

The applicant for revocation asserts that that proposed transmission towers might generate harmful electromagnetic radiation, which have not been properly evaluated. The applicant submitted complete and accurate information regarding the impacts of the facilities on the project site, including evidence of having received authorization from County of Los Angeles and the Federal Communication Commission for the operation of the proposed transmission facilities (as well as previously approved transmission facilities on the same site). Neither the Commission staff nor the Commission required the current applicant to produce an engineering study of the pattern of microwave

radiation generated by the facilities. Further, no new information regarding the effects of the proposed development has been provided as part of the request for revocation. The Commission notes that the licensing of these facilities, which includes consideration of the pattern of microwave radiation generated off-site, is regulated by the Federal Communications Commission. The Telecommunications Act of 1996 specifically stipulates that:

No State or local government or instrumentality thereof may regulate the placements, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the [FCC] regulations concerning such emissions.

Therefore, the applicant did not submit inaccurate, erroneous or incomplete information. (See Exhibit 4.)

* Impacts of the project on the access road serving the property

The applicant for revocation asserts that the use of the existing access road for construction and maintenance of the permitted facilities has the potential to cause landslides or slope failures. The applicant submitted complete and accurate information regarding the means of accessing the project via an existing unpaved road. The access road has been used previously to construct communications facilities previously approved by the Commission without adverse impacts to the road or surrounding area. No new information regarding effects of the proposed development has been provided as part of the request for revocation which contradicts the information previously provided by the applicant. The Commission notes that the project site as well as the surrounding area on Castro Peak is currently developed with a wide array of telecommunication facilities which are also serviced by the unpaved road which is proposed to serve the development which is the subject of this revocation request.

Therefore, the applicant did not submit inaccurate, erroneous or incomplete information. (See Exhibit 4.)

In summary, based on the reasons stated above the Commission finds that inaccurate or erroneous or incomplete information was not included in the Coastal Development Permit application relating to impacts of the proposed project.

The second standard consists of determining whether the inclusion of inaccurate information was intentional. As indicated above, there is no evidence that the applicant submitted any inaccurate, erroneous or incomplete information. Even assuming for the purpose of this analysis only that there was inaccurate information, there is no evidence that its submission was intentional. Therefore, the Commission finds that there was not any intentional inclusion of inaccurate, erroneous or incomplete information about the amendment application submittal.

The third standard for the Commission to consider is whether accurate information would have resulted in the requirement of additional or different conditions or the denial of the application. As stated, there is no evidence of that the applicant intentionally submitted inaccurate, erroneous, or incomplete information. Even assuming that the applicant intentionally submitted inaccurate information there is no evidence that it would have caused the Commission to reach a different decision.

In reviewing proposed projects for their consistency with the Coastal Act, the Commission refers to the local land use plan as guidance. According to the Malibu/Santa Monica Mountains Land Use Plan (LUP), the subject site is designated Mountain Land and zoned A-1-1. Thus, the proposed project is consistent with the designated use of that area.

Further, in reviewing the project the Commission considered consistency of the proposed development with applicable policies of the Santa Monica Mountains Land Use Plan and the Coastal Act, including protection of scenic and visual resources, landform alteration, geologic and natural hazards, and found that the project was consistent with these provisions. Specifically, the applicant submitted detailed graphic representations of the scale and visual effects of the proposed facilities, including the transmission towers which clearly depicted the proposed project and enabled the Commission to make an informed decision on the projects potential visual effects. (See Exhibit 2 with exhibits attached thereto.) The assertion by the applicant for revocation that the project's use of the access road may cause landslides or slope failure is speculative and unsupported. The proposed use of the road is consistent with its past use and there is no evidence that the road is unable to handle the traffic generated by project.

The Commission finds that the information regarding the issues raised by the requested revocation was sufficient to evaluate the projects consistency with the applicable Coastal Act policies, and that the information provided in the revocation request would not have resulted in the requirement of additional or different conditions or the denial of the application.

The Commission finds, therefore, that the grounds for revocation contained in Section 13105(a) have not been met because all three elements of 13105(a) are not satisfied.

Section 13105 (b)

In review of a request for revocation of a coastal development permit, the Commission also examines whether grounds for revocation exist under Section 13105 (b). The Commission must determine whether or not there a failure to comply with the notice provisions of Section 13054, where the views of the person(s) not notified were not otherwise made known to the Commission and could have caused the Commission to act differently.

The Commission notes that the applicant for revocation (Alan Luryas) has asserted that the applicant knowingly supplied the Commission an out-of-date incorrect address for Socal Communications, the adjacent property owner in whose name the revocation request has been filed. Specifically, the application for revocation asserts that "The applicant subverted the permit process by willfully failing to disclose to the Commission the change of ownership from Bevan to Socal from January 1999 until the permit was granted." Socal additionally alleges that because the applicant (Remote Communications) did not provide the name and address of the new owner (Socal), to the Commission, Socal did not receive notice of the hearing at which the permit for Remote Communications was approved.

An examination of the permit application file and relevant documents does not support the assertion that the requirements of Section 13054 were not met. The applicant submitted an application for the proposed development on August 7, 1998, and included

a list of property owners within 100 feet of the proposed project. (See Exhibit 5) The application was deemed complete and filed on December 16, 1998. According to the applicant for revocation, the ownership of the adjacent property in question (Bevan) changed hands (to Socal), in January 1999, after the submission of the Coastal Development Permit application (4-98-219) and after the application was deemed complete. Therefore, at the time of the submission and filing of the application, the adjacent property list supplied by the applicant was accurate and complete and met the Commission's filing and noticing requirements and therefore was consistent with the notice provisions as set forth in Section 13054 of the Commission's Administrative Regulations. Additionally, the applicant provided the Commission staff with evidence of having conspicuously posted the proposed development site with a Notice of Pending Permit provided by the Commission staff. (See Exhibit 5.) There is no requirement for an applicant to notify the Commission of a change in ownership of adjacent property that occurs while an application is pending.

The Commission therefore finds in regards to Section 13054(b) regarding whether or not the applicant complied with the notice provisions of 13054, the applicant for revocation has not submitted any evidence that there was a failure to comply with the notice provisions nor has staff's investigation disclosed any notice problems. With respect to the second portion of the section as to whether the views of the persons who were not notified were otherwise made known to the Commission could have caused the Commission to require additional or different conditions on a permit or deny an application, see the above analysis regarding the views of the applicant for revocation.

As listed above, the request for revocation does not show that the requirements of 14 C.C.R. 13105 (a) or (b) are met. The Commission finds, therefore, that this revocation request should be denied on the basis that: (1) there is no evidence of the intentional inclusion of inaccurate, erroneous or incomplete information in connection with a coastal development permit application which could have caused the Commission to require additional or different conditions on a permit or deny an application, and (2) there is no evidence that the notice provisions of Section 13054 were not complied with where the views of the person(s) not notified were not otherwise made known to the Commission and could have caused the Commission to require additional or different conditions on a permit or deny an application.

California Coastal Commission

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AUG 07 1998

APPLICATION FOR COASTAL DEVELOPMENT PERMIT

CALIFORNIA COASTAL COMMISSION SOUTH CENTRAL COAST DISTRICT

SECTION I. APPLICANT

1. Name, mailing address, and telephone number of all applicants.

REMOTE COMMUNICATIONS SYSTEMS, INC. (RCSI) & L.A. CELLULAR

PO Box 1510

SIMI VALLEY, CA 93062-1510

805 526 3777

Fax 805 526 3999

(Area code/daytime phone number)

Note: All applicants for the development must complete Appendix A, the declaration of campaign contributions.

2. Name, mailing address and telephone number of applicant's representatives, if any. Please include all representatives who will communicate on behalf of the applicant or the applicant's business partners, for compensation, with the Commission or the staff. (It is the applicant's responsibility to update this list, as appropriate, including after the application is accepted for filing. Failure to provide this information prior to communication with the Commission or staff may result in denial of the permit or criminal penalties.)

CAROLYN INGRAM SEITZ

INGRAM-SEITZ & ASSOCIATES

PO Box 784

Westminster, CA 92684-0784

714 893 4434

Fax: 714 893 732

(Area code/daytime phone number)

SECTION II. PROPOSED DEVELOPMENT

Please answer all questions. Where questions do not apply to your project (for instance, project height for a land division), indicate Not Applicable or N.A..

1. Project Location. Include street address, city, and/or county. If there is no street address, include other description such as nearest cross streets.

APN: 4464-022-013. The NW 1/4 of the NE 1/4 of Section 17, T1S, R 18W,

EXCEPT therefrom that portion lying north of the south line of the Nor

25 Acres of said described property. Unincorporated Los Angeles Cour Assessor's Parcel Number(s) (obtainable from tax bill or County Assessor): 4464-022-013.

FOR OFFICE USE ONLY
4-98-219
APPLICATION NUMBER

RECEIVED
FILED
FEE
DATE PAID

EXHIBIT NO. 1
APPLICATION NO.
R-4-98-219
Remote Communication

2. Describe the proposed development in detail. Include secondary improvements such as grading, septic tanks, water wells, roads, driveways, outbuildings, fences, etc. (Attach additional sheets as necessary.)

Request to allow expansion of an existing communications site which was approved under Coastal Development Permit #4-97-074. This expansion will consist of addition of a 120' high tower to what was referred to as Phase 1 of the prior grant, and calls for development of Phase 2 which consists of 4 prefab communications buildings, a 170' tower, generator, fuel tank, security building and emergency lighting and fencing. It also adds Phase 3 which consists of a communications building, 120' tower, generator, fuel tank, emergency lighting and a fence. No grading will be done. All driveways are existing.

a. If multi-family residential, state:

Number of units			Number of bedrooms per unit (both existing and proposed)	Type of ownership proposed
Existing units	Proposed new units	Net number of units on completion of project		
				<input type="checkbox"/> rental <input type="checkbox"/> condominium <input type="checkbox"/> stock cooperative <input type="checkbox"/> time share <input type="checkbox"/> other _____

b. If land division or lot line adjustment, indicate:

Number of lots			Size of lots to be created (indicate net or gross acreage)	
Existing lots	Proposed new lots	Net number of lots on completion of project	Existing	Proposed

3. Estimated cost of development (not including cost of land) \$ approx. 350,000
4. Project height: Maximum height of structure (ft.)
- above existing (natural) grade 14' prefab communications buildings.
 - above finished grade same
 - as measured from centerline of frontage road na
5. Total number of floors in structure, including subterranean floors, lofts, and mezzanines 1

6. Gross floor area excluding parking (sq.ft.) approximately 3,500 sf

Gross floor area including covered parking and accessory buildings (sq.ft.) NA

7. Lot area (within property lines) (sq.ft. or acre) ± 20.18 acres of which approx 17,000 sf will be developed.

Lot coverage	Existing (sq.ft. or acre)	New proposed (sq.ft. or acre)	Total (sq.ft. or acre)
Building	± 1,100 sf	± 2,400 sf	3,500 sf
Paved area	NA		NA
Landscaped area	NA		NA
Unimproved area	+ 19 acres		± 19.25 acres
Grand Total (should equal lot area as shown in #7 above)			

8. Is any grading proposed?..... Yes No

If yes, complete the following:

a) Amount of cut	cu. yds.	d) Maximum height of cut slope	ft.
b) Amount of fill	cu. yds.	e) Maximum height of fill slope	ft.
c) Amount of import or export (circle which)	cu. yds.	f) Location of borrow or disposal site	

Grading and drainage plans must be included with this application. In certain areas, an engineering geology report must also be included. See Section IV, paragraph 11 for the specifics of these requirements.

Please list any geologic or other technical reports of which you are aware that apply to this property _____

9. Parking:

Number of parking spaces (indicate whether standard or compact)		
Existing spaces	Proposed new spaces	Net number of spaces on completion of project
NA		NA

Is any existing parking being removed? Yes No

If yes, how many spaces? _____ size _____

Is tandem parking existing and/or proposed? Yes No
 If yes, how many tandem sets? _____ size _____

10. Are utility extensions for the following needed to serve the project? (Please check yes or no)

a) water	b) gas	c) sewer	d) electric	e) telephone	
<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/> Yes	However, both already exist on-site at Phase 1.
<input type="checkbox"/> No	<input type="checkbox"/> No	<input type="checkbox"/> No	<input type="checkbox"/> No	<input type="checkbox"/> No	

Will electric or telephone extensions be above-ground? Yes No

11. Does project include removal of trees or other vegetation? Yes No
 **MUCH OF THIS SITE IS IN AN HISTORIC FIRE BREAK.
 If yes, indicate number, type and size of trees _____

or type and area of other vegetation _____

SECTION III. ADDITIONAL INFORMATION

The relationship of the development to the applicable items below must be explained fully. Attach additional sheets if necessary.

1. Present use of property.

a. Are there existing structures on the property? Yes No

If yes, describe

Communications facilities, temporary antennae support structure, fuel tank, generator, fencing & security lighting used in case of nighttime emergency.

b. Will any existing structures be demolished? Yes No

Will any existing structures be removed? Temp...antennae...support Yes No

If yes to either question, describe the type of development to be demolished or removed, including the relocation site, if applicable.

A temporary antennae support structure consisting of 3 telephone poles will be removed when the new 120' tower is added to the Phase 1 portion of this site.

2. Is the proposed development to be governed by any Development Agreement? Yes No

3. Has any application for development on this site including any subdivision been submitted previously to the California Coastal Zone Conservation Commission or the Coastal Commission? Yes No

If yes, state previous application number(s) 4-97-074

4. Is the development between the first public road and the sea (including lagoons, bays, and other bodies of water connected to the sea) Yes No

If yes, is public access to the shoreline and along the coast currently available on the site or near the site? Yes No

If yes, indicate the location and nature of the access, including the distance from the project site, if applicable.

5. Does the development involve diking, filling, draining, dredging or placing structures in open coastal waters, wetlands, estuaries, or lakes? (Please check yes or no)

a) diking	b) filling	c) dredging	d) placement of structures
<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes
<input checked="" type="checkbox"/> No			

Amount of material to be dredged or filled (indicate which) _____ cu. yds.

Location of dredged material disposal site _____

Has a U.S. Army Corps of Engineers' permit been applied for? Yes No

6. Will the development extend onto or adjoin any beach, tidelands, submerged lands or public trust lands? Yes No

For projects on State-owned lands, additional information may be required as set forth in Section IV, paragraph 10.

7. Will the development protect existing lower-cost visitor and recreational facilities? Yes No

Will the development provide public or private recreational opportunities? Yes No

If yes, explain.

8. Will the proposed development convert land currently or previously used for agriculture to another use? Yes No
 If yes, how many acres will be converted? _____
9. Is the proposed development in or near:
- a. Sensitive habitat areas (Biological survey may be required) Yes No
- b. Areas of state or federally listed rare, threatened, or endangered species ... Yes No
- c. 100-year floodplain (Hydrologic mapping may be required) Yes No
- d. Park or recreation area adjacent property owned by Nat. Park Svcs. Yes No
10. Is the proposed development visible from:
- a. State Highway 1 or other scenic route Yes No
- b. Park, beach, or recreation area Yes No
- c. Harbor area Yes No
11. Does the site contain any: (If yes to any of the following, please explain on an attached sheet.)
- a. Historic resources Yes No
- b. Archaeological resources Yes No
- c. Paleontological resources Yes No
12. Where a stream or spring is to be diverted, provide the following information:
- Estimated streamflow or spring yield (gpm) _____
- If well is to be used, existing yield (gpm) _____
- If water source is on adjacent property, attach Division of Water Rights approval and property owner's approval.

SECTION IV. REQUIRED ATTACHMENTS

The following items must be submitted with this form as part of the application.

1. Proof of the applicant's legal interest in the property. A copy of any of the following will be acceptable: current tax bill, recorded deed, lease, easement, or current policy of title insurance. Preliminary title reports will not be accepted for this purpose. Documentation reflecting intent to purchase such as a signed Offer to Purchase along with a receipt of deposit or signed final escrow document is also acceptable, but in such a case, issuance of the permit may be contingent on submission of evidence satisfactory to the Executive Director that the sale has been completed.

The identity of all persons or entities which have an ownership interest in the property superior to that of the applicant must be provided.

2. Assessor's parcel map(s) showing the page number, the applicant's property, and all other properties within 100 feet (excluding roads) of the property lines of the project site. (Available from the County Assessor.)
3. Copies of required local approvals for the proposed project, including zoning variances, use permits, etc., as noted on Local Agency Review Form, Appendix B. Appendix B must be completed and signed by the local government in whose jurisdiction the project site is located.
4. Stamped envelopes addressed to each property owner and occupant of property situated within 100 feet of the property lines of the project site (excluding roads), along with a list containing the names, addresses and assessor's parcel numbers of same. The envelopes must be plain (i.e., no return address), and regular business size (9 1/2" x 4 1/8"). Include first class postage on each one. Metered postage is not acceptable. Use Appendix C, attached, for the listing of names and addresses. (Alternate notice provisions may be employed at the discretion of the District Director under extraordinary circumstances.)
5. Stamped, addressed envelopes (no metered postage, please) and a list of names and addresses of all other parties known to the applicant to be interested in the proposed development (such as persons expressing interest at a local government hearing, etc.).
6. A vicinity or location map (copy of Thomas Bros. or other road map or USGS quad map) with the project site clearly marked.
7. Copy(s) of project plans, drawn to scale, including site plans, floor plans, elevations, grading and drainage plans, landscape plans, and septic system plans. Trees to be removed must be marked on the site plan. In addition, a reduced site plan, 8 1/2" x 11" in size, must be submitted. Reduced copies of complete project plans will be required for large projects. NOTE: See instruction page for number of sets of plans required.
8. Where septic systems are proposed, evidence of County approval or Regional Water Quality Control Board approval. Where water wells are proposed, evidence of County review and approval.
9. A copy of any Draft or Final Negative Declaration, Environmental Impact Report (EIR) or Environmental Impact Statement (EIS) prepared for the project. If available, comments of all reviewing agencies and responses to comments must be included.
10. Verification of all other permits, permissions or approvals applied for or granted by public agencies (e.g., Department of Fish and Game, State Lands Commission, U.S. Army Corps of Engineers, U.S. Coast Guard). For projects such as seawalls located on or near state tidelands or public trust lands, the Coastal Commission must have a written determination from the State Lands Commission whether the project would encroach onto such lands and, if so, whether the State Lands Commission has approved such encroachment. See memo to "Applicants for shoreline development" dated December 13, 1993.
11. For development on a bluff face, bluff top, or in any area of high geologic risk, a comprehensive, site-specific geology and soils report (including maps) prepared in accordance with the Coastal Commission's Interpretive Guidelines. Copies of the guidelines are available from the District Office.

SECTION V. NOTICE TO APPLICANTS

Under certain circumstances, additional material may be required prior to issuance of a coastal development permit. For example, where offers of access or open space dedication are required, preliminary title reports,

land surveys, legal descriptions, subordination agreements, and other outside agreements will be required prior to issuance of the permit.

In addition, the Commission may adopt or amend regulations affecting the issuance of coastal development permits. If you would like notice of such proposals during the pendency of this application, if such proposals are reasonably related to this application, indicate that desire.....

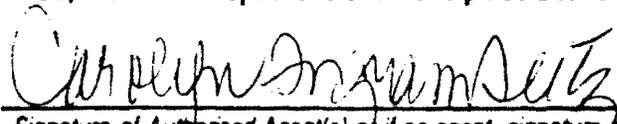
Yes No

SECTION VI. COMMUNICATION WITH COMMISSIONERS

Decisions of the Coastal Commission must be made on the basis of information available to all commissioners and the public. Therefore, permit applicants and interested parties and their representatives are advised not to discuss with commissioners any matters relating to a permit outside the public hearing. Such contacts may jeopardize the fairness of the hearing and result in invalidation of the Commission's decision by court. Any written material sent to a commissioner should also be sent to the commission office for inclusion in the public record and distribution to other Commissioners.

SECTION VII. CERTIFICATION

1. I hereby certify that I, or my authorized representative, have completed and posted or will post the Notice of Pending Permit card in a conspicuous place on the property within three days of submitting the application to the Commission office.
2. I hereby certify that I have read this completed application and that, to the best of my knowledge, the information in this application and all attached appendices and exhibits is complete and correct. I understand that the failure to provide any requested information or any misstatements submitted in support of the application shall be grounds for either refusing to accept this application, for denying the permit, for suspending or revoking a permit issued on the basis of such misrepresentations, or for seeking of such further relief as may seem proper to the Commission.
3. I hereby authorize representatives of the California Coastal Commission to conduct site inspections on my property. Unless arranged otherwise, these site inspections shall take place between the hours of 8:00 A.M. and 5:00 P.M.



 Signature of Authorized Agent(s) or if no agent, signature of Applicant
 CAROLYN INGRAM SEITZ, Consultant

NOTE: IF SIGNED ABOVE BY AGENT, APPLICANT MUST SIGN BELOW.

SECTION VIII. AUTHORIZATION OF AGENT

I hereby authorize SEE ATTACHED to act as my representative and to bind me in all matters concerning this application.

 Signature of Applicant(s)
 (Only the applicant(s) may sign here to authorize an agent)

APPLICATION FOR COASTAL DEVELOPMENT PERMIT

APPENDIX A

DECLARATION OF CAMPAIGN CONTRIBUTIONS

Government Code Section 84308 prohibits any Commissioner from voting on a project if he or she has received campaign contributions in excess of \$250 within the past year from project proponents or opponents, their agents, employees or family, or any person with a financial interest in the project.

In the event of such contributions, a Commissioner must disqualify himself or herself from voting on the project.

Each applicant must declare below whether any such contributions have been made to any of the listed Commissioners or Alternates (see last page).

CHECK ONE

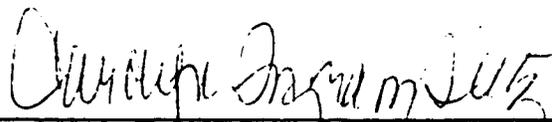
The applicants, their agents, employees, family and/or any person with a financial interest in the project have not contributed over \$250 to any Commissioner(s) or Alternate(s) within the past year.

The applicants, their agents, employees, family, and/or any person with a financial interest in the project have contributed over \$250 to the Commissioner(s) or Alternate(s) listed below within the past year.

Commissioner or Alternate _____

Commissioner or Alternate _____

Commissioner or Alternate _____



Signature of Applicant or Authorized Agent

CAROLYN INGRAM SEITZ, Consultant

July 30, 1998

Date

Please print your name

CAROLYN INGRAM SEITZ, Consultant

gr...eitz Associates
O Box 784
Westminster CA

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618 Varna Ave
Thousand Oaks CA 91423

1 Gordon R Haight
20606 Pacific Coast Hwy
Malibu CA 90265

2 Lin C Gee Co TRT AI
& David B McCoy Co TRT
24690 Saddle Peak Rd
Malibu CA 90265

3

Douglas M. Langevin
8196 Pawtucket Dr.
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4. Darrell L & Patricia F Bevan
1164 Auberton Ln
Newbury Pk CA 91320

5 National Park Service

6

Rodolph & Pamela Borchert TR
& P Trust
28856 Cliffside Dr
Malibu CA 90265

7 Uri S Gingburg
4215 Admiralty Wy
Marina Del Rey CA 90292

8 Kirsten Seyferth
303 California Ave #85
Santa Monica CA 90403

9

RECEIVED

AUG 07 1998

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142



EXHIBIT NO.	2
APPLICATION NO.	
	R-4-98-219
	Remote Communication

Filed: 10/28/98
49th Day: 12/16/98
180th Day: 04/26/99
Staff: MHC-V *[Signature]*
Staff Report: 02/25-99
Hearing Date: March 9, 1999

Page 1 of 15

STAFF REPORT: REGULAR CALENDAR**APPLICATION NO.:** 4-98-219**APPLICANT:** Remote Communications Systems**AGENT:** Carolyn Seitz**PROJECT LOCATION:** Castro Peak, Santa Monica Mountains, Los Angeles County**PROJECT DESCRIPTION:** One 170-ft, two 120-ft communication towers, and appurtenant facilities

Lot area: 20.18 acres.
Ht above fin grade: 170 feet

LOCAL APPROVALS RECEIVED: Los Angeles County CUP 96-054**SUBSTANTIVE FILE DOCUMENTS:** Application 4-98-219; Santa Monica Mountain/Malibu Land Use Plan; Coastal Development Permit 4-94-234 (GTE Mobilnet of S.B.); Coastal Development Permit 4-94-203-A (GTE Moilnet of S.B.); Coastal Development Permit 4-97-074 (RCSI).**STAFF NOTE**

Based upon the information submitted to the Commission with the subject application, it is the Commission's understanding that the various communications facilities proposed here will be used by the applicant to provide a wide range of communication services, including broadcasting, cellular phone transmissions, pager signal transmissions, and facsimile transmissions. Accordingly, the Commission's consideration of certain aspects of the proposed development is bound by the requirements of federal law. Under 47 United States Code Section 332©(7) (the Telecommunications Act of 1996), while state and local governments may regulate the placement, construction and modifications of person wireless services facilities to a certain extent, such governments may not unreasonably discriminate among providers of personal wireless services, and any decision to deny a permit for a personal wireless service facility must be in writing and must be supported by substantial evidence. (47U.S.C. Section 332©(7)(B).) These provisions are similar to the requirements of California law, including the Coastal Act. The Telecommunications Act also prevents state and local governments from regulating the effects of radio frequency emissions to the extent that such facilities comply with the requirements of the Federal Communications Commission (CC) concerning such emissions. (47 U.S.C. Section 332(c)(7)(B) iv).

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions

1. Future Development Deed Restriction
 - (a.) This permit is only for the development described in coastal development permit No. 4-98-219. Pursuant to Title 14 California Code of Regulations section 13253(b)(6), the exemptions otherwise provided in Public Resources Code section

30610 (b) shall not apply to the communication facilities included in this permit. Accordingly, any future improvements to the permitted structure, shall require an amendment to Permit No. 4-98-219 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

- (b.) Prior to the issuance of the Coastal Development Permit, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restrictions on development. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

2. Future Redesign of Telecommunications Facilities

Prior to the issuance of the coastal development permit, the applicant shall submit a written agreement stating that where future technological advances would allow for reduced visual impacts resulting from the proposed communication facility, the applicant agrees to make those modifications which would reduce the visual impact of the proposed facilities. In addition, the applicant agrees that if in the future, the facility is no longer needed, the applicant agrees to abandon the facility and be responsible for the removal of all permanent structures, and restoration of the site consistent with the character of the surrounding area. Before performing any work in response to the requirements of this condition, the applicant shall contact the Executive Director of the California Coastal Commission to determine if an amendment to this coastal development permit is necessary.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The applicant is proposing the construction of a 120-foot transmission tower as part of an expansion of Phase I of a previously approved telecommunication facility (Coastal Development Permit 4-97-074). Additionally, the applicant proposes the development of two additional phases of the project site. Phase II consists of 4 prefabricated communications buildings (10 x 40 feet), a 170 foot tower, electrical generator, a 1000 gallon fuel tank, security building (10 X 35 feet), emergency lighting a fencing. Phase III consists of a prefabricated communications building (10 X 40 feet), 120 foot tower, electrical generator, 1000 gallon fuel tank, emergency lighting, and a fencing. The expansion of Phase I and the addition of Phase II and III will not require any grading, and will be serviced via an existing road and driveway. (See Exhibits 1 through 4.)

The purpose of the proposed development is to provide a wide range of communication services, including broadcasting, cellular telephone transmissions, pager signal transmissions, and facsimile transmissions.

The subject site is located on a 20.18 acre foot lot on the Castro Peak ridgeline within the unincorporated area of Malibu (Exhibit 1-2). Access to the site is by Castro Peak Motorway, an unpaved fire road with access from Latigo Canyon Road. The Phase I site is currently developed with a series of temporary antennas and three storage vaults which were previously approved by the Commission in past permit action.

B. Visual Resources and Landform Alteration

Section 30251 of the Coastal Act states that:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30251 of the Coastal Act requires scenic and visual qualities to be considered and protected. To assist in the determination of whether a project is consistent with Section 30251 of the Coastal Act, the Commission has, in past coastal development permit actions, looked to the Malibu/ Santa Monica Mountains LUP for guidance. The Malibu/ Santa Monica Mountains LUP has been found to be consistent with the Coastal Act and provides specific standards for development within the Santa Monica Mountains. The following LUP policies pertain to the proposed project:

Policy 125 *New development shall be sited and designed to protect public views from LCP-designated scenic highways to and along the shoreline and to scenic coastal areas, including public parklands. Where physically and economically feasible, development on sloped terrain should be set below road grade.*

Policy 129 *Structures should be designed and located so as to create an attractive appearance and harmonious relationship with the surrounding environment.*

Policy 130 *In highly scenic areas and along scenic highways, new development shall:*

- ♦ *Be sited and designed to protect views to and along the ocean and to and along other scenic features, as defined and identified in the Malibu LCP.*
- ♦ *Minimize the alteration of natural landforms.*
- ♦ *Be landscaped to conceal raw-cut slopes.*
- ♦ *Be visually compatible with and subordinate to the character of its setting.*
- ♦ *Be sited so as not to significantly intrude into the skyline as seen from public viewing places.*

Policy 131 *Where feasible, prohibit placement of structures that will break the ridgeline view, as seen from public places.*

The proposed project includes the construction of a 170 foot high and two 120 foot high open lattice steel communications towers, the installation five prefabricated buildings under 10 feet high, a miscellaneous appurtenant facilities (generators, fuel tanks, and lighting and fencing). The construction of the tower will not increase the amount of paved surfaces and does not include any grading; however, it does have the potential to create adverse visual effects. The subject site is located on Castro Peak, which the LUP designates as a "significant ridgeline." Significant ridgelines constitute a scenic resource of the Coastal Zone due to their visibility from many vantage points including Highway 101. Castro Peak is one of the highest and most prominent peaks in the Santa Monica Mountains. The peak's high elevation and geographic location provides for an ideal radio communications site.

The site currently has one 35-foot high temporary wooden tower approved by the Commission in Coastal Development Permit 4-97-074, that provides antenna space for several Federal agencies as well as privately owned pager companies (See Exhibit 3). The property owned by Darrel Bevan located to the east of the subject site contains a cellular service site operated by Pac Tell Cellular approved by the Commission per Coastal Development Permit 4-94-016. This property also has two large towers with several antenna dishes attached, several amateur radio sites attached to the top of telephone poles, and several equipment structures. Some of the existing development on Bevan's parcel was constructed without the benefit of a coastal development permit and is currently being investigated by the Commission's Enforcement unit. A portion of the area on Castro Peak is owned by the County of Los Angeles and is currently developed with a 120-foot tall orange and white striped steel lattice communications tower and 80 foot

The proposed 170-foot and two 120-foot steel communications tower will be sited immediately north of the existing County of Los Angeles facilities located on the ridgeline of the mountaintop. The existing towers owned and operated by the County of Los Angeles are painted white and orange as a precautionary safety measure for aviation. The Commission recently granted a Coastal Development Permit (4-98-074) to the County of Los Angeles for an additional 80-foot communication tower immediately south of the site, which is the subject of this application. The new towers will be visible from Highway 101 and Highway 1, a designated scenic highway, as well as several hiking trails and scenic areas within the Santa Monica Mountains.

There is another pending coastal development permit application that has been received by the Commission Darrel Bevan. Bevan, the owner of APN 4464-022-005, is proposing to relocate an existing unpermitted 60-foot tower from National Parks Service Land and increase the height to 120 feet. Therefore, the cumulative visual impact from these towers is of concern.

The tower location clusters development on the ridgeline in order to minimize the adverse visual effects seen from public places. The proposed towers will not result in any additional significant adverse visual impacts as seen from public viewing points or scenic highways in the area. Therefore, the Commission finds that the proposed tower is consistent with the existing permitted development located on Castro Peak due to its proposed height and location.

However, to ensure that any additional microwave dishes or antennas added to the proposed tower will not significantly increase the height of the tower and create adverse visual impacts the Commission finds that proposed project can only be approved attached with Special Condition One (1). Special Condition One (1) requires that any modification

to the approved coastal development permit including additions or improvements to the structures will require a coastal development permit or amendment.

Further, in the future, the communications equipment on site may become obsolete based on advanced technology. Should this occur, there would not be any need for the proposed development. Although the individual effect of this development is not significant, the cumulative effect of additional towers and structures on this ridgeline, as technology progresses, can create adverse visual impacts. Therefore, in the event that future technological advances allow for a reduced visual impact, the Commission finds it necessary to require the applicant to agree to make those modifications which would reduce the visual impact of the proposed facility. Likewise, if in the future, the facility is no longer needed, the applicant shall agree to abandon the facility and be responsible for the removal of all permanent structures, and restoration of the site as outlined in Special Condition Two (2).

The Commission finds the proposed 170-foot and two 120-foot towers in the proposed location as specifically designed here are consistent with Section 30251 of the Coastal Act. The Commission notes that other towers in alternative locations, with different designs and in different heights might not be consistent with the Coastal Act policies. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30251 of the Coastal Act.

C. Geological and Natural Hazards

Section 30253 of the Coastal Act states in part that new development shall:

- (1) *Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) *Assure stability and structural integrity, and neither create nor contribute significantly to erosion, instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

The proposed development is located in the Santa Monica Mountains, an area that is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property. Section 30253 of the Coastal Act requires that new development minimizes risk to life and property in areas of high geologic, flood and fire hazard, and assures stability and structural integrity.

Section 30253 of the Coastal Act requires that new development minimizes risk to life and property in areas of high geologic, flood and fire hazard, and assures stability and structural integrity. The applicant is proposing the construction of one 170-foot and two 120-foot high open lattice steel communications towers, the installation five prefabricated buildings, and appurtenant facilities. Previous geological investigations of the Castro Peak site have indicated that the soil and rock conditions at the site are suitable for drilled cast-in-pile type foundations which have been used for existing, previously approved, and currently proposed open lattice communications towers.

Therefore, the Commission finds that the proposed development as proposed, is consistent with Section 30253 of the Coastal Act.

D. Local Coastal Program

Section 30604(a) of the Coastal Act states that:

Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As conditioned, the proposed development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3.

Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the County's ability to prepare a Local Coastal Program for Malibu which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

E. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effects which the activity would have on the environment.

The proposed project, as conditioned, will not have any significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is consistent with CEQA and the policies of the Coastal Act.

LOCATION MAP

SCALE: 1" = 200'

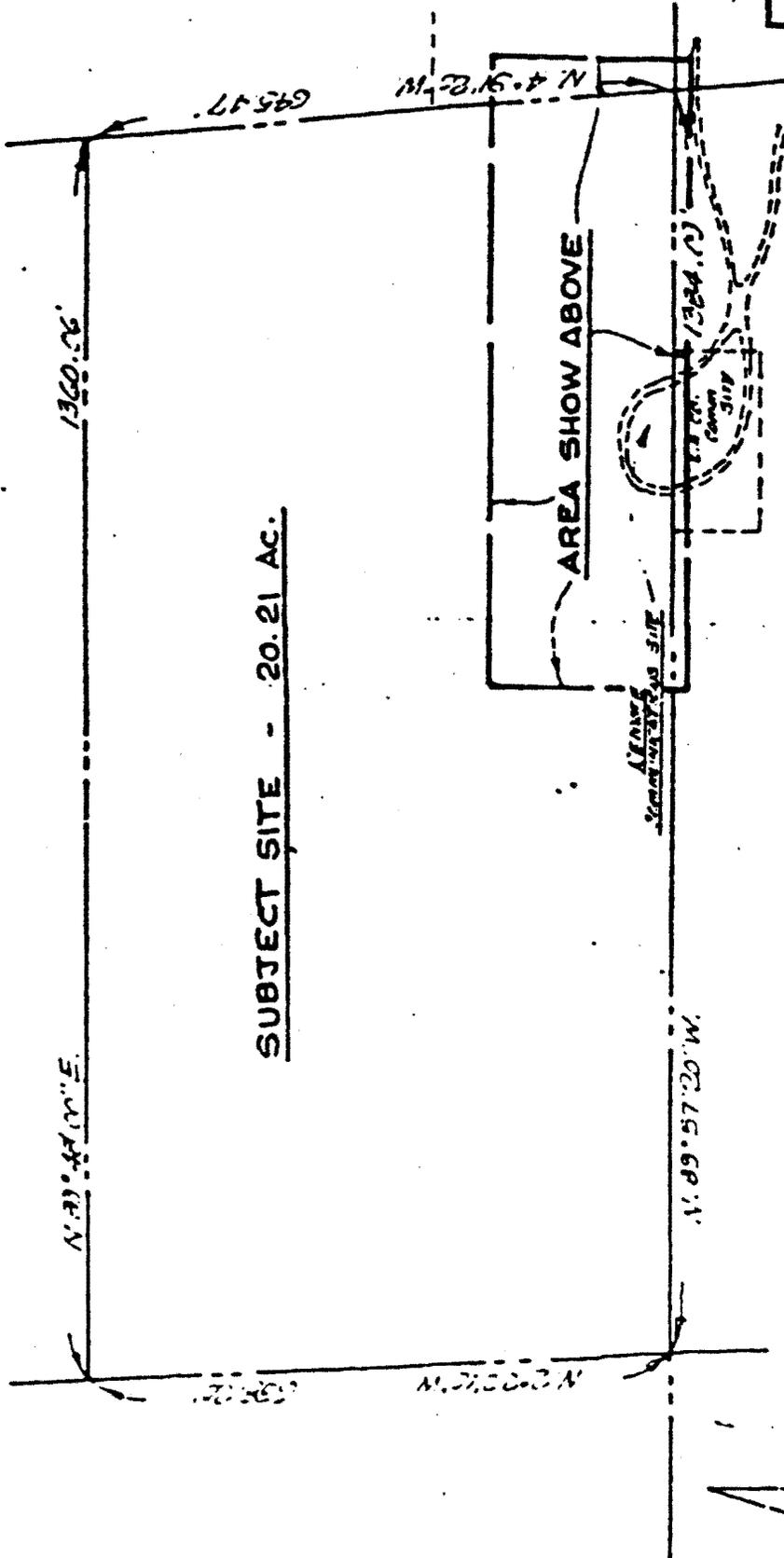
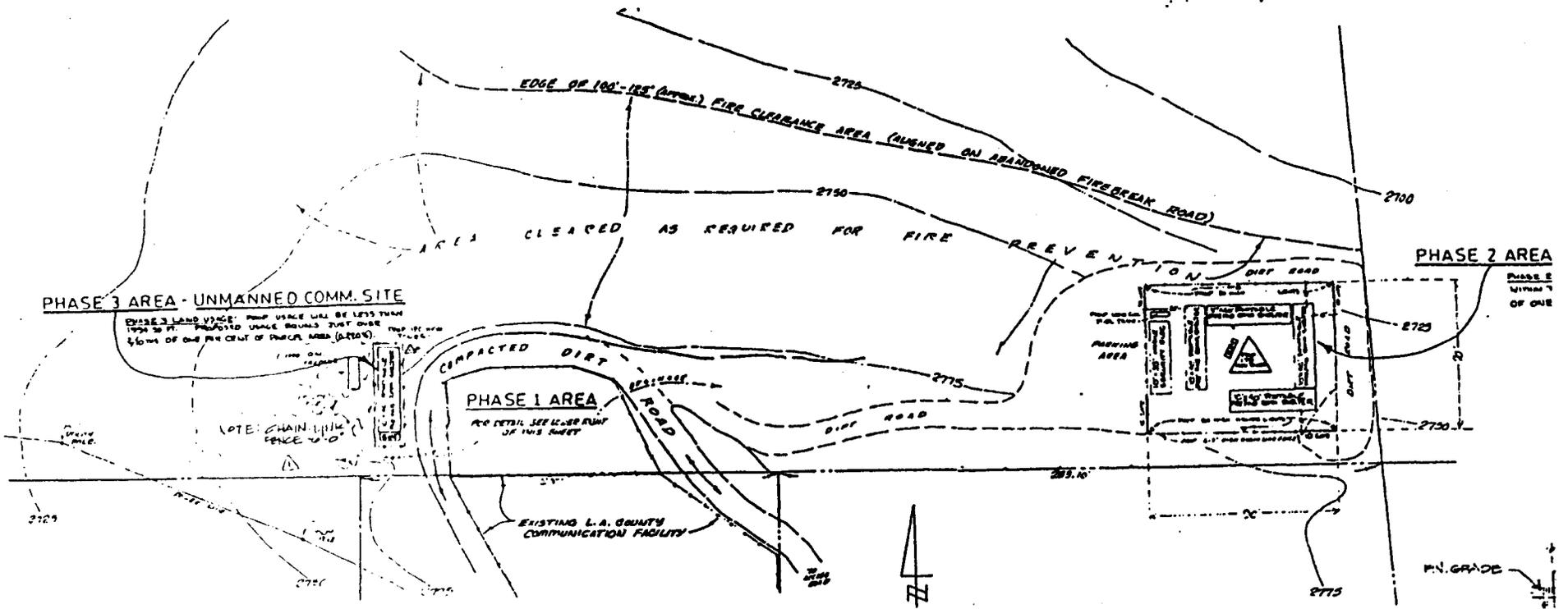


EXHIBIT NO. 2
APPLICATION NO.
4-98-219
Remote Communicat.

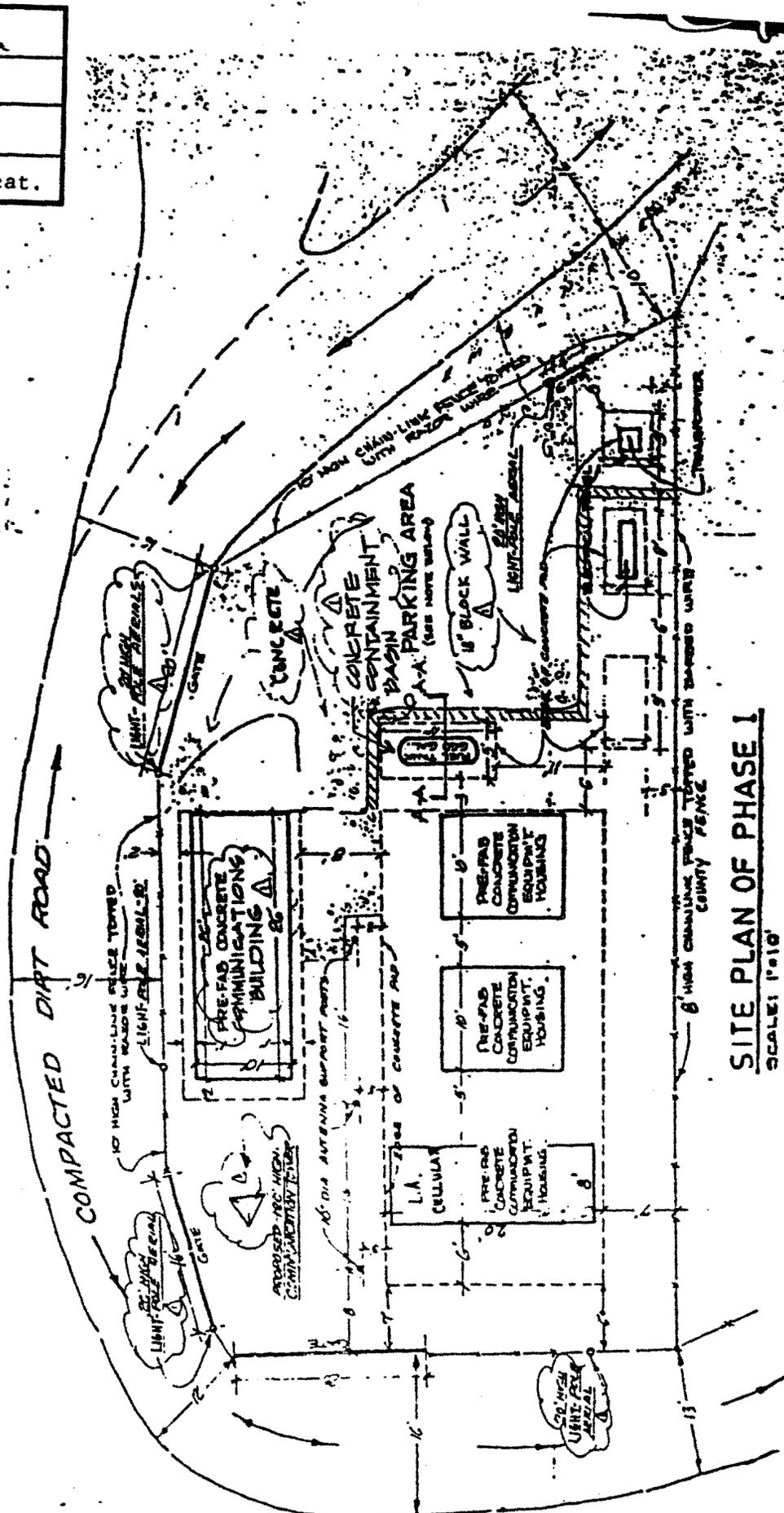


SITE PLAN: AREA OF CASTRO PEAK FACILITY
 SCALE: 1" = 20'

EXHIBIT NO. 2
APPLICATION NO.
4-98-219
Remote Communicat.

EXHIBIT NO. 2
APPLICATION NO.
4-98-219
Remote Communicat.

SECTION A-A
SCALE: 1/2" = 1'-0"



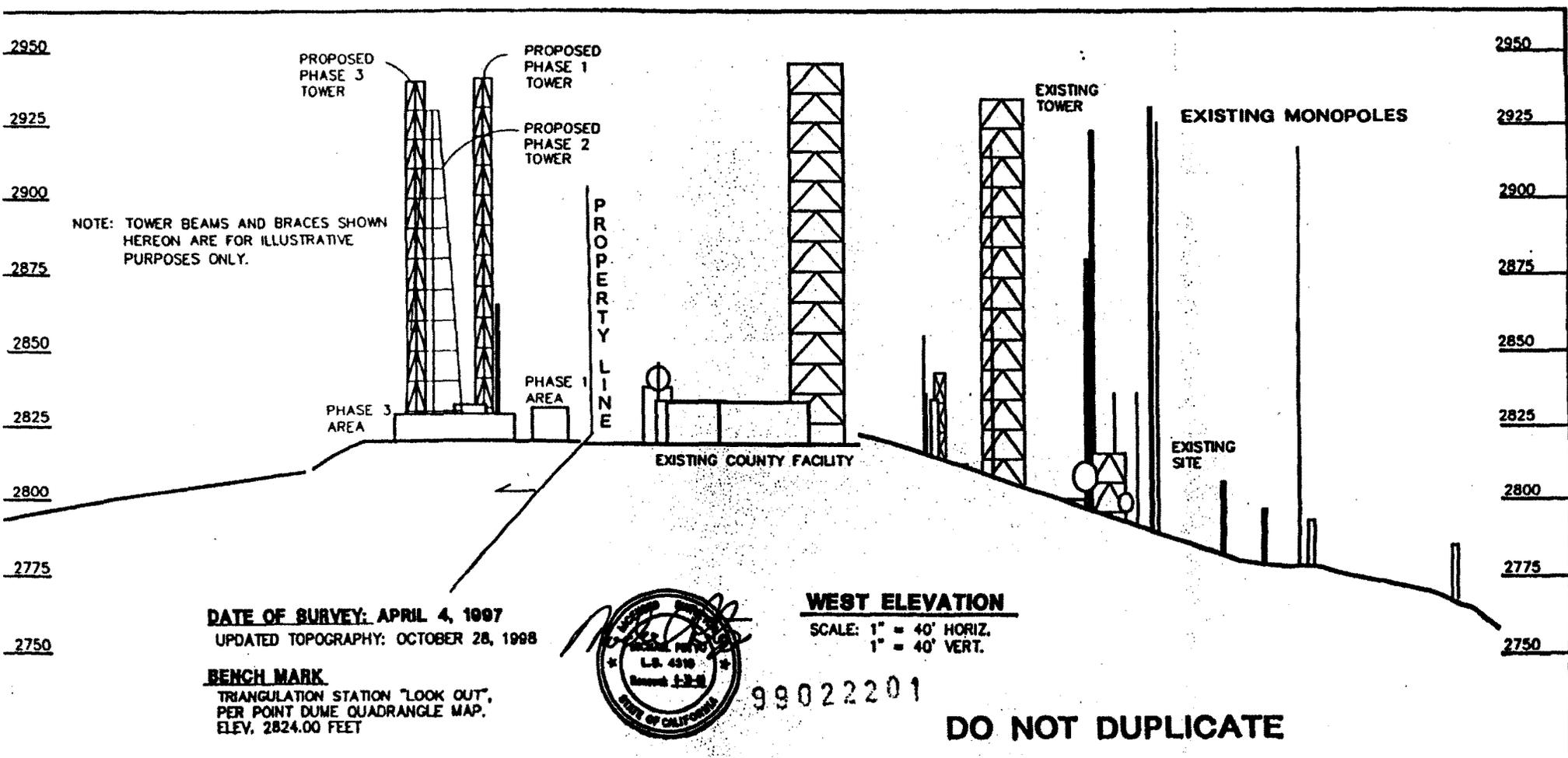
SITE PLAN OF PHASE I
SCALE: 1" = 10'

NOTE: PHASE I SITE SHOWN ABOVE IS LEVEL. LEVEL PARKING AREA IS 18" BELOW LEVEL. BUILDING AREA AS SAFETY PRECAUTION...

PHASE I LAND USAGE: EXIST. USAGE IS LESS THAN 15% OF TOTAL AREA. WHICH IS JUST IN EXCESS OF 1/4% (ONE PERCENT OF PARCEL AREA (0.248 %)).

APN 4464-022-013

EXHIBIT NO.	2
APPLICATION NO.	4-98-219
Remote Communicat.	



PREPARED BY:

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PREPARED FOR:

R.C.S.I.
REMOTE COMMUNICATIONS SYSTEMS
P.O. BOX 1510
SIMI VALLEY, CA 93062-1510

PROFILE VIEWS
TOWERS, ANTENNAS & FACILITIES
CASTRO PEAK

SHEET
1
OF 4 SHEETS
DRAWN: 2/16/99
BY: B.J.G.

2950
2925
2900
2875
2850
2825
2800
2775
2750

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2800
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2750

NOTE: TOWER BEAMS AND BRACES SHOWN
HEREON ARE FOR ILLUSTRATIVE
PURPOSES ONLY.

EXISTING MONOPOLES

EXISTING
TOWER

PROPOSED
PHASE 1
TOWER

PROPOSED
PHASE 3
TOWER

PROPOSED
PHASE 2
TOWER

PROPERTY
LINE

PHASE 1
AREA

PHASE II AREA

EXISTING COUNTY FACILITY

99022201

EAST ELEVATION

SCALE: 1" = 40' HORIZ.
1" = 40' VERT.

DO NOT DUPLICATE

PROFILE VIEWS
TOWERS, ANTENNAS & FACILITIES
CASTRO PEAK
SANTA MONICA MT., CALIFORNIA

SHEET
2
OF 4 SHEETS
DRAWN: 3/15/99
BY: B.J.G.
CHECKED: M.P.
05500MP.DWG

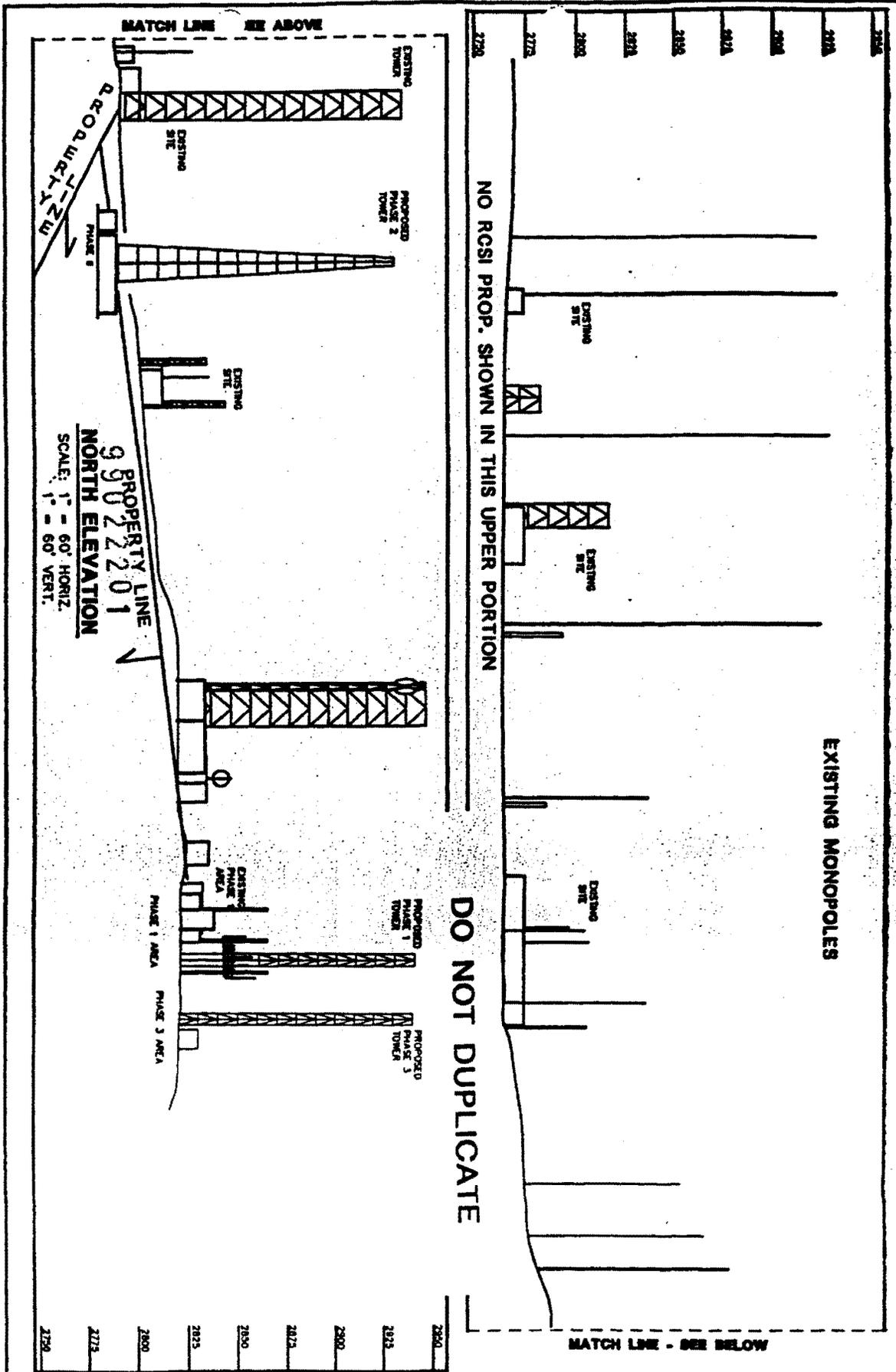
EXHIBIT NO. **2**
APPLICATION NO.
4-98-219
Remote Communicat.

EXHIBIT NO. 2

APPLICATION NO.

4-98-219

Remote Communicat.

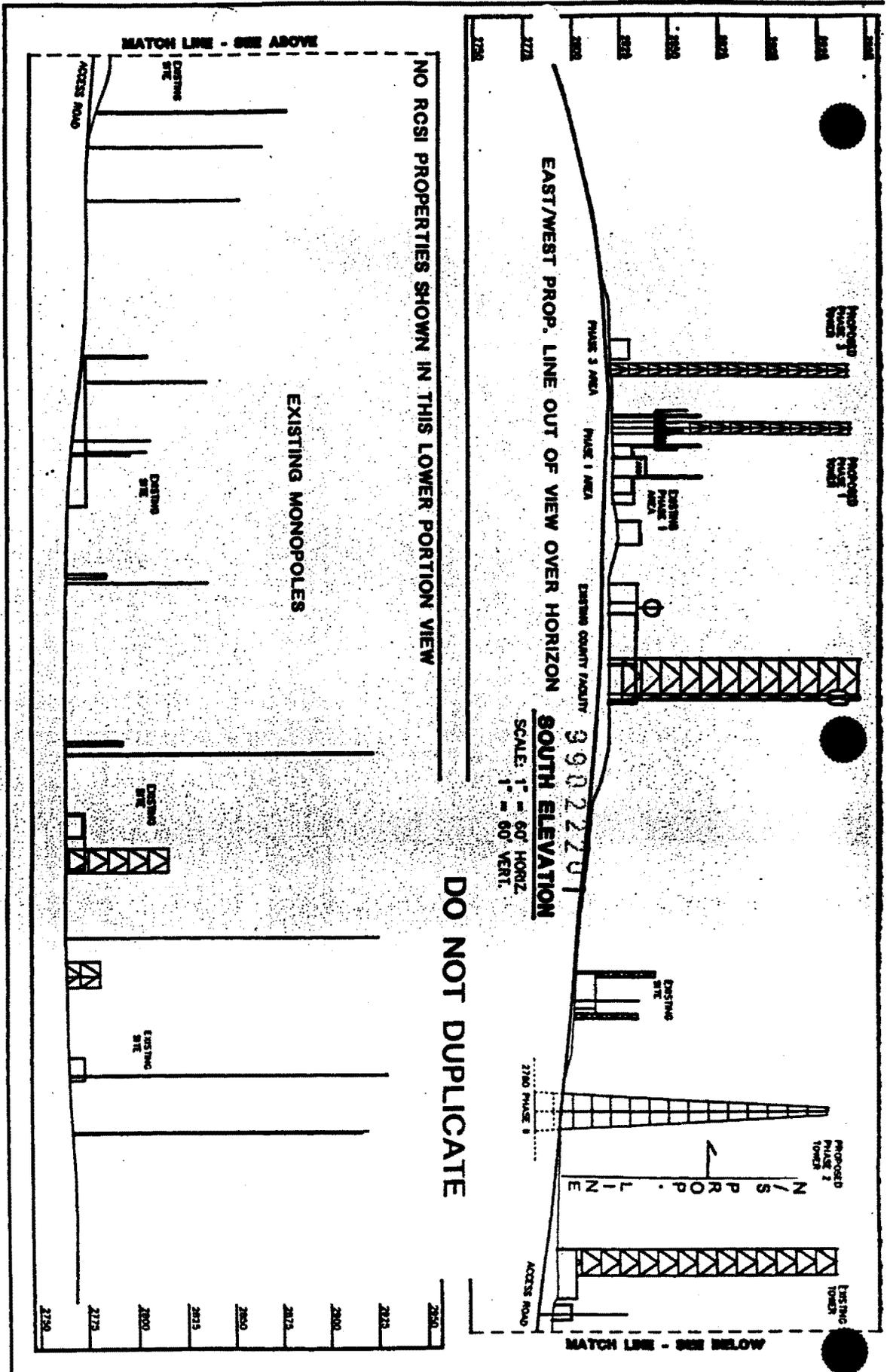


**PROFILE VIEWS
TOWERS, ANTENNAS & FACILITIES
CASTRO PEAK
SANTA MONICA MT., CALIFORNIA**

SHEET
3
OF 4 SHEETS

DRAWN: 2/18/
BY: B.J.G.
CHECKED: M.F.

EXHIBIT NO. 2
APPLICATION NO. 4-98-219
Remote Communicat.



**PROFILE VIEWS
TOWERS, ANTENNAS & FACILITIES
CASTRO PEAK
SANTA MONICA MT. CALIFORNIA**

SHEET 4 OF 4 SHEET
DRAWN: 2/16/ BY: B.J.G. CHECKED: M

Law Offices of
ALAN M. LURYA

4199 Campus Drive, Suite 700
Irvine, California 92612

EXHIBIT NO. 3
APPLICATION NO.
R-4-98-219
Remote Communication

RECEIVED

Fax: (949) 854-4897

page 1 of 4

July 19, 1999

California Coastal Commission
South Coast District Office
89 S. California Street
Ventura, CA 93001

STATE COMMISSION
SOUTH COAST DISTRICT

RE: Application No. 4-98-219 REMOTE COMMUNICATIONS SYSTEM PERMIT TO EXPAND COMMUNICATIONS SITES and Permit thereon approved on May 11, 1999

SUBJECT: Request to Revoke Coastal Commission Permit and Request to Suspend Said Permit Pending Final Hearing By Commission

To the Executive Director:

This request is made by Socal Communication Sites, LLC, ("Socal") which is the owner of a contiguous parcel of real property, consisting of approximately 20+ acres situated South of the subject property. This request to revoke the above described permit, and pending a hearing on the revocation, to summarily suspend the permit, is made pursuant to Calif. Code of Regulation Section 13105 *et seq.*

Socal Communication Sites' grounds for revocation are---

1. The applicant intentionally included inaccurate, erroneous and incomplete information, and complete and accurate information would have caused the commission to require additional or different conditions on a permit or deny an application.
2. The applicant failed to comply with the notice requirements of Section 13054, where the views of the person not notified were otherwise not made known to the commission and could have caused the commission to require additional or different conditions on a permit or deny an application. Said failure to comply was wilful and deliberate. *See Rule 13105*
3. Because Socal is a contiguous property owner, located within 100 feet of the Subject Property it was statutorily entitled to notice of the proceedings and entitled to participate therein. The applicant subverted the permit process by

willfully failing to disclose to the Commission the change of ownership from Bevan to Socal from January 1999 until the permit was granted. The applicant knew that the Notice of Hearing set on April 23, 1999 would not reach Socal because the Notice of Addresses supplied to the Commission listed the old property owner Bevan. The applicant also knew that Socal and Bevan were hostile (as Socal was foreclosing on Bevan's property.) The applicant knew that Socal took title to its property by foreclosure, and obtained a trustee's deed upon a sale which occurred in January 1999. The applicant knew this fact in January 1999 because applicant was specifically informed by Socal. Also, Socal and applicant are business competitors and have had extensive prior dealings regarding the property. Furthermore, the Socal owns the road over which Remote passes to reach its property, and there were extensive discussions regarding the road immediately upon Socal having obtained title to the property. By reason of the foregoing, the applicant wilfully and deliberately violated Rule 13105 by allowing and causing notice of hearing to go to an inaccurate address.

4. Socal Communication Sites is authorized under Rule 13106 to initiate these proceedings, in that it did not have an opportunity to fully participate in the permit proceedings by reason of the applicant's failure to give adequate notice and the inclusion of inaccurate information aforesaid.

5. Revocation is appropriate because Socal had information and views which, if brought to the Commission's attention at the hearing both *would and could have caused the Commission to have either denied or modified the permit. Failure to give statutory notice requires under the authority of Rule 13105 (b) that revocation shall occur if that person's information "could" have affected the outcome.* This is a lenient standard for the objector to meet. As shall be shown, Socal has abundant views regarding the for denial or modification of the permit which were not addressed meaningfully by others.

6. Had Socal been given notice of the permit proceedings, it would have raised these points--

A. *The applicant has no legitimate need for three new towers nor improvements. Because of this fact, any degradation of the ridgeline is unjustified. Applicant currently has three wooden towers (telephone poles) which can accomodate its needs. If painted properly for camouflage, these have a much smaller impact on the environment.*

There is no justification presented in the application that three additional towers are necessary. Technical information which was unknown to the Commission, but known to Socal Communications would show that any reasonable expansion of Remote's business can be accommodated on its existing towers. Remote should be forced to justify by business records that it needs the towers. Furthermore, the Commission should be aware that there is no technical

reason why the towers need be as high as they are proposed to be. This means that the Commission should consider reducing the proposed height of the towers to minimize their impact on the environment.

This brings us to the question of whether the Commission could or would have been influenced by the views of Socal. Socal notes that the permit was issued with numerous conditions, including "2.Future Redesign of Telecommunications Facilities". This clause require applicant to agree that "where future technological changes would allow for reduced visual impacts resulting from the proposed communication facility applicant agrees to make those modifications which would reduce the impact of the proposed facilities."

The information which Socal would present is that the at the present time it is technologically feasible to either eliminate the towers or to drastically change their design to limit damage to the environment. Based on the Commission's concern expressed in this paragraph limiting the permit, and the further demand expressed therein that the applicant agree that "if in the future the facility is no longer needed the applicant agrees to abandon the facility" and be responsible for the "removal of all permanent structures" and "restoration of the site". It is respectfully suggested that Socal has met its burden of proving that it had information which would have resulted in either a denial or modification of the permit.

Socal would have proposed during the permitting process that the Commission require that the applicant:

1. Submit an engineering study showing that the towers are necessary and why a smaller or less obtrusive tower was not reasonably feasible.
2. Submit a customer list or customer information to show that it had the actual need for the tower, and that a smaller tower or facility would not serve its needs.
3. Permit detailed public scrutiny of the representations and the assumptions underlying such studies.

B. Applicant has not produced any engineering study as to the pattern of microwave radiation and the levels generated offsite. There is no guarantee that Socal, its employees, and agents will not be exposed to unsafe levels of microwave energy. Furthermore, the County of Los Angeles has a radio site immediately next to the facility, and there is no assurance that County workers will be protected.

Socal has no way to know how many antennas will be oriented by Remote, and what the radiation flux will be on its property. Exposure to high power microwave radiation generated on site can cause severe health risks, including cataracts. These effects must be taken into account. Socal has caretakers and

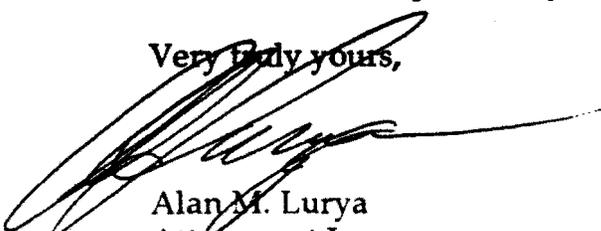
workers on the property 24 hours 7 days per week. Its viewpoint is that these radiation levels must be addressed and steps taken to shield Socal personnel from such radiation. This survey should have been done before the permit was granted. This radiation also has an unknown effect on wildlife that may originate on Park Service Land and cross onto this radiation area. There should be some biological study that there will be no negative effect on wildlife, including any endangered or ecologically sensitive species.

C. Applicant's building plans contain no provision to restore sensitive hillsides or ridgelines damaged as a result of landslides and erosion. The heavy equipment to be used is incompatible with the narrow, dirt unimproved road, and may trigger such a slide.

Socal, had it been given an opportunity to participate in the proceedings, would have pointed out to the Commission that the proposed construction will require that the applicant bring heavy 18 wheel trucks over an unimproved dirt road on an extremely steep grade. We are not only referring to Castro Motorway (unpaved) but to the access road from the motorway to the site. This access road belongs to Socal. Socal states that the Commission should have required a geological report or soils report that the heavy equipment necessary to build this project will not trigger a landslide, which would destroy the road, and scar the ridgeline. A landslide is possible because the dirt road is right next to the cliff. Also, the vibration of the heavy equipment may trigger such slides. At a minimum, the Commission should have required that this issue be addressed by applicant.

Based on the foregoing the permit should be revoked by the Commission, and should be suspended by the Executive Director, pending a hearing.

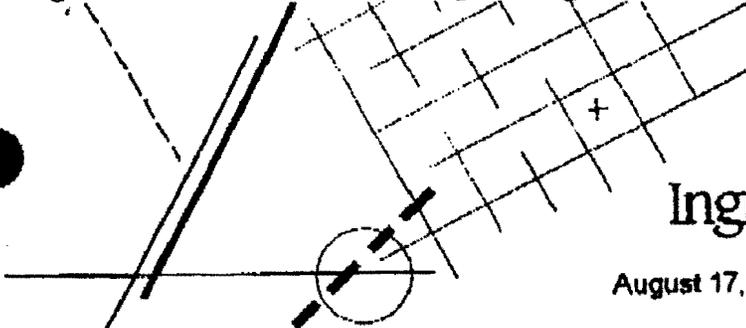
Very truly yours,



Alan M. Lurya
Attorney at Law

AML/dl

cc: Remote Communications System
c/o Carolyn Ingram Seitz
P.O. Box 784
Westminster, CA 92684-0784



Ingram-Seitz & Associates

August 17, 1999

California Coastal Commission
 South Central Coast Area
 Suite 200
 89 South California Street
 Ventura, California 93001

EXHIBIT NO.	4
APPLICATION NO.	
	R-4-98-219
Remote Communication	

Attention: MARK H. CAPELLI, COASTAL PROGRAM ANALYST

page 1 of 6

RE: COASTAL DEVELOPMENT PERMIT 4-98-219
 Atop Castro Peak - Malibu/Santa Monica Mountains Area
 Remote Communications Systems, Inc.

Dear Mr. Capelli:

This letter is being written in response to your letter dated August 10, 1999, and the letter received from Alan M. Lurya requesting that the Commission consider revocation of the Coastal Development Permit issued to Remote Communications Systems, Inc. I will do my best to answer Mr. Lurya's statements as he listed them in his letter and I will restate his grounds, questions, issues or concerns by showing them in bold, underlined text. Our responses follow thereon:

1. The applicant intentionally included inaccurate, erroneous and incomplete information, and complete and accurate information would have caused the commission to require additional or different conditions on a permit or deny an application. Mr. Lurya does not state what the inaccurate, erroneous or incomplete information is. We are not aware of any inaccurate, erroneous or incomplete information. The site plan that was submitted with this application is virtually the same site plan as was considered by the Commission at the time they granted an earlier Permit for Phase One of this project. That site plan showed Phase Two and Phase Three which were the subject of the current application and Permit. The prior Permit's number is 4-97-074. The application materials were completed and submitted by applicant and by this firm with the best information available to us at the time. Had any deficiency or error come to light, we would have taken action to remedy same without hesitation.

2. The applicant failed to comply with the notice requirements of Section 13054, where the views of the person not notified were otherwise not made known to the commission and could have caused the commission to require additional or different conditions on a permit or deny an application. Said failure to comply was wilful and deliberate. Applicant caused to be prepared a certified ownership list and mailing envelopes as was required by statute at the time the permit application was filed. The mailing list was certified by Carlton Rodeheaver of American Permit Service and that certification was submitted along with the list and mailing envelopes as was required. We are not aware of any failure on the part of this applicant to intentionally or unintentionally fail to follow adopted procedures. All requirements for notice for which the applicant is responsible were fully discharged by applicant or applicant's representatives.

Mark H. Capelli
August 17, 1999
Page Two

3. Because Social is a contiguous property owner, located within 100 feet of the subject property it was statutorily entitled to notice of the proceedings and entitled to participate therein. The applicant subverted the permit process by wilfully failing to disclose to the Commission the change of ownership from Bevan to Social from January 1999 until the permit was granted. The applicant knew that the Notice of Hearing set on April 23, 1999 would not reach Social because the notice of addresses supplied to the Commission listed the old property owner Bevan. The applicant also knew that Social and Bevan were hostile (as Social was foreclosing on Bevan's property.) The applicant knew that Social took title to its property by foreclosure, and obtained a trustee's deed upon sale which occurred in January 1999. The applicant knew this fact in January 1999 because applicant was specifically informed by Social. Also, Social and applicant are business competitors and have had extensive prior dealings regarding the property. Furthermore, the Social owns the road over which Remote passes to reach its property, and there were extensive discussions regarding the road immediately upon Social having obtained title to the property. By reason of the foregoing, the applicant wilfully and deliberately (sic) violated Rule 13105 by allowing and causing notice of hearing to go to an inaccurate address. This applicant did what was required and submitted accurate mailing lists and envelopes at the time they were required. Applicant has no control over changes of ownership after the date the required materials are submitted to the Coastal Commission. As far as applicant and its representatives are aware, there is no provision in the body of laws governing the Coastal Commission and its procedures that requires the applicant do any more than submit true and accurate information at the time the application is submitted. The statutes do not require an update to the list. James A. Kay, Jr., owner of Social has been aware of the pendency of this development from the beginning. He was the former tenant on the property that is the subject of this Permit. He is now the owner of the adjoining property. He has submitted written materials about this project and attended public hearings conducted by this Commission in the past. No effort was made at any time to conceal the current permit process from Mr. Kay or his company, Social. Mr. Kay's tenants and caretakers, John and Ruth Burroughs were also made aware of the pending hearing on the subject Permit by applicant. Applicant posted the hearing notice sign well in advance of the hearing and completed the required affidavit of posting and submitted it timely as well. The issue Mr. Lurya raises about the road is not relevant. If the Commission and/or staff are interested in reviewing Court rulings regarding the road issue, applicant would be happy to supply copies of these rulings or orders. The issue over the road is a civil matter that has nothing to do with issuance of this Permit.

4. Social Communications Sites is authorized under Rule 13106 to initiate these proceedings, in that it did not have an opportunity to fully participate in the permit proceedings by reason of the applicant's failure to give adequate notice and the inclusion of the inaccurate information aforesaid. Applicant restates its position that it did exactly as was required and submitted complete, true and accurate information. Mr. Lurya still fails to state what the basis of his assertion is that applicant included "inaccurate, erroneous and incomplete information".

5. Revocation is appropriate because Social had information and views which, if brought to the Commission's attention at the hearing both would and could have caused the Commission to have either denied or modified the permit. Failure to give statutory notice requires under the authority of Rule 13105 (b) that revocation shall occur if that person's information "could" have effected the outcome. This is a lenient standard for the objector to meet. As shall be shown, Social has abundant views regarding the for (sic) denial or modification of the permit which were not addressed meaningfully by others.

Mark H. Capelli
August 17, 1999
Page Three

As far as this Applicant is aware, its statutory burden was met in submitting the required materials at the time the permit application was filed.

6. Had Socal been given notice of the permit proceedings, it would have raised these points:

A. The applicant has no legitimate need for three new towers nor improvements. Because of this fact, any degradation of the ridgeline is unjustified. Applicant currently has three wooden towers (telephone poles) which can accommodate its needs. If painted properly for camouflage, these have a much smaller impact on the environment.

There is no justification presented in the application that three additional towers are necessary. Technical information which was unknown to the Commission, but known to Socal Communications would show that any reasonable expansion of Remote's business can be accommodated on its existing towers. Remote should be forced to justify by business records that it needs the towers. Furthermore, the Commission should be aware that there is no technical reason why the towers need be as high as they are proposed to be. This means that the Commission should consider reducing the proposed height of the towers to minimize their impact on the environment.

This brings us to the question of whether the Commission could or would have been influenced by the views of Socal. Socal notes that the permit was issued with numerous conditions, including "2.Future Redesign of Telecommunications Facilities. This clause require (sic) applicant to agree that "where future technological changes would allow for reduced visual impacts resulting from the proposed communication facility applicant agrees to make those modifications which would reduce the impact of the proposed facilities."

The information which Socal would present is that the at the present time (sic) it is technologically feasible to either eliminate the towers or to drastically change their design to limit damage to the environment. Based on the Commission's concern expressed in this paragraph limiting the permit, and the further demand expressed therein that the applicant agree that "if in the future the facility is no longer needed the applicant agrees to abandon the facility" and be responsible for the "removal of all permanent structures" and "restoration of the site". It is respectfully suggested that Socal has met its burden of proving that it had information which would have resulted in either a denial or modification of the permit.

Socal would have proposed during the permitting process that the Commission require the applicant:

1. Submit an engineering study showing that the towers are necessary and why a smaller or less obtrusive tower was not reasonably feasible.
2. Submit a customer list or customer information to show that it had the actual need for the tower, and that a smaller tower or facility would not serve its needs.
3. Permit detailed public scrutiny of the representations and the assumptions underlying such studies.

Mark H. Capelli
August 17, 1999
Page Four

Applicant is confident that they have supplied information sufficient to justify the need for the additional towers on this site. The Coastal Commission staff and administration and the Commission itself also gave this Permit a thorough review and concurred that the need had been adequately demonstrated. Socal is a competitor of Remote Communications as Mr. Lurya pointed out. There is as great a need for towers to serve the customers of Remote as there is a need on Mr. Kay's or Socal's site and on the County's site immediately adjacent to both properties.

The information mentioned in Mr. Lurya's letter about changes in technology is interesting. The condition contained in the Permit is a standard condition placed on all communications facilities permits, requiring modification of facilities and/or abandonment of equipment and restoration of the site. It is also a standard condition imposed on all Conditional Use Permit applications by the Regional Planning Commission for the County of Los Angeles. Applicant considers this condition a "common sense" condition. Applicant had no problem over the imposition of this condition and has agreed to comply should technological changes allow for modifications of the facilities.

Mr. Lurya's request for customer lists is inappropriate. It has no bearing on the Permit.

Mr. Lurya also requests that engineering studies be conducted. The kinds of studies he is requesting are best left to the purview of the FCC. They have no real bearing on the request for a Coastal Development Permit.

B. Applicant has not produced any engineering study as to the pattern of microwave radiation and the levels generated offsite. There is no guarantee that Socal, its employees, and agents will not be exposed to unsafe levels of microwave energy. Furthermore, the County of Los Angeles has a radio site immediately next to the facility, and there is no assurance that County workers will be protected.

Socal has no way to know how many antennas will be oriented by Remote, and what the radiation flux will be on its property. Exposure to high power microwave radiation generated on site can cause severe health risks, including cataracts. These effects must be taken into account. Socal has caretakers and workers on the property 24 hours per day 7 days per week. Its viewpoint is that these radiation levels must be addressed and steps taken to shield Socal personnel from such radiation. This survey should have been done before the permit was granted. This radiation also has an unknown effect on wildlife that may originate on Park Service Land and cross onto this radiation area. There should be some biological study that there will be no negative effect on wildlife, including any endangered or ecologically sensitive species.

The Federal Communications Commission has jurisdiction over radiation studies associated with development of communications facilities. They specifically preempt local jurisdictions from review or comment on studies of this type according to the Federal Communications Act.

All of the customers who use this site are licensed by the proper regulatory authorities. Applicant did willingly reveal at public hearings that the United States Marshal and the United States Secret Service are among its customers, as is the United States Customs Service. These are federal agencies and as such, are subject to other bodies of regulation that govern their communications equipment and frequencies. Anytime a communications company desires to operate from a facility such as is

Mark H. Capelli
August 17, 1999
Page Five

proposed and as is currently operating on Castro Peak, they are required to submit plans to the FCC. It is up to the FCC to determine whether there is any potential for interference or for any other potential harm from radiation. No such concern has been expressed nor is any known by this Applicant about this site.

The County of Los Angeles Department of Regional Planning reviewed the potential for environmental impacts, including biological concerns and determined that there was a potential for concern unless specific mitigation measures were implemented. These measures included fencing only the immediate communications facilities and not the whole property and use of nighttime lighting only in emergencies. There was a condition imposed that the security lighting be on a timer so that it would shut off automatically and not illuminate the site all night. These conditions are spelled out in the Conditional Use Permit and the Mitigated Negative Declaration attached thereto and have been submitted to the Coastal Commission and its staff for review. Applicant believes proper consideration was given to all of the environmental concerns.

C. Applicant's building plans contain no provision to restore sensitive hillsides or ridgelines damaged as a result of landslides and erosion. The heavy equipment to be used is incompatible with the narrow, dirt unimproved road, and may trigger such a slide.

Socal, had it been given an opportunity to participate in the proceedings, would have pointed out that the applicant bring heavy 18 wheel trucks over an unimproved dirt road on an extremely steep grade. We are not only referring to Castro Peak Motorway (unpaved) but to the access road from the motorway to the site. This access road belongs to Socal. Socal states that the commission should have required a geological report or soils report that the heavy equipment necessary to build this project will not trigger a landslide, which would destroy the road, and scar the ridgeline. A landslide is possible because the dirt road is right next to the cliff. Also, the vibration of the heavy equipment may trigger such slides. At a minimum, the Commission should have required that this issue be addressed by applicant.

Applicant's property has existed in its current state for quite some time. No substantive grading is required to build Phase Two or Phase Three. Much of the subject property that is proposed for these additional sites is on what was historically the fire break or fire road on the mountain top. The vegetation around these sites is natural. There is as much or little potential for landslides on this hilltop as there is on any other hilltop in the world. The site is not watered or irrigated, and there is no domestic vegetation on this site.

Applicant has no knowledge that "building plans" as stated in Mr. Lurya's letter, would require submittal of plans for revegetation of any kind. Building plans usually have to do with construction of a building or structure

There is no proposal to clear the property of vegetation.

In addition, while heavy equipment may use Castro Peak Motorway to access this site when necessary, heavy equipment also accesses Socal's site, the County's site and other properties. The neighbors along Castro Peak Motorway have cooperated for many years in the maintenance of the road. Having said that, the issue over the road is not relevant. If there is an issue, it would be a civil matter, not a Coastal Commission matter.

Mark H. Capelli
August 17, 1999
Page Six

SUMMARY

This Applicant believes that the County of Los Angeles and the Coastal Commission have done a thorough job of reviewing this project, and that no errors in fact are known.

The mailing list and its certification were filed as required and certified to be accurate by the person responsible for their preparation. The site was posted as was required, well in advance of the public hearing on the Coastal Development Permit and evidence of posting was filed timely.

The Federal Communications Commission governs the operation and RF emissions of licensees on communications sites. The customers who use this facility, both the existing and proposed facilities are licensed by the proper regulatory authorities.

Disclosure of all of the customers for this site is irrelevant. The federal agencies who use this site are known. The private clients deserve to have their privacy protected. Disclosure wouldn't serve any useful purpose.

Applicant's project was thoroughly reviewed by the County of Los Angeles for evaluation of potential environmental impacts and any potential impacts have been discussed and mitigated as is evidenced in the Conditional Use Permit and its Mitigated Negative Declaration. The Coastal Commission staff also reviewed this project and it is our understanding concurred with the findings of the County of Los Angeles.

Communications facilities have existed on this site for decades.

No significant grading is necessary or proposed.

Any other issues raised by Mr. Lurya fall under the jurisdiction of the Federal Communications Commission and/or the Courts of the State of California.

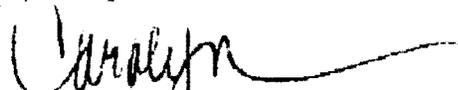
Mr. Lurya's statement in his letter about Socal being a competitor of Remote Communications Systems, Inc., is the only real basis for the effort to secure revocation of this permit.

We respectfully request that the Coastal Commission once again concur with the staff recommendation and ratify the issuance of this Permit.

If you have questions or comments, please feel free to call.

Thank you,

Sincerely,



CAROLYN INGRAM SEITZ

CIS/dbm

Enclosures

cc: Remote Communications Systems, Inc.

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA
SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142



Date: April 22, 1999

Remote Communication Systems
P.O. Box 1510
Simi Valley, CA 93062-1510

RECEIVED
MAY 05 1999
CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

DECLARATION OF POSTING

TO: South Central Coast District

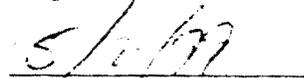
Pursuant to the requirements of California Administrative Code 13054(b), this certifies that I/we have posted the "Public Notice" of application to obtain Coastal Commission Permit No. 4-98-219.

for: Expand communications site, add 120-ft. steel tower, four prefab communications buildings, 170 ft. steel tower, generator, fuel tank, security building, emergency lighting, and fencing, and communications building, 120-ft. tower, generator, fuel tank, emergency lighting, and fence.

located: NW ¼ of the NE ¼ of Section 17, T1s, R 18W

The public notice was posted at a conspicuous place, easily read by the public and as close as possible to the site of the proposed development.


(Signature)


(Date)

NOTE: YOUR APPLICATION CANNOT BE PROCESSED UNTIL THIS "DECLARATION OF POSTING" IS RETURNED TO THIS OFFICE. If the site is not posted at least eight days prior to the meeting at which the application is scheduled for hearing, or the Declaration of Posting is not received in our office prior to the hearing, your application will be removed from its scheduled agenda and will not be rescheduled for Commission action until the Declaration of Posting has been received by this office.

EXHIBIT NO. 5
APPLICATION NO.
K-4-98-219
Remote Communication

