



BOARD AGENDA FACT SHEET

CLERK USE ONLY
BOS ACTION

Planning & Development Services Dept.
 Department /Agency

April 9, 2024
 Requested Board Date

1. Request:

Board Approval

XX

Information
 Only/Presentation
 Schedule Hearing
 Time:

11:00 a.m.

Other (specify)

2. Requested Action: *Type requested action below*

The Imperial County Planning & Development Services Department respectfully requests that the Board of Supervisors conduct a public hearing to consider Appeal #24-0004, appealing the January 10, 2024, Planning Commission's decision of denial for CitySwitch's telecommunication tower project.

1. Consider Approval or Denial of Appeal #24-0004; and,
2. Consider Approval or Denial of the followings:
 - a. Negative Declaration by finding that the proposed project would not have a significant effect on the environment as recommended at the Environmental Evaluation Committee hearing on November 16, 2023; and
 - b. Conditional Use Permit #23-0010 for the proposed telecommunications tower; and
 - c. Variance #23-0004 for the proposed telecommunications tower to exceed the 100 feet height limitation by 80 feet.

3. Cost \$ N/A Source: N/A

4. If approval of Contract, reviewed/approved by County Counsel on: N/A

By: N/A Action Request: N/A
Assigned by County Counsel's Office

1. If approval of position allocation change, approved by Human Resources on: N/A

By: N/A

2. Electronic copy submittal date: 03/15/2024 By: Laryssa Alvarado, Administrative Secretary



 Department Head/Agency Representative

INSTRUCTIONS: Back-up must be submitted **15 BUSINESS days** prior to requested date. (Please Note a Holiday counts as a Business Day.) Back-up submitted must contain an **Original and 2 copies**. Copies must be submitted to the County Executive Office double sided and three (3) hole punched. Back-up must be submitted in a PDF format to yanessasalcido@co.imperial.ca.us and gracielaalvarez@co.imperial.ca.us

Reviewed By: _____
 Deputy CEO

Reviewed By: _____
 Deputy CEO

CEO/CLERK USE ONLY:

DATE STAMP

BOARD DATE: _____

Action _____ Filing _____

Consent _____ Presentation _____

Hearing _____ CEO Approval _____

Other (specify) _____

 CEO Date



Imperial County Planning & Development Services Planning / Building

Jim Minnick
DIRECTOR

TO: Board of Supervisors

April 9, 2024

FROM: Jim Minnick, Director of Planning & Development Services

M/O _____

SUBJECT: APPEAL #24-0004 OF THE JANUARY 10, 2024, PLANNING COMMISSION'S DECISION OF DENIAL FOR CITYSWITCH TELECOMMUNICATIONS TOWER PROJECT.

Dear Board Members:

REQUESTED ACTION:

The Imperial County Planning & Development Services Department respectfully requests that the Board of Supervisors conduct a public hearing to consider Appeal #24-0004, appealing the January 10, 2024, Planning Commission's decision of denial for CitySwitch's telecommunication tower project.

1. Consider Approval or Denial of Appeal #24-0004; and,
2. Consider Approval or Denial of the followings:
 - a. Negative Declaration by finding that the proposed project would not have a significant effect on the environment as recommended at the Environmental Evaluation Committee hearing on November 16, 2023; and
 - b. Conditional Use Permit #23-0010 for the proposed telecommunications tower; and
 - c. Variance #23-0004 for the proposed telecommunications tower to exceed the 100 feet height limitation by 80 feet.

BACKGROUND:

The proposed project is located at 673 Sidewinder Road, Winterhaven, CA. 92283 comprising of approximately 26.75 acres. The property is identified as Assessor's Parcel Number 056-470-002-000 and legally described as POB SBE 872-13-9-3, San Bernardino Base and Meridian (S.B.B.M.), on file in the Office of the County Recorder of Imperial County (Attachment "A" Site Vicinity Map).

The Applicant, CitySwitch, submitted Conditional Use Permit #23-0010 & Variance #23-0004 proposing to construct a 170-foot, monopole cellular wireless tower facility with a 10'-0" lightning rod for a total height of 180'-0" to be located within a 57'-0" x 45'-0" foot fenced area on parcel owned by the Union Pacific Railroad Company and within its railroad right-of-way.

According to their CUP Application CitySwitch has the commitment with Union Pacific Railroad Company and AT&T Mobility, a wireless services provider for this site. Additionally, the facility will be open for co-location to other wireless providers. The project requires a Conditional Use Permit (#23-0010) for the monopole tower and a Variance (#23-0004) to exceed the 100-foot height limitation for the Recreation/Open Space (S-2) zoned area by 80 feet.

The proposed facility is designed to house the equipment necessary to provide Union Pacific and AT&T's critical communications for the railroad line and uninterrupted AT&T wireless services to the residents and visitors of Winterhaven, Imperial County, and surrounding areas, including wireless telephone service, voice paging, messaging, and wireless internet and broadband data transmission. All registered wireless providers' technology operates at various radio frequency bands allocated by the Federal Communications Commission (FCC) as part of their license.

On July 19, 2023, Conditional Use Permit #23-0010 & Variance #23-0004, for the proposed 180-foot wireless telecommunications facility, were heard by the Imperial County Airport Land Use Commission where it was determined that the proposed project was consistent with the 1996 Airport Land Use Compatibility Plan (ALUCP).

Land Use Analysis:

Per Imperial County's General Plan, the land use designation for this project is "Recreation/Open Space" and is zoned as S-2 (Open Space) per Zoning Map #70 of the Imperial County Title 9 Land Use Ordinance. Per County's Land Use Ordinance (Title 9), Division 5, Section 90519.02 Subsection (r), communication towers are allowed in an S-2 (Open Space) zone with an approved Conditional Use Permit (CUP). The proposed project is consistent with the County's General Plan and County's Land Use Ordinances (Title 9).

Although the proposed project is consistent with the S-2 zone under an approved Conditional Use Permit (Division 5, Section 90519.02(r)), it is determined that it is in conflict with Division 24, Section 92401.00—Purpose, "...This Section standards are intended to protect, and promote public health, safety, community welfare and the unique visual character of the Imperial County [by] minimizing the number of towers throughout the community..." as the proposed telecommunications tower would be situated approximately 2008.33 feet south of an existing telecommunications tower owned by SBA Towers, LLC, operating under Conditional Use Permit #19-0029. Upon further research on submitted reports of the adjacent existing tower, it was found that tower space for future co-locators is still available.

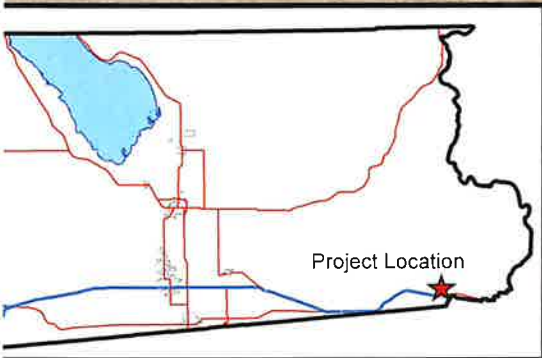
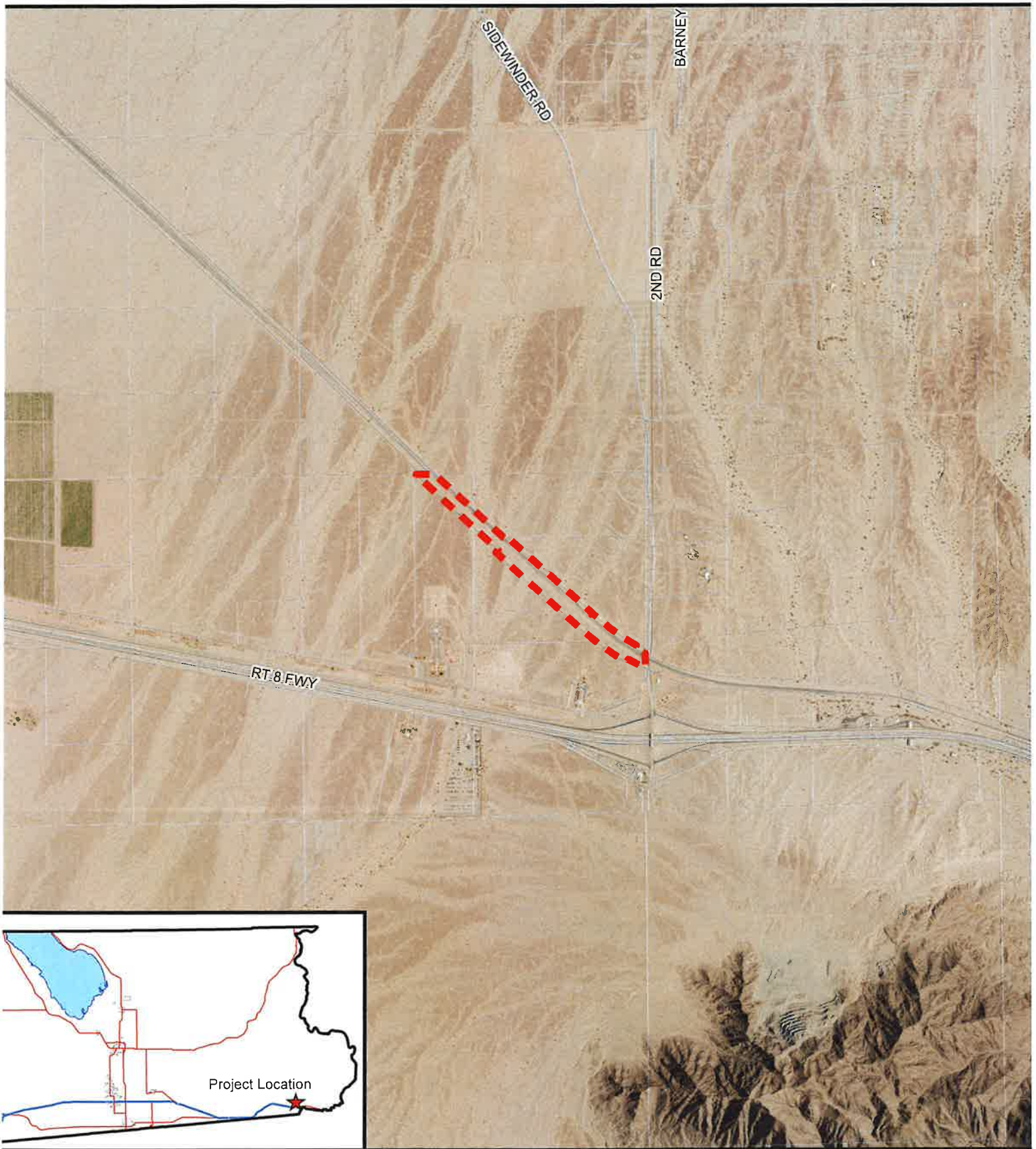
In a letter dated January 10, 2024, Sherman & Howard, LLC on behalf of CitySwitch, filed an appeal of the January 10, 2024, Planning Commission's denial of Conditional Use Permit and Variance for CitySwitch's telecommunications tower project.

Attachment A	Location Map
Attachment B	CEQA Resolution for Conditional Use Permit and Variance
Attachment C	Conditional Use Permit Resolution
Attachment D	Variance Resolution
Attachment E	Appeal Letter Submittal
Attachment F	PC Original Package CD




cc: Miguel Figueroa, County Executive Officer
Erik Havens, County Counsel
Jim Minnick, Director of ICPDS
Michael Abraham, AICP Assistant Director of ICPDS
Diana Robinson, Planning Division Manager
Evelia Jimenez, Planner II
APP24-0004; APN 056-470-002-000
Files 10.105, 10.130, 10.133, 40.103, 40.110, 40.111

ATTACHMENT A
Location Map

PROJECT LOCATION MAP



CITY SWITCH
APP #24-0004
APN 056-470-002-000

-  Project Location
-  Centerline
-  Parcels



ATTACHMENT B
CEQA Resolution (IS#23-0010) for
CUP & Variance

RESOLUTION NO.

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF IMPERIAL, CALIFORNIA, DENYING APPEAL #24-0004 AND DENYING THE ADOPTION OF THE “NEGATIVE DECLARATION” (INITIAL STUDY #23-0010) FOR CONDITIONAL USE PERMIT #23-0010 AND VARIANCE #23-0004.

WHEREAS, on November 4, 2023, a Public Notice was mailed to the surrounding property owners advising them of the Environmental Evaluation Committee hearing scheduled for November 16, 2023; and,

WHEREAS, a Negative Declaration and CEQA findings were prepared in accordance with the requirements of the California Environmental Quality Act, State Guidelines, and the County's "Rules and Regulations to Implement CEQA, as Amended"; and

WHEREAS, on November 16, 2023, the Environmental Evaluation Committee heard the project and recommended to the Planning Commission of Imperial County to adopt the Negative Declaration for Conditional Use Permit #23-0010 and Variance #23-0004; and

WHEREAS, on November 21, 2023 the Negative Declaration was circulated for 20 days from November 21, 2023 to December 16, 2023; and

WHEREAS, the Board of Supervisors of the County of Imperial has been designated with the responsibility of approvals and certifications; and

NOW, THEREFORE, the Board of Supervisors of the County of Imperial **DOES HEREBY RESOLVE** as follows:

The Board of Supervisors has reviewed the attached Appeal and Negative Declaration prior to denial of Conditional Use Permit #23-0010 and Variance #23-0004. The Board of Supervisors finds and determines that the Negative Declaration is adequate and prepared in accordance with the requirements of the Imperial County General Plan and Land Use Ordinance, and the California Environmental Quality Act (CEQA), which analyzes the project's environmental effects, based upon the following findings and determinations:

1. That the recital set forth herein are true, correct, and valid;
2. That the Board of Supervisors has reviewed the attached Negative Declaration for Conditional Use Permit #23-0010 and Variance #23-0004, and considered the information contained in the Negative Declaration together with all comments received during the public review period and prior to denying the Conditional Use Permit and Variance; and
3. That the Negative Declaration reflects the Board of Supervisors independent judgment and analysis.

NOW, THEREFORE, based on the findings, the Board of Supervisors of the County of Imperial **DOES HEREBY DENY APPEAL #24-0004 AND DENY THE ADOPTION** of the Negative Declaration for Conditional Use Permit #23-0010 And Variance #23-0004.

AYES:

NOES:

ABSENT:

ABSTAIN:

LUIS PLANCARTE, Chairperson
Imperial County Board of Supervisors

ATTEST: _____
BLANCA ACOSTA, Clerk of the
Board of Supervisors, County of
Imperial, State of California

ATTACHMENT C
CUP #23-0010 Resolution

RESOLUTION NO.

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF IMPERIAL, CALIFORNIA, DENYING APPEAL #24-0004 AND DENYING CONDITIONAL USE PERMIT #23-0010 AND CONDITIONS OF APPROVAL FOR CITYSWITCH.

WHEREAS, CitySwitch has submitted an application for Conditional Use Permit #23-0010 for a monopole telecommunications tower; and,

WHEREAS, a Negative Declaration has been prepared in accordance with the requirements of the California Environmental Quality Act, the State Guidelines, and the County's "Rules and Regulations to Implement CEQA as Amended"; and,

WHEREAS, the Board of Supervisors of the County of Imperial has been delegated with the responsibility of approvals and certifications; and,

WHEREAS, public notice of said application has been given, and the Board of Supervisors has considered evidence presented by the Imperial County Planning & Development Services Department and other interested parties at a public hearing held with respect to this item on April 9, 2024; and,

NOW, THEREFORE, the Board of Supervisors of the County of Imperial **DOES HEREBY RESOLVE** as follows:

SECTION 1. The Board of Supervisors of the County of Imperial has considered Appeal #24-0004 and the proposed Conditional Use Permit #23-0010 prior to denial. The Board of Supervisors of the County of Imperial finds and determines that Conditional Use Permit is inconsistent with the Imperial County Land Use Ordinance; however, it is adequate and prepared with the requirements of the Imperial County General Plan and the California Environmental Quality Act (CEQA), which analyzes environmental effects, based upon the following findings and determinations.

SECTION 2. That in accordance with State Planning and Zoning law and the County of Imperial regulations, the following findings for denying Conditional Use Permit #23-0010 have been made as follows:

A. The proposed use is consistent with goals and policies of the adopted County General Plan.

Per Imperial County's General Plan, the land use designates the subject site under Land Use "Recreation" per Imperial County Land Use Ordinance, Zone Map # 70, Pursuant to Title 9, Division 5 Section 90519.02, The project is found consistent with the goals and policies of the Imperial County General Plan Land Use Element and therefore, consistent with the County's General Plan, Although the proposed project is found consistent with goals and policies of the S-2 zone, it is determined that

F. The proposed use does not violate any other law or ordinance.

The proposed project will be subject to the Conditional Use Permit conditions of approval & Variance, current Federal, State and Local regulations. The proposed use does not violate any law or ordinance.

G. The proposed use is not granting a special privilege.

The project is a permitted use subject to approval of a Conditional Use Permit #23-0010 & Variance #23-0004 under Land Use Ordinance, Section 92404.01 et. seq. and will not grant a special privilege.

NOW, THEREFORE, based on the above findings, the Board of Supervisors of the County of Imperial **DOES HEREBY DENY** Appeal #24-0004, **DENY** Conditional Use Permit #23-0010 and attached Conditions of Approval.

AYES:
NOES:
ABSENT:
ABSTAIN:

LUIS PLANCARTE, Chairperson
Imperial County Board of Supervisors

ATTEST: _____
BLANCA ACOSTA, Clerk of the
Board of Supervisors, County of
Imperial, State of California

ATTACHMENT D
Variance #23-0004 Resolution

RESOLUTION NO.

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF IMPERIAL, CALIFORNIA, DENYING APPEAL #24-0004 AND DENYING VARIANCE #23-0004 FOR A HEIGHT INCREASE FOR A MONOPOLE WIRELESS TELECOMMUNICATION TOWER.

WHEREAS, CitySwitch, has submitted an application for Variance (#23-0004) requesting an increase (80 feet) of the maximum allowed height in the Open Space "S-2" zone from 100 feet to 180 feet for the proposed monopole wireless telecommunication tower; and

WHEREAS, a Negative Declaration and CEQA findings were prepared in accordance with the requirements of the California Environmental Quality Act, State Guidelines, and the County's "Rules and Regulations to Implement CEQA, as Amended"; and

WHEREAS, on November 16, 2023, the Environmental Evaluation Committee heard the project and recommended to the Planning Commission of Imperial County to adopt the Negative Declaration for Variance #23-0004; and

WHEREAS, on November 21, 2023 the Negative Declaration was circulated for 20 days from November 21, 2023 to December 16, 2023; and

WHEREAS, public notice of said application has been given, and the Board of Supervisors has considered evidence presented by the Imperial County Planning & Development Services Department and other interested parties at a public hearing held with respect to this item on April 9, 2024; and

WHEREAS, the Board of Supervisors of the County of Imperial has been designated with the responsibility of adoptions and certifications; and

NOW, THEREFORE, the Board of Supervisors of the County of Imperial **DOES HEREBY RESOLVE** as follows:

SECTION 1. The Board of Supervisors of the County of Imperial has considered Appeal #24-0004 and Variance #23-0004 prior to denial. The Board of Supervisors of the County of Imperial finds and determines that the Variance is inconsistent with the Imperial County Land Use Ordinance; however, it is adequate and prepared with the requirements of the Imperial County General Plan and the California Environmental Quality Act (CEQA), which analyzes environmental effects, based upon the following findings and determinations.

SECTION 2. That in accordance with State Planning and Zoning Law (California Government Code (§65906) and the County of Imperial Land Use Ordinance (§90202.08), the following findings for the approval of Variance #23-0004 have been made:

- A. Are there special circumstances applicable to the property described in the variance application that do not apply generally to the property or class of use in the same zone or vicinity?**

Requiring CitySwitch to adhere to the one hundred (100) foot communication tower limit would have a significant negative impact on the communications tower coverage that is necessary in the area. It would result in the communications tower incapability to provide communications coverage in the designated area. Granting this variance will not constitute a grant of special privilege that is not generally available to other property in the vicinity and in the same land use zone.

- B. Will the granting of such variance not be materially detrimental to the public welfare or injurious to the property or improvements in such zone or vicinity in which the property is located.**

According to CitySwitch application, the purpose of the proposed tower is to increase the coverage available to the carrier's users. Granting such variance will not be materially detrimental to the public welfare or injurious to the property or vicinity in which the property is located.

- C. Because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, will the strict application of zoning laws deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classifications?**

According to CitySwitch application, the strict adherence to Section 90519.07 of the Title 9, Division 5, Open Space (S-2) zone to the one hundred (100) foot height limit would deprive and prevent CitySwitch the ability to provide adequate coverage to the surrounding areas.

- D. Does the granting of such variance adversely affect the comprehensive General Plan?**

Staff has reviewed the proposed communications tower and proposed variance and has determined that such to be inconsistent with the purpose of Division 24 Section 92401.00 within the S-2 (Open Space) Zone, in the Recreation of the Imperial County General Plan. As allowed through the variance process, the granting of the one hundred eighty (180) foot variance would not constitute a grant adversely affecting the Imperial County General Plan.

Although the proposed project is consistent with the S-2 zone under an approved Conditional Use Permit (Division 5, Section 90519.02(r)), it is determined that it is in conflict with Division 24, Section 92401.00 – Purpose, "...This Section standards are intended to protect, and promote public health, safety, community welfare and the unique visual character of the Imperial County [by] minimizing the number of towers throughout the community..." as the proposed telecommunications tower would be situated approximately 2,008 feet south of an existing telecommunications tower owned by SBA Towers, LLC, operating under Conditional Use Permit #19-0029.

NOW, THEREFORE, based on the findings, the Board of Supervisors of the County of Imperial **DOES HEREBY DENY** Appeal #24-0004 and **DENY** Variance #23-0004.

AYES:

NOES:

ABSENT:

ABSTAIN:

LUIS PLANCARTE, Chairperson
Imperial County Board of Supervisors

ATTEST: _____
BLANCA ACOSTA, Clerk of the
Board of Supervisors, County of
Imperial, State of California

ATTACHMENT E
Appeal Letter Submittal

Melissa K. Reagan
Allison R. Burke
Sherman & Howard L.L.C.
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aburke@shermanhoward.com

Attorneys for Applicant – CitySwitch II-A, LLC

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mbieniek@lcctelecom.com

Site Consultant for Applicant – CitySwitch II-A, LLC

Before the Imperial County Board of Supervisors

<p>Appeal of Planning Commission Decisions dated January 10, 2024 Denying Conditional Use Permit and Variance Applications</p> <p>CUP23-0009, Variance 23-0003 (APN 039-310-019) CUP23-0010, Variance 23-0004 (APN 056-470-002) CUP23-0011, Variance 23-0006 (APN 041-200-008)</p>	<p>CitySwitch II-A LLC’s Memorandum in Support of Appeal Requesting Board of Supervisors Approve CitySwitch’s Conditional Use Permit and Variance Applications</p>
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I. INTRODUCTION

In order to provide the citizens of Imperial County, California with quality wireless services, CitySwitch II-A, LLC (“CitySwitch”) submitted three applications for Conditional Use Permits (“CUP”) and Variances (collectively, the “Applications”) to construct new cellular wireless facilities (collectively, the “Facilities”) on properties owned by Union Pacific Railroad:

- **CUP23-0009, Variance 23-0003:** a 155-foot monopole tower with a 10-foot lightning rod for a total height of 165-feet to be built at 5359 East Highway 78, Brawley, California on railroad right-of-way owned by Union Pacific Railroad and leased to CitySwitch.
- **CUP23-0010, Variance 23-0004:** a 170-foot monopole tower with a 10-foot lightning rod

for a total height of 180-feet to be built at 673 Sidewinder Road, Winterhaven, California, on a railroad right-of-way owned by Union Pacific Railroad and leased to CitySwitch.

- **CUP23-0011, Variance 23-0006:** a 200-foot monopole tower with a 10-foot lightning rod for a total height of 210-feet to be built at 1505 East Keystone Road, Brawley, California on railroad right-of-way owned by Union Pacific Railroad and leased to CitySwitch.

(Collectively, the “Sites”).

On January 10, 2024, the Imperial County Planning Commission (“Planning Commission”), after receiving submitted application materials and Staff Reports from the Imperial County Planning & Development Services Department (“P&D Services”), hearing comments from the public, and considering certain zoning regulations within The County of Imperial Codified Ordinances (the “Code”), Title 9, Division 24, *incorrectly* denied the Applications on the sole basis that there are existing, nearby towers owned by SBA Structures, LLC (“SBA”) that from the Planning Commission’s perspective, without any evidentiary support, provide adequate coverage. Accordingly, the Planning Commission determined no new towers should be permitted.

The Planning Commission erred in denying CitySwitch’s Applications for at least four reasons. *First*, the Planning Commission’s decision violates the federal Telecommunications Act of 1996, 47 U.S.C. § 332(c)(7)(B)(i)(II), by effectively prohibiting CitySwitch and its tenant, AT&T¹, from providing personal wireless service. The Planning Commission’s decisions materially inhibit CitySwitch’s ability to compete in a fair and balanced legal and regulatory environment; CitySwitch presented evidence to the Planning Commission that its proposed anchor tenant, AT&T, is economically burdened by having to maintain equipment on nearby wireless facilities owned and operated by SBA. *Second*, the Planning Commission’s decisions were an abuse of discretion because the basis for denying the Applications is not supported by the Code.

¹ The proposed Facility in Winterhaven, California (CUP 23-0010 / Variance 0004) would also be leased to Verizon Wireless.

Third, CitySwitch’s Applications met all applicable Code requirements. There were zero findings by the Planning Commission that CitySwitch’s Application did not satisfy all applicable Code requirements. The Planning Commission’s decisions were instead based on arbitrary general standards and purposes; not any actual or specific requirements or regulations in the Code or the County’s General Plan. *Fourth*, the Planning Commission failed to provide a decision “in writing and supported by substantial evidence in a written record” in violation of 47 U.S.C. § 332(c)(7)(B)(iii). The Planning Commission’s decisions to deny the Applications made no findings of fact or conclusions of law.

For the reasons set forth herein, CitySwitch requests the Imperial County Board of Supervisors reverse the decision of the Planning Commission, approve the Applications, and issue the CUPs and Variances.

II. FACTUAL BACKGROUND

A. CitySwitch’s Applications and the Planning Commission Decision

1. On April 12, 2023, CitySwitch submitted the Applications for CUPs and Variances for the Facilities to P&D Services.
2. On April 13, 2023, P&D Services notified CitySwitch that it required wet signatures on the CUP and Variance application forms, and that it also required executed copies of the Owner’s Affidavit, General Indemnification Form, and Notice to Applicant Form.
3. On July 11, 2023, CitySwitch provided the CUP and Variance applications with wet signatures, and executed copies of the Owner’s Affidavits, General Indemnification Forms, and Notice to Applicant Forms.
4. Within each of the Applications, CitySwitch provided a Sworn Statement of Spencer Gambrell in Support of New Tower Construction from AT&T (the “Economic Burden

Affidavits”), explaining (1) why continued collocation on the existing SBA towers was economically burdensome to AT&T, (2) that SBA charges non-market rents and imposes non-market lease terms; and (3) SBA has long-resisted amendments to its long-term leases that would make the leases more competitive in the current wireless tower lease marketplace. Mr. Gambrell also explained that space on the CitySwitch towers, in contrast, would be offered to AT&T at market rents and on favorable lease terms that would allow AT&T to invest its resources in improving its equipment and network coverage, rather than high rents.

5. On July 19, 2023, the Imperial County Land Use Commission determined the Applications were consistent with the Imperial County Airport Land Use Compatibility Plan.

6. On July 24, 2023, P&D Services requested revised coverage plots for all three Sites showing coverage provided by equipment collocated on the existing SBA towers, and how coverage would change with the proposed Facilities.

7. On October 6, 2023, CitySwitch provided the revised coverage plots for all three Sites, and also reiterated to the County why AT&T, a tenant on the existing SBA towers, could not continue collocating on the SBA towers due to high rents and non-market lease terms. A copy of that CitySwitch’s October 6, 2023 letter is attached as **Exhibit 1**.

8. On November 6, 2023, the Environmental Evaluation Committee recommended Negative Declarations for all three Sites.

9. On December 29, 2023, P&D Services provided links to the Staff Reports for the Applications.² The Staff Reports includes P&D Services’ recommendation, the prior findings from

² The Staff Report for CUP 23-0009 / Variance 23-0003 is available at the following link: <https://www.icpds.com/assets/hearings/7.-CUP23-0009-CitySwitch-PC-Hearing-Pkg.pdf>.

The Staff Report for CUP23-0010 / Variance 23-0004 is available at the following link: <https://www.icpds.com/assets/hearings/8.-CUP23-0010-CitySwitch-PC-Hearing-Pkg.pdf>.

the Imperial County Airport Land Use Commission and Environmental Evaluation Committee, as well as full copies of the Applications themselves. Notably, the Staff Reports do not reference the Economic Burden Affidavits, and do not include or reference CitySwitch’s October 6, 2023 letter.

10. Each of the Staff Reports made the following finding with respect to the General Plan:

GENERAL PLAN FINDINGS CONSISTENT INCONSISTENT MAY BE/FINDINGS

11. Each of the Staff Reports also explained in the Land Use Analysis section that the proposed projects were consistent with the allowable uses within the applicable zones (S-2 and A-2) with a CUP, but that each of the Applications “is in conflict with Division 24, Section 92401.00 – Purpose, ‘... This Section standards are intended to protect, and promote public health, safety, community welfare and the unique visual character of the Imperial County [by] minimizing the number of towers throughout the community ...” as the proposed Facilities would each be located approximately 1565 feet south, 2008.33 feet south, and 1,000 feet south, respectively, of existing telecommunications towers owned by SBA. The Code does not require any separation distance between existing and new towers.

12. On January 9, 2024, CitySwitch sent correspondence to P&D Services and the Planning Commission explaining why the recommendations in the Staff Reports were incorrect. A copy of CitySwitch’s letter is attached as **Exhibit 2**.

13. Also on January 9, 2024, SBA submitted a letter stating its opposition to the Applications. A copy of SBA’s letter is attached as **Exhibit 3**.

14. On January 10, 2024, the Planning Commission held its regular meeting. During

The Staff Report for CUP23-0011 / Variance 23-0006 is available at the following link:
<https://www.icpds.com/assets/hearings/9.-CUP23-0011-CitySwitch-PC-Hearing-Pkg.pdf>.

the meeting, CitySwitch explained its position regarding the Applications and presented the PowerPoint attached as **Exhibit 4**. The PowerPoint again provided extensive information regarding why AT&T could no longer viably collocate on the existing SBA towers.

15. The Planning Commission denied all three Applications (the “Decisions”). Copies of the Notifications of Action reflecting the Decisions are attached as **Exhibit 5**. The Decisions fail to include any written decision supported by substantial evidence in the record to support the Planning Commission’s decisions.

III. STANDARD OF REVIEW

Pursuant to Section 90104.05 of the Code, “[a]ny decision made by the planning commission ... may be appealed to the board of supervisors[.]” The appeal must meet the following requirements: (1) the written appeal must be filed within ten calendar days from the planning commission’s decision; (2) the request is filed with the planning director; (3) the requisite fees are included; (4) the written appeal clearly states (a) the name of the person(s) filing the appeal, (b) the address and phone number of the person(s) filing the appeal, (c) the project/decision being appealed, (d) the reason for filing the appeal, (e) the facts, conditions, information, error or other specific to warrant an appeal, (f) prior effort(s) made to arrive at an acceptable solution, if any, (g) the action being requested, and (h) the signature of the appellant.

IV. ARGUMENT

A. The Planning Commission’s Decisions Have the Effect of Materially Inhibiting CitySwitch From Providing Wireless Services and Violated Federal Law.

The federal Telecommunications Act of 1996, 47 U.S.C. § 332(c)(7)(B)(i), states:

- (i) The regulation of the placement, construction, and modification of personal wireless facilities by any State of local government or instrumentality thereof –

...

- (II) shall not prohibit or have the effect of prohibiting the provision of wireless services.

The Federal Communications Commission (“FCC”) and courts are in accord that the phrase “effect of prohibiting the provision of wireless service” requires that a court consider whether the locality’s decision – including a decision to deny an application for a wireless facility – “materially inhibits or limits the ability of any competitor or potential competitor to compete in a fair and balanced legal and regulatory environment. *See In the Matter of Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, 33 F.C.C.R. 9088, ¶ 119 (2018) (“2018 FCC Order”); *City of Portland v. United States*, 969 F.3d 1020, 1034–35 (9th Cir. 2020); *Qwest Corp. v. City of Santa Fe, New Mexico*, 380 F.3d 1258, 1270–71 (10th Cir. 2004) (citing *In re Cal. Payphone Ass’n*, 12 F.C.C.R. 14191, 14206 (1997)). Under this standard, a local legal requirement or barrier “could materially inhibit service in numerous ways – not only by rendering a service provider unable to provide an existing service in a new geographic area ... but also by materially inhibiting the introduction of new service or the improvement of existing service. Thus, an effective prohibition includes materially inhibiting the provision of additional services or improving existing services.” 2018 FCC Order ¶ 37. A legal requirement can “materially inhibit” service even if it is not an “insurmountable barrier.” *Id.* ¶¶ 34–35, 41–42.

By adopting the “material inhibition” standard, the FCC explicitly rejected the “least intrusive means” test, 2018 FCC Order ¶ 40 n.94, which the Ninth Circuit previously utilized. *See, e.g., T-Mobile USA, Inc. v. City of Anacortes*, 572 F.3d 987 (9th Cir. 2009). As the FCC noted, the “least intrusive” standard’s emphasis on “coverage gaps” is an outdated approach, “view[ing] wireless service as if it were a single, monolithic offering provided only via traditional wireless towers,” and unsuited for assessing barriers to deploying wireless internet and 5G services. 2018 FCC Order ¶ 40. On review, the Ninth Circuit upheld the 2018 FCC Order’s “material inhibition”

test as the correct interpretation of 47 U.S.C. § 332(c)(7)(B)(i)(II). *City of Portland*, 969 F.3d at 1034–35. Courts in California have since recognized that the “material inhibition” standard, and not the “least intrusive” standard, is now controlling. *See, e.g., New Cingular Wireless PCS, LLC v. City of West Covina, California*, No. 2:22-cv-01642-MEMF-JCx, 2023 WL 4422835, at *4 (C.D. Cal. July 10, 2023).

In this case, the Planning Commission’s Decisions materially inhibit CitySwitch and AT&T from providing wireless services to Imperial County in at least three ways.

First, by refusing to authorize the new CitySwitch towers, the County is “limit[ing] the ability of any competitor or potential competitor” of SBA “to compete in a fair and balanced legal and regulatory environment.” 2018 FCC Order ¶ 119. The Code includes several requirements relating to collocation. With respect to *new* towers, the Code “encourage[s]” towers to “promote future facility and site sharing.” Code Section 90204.01(M). However, the applicant may present “[t]echnical evidence ... as to the infeasibility either technical and/or economic, of co-location or grouping prior to the issuance of a new use permit for a facility that would not be considered to be co-located or grouped.” *Id.* In lay-person’s terms, a new tower applicant may demonstrate to the County that its new tower cannot feasibly be grouped or offered for collocation based on technical or economic infeasibility. But this exception apparently does not cut both ways: the Planning Commission refused to accept CitySwitch and AT&T’s statements of economic infeasibility of continued collocation on the existing SBA towers as a basis for authorizing new towers. In short, the Code frustrates competition by imposing one set of rules for new towers that allows collocation exceptions on the basis of economic infeasibility but does not apply those same rules to existing towers, even when the tower owners impose economically infeasible rents.

Second, the Planning Commission’s Decisions have the effect of materially inhibiting

CitySwitch and AT&T from providing wireless service in Imperial County by imposing on AT&T excessive rents (to the tune of more than \$13 million dollars over twenty years across the three Sites). This, in turn, prevents AT&T from investing that money in newer technologies and upgraded equipment that provides the most current services to Imperial County. Enforcing local ordinances that result in substantial costs for wireless providers “materially inhibits” the provision of services. *See, e.g., Qwest Corp. v. City of Santa Fe, New Mexico*, 380 F.3d 1258, 1271 (10th Cir. 2004). This is especially true when costs are aggregated across all of the wireless provider’s affected facilities. *See id.*

Third, the Planning Commission’s Decisions materially inhibit the provision of wireless services by preventing cellular providers like AT&T from freely and easily updating their equipment as technologies rapidly change. As the Economic Burden Affidavits make clear, each time AT&T upgrades its equipment – which happens frequently due to ever-changing coverage and capacity demands and technological advances – it must apply to SBA, which then triggers an application fee and a lengthy administrative review process, which typically includes a structural analysis of the tower and an amendment to the existing lease agreement. *See Economic Burden Affidavits* ¶ 15. This administrative process often takes several months, and results in additional time and costs in the deployment of the upgraded facilities. Conversely, AT&T’s master tower lease agreement with CitySwitch provides 30,000 square inches of tower space exclusively for AT&T to accommodate AT&T’s wireless facilities needs well into the future as technologies change and equipment upgrades are required. *Id.* ¶ 16. As noted by the FCC in 2018, *complete* prohibition of wireless service is not required; all that is required is material inhibition. 2018 FCC Order ¶¶ 34–35, 41–42. Lengthy administrative processes and higher costs meet this standard.

In short, the Planning Commission’s Decisions materially inhibit CitySwitch’s and

AT&T's ability to provide wireless services to Imperial County in violation of the Telecommunications Act.

B. The Planning Commission's Decisions Were an Abuse of Discretion Because The Bases for Denial Is Not Supported by the Code.

In addition to violating the Telecommunications Act, the Planning Commission's Decisions were also illegal under California law because they were an abuse of discretion and not supported by the plain language of the Code.

As was made clear during the January 10, 2024 Planning Commission hearing, the Decisions were based entirely on the mere existence of existing towers owned by SBA. During the hearing, the P&D Services' Director instructed the Planning Commission that the Planning Commission had discretion to deny the Applications because they are "inconsistent" with the "Purpose" of the communication facilities Code sections, which are "inten[ded] to," in part, "[m]inimize the number of towers throughout the community." Code Section 92401.00. This instruction is not supported by the plain language of the Code, and there are no actual regulations prohibiting the new CitySwitch towers.

First, the Code's "purpose" is separate and distinct from the Code's actual regulations and requirements. The preamble to the wireless facilities section of the Code merely articulates the *purposes* of and is separate and distinct from the *actual regulations* themselves. Specifically, the preamble states that "[t]hese standards are intended to protect and promote public health, safety, community welfare and the unique visual character of Imperial County by encouraging the orderly development of communication infrastructure." *Id.* These "intentions" and "purposes" of the wireless facilities Code sections are not themselves requirements or regulations. They are merely the desired outcomes when implementing the actual regulations. Regardless, the Planning Commission plainly disregarded other "purposes" that are advanced by the Applications: (1)

encouraging the location of towers in nonresidential areas (all three Sites are in nonresidential locations); (2) encouraging users of towers to locate them in areas where the adverse impact on the community is minimal (all three Sites are located in rural areas of Imperial County on railroad rights-of-way owned by Union Pacific Railroad); and (3) enhancing the ability of providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently (AT&T would benefit from more favorable CitySwitch lease terms thereby allowing AT&T to more efficiently and quickly provide services to Imperial County residents and businesses and upgrades to those services).

Beyond the “purpose” or “intent” of the wireless facilities Code provisions, there are no actual regulations that authorize the Planning Commission to deny the Applications on the basis of the existing SBA towers. There are several Code provisions relating to existing towers and collocation preferences, but none expressly limit towers in specific areas or impose tower separation requirements.

Specifically, Section 92404.01(M) of the General Requirements for Wireless Facilities states that “[a]ll communication facilities shall be encouraged to promote future facility and site sharing. Technical evidence will be provided as to the infeasibility either technical and/or economic, of co-location or grouping prior to the issuance of a new use permit for a facility that would not be considered to be co-located or grouped under this Ordinance.” This provision, which applies to applicants requesting approval for new towers, requires site sharing and collocation, *but* provides exceptions for technical or *economic* infeasibility. It does not prohibit new towers (that are designed for collocation) that are located near to existing towers.

Section 92404.01(Q) of the General Requirements for Wireless Facilities requires the applicant to provide an “inventory of its existing towers, antennas, or sites approved for facilities”

within the County or one mile of the border thereof. The Code provides that the Planning Director may provide this information to other applicants seeking administrative approvals or permits; the Code does *not* provide that the existence of other towers, antennas, or sites within the County will act as a barrier to obtaining new and additional approvals.

Section 92406.01 requires an “Alternatives Analysis” which “shall consider alternative locations and designs for the proposed facility.” The alternatives in the analysis must include, “[a]t a minimum,” the following:

1. Co-location at all existing communication facilities whether in the unincorporated area of the county, a city or an adjacent county.
2. Lower, more closely spaced communication facilities; and
3. Mounting on any existing non-residential structure within one-half-mile of the proposed facility in the unincorporated area of Imperial County.

Nothing in the Alternatives Analysis states that applications will be denied if co-location is *possible* at an existing location. It merely asks the applicant to include that as an alternative, suggesting that the applicant may be able to demonstrate why collocation at an existing location is not actually possible.

Finally, for applications for wireless towers, Section 92409.01(10) requires “[a] description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures.” Again, this section only requires the applicant to explain whether existing towers are “suitable.” It does not state that an existing tower *must* be utilized.

During the Planning Commission hearing, the P&D Services Director suggested that the County does authorize exceptions to its “minimize the number of towers” “requirement” in cases where existing towers have no additional collocation capacity, the coverage provided by the existing tower would be improved with a new tower, or technological reasons prevent collocation

on the existing tower. These “exceptions” to the “requirements” cited by the Director are not found anywhere within the Code. Without any specific authority for this “exception” in the Code, the Planning Commission’s use of this type of exception to deny CitySwitch’s Applications is clearly arbitrary and capricious. How much better must the coverage offered by the new tower be to warrant an exception?³ What type of technological reasons would excuse a provider from collocating? And if the tower is too close to an existing tower, how close is too close? What is the appropriate tower separation where the Planning Commission would determine a new tower is appropriate? None of these questions can be answered by any provisions within the Code, nor were they addressed by the Planning Commission in its deliberations.

In short, nothing in the Code expressly authorized the Planning Commission to make its decisions denying the Applications. Instead, the Planning Commission arbitrarily invoked a “purpose” of the Code (while ignoring other purposes that support CitySwitch’s Applications) to deny the Applications with no real basis.

C. CitySwitch’s Applications Meet All Code Requirements.

CitySwitch’s Applications met all Code requirements for CUPs and Variances.

Land Use Permits: The requirements for a land use permit applications are set forth in Section 90104.00 of the Code. Prior to the Planning Commission hearing, P&D Services did not notify CitySwitch of any deficiencies in its applications, and there are no findings in the Staff Reports that the Applications do not satisfy the application requirements. The Planning Commission made no findings that CitySwitch’s Applications did not comply with the land use

³ Many jurisdictions require an applicant to submit propagation maps showing the proposed coverage of the new wireless facility. Imperial County’s Code does not require the applicant to submit propagation maps at all – lending even more credence to the notion that this “exception” is arbitrarily invoked and not applied in any evidence-based way.

permit application requirements.

Actions on CUPs: The requirements for actions on CUPs are set forth in Section 90203.09 of the Code. There are no credible findings in the Staff Reports that the Applications do not satisfy the CUP requirements. While Section 90203.09(A) requires the proposed use be “consistent with the goals and policies of the adopted county general plan,” there are no provisions or requirements in the General Plan pertaining to wireless towers. Moreover, the Staff Reports did not identify any specific provision or requirement of the General Plan with which the Applications are inconsistent. The Planning Commission made no findings that the Applications for CUPs do not meet the requirements for actions on CUPs.

Actions on Variances: The requirements for actions on Variances are set forth in Section 90202.08. There are no findings in the Staff Reports that the Applications do not satisfy the Variance requirements. The Planning Commission made no findings that the Applications for Variances do not meet the requirements for actions on Variances.

General Requirements for Communication Facilities: The general requirements for communication facilities are set forth in Section 92404.01 of the Code. There are no credible findings in the Staff Reports that the Applications do not satisfy the general requirements for communication facilities. While the Staff Reports note that the proposed CUPs and Variances are “in conflict with Division 24, Section 92401.00 – Purpose, ‘... This Section standards are intended to protect, and promote public health, safety, community welfare and the unique visual character of the Imperial County [by] minimizing the number of towers throughout the community ...,’” the “Purpose” of the communication facilities Code sections is separate and distinct from the actual *regulations* or *requirements* applicable to communication facilities. The Planning Commission also made no findings that the Applications do not satisfy the general requirements for

communication facilities.

Permitting Requirements for Wireless Facilities: The permitting requirements for wireless facilities are set forth in Section 92406.01 of the Code. There are no findings in the Staff Reports that the Applications do not satisfy the permitting requirements. The Planning Commission also made no findings that the Applications do not satisfy the permitting requirements.

D. The Planning Commission Did Not Provide CitySwitch a Written Decision Based on Substantial Evidence as Required by Federal Law.

The Planning Commission's denial of the Applications was also improper because the Planning Commission failed to provide a written decision, supported by substantial evidence, for its denial. 47 U.S.C. §332(b)(7)(b)(iii) states that a decision by a government entity "to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record." The Planning Commission provided a Notification of Action ("NOA") for the Applications, but the NOAs do not provide the basis for the Planning Commission's Decisions.

This requirement for a written and substantiated decision is not trivial; as the Supreme Court has affirmed, a city must give sufficient written reasoning as to enable judicial review of that decision under 47 U.S.C. § 332. *See T-Mobile South, LLC v. City of Roswell, Ga.*, 574 U.S. 293, 304 (2015). Moreover, because an applicant has a limited period of time to seek judicial review of decisions, a locality is urged to "provide or make available its written reasons at essentially the same time as it communicates its denial." *Id.* The Planning Commission has failed to do this. By doing so, the Planning Commission has not offered "substantial evidence" as a basis for its decision. This, in turn, has denied CitySwitch the full opportunity to demonstrate the validity of its Applications and the Facilities. As this submission hopefully makes clear, CitySwitch's Facilities are entirely permissible and appropriate under Imperial County and federal law.

E. All Requirements for Appeal Are Satisfied.

The requirements for an appeal of the Planning Commission's decision are set forth in Section 90104.05 of the Code. All requirements are satisfied as follows.

1. The written appeal must be filed within ten calendar days from the planning commission's decision: In telephonic correspondence that occurred on Wednesday, January 17, 2024, between Mr. Jim Minnick and Mr. Michael Bieniek, Mr. Minnick confirmed that because the ten-day period for appeal in this case falls on a Saturday, an appeal submitted on the first business day thereafter would be considered timely. The Planning Commission issued its Decisions on January 10, 2024. Ten days from January 10, 2024 is Saturday, January 20, 2024. Thus, this appeal is being submitted on Monday, January 22, 2024.

2. The request is filed with the planning director: The appeal is being submitted to Mr. Jim Minnick, Director of P&D Services.

3. The requisite fees are included: The fees are being remitted via credit card, consistent with the directions of P&D Services.⁴

4. The written appeal clearly states (a) the name of the person(s) filing the appeal, (b) the address and phone number of the person(s) filing the appeal, (c) the project/decision being appealed, (d) the reason for filing the appeal, (e) the facts, conditions, information, error or other specific to warrant an appeal, (f) prior effort(s) made to arrive at an acceptable solution, if any, (g) the action being requested, and (h) the signature of the appellant: The appeal is being submitted by Ms. Allison Burke, Esq., Sherman & Howard L.L.C., 675 Fifteenth Street, Suite 2300, Denver, Colorado, (303) 299-8045, and Mr. Michael Bieniek, LCC Telecom Services, 10700 West

⁴ According to the Imperial County P&D Services website, fees may be paid over the phone using a credit or debit card. See <https://www.icpds.com/planning/forms-and-fees>

Higgins, Suite 240, Rosemont, Illinois, (847) 287-1156, on behalf of CitySwitch. The projects being appeals are CUP 23-0009 / Variance 23-0003, CUP 23-0010 / Variance 23-0004, and CUP 23-0011 / Variance 23-0006. The decisions being appealed are the Planning Commission's January 10, 2024 decisions denying the Applications. The facts, conditions, information, and errors warranting this appeal are set forth above in this memorandum. The only acceptable solution for CitySwitch is issuance of the requested CUPs and Variances as authorized by the Code. CitySwitch is unaware of any other efforts it could make to obtain the requested CUPs and Variances aside from this appeal. CitySwitch requests the Board of Supervisors reverse the decisions of the Planning Commission and issue the requested CUPs and Variances. This appeal is electronically signed via DocuSign, as noted below.

V. CONCLUSION

For the reasons set forth herein, CitySwitch requests the Imperial County Board of Supervisors reverse the Decisions of the Planning Commission, approve the Applications and issue the CUPs and Variances.

Dated: January 22, 2024

DocuSigned by:
Allison Burke
/s/ Allison R. Burke

ATTORNEY FOR CITYSWITCH II-A, LLC

DocuSigned by:
Mike Bieniek
/s/ Michael Bieniek

SITE CONSULTANT FOR CITYSWITCH II-A, LLC

DocuSigned by:
Jason Groseclose
/s/ Jason Groseclose

CITYSWITCH II-A, LLC

EXHIBIT 1



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Allison R. Burke
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October 6, 2023

VIA E-MAIL

Imperial County Planning & Development Services
Luis Valenzuela (luisvalenzuela@co.imperial.ca.us)
Evelia Jiminez (ejiminez@co.imperial.ca.us)
Gerardo Quero (gerardoquero@co.imperial.ca.us)

Re: Updated Coverage Plots
CUP23-0009 (APN 039-310-019)
CUP23-0010 (APN 056-470-002)
CUP23-0011 (APN 041-200-008)

Dear Valenzuela, Ms. Jiminez, and Mr. Quero:

Sherman & Howard L.L.C. represents CitySwitch with respect to CitySwitch's pending applications for Conditional Use Permits and Variances for three different proposed cellular tower sites in Imperial County, California identified above (together, the "Proposed Sites").

On July 24, 2023, Imperial County requested revised coverage plots for the Proposed Sites showing coverage from existing, nearby towers owned by SBA. Updated copies of the coverage plots for the three sites are being provided along with this letter.

While CitySwitch acknowledge that Imperial County has a stated preference for collocation on existing tower sites (*see, e.g.,* §§ 92401.00, 92401.05(B)(2)(a); 92401.06(A)), it reiterates that these existing SBA sites are not feasible collocation options for its customer, AT&T, for both economic and technologic reasons, as explained in this letter and more fully in the Sworn Statements of Spencer Gambrell in Support of New Tower Construction that were submitted with the Conditional Use Permit and Variance Applications referenced above (the "Sworn Statements").¹ A jurisdiction's preference for collocation cannot force an applicant to absorb excess costs associated with collocating on a particular existing site. *See, e.g., Tillman Infrastructure LLC v. Bd. of Supervisors of Culpepper County, Va.*, No. 3:21-cv-00040, 2022 WL 18026334, at *5-7 (W.D. Va. Dec. 30, 2022) (finding existing SBA sites were not potential collocation sites due to higher costs and fees).

¹ SBA is a publicly-traded company that owns wireless towers and leases on the space on those towers to wireless carriers like AT&T; it is a competitor of CitySwitch.



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The existing SBA towers are not economically feasible because it will cost AT&T more than \$13 million in additional rent to remain on the SBA towers just at these Imperial County sites over the next 20 years. (*See Sworn Statements at ¶ 7.*) Furthermore, AT&T has leased space from SBA in Imperial County since March of 2005, but since then, the tower marketplace has become more competitive, which has led to more competitive economic terms in tower lease agreements. SBA, however, has resisted an economically sustainable cost structure with its existing AT&T collocation sites, such that many of these are now economically burdensome, including the Proposed Sites at issue here. (*See id.* at ¶ 8.)

In addition to the economic infeasibility, the SBA sites are no longer technologically or administratively feasible. First, the existing SBA towers do not include any “set aside” capacity reserved for AT&T’s future wireless facilities’ needs. Without additional available capacity, AT&T is unable to continue building out FirstNet, the country’s first nationwide integrated data network for providers of emergency services.² Without “set aside” capacity, AT&T is forced to apply to SBA for additional space and/or wireless facilities improvements, which triggers an application fee and a lengthy administrative review process involving a structural analysis of the tower and an amendment to the existing lease agreement. This process often takes several months, resulting in additional unnecessary delay and extra costs. (*See id.* ¶ 15.) By contrast, the CitySwitch master lease tower agreement provides AT&T with 30,000 square inches of space on each tower. This exclusive space provides greater flexibility to AT&T to upgrade technologies, expand the deployment of FirstNet, and respond to ever-changing coverage and capacity demands. (*See id.* ¶ 16.)

In short, while there are existing SBA towers located near the Proposed Sites, the SBA towers are not economically or technologically feasible sites for continued collocation for AT&T.

Please do not hesitate to contact me if you have questions or need additional information.

Sincerely,

Allison R. Burke

ARB/lmg

² FirstNet is a public-private partnership between AT&T and the United States Department of Commerce’s National Telecommunications and Information Administration (NTIA), which is overseeing the buildout, deployment, and operation of the nation’s first communications network dedicated to emergency responders and the public safety community. *See* <https://www.firstnet.gov/about>.

EXHIBIT 2



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January 9, 2024

VIA E-MAIL

Imperial County Planning & Development Services
Mr. Jim Minnick
Planning & Development Services Director
JimMinnick@co.imperial.ca.us

Re: *Imperial County Planning & Development Services Project Reports and Staff Reports*

CUP23-0009, Variance 23-0003 (APN 039-310-019)

CUP23-0010, Variance 23-0004 (APN 056-470-002)

CUP23-0011, Variance 23-0006 (APN 041-200-008)

Dear Mr. Minnick:

Sherman & Howard L.L.C. represents CitySwitch with respect to CitySwitch's pending applications for Conditional Use Permits and Variances (collectively, the "Applications") for three different proposed cellular tower sites in Imperial County, California identified above (collectively, the "Proposed Sites"). We are in receipt of the Imperial County Planning & Development Services Project Reports, Staff Reports, and other hearing materials (collectively the "Hearing Packages") for the January 10, 2024 Planning Commission hearing for the Proposed Sites. We request that you provide a copy of the letter to the Planning Commission in advance of the January 10 hearing. If you would like for CitySwitch to do so, please provide the information for us to submit the letter to the Planning Commission.

We write to address the Staff Reports findings, including (1) the "General Plan Findings" in the Project Reports; and (2) the "Land Use Analysis" for each of the Proposed Sites. These findings violate the Telecommunications Act of 1996 and related Federal Communications Commission ("FCC") Orders regarding wireless services and facilities. CitySwitch's position is set forth below. CitySwitch will also be prepared to present its position during the January 10 Planning Commission hearing.

I. The Applications

On April 12, 2023, CitySwitch submitted the Applications for the Proposed Sites, each demonstrating CitySwitch's compliance with all Imperial County Land Use Code (the "Code") requirements, and each supported by substantial documentation. Significantly, within each



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Application, CitySwitch alerted the County to the existing towers owned by SBA. Specifically, CitySwitch identified the existing SBA towers when discussing the following Code requirements:

- Provisions for future co-location, as required under Section 92401.04(13).
- Alternative analysis, as required under Section 92401.06.
- Special privileges, as required under Section 90203.09(G).
- No alternative site or design is available that would allow for issuance of a conditional use permit before the planning director for the facility, as required under Section 92405.01(B)(2).

CitySwitch also provided three Sworn Statements of Spencer Gambrell in Support of New Tower Construction (the “AT&T Economic Burden Affidavits”) explaining why the existing SBA towers are no longer technically and economically feasible collocation options for AT&T. Specifically, Mr. Gambrell explained:

- The SBA towers have become high-cost antenna site structures for AT&T.
- It is economically burdensome for AT&T to continue using the SBA towers and continued use would not result in the same cost-effective operation as compared to what AT&T could achieve if it relocated to the proposed CitySwitch towers.
- SBA increases rent, assesses other costs, and poses logistical issues when AT&T installs additional wireless facilities, modifications, and upgrades on the SBA towers.
- The current rent charged by SBA to co-locate on the SBA towers is substantially more than what CitySwitch will charge AT&T. The annual rent increases on the SBA towers is also higher than rent increased charged by CitySwitch. Over the next 20 years, the cost for AT&T to co-locate on the existing SBA towers is more than \$13 million dollars.
- SBA has resisted economically sustainable cost structures and refused to offer more competitive terms even though the tower marketplace has changed substantially since the SBA leases were originally entered.
- Despite the substantial capital costs associated with relocating to the proposed CitySwitch towers, it will still be economically beneficial to re-locate away from the SBA towers.
- AT&T will be able to continuously upgrade its wireless facilities and services on the proposed CitySwitch towers, while SBA would impose application fees, a lengthy administrative process, and a lease amendment. The proposed CitySwitch towers offer better flexibility for AT&T to upgrade technologies and quickly respond to ever-changing coverage and capacity demands of its wireless network.

II. Imperial County’s Request for Additional Information Relating to the SBA Towers and CitySwitch’s October 6, 2023 Correspondence

On July 24, 2023, Imperial County requested additional information relating to existing, nearby towers owned by SBA Towers, including revised coverage lots for the Proposed Sites showing coverage from the SBA-owned towers. On October 6, 2023, CitySwitch provided the County updated coverage plots for the Proposed Sites and also provided the correspondence



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attached to this letter as **Exhibit 1**. In the October 6, 2023 Letter, CitySwitch acknowledged the County's stated preference for collocation, including as specified in Land Use Code Section 92401.00, but again explained why the existing SBA sites are not feasible collocation options for CitySwitch's customer, AT&T – for both economic and technological reasons.

III. The Project Reports and Staff Reports Determinations Regarding Existing Towers Owned by SBA.

On December 29, 2023, The County provided access to the Project Reports and Staff Reports prepared in preparation for the January 10, 2024 Planning Commission hearing.

On the first page titled "Project Report" for each of the Proposed Sites, the County has taken the position that the Applications are "Inconsistent" with the County's General Plan.

Under the Land Use Analysis in the Staff Reports, the County acknowledges that the proposed projects are consistent with the applicable zoning district, but the County "determined that [each Application] is in conflict with Division 24, Section 92401.00 – Purpose, '... This Section standards are intended to protect, and promote public health, safety, community welfare and the unique visual character of Imperial County [by] minimizing the number of towers throughout the community...' as the proposed telecommunications tower would be situated approximately 1565 feet south [2008.33 feet south, and 1000 feet south] of an existing telecommunications tower owned by [SBA] operating under Conditional Use Permit #16-0033 [#19-0029, #16-0039]. Upon further research on submitted reports of the adjacent tower, it was found that tower space for future co-locators is still available."

IV. The County's Denial of the Applications Will Materially Inhibit CitySwitch's Provision of Wireless Services in Violation of the Federal Telecommunications Act.

Congress passed the Telecommunications Act in 1996 (TCA). "[I]ts primary purpose was to reduce regulation and encourage the rapid deployment of new telecommunications technologies." *Reno v. ACLU*, 521 U.S. 844, 857 (1997) (quotation marks omitted). Congress preserved local zoning authority over "the placement, construction, and modification of personal wireless service facilities," like cell towers. 47 U.S.C. § 332(c)(7)(A). But it specified that such regulation "shall not prohibit or have the effect of prohibiting the provision of personal wireless services." *Id.* § 332(c)(7)(B)(i)(II). Further, under Section 253 of the TCA, no local or state statute or regulation may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications services. 47 U.S.C. § 253(a). These provisions of the TCA "authorize the FCC to preempt any state or local requirements that 'prohibit or have the effect of prohibiting' any entity from providing telecommunications services." *City of Portland v. United States*, 969 F.3d 1020, 1032 (9th Cir. 2020) (quoting U.S.C. § 253(a), (d)).



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The Communication Facilities' section of Imperial County's Code was adopted in 2000, with certain amendments adopted by Ordinance No. 1504 in December 2014. Since then, the FCC has issued three key regulatory orders affecting the enforceability of certain local zoning regulations applicable to wireless facilities.

Specifically, in its 2018 order, the FCC interpreted 47 U.S.C. §§ 253(a) and 332(c)(7) to prohibit local government action that "materially limits or inhibits the ability of any competitor or potential competitor to compete in a fair and balanced legal and regulatory environment." *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Inv.*, 33 FCC Rcd. 9088, 9102 (2018) ("2018 FCC Order"). Prior to this guidance, most courts required the carrier to show a "significant gap" in coverage exists in an area and to consider whether alternatives to the carrier's proposed solution to that gap existed. *See, e.g., American Tower Corp. v. City of San Diego*, 763 F.3d 1035, 1056 (9th Cir. 2014).

Under the 2018 guidance, a legal requirement can "materially inhibit" service even if it is not an "insurmountable barrier." 2018 FCC Order ¶¶ 34–35, 41–42. The FCC Also made clear that a state or local legal requirement effectively prohibits the provision of wireless services if it inhibits or limits a provider "not only when filling a coverage gap but also when densifying a wireless network, introducing new services or otherwise improving service capabilities." *Id.* ¶ 37. Under this standard, preventing an existing provider from delivering service to a new area, restricting the entry of a new provider in a given area, of materially inhibiting the introducing of new service or the improvement of existing services all create unlawful "effective prohibitions" of service. *Id.* Prior to this guidance, most courts required the carrier to show a "significant gap" in coverage exists in an area and to consider whether alternatives to the carrier's proposed solution to that gap existed. *See, e.g., American Tower Corp. v. City of San Diego*, 763 F.3d 1035, 1056 (9th Cir. 2014).

If the County proceeds with denying the Applications as "inconsistent" with Imperial County's General Plan due to the presence of existing tower sites owned and operated by SBA, it will be a material inhibition of CitySwitch's ability to provide wireless services. The Imperial County General Plan's *intent* to minimize the total number of wireless towers (which is not a *requirement* in the first instance¹) would be operating as a blanket restriction on the ability to

¹ While the County does have a stated *preference* for collocation and minimization of cellular towers, these appear to be *goals* rather than *requirements* for the Applications. For example, Section 92401.00 of the Code states that it is the County's "intent" that its regulations serve to "[m]inimize the number of towers throughout the community[.]" Section 92401.05(B)(2) requires the Planning Commission to determine that "[n]o alternative site or design is available that would allow for issuance of a conditional use permit before the planning director for the facility." Section 92401.06(A) requires an alternative analysis which must include (1) co-location at all existing facilities whether in the unincorporated area of the county, a city or an adjacent county." And Section 92401.04(17) requires an inventory of existing towers as part of the application materials.

The County has *no restrictions* based on existing towers, such as minimum distance requirements(which is irrelevant, as the SBA towers are not feasible economic or technologic options for CitySwitch's tenant, AT&T).



Imperial County, California
January 9, 2024
Page 5

construct wireless towers where another company has incidentally entered the marketplace first. A blanket restriction like this is not permitted as a matter of law.

Furthermore, the County's Project Reports and Staff Reports do not refer to either the AT&T Economic Burden Affidavits or CitySwitch's October 6, 2023 Letter which again explained why the SBA tower sites are not feasible sites for AT&T to continue collocating. Instead, the County appears poised to deny the Applications simply due to proximity to the existing SBA towers without regard to whether the SBA towers are actually feasible collocation sites for AT&T. In practice, this will result in an effective monopoly on wireless towers in the County for SBA, simply because SBA applied for its Conditional Use Permits first. This runs counter to one of the stated purposes of the TCA, which is to promote competition. *See T-Mobile USA Inc. v. City of Anacortes*, 572 F.3d 987, 991 (9th Cir. 2009). If CitySwitch's Applications are denied, SBA will be free to charge AT&T and other tenants whatever rent it wants on whatever lease terms it desires, knowing that the County will not allow another competitor to enter the space. And in doing so, the County will materially inhibit the deployment of wireless services within Imperial County by: (1) forcing cellular providers to collocate on an existing SBA tower on higher-than-market rents and uncompetitive lease terms; (2) preventing cellular providers from freely and easily updating their equipment as technologies rapidly change; (3) diverting resources that could otherwise be used to invest in expanding wireless networks and conducting necessary network upgrades necessary to meet increased demand for wireless voice and broadband services; and (4) potentially *decreased* cellular services within Imperial County if the providers in these areas decide that SBA's high costs and unreasonable lease terms do not meet the cellular providers' business needs and requirements and leave the SBA towers altogether. These outcomes are all at odds with the stated purposes of the TCA.²

V. Request for Deferral

If the Planning Commission appears likely to deny the Applications following the comment period during the January 10, 2024 Planning Commission hearing, CitySwitch intends to request a deferral of the Planning Commission's vote. Under Section 90104.10, "[a]ny scheduled hearing may be continued by the hearing body ... [to] a specific date and time," so long as a continuance would not "cause the project to be heard beyond a statutory time limit." The parties entered into a

Concluding that the Applications are consistent with the applicable zones, yet then refusing to issue permits based on nebulous "goals" and "intents" will materially inhibit the deployment of wireless services.

² The County also failed to comply with the Code's requirements to notify CitySwitch that its proposed towers are not consistent with the County's General Plan. Under Section 90203.02, "If in the determination of staff a proposed use is not consistent with the general plan, staff shall inform the applicant *prior to an application being deemed complete*. If the applicant withdraws the application at this point (prior to the hearing), the applicant shall be entitled to a full refund of all application fees paid to the department, less the actual cost to notice, advertise, and staff costs incurred up to the time a withdrawal request is made." (*Id.*) The Project Reports effectively determine that the Proposed Sites are not consistent with the general plan, yet the County failed to inform CitySwitch of this determination even though the SBA sites were identified at the time CitySwitch first submitted the Applications on April 12, 2023.



Imperial County, California
January 9, 2024
Page 6

Tolling Agreement to extent the time for the Applications to be heard, up to and including February 29, 2024. We intend to ask the County to postpone its decision until February 14, 2024.

* * *

We will be prepared to address these arguments at the Planning Commission hearing on January 10, 2024.

Sincerely,

A handwritten signature in blue ink that reads "Allison Burke". The signature is written in a cursive, flowing style.

Allison R. Burke

ARB/lmg

cc: Melissa Reagan, Esq.
Mr. Gerardo Quero
Ms. Evelia Jimenez
Mr. Luis Valenzuela



Sherman & Howard L.L.C.
675 Fifteenth Street, Suite 2300
Denver, Colorado 80202
Telephone: 303.297.2900
shermanhoward.com



Allison R. Burke
Direct Dial Number: 303.299.8045
E-mail: aburke@shermanhoward.com

October 6, 2023

EXHIBIT
1

VIA E-MAIL

Imperial County Planning & Development Services
Luis Valenzuela (luisvalenzuela@co.imperial.ca.us)
Evelia Jiminez (ejiminez@co.imperial.ca.us)
Gerardo Quero (gerardoquero@co.imperial.ca.us)

Re: Updated Coverage Plots
CUP23-0009 (APN 039-310-019)
CUP23-0010 (APN 056-470-002)
CUP23-0011 (APN 041-200-008)

Dear Valenzuela, Ms. Jiminez, and Mr. Quero:

Sherman & Howard L.L.C. represents CitySwitch with respect to CitySwitch's pending applications for Conditional Use Permits and Variances for three different proposed cellular tower sites in Imperial County, California identified above (together, the "Proposed Sites").

On July 24, 2023, Imperial County requested revised coverage plots for the Proposed Sites showing coverage from existing, nearby towers owned by SBA. Updated copies of the coverage plots for the three sites are being provided along with this letter.

While CitySwitch acknowledge that Imperial County has a stated preference for collocation on existing tower sites (*see, e.g.*, §§ 92401.00, 92401.05(B)(2)(a); 92401.06(A)), it reiterates that these existing SBA sites are not feasible collocation options for its customer, AT&T, for both economic and technologic reasons, as explained in this letter and more fully in the Sworn Statements of Spencer Gambrell in Support of New Tower Construction that were submitted with the Conditional Use Permit and Variance Applications referenced above (the "Sworn Statements").¹ A jurisdiction's preference for collocation cannot force an applicant to absorb excess costs associated with collocating on a particular existing site. *See, e.g., Tillman Infrastructure LLC v. Bd. of Supervisors of Culpepper County, Va.*, No. 3:21-cv-00040, 2022 WL 18026334, at *5-7 (W.D. Va. Dec. 30, 2022) (finding existing SBA sites were not potential collocation sites due to higher costs and fees).

¹ SBA is a publicly-traded company that owns wireless towers and leases on the space on those towers to wireless carriers like AT&T; it is a competitor of CitySwitch.



Imperial County, California
October 6, 2023
Page 2

The existing SBA towers are not economically feasible because it will cost AT&T more than \$13 million in additional rent to remain on the SBA towers just at these Imperial County sites over the next 20 years. (See Sworn Statements at ¶ 7.) Furthermore, AT&T has leased space from SBA in Imperial County since March of 2005, but since then, the tower marketplace has become more competitive, which has led to more competitive economic terms in tower lease agreements. SBA, however, has resisted an economically sustainable cost structure with its existing AT&T collocation sites, such that many of these are now economically burdensome, including the Proposed Sites at issue here. (See *id.* at ¶ 8.)

In addition to the economic infeasibility, the SBA sites are no longer technologically or administratively feasible. First, the existing SBA towers do not include any “set aside” capacity reserved for AT&T’s future wireless facilities’ needs. Without additional available capacity, AT&T is unable to continue building out FirstNet, the country’s first nationwide integrated data network for providers of emergency services.² Without “set aside” capacity, AT&T is forced to apply to SBA for additional space and/or wireless facilities improvements, which triggers an application fee and a lengthy administrative review process involving a structural analysis of the tower and an amendment to the existing lease agreement. This process often takes several months, resulting in additional unnecessary delay and extra costs. (See *id.* ¶ 15.) By contrast, the CitySwitch master lease tower agreement provides AT&T with 30,000 square inches of space on each tower. This exclusive space provides greater flexibility to AT&T to upgrade technologies, expand the deployment of FirstNet, and respond to ever-changing coverage and capacity demands. (See *id.* ¶ 16.)

In short, while there are existing SBA towers located near the Proposed Sites, the SBA towers are not economically or technologically feasible sites for continued collocation for AT&T.

Please do not hesitate to contact me if you have questions or need additional information.

Sincerely,

A handwritten signature in blue ink that reads "Allison R. Burke". The signature is written in a cursive, flowing style.

Allison R. Burke

ARB/lmg

² FirstNet is a public-private partnership between AT&T and the United States Department of Commerce’s National Telecommunications and Information Administration (NTIA), which is overseeing the buildout, deployment, and operation of the nation’s first communications network dedicated to emergency responders and the public safety community. See <https://www.firstnet.gov/about>.

EXHIBIT 3

LAW OFFICE OF
ROBERT L. KENNY

501 WEST BROADWAY, SUITE 1370
SAN DIEGO, CALIFORNIA 92101

WRITER'S E-MAIL ADDRESS
rkenny@kennylaw.net

TELEPHONE: (619) 234-1616
FACSIMILE: (619) 233-1969

January 9, 2024

Via Email: laryssaalvarado@co.imperial.ca.us

Imperial County Planning Commission
940 Main Street
El Centro, CA 92243

Re: Objections of SBA Structures, LLC to (a) CitySwitch LLC Application for a Conditional Use Permit (#23-0009) and Variance (#23-0003); (b) CitySwitch LLC Application for a Conditional Use Permit (#23-0010) and Variance (#23-0004); and CitySwitch LLC Application for a Conditional Use Permit (#23-0011) and Variance (#23-0006)

Dear Commission Members:

This firm represents SBA Structures, LLC, a subsidiary of SBA Communications Corp. ("SBA"). SBA hereby submits its Objections to the following Applications of CitySwitch, LLC ("CitySwitch"), currently set for hearing by the Imperial County Planning Commission ("Planning Commission") on January 10, 2024:

(a) CitySwitch Application for a Conditional Use Permit ("CUP") #23-0009 and Variance #23-0003 to construct a 166-foot telecommunications tower at 5395 E. Highway 78, Brawley, CA ("E. Highway 78 Tower") (Agenda Item No. 7);

(b) CitySwitch Application for a CUP #23-0010 and Variance #23-0004 to construct a 180-foot telecommunications tower at 673 Sidewinder Road, Winterhaven, CA ("Sidewinder Road Tower") (Agenda Item No. 8); and

(c) CitySwitch Application for a CUP #23-0011 and Variance #23-0006 to construct a 210-foot telecommunications tower at 1505 East Keystone Road, ("East Keystone Road Tower") Brawley, CA (Agenda Item No. 9).

As correctly noted in the Staff Reports for each CitySwitch Application, SBA owns and operates telecommunication towers in close proximity to the towers CitySwitch proposes in its Applications. SBA owns a tower located approximately 1565 feet from CitySwitch's proposed E. Highway 78 Tower, which SBA operates under CUP #16-0033. SBA owns a tower located approximately 2008.33 feet from CitySwitch's proposed Sidewinder Road Tower, which

Imperial County Planning Commission
January 9, 2024
Page 2

CitySwitch operates under CUP #19-0029. SBA owns a tower located approximately 1,000 feet from CitySwitch's proposed East Keystone Road Tower, which SBA operates under CUP #16-0039. Enclosed with this letter is a map showing the close proximity of the tower locations.

AT&T is currently a tenant/co-locator on each of the SBA towers identified above. The primary basis for each CitySwitch Application is its claim that AT&T has "deemed" its lease agreements for the SBA towers to be "economically burdensome" and that AT&T desires to relocate to the proposed CitySwitch towers. CitySwitch proposes building new towers in close proximity to existing SBA towers in order to provide financial assistance to its *potential* tenant and to harm its competitor by taking away SBA's longtime tenant. The only evidence CitySwitch provides to support its Applications is a "form" sworn statement from AT&T representative Spencer Gambrell that was executed on February 28, 2023 ("Gambrell Statement").

Although CitySwitch claims in its Applications to have "commitments" from AT&T to transfer its facilities to the proposed towers, the Gambrell Statement refers only to "nationwide development and master lease agreements" that AT&T purportedly has in place with CitySwitch. (Gambrell Statement, ¶ 11.) The Gambrell Statement describes a common agreement between companies like CitySwitch and SBA who build cell towers at their own cost and lease the towers to cellular service providers like AT&T. CitySwitch provides no evidence of actual lease agreements it has in place with AT&T for the proposed towers should the Planning Commission approve the CitySwitch Applications.

Since the Gambrell Statements were signed in February 2023, AT&T and SBA entered into their own Master Lease Agreement ("MLA") establishing agreed upon rental rates and other terms for the more than 6,500 towers AT&T currently leases from SBA, including the three towers identified above, as well as new collocation leases. Enclosed are three letters from SBA's California Site Marketing Manager, Markella Markouizos, confirming the new MLA with AT&T.

Ms. Markouizos describes her surprise at the claims by AT&T that SBA has been unreasonable in negotiating lease rates. She reports that she has not been contacted by AT&T to discuss renegotiating the lease rates for the three towers at issue in the CitySwitch Applications. She also reports that AT&T has not contacted her to discuss any equipment upgrades they require and has not expressed any concerns regarding the current lease rate and terms.

Ms. Markouizos also addresses an issue raised in the Gambrell Statement—AT&T's requirement to upgrade its equipment to implement the FirstNet nationwide integrated emergency services network. As she reports in her letters, SBA recently contracted with AT&T to upgrade its equipment on the SBA towers to include FirstNet; the FirstNet Amendment was executed in December 2019; and it is operational today from the existing SBA towers. There is no merit to the claim in the Gambrell Statement that AT&T needs the new CitySwitch towers in

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Page 3

order to avoid the “application and administrative review process” to install FirstNet on the existing SBA towers.

As Ms. Markouizos states in her letters, SBA has offered to match the monthly rental rate currently offered to AT&T by CitySwitch, less \$10.00, upon AT&T providing a copy of bona fide documentation of the monthly rate offered by CitySwitch. SBA’s offer will alleviate the “undue economic hardship” alleged in the Gambrel Statement executed almost a year ago.

Enclosed with this letter are RF Analyses and corresponding RF propagation maps depicting AT&T’s coverage at each of the SBA towers in comparison with to the proposed CitySwitch towers. Due to their proximity to the existing SBA towers, the proposed CitySwitch towers would not appreciably expand the scope and strength of available coverage in the area. Instead, the CitySwitch towers would provide duplicative or overlapping coverage to that already provided by the SBA towers. Furthermore, the installation of additional antennas on the proposed CitySwitch towers would be considered an “overbuild” or impractical given the coverage overlap with the SBA towers.

As Ms. Markouizos states in her letters, SBA has a good relationship with AT&T. SBA welcomes the opportunity to work with AT&T to stay collated on the existing SBA towers, which would prevent the unnecessary and needless proliferation of additional telecommunication towers in the area. It is clear that the *only* purpose for the three towers proposed by CitySwitch is to harm its competitor by luring away the primary tenant on the existing SBA towers.

The Applications also do not include any evidence of actual commitments by Union Pacific Railroad (“UPR”) to lease any of the three proposed towers. SBA has agreements with UPR similar to the MLA it has with AT&T. Like CitySwitch, SBA’s MLA with UPR allows SBA to develop towers or provide co-location sites if they can be permitted.

The CitySwitch Applications do not contain any evidence establishing that UPR has a need for the proposed towers. CitySwitch does not present any evidence showing how the UPR network works and why three additional towers are necessary to meet UPR’s requirements when there are already SBA towers in close proximity. There is no evidence that UPR is not already using the existing SBA towers, or could nor do so under the MLA between UPR and SBA.

SBA urges the Planning Commission to deny all three CitySwitch Applications because they conflict with Division 24, Section 92401.00—Purpose. That County Ordinance provides that its “standards are intended to protect, and promote public health, safety, community welfare and the unique visual character of the Imperial County [by] minimizing the number of towers throughout the community....”

The proposed CitySwitch towers violate the intent of the County Ordinance because the towers would be located less than half a mile from the existing SBA towers. The three new

Imperial County Planning Commission
January 9, 2024
Page 4

towers proposed by CitySwitch are duplicative and unnecessary and contrary to the goals established in the County Ordinance. CitySwitch has not met its burden of showing necessity and the absence of alternatives to justify overriding the stated public interest in minimizing the number of towers in any particular area. Allowing CitySwitch to build duplicative towers to help AT&T save money—and harm SBA—is not in the best interest of the public. The Planning Commission should deny the Applications to avoid the construction of unnecessary towers that adversely impact the aesthetics of the surrounding area.

If the Planning Commission is not prepared to deny the Application based on the insufficient record that exists, SBA requests it employ the procedures provided in Section 92406.01—Alternatives analysis. CitySwitch has offered to pay for an independent expert to review the alternatives and determine if there is actually a need for the three towers by AT&T, UPR or anyone else that overrides the duty to protect the public by minimizing the number of towers throughout the community. The Planning Commission should require that CitySwitch do so before approving the three Applications.

I will attend the hearing by Zoom along with Jason Laskey of SBA. We look forward to answering any questions the Commissioners may have regarding SBA's Objections.

Very truly yours,



Robert L. Kenny

EXHIBIT 4

Imperial County Planning Commission

January 10, 2024

CitySwitch Applications for Conditional Use Permits and Variances

CUP 23-0009 / Variance 23-0003

CUP 23-0010 / Variance 23-0004

CUP 23-0011 / Variance 23-0006

A law firm
shaping the future.

Sherman
& Howard

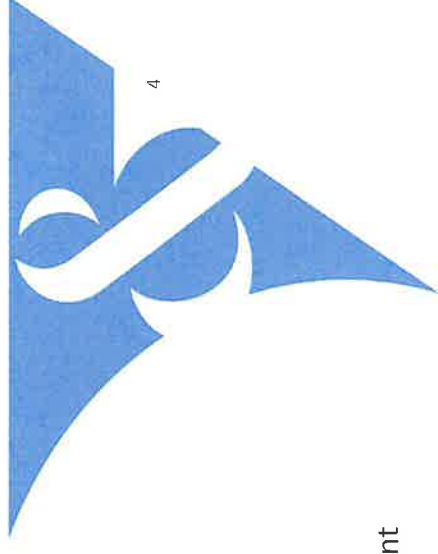
Timeline for Approval of CitySwitch CUP and Variance Applications

- ▶ April 12, 2023
 - ▶ CitySwitch submits the CUP and Variance Applications to the County in accordance with the Imperial County Land Use Code (the "Code").
- ▶ April 13, 2023
 - ▶ County requests wet signatures on CUP and Variance Application forms, as well as executed copies of the Owner's Affidavit, General Indemnification Form, and Notice to Applicant Form.
- ▶ July 11, 2023
 - ▶ CitySwitch provides wet signatures on CUP and Variance Applications, Owner's Affidavits, General Indemnification Forms, and Notice to Applicant Forms.
 - ▶ Applications deemed complete.



Timeline (continued)

- ▶ July 19, 2023
 - ▶ Imperial County Airport Land Use Commission determines the Applications are consistent with the Imperial County Airport Land Use Compatibility Plan.
- ▶ July 24, 2023
 - ▶ County requests revised coverage plots for all three sites showing coverage from existing SBA towers.
- ▶ October 6, 2023
 - ▶ CitySwitch provides revised coverage plots for all three sites showing coverage from existing SBA towers.
 - ▶ CitySwitch also provides written explanation as to why continued use of the SBA towers is economically burdensome and not technologically feasible for AT&T (CitySwitch's tenant).
- ▶ November 16, 2023
 - ▶ Environmental Evaluation Committee recommends Negative Declarations for all three sites.



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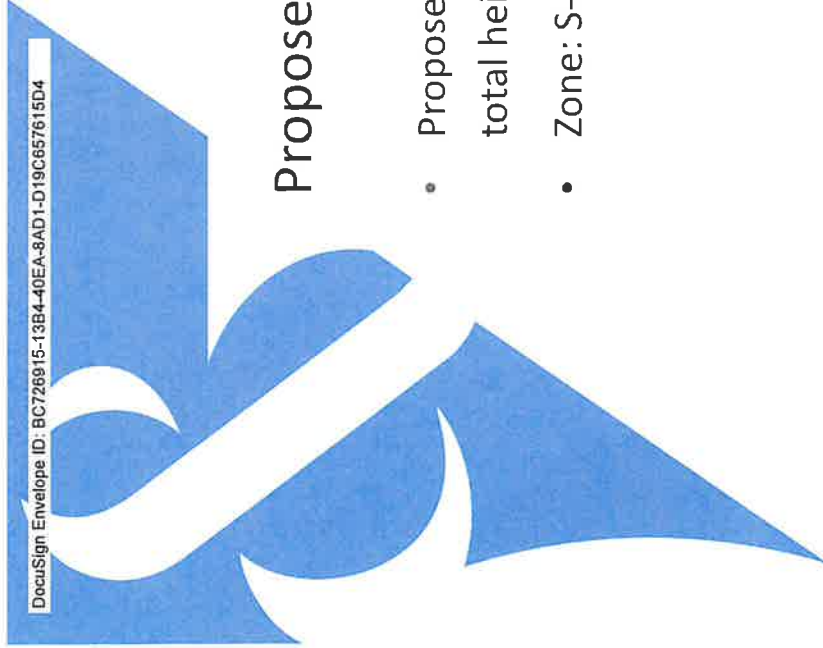
Sherman
& Howard

CUP 23-0009 / Variance 23-0003

5359 E. Highway 78

Brawley, CA

(APN 039-310-019-000)



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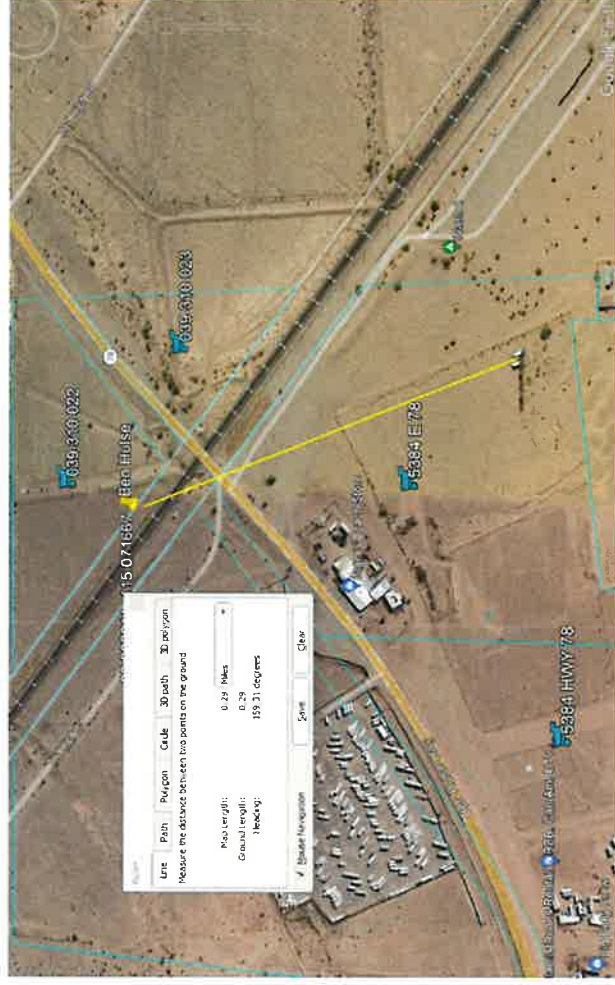
Proposed Wireless Facility

- Proposed Facility: 155'-foot monopole tower with a 10'-foot lightning rod for a total height of 165'.
- Zone: S-2 (Recreation / Open Space)



Alternative Site Analysis

- CitySwitch's tenant (AT&T) is currently collocated on a tower owned by SBA Structures, LLC, located approximately 0.30 miles southeast of the proposed tower.
- SBA tower is economically burdensome for AT&T.
- SBA lease terms are outdated and not competitive in the marketplace. SBA will not negotiate better terms.
- SBA tower is not feasible for Union Pacific, which requires direct access to their equipment along the railroad line.



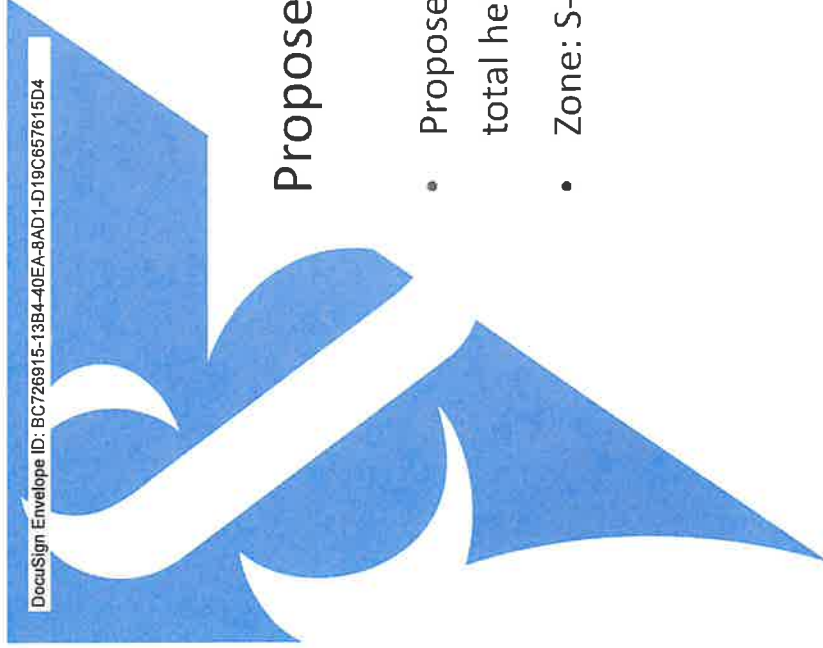


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Economic Burden and Technologic Feasibility of SBA Tower

- AT&T has collocated on the existing SBA tower since March 2005.
- The SBA tower is now a high-cost antenna site for AT&T.
- Current rent charged by SBA is **more than 5 times** what CitySwitch will charge AT&T.
- Over 20 years, AT&T will pay **more than \$6 million** additional dollars to collocate on SBA's tower, rather than CitySwitch's.
- SBA has resisted lease amendments and an economically sustainable cost structure, even though the marketplace has become more competitive.
- AT&T's lease with SBA does not include "set aside" capacity for future wireless upgrades. Each time AT&T wishes to upgrade its equipment, this triggers an application fee, lengthy administrative process, and lease amendments, all at additional time and cost.
- AT&T is forced to pay for any tower modifications necessary for AT&T's upgrades.
- Union Pacific's needs cannot be satisfied on the existing SBA tower.

CUP 23-0010 / Variance 23-0004
673 Sidewinder Road
Winterhaven, CA
(APN 056-470-002-000)



Proposed Wireless Facility

- Proposed Facility: 170'-foot monopole tower with a 10'-foot lightning rod for a total height of 180'.
- Zone: S-2 (Recreation / Open Space)



Alternative Site Analysis

- CitySwitch's tenant (AT&T) is currently collocated on a tower owned by SBA Structures, LLC, located approximately 0.37 miles southeast of the proposed tower.
- SBA tower is economically burdensome for AT&T.
- SBA lease terms are outdated and not competitive in the marketplace. SBA will not negotiate better terms.
- SBA tower is not feasible for Union Pacific, which requires direct access to their equipment along the railroad line.





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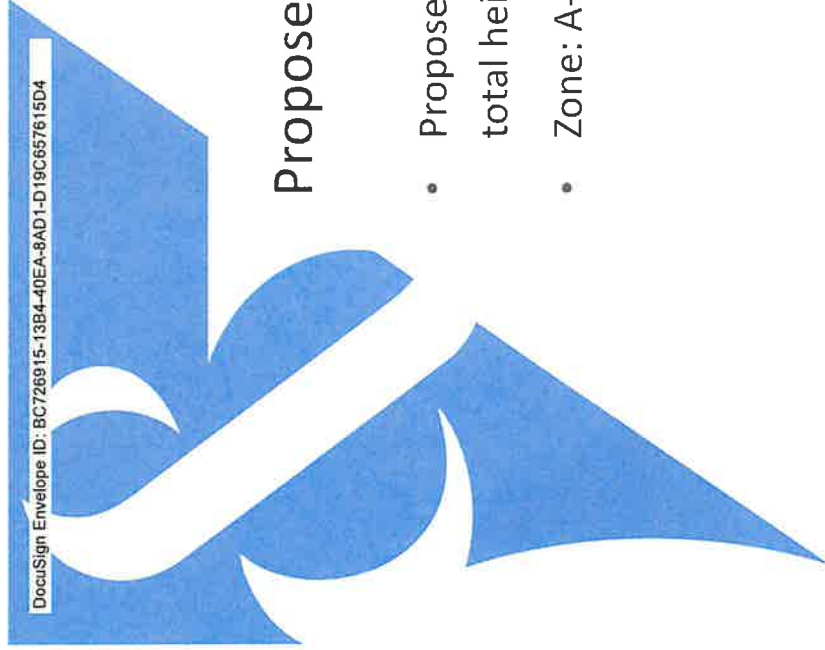
Economic Burden and Technologic Feasibility of SBA Tower

- AT&T has collocated on the existing SBA tower since March 2006.
- The site has become a high-cost antenna site for AT&T.
- Current rent charged by SBA is **more than 3 times** what CitySwitch will charge AT&T.
- Over 20 years, that will amount to **more than \$4 million** additional dollars to collocate on SBA's tower, rather than CitySwitch's.
- SBA has resisted lease amendments and an economically sustainable cost structure, even though the marketplace has become more competitive.
- AT&T's lease with SBA does not include "set aside" capacity for future wireless upgrades. Each time AT&T wishes to upgrade its equipment, this triggers an application fee, lengthy administrative process, and lease amendments, all at additional time and cost.
- AT&T is forced to pay for any tower modifications necessary for AT&T's upgrades.
- Union Pacific's needs cannot be satisfied on the existing SBA tower.

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Sherman
& Howard

CUP 23-0011 / Variance 23-0006
1505 East Keystone Road
Brawley, CA
(APN 041-200-008-000)



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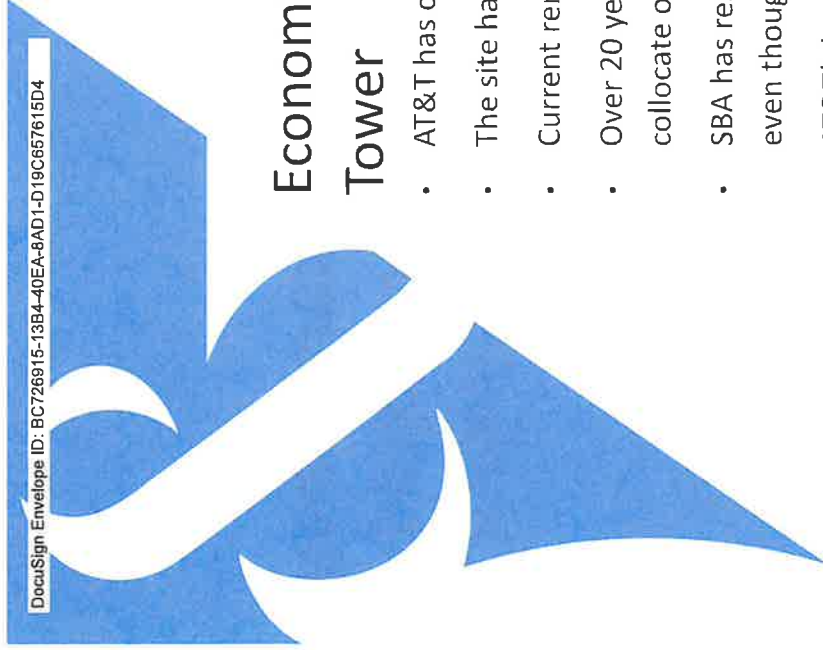
Proposed Wireless Facility

- Proposed Facility: 200'-foot monopole tower with a 10'-foot lightning rod for a total height of 210'.
- Zone: A-2 (General Agriculture)

Alternative Site Analysis

- CitySwitch's tenant (AT&T) is currently collocated on a tower owned by SBA Structures, LLC, located approximately 0.20 miles south of the proposed tower.
- SBA tower is economically burdensome for AT&T.
- SBA lease terms are outdated and not competitive in the marketplace. SBA will not negotiate better terms.
- SBA tower is not feasible for Union Pacific, which requires direct access to their equipment along the railroad line.





Economic Burden and Technologic Feasibility of SBA Tower

- AT&T has collocated on the existing SBA tower since June 2013.
- The site has become a high-cost antenna site for AT&T.
- Current rent charged by SBA is **more than 2 times** what CitySwitch will charge AT&T.
- Over 20 years, that will amount to **more than \$3 million** additional dollars to collocate on SBA's tower, rather than CitySwitch's.
- SBA has resisted lease amendments and an economically sustainable cost structure, even though the marketplace has become more competitive.
- AT&T's lease with SBA does not include "set aside" capacity for future wireless upgrades. Each time AT&T wishes to upgrade its equipment, this triggers an application fee, lengthy administrative process, and lease amendments, all at additional time and cost.
- AT&T is forced to pay for any tower modifications necessary for AT&T's upgrades.
- Union Pacific's needs cannot be satisfied on the existing SBA tower.

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CitySwitch's CUP and Variance Applications Meet All Legal Requirements



CitySwitch’s CUP and Variance Applications Meet Legal Requirements

90203.09 - Action on a conditional use permit.

An application for a conditional use permit shall be reviewed, and approved, conditionally approved, or denied by the decision-making authority.

The authority may approve or conditionally approve an application only if it finds all of the following:

- Imperial County Land Use Code – Section 90203.09: Action on a Conditional Use Permit
- No findings by Imperial County that Applications do not meet the requirements for a Conditional Use Permit.

- A. The proposed use is consistent with the goals and policies of the adopted county general plan;
- B. The proposed use is consistent with the purpose of the zone or sub-zone within which the use will be located;
- C. The proposed use is listed as a use within the zone or sub-zone or is found to be similar to a listed conditional use according to the procedures of [Section 90203.10](#);
- D. The proposed use meets the minimum requirements of this title applicable to the use and complies with all applicable laws, ordinances and regulations of the county of Imperial and the state of California;
- E. The proposed use will not be detrimental to the health, safety, and welfare of the public or to the property and residents in the vicinity;
- F. The proposed use does not violate any other law or ordinance;
- G. The proposed use is not granting a special privilege.

The decision-making authority shall deny an application if it cannot make all of the above findings.

(Prior code § 90203.09)

CitySwitch's CUP and Variance Applications Meet Legal Requirements



90202.08 - Action on a variance.

The planning director, the planning commission and/or the board of supervisors, shall approve, approve subject to conditions or disapprove a variance with the following findings:

- A. Findings. Approval or conditional approval may be granted only if the director/commission/board of supervisors first determines that the variance satisfies the criteria set forth in Government Code Section 65906, and the following findings can be made:
 1. That there are special circumstances applicable to the property described in the variance application, that do not apply generally to the property or class of use in the same zone or vicinity;
 2. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such zone or vicinity in which the property is located;
 3. That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of zoning laws is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classifications;
 4. That the granting of such variance will not adversely affect the comprehensive general plan.
- B. Conditions of Approval. In approving a variance, the director/commission/board of supervisors may impose such conditions deemed necessary to enable making the findings listed under subsection A of this section.
- C. Denial of Variance. Where the director/commission/board of supervisors cannot make the findings under subsection A of this section (with or without conditions) the variance shall be denied.

(Prior code § 90202.08)

- Section 90202.08: Variance Approval Requirements
- No findings by Imperial County that Applications do not meet the requirements for a Variance.





CitySwitch's CUP and Variance Application Meet Legal Requirements

- Section 92404.01 – General Requirements for Communication Facilities
 - No findings by Imperial County that the Applications do not meet the General Requirements for Communications Facilitates.
- Section 92405.01 – Permitting Requirements
 - No findings by Imperial County that the Applications do not meet the Permitting Requirements.
- Section 92406.01 – Alternative Analysis
 - County made no findings regarding CitySwitch's Alternative Analysis, which demonstrated the infeasibility of continued co-location on the existing SBA towers.

CitySwitch's CUP and Variance Applications Meet Legal Requirements

- Federal Telecommunications Act – Section 332(c)(7)(B)(i)(II)
 - “regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof ... **shall not prohibit or have the effect of prohibiting the provision of wireless services.**”
- 2018 FCC Order in *Accelerating Wireless Broadband Deployment by Removing Barriers in Infrastructure Investment*, 33 FCC Rcd. 9018 (2018).
 - Section 332(c)(7) prohibits government action that “materially limits or inhibits the ability of any competitor or potential competitor to compete in a fair and balanced legal and regulatory environment.”
 - This standard only requires a material inhibition, not necessarily total inhibition.
 - Material inhibition in this case: (1) forcing providers like AT&T to incur higher rent and lease costs to provide services; (2) forcing providers to allocate R&D and equipment upgrade costs to high rents; (3) more limited services overall if providers decide to withdraw; (4) limiting deployment of FirstNet for emergency responders.

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Imperial County Staff Reports



• **Imperial County Staff Report Findings:**

- Communication facilities are allowed in the applicable zones with Conditional Use Permits.
- Proposed projects are consistent with the applicable zones.
- Proposed projects are “in conflict with Division 24, Section 92401.00 – Purpose, ‘ ... this Section standards are intended to protect, and promote public health, safety, community welfare and the unique visual character of the Imperial County [by] minimizing the number of towers throughout the community ...”

• **No Discussion Of:**

- Economic and technologic infeasibility of continued collocation on SBA towers.
- Other “purposes” of the Wireless Ordinance that are furthered by granting these Applications, such as:
 - (A) protecting residential areas from towers;
 - (B) encouraging location of towers in non-residential areas;
 - (G) enhancing the ability of providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.

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Planning Commission Vote

- **Approval of the CUP and Variance:**

- Allows CitySwitch to fulfill the federal requirement of providing personal wireless services to improve coverage and capacity in the County, including for residents, emergency service providers, and 911 services.
- Allows CitySwitch to provide more competitive rents and lease terms to potential collocators, which will attract additional providers to the area and increase coverage and capacity.
- Increases coverage and capacity within Imperial County.

- **Denial of the CUP and Variance:**

- Stifles competition with no recourse for cellular providers.
- Grants SBA an effective monopoly over wireless services within Imperial County.
- Prevents technology upgrades in an industry where technology is always-changing and equipment upgrades and modifications need to be made quickly.
- Forces cellular providers to divert resources from technology upgrades to higher-than-market rate rents.
- Prevent Union Pacific from having the telecommunications service it needs.
- Violates the federal Telecommunications Act.



Q&A

EXHIBIT 5



Imperial County Planning & Development Services Planning / Building

Jim Minnick
DIRECTOR

NOTIFICATION OF ACTION

Date of Decision: January 10, 2024

Decision Made By:

- THE PLANNING COMMISSION
- THE BOARD OF SUPERVISORS
- THE PLANNING DIRECTOR

Applicant:
CitySwitch 1900 Century Place NE Ste 320 Atlanta, GA 30345

Project: Conditional Use Permit #23-0009/Variance #23-0003/Initial Study #23-0009 (APN 039-310-019-001)

Dear Applicant/Engineer/Architect:

On **01/10/2024** the Imperial County Planning Commission, Board of Supervisors, Planning Director, through the public hearing process took the following action on your project.

(NOTICE: All Planning Director and Planning Commission actions have a ten (10) day appeal period during which time the decision may be appealed to the Planning & Development Services Department, and no further permitting of any type may be allowed by the Department)

APPROVED THE PROJECT:

The Planning Commission, the Planning Director, Board of Supervisors, approved your project subject to all the conditions discussed with you during the hearing process. (A copy of the CONDITIONS are attached hereto).

DENIED THE PROJECT:

You may have the right to appeal the decision of the Planning Director to the Planning Commission. You may have the right to appeal the decision of the Planning Commission to the Board of Supervisors. If you wish to file an appeal you must file your request with the Planning Director, which must include the payment of the appeals fee (\$1,000.00) within ten (10) days from the date, shown above. Attached are the requirements of an appeal. If no appeal is filed within ten (10) days, all rights to further administrative relief are waived.

PLEASE READ AND FOLLOW THE INSTRUCTIONS BELOW:

Your Conditional Use Permit (23-0009) is approved subject to the terms and conditions specified in the permit, a copy of the conditions are attached hereto. You are requested to submit a fee in the amount of \$54.00 for the CUP to be recorded, with the additional \$75.00 as per SB2 Real Estate Bill, Section Code 27388.0 which totals \$129.00 Please make the check payable to the Imperial County Recorders Department and submit it to the Imperial County Planning & Development Services Department. In addition, a check in the amount of \$15.00 made payable to the Imperial County Planning & Development should be submitted for the document to be notarized. As the Permittee you must sign, have the document notarized and returned to our Department for further processing. (Note: The CUP does not become effective until it is recorded).

In addition to the recording fee, the following additional amounts are required for your project. These amounts are determined by the findings of the project. Your project requires:

- a Negative Declaration or Mitigated Negative Declaration, with minimal or de minimis effect, the fee is \$2,978.75 (\$2,916.75) for Negative Declaration or Mitigated Negative Declaration and \$62.00 documentary handling fee); or,
- an Environmental Impact Report (EIR), with minimal or de minimus effect, the fee is \$4,113.25 (\$4,051.25 for the EIR and \$62.00 documentary handling fee); or,
- a CEQA Filing Fee No Effect Determination Form, with no effect on fish and wildlife, which can be obtained by contacting the CA Dept. of Fish and Game at (760) 922-6508, the fee is \$62.00 documentary handling fee.
- was exempt from CEQA, the fee is \$62.00 documentary handling fee.

These fees are to be made payable to the Imperial County Clerk Department. Please note that these fees are in addition to the recording fee, and these fees should be submitted to the Imperial County Planning & Development Services Department as soon as possible for further processing of your CUP. **A separate check (totaling 3) is required for each appropriate fee above.**

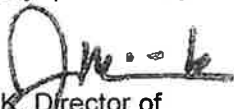
LEGAL RIGHT

PLEASE READ THE FOLLOWING STATEMENT - CAREFULLY:

"The time within which judicial review of this decision must be sought is governed by the Code of Civil Procedure 1094.6, which has been made applicable to the County of Imperial and any Commission, Board, including the Imperial County Board of Supervisors, the Planning Commission, agency, officer, or agent of the County by resolution. Any petition or other paper seeking judicial review must be filed in the appropriate court no later than ninety (90) days following the date on which this decision becomes final; however, if within ten (10) days after the decision becomes final, a request for the record of the proceedings is filed and the required deposit in the amount sufficient to cover the estimated cost of preparation of such record is timely deposited, the time within which such petition may be filed in court is extended to no later than the thirty (30) days following the date on which the record is either personally delivered or mailed to the party or his attorney of record, if he/she has one. A written request for the preparation of the record of the proceedings shall be filed with **Jim Minnick, Director of Planning & Development Services, County of Imperial, 801 Main Street, El Centro, California, 92243**. For purposes of this notice, the decision becomes final upon the expiration of the period during which an appeal may be sought; provided that if an appeal is sought, the decision is final for purposes of this notice on the date the appeal is denied.

If you have any questions, please feel free to call this Department at (442) 265-1736.

Sincerely,



JIM MINNICK, Director of
Planning & Development Services Department

ATTACHMENT(S): CUP Agreement

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Imperial County Planning & Development Services Planning / Building

Jim Minnick
DIRECTOR

NOTIFICATION OF ACTION

Date of Decision: January 10, 2024

Decision Made By:

- THE PLANNING COMMISSION
- THE BOARD OF SUPERVISORS
- THE PLANNING DIRECTOR

Applicant:

CitySwitch
1900 Century Place NE Ste 320
Atlanta, GA 30345

Project: Conditional Use Permit #23-0010/Variance #23-0004/Initial Study #23-0010 (APN 056-470-002-001)

Dear Applicant/Engineer/Architect:

On **01/10/2024** the Imperial County Planning Commission, Board of Supervisors, Planning Director, through the public hearing process took the following action on your project.

(NOTICE: All Planning Director and Planning Commission actions have a ten (10) day appeal period during which time the decision may be appealed to the Planning & Development Services Department, and no further permitting of any type may be allowed by the Department)

APPROVED THE PROJECT:

The Planning Commission, the Planning Director, Board of Supervisors, approved your project subject to all the conditions discussed with you during the hearing process. (A copy of the CONDITIONS are attached hereto).

DENIED THE PROJECT:

You may have the right to appeal the decision of the Planning Director to the Planning Commission. You may have the right to appeal the decision of the Planning Commission to the Board of Supervisors. If you wish to file an appeal you must file your request with the Planning Director, which must include the payment of the appeals fee (\$1,000.00) within ten (10) days from the date, shown above. Attached are the requirements of an appeal. If no appeal is filed within ten (10) days, all rights to further administrative relief are waived.

PLEASE READ AND FOLLOW THE INSTRUCTIONS BELOW:

Your Conditional Use Permit (**23-0010**) is approved subject to the terms and conditions specified in the permit, a copy of the conditions are attached hereto. You are requested to submit a fee in the amount of **\$54.00** for the CUP to be recorded, with the additional **\$75.00** as per SB2 Real Estate Bill, Section Code 27388.0 which totals **\$129.00** Please make the check payable to the **Imperial County Recorders Department** and submit it to the **Imperial County Planning & Development Services Department**. In addition, a check in the amount of **\$15.00** made payable to the Imperial County Planning & Development should be submitted for the document to be notarized. As the Permittee you must sign, have the document notarized and returned to our Department for further processing. (Note: The CUP does not become effective until it is recorded).

In addition to the recording fee, the following additional amounts are required for your project. These amounts are determined by the findings of the project. Your project requires:

- a Negative Declaration or Mitigated Negative Declaration, with minimal or de minimis effect, the fee is **\$2,978.75** (\$2,916.75 for Negative Declaration or Mitigated Negative Declaration and \$62.00 documentary handling fee); or,
- an Environmental Impact Report (EIR), with minimal or de minimus effect, the fee is **\$4,113.25** (\$4,051.25 for the EIR and \$62.00 documentary handling fee); or,
- a **CEQA Filing Fee No Effect Determination Form**, with no effect on fish and wildlife, which can be obtained by contacting the CA Dept. of Fish and Game at (760) 922-6508, the fee is **\$62.00** documentary handling fee.
- was exempt from CEQA, the fee is **\$62.00** documentary handling fee.

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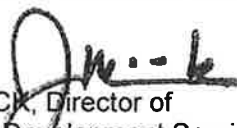
LEGAL RIGHT

PLEASE READ THE FOLLOWING STATEMENT - CAREFULLY:

"The time within which judicial review of this decision must be sought is governed by the Code of Civil Procedure 1094.6, which has been made applicable to the County of Imperial and any Commission, Board, including the Imperial County Board of Supervisors, the Planning Commission, agency, officer, or agent of the County by resolution. Any petition or other paper seeking judicial review must be filed in the appropriate court no later than ninety (90) days following the date on which this decision becomes final; however, if within ten (10) days after the decision becomes final, a request for the record of the proceedings is filed and the required deposit in the amount sufficient to cover the estimated cost of preparation of such record is timely deposited, the time within which such petition may be filed in court is extended to no later than the thirty (30) days following the date on which the record is either personally delivered or mailed to the party or his attorney of record, if he/she has one. A written request for the preparation of the record of the proceedings shall be filed with **Jim Minnick, Director of Planning & Development Services, County of Imperial, 801 Main Street, El Centro, California, 92243**. For purposes of this notice, the decision becomes final upon the expiration of the period during which an appeal may be sought; provided that if an appeal is sought, the decision is final for purposes of this notice on the date the appeal is denied.

If you have any questions, please feel free to call this Department at (442) 265-1736.

Sincerely,


JIM MINNICK, Director of
Planning & Development Services Department

ATTACHMENT(S): CUP Agreement

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Imperial County Planning & Development Services Planning / Building

Jim Minnick
DIRECTOR

NOTIFICATION OF ACTION

Date of Decision: January 10, 2024

Decision Made By:

- THE PLANNING COMMISSION
- THE BOARD OF SUPERVISORS
- THE PLANNING DIRECTOR

Applicant:
CitySwitch 1900 Century Place NE Ste 320 Atlanta, GA 30345

Project: Conditional Use Permit #23-0011/Variance #23-0006/Initial Study #23-0011 (APN 041-200-008-001)

Dear Applicant/Engineer/Architect:

On **01/10/2024** the Imperial County Planning Commission, Board of Supervisors, Planning Director, through the public hearing process took the following action on your project.

(NOTICE: All Planning Director and Planning Commission actions have a ten (10) day appeal period during which time the decision may be appealed to the Planning & Development Services Department, and no further permitting of any type may be allowed by the Department)

APPROVED THE PROJECT:

The Planning Commission, the Planning Director, Board of Supervisors, approved your project subject to all the conditions discussed with you during the hearing process. (A copy of the CONDITIONS are attached hereto).

DENIED THE PROJECT:

You may have the right to appeal the decision of the Planning Director to the Planning Commission. You may have the right to appeal the decision of the Planning Commission to the Board of Supervisors. If you wish to file an appeal you must file your request with the Planning Director, which must include the payment of the appeals fee (\$1,000.00) within ten (10) days from the date, shown above. Attached are the requirements of an appeal. If no appeal is filed within ten (10) days, all rights to further administrative relief are waived.

PLEASE READ AND FOLLOW THE INSTRUCTIONS BELOW:

Your Conditional Use Permit (**23-0011**) is approved subject to the terms and conditions specified in the permit, a copy of the conditions are attached hereto. You are requested to submit a fee in the amount of **\$54.00** for the CUP to be recorded, with the additional **\$75.00** as per SB2 Real Estate Bill, Section Code 27388.0 which totals **\$129.00** Please make the check payable to the **Imperial County Recorders Department** and submit it to the **Imperial County Planning & Development Services Department**. In addition, a check in the amount of **\$15.00** made payable to the Imperial County Planning & Development should be submitted for the document to be notarized. As the Permittee you must sign, have the document notarized and returned to our Department for further processing. (Note: The CUP does not become effective until it is recorded).

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Sincerely,



JIM MINNICK, Director of
Planning & Development Services Department

ATTACHMENT(S): CUP Agreement

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ATTACHMENT F
PC Original Package

PROJECT REPORT

TO: **PLANNING COMMISSION**

AGENDA DATE: January 10, 2024

FROM: **PLANNING & DEVELOPMENT SERVICES**

AGENDA TIME: 9:00 PM/ No.8

Cityswitch

PROJECT TYPE: Conditional Use Permit #23-0010/Variance #23-0004 SUPERVISOR DIST #5

LOCATION: 673 Sidewinder Rd N. APN: 056-470-002-000

Winterhaven, CA 92283 PARCEL SIZE: +/- 26.75AC.

GENERAL PLAN (existing) Recreation GENERAL PLAN (proposed) N/A

ZONE (existing) S-2 (Open Space) ZONE (proposed) N/A

GENERAL PLAN FINDINGS CONSISTENT INCONSISTENT MAY BE/FINDINGS

PLANNING COMMISSION DECISION: HEARING DATE: 01/10/2024

APPROVED DENIED OTHER

PLANNING DIRECTORS DECISION: HEARING DATE: _____

APPROVED DENIED OTHER

ENVIROMENTAL EVALUATION COMMITTEE DECISION: HEARING DATE: 11/16/2023

INITIAL STUDY: #23-0010

NEGATIVE DECLARATION MITIGATED NEG. DECLARATION EIR

DEPARTMENTAL REPORTS / APPROVALS:

PUBLIC WORKS	<input checked="" type="checkbox"/>	NONE	<input type="checkbox"/>	ATTACHED
AG COMMISSIONER	<input type="checkbox"/>	NONE	<input checked="" type="checkbox"/>	ATTACHED
APCD	<input type="checkbox"/>	NONE	<input checked="" type="checkbox"/>	ATTACHED
DEH/E.H.S.	<input type="checkbox"/>	NONE	<input checked="" type="checkbox"/>	ATTACHED
FIRE / OES	<input checked="" type="checkbox"/>	NONE	<input type="checkbox"/>	ATTACHED
OTHER		<u>IID, CEO, Caltrans, VECA, Quechan Indian Tribe</u>		

REQUESTED ACTION:

IT IS RECOMMENDED THAT YOU CONDUCT A PUBLIC HEARING, THAT YOU HEAR ALL THE OPPONENTS AND PROPONENTS OF THE PROPOSED PROJECT. STAFF WOULD THEN RECOMMEND THAT YOU APPROVE CONDITIONAL USE PERMIT #23-0010 AND VARIANCE #23-0004 BY TAKING THE FOLLOWING ACTIONS:

- 1) ADOPT THE NEGATIVE DECLARATION BY FINDING THAT THE PROPOSED PROJECT WOULD NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT AS RECOMMENDED AT THE ENVIRONMENTAL EVALUATION COMMITTEE (EEC) HEARING ON NOVEMBER 16, 2023;
- 2) MAKE THE DE MINIMUS FINDINGS AS RECOMMENDED AT THE NOVEMBER 16, 2023 EEC HEARING THAT THE PROJECT WILL NOT INDIVIDUALLY OR CUMULATIVELY HAVE AN ADVERSE EFFECT ON FISH AND WILDLIFE RESOURCES, AS DEFINED IN SECTION 711.2 OF THE FISH AND GAME CODES; AND
- 3) CONSIDER THE APPROVAL OR DENIAL OF CUP #23-0010 FOR THE PROPOSED TELECOMMUNICATIONS TOWER. IF APPROVED, AUTHORIZE THE PLANNING & DEVELOPMENT SERVICES DIRECTOR TO SIGN THE CUP CONTRACT UPON RECEIPT FROM THE PERMITTEE AND;
- 4) CONSIDER THE APPROVAL OR DENIAL OF VARIANCE #23-0004 WITH RESOLUTION AND FINDINGS.

Planning & Development Services
801 MAIN ST., EL CENTRO, CA 92243 442-265-1736
(Jim Minnick, Director)

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PC ORIGINAL PKG

STAFF REPORT
PLANNING COMMISSION MEETING
January 10, 2024
Conditional Use Permit (CUP) #23-0010 & Variance #23-0004

Applicant: **CitySwitch**
 1900 Century Place NE, Suite 320,
 Atlanta, GA 30345

Agents: **Michael Bieniek/ Allison Burke**
 10700 W Higgins STE 240,
 Rosemont, IL 60018

Project Location:

The proposed project site is located at 673 Sidewinder Rd., CA, comprising approximately 26.75 acres. The project is identified as Assessor's Parcel Number 056-470-002-000 and is legally described POB SBE 872-13-9-3, San Bernardino Base and Meridian, on file in the Office of the County Recorder of Imperial County (Attachment "A" Site Vicinity Map).

Project Summary:

The Imperial County Planning and Development Services Department received a Conditional Use Permit (CUP) & Variance application, and supporting documentation from CitySwitch, proposing to install a 170-foot, monopole tower with a 10'-0" lightning rod for a total height of 180'-0" to be located within a 57'-0" x 45'-0" foot fenced area on parcel owned by the Union Pacific Railroad Company and within its railroad right-of-way.

Per their CUP Application CitySwitch has the commitment with Union Pacific Railroad Company and AT&T Mobility, a wireless services provider for this site. Additionally, the facility will be open for co-location to other wireless providers. The project requires a Conditional Use Permit (#23-0010) for the monopole tower and a Variance (#23-0004) to exceed the 100-foot height limitation for the Recreation/Open Space (S-2) zoned area by 80 feet.

The proposed facility is designed to house the equipment necessary to provide Union Pacific and AT&T's critical communications for the railroad line and uninterrupted AT&T wireless services to the residents and visitors of Brawley, Imperial County, and surrounding areas, including wireless telephone service, voice paging, messaging, and wireless internet and broadband data transmission. All registered wireless providers' technology operates at various radio frequency bands allocated by the Federal Communications Commission (FCC) as part of their license.

Project Background:

On July 19, 2023, Conditional Use Permit #23-0010 & Variance #23-0004, for the proposed 180-foot wireless telecommunications facility, were heard by the Imperial County Airport Land Use Commission where it was determined that the proposed project was consistent with the 1996 Airport Land Use Compatibility Plan (ALUCP).

Land Use Analysis:

Per Imperial County’s General Plan, the land use designation for this project is “Recreation/Open Space” and is zoned as S-2 (Open Space) per Zoning Map #70 of the Imperial County Title 9 Land Use Ordinance. Per County’s Land Use Ordinance (Title 9), Division 5, Section 90519.02 Subsection (r), communication towers are allowed in an S-2 (Open Space) zone with an approved Conditional Use Permit (CUP). The proposed project is consistent with the County’s General Plan and County’s Land Use Ordinances (Title 9).

Although the proposed project is consistent with the S-2 zone under an approved Conditional Use Permit (Division 5, Section 90519.02(r)), it is determined that it is in conflict with Division 24, Section 92401.00 – Purpose, “...This Section standards are intended to protect, and promote public health, safety, community welfare and the unique visual character of the Imperial County [by] minimizing the number of towers throughout the community...” as the proposed telecommunications tower would be situated approximately 2008.33 feet south of an existing telecommunications tower owned by SBA Towers, LLC, operating under Conditional Use Permit #19-0029. Upon further research on submitted reports of the adjacent existing tower, it was found that tower space for future co-locators is still available.

Surrounding Land Use Ordinance:

DIRECTION	CURRENT LAND	ZONING	GENERAL PLAN
Project Site	Proposed Tower Site	(S-2)	Recreation/Open Space
North	Vacant	(S-2/ BLM)	Recreation/Open Space
West	Museum	(S-2)	Recreation/Open Space
East	Vacant	(S-2)	Recreation/Open Space
South	Vacant /CHP Station/Gas Station/ Existing Tower Site	(C-2/ STATE)	Recreation/Open Space

Environmental Review:

On November 16, 2023, the Environmental Evaluation Committee (EEC) determined that Conditional Use Permit (CUP#23-0010) and Variance (V#23-0004) for the development of a 170'-foot monopole tower with a 10'-0" lightning rod for a total height of 180'-0" and Variance to exceed the height limitation in an area zoned Recreation/Open Space (S-2) by 80 feet. would not have a significant effect on the environment and recommended a Negative Declaration (ND) to be prepared. The EEC Committee consists of seven (7) member panel, integrated by the Director of Environmental Health Services, Imperial County Fire Chief, Agricultural Commissioner, Air Pollution Control Officer, Director of the Department of Public Works, Imperial County Sheriff, and the Director of Planning and Development Services. The EEC also made the De Minimus Finding that the project would not individually or cumulatively have an adverse effect on fish and wildlife resources, as defined in Section 711.2 of the Fish and Game Codes.

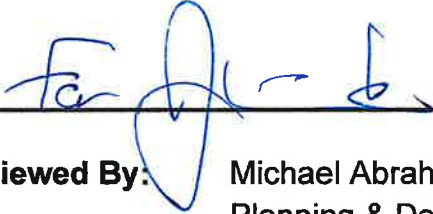
The project was publicly posted and circulated from November 21, 2023, through December 16, 2023, all comments were received, reviewed and made part of this project.

Staff Recommendation:

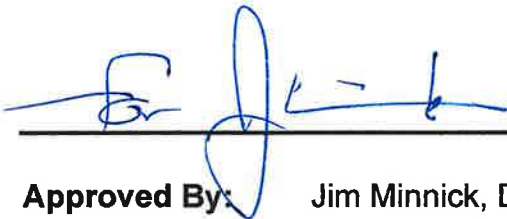
Staff recommends that the Planning Commission hold a public hearing, hear all the proponents and opponents of the proposed project, and then take the following actions:

1. Adopt the Negative Declaration by finding that the proposed project would not have a significant effect on the environment as recommended at the Environmental Evaluation Committee (EEC) hearing on November 16, 2023;
2. Make the De Miniums findings as recommended at the November 16, 2023 EEC hearing that the project will not individually or cumulatively have an adverse effect on Fish and Wildlife Resources, as defined in Section 711.2 of the Fish and Game Codes; and
3. Consider the approval or denial of CUP#23-0010 for the proposed telecommunications tower, if approved authorize the Planning & Development Services Director to sign the CUP contract upon receipt from the permittee.
4. Consider the Approval or Denial of Variance #23-0004 with Resolution and findings.

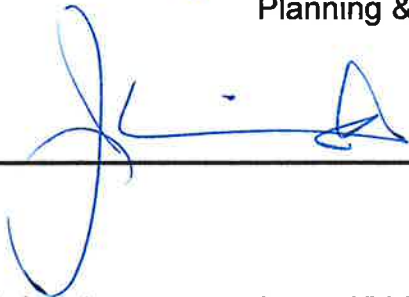
Prepared By: Evelia Jimenez, Planner II
Planning & Development Services



Reviewed By: Michael Abraham, AICP, Assistant Director
Planning & Development Services



Approved By: Jim Minnick, Director
Planning & Development Services



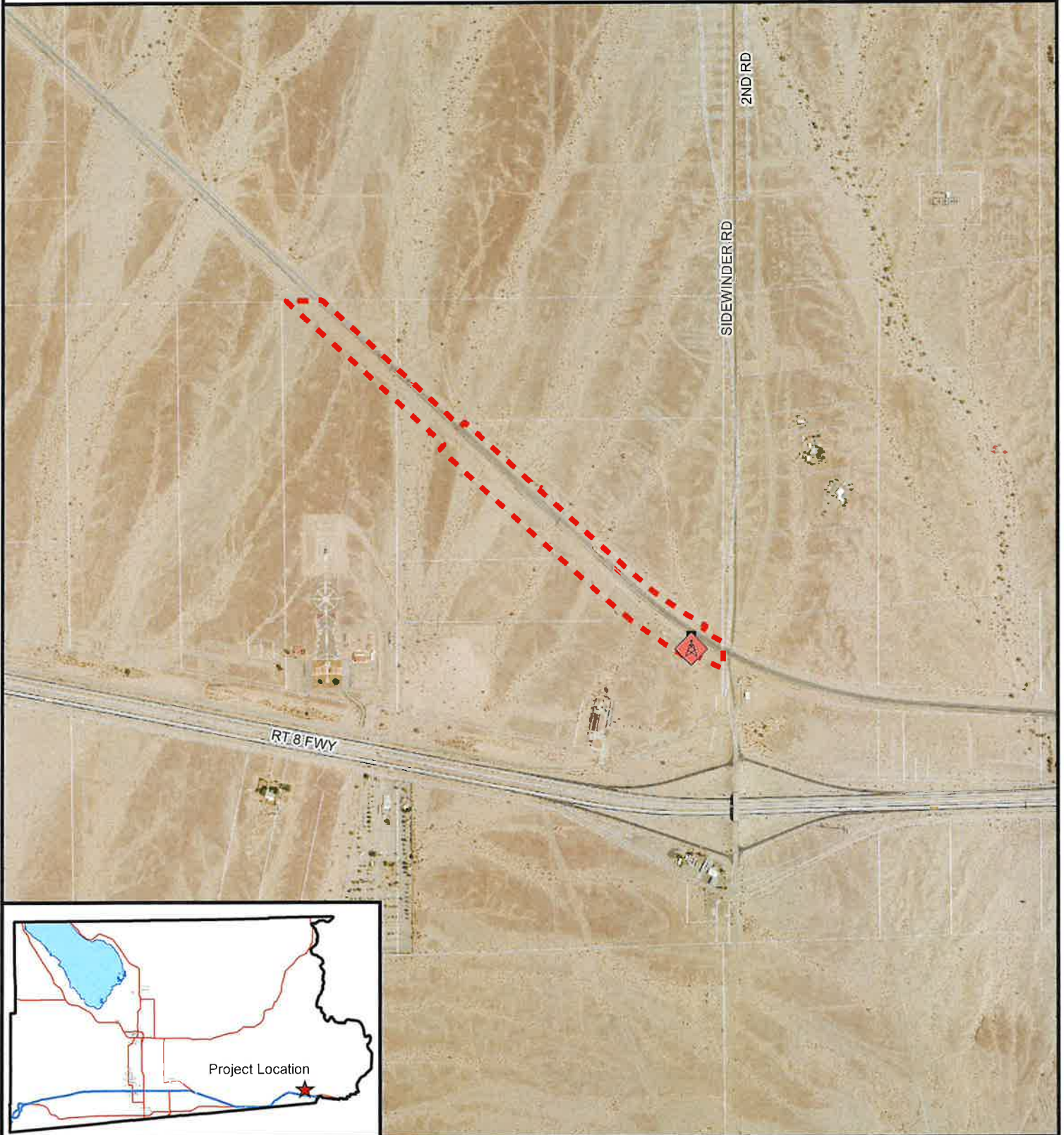
Attachments:

- A. Vicinity Map
- B. Site Plan
- C. CEQA Resolutions CUP#23-0010
- D. Variance Resolutions V#23-0004
- E. Planning Commission Resolution
- F. CUP#23-0010- Conditions of Approval
- G. EEC Package
- H. ALUC Package
- I. Conditional Use Permit #23-0010 Application & Supporting Documents
- J. Comment Letters





**ATTACHMENT “A” – VICINITY
MAP**

PC ORIGINAL PKG

PROJECT LOCATION MAP



CITYSWITCH
637-639 SIDEWINDER R.
WINTERHAVEN, CA.
CUP #23-0010 / IS 23-0010 / V 23-0004
APN 056-470-002-000
PC ORIGINAL PKG

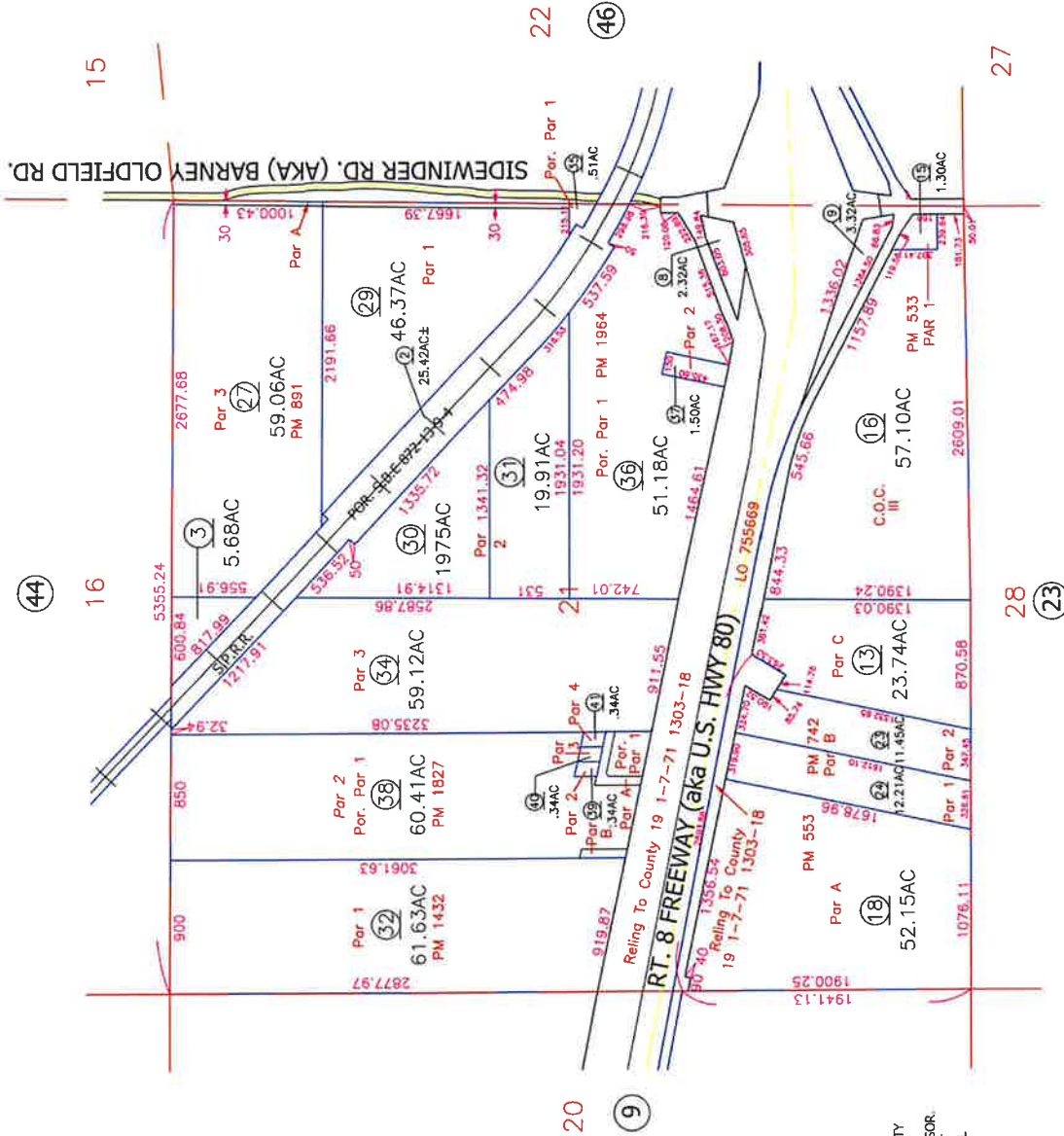
	Project Location
	Centerline
	Parcels
	Tower Location



SEC. 21 T16S, R21E

Tax Area Code
94-002

56-47



DISCLAIMER:
 THIS IS NOT AN OFFICIAL MAP.
 THIS MAP WAS CREATED FOR THE IMPERIAL COUNTY
 ASSESSOR, FOR THE SOLE PURPOSE OF AIDING IN
 THE PERFORMANCE OF THE DUTIES OF THE ASSESSOR.
 ANY ERRORS OR OMISSIONS IN THIS MAP ARE NOT
 THE RESPONSIBILITY OF THE COUNTY OF IMPERIAL
 OR THE ASSESSOR. (REV. & TAX. CODE SEC.327)

BLOW - UP
 From 56-10
 7-12-90 LS
 2-10-93 LS

PC ORIGINAL PKG



Assessor's Map Bk.56-Pg.47
 County of Imperial, Calif.

ATTACHMENT "B"- SITEPLAN

PC ORIGINAL PKG



WESTCHESTER
 648 FOX GLEN
 1741 E. BROADWAY
 FALCUT, CA 92233
 TEL: 951-777-0070
 FAX: 951-777-0080
 info@westchesterpc.com

ZONING DRAWINGS
 NOT FOR CONSTRUCTION

DRAWN BY: MN
 CHECKED BY: RSM

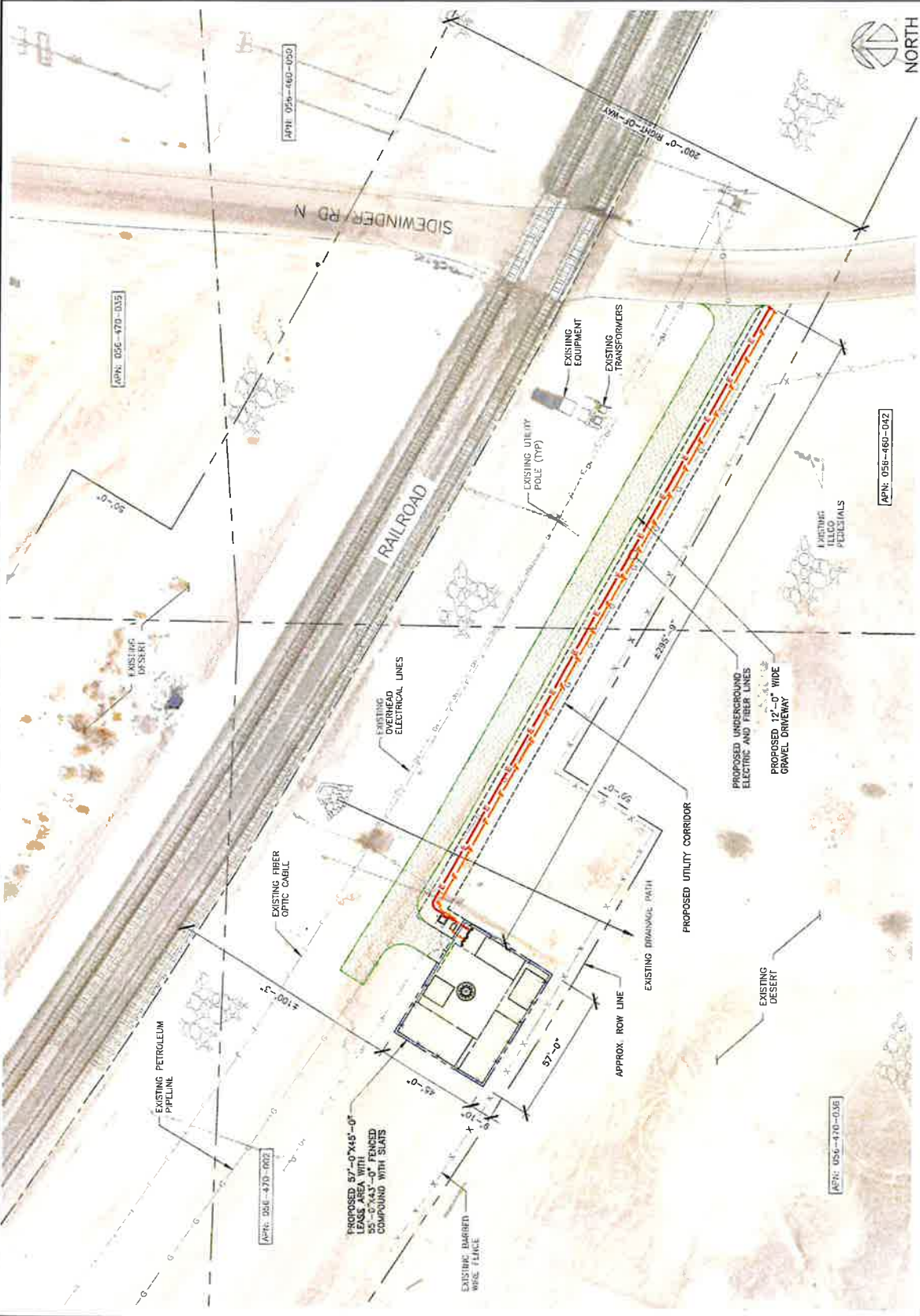
REV	DATE	DESCRIPTION
A	03/18/22	ZONING DRAWINGS
B	03/28/22	ZONING DRAWINGS
C	10/25/22	ZONING DRAWINGS

* PLEASE VERIFY THAT THESE PLANS ARE THE LATEST REVISIONS AND THAT YOU ARE A USER OF THE SCALE OF DRAWING.

SITE NAME:
 WINTERHAVEN
 SITE ADDRESS:
 637-639 SIDEWINDER RD N
 FELICITY, CA 92283
 IMPERIAL COUNTY

SHEET TITLE
OVERALL SITE PLAN

SHEET NUMBER
C-1



SCALE: 1"=50'-0" (1:500)
 (000) 2"=50'-0" (1:250)

1 OVERALL SITE PLAN

THE INFORMATION CONTAINED IN THIS SET OF CONSTRUCTION DOCUMENTS IS PROPRIETARY TO WESTCHESTER PC. ANY USE OR REPRODUCTION OF THESE DOCUMENTS WITHOUT THE WRITTEN PERMISSION OF WESTCHESTER PC IS STRICTLY PROHIBITED.

PC ORIGINAL PKG



ZONING DRAWINGS
NOT FOR CONSTRUCTION

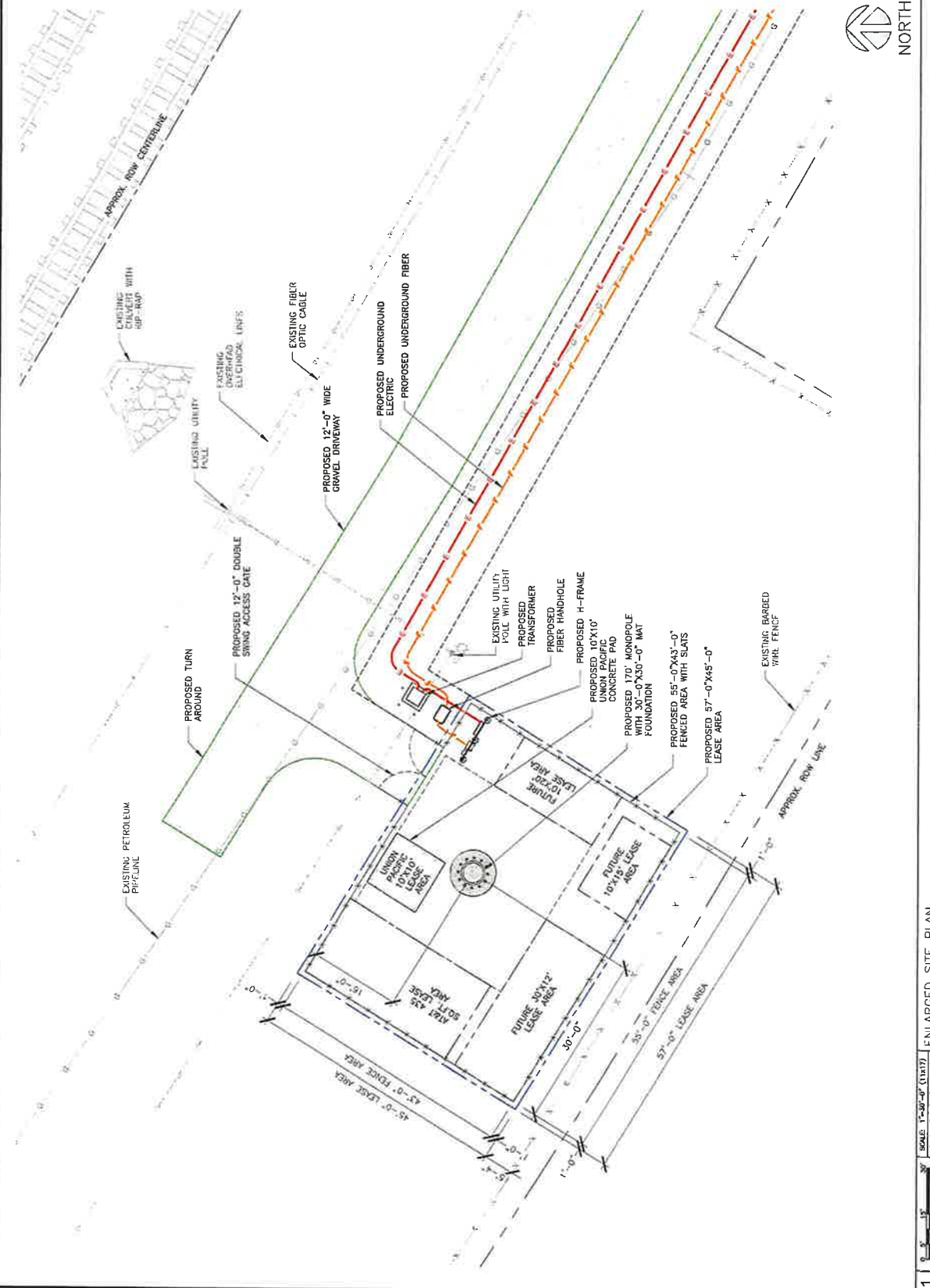
DATE	DESCRIPTION
A 03/18/22	ZONING DRAWINGS
B 03/28/22	ZONING DRAWINGS
C 10/25/22	ZONING DRAWINGS

NOTE: VERIFY THAT THESE PLANS WILL BE ADAPTED TO THE LATEST EDITIONS OF THE STATE OF CALIFORNIA'S REGISTERED ARCHITECT UNDER THE LAW OF THE STATE OF CALIFORNIA.

SITE NAME:
WINTERHAVEN
SITE ADDRESS:
637-639 SIDEWINDER RD N
FELICITY, CA 92283
IMPERIAL COUNTY

SHEET TITLE
ENLARGED
SITE PLAN

SHEET NUMBER
C-2



SCALE: 1"=30'-0" (11x17)
(00) 2"=30'-0" (22x34)



PC ORIGINAL PKG

**ATTACHMENT "C" - CEQA
RESOLUTIONS CUP#23-0010**

PC ORIGINAL PKG

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF IMPERIAL, CALIFORNIA, ADOPTING THE “NEGATIVE DECLARATION” (INITIAL STUDY #23-0010) FOR CONDITIONAL USE PERMIT #23-0010 AND VARIANCE #23-0004.

WHEREAS, on November 4, 2023, a Public Notice was mailed to the surrounding property owners advising them of the Environmental Evaluation Committee hearing scheduled for November 16, 2023;

WHEREAS, a Negative Declaration and CEQA findings were prepared in accordance with the requirements of the California Environmental Quality Act, State Guidelines, and the County’s “Rules and Regulations to Implement CEQA, as Amended”; and

WHEREAS, on November 16, 2023, the Environmental Evaluation Committee heard the project and recommended to the Planning Commission of Imperial County to adopt the Negative Declaration for Conditional Use Permit #23-0010 and Variance #23-0004; and

WHEREAS, on November 21, 2023 the Negative Declaration was posted for 20 days from November 21, 2023 to December 16, 2023; and

WHEREAS, the Planning Commission of the County of Imperial has been designated with the responsibility of approvals and certifications; and

NOW, THEREFORE, the Planning Commission of the County of Imperial **DOES HEREBY RESOLVE** as follows:

The Planning Commission has reviewed the attached Negative Declaration (ND) prior to approval of Conditional Use Permit #23-0010 and Variance #23-0004. The Planning Commission finds and determines that the Negative Declaration is adequate and was prepared in accordance with the requirements of the Imperial County General Plan and Land Use Ordinance, and the California Environmental Quality Act (CEQA), which analyzes the project’s environmental effects, based upon the following findings and determinations:

1. That the recital set forth herein are true, correct, and valid;
2. That the Planning Commission has reviewed the attached Negative Declaration (ND) for Conditional Use Permit #23-0010 and Variance #23-0004, and considered the information contained in the Negative Declaration together with all comments received during the public review period and prior to approving the Conditional Use Permit; and
3. That the Negative Declaration reflects the Planning Commission independent judgment and analysis.

NOW, THEREFORE, based on the findings, the Planning Commission **DOES HEREBY ADOPT** the Negative Declaration (ND) for Conditional Use Permit #23-0010 And Variance #23-0004.

**Rudy Schaffner, Chairperson
Imperial County Planning Commission**

I hereby certified that the preceding Resolution was taken by the Planning Commission at a meeting conducted on January 10, 2024 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

**Jim Minnick, Director of Planning & Development Services
Secretary to the Imperial County Planning Commission**

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PC ORIGINAL PKG

**ATTACHMENT "D" - VARIANCE
RESOLUTIONS VA#23-0004**

PC ORIGINAL PKG

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF IMPERIAL, CALIFORNIA, ADOPTING TO APPROVE VARIANCE #23-0004 FOR A HEIGHT INCREASE FOR A MONOPOLE WIRELESS TELECOMMUNICATION TOWER.

WHEREAS, Cityswitch has submitted an application for a Variance (#23-0004) requesting an increase (80 feet) of the maximum allowed height in the Open Space "S-2" zone from 100 feet to 180 feet for the proposed monopole wireless telecommunication tower (under Conditional Use Permit #23-0010); and

WHEREAS, a Negative Declaration and CEQA findings were prepared in accordance with the requirements of the California Environmental Quality Act, State Guidelines, and the County's "Rules and Regulations to Implement CEQA, as Amended"; and

WHEREAS, on November 16, 2023, the Environmental Evaluation Committee heard the project and recommended to the Planning Commission of Imperial County to adopt the Negative Declaration for Conditional Use Permit #23-0010 and Variance #23-0004; and

WHEREAS, on November 21, 2023 the Negative Declaration was posted for 20 days from November 21, 2023 to December 16, 2023; and

WHEREAS, public notice of said application has been given, and the Planning Commission has considered evidence presented by the Imperial County Planning & Development Services Department and other interested parties at a public hearing held with respect to this item on January 10, 2024; and

WHEREAS, the Planning Commission of the County of Imperial has been designated with the responsibility of adoptions and certifications; and

NOW, THEREFORE, the Planning Commission of the County of Imperial **DOES HEREBY RESOLVE** as follows:

SECTION 1. The Planning Commission has considered Variance #23-0004 prior to approval. The Planning Commission finds and determines that the Variance is adequate and prepared in accordance with the requirements of the Imperial County General Plan, Land Use Ordinance and the California Environmental Quality Act (CEQA), which analyses environmental effects, based upon the following findings and determinations.

SECTION 2. That in accordance with State Planning and Zoning Law (California Government Code (§65906) and the County of Imperial Land Use Ordinance (§90202.08), the following findings for the approval of Variance #23-0004 have been made:

- A. Are there special circumstances applicable to the property described in the variance application that do not apply generally to the property or class of use in the same zone or vicinity?**

Requiring Cityswitch to adhere to the one hundred (100) foot communication tower limit would have a significant negative impact on the communications tower coverage that is necessary in the area. It would result in the communications tower incapability to provide communications coverage in the designated area. Granting this variance will not constitute a grant of special privilege that is not generally available to other property in the vicinity and in the same land use zone.

- B. Will the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such zone or vicinity in which the property is located.**

According to their application the purpose of the proposed tower is to increase the coverage available to the carrier's users. Granting such variance will not be materially detrimental to the public welfare or injurious to the property or vicinity in which the property is located.

- C. Because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, will the strict application of zoning laws deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classifications?**

According to their application the strict adherence to Section 90519.07 of the Title 9, Division 5, Open Space (S-2) zone to the one hundred (100) foot height limit would deprive and prevent Cityswitch the ability to provide adequate coverage to the surrounding areas.

- D. Does the granting of such variance adversely affect the comprehensive General Plan?**

Staff has reviewed the proposed communications tower and proposed variance and has determined that such to be inconsistent with purpose of Division 24 Section 92401.00 within the S-2 (Open Space) Zone, in the Recreation of the Imperial County General Plan. As allowed through the variance process, the granting of the one hundred eighty (180) foot variance would not constitute a grant adversely affecting the Imperial County General Plan.

Although the proposed project is consistent with the S-2 zone under an approved Conditional Use Permit (Division 5, Section 90519.02(r)), it is determined that it is in conflict with Division 24, Section 92401.00 – Purpose, "...This Section standards are intended to protect, and promote public health, safety, community welfare and the unique visual character of the Imperial County [by] minimizing the number of towers throughout the community..." as the proposed telecommunications tower would be situated approximately 2,008 feet south of an existing telecommunications tower owned by SBA Towers, LLC, operating under Conditional Use Permit #19-0029.

NOW, THEREFORE, based on the findings, the Imperial County Planning Commission **DOES HEREBY APPROVE** Variance #23-0004.

**Rudy Schaffner, Chairperson
Imperial County Planning Commission**

I hereby certified that the preceding Resolution was taken by the Planning Commission at a meeting conducted on January 10, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

**Jim Minnick, Director of Planning & Development Services
Secretary to the Imperial County Planning Commission**

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PC ORIGINAL PKG

**ATTACHMENT "E" – PLANNING
COMMISSION RESOLUTION**

PC ORIGINAL PKG

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF IMPERIAL, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT #23-0010 AND CONDITIONS OF APPROVAL FOR CITYSWITCH.

WHEREAS, Cityswitch, has submitted an application for Conditional Use Permit #23-0010 and Variance #23-0004 for a proposed 170'-foot monopole tower with a 10'-0" lightning rod for a total height of 180'-0" and Variance to exceed the height limitation in an area zoned recreation/open space (S-2) by 80ft;

WHEREAS, a Negative Declaration (ND) has been prepared in accordance with the requirements of the California Environmental Quality Act, the State Guidelines, and the County's "Rules and Regulations to Implement CEQA as Amended";

WHEREAS, the Planning Commission of the County of Imperial has been delegated with the responsibility of approvals and certifications;

WHEREAS, public notice of said application has been given, and the Planning Commission has considered evidence presented by the Imperial County Planning & Development Services Department and other interested parties at a public hearing held with respect to this item on January 10, 2024;

NOW, THEREFORE, the Planning Commission of the County of Imperial **DOES HEREBY RESOLVE** as follows:

SECTION 1. The Planning Commission has considered the proposed Conditional Use Permit #23-0010 and Variance #23-0004 prior to approval. The Planning Commission finds and determines that the Conditional Use Permit is adequate and prepared in accordance with the requirements of the Imperial County General Plan, Land Use Ordinance and the California Environmental Quality Act (CEQA) which analyses environmental effects, based upon the following findings and determinations.

SECTION 2. That in accordance with State Planning and Zoning law and the County of Imperial regulations, the following findings for approving the Conditional Use Permit #23-0010 and Variance #23-0004 has been made as follows:

A. The proposed use is consistent with goals and policies of the adopted County General Plan.

The General Plan designates the subject site under Land Use "Recreation." per Imperial County Land Use Ordinance, Zone Map # 70, Pursuant to Title 9, Division 5 Section 90519.02, The project is found consistent with the goals and policies of the Imperial County General Plan Land Use Element and therefore, consistent with the County's General Plan, Although the proposed project is found

consistent with goals and policies of the S-2 zone, it is determined that it is in conflict with Division 24, Section 92401.00 – Purpose, “...This Section standards are intended to protect, and promote public health, safety, community welfare and the unique visual character of the Imperial County [by] minimizing the number of towers throughout the community...” as the proposed telecommunications tower would be situated approximately 2,008 feet south of an existing telecommunications tower owned by SBA Towers , LLC, operating under Conditional Use Permit #19-0029.

B. The proposed use is consistent with the purpose of the zone or sub-zone within which the use will be used.

The purpose of the project is for the construction of a 170'-foot monopole tower with 10'-0" lightning rod for a total height of 180'-0". The project is zoned S-2 (Open Space/Preservation). Pursuant to Title 9 Division 5 Section 90519.02; communication towers are permitted use with the approval of a Conditional Use Permit and, therefore, the continued use is consistent with the purpose of the S-2 zoning district, or else it is determined that it conflicts with the purpose on Division 24, Section 92401.00.

C. The proposed use is listed as a use within the zone or sub-zone or is found to be similar to a listed or similar conditional use according to the procedures of Section 90203.00.

The proposed communications tower is listed as a use subject to a Conditional Use Permit in Imperial County Land Use Ordinance, Section 90519.02.

D. The proposed use meets the minimum requirements of this Title applicable to the use and complies with all applicable laws, ordinances and regulation of the County of Imperial and the State of California.

The Project complies with the minimum requirements of Title 9 by obtaining a CUP & Variance pursuant to Title 9, Division 5, and Section 90519.02. The Conditions of Approval will further ensure that the project complies with all applicable regulations of the County of Imperial and the State of California.

E. The proposed use will not be detrimental to the health, safety, and welfare of the public or to the property and residents in the vicinity.

The project is designated under Land Use “Recreation” by the Imperial County General Plan. The proposed project site’s parcel is surrounded by other parcels zoned as S-2 (Open Space). To the West, there is an existing Glamis dunes storage facility. On the North and East, there are vacant parcels close to the tower site while on the South there is an existing store. The proposed tower will not be detrimental to the health, safety, and welfare of the public or to the property and residents in the vicinity.

F. The proposed use does not violate any other law or ordinance.

The proposed project will be subject to the Conditional Use Permit conditions of approval & Variance, current Federal, State and Local regulations. The proposed use does not violate any law or ordinance.

G. The proposed use is not granting a special privilege.

The project is a permitted use subject to approval of a Conditional Use Permit #23-0010 & Variance #23-0004 under Land Use Ordinance, Section 92404.01 et. seq. and will not grant a special privilege.

NOW, THEREFORE, based on the above findings, the Imperial County Planning Commission **DOES HEREBY APPROVE** Conditional Use Permit #23-0010 & Variance #23-0004 subject to the attached Conditions of Approval.

Rudy Schaffner, Chairperson
Imperial County Planning Commission

I hereby certify that the preceding resolution was taken by the Planning Commission at a meeting conducted on January 10, 2024 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Jim Minnick, Director of Planning & Development Services
Secretary to the Planning Commission

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PC ORIGINAL PKG

**ATTACHMENT "F" - CUP#23-0010
CONDITIONS OF APPROVAL**

PC ORIGINAL PKG

1 Recorded Requested By and
When Recorded Return To:

2 Imperial County Planning & Development Services
801 Main Street
3 El Centro California 92243

4
5 **AGREEMENT FOR CONDITIONAL USE PERMIT CUP #23-0010**
6 (Cityswitch)
7 (056-470-002-000)
8 **(Approved at Planning Commission _____)**

9 This Agreement is made and entered into on this _____, day of _____ by
10 Cityswitch. (1900 Century Place NE, Suite 320, Atlanta, GA 30345) hereinafter referred to
11 as Permittee, and the COUNTY OF IMPERIAL, a political subdivision of the State of
California, (hereinafter referred to as "COUNTY").

12 **RECITALS**

13 **WHEREAS**, Permittee is the owner or successor in interest in certain land in Imperial
14 County identified as Assessor's Parcel Number 056-470-002-000 further identified by the
15 following legal description: a portion of POR SBE 872-13-9-3 OF SEC 21 16-21. in an
unincorporated Area of the County of Imperial, State of California; and

16 **WHEREAS**, Cityswitch, and/or any subsequent owner(s) would be required to and
17 intend to fully comply with all of the terms and conditions of the project as specified in this
Conditional Use Permit (CUP); and

18 **WHEREAS**, Permittee has requested a permit to construct and operate a 180-foot
19 above ground level "AGL" co-locatable monopole telecommunication tower, including
20 therewith the necessary security fencing, control structure, and appurtenances; and

21 **WHEREAS**, Permittee will not operate any type of use other than specified herein
22 and within the application; and

23 **WHEREAS**, Permittee intends to operate the tower for its own use, Permittee shall
24 at some future date allow another "compatible" use communication, or electronic
25 transmission operator (hereinafter referred to as a "subsidiary user"), to use the same tower,
thereby minimizing the number of towers required within the confines of the County; and

26 **WHEREAS**, the County encourages multiple use (co-locators) of such towers to the
27 extent that sharing of towers is compatible in use, frequency and meets applicable regulatory
28 standards of all permitting jurisdictions; and

1 **WHEREAS**, though the sharing of tower space is physically possible, it is recognized that
2 additional structural considerations must be addressed and if applicable, permitted by the
3 Building Division of the Imperial County Planning and Development Services Department,
4 to assure that the tower is structurally adequate.

5 **WHEREAS**, County, after reviewing of the project, after a noticed public hearing
6 before the Planning Commission, agreed to issue Conditional Use Permit #23-0010, subject
7 to the following conditions:

8 **NOW THEREFORE**, the County hereby issues CUP #23-0010 subject to all of the
9 following conditions.

10 **GENERAL CONDITIONS:**

11 *The "GENERAL CONDITIONS" are shown by the letter "G". These conditions are conditions that are*
12 *either routinely and commonly included in all Conditional Use permits as "standardized" conditions and/or*
13 *are conditions that the Imperial County Planning Commission has established as a requirement on all*
14 *CUP's for consistent application and enforcement. The Permittee is advised that the General Conditions*
15 *are as applicable as the SITE SPECIFIC conditions!*

16 **G1 COSTS:**

17 Permittee shall pay any and all amounts as determined by the County to defray all costs for
18 the review of reports, field inspections, enforcement, monitoring, or other activities related
19 to compliance with this permit, County Ordinances, and/or other laws that apply. Any billing
20 against this project, now or in the future, by the Planning and Development Services
21 Department or any County Department for costs incurred as a result of this permit, shall be
22 billed through the Planning and Development Services Department.

23 **G2 AUDIT OF BILLS:**

24 Permittee shall have the right to have any bill audited for clarification or correction. In the
25 event Permittee request an audit or an explanation of any bill, it shall be in writing to the
26 Planning and Development Services Department. Permittee shall bring the account current
27 including any amount due under a "disputed" billing statement, before any audit is
28 performed. If the amount disputed is the result of a Department other than the Planning and
Development Services Department the explanation or audit shall be performed by said
Department and a report provided to both the Permittee and the Planning and Development
Services Dept.

G3 PERMITS/LICENSES:

The Permittee shall obtain any and all local, state, and/or federal permits, licenses,
contracts, and/or other approvals for the construction and/or operation of this project. This
shall include, but not be limited to Health, Building, Sanitation, APCD, Public Works, Sheriff,
Regional Water Quality Control Board, Offices of Emergency Services, Division of Mines
and Geology, etc. Permittee shall like-wise comply with all such permit requirements for the
life of the project. Additionally, Permittee shall submit a copy of any such additional permit,
license and/or approval to the Planning Department within 30 days of receipt.

G4 RECORDATION:

This permit shall not be effective until it is recorded at the Imperial County Recorder's Office, and payment of the recordation fee shall be the responsibility of the Permittee. If the Permittee fails to pay the recordation fee within six (6) months from the date of approval, and/or this permit is not recorded within 180 days from the date of approval, this permit shall be deemed null and void, without notice having to be provided to Permittee. Permittee may request a written extension by filing such a request with the Planning Director at least 30 days prior to the original 180 day expiration. The Director may approve an extension for a period not to exceed 180 days. An extension may not be granted if the request for an extension is filed after the expiration date.

G5 COMPLIANCE/REVOCAION:

Upon the determination by the Planning and Development Services Department, (if necessary upon consultation with other Departments or Agency(ies)) that the project is or may not be in full compliance with any one or all of the conditions of this Conditional Use Permit, or upon the finding that the project is creating a nuisance as defined by law, the PERMIT and the noted violation(s) shall be brought immediately to the attention of the appropriate enforcement agency or to the Planning Commission for hearing to consider appropriate response including but not limited to the revocation of the CUP or to consider possible amendments to the CUP. The hearing before the Planning Commission shall be held upon due notice having been provided to the Permittee and to the public in accordance with established ordinance/policy. In the event the action by the County is necessitated by the actions or lack thereof of a subsidiary user of the tower, all action by the County shall be taken against the permittee as if the permittee had or was causing the violation. The County shall not be obligated to deal with any subsidiary user of the facility.

G6 PROVISION TO RUN WITH LAND:

The provisions of this project are to run with the land/project and shall bind the current and future owner(s) successor(s) of interest, assignee(s) and/or transferee(s) of said project. Permittee shall not without prior notification to the Planning and Development Services Department assign, sell, or transfer, or grant control of project or any right or privilege therein. The Permittee shall provide a minimum of 60 days written notice prior to such proposed transfer becoming effective. The permitted use identified herein is limited for use upon this parcel described herein and may not be transferred to another parcel. This shall likewise be applicable if the transfer is between the primary and a subsidiary user.

G7 RIGHT OF ENTRY:

The County reserves the right to enter the premises to make the appropriate inspection(s) and to determine if the condition(s) of this permit are complied with. Access to authorized enforcement agency personnel shall not be denied, by the landowner, the permittee or a subsidiary user. The County will contact the person designated by the Permittee to request access to the facility. The request shall be approved within (72) seventy-two hours after request.

G8 TIME LIMIT:

Unless otherwise specified within the project specific conditions this project shall be limited to a maximum of (10) ten years from the recordation date of the CUP. The Conditional Use Permit may be extended for a single (5) five year period by the Imperial County Planning & Development Services Director. one or The CUP may be revoked, or the extension may not be granted if the project is in violation of any all of the conditions or if there is a history of non-compliance with the project conditions.

G9 DEFINITIONS:

In the event of a dispute the meaning(s) or the intent of any word(s) phrase(s) and/or conditions or sections herein shall be determined by the Planning Commission of the County of Imperial. Their determination shall be final unless an appeal is made to the Board of Supervisors within the required time. In this permit the term Permittee may also apply to any other facility user whether specified by name herein or not. To the extent that this tower may be used by more than one service provider other than the applicant (permittee), all of the conditions of this permit shall be equally applicable to the other "user(s)" as if they were the "permittee".

G10 SPECIFICITY:

The issuance of this permit does not authorize the Permittee to construct or operate this project in violation of any state, federal, local law nor beyond the specified boundaries of the project as shown the application/project description/permit, nor shall this permit allow any accessory or ancillary use not specified herein. This permit does not provide any prescriptive right or use to the Permittee for future addition and/or modification to this project. The site specific use authorized by this permit is listed under the SITE SPECIFIC ("S") conditions, and only the use or uses listed shall be deemed as approved by this permit. The Permittee's application and or any support documents supplied by Permittee as part of the application shall not be used to determine allowed use(s).

G11 HEALTH HAZARD:

If the County Health Officer determines that a significant health hazard exists to the public, the County Health Officer may require appropriate measures and the Permittee shall implement such measures to mitigate the health hazard. If the hazard to the public is determined to be imminent, such measures may be imposed immediately and may include temporary suspension of the subject operations. However, within 45 days of any such suspension of operations, the measures imposed by the County Health Officer must be submitted to the Planning Commission for review and approval. Nothing shall prohibit Permittee from requesting a special Planning Commission meeting provided Permittee bears all costs.

G12 ENCROACHMENT PERMIT:

Permittee shall obtain, as necessary all encroachment permits, or other special traffic safety permits from the Department of Public Works and/or CALTRANS.

G13 REPORT(S):

Permittee shall file an annual report with the Planning and Development Services Department to show that Permittee is in full compliance with this Conditional Use Permit. The report shall be filed within sixty (60) days from the first day of the Calendar year, and shall include at a minimum, the total number of "users" on the tower, any problems encountered during the previous year, any reported frequency interference complaints, the name & phone number of the responsible person whom to contact, and a checklist to show the status of each condition herein. It shall be the responsibility of the Permittee to provide all reports and to include the information about other users. The County may request information at any time from Permittee or other users if applicable, however it shall be the responsibility of the permittee to assure the County that such information is received

G14 RESPONSIBLE AGENT:

Permittee shall maintain on file with the Planning and Development Services Department the name and phone number of the responsible agent for the site. A backup name shall also be provided, and a phone number for 24-hour emergency contact shall also be on file. If there are other users, the same information (as applicable) required from the Permittee shall also be made available to the County from such other users.

G15 INDEMNIFICATION:

At no cost to the County, Permittee and each and every subsidiary user, shall indemnify, and hold harmless the County, the Board of Supervisors and all officers and agents of the County against any and all claims, actions and liabilities arising out of the permitting, construction and/or operation of the project. This indemnity agreement shall be on file with the Planning and Development Services Department prior to recordation of this CUP. Failure to have the agreement on file within 60 days from the date of approval by the Planning Commission shall terminate the approval of this CUP. If the tower is subject to "multiple" use by anyone other than the Permittee, each such operator, or facility, or individual, person or corporation shall have on file with the County Planning and Development Services Department an indemnification agreement identical to that of the Permittee.

G16 CHANGE OF OWNER/OPERATOR:

In the event the ownership of the site or the operation of the site transfers from the current Permittee to a new successor Permittee, the successor Permittee shall be bound by all terms and conditions of this permit as if said successor was the original Permittee. Current Permittee shall inform the County Planning and Development Services Department in writing at least 60 days prior to any such transfer. Failure of a notice of change of ownership or change of operator shall be grounds for the immediate revocation of the CUP. In the event of a change, the new Owner/Operator shall file with the Department, via certified mail, a letter stating that they are fully aware of all conditions and acknowledge that they will adhere to all. If this permit or any subservient or associated permit requires financial surety, the transfer of this permit shall not be effective until the new Permittee has requisite surety on file. Furthermore existing surety shall not be released until replacement surety is accepted by County. Failure to provide timely notice of transfer by Permittee shall forfeit current surety.

In the event this is a multi-use tower facility, the written approval from any "user" of the tower shall be provided to the County in addition to the above.

G17 COMPLIANCE WITH ORDINANCE:

Permittee is aware of, has been provided a copy of and has agreed to be bound by and maintain compliance with the "Communications Ordinance", being Title 9 Division 24 of the County's codified ordinances.

1 (TOTAL "G" CONDITIONS are 17)

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Site Specific Conditions:**S1 PROJECT DESCRIPTION:**

This permit authorizes the Permittee to construct, operate, and maintain a 170-foot co-locatable, monopole telecommunication tower with a 10'-0" lighting rod for a total height of 180'-0" and variance to exceed the height limitation in an area zoned Recreation/ Open Space (S-2) by 80 feet. The tower height shall not exceed 180 feet above ground level (AGL). The tower shall be constructed to the specifications contained in the application. In this case, the tower shall be a "free standing" tower with no guy-wire support. The tower may be used by multiple users in addition to the Permittee, provided the conditions stated herein are followed.

S2 ACCESS TO SITE:

Access to the site shall be as described in the application and as shown on the assessors plat map, and/or as approved by or through an encroachment permit.

S3 NO TRESPASSING SIGNS:

Permittee shall post the site for "No Trespassing" on each side all along the fence.

S4 HOURS OF OPERATION:

Permittee shall be allowed to operate the site 24 hours per day, seven days per week.

S5 ANCILLARY USES & ADDITIONAL LAND USE PERMITS:

This permit authorizes the Permittee to operate the site as described under Specific Condition S1 with no additional ancillary facilities or uses. This permit shall be considered the primary permit for this site, and if additional Conditional Use Permit(s) are secured for this site, they shall be subservient to this permit at all times.

S6 SUSPENSION OF OPERATIONS:

If operation of the communications facility ceases for a period of twenty four (24) consecutive months, the Permittee shall remove the communications tower, all related equipment, and all structures and buildings within 6 months. Permittee may request in writing to the Planning Director a one-time extension; such extension shall be limited to a maximum of one year.

S7 ENFORCEMENT ACTION:

County officials responsible for monitoring and/or enforcing the provisions of this permit shall issue a notice requiring abatement of a violation of its terms within a reasonable time as set by ordinance or County policy. As an example, responsible County officials may issue a citation and/or cease-and-desist order for repeated violation until such violations are abated. Under specific violations, the County may order the facility to cease operation until it can or will be operated in full compliance.

In the event there is enforcement action taken by the County it shall at all times be against the Permittee, even if the violation is caused by another party using the tower. It shall be the responsibility of Permittee to assure that the tower is operated in compliance with all terms and conditions of the CUP.

S8 LIGHT & GLARE:

Permittee is allowed to have security as well as operational lighting. Said lighting shall be shielded and direct to onsite areas to minimize off site interference from unacceptable levels of light or glare.

S9 CONFLICTING PERMIT CONDITIONS:

In the event that there is a conflict between the condition of this permit and any other permit, the most stringent condition shall govern.

S10 MINOR ADMINISTRATIVE MODIFICATION:

The Planning and Development Services Director shall have the authority to make interpretations, issue administrative decisions and provide directions that while not modifying the intent of any condition will allow for problem resolution at an administrative level. Both Director and/or Permittee have the right to defer such issues to the Planning Commission. However in no event shall any decision regarding this permit be brought to the Board of Supervisors without first having been brought to the Commission.

S11 LATEST CODES GOVERN:

All on site structures shall be designed and built to meet the latest edition of the applicable codes. In the event the tower is altered, added to, or modified to accommodate additional users, additional antennae, or other structural modifications from those originally approved by County, Permittee shall provide revised structural drawings and calculations to the Building Inspection Division prior to such modifications being made.

S12 VARIANCE:

In conjunction with this CUP a height variance has been processed and issued to allow for the construction of the communication tower to a height not exceed 165 feet above ground level (AGL).

S13 LIGHTING:

All towers shall be lit with aircraft warning lights. At a minimum the tower shall include lights at the top and at the mid-point of the structure. Permittee shall install a white medium intensity strobe beacon (for daylight use only) and a red flashing warning light(for nighttime use only) to warn aircraft in the vicinity. Permittee shall submit evidence of compliance with these requirements within six (6) months from the approval date of this CUP.

The Imperial County will not require back-up power so long as the following measures are in place:

1. Implementation of a Network Operation Control Center (NOCC) as a 24 hour, 365 days a year alert system that informs the tower operator and other pertinent agencies immediately of any problems with the tower and the emergency lighting system (including towers less than 200 feet.);
2. Provide the Imperial County Applicators' notification under the NOCC system and its updates at no cost;

- 1 3. Work with Imperial County Air Applicators' on the repair schedule and flight
2 path rerouting;
- 3 4. Repair lighting or tower equipment failure within 72 hours, and;
- 4 5. Provide written reports to the Imperial County Air Applicators' and the Imperial
5 County Planning & Development Services Department upon completion of tower
6 repairs (to the tower lighting) resulting from NOCC actions, and provide yearly
7 summary reports pertaining to NOCC actions.

6 **S14 COMMUNICATION FREQUENCY:**

7 Transmission frequency, amount of radiated power, and antennae characteristics shall
8 comply with requirements by the Federal Aviation Authority (FAA), Federal Communications
9 Commission (FCC), Planning Department and other applicable agencies.

9 **S15 FREQUENCY COORDINATION:**

10 The operation of the project shall not cause interference with transmission or reception of
11 signals or other communication facilities. Failure to comply with this condition shall result in
12 suspension or revocation of the Conditional Use Permit.

12 **S16 TOWER EMERGENCY INFORMATION:**

13 Permittee shall file with the Imperial County Planning & Development Services Department
14 a Tower Site Information sheet. The permittee shall update this information yearly.

14 **S17 RESTORATION SURETY:**

15 (a) Upon the expiration of this CUP, Permittee shall restore the site upon which the project
16 is located back to its undeveloped condition. To ensure that such restoration is completed,
17 Permittee shall provide security that is in conformance with the County's Financial
18 Assurance Guideline, is acceptable to the Office of County Counsel, and in an amount not
19 less than \$25,000. Said security shall cover Permittee, as well as any co-locators, users, or
20 other subleases located at the site.

20 (b) The amount of security may be administratively increased by the Planning Department
21 or the Planning Commission, upon a finding that the characteristics of the site warrants
22 additional security. The security must be filed with the County within six (6) months of the
23 approval of this CUP, and/or prior to the issuance of any building or grading permit,
24 whichever comes first.

23 (c) The security shall remain in effect until the project has been completely removed, and
24 the site has been fully restore to its undeveloped condition. In the event there is a history of
25 noncompliance with the conditions of this CUP, or any other applicable federal, State or local
26 law, regulation, rule, policy or procedure, the minimum amount of required security may be
27 administratively increased by the Planning Department or Planning Commission to \$35,000.

26 **S18 COUNTY EXECUTIVE OFFICE¹:**

- 27 • Sales Tax Condition: the permittee is required to have a Materials and Construction
28 Site Permit reflecting the project site address, allowing all eligible sales tax payments

1 allocated to the County of Imperial, Jurisdictional Code 13998. The permittee will
2 provide the County of Imperial a copy of the CDTFA account number and sub-permit
3 for its contractor and subcontractors (if any) related to the jobsite. Permittee shall
4 provide in written verification to the County Executive Office that the necessary sales
5 and use tax permits have been obtained, prior to the issuance of any grading permits.

- 6 • Construction/Material Budget: the permittee will provide the County Executive Office
7 a construction materials budget, an official construction materials budget or detailed
8 budget outlining the construction and materials cost for the processing facility on
9 permittee letterhead.

10 **S19 IMPERIAL IRRIGATION DISTRICT (IID) 2:**

- 11 • For electrical service to the proposed communication tower, the applicant should be
12 advised to contact Joel Lopez, IID project development service planner, at (760) 482-
13 3444 or e-mail Mr. Lopez at jflopez@iid.com to initiate the customer service
14 application process. In addition to submitting a formal application (available for
15 download at the district website <http://www.iid.com/home/showdocument?id=12923>),
16 the applicant will be required to submit a complete set approved project plans by the
17 County of Imperial (including AutoCAD files of the site plan and electrical plans),
18 electrical panel size and panel location, operating voltage, electrical loads, project
19 schedule, and the applicable fees, permits, easements and environmental
20 compliance documentation pertaining to the provision of electrical service to the
21 project. The applicant shall be responsible for all costs and mitigation measures
22 related to providing electrical service to the project.
- 23 • Electrical capacity is limited in the project area. A circuit study may be required. Any
24 system improvements or mitigation identified in the circuit study to enable the
25 provision of electrical service to the project shall be the financial responsibility of the
26 applicant.
- 27 • Applicant shall provide a surveyed legal description and an associated exhibit
28 certified by a licensed surveyor for all rights of way deemed by IID as necessary to
accommodate the project electrical infrastructure. Rights-of-Way and easements
shall be in a form acceptable to and at no cost to IID for installation, operation, and
maintenance of all electrical facilities
- Any construction or operation on IID property or within its existing and proposed right
of way or easements including but not limited to: surface improvements such as
proposed new streets, driveways, parking lots, landscape; and all water, sewer, storm
water, or any other above ground or underground utilities; will require an
encroachment permit, or encroachment agreement (depending on the
circumstances). No foundations or buildings will be allowed within IID's right of way.
- Any new, relocated, modified, or reconstructed IID facilities required for any by the
project (which can include but is not limited to electrical utility substations, electrical
transmission and distribution lines, water deliveries, canals, drains, etc.) need to be
included as part of the project's California Environmental Quality Act (CEQA) and /or
National Environmental Policy Act (NEPA) documentation, environmental impact
analysis and mitigation. Failure to do so will result in postponement of any

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construction and/or modification of IID facilities until such time as the environmental documentation is amended and environmental impacts are fully analyzed. Any and all mitigation necessary as a result of the construction, relocation and/or upgrade of IID facilities is the responsibility of the project proponent.

S20 AIR POLLUTION CONTROL DISTRICT (APCD)³:

All construction activities must adhere to the Air District's Regulation VIII, which is designed to limit emissions of fugitive dust (PM10) to 20% opacity. Any generator greater than 50 horsepower used for standby-backup purposes must be permitted through the Engineering and Permitting Division of the Air District.

(TOTAL "S" CONDITIONS are 20)

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1. County Executive Office comment letter dated May 31, 2023
 2. IID comment letter dated June 8, 2023
 3. APCD comment letter dated June 14, 2023

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NOW THEREFORE, County hereby issues Conditional Use Permit #23-0010, and Permittee hereby accepts such permit upon the terms and conditions set forth herein:

IN WITNESS THEREOF, the parties hereto have executed this Agreement the day and year first written.

PERMITTEE

Cityswitch

Date

COUNTY OF IMPERIAL, a political subdivision of the STATE OF CALIFORNIA

James Minnick, Director of
Planning & Development Services

Date

PERMITTEE NOTARIZATION

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF _____

COUNTY OF _____ } S.S.

On _____ before me, _____ a Notary Public in and for said County and State, personally appeared _____, who proved to on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of _____ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature _____

ATTENTION NOTARY: Although the information requested below is OPTIONAL, it could prevent fraudulent attachment of this certificate to unauthorized document.

Title or Type of Document _____

Number of Pages _____ Date of Document _____

Signer(s) Other Than Named Above _____

Dated _____

COUNTY NOTARIZATION

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF IMPERIAL} S.S.

On _____ before me, _____
a Notary Public in and for said County and State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature _____

ATTENTION NOTARY: Although the information requested below is OPTIONAL, it could prevent fraudulent attachment of this certificate to unauthorized document.

Title or Type of Document _____
Number of Pages _____ Date of Document _____
Signer(s) Other Than Named Above _____

**ATTACHMENT "G"-
EEC PACKAGE**

PC ORIGINAL PKG

PROJECT REPORT

TO: ENVIRONMENTAL EVALUATION COMMITTEE

AGENDA DATE: November 16, 2023

FROM: PLANNING & DEVELOPMENT SERVICES

AGENDA TIME: 1:30 PM/ No.3

Conditional Use Permit #23-0010/Variance #23-0004/Initial Study #23-0010
PROJECT TYPE: _____ Cityswitch _____ SUPERVISOR DIST #5

LOCATION: 673 Sidewinder Rd N. APN: 056-470-002-000

Winterhaven, CA 92283 PARCEL SIZE: +/- 26.75AC.

GENERAL PLAN (existing) Recreation GENERAL PLAN (proposed) N/A

ZONE (existing) S-2 (Open Space) ZONE (proposed) N/A

GENERAL PLAN FINDINGS CONSISTENT INCONSISTENT MAY BE/FINDINGS

PLANNING COMMISSION DECISION: HEARING DATE: _____

APPROVED DENIED OTHER

PLANNING DIRECTORS DECISION: HEARING DATE: _____

APPROVED DENIED OTHER

ENVIRONMENTAL EVALUATION COMMITTEE DECISION: HEARING DATE: 11/16/2023

INITIAL STUDY: #23-0010

NEGATIVE DECLARATION MITIGATED NEG. DECLARATION EIR

DEPARTMENTAL REPORTS / APPROVALS:

PUBLIC WORKS	<input checked="" type="checkbox"/>	NONE	<input type="checkbox"/>	ATTACHED
AG COMMISSIONER	<input type="checkbox"/>	NONE	<input checked="" type="checkbox"/>	ATTACHED
APCD	<input type="checkbox"/>	NONE	<input checked="" type="checkbox"/>	ATTACHED
DEH/E.H.S.	<input type="checkbox"/>	NONE	<input checked="" type="checkbox"/>	ATTACHED
FIRE / OES	<input checked="" type="checkbox"/>	NONE	<input type="checkbox"/>	ATTACHED
OTHER	_____ IID, CEO, Caltrans, IVECA, Quechan Indian Tribe			

REQUESTED ACTION:

(See Attached)

NEGATIVE DECLARATION
 MITIGATED NEGATIVE DECLARATION

*Initial Study & Environmental Analysis
For:*

**Conditional Use Permit #23-0010
Initial Study #23-0010
Variance #23-0004
CitySwitch**



Prepared By:

COUNTY OF IMPERIAL
Planning & Development Services Department
801 Main Street
El Centro, CA 92243
(442) 265-1736
www.icpds.com

November 2023

PC ORIGINAL PKG

EEC ORIGINAL PKG

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SECTION 1 INTRODUCTION

A. PURPOSE

This document is a policy-level, project level Initial Study for evaluation of potential environmental impacts resulting with the proposed Conditional Use Permit #23-0010 (Refer to Exhibit "A" & "B"). For purposes of this document, the Conditional Use Permit will be called the "proposed project".

B. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) REQUIREMENTS AND THE IMPERIAL COUNTY'S GUIDELINES FOR IMPLEMENTING CEQA

As defined by Section 15063 of the State California Environmental Quality Act (CEQA) Guidelines and Section 7 of the County's "CEQA Regulations Guidelines for the Implementation of CEQA, as amended", an **Initial Study** is prepared primarily to provide the Lead Agency with information to use as the basis for determining whether an Environmental Impact Report (EIR), Negative Declaration, or Mitigated Negative Declaration would be appropriate for providing the necessary environmental documentation and clearance for any proposed project.

According to Section 15065, an **EIR** is deemed appropriate for a particular proposal if the following conditions occur:

- The proposal has the potential to substantially degrade quality of the environment.
- The proposal has the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.
- The proposal has possible environmental effects that are individually limited but cumulatively considerable.
- The proposal could cause direct or indirect adverse effects on human beings.

According to Section 15070(a), a **Negative Declaration** is deemed appropriate if the proposal would not result in any significant effect on the environment.

According to Section 15070(b), a **Mitigated Negative Declaration** is deemed appropriate if it is determined that though a proposal could result in a significant effect, mitigation measures are available to reduce these significant effects to insignificant levels.

This Initial Study has determined that the proposed applications will not result in any potentially significant environmental impacts and therefore, a Negative Declaration is deemed as the appropriate document to provide necessary environmental evaluations and clearance as identified hereinafter.

This Initial Study and Mitigated Negative Declaration are prepared in conformance with the California Environmental Quality Act of 1970, as amended (Public Resources Code, Section 21000 et. seq.); Section 15070 of the State & County of Imperial's Guidelines for Implementation of the California Environmental Quality Act of 1970, as amended (California Code of Regulations, Title 14, Chapter 3, Section 15000, et. seq.); applicable requirements of the County of Imperial; and the regulations, requirements, and procedures of any other responsible public agency or an agency with jurisdiction by law.

Pursuant to the County of Imperial Guidelines for Implementing CEQA, depending on the project scope, the County of Imperial Board of Supervisors, Planning Commission and/or Planning Director is designated the Lead Agency,

in accordance with Section 15050 of the CEQA Guidelines. The Lead Agency is the public agency which has the principal responsibility for approving the necessary environmental clearances and analyses for any project in the County.

C. INTENDED USES OF INITIAL STUDY AND NEGATIVE DECLARATION

This Initial Study and Mitigated Negative Declaration are informational documents which are intended to inform County of Imperial decision makers, other responsible or interested agencies, and the general public of potential environmental effects of the proposed applications. The environmental review process has been established to enable public agencies to evaluate environmental consequences and to examine and implement methods of eliminating or reducing any potentially adverse impacts. While CEQA requires that consideration be given to avoiding environmental damage, the Lead Agency and other responsible public agencies must balance adverse environmental effects against other public objectives, including economic and social goals.

The Initial Study and Mitigated Negative Declaration, prepared for the project will be circulated for a period of 20 days (30-days if submitted to the State Clearinghouse for a project of area-wide significance) for public and agency review and comments. At the conclusion, if comments are received, the County Planning & Development Services Department will prepare a document entitled "Responses to Comments" which will be forwarded to any commenting entity and be made part of the record within 10-days of any project consideration.

D. CONTENTS OF INITIAL STUDY & NEGATIVE DECLARATION

This Initial Study is organized to facilitate a basic understanding of the existing setting and environmental implications of the proposed applications.

SECTION 1

I. INTRODUCTION presents an introduction to the entire report. This section discusses the environmental process, scope of environmental review, and incorporation by reference documents.

SECTION 2

II. ENVIRONMENTAL CHECKLIST FORM contains the County's Environmental Checklist Form. The checklist form presents results of the environmental evaluation for the proposed applications and those issue areas that would have either a significant impact, potentially significant impact, or no impact.

PROJECT SUMMARY, LOCATION AND ENVIRONMENTAL SETTINGS describes the proposed project entitlements and required applications. A description of discretionary approvals and permits required for project implementation is also included. It also identifies the location of the project and a general description of the surrounding environmental settings.

ENVIRONMENTAL ANALYSIS evaluates each response provided in the environmental checklist form. Each response checked in the checklist form is discussed and supported with sufficient data and analysis as necessary. As appropriate, each response discussion describes and identifies specific impacts anticipated with project implementation.

SECTION 3

III. MANDATORY FINDINGS presents Mandatory Findings of Significance in accordance with Section 15065 of the CEQA Guidelines.

IV. PERSONS AND ORGANIZATIONS CONSULTED identifies those persons consulted and involved in

preparation of this Initial Study and Negative Declaration.

V. **REFERENCES** lists bibliographical materials used in preparation of this document.

VI. **NEGATIVE DECLARATION – COUNTY OF IMPERIAL**

VII. **FINDINGS**

SECTION 4

VIII. **RESPONSE TO COMMENTS (IF ANY)**

IX. **MITIGATION MONITORING & REPORTING PROGRAM (MMRP) (IF ANY)**

E. **SCOPE OF ENVIRONMENTAL ANALYSIS**

For evaluation of environmental impacts, each question from the Environmental Checklist Form is summarized and responses are provided according to the analysis undertaken as part of the Initial Study. Impacts and effects will be evaluated and quantified, when appropriate. To each question, there are four possible responses, including:

1. **No Impact:** A “No Impact” response is adequately supported if the impact simply does not apply to the proposed applications.
2. **Less Than Significant Impact:** The proposed applications will have the potential to impact the environment. These impacts, however, will be less than significant; no additional analysis is required.
3. **Less Than Significant With Mitigation Incorporated:** This applies where incorporation of mitigation measures has reduced an effect from “Potentially Significant Impact” to a “Less Than Significant Impact”.
4. **Potentially Significant Impact:** The proposed applications could have impacts that are considered significant. Additional analyses and possibly an EIR could be required to identify mitigation measures that could reduce these impacts to less than significant levels.

F. **POLICY-LEVEL or PROJECT LEVEL ENVIRONMENTAL ANALYSIS**

This Initial Study and Mitigated Negative Declaration will be conducted under a policy-level, project level analysis. Regarding mitigation measures, it is not the intent of this document to “overlap” or restate conditions of approval that are commonly established for future known projects or the proposed applications. Additionally, those other standard requirements and regulations that any development must comply with, that are outside the County's jurisdiction, are also not considered mitigation measures and therefore, will not be identified in this document.

G. **TIERED DOCUMENTS AND INCORPORATION BY REFERENCE**

Information, findings, and conclusions contained in this document are based on incorporation by reference of tiered documentation, which are discussed in the following section.

1. **Tiered Documents**

As permitted in Section 15152(a) of the CEQA Guidelines, information and discussions from other documents can be included into this document. Tiering is defined as follows:

“Tiering refers to using the analysis of general matters contained in a broader EIR (such as the one prepared

for a general plan or policy statement) with later EIRs and negative declarations on narrower projects; incorporating by reference the general discussions from the broader EIR; and concentrating the later EIR or negative declaration solely on the issues specific to the later project.”

Tiering also allows this document to comply with Section 15152(b) of the CEQA Guidelines, which discourages redundant analyses, as follows:

“Agencies are encouraged to tier the environmental analyses which they prepare for separate but related projects including the general plans, zoning changes, and development projects. This approach can eliminate repetitive discussion of the same issues and focus the later EIR or negative declaration on the actual issues ripe for decision at each level of environmental review. Tiering is appropriate when the sequence of analysis is from an EIR prepared for a general plan, policy or program to an EIR or negative declaration for another plan, policy, or program of lesser scope, or to a site-specific EIR or negative declaration.”

Further, Section 15152(d) of the CEQA Guidelines states:

“Where an EIR has been prepared and certified for a program, plan, policy, or ordinance consistent with the requirements of this section, any lead agency for a later project pursuant to or consistent with the program, plan, policy, or ordinance should limit the EIR or negative declaration on the later project to effects which:

- (1) Were not examined as significant effects on the environment in the prior EIR; or
- (2) Are susceptible to substantial reduction or avoidance by the choice of specific revisions in the project, by the imposition of conditions, or other means.”

2. Incorporation By Reference

Incorporation by reference is a procedure for reducing the size of EIRs/MND and is most appropriate for including long, descriptive, or technical materials that provide general background information, but do not contribute directly to the specific analysis of the project itself. This procedure is particularly useful when an EIR or Negative Declaration relies on a broadly-drafted EIR for its evaluation of cumulative impacts of related projects (*Las Virgenes Homeowners Federation v. County of Los Angeles* [1986, 177 Ca.3d 300]). If an EIR or Negative Declaration relies on information from a supporting study that is available to the public, the EIR or Negative Declaration cannot be deemed unsupported by evidence or analysis (*San Francisco Ecology Center v. City and County of San Francisco* [1975, 48 Ca.3d 584, 595]). This document incorporates by reference appropriate information from the “Final Environmental Impact Report and Environmental Assessment for the “County of Imperial General Plan EIR” prepared by Brian F. Mooney Associates in 1993 and updates.

When an EIR or Negative Declaration incorporates a document by reference, the incorporation must comply with Section 15150 of the CEQA Guidelines as follows:

- The incorporated document must be available to the public or be a matter of public record (CEQA Guidelines Section 15150[a]). The General Plan EIR and updates are available, along with this document, at the County of Imperial Planning & Development Services Department, 801 Main Street, El Centro, CA 92243 Ph. (442) 265-1736.
- This document must be available for inspection by the public at an office of the lead agency (CEQA Guidelines Section 15150[b]). These documents are available at the County of Imperial Planning & Development Services Department, 801 Main Street, El Centro, CA 92243 Ph. (442) 265-1736.
- These documents must summarize the portion of the document being incorporated by reference or briefly

describe information that cannot be summarized. Furthermore, these documents must describe the relationship between the incorporated information and the analysis in the tiered documents (CEQA Guidelines Section 15150[c]). As discussed above, the tiered EIRs address the entire project site and provide background and inventory information and data which apply to the project site. Incorporated information and/or data will be cited in the appropriate sections.

- These documents must include the State identification number of the incorporated documents (CEQA Guidelines Section 15150[d]). The State Clearinghouse Number for the County of Imperial General Plan EIR is SCH #93011023.
- The material to be incorporated in this document will include general background information (CEQA Guidelines Section 15150[f]). This has been previously discussed in this document.

II. Environmental Checklist

1. **Project Title:** Conditional Use Permit #23-0010 Variance #23-0010 Initial Study #23-0004
2. **Lead Agency:** Imperial County Planning & Development Services Department
3. **Contact person and phone number:** Evelia Jimenez, Planner II, (442) 265-1747
4. **Address:** 801 Main Street, El Centro CA, 92243
5. **E-mail:** ejimenez@co.imperial.ca.us
6. **Project location:** 673 Sidewinder Rd N., Winterhaven, CA., further identified as Assessor's Parcel Number (APN) 056-470-002-000 and legally described as POR SBE 872-13-9-3 OF SEC 21 16-21.
7. **Project sponsor's name and address:** CitySwitch
1900 Century Place NE, Suite 320
Atlanta, GA. 30345
8. **General Plan designation:** Recreation
9. **Zoning:** S-2 (Open Space/Preservation)
10. **Description of project:** The applicant, CitySwitch, is proposing to install a 170'-0" tall monopole tower with a 10'-0" lightning rod for a total height of 180'-0" to be located within a leased 57' x 45' fenced area. The parcel is owned by Union Pacific Railroad Company and is within its railroad right-of-way. The proposed telecommunications tower, to be located at 673 Sidewinder Rd N., Winterhaven, Ca., would be erected, owned and operated by CitySwitch. CitySwitch has a commitment with Union Pacific and AT&T Mobility, a wireless services provider, for this site. Additionally, the facility will be open for co-location to other wireless providers and any other communication carriers that have a need for a facility in the area. The project requires a Conditional Use Permit (#23-0010) for the monopole tower and a Variance (#23-0004) to exceed the 100-foot height limitation for the Open Space/Preservation (S-2) zoned area by 80 feet.

The proposed facility is designed to house the equipment necessary to provide Union Pacific and AT&T's critical communications for the railroad line and uninterrupted AT&T wireless services to the residents and visitors of Winterhaven, Imperial County, and surrounding areas, including wireless telephone service, voice paging, messaging, and wireless internet and broadband data transmission. All registered wireless providers' technology operates at various radio frequency bands allocated by the Federal Communications Commission (FCC) as part of their license.

After construction, the proposed wireless telecommunications facility would be unmanned and would only require service technicians, in a pick-up or van sized vehicle, to visit the site approximately once a month. Access would be provided via an easement with the proposed access entry point off of Sidewinder Rd N. The only utilities required to service the facility are power and fiber. The site is entirely self-monitored through a sophisticated alarm system, which is connected to a main switch station. The system alerts personnel of any equipment malfunction or breach of security. Additionally, there will be no impacts on County's water and sanitation (sewer) utilities as they would not be used at the site.

In accordance with Federal Communications Commission (FCC) regulations, the proposed wireless telecommunications facility, if approved, the project would be designed and constructed to meet and/or exceed all applicable government and industry safety standards. Specifically, CitySwitch would comply with all Federal Communications Commission (FCC) and Federal Aviation Agency (FAA) construction requirements and technical

standards. The proposed wireless communication facility's Radio Frequency (RF) emissions would comply with the Federal Communications Commission's (FCC) Radio Frequency emission standards. Additionally, the proposed wireless communication facility would comply with the Federal Aviation Agency's (FAA) height, lighting and marking requirements.

11. **Surrounding land uses and setting:** the proposed project is surrounded by Medium Commercial (C-2) to the South; Open Space/Preservation (S-2) to the West, North and East. The setting surrounding the project is vacant desert landscape. Although the proposed project is consistent with the S-2 zone under an approved Conditional Use Permit (Division 5, Section 90519.02(d)), it is determined that it is in conflict with Division 24, Section 92401.00-Purpose, "...This Section standards are intended to protect, and promote public health, safety, community welfare and the unique visual character of the Imperial County [by] minimizing the number of towers throughout the community..." as the proposed telecommunications tower would be situated approximately 2,000 feet northwest of an existing telecommunications tower owned by SBA Towers, Inc., operating under Conditional Use Permit #19-0029.

12. **Other public agencies whose approval is required:** Planning Commission

13. **Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1? If so, is there a plan for consultation that includes, for example, the determination of significance of impacts to tribal cultural resources, procedures regarding confidentiality, etc.?**

Consultation letters were sent to the Quechan and Campo Band of Mission Indian Tribes. The AB 52 Notice of Opportunity to consult on the proposed project letter was mailed via certified mail on August 2, 2023 to the Campo Band of Mission Indians and the Quechan Indian Tribe. No comments have been received from the Quechan and Campo Band of Mission Indians Tribes for this project.

Note: Conducting consultation early in the CEQA process allows tribal governments, lead agencies, and project proponents to discuss the level of environmental review, identify and address potential adverse impacts to tribal cultural resources, and reduce the potential for delay and conflict in the environmental review process. (See Public Resources Code, Section 21080.3.2). Information may also be available from the California Native American Heritage Commission's Sacred Lands File per Public Resources Code, Section 5097.96 and the California Historical Resources Information System administered by the California Office of Historic Preservation. Please also note that Public Resources Code, Section 21082.3 (c) contains provisions specific to confidentiality.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

<input type="checkbox"/> Aesthetics	<input type="checkbox"/> Agriculture and Forestry Resources	<input type="checkbox"/> Air Quality
<input type="checkbox"/> Biological Resources	<input type="checkbox"/> Cultural Resources	<input type="checkbox"/> Energy
<input type="checkbox"/> Geology /Soils	<input type="checkbox"/> Greenhouse Gas Emissions	<input type="checkbox"/> Hazards & Hazardous Materials
<input type="checkbox"/> Hydrology / Water Quality	<input type="checkbox"/> Land Use / Planning	<input type="checkbox"/> Mineral Resources
<input type="checkbox"/> Noise	<input type="checkbox"/> Population / Housing	<input type="checkbox"/> Public Services
<input type="checkbox"/> Recreation	<input type="checkbox"/> Transportation	<input type="checkbox"/> Tribal Cultural Resources
<input type="checkbox"/> Utilities/Service Systems	<input type="checkbox"/> Wildfire	<input type="checkbox"/> Mandatory Findings of Significance

ENVIRONMENTAL EVALUATION COMMITTEE (EEC) DETERMINATION

After Review of the Initial Study, the Environmental Evaluation Committee has:

Found that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

Found that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

Found that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

Found that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

Found that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE DE MINIMIS IMPACT FINDING: Yes No

<u>EEC VOTES</u>	<u>YES</u>	<u>NO</u>	<u>ABSENT</u>
PUBLIC WORKS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ENVIRONMENTAL HEALTH SVCS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OFFICE EMERGENCY SERVICES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
APCD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
AG	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SHERIFF DEPARTMENT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ICPDS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

for [Signature]
 Jim Minnick, Director of Planning/EEC Chairman

11-16-2023
 Date:

PROJECT SUMMARY

- A. Project Location:** The proposed project is located at 673 Sidewinder Rd N., Winterhaven, CA; a railroad right-of-way parcel owned by the Union Pacific Railroad Company with Assessor's Parcel Number (APN) 056-470-002-000.
- B. Project Summary:** The applicant, CitySwitch, is proposing to install a 170-foot, monopole tower with a 10'-0" lightning rod for a total height of 180'- 0" to be located within a lease 57' x 45' fenced parcel. The parcel is owned by Union Pacific Railroad Company and is within its railroad right-of-way. The proposed telecommunications tower will be erected, owned and operated by CitySwitch. CitySwitch will be offering it as a shared facility to Union Pacific, with whom CitySwitch has a commitment with as well as with AT&T Mobility. Additionally, the facility will be open for co-location to other wireless providers and any other communication carriers that have a need for a facility in the area.

The proposed facility is designed to house the equipment necessary to provide Union Pacific and AT&T's critical communications for the railroad line and uninterrupted AT&T wireless services to the residents and visitors of Winterhaven, Imperial County, and surrounding areas, including wireless telephone service, voice paging, messaging, and wireless internet and broadband data transmission. All registered wireless providers' technology operates at various radio frequency bands allocated by the Federal Communications Commission (FCC) as part of their license. After construction, the proposed wireless telecommunications facility will be unmanned and will only require service technicians, in a pick-up or van sized vehicle, to visit the site approximately once a month. Access will be provided via an easement with the proposed access entry point off of Sidewinder Rd N. The only utilities required to service the facility are power and fiber. The site is entirely self-monitored through a sophisticated alarm system, which is connected to a main switch station. The system alerts personnel of any equipment malfunction or breach of security. Additionally, there will be no impacts on County's water and sanitation (sewer) utilities as they would not be used at the site.

In accordance with Federal Communications Commission (FCC) regulations, the proposed wireless telecommunications facility will be designed and constructed to meet and/or exceed all applicable government and industry safety standards. Specifically, CitySwitch will comply with all Federal Communications Commission (FCC) and Federal Aviation Agency (FAA) construction requirements and technical standards, as well as, Federal Communications Commission's (FCC) Radio Frequency emission standards. Additionally, the proposed wireless communication facility will comply with the Federal Aviation Agency's (FAA) height, lighting, and marking requirements.

- C. Environmental Setting:** The proposed project site is located within a vacant parcel owned by the Union Pacific Railroad Company zoned S-2 (Open Space/Preservation) within its railroad right-of-way. The proposed project site is relatively flat, in an unincorporated portion of the County of Imperial approximately 36.53 miles east from the City of Holtville. Surrounding parcels to the North, East, South and West are vacant desert land.
- D. Analysis:** The proposed project is for a 170-foot monopole telecommunication tower with a 10-foot lightning rod for a total height of 180 feet. The parcel is zoned S-2 (Open Space/Preservation) per Zoning Map #70, of the Imperial County Land Use Ordinance, which designates areas that are suitable for Communication Towers. The proposed height of the tower exceeds the maximum height limit of the project site's S-2 zone requirements, which allows a communication tower up to 100 ft. in height. For this reason, the project was reviewed by the Airport Land Use Commission on July 19, 2023, and was found to be consistent with the 1996 Airport Land Use Compatibility Plan.
- E. General Plan Consistency:** Under the Land Use Element of the Imperial County General Plan, the project site is designated "Open Space/Preservation". The proposed project could be consistent with the County's Communication Ordinance (Division 24) since a Communication Facility (Tower) is a permitted use on the S-2 (Open Space/Preservation) zone with an approved Conditional Use Permit. No changes to the General Plan are

proposed.

Exhibit "A"
Vicinity Map

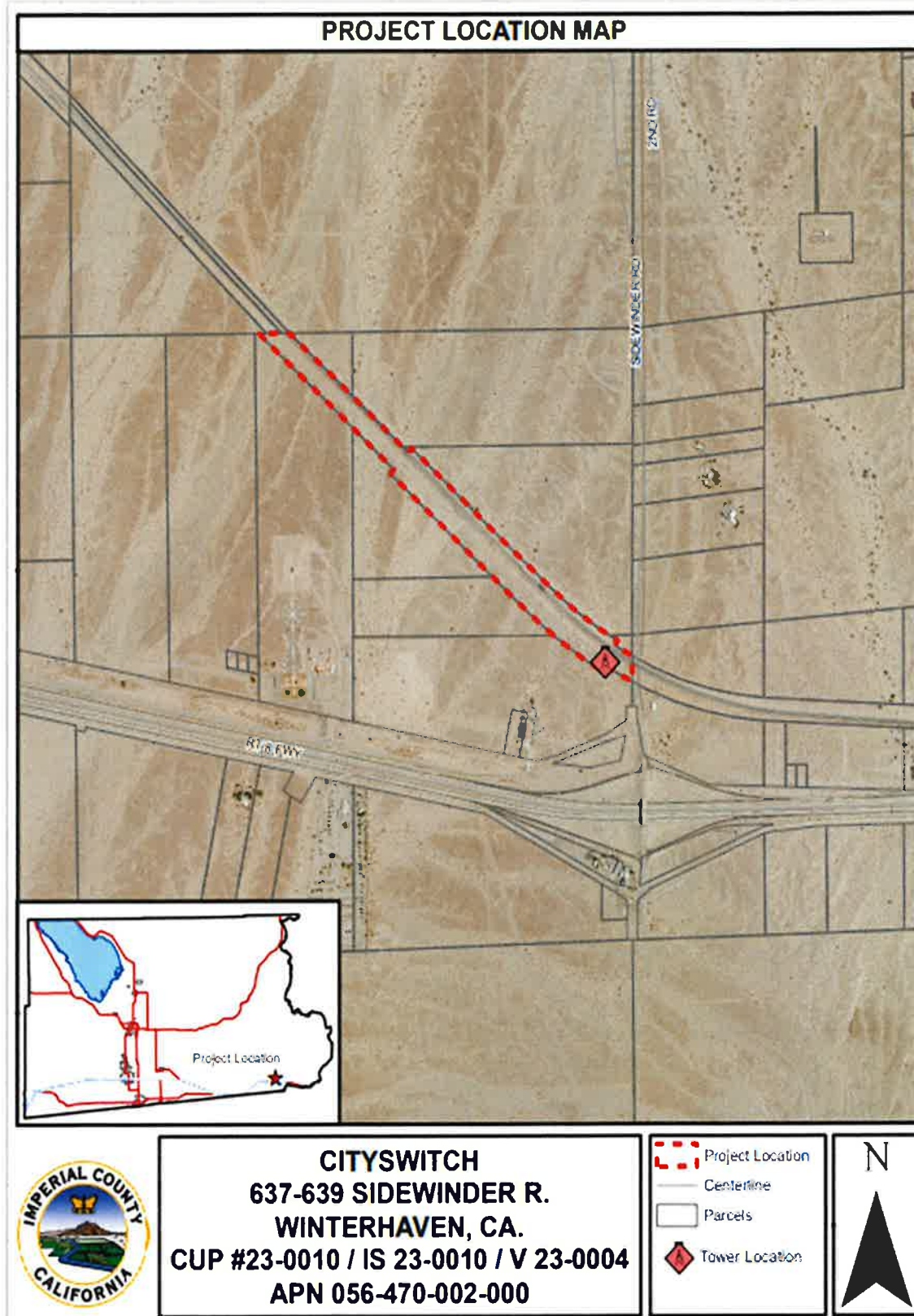
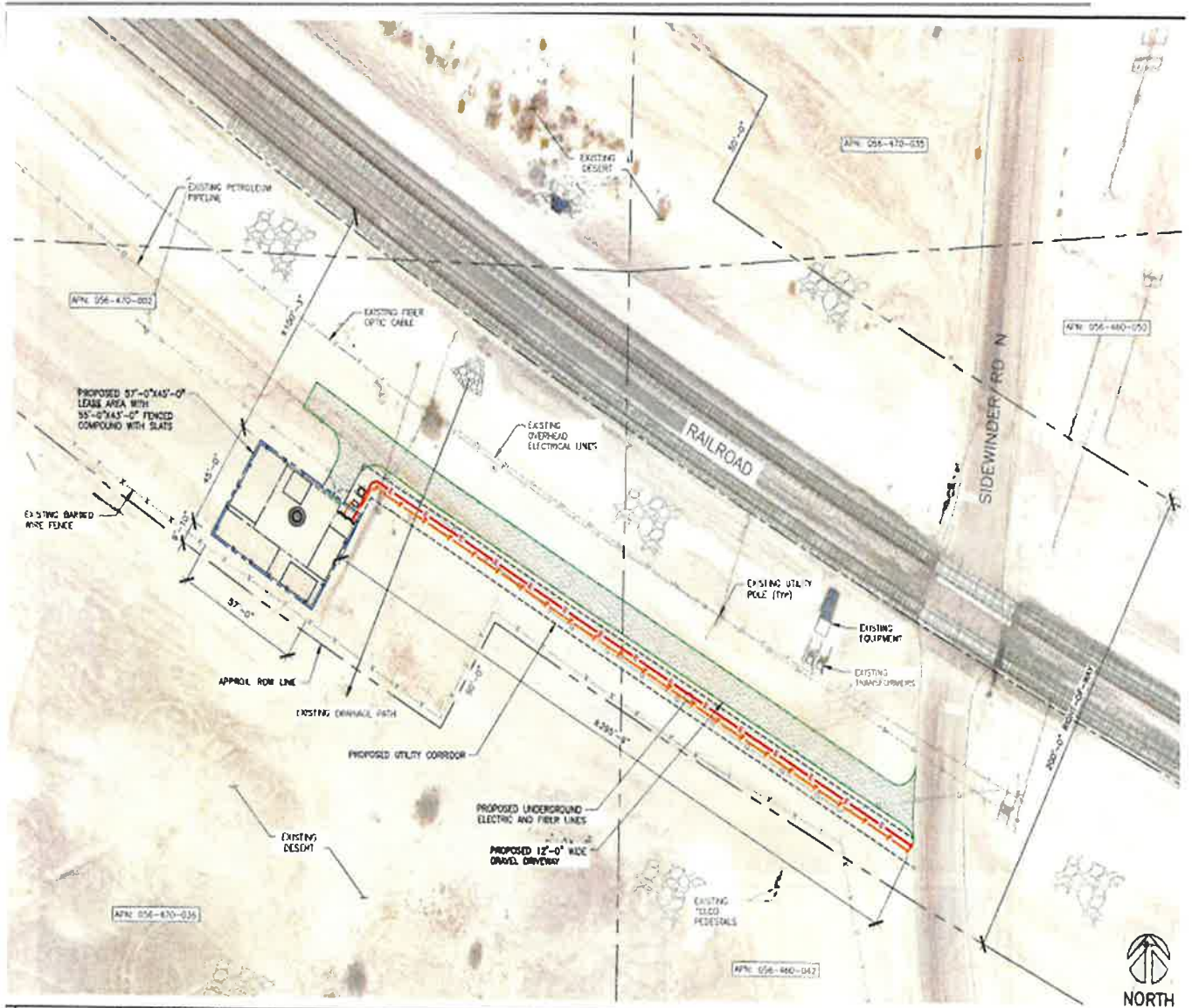


Exhibit "B" Site Plan



EVALUATION OF ENVIRONMENTAL IMPACTS:

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from "Earlier Analyses," as described in (5) below, may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - a) Earlier Analysis Used. Identify and state where they are available for review.
 - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
- 9) The explanation of each issue should identify:
 - a) the significance criteria or threshold, if any, used to evaluate each question; and
 - b) the mitigation measure identified, if any, to reduce the impact to less than significance

Potentially Significant Impact (PSI)	Potentially Significant Unless Mitigation Incorporated (PSUMI)	Less Than Significant Impact (LTSI)	No Impact (NI)
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I. AESTHETICS

Except as provided in Public Resources Code Section 21099, would the project:

- a) Have a substantial adverse effect on a scenic vista or scenic highway?

a) The project site is not located near any scenic vista or scenic highway according to the Imperial County General Plan Circulation and Scenic Highway Element¹ and California State Scenic Highway System Map²; therefore, no impact is expected.
- b) Substantially damage scenic resources, including, but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?

b) As previously stated, the proposed project is not located near a Scenic vista or Scenic Highway and would not substantially damage scenic resources. Therefore, no impact is expected.
- c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surrounding? (Public views are those that are experienced from publicly accessible vantage point.) If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

c) The proposed self-supported monopole communications tower is anticipated to blend with the existing natural environment and would not significantly or physically degrade the visual character or quality of public views of the site and its surroundings. It is also consistent with the Aesthetic requirements as specified on the County's Communication Ordinance (Division 24), Section 92404.01(R). No impacts are anticipated.
- d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

d) The proposed project would not create a substantial source of light or glare which would adversely affect day or nighttime view in the area. The proposed tower is going to be galvanized metal which is a non-reflective material. Additionally, per Imperial County's Communication Ordinance (Division 24), Section 92404.01(l), states that all towers shall be lit with approved lighting as required by FAA and the Airport Land Use Commission (ALUC) standards. The project was heard by the Imperial County Airport Land Use Commission on July 19, 2023, it was found to be consistent with the 1996 Airport Land Use Compatibility Plan, a white daytime beacon and a red night time beacon will be required for this project. Compliance with FAA and ALUC standards would bring any impacts to less than significant.

II. AGRICULTURE AND FOREST RESOURCES

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. --Would the project:

- a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

a) The proposed project is for the construction of a self-supported monopole telecommunications tower with associated remote and unmanned equipment located within an undeveloped parcel owned by the Union Pacific Railroad Company and within its railroad right-of-way. The proposed project site is not listed on the California Important Farmland Finder: Imperial County 2020³, the proposed project will not convert any type of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to non-agricultural use. No impacts are expected.
- b) Conflict with existing zoning for agricultural use, or a Williamson Act Contract?

b) The County of Imperial has no current active Williamson Act contracts. Additionally, according to the California Williamson Act Enrollment Finder⁴, Imperial County status is Non-Participating or Withdrawn from the 2022 Williamson Act; therefore, the proposed project is not expected to conflict with existing zoning for agricultural use, or a Williamson Act Contract. No

	Potentially Significant Impact (PSI)	Potentially Significant Unless Mitigation Incorporated (PSUMI)	Less Than Significant Impact (LTSI)	No Impact (NI)
Impacts are expected.				
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))? c) The proposed project is for the construction of a self-supported monopole telecommunications tower with associated remote and unmanned equipment located on a parcel owned by the Union Pacific Railroad Company and within its railroad right-of-way. The proposed project does not expect nor anticipate to conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 5114(g)). No impacts are expected.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use? d) As explained under item c) above, the proposed project will not result in the loss of forest land or conversion of forest land to non-forest use. Therefore, no impact is expected.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use? e) The proposed project is for the construction of a self-supported monopole telecommunications tower with associated remote and unmanned equipment located on a parcel owned by the Union Pacific Railroad Company and within its railroad right-of-way. Although the land use designation for the proposed project site is Open Space/Preservation, development of the proposed project would not result in the loss or conversion of farmland to non-agricultural use or conversion of forestland to non-forest use. Therefore, no impacts are expected.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

iii. AIR QUALITY

Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to the following determinations. Would the Project:

- | | | | | |
|---|--------------------------|--------------------------|-------------------------------------|--------------------------|
| a) Conflict with or obstruct implementation of the applicable air quality plan?
a) The proposed project is for the construction of a self-supported monopole telecommunication tower with associated remote and unmanned equipment located on a parcel owned by the Union Pacific Railroad Company and within its railroad right-of-way, and is not expected to conflict with or obstruct implementation of the applicable air quality plan. Per the Air Pollution Control District letter dated, June 15, 2023, the project must comply with all Air District rules and regulations and would emphasize Regulation VIII. Regulation VIII is a collection of rules designed to maintain fugitive dust emissions below 20% visual opacity. If the project includes a generator it may be subject to permitting requirements, generally generators greater than 50-bhp require permits. Per the Environmental Health Department email dated, May 30, 2023, if the project intends to have generator(s) or storage equipment storing 1,320-gallons of petroleum based product, applicant is to contact EHS. Less than significant impacts are anticipated. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?
b) The proposed project is not expected to result in a cumulatively considerable net increase of any criteria pollutant since, as mentioned above under item a), it would require to adhere to the Air District's Regulation VIII. It is expected that compliance with Imperial County Air Pollution Control District requirements would bring any impact to less than significant. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| c) Expose sensitive receptors to substantial pollutants concentrations?
c) Diesel exhaust and volatile organic compound (VOC) emissions which are typically related to construction trucks and machinery are the pollutants that could possibly affect the nearest sensitive receptors, but the impacts would be temporary and would be lessened by showing compliance with APCD's rules and regulations regarding construction pollutants during construction activities. Therefore, less than significant impacts are expected. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| d) Result in other emissions (such as those leading to odors) | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Potentially Significant Impact (PSI)	Potentially Significant Unless Mitigation Incorporated (PSUMI)	Less Than Significant Impact (LTSI)	No Impact (NI)
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adversely affecting a substantial number of people?

d) The proposed project does not anticipate creating objectionable odors that would adversely affect a substantial number of people. Although some pollutants may be emitted during construction activities and as previously stated on item (III) (a) above, compliance with Air Pollution Control District's Regulation VIII, Environmental Health Service's requirements, and adherence to the California Building Code would bring any impacts to less than significant.

IV. BIOLOGICAL RESOURCES *Would the project:*

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

a) According to the Imperial County General Plan's Conservation and Open Space Element⁸, Figure 1 "Sensitive Habitat Map," the project is not located within a sensitive habitat area. Additionally, in accordance to Figure 2 "Sensitive Species Map," the project is located within the Burrowing Owl Species Distribution Model area. In accordance to Figure 5 "Areas of Heightened Historic Period Sensitivity Map," the project is located within the Phillip Cooke Exploration and Trail Routes, 1770-1890. However, the proposed project does not expect nor anticipate any substantial physical changes to the environment. Consequently, it does not appear to have a substantially adverse effect, either directly or through habitat modification, or to any species identified as a candidate, sensitive, or of special status in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife Service. Should any additional developments be proposed on site, the applicant shall contact ICPDS; therefore, any impacts are expected to be less than significant.

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

b) The proposed project site is not located within a sensitive or riparian habitat, or on other sensitive natural community area as depicted on Figure 3 "Agency-Designated Habitats" from the Imperial County General Plan's Conservation and Open Space Element⁸. Additionally, the proposed project site is within a parcel owned by the Union Pacific Railroad Company and within its railroad right-of-way; therefore, it does not appear to have a substantial effect in local regional plans, policies, and regulations with respect to sensitive natural communities or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service. Any impacts are expected to be less than significant.

c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

c) According to the National Wetlands Inventory: Surface Waters and Wetlands⁹, National Water Information System: Mapper¹⁰, and California Sustainable Groundwater Management Act (SGMA) Data Viewer¹¹, the proposed project is not located within a riparian habitat and which will not cause a substantial adverse effect on federal protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means. Any impacts are expected to be less than significant.

d) Interfere substantially with the movement of any resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

d) The project site is not located within a Sensitive Habitat; therefore, it would not interfere substantially with the movement of any resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites. Any impacts are expected to be less than significant.

e) Conflict with any local policies or ordinance protecting biological resource, such as a tree preservation policy or ordinance?

e) The proposed project is not expected to conflict with any local policy or ordinances protecting biological resources, such as tree preservation policy or ordinance. No impacts are expected.

f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or

Potentially Significant Impact (PSI)	Potentially Significant Unless Mitigation Incorporated (PSUMI)	Less Than Significant Impact (LTSI)	No Impact (NI)
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other approved local, regional, or state habitat conservation plan?

f) The proposed project site is not located within a designated sensitive area according to the Imperial County General Plan's Conservation and Open Space Element⁸, therefore, it would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. Any impacts are expected to be less than significant.

V. CULTURAL RESOURCES *Would the project:*

- a) Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5?
a) According to the Imperial County General Plan's Conservation and Open Space Element⁸, Figure 5, "Areas of Heightened Historic Period Sensitivity Map," the proposed project site may be located within the Phillip Cooke Exploration and Trail Route (1770-1890). Additionally, in accordance to Figure 6 "Known Areas of Native American Cultural Sensitivity" the proposed project site is not located within the immediate vicinity of a known area of cultural sensitivity to Native Americans. Additionally, the AB 52 letter was sent on August 2, 2023 to the Quechan Indian Tribe and The Campo Band of Mission Indians, no comments to the proposed project were received. Therefore, any impact is expected to be less than significant.
- b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?
b) The proposed project is located on disturbed land and it is not likely to cause a substantial adverse change to an archeological resource. Any impact is expected to be less than significant.
- c) Disturb any human remains, including those interred outside of dedicated cemeteries?
c) As previously stated on items (V)(a) and (V)(b) above, the proposed project site is not located within or adjacent to any cemeteries, therefore, the proposed self-supported monopole telecommunications tower with associated remote and unmanned equipment project would not disturb any human remains, including those interred outside of dedicated cemeteries. The proposed project site is located within a railroad right-of-way parcel owned by the Union Pacific Railroad Company and not in a known area of cultural sensitivity; therefore it is not expected to result in the disturbance of any human remains, including those interred outside of dedicated cemeteries. Less than significant impacts are expected.

VI. ENERGY *Would the project:*

- a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?
a) The proposed telecommunications tower facility will not result in potentially significant environmental impacts due to wasteful, insufficient, or unnecessary consumption of energy resources, during the project construction or operation. Additionally, the proposed project site is located within a railroad right-of-way parcel owned by the Union Pacific Railroad Company. Should any new developments occur, said developments would require compliance with the latest edition of the California Building Code and ministerial building permits with the Imperial County Planning and Development Services Department. Furthermore, per comment letter received from the Imperial Irrigation District dated June 8, 2023, if the proposed communication tower requires electrical services, the applicant should contact IID. Any impacts are expected to be less than significant.
- b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?
As previously stated on item (VI)(a) above, the proposed project is for a telecommunications tower facility located within a railroad right-of-way parcel owned by the Union Pacific Railroad Company. New future developments would require compliance with the latest energy efficiency and renewable energy standards and regulations. Therefore, the proposed project will not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. Any impacts are expected to be less than significant.

VII. GEOLOGY AND SOILS *Would the project:*

- a) Directly or indirectly cause potential substantial adverse effects, including risk of loss, injury, or death involving:

Potentially Significant Impact (PSI)	Potentially Significant Unless Mitigation Incorporated (PSUMI)	Less Than Significant Impact (LTSI)	No Impact (NI)
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a) The proposed telecommunications tower facility does not appear to conflict with the geology and soil of adjacent parcels in the area. Construction of the proposed self-supported monopole telecommunications tower with associated remote and unmanned equipment will be subjected to comply with the latest edition of the California Building Code¹⁴ as well as to go through a ministerial building permit review. Therefore, the proposed project would not directly or indirectly cause potential substantial adverse effects, including risk of loss, injury, or death involving. Regarding geology, adherence and compliance to these standards and regulations would bring any impacts to less than significant.

1) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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1) According to the most recent California Department of Conservation, Alquist-Priolo Earthquake Fault Zoning Act, California Earthquake Hazards Zone Application, Earthquake Zones of Required Investigation and the United States Geological Survey's Quaternary Faults Map the proposed project is not located within a known fault zone. Compliance with the previously referenced Building Codes and/or any other applicable requirement should reduce impacts to less than significant.

2) Strong Seismic ground shaking?

2) Ground shaking is expected to occur since the project site is located in the seismically active Imperial Valley, however, the project's design and subsequent construction should adhere to the latest edition of the California Building Code and go through a ministerial building permit review. Furthermore, compliance with applicable state and local regulations would cause for potential impacts to be reduced to less than significant levels.

3) Seismic-related ground failure, including liquefaction and seiche/tsunami?

3) The proposed project is not located in a Tsunami inundation area per the California Tsunami Inundation Map, additionally, the design and subsequent construction should adhere to the latest edition of the California Building Code and go through a ministerial building permit. Furthermore, compliance with applicable state and local regulations would cause for potential impacts to be reduced to less than significant levels.

4) Landslides?

4) According to Imperial County General Plan's Seismic and Public Safety Element¹⁸, "Landslide Activity Map^{18b}," Figure 2, the proposed project site is not located within the immediate vicinity of a landslide activity area. The topography within the proposed project site is generally flat. However, the construction of the proposed telecommunications facility will be subject to compliance with the latest edition of the California Building Code and through a ministerial building permit review. Therefore, less than significant impacts are expected.

b) Result in substantial soil erosion or the loss of topsoil?

b) According to Imperial County General Plan's Seismic and Public Safety Element¹⁸, "Erosion Activity Map^{18c}," Figure 3, the proposed project is not located within the immediate vicinity of a substantial soil erosion area. Any impacts are expected to be less than significant.

c) Be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project, and potentially result in on- or off-site landslides, lateral spreading, subsidence, liquefaction or collapse?

c) As previously stated on sections (VII)(a)(1)-(VII)(a)(4) and (VII)(b) above, the proposed project site is not located on a geological unit that would become unstable or collapse as a result of the proposed telecommunications facility project. Any construction will be subject to compliance with the latest edition of the California Building Code as well as to go through a ministerial building permit review. Adherence and compliance to these standards and regulations would bring any impacts to less than significant levels.

d) Be located on expansive soil, as defined in the latest Uniform Building Code, creating substantial direct or indirect risk to life or property?

d) As previously stated on section (VII)(c), the proposed project design and subsequent construction will require adherence and compliance to the latest edition of the California Building Code standards and regulations, as well as to go through a ministerial building permit review which would bring any impacts to less than significant.

e) Have soils incapable of adequately supporting the use of

Potentially Significant Impact (PSI)	Potentially Significant Unless Mitigation Incorporated (PSUMI)	Less Than Significant Impact (LTSI)	No Impact (NI)
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septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?

e) The proposed project is for the construction of a monopole telecommunication tower, which does not propose any septic tanks or alternative wastewater disposal systems. Additionally, should any septic systems be proposed in the near future, the applicant should adhere and comply with the Imperial County Public Health Department, Division of Environmental Health standards and regulations. No Impacts are expected.

f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

f) The proposed project is within a railroad right-of-way owned by the Union Pacific Railroad Company and does not appear to directly or indirectly destroy a unique paleontological resource or site or unique geologic feature. Additionally, in the event of any paleontological findings on site during construction, all work shall be stopped and applicant shall contact a qualified paleontological specialist to inspect the site. Any impacts are expected to be less than significant.

VIII. GREENHOUSE GAS EMISSION Would the project:

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

a) The construction and maintenance of the proposed project may generate green house emissions; however, it is not expected to generate greenhouse gas emissions that would have a significant impact. Additionally, as previously stated on item (III) (a) above, adherence and compliance to APCD's and EHS' rules, regulations, and requirements will bring any impacts to less than significant.

b) Conflict with an applicable plan or policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

b) The proposed project would not conflict with any regulations under AB 32 Global Warming Solutions Act of 2006, of reducing the emissions of greenhouse gases to 1990 levels by 2020 provided that the applicant adheres to APCD's and EHS' rules, regulations and requirements. Less than significant impacts are expected.

IX. HAZARDS AND HAZARDOUS MATERIALS Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

a) The proposed project is not expected to create a significant hazard to the public or the environment as it does not involve the handling of any hazardous materials. Per comment email received from the Imperial County Division of Environmental Health dated May 30, 2023, if the applicant intends to have generator(s) or storage equipment storing 1,320 gallons of petroleum-based products, applicant should contact EHS. If not, the Division of Environmental Health does not have any comments at this time. Adherence to EHS' requirements should bring any impacts to less than significant.

b) Create a significant hazard to the public or the environment through reasonable foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

b) As previously stated on section (IX)(a) above, the proposed project is not expected to create a significant hazard to the public or environment through reasonable foreseeable upset and accident conditions involving the release of hazardous materials into the environment as no hazardous materials are anticipated as part of the project. Additionally, adherence to EHS' requirements should bring any impacts to less than significant.

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

c) The proposed project does not anticipate the emitting of hazardous emissions or the handling of hazardous or acutely hazardous materials, substance, or waste as previously stated on items (IX)(a) and (IX)(b) above. Additionally, the project site is not located within a ¼ mile of any schools. The nearest school in the vicinity is Holtville High School, which is located approximately 35 miles west of the proposed project site; therefore, it would not represent a risk to educational facilities. No

	Potentially Significant Impact (PSI)	Potentially Significant Unless Mitigation Incorporated (PSUMI)	Less Than Significant Impact (LTSI)	No Impact (NI)
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impacts are expected.

- d) Be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

d) The proposed project is not located on a site included on a list of hazardous materials sites according to California Department of Toxic Substances Control EnviroStor²¹. Additionally, per Imperial County General Plan's Seismic and Public Safety Element¹⁸, "Hazardous Material Sites Map^{18d}," Figure 5, the proposed project site is not located within an identified hazardous materials site; therefore, no impacts are expected.

- e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?

e) The proposed project is not located within an airport land use plan per Imperial County Airport Land Use Compatibility Maps²². Additionally, on July 19, 2023, the Imperial County Airport Land Use Commission (ALUC) heard and evaluated the proposed self-supported monopole telecommunication tower with associated remote and unmanned equipment project and found it to be consistent with the 1996 Airport Land Use Compatibility Plan. A white daytime beacon and a red night beacon will be required for this proposed project. Compliance with Federal Aviation Administration (FAA) and ALUC standards, regulations, and recommendations would bring any impacts to less than significant.

- f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

f) The proposed project would not interfere with an adopted emergency response plan or emergency evacuation plan. Additionally, per Imperial Valley Emergency Communications Authority (IVECA) comment letter dated June 12, 2023, future IVECA or Imperial County communication needs could necessitate tower space on the proposed tower and other related on-site infrastructure. This would include, but not limited to, multiple antenna spaces, guaranteed antenna heights, and shelter space, all at no cost to Imperial County or IVECA with the inclusion of a Local/Public Benefit Agreement. Furthermore, the applicant will meet any requirements requested by the Fire/OES Department. Compliance with IVECA's and Fire/OES Department's standards and requirements would bring any impacts to less than significant.

- g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?

g) According to Cal Fire "Fire Hazard Severity Zones in State Responsibility Areas – Imperial County²³" adopted June 15, 2023, the proposed project site is not located within a fire hazard severity zone designated as Local Responsibility Area (LRA) classified as unzoned area, therefore, the proposed project would not expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildfires. Future facility expansions may be subject to the inclusion of fire sprinklers and have either a private water or public source as pressurized hydrants for fire suppression. Compliance to Imperial County Fire Department (ICFD) standards would bring any impacts to less than significant

X. HYDROLOGY AND WATER QUALITY *Would the project:*

- a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

a) The proposed project is for the construction of a self-supported monopole telecommunication tower facility with associated remote and unmanned equipment and would not violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality. Any impacts are expected to be less than significant.

- b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

b) As previously stated on item (X)(a) above, the proposed telecommunications facility does not expect to substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin. Any impacts are expected to be less than significant.

	Potentially Significant Impact (PSI)	Potentially Significant Unless Mitigation Incorporated (PSUMI)	Less Than Significant Impact (LTSI)	No Impact (NI)
<p>c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:</p> <p>c) The proposed project does not anticipate a physical alteration to the site that would substantially alter the existing drainage pattern of the site or area, including through the alteration of the course or a stream or river or through the addition of impervious surfaces. Furthermore, any proposed grading will require drainage review and approval from the Imperial County Public Works Department. Adherence to IID and ICPWD requirements would bring any impacts to less than significant.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>(i) result in substantial erosion or siltation on- or off-site;</p> <p>(i) According to Imperial County General Plan's Seismic and Public Safety Element¹⁸, "Erosion Activity Map^{18c}," Figure 3, the proposed project site is not located within an area of substantial soil erosion or siltation on- or off-site. Therefore, any impacts are expected to be less than significant.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>(ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite;</p> <p>(ii) The proposed communications tower project is not expected to substantially increase the rate or amount of surface runoff in a manner which would result in flooding on-or offsite. Any proposed grading will require drainage review and approval from the Imperial County Department of Public Works. Adherence to Imperial County Department of Public Works would bring any impacts to less than significant impact.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>(iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or;</p> <p>(iii) The proposed project does not anticipate creating or contributing runoff water, which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff. As previously stated on items (X)(c) and (X)(c)(ii) above, Any proposed grading or planned stormwater drainage systems will require drainage application, review, and approval from the Imperial County Public Works Department and Imperial Irrigation District. Compliance with Imperial County Public Works Department and Imperial Irrigation District standards and requirements would ensure that any runoff water impacts would be reduced to less than significant.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>(iv) impede or redirect flood flows?</p> <p>(iv) The proposed project is for the construction of a self-supported monopole telecommunications tower facility with associated remote and unmanned equipment and is not expected to impede or redirect flood flows. According to the Federal Emergency Management Agency (FEMA) Flood Map Service Center²⁴, Flood Insurance Rate Map, the proposed project site is located within "Zone X" of flood map 06025C1875C, effective September 26, 2008. Additionally, a reviewed and approved grading/drainage letter is to be required by the Imperial County Department of Public Works. Therefore, compliance with ICDPW's standards would bring any impacts to be less than significant.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?</p> <p>d) The proposed self-supported monopole telecommunications tower facility with associated remote and unmanned equipment project is not located within the proximity of a flood hazard, tsunami, or seiche zones; therefore, impacts related to risk release of pollutants due to project inundation are considered to be low. Additionally, as previously stated on item (X)(c)(iv) above, the proposed project site is located within "Zone X" of flood map 06025C1875C. Compliance with ICDPW's standards would contribute to lower any impacts to less than significant.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?</p> <p>e) The proposed project does not expect to conflict with or obstruct the implementation of a water quality control plan or sustainable groundwater management plan. As previously stated on item (X)(c) above, the proposed project would require a drainage and grading letter approved by the Imperial County Public Works Department and adherence to Imperial Irrigation District requirements. Any impacts are expected to be less than significant.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Potentially Significant Impact (PSI)	Potentially Significant Unless Mitigation Incorporated (PSUMI)	Less Than Significant Impact (LTSI)	No Impact (NI)
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XI. LAND USE AND PLANNING *Would the project:*

- a) Physically divide an established community?
- a) The proposed project is for the construction of a self-supported monopole telecommunication tower facility with associated remote and unmanned equipment which would not physically divide an established community; therefore, it does not anticipate changing the existing land use designation and zoning established. Furthermore, the nearest established community, Holtville, is approximately 36 miles to the west of the project site. No land use nor planning impacts are expected.**
- b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?
- b) The proposed project is consistent with the Imperial County General Plan and with the County's Land Use Ordinance (Title 9), Division 5, Section 90519.02(d), which states that, Communication Towers are permitted in the S-2 (Open Space/Preservation) zone only with an approved Conditional Use Permit. Additionally, the proposed project is consistent with the County's Land Use Ordinance (Title 9), Division 24 – Communication Ordinance, Section 92401.00 et seq. Any impacts are expected to be less than significant..**

XII. MINERAL RESOURCES *Would the project:*

- a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?
- a) The proposed project does not anticipate the removal of mineral resources and it is not located within the boundaries or vicinity of an active mine per Imperial County General Plan's Conservation and Open Space Element⁸, "Existing Mineral Resources Map^{8M}" Figure 8. No impacts are expected.**
- b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?
- b) The proposed telecommunication tower will not result in the loss of availability of locally-important mineral resources recovery site delineated on a local general plan, specific plan or other land use plan. No impacts are expected..**

XIII. NOISE *Would the project result in:*

- a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?
- a) The proposed project is for the construction of a self-supported monopole telecommunication tower facility with associated remote and unmanned equipment. Temporary generation of noise would be expected during construction; however, such would not result in the generation of permanent noise beyond that which already occurs on the surrounding area. Such action would be subject to the Imperial County General Plan's Noise Element²⁵ which states that construction equipment operation shall be limited to the hours of 7 a.m. to 7 p.m., Monday through Friday, and from 9 a.m. to 5 p.m. on Saturday. Additionally, construction noise from a single piece of equipment or combination, shall not exceed 75 dB Leq when averaged over an eight (8) hour period. Compliance with Imperial County General Plan's Noise Element would bring any impacts to less than significant.**
- b) Generation of excessive groundborne vibration or groundborne noise levels?
- b) Ground vibration or groundborne noise may be expected during the construction activities; however, as stated above under item a), adherence to the "Noise Element" standards would bring the impacts to less than significant levels.**
- c) For a project located within the vicinity of a private airstrip or an airport land use plan or where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

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c) As previously stated on item (IX)(e) above, proposed project is not located within an airport land use plan or private airstrip according to the Imperial County Airport Land Use Compatibility Maps²². The nearest airport in vicinity is the Holtville Airport located approximately 30 miles west from the proposed project site; therefore, exposure to periodic noise emissions during aircraft takeoff and landing operations are not expected. Any impacts are expected to be less than significant.

XIV. POPULATION AND HOUSING *Would the project:*

- a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and business) or indirectly (for example, through extension of roads or other infrastructure)?
- a) The proposed construction of a self-supported monopole telecommunication tower facility with associated remote and unmanned equipment would not induce a substantial unplanned population growth in an area, either directly or indirectly, as no changes to the designated residential use on the parcel are proposed. Therefore, any impacts are expected to be less than significant.**
- b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?
- b) The proposed project will not displace substantial numbers of people necessitating the construction or replacement of housing elsewhere as the project site is located within a vacant parcel owned by the Union Pacific Railroad Company zoned S-2 (Open Space/Preservation within its railroad right-of-way. Any impacts are expected to be less than significant.**

XV. PUBLIC SERVICES

- a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:
- (a) The proposed telecommunication tower does not anticipate that such would result in substantial adverse physical impacts associated with the provision of new or physically altered government facilities, need for new or physically altered government facilities, the construction of which could cause significant environmental impacts in order to maintain acceptable service ratios. Any impacts would be less than significant.**
- 1) Fire Protection?
- 1) The proposed project is not expected to result in the need for new of physically altered fire protections services; any impacts are expected to be less than significant.**
- 2) Police Protection?
- 2) The proposed project is not expected to result in substantial impacts on police protection. Both the California Highway Patrol and Sheriff's Office East County Patrol have active policing and patrol operations in the area. Furthermore, the proposed project site is located within a vacant parcel owned by the Union Pacific Railroad Company within its railroad right-of-way. The site is entirely self-monitored through a sophisticated alarm system, which is connected to a main switch station. The system alerts personnel of any equipment malfunction or breach of security. Any impacts are expected to be less than significant.**
- 3) Schools?
- 3) The proposed project is not expected to result in substantial impacts to schools; no impacts are expected.**
- 4) Parks?
- 4) The proposed project will not result in impacts to parks; no impacts are expected.**
- 5) Other Public Facilities?
- 5) As stated above under item a), the proposed project is not expected to result in impacts to other public facilities. Any impact would be expected to be less than significant.**

Potentially Significant Impact (PSI)	Potentially Significant Unless Mitigation Incorporated (PSUMI)	Less Than Significant Impact (LTSI)	No Impact (NI)
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XVI. RECREATION

- a) Would the project increase the use of the existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?
- a) The proposed project is for the construction of a self-supported monopole telecommunication tower facility with associated remote and unmanned equipment. Subsequently, the proposed telecommunications tower would not increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated. No impacts are expected.**
- b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse effect on the environment?
- b) The proposed project does not include recreational facilities or require the construction or expansion of recreational facilities. Therefore, no impacts are expected.**

XVII. TRANSPORTATION *Would the project:*

- a) Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?
- a) The proposed project is for the construction of a self-supported monopole telecommunication tower facility with associated remote equipment. The proposed wireless telecommunications facility will be unmanned and will only require service technicians, in a pick-up or van sized vehicle, to visit the site. The proposed telecommunications tower is not expected to conflict with the Imperial County General Plan Circulation and Scenic Highway Element¹ and/or any applicable plan, ordinance or policy related to it. Traffic impacts during construction and subsequent operations of the telecommunication facility are expected to be below the acceptable threshold by the County. Less than significant impacts are expected.**
- b) Would the project conflict or be inconsistent with the CEQA Guidelines section 15064.3, subdivision (b)?
- b) The proposed self-supported monopole telecommunication tower does not appear to conflict or be inconsistent with the CEQA guidelines section 15064.3 (b). Adherence and compliance with Caltrans requirements would bring any impacts to less than significant.**
- c) Substantially increases hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?
- c) The proposed project is for the construction of a self-supported monopole telecommunication tower facility with associated remote and unmanned equipment located within a railroad right-of-way parcel owned by the Union Pacific Railroad Company. The proposed project's site is compatible with the Imperial County General Plan Land Use Designation and the site design is not expected to increase hazards. Therefore, less than significant impacts are expected.**
- d) Result in inadequate emergency access?
- d) The proposed project would not result in inadequate emergency access. Additionally, no change on existing land use nor zoning are proposed. Access to the proposed project site from Sidewinder Road appears to be suitable for emergency response vehicles. No impacts are expected.**

XVIII. TRIBAL CULTURAL RESOURCES

- a) Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place or object with cultural value to a California Native American tribe, and

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that is:

a) According to the Imperial County Open Space Element⁸, Figure 6, "Known Areas of Native American Cultural Sensitivity^{8e}", the proposed project location is not within a known area that may expect to cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074. Additionally, notification opportunity to consult letter was sent on August 2, 2023 to the Quechan and Campo Indian Tribe, and no comments were received. Therefore, any impact is expected to be less than significant.

- (i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as define in Public Resources Code Section 5020.1(k), or
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(i) According to the California Historic Resources²⁸ in Imperial County, the proposed project site is not listed or seem to be eligible under the Public Resources Code Section 21074 or 5020.1 (k); therefore, any impacts are expected to be less than significant.

- (ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American Tribe.
- | | | | |
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(ii) No significant resources listed as defined in the Public Resources Code Section 5024.1 are expected to be impacted by the proposed self-supported monopole telecommunication tower with associated remote equipment. Any impacts are expected to be less than significant.

XIX. UTILITIES AND SERVICE SYSTEMS *Would the project:*

- a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction of which could cause significant environmental effects?
- | | | | |
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| <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
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a) The proposed self-supported monopole telecommunication tower with associated remote equipment does not require or result in the relocation or construction of a new expanded water, wastewater treatment or stormwater drainage, electric power, natural gas or telecommunication facilities, the construction of which could cause significant environmental effects. On June 8, 2023, ICPDS received a comment letter from the Imperial Irrigation District¹³ advising if the proposed communication tower requires electrical service to contact IID. Moreover, any construction or operation on IID property or within its existing and proposed right of way or easements including but not limited to: surface improvements such as proposed new streets, driveways, parking lots, landscape, and all water, sewer, storm water, or any other above ground or underground utilities, will require an encroachment agreement. Subsequently, any new, relocated, modified or reconstructed IID facilities required for and by the project (which can include but is not limited to electrical utility substations, electrical transmission and distribution lines, water deliveries, canals, drains, etc.) need to be included as part of the project's California Environmental Quality Act (CEQA) and/or National Environmental Policy Act (NEPA) documentation, environmental impact analysis and mitigation. Adherence to IID's recommendations and requirements would bring any impacts to less than significant.

- b) Have sufficient water supplies available to serve the project from existing and reasonably foreseeable future development during normal, dry and multiple dry years?
- | | | | |
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| <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
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b) The proposed project is for the construction of a monopole telecommunication tower with associated remote equipment which does not anticipate the use of a water supply nor a change to the existing use on the parcel, which is, a vacant parcel owned by the Union Pacific Railroad Company within its railroad right-of-way. Therefore, any impacts are expected to be less than significant.

- c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?
- | | | | |
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| <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
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c) The proposed project does not anticipate any impacts to wastewater as it does not propose to generate any wastewaters; therefore, any impacts are expected to be less than significant.				
d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals? d) The proposed project is not expected to exceed the generation of solid waste in excess of State or local standards. Any impacts would be expected to be less than significant.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste? e) All proposed projects within the County shall contract with a licensed waste hauler for waste generated by the facility. The proposed telecommunication tower shall comply with federal, state, and local management and reduction statutes and regulations related to solid waste. Any impact are expected to be less than significant.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

XX. WILDFIRE

If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the Project:

- a) Substantially impair an adopted emergency response plan or emergency evacuation plan?
a) As previously stated under item (IX)(f) – “Hazards and Hazardous Materials” above, the proposed telecommunication tower would not substantially impair an adopted emergency response plan or emergency evacuation plan. Additionally, according to Cal Fire “Fire Hazard Severity Zones Viewer,”²³ the proposed project site is located within an unincorporated Local Responsibility Area (LRA), but not within a Very High Fire Hazard Severity Zone (VHFHZ); therefore, impacts impairing an adopted emergency response plan or emergency evacuation plan are expected to be less than significant.
- b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?
b) The proposed project site topography is generally flat and therefore, impacts due to slope, prevailing winds, and other factors, wildfire risks or pollutant concentrations from wildfire or the uncontrolled spread of a wildfire are expected to be less than significant.
- c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?
c) The project site is not located within a very high fire hazard severity zone and it is not expected to require the installation of infrastructure that may exacerbate fire risk. Therefore, any impact is expected to be less than significant.
- d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?
As previously stated on item (VII)(a)(4) above, per Imperial County General Plan’s Seismic and Public Safety Element¹⁸, “Landslide Activity Map^{18b},” Figure 2, the proposed project is not located within a landslide activity area. The topography within the proposed project site is generally flat. Development, proposed project design and subsequent construction will be subjected to compliance with the latest edition of the California Building Code as well as to go through a ministerial building permit review. Adherence and compliance to the California Building Code standards and regulations will bring any impacts to less than significant.

Note: Authority cited: Sections 21083 and 21083.05, Public Resources Code. Reference: Section 65088.4, Gov. Code; Sections 21080(c), 21080.1, 21080.3, 21083, 21083.05, 21083.3, 21093, 21094, 21095, and 21151, Public Resources Code; Sundstrom v. County of Mendocino, (1988) 202 Cal.App.3d 296; Leonoff v. Monterey Board of Supervisors, (1990) 222 Cal.App.3d 1337; Eureka Citizens for Responsible Govt. v. City of Eureka (2007) 147 Cal.App.4th 357; Protect the Historic Amador Waterways v. Amador Water Agency (2004) 116 Cal.App.4th at 1109; San Franciscans Upholding the Downtown Plan v. City and County of San Francisco (2002) 102 Cal.App.4th 656.

Potentially Significant Impact (PSI)	Potentially Significant Unless Mitigation Incorporated (PSUMI)	Less Than Significant Impact (LTSI)	No Impact (NI)
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Revised 2016 – ICPDS
 Revised 2017 – ICPDS
 Revised 2019 – ICPDS

FEC ORIGINAL PKG
PC ORIGINAL PKG

Potentially Significant Impact (PSI)	Potentially Significant Unless Mitigation Incorporated (PSUMI)	Less Than Significant Impact (LTSI)	No Impact (NI)
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SECTION 3
III. MANDATORY FINDINGS OF SIGNIFICANCE

The following are Mandatory Findings of Significance in accordance with Section 15065 of the CEQA Guidelines.

- | | | | | |
|--|--------------------------|--------------------------|-------------------------------------|--------------------------|
| <p>a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, eliminate tribal cultural resources or eliminate important examples of the major periods of California history or prehistory?</p> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| <p>b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)</p> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| <p>c) Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?</p> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

IV. PERSONS AND ORGANIZATIONS CONSULTED

This section identifies those persons who prepared or contributed to preparation of this document. This section is prepared in accordance with Section 15129 of the CEQA Guidelines.

A. COUNTY OF IMPERIAL

- Jim Minnick, Director of Planning & Development Services
- Michael Abraham, AICP, Assistant Director of Planning & Development Services
- Evelia Jimenez, Project Planner
- Imperial County Executive Office
- Imperial County Air Pollution Control District
- Imperial County Public Health Department Division of Environmental Health
- Agricultural Commissioner

B. OTHER AGENCIES/ORGANIZATIONS

- Imperial Irrigation District
- Quechan Indian Tribe, Historic Preservation
- California Department of Transportation
- Imperial Valley Emergency Communications Authority

(Written or oral comments received on the checklist prior to circulation)

V. REFERENCES

1. Imperial County General Plan: Circulation and Scenic Highway Element
<https://www.icpds.com/assets/planning/circulation-scenic-highway-element-2008.pdf>
2. California State Scenic Highway System Map
<https://caltrans.maps.arcgis.com/apps/webappviewer/index.html?id=465dfd3d807c46cc8e8057116f1aaca>
3. California Important Farmland Finder: Imperial County 2020
<https://maps.conservation.ca.gov/DLRP/CIFF/>
4. California Williamson Act Enrollment Finder
<https://maps.conservation.ca.gov/dlrp/WilliamsonAct/App/index.html>
5. Imperial County General Plan Land Use Map
<https://icpds.maps.arcgis.com/apps/webappviewer/index.html?id=078e1e32c6dc4223ba8c7d69d7c6c383>
6. Imperial County Air Pollution Control District comment letter dated June 14, 2023
7. Imperial County Division of Environmental Health comment letter dated May 30, 2023
8. Imperial County General Plan: Conservation and Open Space Element
<https://www.icpds.com/assets/planning/conservation-open-space-element-2016.pdf>
 - a) Figure 1: Sensitive Habitat Map
 - b) Figure 2: Sensitive Species Map
 - c) Figure 3: Agency-Designated Habitats Map
 - d) Figure 5: Areas of Heighten Historic Period Sensitivity Map
 - e) Figure 6: Known Areas of Native American Cultural Sensitivity Map
 - f) Figure 8: Existing Mineral Resources Map
9. National Wetlands Inventory Map: Surface Waters and Wetlands
<https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/>
10. National Water Information System: Mapper
<https://maps.waterdata.usgs.gov/mapper/index.html>
11. California Sustainable Groundwater Management Act (SGMA) Data Viewer
<https://sgma.water.ca.gov/webgis/?appid=SGMADataViewer#currentconditions>
12. Quechan Indian Tribe comment email dated May 30, 2023
13. Imperial Irrigation District comment letter dated June 8, 2023
14. California Building Code 2022
15. California Geological Survey Hazard Program: Alquist-Priolo Fault Hazard Zones
<https://gis.data.ca.gov/maps/ee92a5f9f4ee4ec5aa731d3245ed9f53/explore?location=32.538703%2C-110.920388%2C6.00>
16. California Department of Conservation: Fault Activity Map
<https://maps.conservation.ca.gov/cgs/fam/>
17. United States Geological Survey's Quaternary Faults Map
<https://usgs.maps.arcgis.com/apps/webappviewer/index.html?id=5a6038b3a1684561a9b0aadf88412fcf>
18. Imperial County General Plan: Seismic and Public Safety Element
<https://www.icpds.com/planning/land-use-documents/general-plan/seismic-and-public-safety>
 - a) Figure 1: Seismic Activity in Imperial County Map
 - b) Figure 2: Landslide Activity Map
 - c) Figure 3: Erosion Activity Map
 - d) Figure 5: Hazardous Materials Sites Map
 - e) Figure 7: Seismic Hazards Map
19. California Tsunami Data Maps
<https://www.conservation.ca.gov/cgs/tsunami/maps>
20. United States Department of Agriculture- Natural Resources Conservation Service: Soils Map
<https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>

21. California Department of Toxic Substances Control: EnviroStor
<https://www.envirostor.dtsc.ca.gov/public/>
22. Imperial County Airport Land Use Compatibility Maps
<https://icpds.maps.arcgis.com/apps/webappviewer/index.html?id=46f7796b2dfb4a6db5311d7892f0b411>
23. Cal Fire: Fire Hazard Severity Zones (FHSZ) Viewer
<https://egis.fire.ca.gov/FHSZ/>
24. Federal Emergency Management Agency (FEMA) Flood Map Service Center: Flood Insurance Rate Map
<https://msc.fema.gov/portal/search?AddressQuery=851%20pitzer%20road%20heber%20ca#searchresultsanchor>
25. Imperial County General Plan: Noise Element
<https://www.icpds.com/assets/planning/noise-element-2015.pdf>
26. California Department of Transportation (Caltrans) comment letter dated June 14, 2023
27. California Historic Resources: Imperial County
<https://ohp.parks.ca.gov/ListedResources/?view=county&criteria=13>
28. U.S. Fish and Wildlife: Recommended Best Practices for Communication Tower Design, Siting, Construction, Operation, Maintenance, and Decommissioning publication dated March 1, 2021
<chrome-extension://efaidnbnmnibpcjpcqlclefindmkaj/https://www.fws.gov/sites/default/files/documents/usfws-communication-tower-guidance.pdf>
29. "County of Imperial General Plan EIR", prepared by Brian F. Mooney & Associates in 1993; and as Amended by County in 1996, 1998, 2001, 2003, 2006 & 2008, 2015, 2016.

VI. NEGATIVE DECLARATION – County of Imperial

The following Negative Declaration is being circulated for public review in accordance with the California Environmental Quality Act Section 21091 and 21092 of the Public Resources Code.

Project Name: Conditional Use Permit #23-0010 / Variance #23-0010 / Initial Study #23-0004

Project Applicant: CitySwitch

Project Location: 673 Sidewinder Rd., Winterhaven, CA. 92283

Description of Project: The applicant, CitySwitch, is proposing to install a 170'-0" tall monopole tower with a 10'-0" lightning rod for a total height of 180'- 0" to be located within a leased 57' x 45' fenced area. The parcel is owned by Union Pacific Railroad Company and is within its railroad right-of-way. The proposed telecommunications tower, to be located at 673 Sidewinder Rd N., Winterhaven, Ca., would be erected, owned and operated by CitySwitch. CitySwitch has a commitment with Union Pacific and AT&T Mobility, a wireless services provider, for this site. Additionally, the facility will be open for co-location to other wireless providers and any other communication carriers that have a need for a facility in the area. The project requires a Conditional Use Permit (#23-0010) for the monopole tower and a Variance (#23-0010) to exceed the 100-foot height limitation for the Open Space/Preservation (S-2) zoned area by 80 feet.

VII. FINDINGS

This is to advise that the County of Imperial, acting as the lead agency, has conducted an Initial Study to determine if the project may have a significant effect on the environmental and is proposing this Negative Declaration based upon the following findings:

The Initial Study shows that there is no substantial evidence that the project may have a significant effect on the environment and a **NEGATIVE DECLARATION** will be prepared.

The Initial Study identifies potentially significant effects but:

- (1) Proposals made or agreed to by the applicant before this proposed Mitigated Negative Declaration was released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur.
- (2) There is no substantial evidence before the agency that the project may have a significant effect on the environment.
- (3) Mitigation measures are required to ensure all potentially significant impacts are reduced to levels of insignificance.

A **MITIGATED NEGATIVE DECLARATION** will be prepared.

If adopted, the Negative Declaration means that an Environmental Impact Report will not be required. Reasons to support this finding are included in the attached Initial Study. The project file and all related documents are available for review at the County of Imperial, Planning & Development Services Department, 801 Main Street, El Centro, CA 92243 (442) 265-1736.

NOTICE

The public is invited to comment on the proposed Negative Declaration during the review period.

11-16-2023 Jim Minnick
Date of Determination Jim Minnick, Director of Planning & Development Services

The Applicant hereby acknowledges and accepts the results of the Environmental Evaluation Committee (EEC) and hereby agrees to implement all Mitigation Measures, if applicable, as outlined in the MMRP.

Allison Bunte 11/20/2023
Applicant Signature Date

EEC ORIGINAL PKG
PC ORIGINAL PKG

SECTION 4

VIII. RESPONSE TO COMMENTS

(ATTACH DOCUMENTS, IF ANY, HERE)

~~EEC ORIGINAL PKG~~
PC ORIGINAL PKG

IX. MITIGATION MONITORING & REPORTING PROGRAM (MMRP)

(ATTACH DOCUMENTS, IF ANY, HERE)

COMMENT LETTERS

EEC ORIGINAL PKG

PC ORIGINAL PKG



Imperial County Planning & Development Services Planning / Building

RECEIVED

Jim Minnick
DIRECTOR

JUN 12 2023

May 26, 2023
REQUEST FOR REVIEW
AND COMMENTS

IMPERIAL COUNTY
PLANNING & DEVELOPMENT SERVICES

The attached project and materials are being sent to you for your review and as an early notification that the following project is being requested and being processed by the County's Planning & Development Services Department. Please review the proposed project based on your agency/department area of interest, expertise, and/or jurisdiction.

- | To: County Agencies | State Agencies/Other | Cities/Other |
|---|--|---|
| <input checked="" type="checkbox"/> County Executive Office - Rosa Lopez/
Miguel Figueroa | <input checked="" type="checkbox"/> IC Sheriff's Office - Robert
Benavidez/Fred Miramontes/Ryan
Kelley | <input checked="" type="checkbox"/> IID - Donald Vargas |
| <input checked="" type="checkbox"/> Public Works - Guillermo Mendoza/John
Gay | <input checked="" type="checkbox"/> Board of Supervisors - John Hawk/
District #5 | <input checked="" type="checkbox"/> IC Fire/OES Office - Andrew Loper/
Sal Flores/Robert Malek |
| <input checked="" type="checkbox"/> City of Yuma Department of Community
Development- Alyssa Linville | <input checked="" type="checkbox"/> Ag. Commissioner - Rachel
Garewal/Margo Sanchez/Ana L
Gomez/Jolene Dessert/ Sandra
Mendivil | <input checked="" type="checkbox"/> EHS - Jeff Lamoure/Mario Salinas/
Alfonso Andrade/Jorge Perez/Vanessa
R Ramirez |
| <input checked="" type="checkbox"/> Winterhaven County Water District- Rick
Miller | <input checked="" type="checkbox"/> Campo Band Of Mission Indians -
Marcus Cuero/Jonathan Mesa | <input checked="" type="checkbox"/> CALTRANS, District 11- Roger
Sanchez |
| <input checked="" type="checkbox"/> Fort Yuma- Quechan Indian Tribe - Jordan
D. Joaquin/ H. Jill McCormick | <input checked="" type="checkbox"/> Bard Water District- Ronald Hill | <input checked="" type="checkbox"/> BLM- Tristian Friedell/ Carrie Sahagun |
| <input checked="" type="checkbox"/> APCD - Monica Soucier/Belen Leon/Jesus
Ramirez | <input checked="" type="checkbox"/> County Counsel - Eric Havens | <input checked="" type="checkbox"/> County Airport - Jenell Guerrero |
| <input checked="" type="checkbox"/> I.V. Emergency Communications Authority-
Mark Schmidt | <input checked="" type="checkbox"/> Bard Water District- Ron Derma | |

From: Evelia Jimenez, Planner II - (442) 265-1736 or ejimenez@co.imperial.ca.us

Project ID: CUP23-0010/V23-0004/IS23-0010

Project Location: 673 Sidewinder Rd. Winterhaven, CA APN 056-470-002

Project Description: Applicant is proposing a 170' foot monopole tower with a 10'-0" foot lighting rod for a total height of 180'-0" feet to be located within a 57'-0" x 45' square foot leased parcel.

Applicants: CitySwitch

Comments due by: June 15th 2023 at 5:00PM

COMMENTS: (attach a separate sheet if necessary) (If no comments, please state below and mail, fax, or e-mail this sheet to Case Planner)

No comments

Name: Ana Gomez Signature: [Signature] Title: Ag. Bridgist

Date: 6/9/23 Telephone No.: 442 265 1500 E-mail: analgomez@co.imperial.ca.us

E:\MRS\Users\APR... 23-0004\CUP23-0010_V23-0004_IS23-0010 Request for Comments 05 28 23.docx

EEC ORIGINAL PKG

PC ORIGINAL PKG



RECEIVED

JUN 15 2023

**IMPERIAL COUNTY
PLANNING & DEVELOPMENT SERVICES**

June 14, 2023

Jim Minnick
Planning & Development Services Director
801 Main Street
El Centro, CA 92243

SUBJECT: Conditional Use Permit 23-0010 & Variance 23-0004 – Cityswitch

Dear Mr. Minnick,

The Air Pollution Control District (Air District) thanks you for the opportunity to review and comment on Conditional Use Permit (CUP) 23-0010 and Variance (V) 23-0004 (Project). The Project proposes the construction and operation of a new 170-foot tall monopole tower with a 10-foot lightning rod for a total tower height of 180 feet. The project is located off at 673 Sidewinder Rd., Winterhaven also Identified as Assessor's Parcel Number 056-470-002.

The Air District reminds the applicant that the project must comply with all Air District rules and regulations and would emphasize Regulation VIII. Regulation VIII is a collection of rules designed to maintain fugitive dust emissions below 20% visual opacity.

If the project includes a generator it may be subject to permitting requirements, generally generators greater than 50-bhp require permits. The Air District requests the applicant contact Jesus Ramirez, Engineering & Permitting Division Manager, to discuss permitting requirements of any generators that may be part of the project.

For your convenience, the Air District's rules and regulations are available online at <https://apcd.imperialcounty.org/rules-and-regulations/>. If you have any questions or concerns please call our office at (442) 265-1800.

Respectfully,

Ismael Garcia
Environmental Coordinator

Reviewed by,

Monica N. Soucier
APC Division Manager

Melina Rizo

From: Sanchez Rangel, Rogelio@DOT <roger.sanchez-rangel@dot.ca.gov>
Sent: Tuesday, May 30, 2023 10:17 AM
To: Evelia Jimenez
Cc: ICPDSCCommentLetters
Subject: CUP23-0010/V23-0004/IS23-0010 Requests for Comments (I-8 IMP)

CAUTION: This email originated outside our organization; please use caution.

Hi Evelia,

Thank you for including Caltrans in the project review for the proposed monopole tower out in Winterhaven, Imperial CA.

Below please find Caltrans general comment.

- Any work performed within Caltrans' R/W will require discretionary review and approval by Caltrans and an encroachment permit will be required for any work within the Caltrans' R/W prior to construction.

Thank you,

[Rogelio Sanchez](#)
Associate Transportation Planner
Local Development Review | Border Studies
California Department of Transportation
roger.sanchez-rangel@dot.ca.gov
Tel (619) 987-1043

RECEIVED
MAY 30 2023
IMPERIAL COUNTY
PLANNING & DEVELOPMENT SERVICES

COUNTY EXECUTIVE OFFICE

Miguel Figueroa
County Executive Officer
miguelfigueroa@co.imperial.ca.us
www.co.imperial.ca.us




County Administration Center
940 Main Street, Suite 208
El Centro, CA 92243
Tel: 442-265-1001
Fax: 442-265-1010

RECEIVED

May 31, 2023

MAY 31 2023

**IMPERIAL COUNTY
PLANNING & DEVELOPMENT SERVICES**

TO: Evelia Jimenez, Planning and Development Services Department
FROM: Rosa Lopez-Solis, Executive Office 
SUBJECT: Comments – City Switch - CUP 23-0010

The County of Imperial Executive Office is commenting on City Switch - CUP 23-0010 project. The Executive Office would like to inform the developer of conditions and responsibilities should the applicant seek a Conditional Use Permit (CUP). The conditions commence prior to the approval of an initial grading permit and subsequently continue throughout the permitting process. This includes, but not limited to:

- Sales Tax Condition. The permittee is required to have a Construction Site Permit (prior to the issuance of any grading permits) reflecting the project site address, allowing all eligible sales tax payments are allocated to the **County of Imperial, Jurisdictional Code 13998**.
- The permittee will provide the County of Imperial a copy of the CDTFA account number and sub-permit for its contractor and subcontractors (if any) related to the jobsite. Permittee shall provide in written verification to the County Executive Office that the necessary sales and use tax permits have been obtained, prior to the issuance of any grading permits.
- Construction/Material Budget: Prior to a grading permit, the permittee will provide the County Executive Office a construction materials budget: an official construction materials budget or detailed budget outlining the construction and materials cost for the processing facility on permittee letterhead.

Should there be any concerns and/or questions, do not hesitate to contact me.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

EEC ORIGINAL PKG

PC ORIGINAL PKG

Melina Rizo

From: Mario Salinas
Sent: Tuesday, May 30, 2023 8:48 AM
To: Melina Rizo; Donald Vargas ; Jorge Perez
Cc: Jim Minnick; Michael Abraham; Diana Robinson; Evelia Jimenez; Aimee Trujillo; John Robb; Kamika Mitchell; Laryssa Alvarado; Rosa Soto; Valerie Grijalva
Subject: RE: CUP23-0010/V23-0004/IS23-0010 Requests for Comments

Follow Up Flag: Follow up
Flag Status: Flagged

Good morning Ms. Rizo,

Pertaining to CUP# 23-0010, if the applicant intends to have generator(s) or storage equipment storing 1,320-gallons of petroleum based product, please have the applicant contact our office. If not, Division of Environmental Health does not have any comments at this time.

Thank you,

Mario Salinas, MBA

Environmental Health Compliance Specialist
Imperial County Public Health Department
Division of Environmental Health
797 Main Street Suite B, El Centro, CA 92243
mariosalinas@co.imperial.ca.us
Phone: (442) 265-1888
Fax: (442) 265-1903
www.icphd.org



RECEIVED
MAY 30 2023
IMPERIAL COUNTY
PLANNING & DEVELOPMENT SERVICES

The preceding e-mail message (including any attachments) contains information that may be confidential, be protected by the attorney-client or other applicable privileges, or constitute non-public information. It is intended to be conveyed only to the designated recipient(s). If you are not an intended recipient of this message, please notify the sender by replying to this message and then delete it from your system. Use, dissemination, distribution, or reproduction of this message by unintended recipients is not authorized and may be unlawful.

From: Melina Rizo <melinarizo@co.imperial.ca.us>
Sent: May 26, 2023 4:40 PM
To: Alphonso Andrade <AlphonsoAndrade@co.imperial.ca.us>; Ana L Gomez <analgomez@co.imperial.ca.us>; Andrew Loper <AndrewLoper@co.imperial.ca.us>; Belen Leon <BelenLeon@co.imperial.ca.us>; Donald Vargas <dvgargas@iid.com>; Eric Havens <EricHavens@co.imperial.ca.us>; Fred Miramontes <fmiramontes@icso.org>; H. Jill McCormick <historicpreservation@quechantribe.com>; Jeff Lamoure <JeffLamoure@co.imperial.ca.us>; Jolene Dessert <JoleneDessert@co.imperial.ca.us>; Jordan D. Joaquin <tribalsecretary@quechantribe.com>; Jorge Perez <JorgePerez@co.imperial.ca.us>; Marcus Cuero <marcuscuero@campo-nsn.gov>; Margo Sanchez <MargoSanchez@co.imperial.ca.us>; Mario Salinas <MarioSalinas@co.imperial.ca.us>; Miguel Figueroa <miguelfigueroa@co.imperial.ca.us>; Monica Soucier <MonicaSoucier@co.imperial.ca.us>; Robert Benavidez

<rbenavidez@icso.org>; Robert Malek <RobertMalek@co.imperial.ca.us>; Rosa Lopez <RosaLopez@co.imperial.ca.us>; Ryan Kelley <RyanKelley@co.imperial.ca.us>; Ryan Kelley <rkelley@isco.org>; Sandra Mendivil <SandraMendivil@co.imperial.ca.us>; Rachel Garewal <RachelGarewal@co.imperial.ca.us>; Jesus Ramirez <JesusRamirez@co.imperial.ca.us>; Jenell Guerrero <JenellGuerrero@co.imperial.ca.us>; John Hawk <johnhawk@co.imperial.ca.us>; Vanessa Ramirez <VanessaRamirez@co.imperial.ca.us>; Salvador Flores <SalvadorFlores@co.imperial.ca.us>; Mark Schmidt <MarkSchmidt@co.imperial.ca.us>; bardwater@outlook.com; hbardorian@aol.com; whavenca@gmail.com; Roger Sanchez <roger.sanchez-rangel@dot.ca.gov>; triddell@blm.gov; Sahagun, Carrie L <csahagun@blm.gov>; jmesa@campo-nsn.gov
Cc: Jim Minnick <JimMinnick@co.imperial.ca.us>; Michael Abraham <MichaelAbraham@co.imperial.ca.us>; Diana Robinson <DianaRobinson@co.imperial.ca.us>; Evelia Jimenez <EJimenez@co.imperial.ca.us>; Aimee Trujillo <aimeetrujillo@co.imperial.ca.us>; John Robb <JohnRobb@co.imperial.ca.us>; Kamika Mitchell <kamikamitchell@co.imperial.ca.us>; Laryssa Alvarado <laryssaalvarado@co.imperial.ca.us>; Melina Rizo <melinarizo@co.imperial.ca.us>; Rosa Soto <RosaSoto@co.imperial.ca.us>; Valerie Grijalva <ValerieGrijalva@co.imperial.ca.us>
Subject: CUP23-0010/V23-0004/IS23-0010 Requests for Comments

Good Afternoon,

Please see attached Request for Comments packet for CUP23-0010/V23-0004/IS23-0010 APN 056-470-002 {673 Sidewinder Rd., Winterhaven, CA}

Comments are due by **June 15th, 2023 at 5:00PM.**

In an effort to increase the efficiency at which information is distributed and reduce paper usage, the Request for Comments packet is being sent to you via this email.

Should you have any questions, please feel free to contact Evelia Jimenez at (442) 265-1736, or submit your comment letters to ICPDScommentletters@co.imperial.ca.us.

Thank you,

Melina Rizo

Account Clerk III
Imperial County Planning & Development Services
801 Main St.
El Centro, CA 92243
(442)265-1736





www.iid.com

Since 1911

June 8, 2023

RECEIVED

JUN 08 2023

**IMPERIAL COUNTY
PLANNING & DEVELOPMENT SERVICES**

Ms. Evelia Jimenez
Planner II
Planning & Development Services Department
County of Imperial
801 Main Street
El Centro, CA 92243

SUBJECT: City Swytch Telecom Tower Project at Sidewinder Road; CUP23-0010/V23-0004/IS23-0010

Dear Ms. Jimenez:

On May 26, 2023, the Imperial Irrigation District received from the Imperial County Planning & Development Services Department, a request for agency comments on the telecom tower project at Sidewinder Road; Conditional Use Permit No. 23-0010, Variance No. 23-0004, Initial Study No. 23-0010. The applicant, CitySwytch, proposes to install a 170 ft. monopole tower with a 10 ft. lightning rod on a 57 ft. x 45 ft. site located at 673 Sidewinder Road, Winterhaven, CA (APN 056-470-002-000).

The IID has reviewed the application and has the following comments:

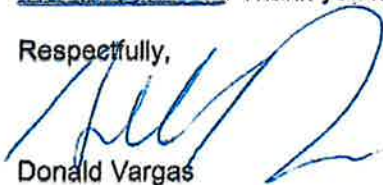
1. For electrical service to the proposed communication tower, the applicant should be advised to contact Joel Lopez, IID project development service planner, at (760) 482-3444 or e-mail Mr. Lopez at jflopez@iid.com to initiate the customer service application process. In addition to submitting a formal application (available for download at the district website <http://www.iid.com/home/showdocument?id=12923>), the applicant will be required to submit a complete set of approved project plans by the County of Imperial (including AutoCAD files of the site plan and electrical plans), electrical panel size and panel location, operating voltage, electrical loads, project schedule, and the applicable fees, permits, easements and environmental compliance documentation pertaining to the provision of electrical service to the project. The applicant shall be responsible for all costs and mitigation measures related to providing electrical service to the project.
2. Electrical capacity is limited in the project area. A circuit study may be required. Any system improvements or mitigation identified in the circuit study to enable the provision of electrical service to the project shall be the financial responsibility of the applicant.
3. Applicant shall provide a surveyed legal description and an associated exhibit certified by a licensed surveyor for all rights of way deemed by IID as necessary to accommodate the project electrical infrastructure. Rights-of-Way and easements shall be in a form acceptable to and at no cost to IID for installation, operation, and maintenance of all electrical facilities.

4. Any construction or operation on IID property or within its existing and proposed right of way or easements including but not limited to: surface improvements such as proposed new streets, driveways, parking lots, landscape; and all water, sewer, storm water, or any other above ground or underground utilities; will require an encroachment permit, or encroachment agreement (depending on the circumstances). A copy of the IID encroachment permit application and instructions for its completion are available at <https://www.iid.com/about-iid/department-directory/real-estate>. The IID Real Estate Section should be contacted at (760) 339-9239 for additional information regarding encroachment permits or agreements. No foundations or buildings will be allowed within IID's right of way.

5. Any new, relocated, modified or reconstructed IID facilities required for and by the project (which can include but is not limited to electrical utility substations, electrical transmission and distribution lines, water deliveries, canals, drains, etc.) need to be included as part of the project's California Environmental Quality Act (CEQA) and/or National Environmental Policy Act (NEPA) documentation, environmental impact analysis and mitigation. Failure to do so will result in postponement of any construction and/or modification of IID facilities until such time as the environmental documentation is amended and environmental impacts are fully analyzed. Any and all mitigation necessary as a result of the construction, relocation and/or upgrade of IID facilities is the responsibility of the project proponent.

Should you have any questions, please do not hesitate to contact me at 760-482-3609 or at dvargas@iid.com. Thank you for the opportunity to comment on this matter.

Respectfully,



Donald Vargas
Compliance Administrator II

Bergio Quiroz – Interim General Manager
Mike Pacheco – Manager, Water Dept.
Jamie Asbury – Manager, Energy Dept.
Matthew H Smelser – Deputy Mgr. Energy Dept.
Daryl Buckley – Mgr. of Distribution Svcs. & Maint. Optrns., Energy Dept.
Geoffrey Holbrook – General Counsel
Michael P. Kemp – Superintendent General, Fleet Services and Reg. & Environ. Compliance
Laura Cervantes – Supervisor, Real Estate
Jessica Humea – Environmental Project Mgr. Sr., Water Dept.

EEC ORIGINAL PKG

PC ORIGINAL PKG



Imperial Valley Emergency Communications
 Communications Authority
 2514 La Brucherie Road, Imperial, CA 92251
 Voice: 442-265-6029



Imperial County Planning & Development Services
 801 Main Street
 El Centro, California 92243
 Attention: Evelia Jimenez
 June 8, 2023

RECEIVED

JUN 12 2023

IMPERIAL COUNTY

PLANNING & DEVELOPMENT SERVICES

RE: Comments on Project ID CUP # 23-0010/V23-0004/IS23-0010

Dear Evelia Jimenez:

Thank you very much for the opportunity to review and comment on CUP # 23-0010/V23-0004/IS23-0010.

CitySwitch proposes the construction and development of a new communication facility and tower consisting of a 170-foot tall, monopole, co-locatable tower with a 10-foot tall lightning rod, various antennas, associated radio equipment, and other related infrastructure. The project location is 673 Sidewinder Road, Winterhaven, CA. APN 056-470-002.

The Imperial Valley Emergency Communications Authority (hereinafter, IVECA), is entrusted with the operation of the 800 MHz radio communication system which serves Imperial County Fire, Law Enforcement, and Emergency Medical Services.

Future IVECA or Imperial County communication needs could necessitate tower space on the proposed tower and other related on-site infrastructure. The project's location is quite desirable for communication system enhancements. We therefore are respectfully requesting a Local/Public Benefit Agreement with CUP # 23-0010/V23-0004/IS23-0010. We are hopeful for language favorable to IVECA for future communication system additions in perpetuity in said CUP. This would include, but not limited to, multiple antenna spaces, guaranteed antenna heights, and shelter space all at no cost to Imperial County or IVECA. It is obvious that the best interest of Imperial County first responders, and the public at large, are best served with the inclusion of a Local/Public Benefit Agreement.

Thank you in advance for your consideration of IVECA's request. Please contact me with any questions.

Sincerely,

Mark Schmidt
 Imperial Valley Emergency Communications Authority (IVECA)
 Emergency Communications Project Coordinator
markschmidt@co.imperial.ca.us
 Cell: 442-283-1688

EEC ORIGINAL PKG

PC ORIGINAL PKG

Melina Rizo

From: Jill McCormick <historicpreservation@quechantribe.com>
Sent: Tuesday, May 30, 2023 4:05 PM
To: Melina Rizo
Cc: Evelia Jimenez; ICPDSCCommentLetters
Subject: RE: [EXTERNAL]:CUP23-0010/V23-0004/IS23-0010 Requests for Comments

CAUTION: This email originated outside our organization; please use caution.
This email is to inform you that we do not wish to comment on this project.

*Thank you,
H. Jill McCormick, M.A.*

Quechan Indian Tribe
Historic Preservation Officer
P.O. Box 1899
Yuma, AZ 85366-1899
Office: 760-572-2423
Cell: 928-261-0254
E-mail: historicpreservation@quechantribe.com



RECEIVED

MAY 30 2023

**IMPERIAL COUNTY
PLANNING & DEVELOPMENT SERVICE**

From: Melina Rizo <melinarizo@co.imperial.ca.us>
Sent: Friday, May 26, 2023 4:40 PM
To: Alphonso Andrade <AlphonsoAndrade@co.imperial.ca.us>; Ana L Gomez <analomez@co.imperial.ca.us>; Andrew Loper <AndrewLoper@co.imperial.ca.us>; Belen Leon <BelenLeon@co.imperial.ca.us>; Donald Vargas <dvgargas@iid.com>; Eric Havens <EricHavens@co.imperial.ca.us>; Fred Miramontes <fmiramontes@icso.org>; Jill McCormick <historicpreservation@quechantribe.com>; Jeff Lamoure <JeffLamoure@co.imperial.ca.us>; Jolene Dessert <JoleneDessert@co.imperial.ca.us>; Gabby Emerson <tribalsecretary@quechantribe.com>; Jorge Perez <JorgePerez@co.imperial.ca.us>; Marcus Cuero <marcuscuero@campo-nsn.gov>; Margo Sanchez <MargoSanchez@co.imperial.ca.us>; Mario Salinas <MarioSalinas@co.imperial.ca.us>; Miguel Figueroa <miguelfigueroa@co.imperial.ca.us>; Monica Soucier <MonicaSoucier@co.imperial.ca.us>; Robert Benavidez <rbenavidez@icso.org>; Robert Malek <RobertMalek@co.imperial.ca.us>; Rosa Lopez <RosaLopez@co.imperial.ca.us>; Ryan Kelley <RyanKelley@co.imperial.ca.us>; Ryan Kelley <rkelley@icso.org>; Sandra Mendivil <SandraMendivil@co.imperial.ca.us>; Rachel Garewal <RachelGarewal@co.imperial.ca.us>; Jesus Ramirez <JesusRamirez@co.imperial.ca.us>; Jenell Guerrero <JenellGuerrero@co.imperial.ca.us>; John Hawk <johnhawk@co.imperial.ca.us>; Vanessa Ramirez <VanessaRamirez@co.imperial.ca.us>; Salvador Flores <SalvadorFlores@co.imperial.ca.us>; Mark Schmidt <MarkSchmidt@co.imperial.ca.us>; bardwater@outlook.com;

Aimee Trujillo

From: Jill McCormick <historicpreservation@quechantribe.com>
Sent: Thursday, August 3, 2023 6:56 AM
To: Aimee Trujillo; Evelia Jimenez
Subject: RE: [EXTERNAL]:CUP23-0010 AB 52 Letter

CAUTION: This email originated outside our organization; please use caution.

This email is to inform you that we do not wish to comment on this project.

H. Jill McCormick M.A.
Ft. Yuma Quechan Indian Tribe
P.O. Box 1899
Yuma, AZ 85366-1899
Office: 760-572-2423
Cell: 928-261-0254



RECEIVED
AUG 03 2023
IMPERIAL COUNTY
PLANNING & DEVELOPMENT SERVICES

From: Aimee Trujillo <aimeetrujillo@co.imperial.ca.us>
Sent: Wednesday, August 02, 2023 11:51 AM
To: Jill McCormick <historicpreservation@quechantribe.com>; Gabby Emerson <tribalsecretary@quechantribe.com>
Cc: Jim Minnick <JimMinnick@co.imperial.ca.us>; Michael Abraham <MichaelAbraham@co.imperial.ca.us>; Diana Robinson <DianaRobinson@co.imperial.ca.us>; Evelia Jimenez <EJimenez@co.imperial.ca.us>; Aimee Trujillo <aimeetrujillo@co.imperial.ca.us>; John Robb <JohnRobb@co.imperial.ca.us>; Kamika Mitchell <kamikamitchell@co.imperial.ca.us>; Cassandra Castaneda <kassandrastaneda@co.imperial.ca.us>; Laryssa Alvarado <laryssaalvarado@co.imperial.ca.us>; Rosa Soto <RosaSoto@co.imperial.ca.us>
Subject: [EXTERNAL]:CUP23-0010 AB 52 Letter

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning,

Attached hereto please find the AB52 letter for **CUP23-0010** (APN 056-470-002)

APPLICATION SUBMITTAL

EEC ORIGINAL PKG

PC ORIGINAL PKG

CONDITIONAL USE PERMIT

I.C. PLANNING & DEVELOPMENT SERVICES DEPT.
801 Main Street, El Centro, CA 92243 (760) 482-4236

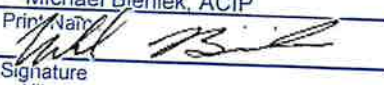

- APPLICANT MUST COMPLETE ALL NUMBERED (black) SPACES - Please type or print -

1. PROPERTY OWNER'S NAME CitySwitch (Lessee)	EMAIL ADDRESS info@cityswitch.com	
2. MAILING ADDRESS (Street / P O Box, City, State) 1900 Century Place NE, Suite 320, Atlanta, GA	ZIP CODE 30345	PHONE NUMBER 404-857-0858
3. APPLICANT'S NAME Michael Bieniek, AICP / Allison R. Burke (Agents)	EMAIL ADDRESS mbieniek@icctelecom.com / aburke@shermanhoward.com	
4. MAILING ADDRESS (Street / P O Box, City, State) 10700 W. Higgins, Ste 240, Rosemont, IL / 675 15th Ste 2300 Denver, CO	ZIP CODE 60018 / 80202	PHONE NUMBER 847-287-1156 / 303-299-8045
4. ENGINEER'S NAME Westchester Services, LLC - Glen L Hunt III	CA. LICENSE NO.	EMAIL ADDRESS ghunt@westchesterservices.com
5. MAILING ADDRESS (Street / P O Box, City, State) 3470 W. Jasper Drive, Chandler, AZ	ZIP CODE 85226	PHONE NUMBER 602-403-8614
6. ASSESSOR'S PARCEL NO. 056-470-002	SIZE OF PROPERTY (in acres or square foot) Railroad right-of-way	ZONING (existing) S-2
7. PROPERTY (site) ADDRESS Vacant railroad right-of-way 637-639 Sidewinder Rd N, Felicity, CA 92283		
8. GENERAL LOCATION (i.e. city, town, cross street) Sidewinder Road, approximately 1,200' north of Interstate 8, Felicity		
9. LEGAL DESCRIPTION See attached lease agreement		

PLEASE PROVIDE CLEAR & CONCISE INFORMATION (ATTACH SEPARATE SHEET IF NEEDED)

10. DESCRIBE PROPOSED USE OF PROPERTY (list and describe in detail) a total height of 180'-0" to be located within a 57'-0" x 45' lease parcel.	Proposed 170' monopole tower with a 10'-0" lightning rod for
11. DESCRIBE CURRENT USE OF PROPERTY	Railroad right-of-way
12. DESCRIBE PROPOSED SEWER SYSTEM	N/a
13. DESCRIBE PROPOSED WATER SYSTEM	N/a
14. DESCRIBE PROPOSED FIRE PROTECTION SYSTEM	N/a
15. IS PROPOSED USE A BUSINESS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	IF YES, HOW MANY EMPLOYEES WILL BE AT THIS SITE? No permanent employees

I / WE THE LEGAL OWNER (S) OF THE ABOVE PROPERTY CERTIFY THAT THE INFORMATION SHOWN OR STATED HEREIN IS TRUE AND CORRECT.

Michael Bieniek, ACIP 4/11/23
 Print Name Date
 Signature 
 Allison R. Burke 4/11/23
 Print Name Date
 Signature 

REQUIRED SUPPORT DOCUMENTS

- A. SITE PLAN
- B. FEE
- C. OTHER
- D. OTHER

APPLICATION RECEIVED BY:	DATE	REVIEW / APPROVAL BY OTHER DEPT'S required. <input type="checkbox"/> P. W. <input type="checkbox"/> E. H. S. <input type="checkbox"/> A. P. C. D. <input type="checkbox"/> O. E. S. <input type="checkbox"/> _____ <input type="checkbox"/> _____
APPLICATION DEEMED COMPLETE BY:	DATE	
APPLICATION REJECTED BY:	DATE	
TENTATIVE HEARING BY:	DATE	
FINAL ACTION: <input type="checkbox"/> APPROVED <input type="checkbox"/> DENIED	DATE	

CUP #
23-000

EEG ORIGINAL PKG

PC ORIGINAL PKG

SITE PLAN REQUIREMENTS

PLAN MUST:

- a. Be drawn to scale upon substantial paper, 11" x 14" (min.) – (20 copies must be submitted.)
- b. Show name of owner, legal description and Assessor's Parcel Number.
- c. Show existing property dimensions, size, adjacent roads, canals, right-of-ways, easements, etc.
- d. Show all existing and proposed structures (both above and below ground) location of sewer and water systems.
- e. Show adjacent property uses and approximate distances to nearest structures.
- f. Indicate name of person preparing site plan.
- g. Show North orientation.
- h. Show sufficient dimensions and information for proper evaluation to be done.

CAUTION: Incomplete or inaccurate applications, plans will cause the entire application to be rejected.

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APR 12 2022

IMPERIAL COUNTY
PLANNING & DEVELOPMENT SERVICES



Sherman & Howard LLC



**APPLICATION FOR CONDITIONAL USE PERMIT AND HEIGHT VARIANCE
APPROVAL FOR
THE PROPOSED COMMUNICATION FACILITY AT**

**637-639 SIDEWINDER RD N
FELICITY, CA 92283
APN: 056-470-002**

**CITYSWITCH SITE NAME / # – WINTERHAVEN CAC002
AT&T SITE NUMBER - 1010309**

Table of Contents

1. Letter of Application
2. Application Materials
3. Site Data Sheet
4. Right-of-Way Title
5. Narrative Overview
6. Compliance with Section 92402.01
7. Compliance with Section 92405.01
8. Conditional Use Permit Standards
9. Variance Standards
10. Alternatives Analysis
11. Sworn Statement of AT&T
12. Carrier Coverage Plot
13. Fall Zone Certification
14. Site Plan
15. FAA Determination
16. Lease

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APR 12 2022
IMPERIAL COUNTY
PLANNING & DEVELOPMENT SERVICES

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APR 12 2022

IMPERIAL COUNTY

PLANNING & DEVELOPMENT SERVICES

Letter of Application

April 3, 2023

Mr. Jim Minnick
Planning & Development Services Director, Imperial County
801 W. Main Street
El Centro, CA 92243

RE: Proposed CitySwitch Communications Facility – Winterhaven CAC002
AT&T Site - 10101309
637-639 Sidewinder Rd N
APN 056-470-002
Felicity, CA 92283

Dear Mr. Minnick:

LCC Telecom Services and Sherman & Howard L.L.C. represent CitySwitch. CitySwitch has finalized an agreement with the property owners of the site referenced above to develop and construct a Communications Facility that will be available to be used by wireless carriers. The proposed shared use facility is designed to house the equipment necessary to provide clear and uninterrupted wireless telecommunications services to the residents and visitors of Imperial County.

This proposed Communications Facility is being constructed pursuant to Sections 92402.01 and 92405.01 of the Imperial County Land Use Code (the "Code"). The proposed facility will consist of a 170'-0" tall monopole tower with a 10'-0" lightning rod for a total height of 180'-0" to be located within a 57'-0" x 45'-0" lease parcel. The proposed tower will be erected, owned, and operated by CitySwitch. CitySwitch has a commitment with Union Pacific and AT&T Mobility, a wireless services provider, for this site. Additionally, the facility will be open for co-location to other wireless providers.

The proposed Communications Facility is located in an S-2, Open Space/Preservation zone. Pursuant to Section 90519.02(d) of the Code, Communications Facilities are allowed in this district with a Conditional Use Permit approval. Communications Facilities exceeding the maximum allowable height are allowed in this district with Variance approval.

On behalf of the applicant CitySwitch, LCC Telecom Services and Sherman & Howard have submitted all required documentation for the proposed tower in accordance with Section 92402.01 of the Code for this application to be deemed complete. Should you have any questions please feel free to contact me. I look forward to working with you during the review and approval process. CitySwitch looks forward to helping provide Imperial County with improved wireless coverage.

Sincerely,



Michael Bieniek, AICP
Zoning Director



Allison R. Burke
Associate

Application Materials

Site Data Sheet

Applicant: CitySwitch
1900 Century Place NE
Suite 320
Atlanta, GA 30345

Authorized Agent: Michael Bieniek, AICP
LCC Telecom Services
10700 Higgins Road
Suite 240
Rosemont, IL 60018

Allison R. Burke
Sherman & Howard, LLC
675 Fifteenth Street
Suite 2300
Denver, CO 80202

Tower Owner: CitySwitch
1900 Century Place NE
Suite 320
Atlanta, GA 30345

Applicant's Interest in the Property: Leasehold

Property Owner: Union Pacific Railroad
1400 Douglas Street
Omaha, NE 68179

Address of Property: 637-639 Sidewinder Rd N
Felicity, CA 92283

Parcel Number: APN: 056-470-002

Request: Application for a Conditional Use Permit, Height Variance and any other approvals or permits necessary to erect a 170'-0" monopole tower with a 10'-0" lightning rod for a total height of 180'-0" and telecommunications equipment to be located within a 57'-0" x 45'-0" ground area.

Right-of-Way Title



U.S. TITLE SOLUTIONS

100 Corporate Drive, Suite 305, Lebanon, NJ 08833

Phone (908) 849-3011 Fax (908) 849-7981

www.ustitlesolutions.com

REPORT OF TITLE
Document Research and Retrieval
U.S. Title Solutions File No. UST71006
Reference No. Brawley
Site Name: Brawley

Prepared For: LCC Telecom Services, LLC -

Premises: TBD, Brawley, CA 92227

Parcel: 056-470-002

County: Imperial

REPORT POWERED BY LAND-IT™

This Report of Title is for informational purposes only. It is not a representation of the condition of title to real property. It is not an abstract, legal opinion, opinion of title, or any form of title insurance. This report is issued exclusively for the benefit of the applicant therefore, and may not be relied upon by any other person. The liability of U.S. Title Solutions is limited to the amount of the fee paid therefore.

U.S. TITLE SOLUTIONS
File No. UST71006 Reference No. Brawley

REPORT OF TITLE
SCHEDULE - I

1. **DATE OF REPORT :** April 07, 2022

2. **SCOPE OF SEARCH:** Beginning **January 01, 1908** and extending through **February 28, 2022**, a search of the land records for the jurisdiction where the property is located was conducted and we have reported what was found regarding taxes; deeds; mortgages; easements and right of ways; covenants and restrictions; judgments; liens and UCCs; and other matters commonly recorded or filed in the County records.

3. **THE ESTATE OR INTEREST IN THE LAND DESCRIBED OR REFERRED TO IN THIS REPORT IS:**

Fee Simple

4. **TITLE TO SAID ESTATE OR INTEREST IN THE LAND DESCRIBED OR REFERRED TO IN THIS REPORT IS AT THE EFFECTIVE DATE HEREOF VESTED IN:**

Southern Pacific Company

5. **SOURCE OF TITLE :**

Property card made by Property Card, in [Instrument No: Property Detail Report](#).

Notes: Searcher advised no vesting deed or patent could be found of record for subject property or grantee. The Imperial County Assessor's Office found old SBE maps that shows the Southern Pacific Railroad being in Section 21 Township 16S Range 21E using the corresponding SBE numbers (872-13-9-3).

For reference only, [Instrument No: SBE Map](#) , attached has the U.S. Government as Grantor and Southern Pacific R.R. Co. as Grantee. Under the remarks, it states "Acquired for station grounds under section 8 of the Act of Congress of Mar. 3 1871" which under this act, is believed to have authorized the Southern Pacific Railroad Company of California to construct a certain line of railroad and granted certain lands.

6. **PROPERTY IS IDENTIFIED AS FOLLOWS :**

Parcel ID : 056-470-002
Tax Year : 2021
Status : Exempt

7. **THE LAND REFERRED TO IN THIS REPORT IS SET FORTH ON SCHEDULE - II ATTACHED HERETO**

U.S. TITLE SOLUTIONS
File No. UST71006 Reference No. Brawley

REPORT OF TITLE
SCHEDULE - II

(LEGAL DESCRIPTION)

A survey is required for an accurate metes and bounds description.

U.S. TITLE SOLUTIONS
File No. UST71006 Reference No. Brawley

REPORT OF TITLE
SCHEDULE - III

The items set forth herein are intended to provide you with notice of matters affecting title to the land described in Schedule - II of this Report. Any statement of facts or matters which an accurate survey of the land would disclose, rights of tenants or parties in possession under unrecorded leases and easements or claims of easements not shown by the public record are not included in this report. No liability is assumed for items not indexed or mis-indexed in the County Records.

1. MORTGAGES, DEEDS OF TRUST AND UCCs

None found within period searched.

2. JUDGMENTS AND LIENS

None found within period searched.

3. COVENANTS AND RESTRICTIONS

None found within period searched.

4. EASEMENTS AND RIGHTS OF WAY

None found within period searched.

5. OTHER RECORDED DOCUMENTS

5.1 Parcel Map No. M-891 Recorded July 18, 1977, in [Book 3, Page 72.](#)

5.2 Certificate of Merger between Southern Pacific Company and Southern Pacific Transportation Company, Dated December 02, 1969, Recorded December 09, 1969, in [Book 1286, Page 821.](#)

5.3 Township No. 16 South, Range No. 21 East, San Bernardino Meridian, California Recorded November 07, 1934, in [Instrument No: 1933 Government Survey.](#)

5.4 Parcel Map No. M-1964 in [Book 8, Page 31.](#)

Notes: For reference - shows portion of subject property as "not a part".

6. OTHER UNRECORDED DOCUMENTS

6.1 [Assessor's Map](#)

U.S. TITLE SOLUTIONS
File No. UST71006 Reference No. Brawley

REPORT OF TITLE
SCHEDULE - V

(OWNERSHIP HISTORY)

1. Property card made by Property Card to Southern Pacific Company , in [Instrument No. Property Detail Report](#).

Notes: Searcher advised no vesting deed or patent could be found of record for subject property or grantee. The Imperial County Assessor's Office found old SBE maps that shows the Southern Pacific Railroad being in Section 21 Township 16S Range 21E using the corresponding SBE numbers (872-13-9-3).

For reference only, [Instrument No. SBE Map](#) , attached has the U.S. Government as Grantor and Southern Pacific R.R. Co. as Grantee. Under the remarks, it states "Acquired for station grounds under section 8 of the Act of Congress of Mar. 3 1871" which under this act, is believed to have authorized the Southern Pacific Railroad Company of California to construct a certain line of railroad and granted certain lands.

Property Detail Report

CA

APN: 056-470-002-000

Imperial County Data as of: 12/29/2021

Owner Information

Owner Name: Southern Pacific Co
Vesting: Corporation
Mailing Address:

Occupancy: Unknown

Location Information

Legal Description: Por Sbe 872-13-9-3 Of Sec 21 16-21
APN: 056-470-002-000 Alternate APN: 0564700201
Munic / Twnshp: Twnshp-Rng-Sec:
Subdivision: Tract #:
Neighborhood: School District: San Pasqual Valley Unified
Elementary School: San Pasqual Valley... Middle School: San Pasqual Middle
Latitude: 32.75386 Longitude: -114.76022
County: Imperial, CA
Census Tract / Block:
Legal Lot / Block:
Legal Book / Page:
High School: San Pasqual Valley...

Last Transfer / Conveyance - Current Owner

Transfer / Rec Date: Price:
Buyer Name: Seller Name: Transfer Doc #:
Deed Type:

Last Market Sale

Sale / Rec Date: Sale Price / Type: Deed Type:
Multi / Split Sale: Price / Sq. Ft.: New Construction:
1st Mtg Amt / Type: 1st Mtg Rate / Type: 1st Mtg Doc #: N/A
2nd Mtg Amt / Type: 2nd Mtg Rate / Type: Sale Doc #: N/A
Seller Name: Title Company:
Lender:

Prior Sale Information

Sale / Rec Date: Sale Price / Type: Prior Deed Type:
1st Mtg Amt / Type: 1st Mtg Rate / Type: Prior Sale Doc #: N/A
Prior Lender:

Property Characteristics

Gross Living Area: Total Rooms: 0 Year Built / Eff:
Living Area: Bedrooms: Stories:
Total Adj. Area: Baths (F / H): Parking Type:
Above Grade: Pool: Garage #:
Basement Area: Fireplace: Garage Area:
Style: Cooling: Porch Type:
Foundation: Heating: Patio Type:
Quality: Exterior Wall: Roof Type:
Condition: Construction Type: Roof Material:

Site Information

Land Use: Public School Lot Area: 1,165,230 Sq. Ft. Zoning:
State Use: Lot Width / Depth: # of Buildings:
County Use: 604 - Schools Usable Lot: Res / Comm Units:
Site Influence: Acres: 26.75 Water / Sewer Type:
Flood Zone Code: A Flood Map #: 06025C1875C Flood Map Date: 09/26/2008
Community Name: Fort Yuma Indian Reservation Flood Panel #: 1875C Inside SFHA: True

Tax Information

Assessed Year: 2021 Assessed Value: Market Total Value:
Tax Year: Land Value: Market Land Value:
Tax Area: 94-002 Improvement Value: Market Imprv Value:
Property Tax: Improved %: Market Imprv %:
Exemption: Delinquent Year:

Disclaimer: This report is not an insured product or service or a representation of the condition of title to real property. It is not an abstract, legal opinion, opinion of title, title insurance, commitment or preliminary report, or any form of title insurance or guaranty. Estimated property values are: (i) based on available data; (ii) are not guaranteed or warranted; (iii) do not constitute an appraisal; and (iv) should not be relied upon in lieu of an appraisal. This report is issued exclusively for the benefit of the applicant therefor, and may not be used or relied upon by any other person. This report may not be reproduced in any manner without the issuing party's prior written consent. The issuing party does not represent or warrant that the information herein is complete or free from error, and the information herein is provided without any warranties of any kind, as-is, and with all faults. As a material part of the consideration given in exchange for the issuance of this report, recipient agrees that the issuing party's sole liability for any loss or damage caused by an error or omission due to inaccurate information or negligence in preparing this report shall be limited to the fee charged for the report. Recipient accepts this report with this limitation and agrees that the issuing party would not have issued this report but for the limitation of liability described above. The issuing party makes no representation or warranty as to the legality or propriety of recipient's use of the information herein.

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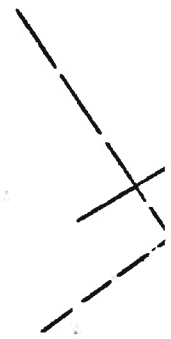
EEC ORIGINAL PKG

PC ORIGINAL PKG

SCHEDULE OF PROPERTY

No.	GRANTOR	GRANTEE	INSTRUMENT	DATE	RECORD	Custb No	AREA	
							SQ. FT.	ACRES
1	U.S. Government	Southern Pacific R.R. Co.	Act of Cong.	Mar. 3-1871			182,123	
2	State of California	"	A.B. Inc. Act	May 20, 1876			3,883	
3			Sec 474 C. Capital				5,000	No record of
4	U.S. Government	Southern Pacific R.R. Co.	Act of Cong.	Mar. 3-1875				See Note A
5	"	"	"	Mar 2-1899				See Note 1
	U.S. Gov. (Dept. of the Int.)	Southern Pacific R.R. Co.	Schedule	May 19-1910		10442		Covers 24 above parcels
Und 3								See Remark
Und 4	S.P.R.R. Co.	U.S. Government	Relinquishment	Nov. 24, 1928		37725		32,645 ac. re
Und 5						37363		See Note N

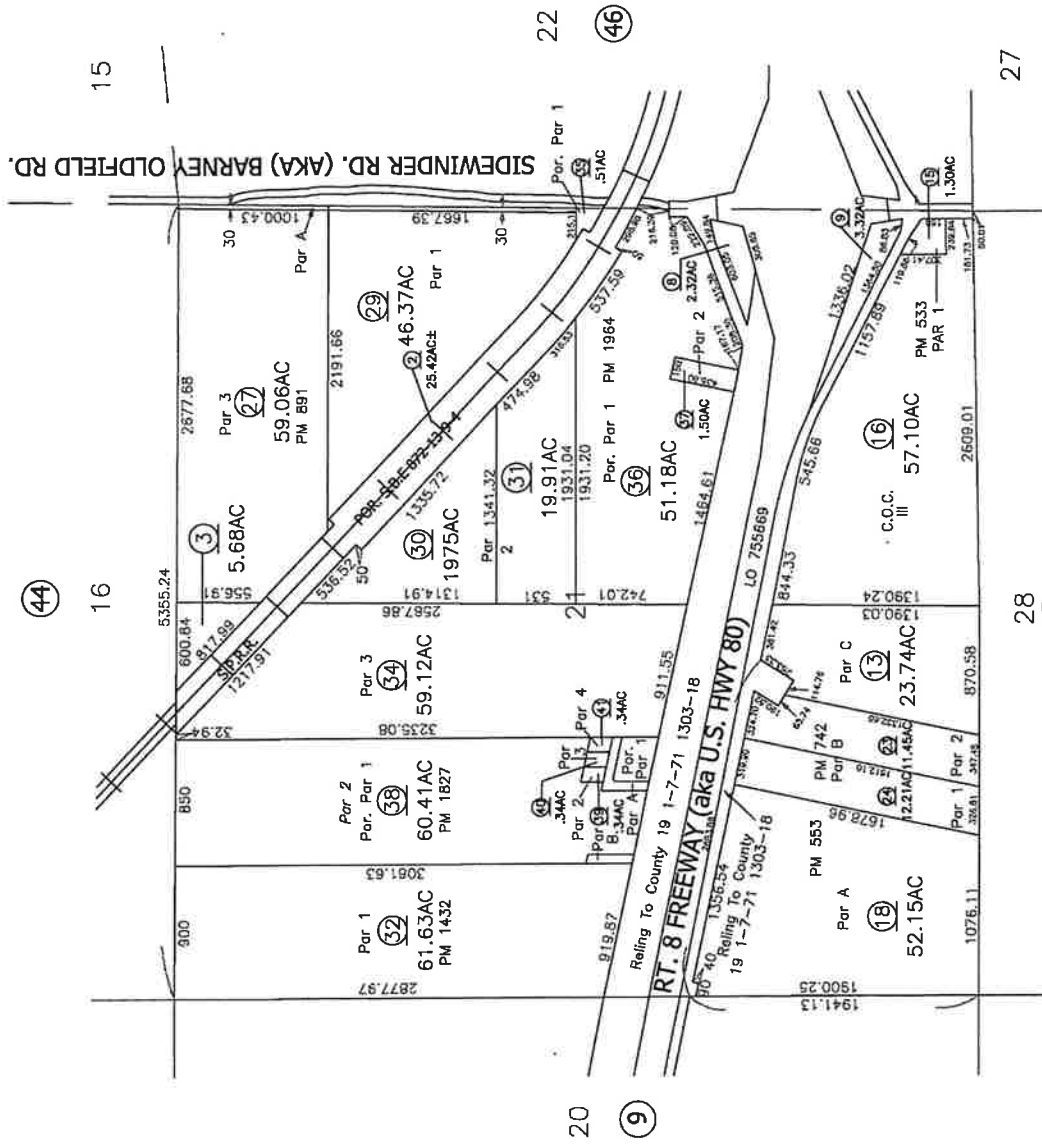
Note No. 1: Acquired for station grounds under section 8 of the Act of Congress of Mar. 3, 1871. See letter C.F.R. Ogilby to Guy.
 Note No. 2: The 32,645 ac. previously shown as Par. 4 has been eliminated acct. Relinquishment of land as per deed Audit 37725 below.
 Note No. 3: The 12,626 ac. previously shown in area column have been eliminated and shown hatched as per deed Audit 37363 below.
 Note No. 4: 166,565 ac. lost; 12,626 ac. acq'd. by Par. 5 this map; 153,939 ac. acq'd. by Par. 8, Map 18, letter Gup V. Shoup to G.W. Boschke d



SEC. 21 T165, R21E

Tax Area Code
94-002

56-47



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BLOOM - UP
FROM 56-10
7-22-80 LS
2-10-93 LS 8-28-12 MF

Assessor's Map Bk.56-Pg.47
County of Imperial, Calif.

PC ORIGINAL PKG

EEC ORIGINAL PKG

PARCEL MAP NO. M-891

LEGAL DESCRIPTION
 BEING THAT PART OF THE NE 1/4 OF SECTION 21, TOWNSHIP 14 N, RANGE 10 E, S.B.M., COUNTY OF HARRISON, STATE OF MISSISSIPPI, ACCORDING TO THE ORIGINAL PLAT OF RE-SURVEY OF

BASIS OF BEARINGS
 AS SHOWN ON SAID PLAT DATED NOV. 7, 1929. (CROSS REFERENCE)

SURVEYOR'S CERTIFICATE
 THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND I HEREBY CERTIFY THAT THE SURVEY WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE SURVEYOR'S MAP ACT OF 1977. I HEREBY CERTIFY THAT THE SURVEY WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE SURVEYOR'S MAP ACT OF 1977. I HEREBY CERTIFY THAT THE SURVEY WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE SURVEYOR'S MAP ACT OF 1977.

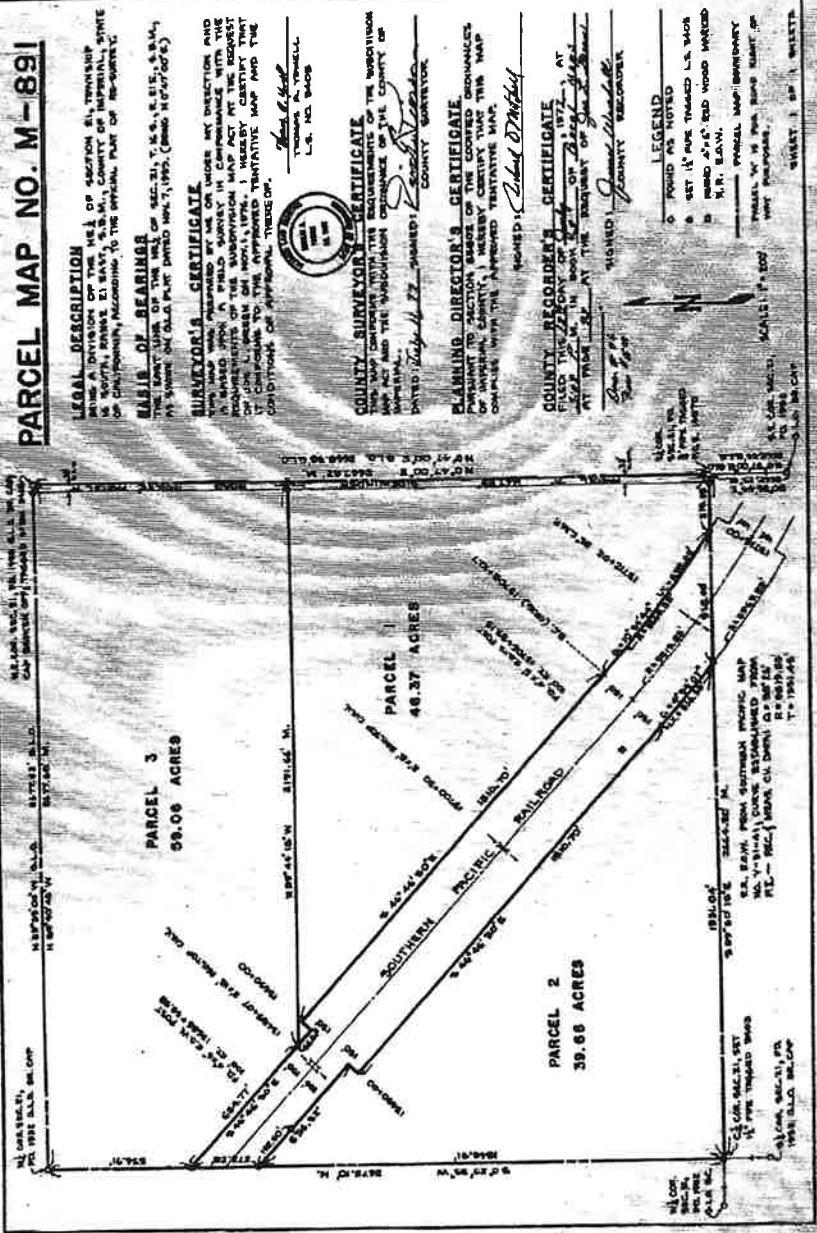


COUNTY SURVEYOR'S CERTIFICATE
 THIS MAP CONFORMS WITH THE REQUIREMENTS OF THE SURVEYOR'S MAP ACT AND THE JURISDICTION OF THE COUNTY OF HARRISON, MISSISSIPPI. I HEREBY CERTIFY THAT THIS MAP IS COMPLETE WITH THE APPROVED TESTATIVE MARKS.

PLANNING DIRECTOR'S CERTIFICATE
 IN ACCORDANCE WITH THE REQUIREMENTS OF THE PLANNING DIRECTOR'S MAP ACT OF 1977, I HEREBY CERTIFY THAT THIS MAP IS COMPLETE WITH THE APPROVED TESTATIVE MARKS.

COUNTY RECORDER'S CERTIFICATE
 I HEREBY CERTIFY THAT THIS MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF HARRISON COUNTY, MISSISSIPPI, ON THIS DATE.

LEGEND
 1. FENCED AS NOTED
 2. SET 1/2" PINE THINNS L.S. MARK
 3. MARK 2"x4" END WOOD MARKED
 4. R.R. E.A.W.
 5. PERMANENT MAP BOUNDARY
 6. TRAIL OR 1/2" PINE BUMP MARK OR
 7. ANY PURPOSES.



1b RECORDING REQUESTED BY
and RETURN TO:
C Corporation System
235 Montgomery Street
San Francisco, California 94104

47 JOHN V. REIGNERSON
COURT

'69 DEC 9 AM 11:10
BOOK 1286 PAGE 821

OFFICE OF THE
INT. COURT CLERK

#200

State of Delaware



Office of Secretary of State

J. Eugene Dunting, Secretary of State of the State of Delaware,
do hereby certify

that the Certificate of Agreement of Merger of the "SOUTHERN PACIFIC COMPANY", merging with and into the "SOUTHERN PACIFIC TRANSPORTATION COMPANY", under the name of "SOUTHERN PACIFIC TRANSPORTATION COMPANY", was received and filed in this office the twenty-sixth day of November, A.D. 1969, at 8:35 o'clock A.M.

And I do hereby further certify that the aforesaid Corporation is duly incorporated under the laws of the State of Delaware and is in good standing and has a legal corporate existence so far as the records of this office show and is duly authorized to transact business.

In Testimony Whereof, I have hereunto set my hand

and official seal at Dover this second day of December in the year of our Lord one thousand nine hundred and sixty-nine.



Eugene Dunting

Secretary of State

R. H. Caldwell

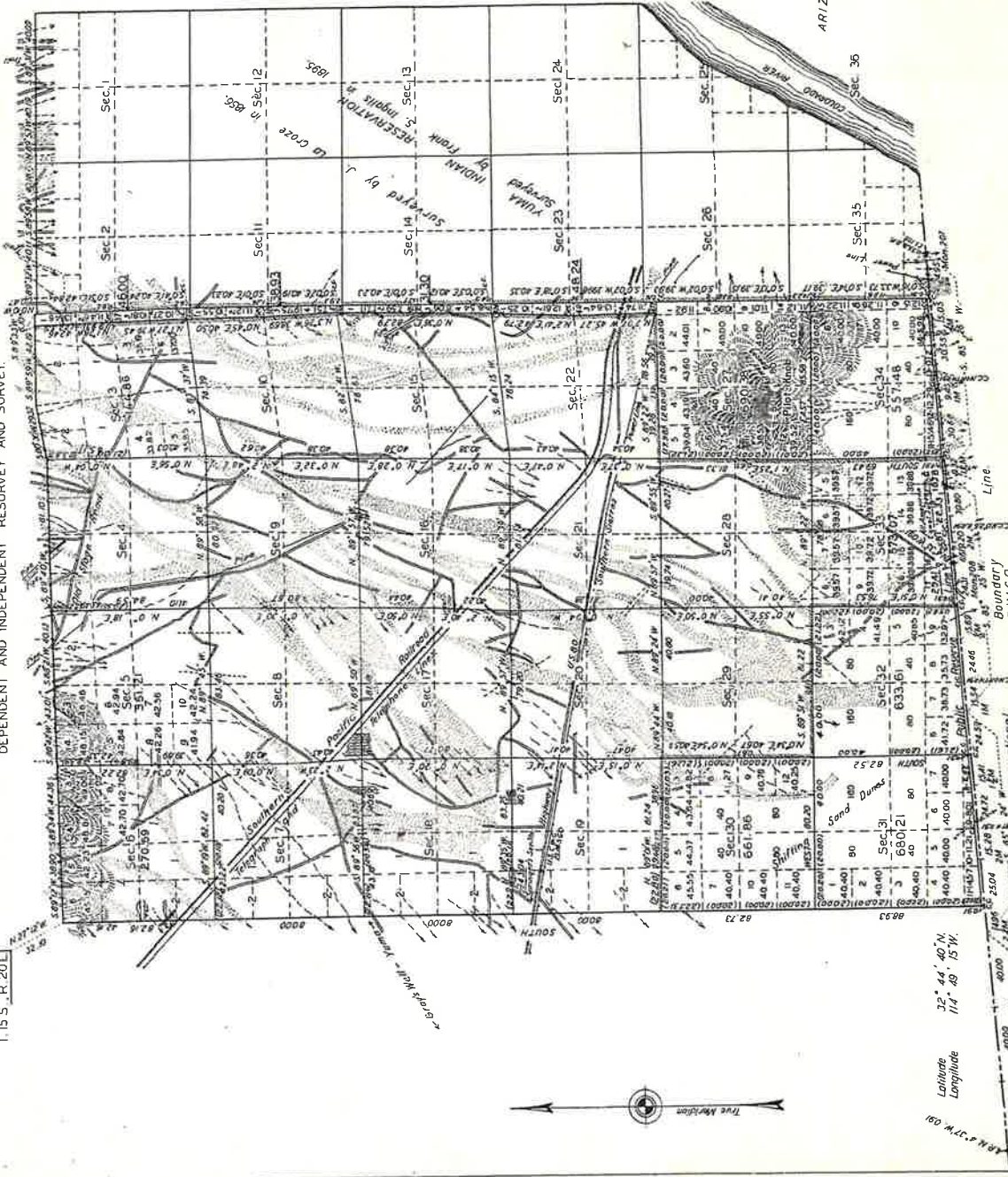
Acting Secretary of State

EEC ORIGINAL PKG

PC ORIGINAL PKG

TOWNSHIP N° 16 SOUTH, RANGE N° 21 EAST, SAN BERNARDINO MERIDIAN, CALIFORNIA.
DEPENDENT AND INDEPENDENT RESURVEY AND SURVEY

Sec. 36
T. 15 S., R. 20 E.



The plat of the resurvey of secs. 1 to 36, incl., is to 22 Jan., 26, and 29, and the reestablishment of the lines of the original survey as shown upon the plat approved February 6, 1931, in their true original position according to the best available evidence of the position of the original corners. All the original corners of the original survey are shown on the plat and those observed in the measurement have been distributed proportionately between accepted corners in accordance with surveying rules except where new areas are shown on the plat. The showing of the areas and more detailed descriptions of the various smaller subdivisions.

DUPLICATE PLAT
The following particulars are set out in this plat:
Necessary with later date.
From *Specimens*.
Plat in the office of the Surveyor.
Plat filed in local land office.
Miscellaneous.

DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE
Washington, D. C., April 10, 1934

The survey represented by this plat having been carefully examined in accordance with the requirements of law and the regulations of this office, is hereby accepted.

D. T. ...
Acting Assistant Commissioner

Office of U. S. Supervisor of Surveys
Denver, Colorado, November 7, 1933.

The above plat of Township No. 16 South, Range No. 21 East, of the San Bernardino Meridian, California, is strictly conformable to the field notes of the survey insofar as they have been examined and approved.

W. H. ...
U. S. Supervisor of Surveys

Area resurveyed 13936.57 Acres.
surveyed 1714.57

LINES DESIGNATED BY WHOM SURVEYED	GROUP	DATE	MILEAGE		METH SURVEYED	
			MIS.	CUIS.	BEGIN	COMPLETED
H. Paole	1	1917	12	19.97	1850	1933
J. La Croze	2	1921	12	19.97	Feb 5, 1931	March 14, 1932
Exterior	3	1931	4.4	37.62	..	..
Subdivisional	4	1931	4.4	37.62	..	..
Miscellaneous	5	1931	5.37	..	..	..

EEC ORIGINAL PKG
PC ORIGINAL PKG

Property Detail Report

CA

APN: 039-310-019-000

Imperial County Data as of: 12/29/2021

Owner Information

Owner Name: Southern Pacific Co
Vesting: Corporation
Mailing Address:

Occupancy: Unknown

Location Information

Legal Description: Por Sbe 872-13-6A-5 & -7-1 Of Tr 37 & Sec 34 13-18 39.34Ac
APN: 039-310-019-000
Munic / Twnshp: Twnshp-Rng-Sec:
Subdivision: Tract #: 37
Neighborhood: School District: San Pasqual Valley Unified
Elementary School: San Pasqual Valley... Middle School: San Pasqual Middle
Latitude: 32.99305 Longitude: -115.06406
County: Imperial, CA
Census Tract / Block:
Legal Lot / Block:
Legal Book / Page:
High School: San Pasqual Valley...

Last Transfer / Conveyance - Current Owner

Transfer / Rec Date: Price:
Buyer Name: Seller Name: Transfer Doc #:
Deed Type:

Last Market Sale

Sale / Rec Date: Sale Price / Type:
Multi / Split Sale: Price / Sq. Ft.:
1st Mtg Amt / Type: 1st Mtg Rate / Type:
2nd Mtg Amt / Type: 2nd Mtg Rate / Type:
Seller Name:
Lender:
Deed Type:
New Construction:
1st Mtg Doc #: N/A
Sale Doc #: N/A
Title Company:

Prior Sale Information

Sale / Rec Date: Sale Price / Type:
1st Mtg Amt / Type: 1st Mtg Rate / Type:
Prior Lender: Prior Deed Type:
Prior Sale Doc #: N/A

Property Characteristics

Gross Living Area: Total Rooms: 0
Living Area: Bedrooms:
Total Adj. Area: Baths (F / H):
Above Grade: Pool:
Basement Area: Fireplace:
Style: Cooling:
Foundation: Heating:
Quality: Exterior Wall:
Condition: Construction Type:
Year Built / Eff:
Stories:
Parking Type:
Garage #:
Garage Area:
Porch Type:
Patio Type:
Roof Type:
Roof Material:

Site Information

Land Use: Public School
State Use:
County Use: 604 - Schools
Site Influence:
Flood Zone Code: A
Community Name: Imperial County
Lot Area: 1,705,374 Sq. Ft.
Lot Width / Depth:
Usable Lot:
Acres: 39.15
Flood Map #: 06025C1475C
Flood Panel #: 1475C
Zoning:
of Buildings:
Res / Comm Units:
Water / Sewer Type:
Flood Map Date: 09/26/2008
Inside SFHA: True

Tax Information

Assessed Year: 2021
Tax Year:
Tax Area: 94-002
Property Tax:
Exemption:
Assessed Value:
Land Value:
Improvement Value:
Improved %:
Delinquent Year:
Market Total Value:
Market Land Value:
Market Imprv Value:
Market Imprv %:

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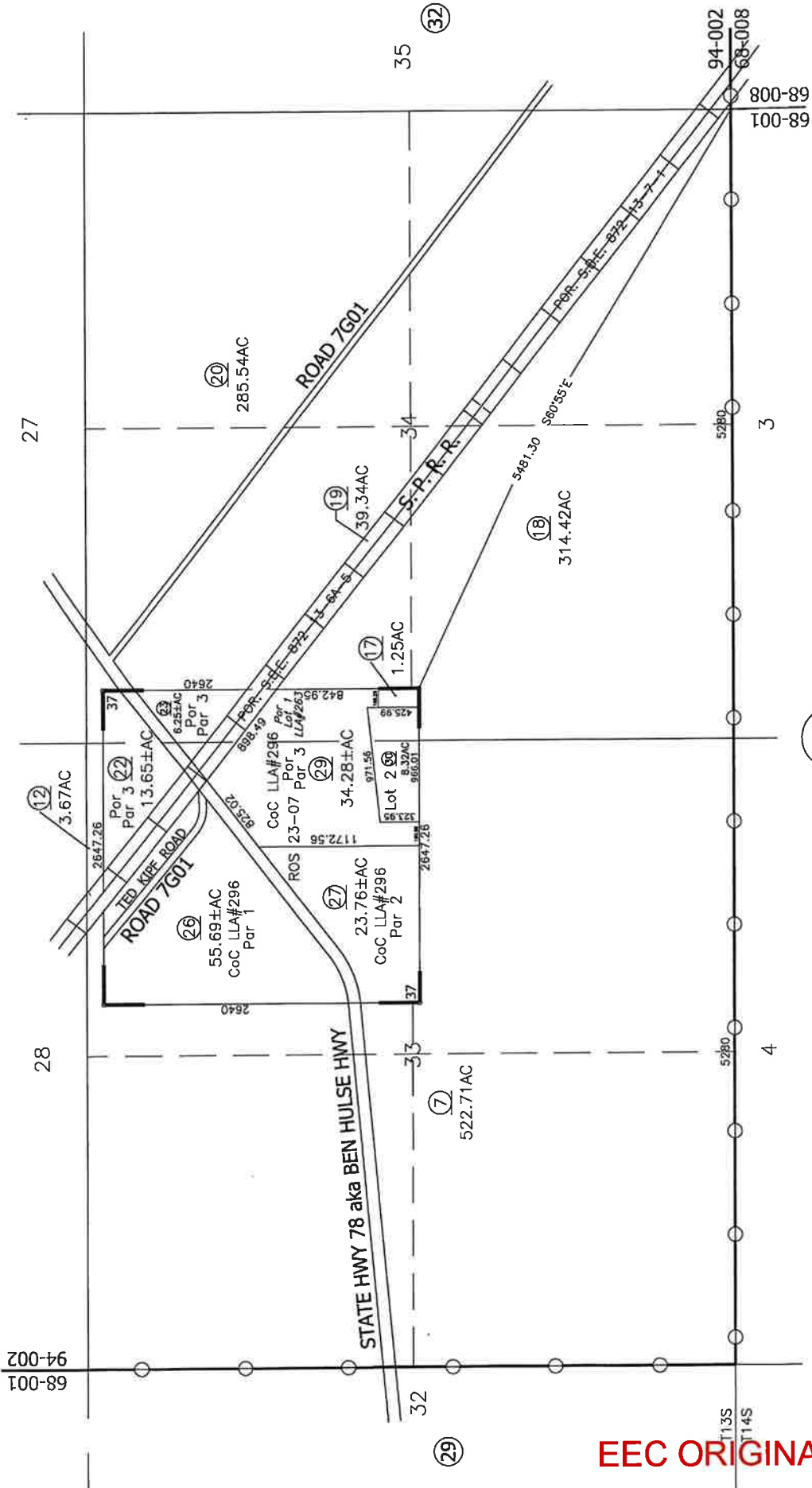
EEC ORIGINAL PKG

PC ORIGINAL PKG

39-31

Tax Area Code
94-002 MPR

TRACT 37 & SEC. 33 & 34 T13S, R18E



Bk.42
Pg.15

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- 2-10-11 MF
- 1-8-18 MF
- 1-11-09 MF
- 5-11-73 RM
- RR MAP
- FROM 39-33
- 6-22-15 MF
- 4-30-14 MF
- 8-3-11 R. M.

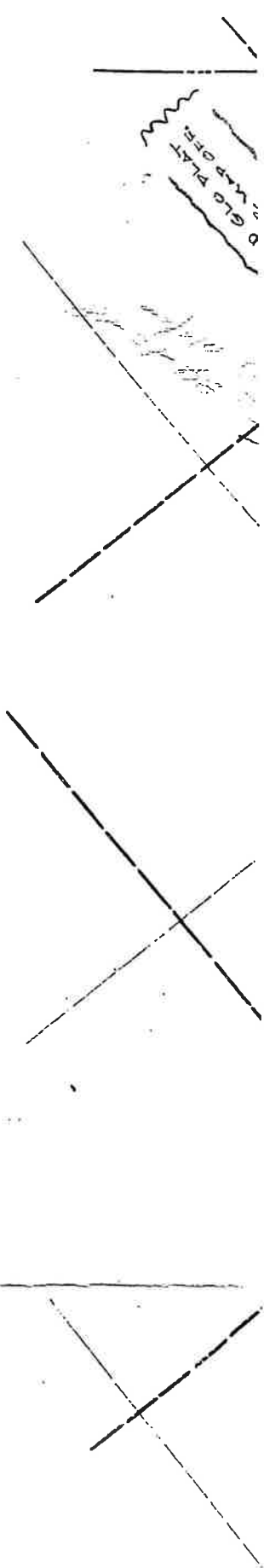
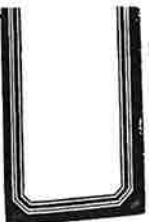
Assessor's Map Bk.39-Pg.31
County of Imperial, Calif.

PC ORIGINAL PKG

EEC ORIGINAL

SCHEDULE OF PROPERTY									
No.	GRANTOR	GRANTEE	INSTRUMENT	DATE	RECORD	CUSTO No	AREA		REMARKS.
							SQ. FT.	ACRES	
1	U.S Government	Southern Pacific R.R.Co.	Act of Cong.	Mar. 3, 1871			212 450	5 969	See Note No. 1
2									See Remarks for Parcel 2
und 2									

Note No. 1 :- Acquired for station grounds under section 8 of the Act of Congress of Mar. 3, 1871. See letter C.F.R. Ogilby to Guy V. Shoup dated May 14, 1926.



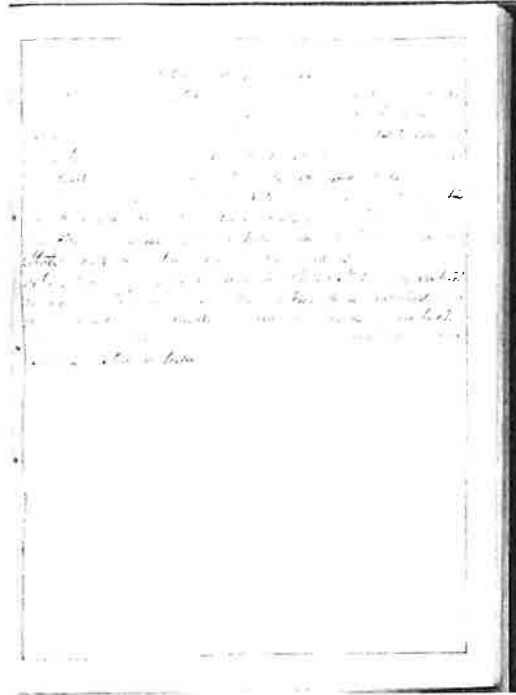
6 GLO PLAT
MAP OFF

PC ORIGINAL PKG

EEC ORIGINAL PKG



Indian Appropriations Act (1871)



Indian Appropriations Act (1871)

In what was supposed to be a routine bill providing funds to Indian Agencies, the Indian Appropriations Act of 1871 included a significant clause declaring that Indigenous people did not belong to "independent nations" and could therefore not enter treaties with the United States. A departure from previous US-Indigenous relations, the Act dealt a major blow to Indigenous sovereignty.

The Indian Appropriations Act of 1871 declared that Indigenous people were no longer considered members of "sovereign nations" and that the US government could no longer establish treaties with them. The act effectively made Native Americans wards of the US government and paved the way for other laws that granted the federal government increased power over the land and lives of Indigenous peoples.

Although it promised not to "invalidate or impair the obligation" of previous treaties, the act was the first step toward the elimination of Indigenous sovereignty, which was completed in 1898 with the **Curtis Act**, and the invalidation of previous treaty obligations, a power finally granted to Congress in 1903. One of the first arrangements to be made in the post-treaty era was the **Brunot Agreement**, in which Utes under **Ouray** ceded Colorado's **San Juan Mountains** to the United States.

Origins

Unlike other Indian Appropriations Acts, most of which served the mundane purpose of allocating federal funds to fulfill treaty obligations, the Appropriations Act of 1871 marked a major shift in federal Indigenous policy. Nearly a century earlier, immediately after the nation was established, President George Washington applied the president's treaty-making power to Indigenous nations, setting a precedent for nation-to-nation diplomacy.

EEO ORIGINAL PKG

Four decades later, Indigenous sovereignty was upheld in the 1832 Supreme Court decision *Worcester v. Georgia*, which declared that Indigenous people did indeed belong to “sovereign nation[s].” This result obliged the United States to engage with Indigenous people in diplomacy the same as it would Spain, Britain, or France. President Andrew Jackson ignored the ruling, but future administrations respected it, forging treaties with various Native nations that had to be ratified by Congress.

Many Indigenous leaders who signed treaties did not fully understand what they were signing because they were unfamiliar with the US government as well as American legal writing and practices. That eventually changed, however, and over time treaties became an important source of Indigenous power since they were by definition made between equal partners—nation to nation. If nothing else, Indigenous nations could point to treaties to protest nondelivery or delay of annuities (money and supplies promised in treaties) or trespassing on Indigenous land. Many Indigenous leaders rightly came to regard treaties as the final say on what the US government and its citizens could or could not do regarding Indigenous land and people.

After the Civil War, however, a renewed spirit of white national unity, as well as the ongoing conquest of the American West, compelled many in Congress and the western territories to reconsider Indigenous sovereignty. Treaties that created reservations and Indian agencies, they argued, essentially made Indians dependent on the government, so why must they continue to be recognized as independent nations?

The Appropriations Act of 1871

Under the Constitution, treaty making was the prerogative of the president, acting with the advice and consent of the Senate. The House of Representatives had no say in creating treaties and was only responsible for allocating funds to carry out their provisions. By the 1870s, however, the House had new members representing new constituencies in western states, many of whom lobbied for the removal of Indigenous people. The House as a whole had also come to resent its minor role in Indigenous affairs, going so far as to refuse to fund new treaties. As the House debated the Appropriations Act of 1871, representatives hitched a rider denying Native sovereignty to what was otherwise a routine allocations bill. Even though the rider increased the House’s power in Indigenous affairs, the Senate approved the bill on March 3, 1871, and President Ulysses S. Grant signed it into law.

A New Era

Although it prevented new treaties from being written, the Appropriations Act did not end binding agreements with Indigenous nations. These agreements, however, differed from treaties in that they were not bilateral—meaning the US government could choose to respect Native Americans’ demands at its own discretion. The Brunot Agreement of 1873, for example, still had to be ratified by Congress and made the government accountable for the agreement’s stated compensation to the Utes. However, the Appropriations Act laid the groundwork for the government to abandon past obligations, a right that the Supreme Court granted to Congress in its 1903 decision *Lone Wolf v. Hitchcock*.

After the 1871 Appropriations Act, historian Mark G. Hirsch writes, “US repudiation of treaties and tribalism was steadfastly opposed by American Indians, who continued to identify themselves as members of autonomous, self-governing nations.” This resistance took many forms, from religious movements such as the **Ghost Dance** to outright refusal to participate in subsequent laws, such as the **Dawes Act of 1887**. In Colorado, the 1879 **Meeker Incident** stemmed from the Utes’ refusal to give up either their tribal identity or their sovereignty, especially because the latter was protected by treaty. While not opposing the Appropriations Act by name, these assertions of autonomy were responses to the denial of Indigenous self-determination that was codified in the 1871 Act.

The Dawes Act, which broke up collectively owned Indigenous reservations into individual lots, demonstrated Congress’s true intent with the Appropriations Act. Nothing in any treaty signed before 1871 gave the federal government the right to forcibly break up reservations, but after tribal sovereignty was nullified in the

Appropriations Act, Congress assumed the right to legislate on all matters concerning Indigenous affairs as it saw fit. By breaking up spiritually and culturally significant land that had been held collectively for generations, the Dawes Act dealt another crippling blow to Indigenous sovereignty in the late nineteenth century.

Legacy

By the end of the nineteenth century, indigenous nations within the United States had gone from having the rights due any other foreign country to having almost no right to exist. This process had been under way before 1871, but the Indian Appropriations Act of that year incorporated it into official government policy, opening the door for its rapid acceleration.

While no new treaties have been written since 1871, Congress did eventually restore some measure of Indigenous sovereignty in 1934 with the **Indian Reorganization Act (IRA)**. However, because it forced tribes to hold votes and write their own Constitutions, many tribes correctly viewed the IRA as another government mandate.

Even though most federally recognized tribes today have some form of self-government, the fight for Indigenous sovereignty denied in the 1871 Act continues. In New Mexico, for example, Indigenous people are resisting government-sponsored energy drilling near sacred sites on public land; in North Dakota they have protested government-imposed oil pipelines across treaty-protected land. Meanwhile, in Alaska and Colorado, tribes are lobbying for the power and resources to combat disproportionately high rates of sexual assault and other violent crime on federal reservations.

Author

Encyclopedia Staff

References

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- Antoine v Washington*, 420 US 194 (1975).
- Jeff Brady, "2 Years After Standing Rock Protests, Tensions Remain but Oil Business Booms," NPR, November 29, 2018.
- Susan Montoya Bryan, "Protecting the 'Incredible, Magical, Spiritual,' That Is Chaco Canyon," *Associated Press and Indian Country Today*, October 30, 2019.
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- Jim Mimiaga, "Meeting Addresses Ute Mountain Ute Tribe Plans; Ute Mountain Looks to Hemp, More Officers," *Journal (Cortez, CO)*, October 14, 2019.
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Additional Information

EEC ORIGINAL PKG

Donald L. Fixico, *The Invasion of Indian Country in the Twentieth Century: American Capitalism and Tribal Natural Resources*, 2nd ed. (Boulder: University Press of Colorado, 2012).

Laurence Armand French, *Legislating Indian Country: Significant Milestones in Transforming Tribalism* (New York: Peter Land, 2007).

Citation

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APA 6th Edition

Encyclopedia Staff. (2020, March 13). Indian Appropriations Act (1871). *Colorado Encyclopedia*. Retrieved from <https://coloradoencyclopedia.org/article/indian-appropriations-act-1871>

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Encyclopedia Staff, "Indian Appropriations Act (1871)," *Colorado Encyclopedia*, last modified March 08, 2021, <https://coloradoencyclopedia.org/article/indian-appropriations-act-1871>.

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Opinion Case details

From Casetext: Smarter Legal Research

United States v. Southern Pac. R. Co.

United States Court of Appeals, Ninth Circuit

Jun 22, 1891

46 F. 683 (9th Cir. 1891)

Copy Citation



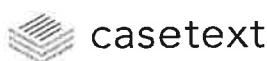
Red flags, copy-with-cite, case summaries, annotated statutes and more.

Compare with Lexis >

683 *683 **46 F. 683 (S.D.Cal. 1891) UNITED STATES v. SOUTHERN PAC. R. CO. et al., (two cases.) United States Circuit Court, S.D. California. June 22, 1891**

Syllabus by the Court

The act of congress of March 3, 1871, authorized the Southern Pacific Railroad Company of California, subject to the laws of California, to construct a certain line of railroad, and granted it certain lands. The Southern Pacific Railroad Company, as it then existed, accepted said grant, and filed its plat of definite location in the proper office August 12, 1873. Said Southern Pacific Railroad Company, as authorized by the laws of California



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Opinion Case details

built was accepted by the president, and has performed, to the satisfaction of the government, all the services required of it under said act. Held, that said consolidated company if not, technically, is, substantially, the same company to which said act referred. *Affirming Railroad Co. v. Poole*, 12 Sawy. 544, 32 F. 451; *U.S. v. Railroad Co.*, and *U.S. v. Cotton, etc., Co.*, 45 F. 596.

Pursuant to state authority, recognized by and made a part of the congressional grant of March 3, 1871, the S.P.R.R. Co., April 15, 1871, filed 684 amended articles of *684 incorporation; and August 12, 1873, filed, together with the S.P. Branch R.R. Co., articles of amalgamation and consolidation, under the name of the S.P.R.R. Co. Held, that while in one sense a new corporation was formed, each was substantially and practically the same S.P.R.R. Co. mentioned in the acts of congress, and was so recognized by congress, and that the articles of amendment, amalgamation and consolidation were authorized by congressional as well as by state legislation.

Commissioners having from time to time been appointed to report in regard to the construction of the Southern Pacific Railroad, the road having been accepted by the president, and having been used by the government in the transportation of mail, military stores, etc. Held, that these acts were acts recognizing the defendant company as the S.P.R.R. Co. to which the act of March 3, 1871, applies, and that the defendant company, being subject to burdens imposed by the act, is entitled to the benefits conferred by it as a consideration for those burdens.

Act Cong. July 27, 1866, having expressly granted lands to the S.P.R.R. Co., its successors and assigns, it is held, that if the consolidated company, with the amended articles of incorporation, is not technically the same corporation, referred to in act March 3, 1871, it is within the express provisions of the grant, being the successor or assign of said company.

Inchoate grants were not contemplated by con

vi

Search all cases and statutes...

JX

Opinion Case details

~~Section of the Cong. Act of 1871, granting lands to the Southern Pacific Railroad Company, provided that said section should in no way affect or impair the rights, present or prospective, of the Atlantic & Pacific Company. Held, that this language did not constitute an exception from the grant, nor a reservation in favor of the United States, but that it made the grant to the Southern Pacific Railroad Company subject and subordinate to any rights the Atlantic & Pacific Company, a prior grantee, may then have secured, or might thereafter acquire under the law.~~

The present and prospective rights of the Atlantic & Pacific Company were to secure the odd sections of land provided for along the line of the road they should build by actually building the road and earning the lands by performing the acts required. Their rights were to earn the lands, and not to obtain them without earning them.

As the Atlantic & Pacific Company never did comply with the condition of the grant to it, and as all of its rights thereunder became forfeited in 1886, by act of congress, because of such non-compliance, its rights have never ripened into an effective grant, and now they never can so ripen. The only condition imposed upon the grant to the Southern Pacific Railroad Company has thus become inoperative.

The Southern Pacific Railroad Company, having performed all the conditions required of it by the act of 1871, thereby acquired a right to the odd sections for the prescribed distance on each side of the road, subject only to be defeated by the Atlantic & Pacific Company having an older grant, and filing its map of definite location, and performing the other conditions necessary to earn the lands; but the Atlantic & Pacific Company never having performed said conditions, and its grant having been declared forfeited by congress, the lands never were granted to it, within the meaning of the act of congress, and the grant to the Southern Pacific Railroad Company therefore became effective and perfect without in any way affecting or impairing any rights of the Atlantic and

Search all cases and statutes...

JX

Opinion Case details

of the grant.

W. H. H. Miller, Atty. Gen., Willoughby Cole, U.S. Atty., and Joseph H. Call,
Sp. Asst. U.S. Atty.

Joseph D. Redding and Chapman & Hendrick, for defendants.

685 Before SAWYER, Circuit Judge, and ROSS, District Judge. *685 SAWYER, J.

These are suits brought against the Southern Pacific Railroad Company, and parties who have purchased the land described, and derived title thereto from the Southern Pacific Railroad Company, to determine the adverse claim of title to said lands and to restrain defendants from cutting timber thereon, or from hereafter setting up any claim of title to said lands. The lands involved in suit No. 177 are sections 1, 11, and 13 of township 3, and section 35 of township 4 N., of range 15 W., San Bernardino meridian; and those in suit No. 178, section 23, township 4 N., range 15 W., same meridian. These lands are claimed by defendants under the act of congress of March 3, 1871, 'to incorporate the Texas Pacific Railroad Co., and to aid in the construction of its road, and for other purposes.' 16 St. 573. Section 23 of said act is as follows:

'That for the purpose of connecting the Texas Pacific Railroad with the city of San Francisco, the Southern Pacific Railroad Company of California is hereby authorized (subject to the laws of California) to construct a line of railroad from a point at or near Tehachapa Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river, with the same rights, grants, and privileges, and subject to the same limitations, restrictions, and conditions as were granted to said Southern Pacific Railroad Company of California, by the act of July twenty-seven, eighteen hundred and sixty-six.' 16 St. 579.

Section 18 of the act conferring rights upon th

Search all cases and statutes...

JX

Opinion Case details

...the laws of the state of California, is hereby authorized to connect with the said Atlantic & Pacific Railroad, formed under this act, at such point, near the boundary line of the state of California, as they shall deem most suitable for a railroad line to San Francisco, and shall have a uniform gauge and rate of freight or fare with said road; and in consideration thereof, to aid in its construction, shall have similar grants of land, subject to all the conditions and limitations herein provided, and shall be required to construct its road on the like regulations, as to time and manner, with the Atlantic & Pacific Railroad herein provided for.'

And the provision of the same act, made applicable to the Southern Pacific Railroad Company, and granting it lands putting it upon the same footing in all particulars with the Atlantic & Pacific Railroad Company incorporated by the same act, is as follows:

'And be it further enacted, that there be and hereby is granted to the Atlantic & Pacific Company, (substitute Southern Pacific Railroad Company,) its successors and assigns, for the purpose of aiding in the construction of said railroad and telegraph line to the Pacific Coast, and to secure the safe and speedy transportation of the mails, troops, munitions of war, and public stores, over the route of said line of railway and its branches, every alternate section of public land, not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile, on each side of said railroad line, as said company may adopt, through the territories of the United States, and ten alternate sections of land per mile on each side of said railroad whenever it passes through any state, and whenever, on the line thereof, the United States have full title, not reserved, sold, granted, or otherwise appropriated, *686 and free from pre-emption of other claims or rights, at the time the line of said road is designated by a plat thereof, filed in the office of the

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the interior, in alternate sections, and designated by odd numbers, not more than ten miles beyond the limits of said alternate sections, and not including the reserved numbers: provided, that if said route shall be found upon the line of any other railroad route, to aid in the construction of which lands have been heretofore granted by the United States, as far as the routes are upon the same general line, the amount of land heretofore granted, shall be deducted from the amount granted by this act.' 14 St. 294, Sec. 3.

Substitute in this section the words, 'the Southern Pacific Railroad Company' for the words, 'the Atlantic & Pacific Railroad Company,' and we shall have the grant to the Southern Pacific Railroad Company both by the act of 1866, and the act of 1871. Soon after the passage of the said act of March 3, 1871, to-wit: on April 3, 1871, the Southern Pacific Railroad Company as it then existed, designated the line of its road from Tehachapa Pass by way of Los Angeles, to Fort Yuma, on the Colorado river, which it on that day filed in the office of the commissioner of the general land-office, and thereby the grant under said act of congress attached to all the odd sections of land, to which it could attach under the provisions of said act of congress. Afterwards, on the 12th day of August, 1873, the said Southern Pacific Railroad Company, in all respects as authorized by the laws of the state of California, existing and in force before and at the time of the passage of said act of congress of March 3, 1871, incorporating the Texas Pacific Railroad Company, amalgamated and consolidated with several smaller companies as shown by Exhibits A, B, annexed to the bill of complaint in these cases; the said consolidated company being called by the name of 'The Southern Pacific Railroad Company,' a part of the object stated in said articles of amalgamation being to construct 'a line of railroad from a point at or near Tehachapa Pass by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river, a distance of three hundred and twenty-four miles as near as may be,' in pursuance of said provisions granting the right so to build a railroad to the

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Pacific Railroad Company. The said amalgamated and consolidated company afterwards built the said railroad along the line so hereinbefore designated from Tehachapa Pass by the way of Los Angeles to the Colorado river, and fully completed the same within the time, and in all respects, as required by said act of congress; and the said several sections were examined from time to time, and reported upon to the president by commissioners appointed for the purpose, and the whole line accepted by 687 the president. Ever since its completion and acceptance, *687 the said road has performed to the satisfaction of the United States government, all the services, such as carrying the mails, transporting troops, supplies, etc., in all respects as required by the provisions of said act of congress incorporating the Texas Pacific Railroad Company; and said services have been accepted by the United States.

The Atlantic & Pacific Railroad Company, on March 12, 1872, long subsequent to the definite location of the line of the Southern Pacific line, and after it commenced building its road, filed in the office of the secretary of the interior-- not in the office of the commissioner of the general land-office--two maps of portions of a line of road in the state of California. These were the first maps of any part of the contemplated road in California ever filed. These maps are designated 'Master's Exhibits Nos. 122 and 127.' Some time subsequently, the said company filed in the same office, two other maps designated 'Master's Exhibits Nos. 130 and 131.' These are the only maps filed relating to the location of the California portion of the Atlantic & Pacific road. The Atlantic & Pacific Railroad Company never constructed any portion of the road authorized to be constructed by it, in the state of California; and for failure to construct said road or any part of it, congress, on July 6, 1886, passed an act declaring a forfeiture of all lands within the state of California, before granted to it, to aid in the construction of the road. 24 St. 123. The line of the Atlantic & Pacific Railroad, as shown upon said maps filed in the office of the secretary of the interior, crosses the line of the Southern Pacific Railroad as located

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the said Southern Pacific Railroad Company, respondent, which constructed its road as aforesaid, to the other respondents to this suit, and the title so conveyed, is now vested in them.

The first point made by complainants is, that the present Southern Pacific Railroad Company, which built the road after the amalgamation and consolidation with sundry smaller roads mentioned, under the same name as the old company, and professedly for the same purpose, made in pursuance of the statutes of the state of California, authorizing such consolidation and amalgamation, which statutes were in force at the date of the congressional grant in question, and prior to which consolidation the grant by congress was made, and which road was to be built in accordance with the laws of the state of California, is not the identical Southern Pacific Railroad Company, to which the act referred, and the grant was made, and therefore, that the defendant took nothing under the act of congress. This point is not new in this court, as it was fully considered and overruled in *Railroad Co. v. Poole*, 12 Sawy. 544, 545, 32 F. 451. Again, the point was made and earnestly urged in the southern district of California, in *U.S. v. Railroad Co.* and *U.S. v. Colton, etc., Co.*, and the district judge in an able opinion, concurred in, on this point, by the circuit judge, thoroughly examined the point, and overruled it, citing *688 with approval also, the case of *Railroad Co. v. Poole*, referred to, and affirming it. (14 Sawy. 623, 45 F. 596 et seq.) See, also, *Railroad Co. v. Orton*, 6 Sawy. 160, 32 F. 457. We shall adhere to the ruling made in these cases till the point is otherwise determined by the supreme court.

It is earnestly urged on the part of the respondents, that the filing in the office of the secretary of the interior, of the fragmentary maps of the location of the line of the contemplated Atlantic & Pacific road, and to points not authorized by the law, does not constitute a location of the line in such sense, or legal form, as to give any right whatever under the act, to the Atlantic & Pacific Company; and, that, it in no

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company, since, upon the view I take upon the rights of the parties, and of the effect of the act forfeiting the grant to the Atlantic & Pacific Company, it will not be necessary to decide the point raised.

The only remaining question is, whether, in view of all the facts of the case, the clause in the provision of section 23 in the act of 1871, 'that this section shall in no way affect or impair the rights, present, or prospective, of the Atlantic & Pacific Railroad Company, or any other railroad company,' or any clause in the act of 1866, under the facts of the case, defeats the grant to the Southern Pacific Railroad Company to these lands, which lie within the primary limits of the grant? This question did not arise in *U.S. v. Railroad Co. and U.S. v. Colton, etc., Co.*, 14 Sawy. 620, 45 F. 596. It is now directly presented however, and we address ourselves to its consideration and solution. In my judgment, neither the proviso to section 23 of the act of 1871, nor any provision of the act of 1866, defeats the title to the lands in question, in view of all the facts in the case. That proviso is as follows: 'Provided however, that this section shall in no way affect or impair the rights present or prospective of the Atlantic & Pacific Railroad Company, or any other company.' Now what is the fair import of this language? What was the intent of congress, in view of the important objects sought, in making the grant to respondents, in adopting this peculiar language? It is not the language of exception from the grant, of any lands that the Atlantic & Pacific Company might lay claim to without earning them under the statute. It is not the language of exception at all. On the contrary, it merely made the grant to defendant, subordinate, and subject to any rights, that the Atlantic & Pacific Company may then have secured, or might thereafter, acquire under the law, authorizing it to acquire lands, by the performance of the acts prescribed. Congress intended that the respondent should not interfere with any lands which that other company should lawfully earn. It simply intended to protect any rights, that it should acquire, by performing the
689 required acts. *689 What were 'the rights, present and prospective of the
Atlantic & Pacific Railroad Company?' Their

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that this company should file a plat of a route for a railroad, and then play the role of the dog in the manger, and neither build the road itself, and thereby earn the lands, nor allow the respondents to build one, and earn the lands under another grant. The Atlantic & Pacific Company never did anything to earn these lands, except to file, what it was pleased to term a 'map of the location of its route,' six years after the date of the grant, and one year after the respondent had located its road under the grant, made five years subsequently, and after it had commenced building the road; and for failure to comply with the terms of the grant, by the Atlantic & Pacific Company, congress, in 1886, (24 St. 123, 124,) passed an act forfeiting its right to earn these lands altogether. Thus its rights 'present' and 'prospective,' have never ripened into an effective grant, and now they never can so ripen. They now have, and can have no further rights in these lands, whether the respondents get them or not. The building of its road, by the respondents, and earning these lands, which the other party has itself failed to earn, and now never can earn, can in no possible way 'affect or impair' any rights the other company now has, or ever did have. And had that company built the road, and earned the lands, the respondent would not have got them, for that would have been to affect or impair its rights.

The present right of the Atlantic & Pacific Company was to earn the lands by the performance of the required conditions, and the prospective rights, the right to have the lands when so earned. This is all there is of it, and it did neither. Now the grant to the Southern Pacific, being subject, and subordinate, to those rights, could not in any way, or in any degree, have affected, or impaired them, because the Atlantic & Pacific Railroad Company, had it performed the conditions would have taken the said land under the act. It utterly failed to perform the conditions, and all its rights have been forfeited, and now the patenting of the lands to the Southern Pacific cannot in any way possible affect any of these rights which do not now exist. Thus the rights of the Atlantic & Pacific Company present or prospective, never could have been affected by

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the prior valid claim, had the work been performed. The prior claimant failed to acquire any real right to the lands, by earning them, and they were forfeited and left to the respondent to earn under its grant, and it has faithfully earned them without in the slightest degree 'affecting or impairing any prior rights' 'present or prospective,' and it now cannot impair them. It 690 seems to me, that the respondent is justly entitled to these lands under its grant. An exception, from a grant, is an entirely different matter from taking a grant subject to other claims or rights, as is, manifestly, the case here. When the other claims are satisfied, or lost, the grantee, subject to those rights, takes what is left. The proviso in section 23 of the act of 1871, seems to me, clearly to prescribe all the limitations intended by congress in that act to be put upon the grant to respondent. It is specific and clear on this point, and, only intended to be subject to any rights that should be actually acquired and perfected under any prior act. The reference to the act of 1866, does not modify the provision in this particular section. It puts no restriction upon respondent, not expressly put upon the Southern Pacific Company by the act of 1866, and that act, in the precise language used, taken literally, or substantially, does not affect this point. In that act, the Southern Pacific Company was put upon the precise footing with the Atlantic & Pacific Company. Both took under the same act, upon equal terms. In the act of 1871, the Southern Pacific Company was put upon the same footing as the Southern Pacific Company was put by the act of 1866. The proviso in section 3 of the latter act is

'That if said route shall be found upon the line of any other railroad route, to aid in the construction of which lands have been heretofore granted by the United States, as far as the routes are upon the same general line, the amount of land heretofore granted shall be deducted from the amount granted by this act.'

The language is 'have been heretofore granted;' that is to say, granted before the passage of the act of 1866, not the act of 1871.

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language of the acts. But the line of the Southern Pacific road is not on the line of the 'Atlantic and Pacific' route as designated on what is claimed to be its map of location. The two roads are not 'upon the same general line.' They simply cross each other. But again: The fair construction of this proviso, and as it was intended by congress, in view of the object sought, is, that 'lands that have heretofore been granted,' and 'the amount of land' to be dedicated, means lands that have been effectively granted, and to which the title has passed, or shall effectively pass out of the United States, and finally become effectively vested in the grantees upon the performance of the prescribed conditions. It does not mean inchoate grants, that are not finally perfected--grants that become forfeited by failure to earn them by performing the prescribed conditions or any of them. These do not, ultimately, become grants at all, within the meaning of the act, and intent of congress. Congress was anxious to procure the construction of these great works, for military, mail-carrying, and other uses, and thereby also develop the resources of the

691 country, and make a market for the public *691 lands. It contributed nothing, because it received double price for the even sections. In these provisions, it was, only solicitous to protect the vested rights of prior grantees in lands fairly earned in constructing works of a similar kind in pursuance of a similar policy. It did not seek, by forfeitures, to evade its obligations to subsequent roads, and thereby increase its own property, at the expense of those who, actually carry out the objects of the law, and fairly earn the lands intended for them. We cannot attribute any such unworthy purpose, or motive to congress. It manifestly, intended, that the subsequent grantees should take the odd sections subject only to prior rights, and when the prior grants failed, and finally, became no grants, by reasons of a failure to perform the conditions necessary to perfect the grant, and when no rights can possibly be further affected by the grant to the subsequent grantee, that the latter, upon complying with the terms of its grant should have the lands, not ultimately, or effectively granted under the prior acts of congress. Effective, completed grants only, are contemplated in this proviso

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sections of land along the general line of its route, upon building the road as required, but upon no other conditions. The grantee did not, for six years, do anything to locate its road in the state of California, or earn the grant. The act of 1871 was passed, making a similar grant to respondent, subject however to any prior rights of the other company. Within a month it filed its map of location, and immediately, went to work and continued till it performed all the required conditions, had its road completed, and accepted by the president, and earned its lands. By filing its map of definite location, it acquired a right to the odd sections for the prescribed distance on each side of the road, subject only to be defeated by the Atlantic & Pacific Company, having an older grant, by filing its map of definite location, and then performing the other conditions necessary to earn the lands. At the time of locating the Southern Pacific line, there was nothing to indicate that the Atlantic & Pacific would ever move in the matter. A year afterwards, and six years after the date of its grant, the Atlantic & Pacific Company filed what is claimed to be its definite location; and by that act, if properly done, and not already too late, under the law, it acquired what? Not a perfect, or complete title, to the land but at most a temporary provisional title, with a right to build the road, earn the lands, along its line, perfect its title, and defeat the right of the respondents to acquire the land. But it did nothing more, and, after waiting 20 years for it, without anything more being done, congress passed the act referred to, forfeiting its grant, and the lands never were fully granted--never became granted, within the reasonable meaning of the act of congress providing for deducting therefrom subsequent grants, and thereby the grant to respondents became effective and perfect, without in the slightest degree, or 'in any way,' 'affecting' or 'impairing any right,'
692 'present or prospective' of the *692 Atlantic & Pacific Company, or any other prior grantee. If this be not the true view of the case, then no lands could have been acquired by the respondents under its grants, and the act, purporting to be a grant, as to it, was a dead letter-- a mere illusion; for, if the acts mentioned, performed by the Atlantic & Pacific Company at that

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latter grant.

I am, therefore, of the opinion, that the earning and acquiring of these lands by the respondents, under the conditions shown by the record, in no way affected, or impaired, the 'rights present or prospective,' of the Atlantic & Pacific Railroad Company, or any other, within the meaning of the act of congress; and that, these lands are not lands heretofore, or at any time, granted by the act of congress in such sense as to require them to be deducted along the general line of the road, or otherwise, within the meaning of the acts of congress of 1866, and 1871, or of either of them.

Upon the views expressed, the amended bills must be dismissed, and it is so ordered, without costs.

ROSS, J.

These cases have been argued and submitted together. The suits are brought to quiet the complainant's alleged title to certain lands and to enjoin defendant from asserting or claiming any title thereto. The lands are claimed by the defendant by virtue of the act of congress of March 3, 1871, entitled 'An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes.' 16 St.U.S. 573. By the 23d section of that act it was provided as follows:

"That for the purpose of connecting the Texas Pacific Railroad with the city of San Francisco, the Southern Pacific Railroad Company of California is hereby authorized (subject to the laws of California) to construct a line of railroad from a point at or near Tehachapa Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river, with the same rights, grants, and privileges, and subject to the same limitations, restrictions, and conditions as were granted to said Southern Pacific Railroad Company of California by the act of July 27, 1866, provided, however, that this section shall in

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thereby authorized to build, and proceeded to build it and completed its construction, to the satisfaction of the government, in January, 1878. It thereby earned the lands embraced by the grant to it. The point that the present Southern Pacific Railroad Company is not the same Southern Pacific
693 Railroad Company to which the act of *693 March 3, 1871, applied, was decided against the government in the recent cases of *U.S. v. Railroad Co. and U.S. v. Colton, etc., Co.*, 45 F. 596, (March 6, 1891.) The reasons for so holding were given at length in the opinions then rendered, and need not now be repeated.

It is admitted that the lands in controversy in the present suits are situated within 20 miles of the line of road so located and built by the Southern Pacific Company, but as they are also within 20 miles of the line that the Atlantic & Pacific Railroad Company, under the act of congress of July 27, 1866, designated for its road, it is earnestly contended on behalf of the government that they are excluded from the grant to the Southern Pacific Company. When the cases of *U.S. v. Railroad Co. and U.S. v. Colton, etc., Co.*, 39 F. 132, were before the court on demurrers to the bills-- the lands then involved being within the indemnity limits of the Atlantic & Pacific grant and within the primary limits of that of the Southern Pacific Company-- it was said:

'Had they been situated within 20 miles of the designated route of the Atlantic & Pacific Company they would clearly have fallen within the grant to that company and consequently have been excluded from the subsequent grant to the Southern Pacific Company; for, if the construction above put upon the act of July 27, 1866, be the correct one, every alternate section of public land, designated by odd numbers, within 20 miles of the line of the road, as definitely fixed, would have passed to the Atlantic & Pacific Company as of the date of its grant.'

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and to be decided. The grant to the Atlantic & Pacific Company was the prior grant-- it having been made by the act of July 27, 1866, entitled 'An act granting lands to aid in the construction of a railroad and telegraph line in the states of Missouri and Arkansas to the Pacific coast.' 14 St.U.S. 293. By that act the Atlantic & Pacific Company was authorized to construct a railroad

'Beginning at or near the town of Springfield, in the state of Missouri, thence to the western boundary of said state, and thence, by the most eligible railroad route as shall be determined by the said company, to a point on the Canadian river; thence to the town of Albuquerque on the river Del Norte, and thence by way of the Agua Frio or other suitable pass to the head-waters of the Colorado Chiquito, and thence along the 35th parallel of latitude, as near as may be found most suitable for a railroad route, to the Colorado river at such point as may be selected by said company for crossing; thence by the most practicable and eligible route to the Pacific.'

To aid in the construction of the road there was granted to the Atlantic & Pacific Company, by the third section of the act, every alternate section of public land, not mineral, designated by odd numbers, to the amount of 10 sections on each side of the road whenever it passes through a state

'And whenever on the line thereof the United States have full title, not reserved, sold, granted, or otherwise appropriated, and free from pre-emption *694 or other claims or rights, at the time the line of said road is designated by a plat thereof filed in the office of the commissioner of the general land-office, and whenever,' etc.

The Atlantic & Pacific Company did nothing towards locating its line of road in California until March 12, 1872, and never did do anything towards building it; in consequence of which congress, in 1886, passed an act declaring its land grant forfeited. In the mean time, that is to say, March 3, 1871, the grant under which the defendant co

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non-mineral in character, as should fall within the designated limits and be, at the time the line of its road should be designated by a plat thereof filed in the office of the commissioner of the general land-office, not reserved, sold, granted, or otherwise appropriated and free from pre-emption or other claims or rights. No valid reason, therefore, existed why congress could not include the lands in controversy in the grant it made to the Southern Pacific Railroad Company. Did it do so? The act of March 3, 1871, refers to that of July 27, 1866, for the terms of the grant thereby made to the Southern Pacific Company to aid it in building a road from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river, for the purpose of connecting the Texas Pacific Railroad with the city of San Francisco. The grant was for 10 odd-numbered sections of public land, not mineral, on each side of the road. As has already been said, the lands in controversy here were at that time public lands of the United States. They are within 20 miles of the line of road the Southern Pacific Company was by the act of March 3, 1871, authorized to locate and build and which it did locate and build and which the government accepted as having been built in compliance with the terms of that act and which it has since used for its own purposes. The lands in controversy are therefore within the primary limits of that grant and justly belong to the Southern Pacific Company unless there be something in the act of March 3, 1871, excluding them from the grant thereby made to it. It is urged that such exclusion is effected by the concluding clause of the section making the grant, which is in these words: 'Provided, however, that this section shall in no way affect or impair the rights, present or prospective, of the Atlantic & Pacific Railroad Company, or any other railroad company.'

It is plain that this clause is not in the form of an exception from the grant. Congress was, of course, aware of its previous grant to the Atlantic & Pacific Company of date July 27, 1866, and being desirous of making that to the Southern Pacific Company subordinate and subject to its previous grants, inserted the proviso that the grant to the South

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Southern Pacific Company should be excluded from that grant. It was not to reserve anything to the United States, but to protect the 'present and prospective' rights of the Atlantic & Pacific Company and any other railroad company to which congress may have made grants of lands that the proviso was inserted. Had the line of road the Atlantic & Pacific Company was authorized to build by the act of July 27, 1866, been definitely located at the time of the grant to the Southern Pacific Company of March 3, 1871, and had the Atlantic & Pacific Company thereafter built its road and thereby earned the lands covered by its grant, the lands in controversy would have gone to it without regard to the proviso in question; for its grant which would have attached to such lands at the time of the definite location of the route of its road would have been perfected by the building of the road and the title thus perfected have related back to the date of the grant, July 27, 1866, and of course have excluded any subsequent grant covering the same lands. But the Atlantic & Pacific Company had not designated the route of its road at the time of the grant to the Southern Pacific Company of March 3, 1871. It might do so, however, thereafter and might build the road it was authorized to build and thereby earn the lands embraced by the grant to it of July 27, 1866. It had a 'present and prospective' right to do so. If it did both of those things, it would be entitled to the lands granted to it by that act. If it did not do both of those things, it would not be so entitled and the lands would remain as they then were, public lands of the United States. Congress, therefore, in making its grant to the Southern Pacific Company of March 3, 1871, made it subject to those 'present and prospective' rights. Had they been perfected by a compliance on the part of the Atlantic & Pacific Company with the conditions on which they were based, the title to the lands in controversy would have become vested in the Atlantic & Pacific Company as of date July 27, 1866. But as that company never did comply with the conditions of the grant and as all of its rights thereunder became forfeited in 1886 by act of congress because of such non-compliance, there remain no rights of that company to be, or that ever can be affected or

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United States any land that would otherwise be included in the granting clause of the act. The lands in controversy were public lands of the United States at the time of that grant; the terms of the granting clause include them, provided, only, that the grant be without prejudice to the present or prospective rights of the Atlantic & Pacific Railroad Company, or any other railroad company. The Atlantic & Pacific Company having forfeited its right to earn the lands in question by failing to build the road it was required to build as a consideration for the grant, it never acquired any title thereto

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and thenceforward there remained no right, 'present or prospective,' to be affected or impaired. When its rights became forfeited (there being no pretense that the case is affected by the rights of any other railroad company than those herein spoken of) there came to an end the only condition imposed by congress upon the grant to the Southern Pacific Company of March 3, 1871.

These views render it unnecessary to determine the question elaborately and ably argued by counsel as to whether there ever was a valid designation of the route of the proposed road of the Atlantic & Pacific Company.

I concur in the dismissal of the amended bill in each case, without costs, and wish to add that I would not have written this brief opinion had I known the circuit judge was engaged in the preparation of an opinion; but as each of us reached the same conclusion in a separate examination of the cases, at his suggestion both opinions are filed.

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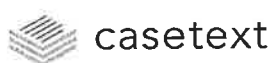
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IN SETTLEMENT OF LANDOWNER ACTION**

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

TODD SMITH, DIRK REGAN and CAROL
REGAN, JACQUELYN SHELDRIK,
GLENN L. BOOM, and WILLIAM NELSON
and LINDA NELSON, INDIVIDUALLY AND
AS REPRESENTATIVES OF A CLASS OF
PERSONS SIMILARLY SITUATED,

Plaintiffs,

v.

QWEST COMMUNICATIONS COMPANY,
LLC; SPRINT COMMUNICATIONS
COMPANY L.P.; LEVEL 3
COMMUNICATIONS, LLC; and WITEL
COMMUNICATIONS, LLC,

Defendants.

CASE NO. 3:11-cv-02599-TEH

I hereby attest and certify this is a printed copy of a
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[Signature], Deputy Clerk

**EASEMENT DEED BY COURT ORDER
IN SETTLEMENT OF LANDOWNER ACTION**

WHEREAS, the parties to the above-captioned class action (the "Action") entered into a California Class Settlement Agreement, as of September 5, 2012, (the "Settlement Agreement") (terms capitalized herein and not otherwise defined shall have the meanings ascribed to them in the Settlement Agreement);

WHEREAS, on June 24, 2013, the Court entered a final Order and Judgment approving the Settlement Agreement and ordering that this Action may be settled as a class action on behalf of the following class:

[A] class under the Settlement Agreement (the "Settlement Class"), defined as follows:

a class comprising all Persons who own or who claim to own, for any period of time during a Compensation Period, any Covered Property, except for: (1) Right-of-Way Providers and their predecessors, successors, parents, subsidiaries, and affiliates, past or present; (2) federal, state, and local governmental entities; (3) Native American nations and tribes; or (4) any Person who files a valid and timely exclusion on or before the Opt-Out Deadline.

1 Members of this Class are referred to below as Class Members; and

2 WHEREAS, the Settlement Agreement provides for the entry of an Easement Deed by
3 Court Order in Settlement of Landowner Action by which the Settling Defendants acquire, to the
4 extent that Class Members have the right to transfer it, a permanent telecommunications
5 easement in the Right of Way adjacent to the property of each Class Member;

6 THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED THAT:

7
8 1. To the extent that each Class Member owns rights in the Easement Premises (as
9 hereafter defined), the Class Member (the "Grantor") hereby grants to whichever of Sprint
10 Communications Company L.P., Qwest Communications Company, LLC, Level 3
11 Communications, LLC, and WiTel Communications, Inc. has Designated for inclusion under a
12 Settlement Agreement the Right of Way which adjoins, underlies or includes Covered Property
13 owned by the Class Member, together with its successors, assigns, and licensees (the "Grantee"),
14 a permanent telecommunications easement in the Easement Premises. For each county in which
15 this Easement Deed by Court Order in Settlement of Landowner Action is being recorded, a list
16 of affected Class Members and their affected parcels is attached as Exhibit 1. Exhibit 1 shall
17 describe Class Members' affected parcels with the following information, to the extent that it is
18 in the Database of Identification Information: owner name; owner mailing address; tax map
19 identification number; tax parcel identification number; lot number; and section, township, and
20 range. Exhibit 1 may describe Class Members' affected parcels with any other available
21 information.
22

23
24 2. The terms and conditions of the permanent telecommunications easement that is
25 the subject of this Easement Deed by Court Order in Settlement of Landowner Action are:

26 a perpetual easement and right of way (hereinafter, together with the rights and privileges
27 herein granted, the "Easement") and right to place, lay, bury, construct, install, operate, repair,

1 maintain (including aerial patrol), renew, rebuild, replace, upgrade, expand, relocate, and remove
2 fiber optic cables, copper cables, coaxial cables or other cables through which voice, data, video
3 or other signals are transmitted, conduits, inner ducts, hand holes, splice vaults, poles, optical or
4 electronic equipment, regenerator huts, marker posts or signs, and other related facilities
5 appropriate for installation, use, or maintenance of such cables (collectively, the
6 "Telecommunications Cable System"), in, on, over, under, through and/or across the Easement
7 Premises. The Easement Premises means all that real property that (a) either (i) is included
8 within a parcel of property that is described in Exhibit 1 or (ii) has a common boundary with a
9 parcel of property described in Exhibit 1 (the "Grantor's Property") (for purposes of this
10 Telecommunications Cable System Easement Deed, a parcel of property shall be deemed to have
11 a common boundary with the Easement Premises if it is separated by a non-navigable river or a
12 street, road, or highway, other than a numbered state or federal highway) and that (b) (i) is or
13 was used as a railroad right of way ("Railroad Right of Way") and (ii) is on a side of the
14 centerline of the Railroad Right of Way that is next to the Grantor's Property (the "Grantor
15 Side"), and (iii) extends no more than ten (10) feet on each side of the Grantee's
16 Telecommunications Cable System (A) as it existed on November 21, 2012 (B) where the
17 actively used components of the Grantee's Telecommunications Cable System are moved or
18 placed, provided, however, that only a single 20-foot easement per moved component may exist
19 at any point in time in the Easement Premises, and the width of the moved component's
20 Easement Premises shall be reduced on one side and increased by an equal linear footage on the
21 other side wherever necessary in order that it shall in all places remain solely within the limits of
22 a single Grantor Side of the Railroad Right of Way, and (C) where new components are installed
23 to connect the existing Telecommunications Cable System to the edge of the Right of Way. The
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1 Easement shall be construed to grant Grantee all rights necessary to abandon in place unused
2 components of Grantee's Telecommunications Cable System.

3 The Easement shall not include the right to construct on the Easement Premises
4 regenerator huts and similar structures ("Buildings") in addition to those existing on November
5 21, 2012. The Easement shall include the rights to repair, replace, and expand existing
6 Buildings, provided, however, that no such repair, replacement, or expansion shall increase the
7 site that the Buildings occupy, or the height of any Building, by more than twenty-five percent.
8 The Easement does not permit the construction of microwave towers, cell towers, or other
9 components of a primarily aboveground statewide Telecommunications Cable System.
10

11 The Easement includes the right to temporarily use the entire Grantor Side of the
12 Railroad Right of Way for construction or maintenance, so long as Grantee uses its best efforts
13 not to interfere with any real property which, although within the boundaries of the Easement
14 Premises, is actually being used by Grantor; provided, however, that in no event shall Grantee be
15 prohibited from using such real property if it is commercially reasonable to do so under the
16 circumstances or if Grantee's Telecommunications Cable System is currently located within such
17 area. The Easement shall include the right of reasonable ingress and egress to and from the
18 Easement Premises over that portion of the Grantor's real property that underlies the Railroad
19 Right of Way and, for repair and maintenance, over any existing private roads of Grantor, where
20 access from public or railroad roads is not reasonably practical, provided Grantee has made
21 commercially reasonable efforts to give prior notice to Grantor of Grantee's use of Grantor's
22 private roads. Grantee shall not be liable for damages caused by its removal of trees,
23 undergrowth, and brush within the Easement Premises necessary or appropriate for the
24 enjoyment of the Easement. Nothing contained herein shall constitute a waiver of any right that
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1 Grantor may have for any damages to Grantor's property outside of the Easement Premises
2 caused by Grantee's action. If Grantee's action causes damage to any of Grantor's existing
3 improvements, including houses, garages, shops, sheds, and fences, or growing crops, which are
4 within the Easement Premises, Grantee shall pay reasonable compensation to the Grantor for
5 such damage to the extent provided by law.

6
7 From and after June 24, 2013, subject to all the restrictions and limitations stated herein,
8 the Easement includes the right to construct and install additional components of a
9 Telecommunications Cable System within the Easement Premises. Grantee agrees that unless
10 (a) it is required to do so by the railroad or other owner of Railroad Right of Way or (b) it is
11 commercially reasonable under the circumstances to do so, it will not install additional
12 components of a Telecommunications Cable System in the area of the Easement Premises that is
13 outside a parallel fence constructed by the railroad or other owner of Railroad Right of Way or is
14 actually being used by the Grantor or its successor, provided, however, that the foregoing shall
15 not be binding upon Grantee if Grantee's Telecommunications Cable System is currently located
16 within such area. If Grantee's action causes damage to any of Grantor's existing improvements,
17 including houses, garages, shops, sheds, and fences, or growing crops, which are within the
18 Easement Premises, Grantee shall pay reasonable compensation to the Grantor for such damage
19 to the extent provided by law.
20

21 The Easement includes all rights necessary to the lawful occupation of the Easement
22 Premises by an existing Telecommunications Cable System, and by any additional
23 Telecommunications Cable System that is constructed and installed by or on behalf of Grantee in
24 the Easement Premises and that is owned or operated by either (a) Grantee or (b) any person or
25 entity to which Grantee sold, granted, leased, or otherwise transferred or may hereafter sell,
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1 grant, lease, assign, or otherwise transfer, all or any part of the rights in or use of such
2 Telecommunications Cable System.

3 The Easement, however, does not apply to any Telecommunications Cable System that
4 existed on November 21, 2012, but that was acquired by Grantee after that date (unless such
5 Telecommunications Cable System or component thereof was acquired from any of Sprint
6 Communications Company L.P.; Qwest Communications Company, LLC, f/k/a Qwest
7 Communications Corporation; Level 3 Communications, LLC, Level 3 Communications, Inc.,
8 and Level 3 Telecom Holdings, Inc.; WilTel Communications, Inc.; WilTel Communications,
9 LLC; and Williams Communications, LLC, f/k/a Williams Communications, Inc., f/k/a Vyvx,
10 Inc.).
11

12 No oil, gas, or other mineral rights are granted and no existing oil, gas, or other mineral
13 rights are expanded, limited, or affected by this instrument, provided, however, that Grantor shall
14 not use a method of extraction that interferes with or impairs in any way the Easement, the
15 Telecommunications Cable System, or the exercise of Grantee's rights herein.
16

17 Grantor shall not, nor shall Grantor authorize others to, construct or create any road,
18 reservoir, excavation, obstruction, structure, or building or change the land grade on, in, over,
19 under, through, or across the Easement Premises without the prior written consent of Grantee,
20 provided that nothing herein shall be construed to affect the rights and obligations of any railroad
21 with respect to the use, improvement, or alteration of its Railroad Right of Way, as provided in
22 any agreement between the railroad and the Grantee, by applicable law, or otherwise.
23

24 It is understood and agreed that the Easement is not exclusive and is subject to all pre-
25 existing uses and pre-existing rights to use the Easement Premises, whether such uses are by
26 Grantor or others and whether for surface uses, crossings, or encroachments by communication
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1 companies or utilities. It is further understood and agreed that Grantor retains all of its existing
2 rights, if any, to grant, convey, assign, and restrict any and all rights (including future rights and
3 uses) on the Easement Premises, provided, however, and notwithstanding the foregoing, that
4 Grantor shall not use or authorize others to use the Easement Premises in a manner that interferes
5 with or impairs in any way Grantee's Telecommunications Cable System or the exercise by
6 Grantee of the rights granted herein.
7

8 Subject to the terms hereof, Grantee shall have all other rights and benefits necessary or
9 useful to the full and complete enjoyment and use of the Easement for the purposes stated herein,
10 including the right to sell, grant, lease, or otherwise transfer all or any part of the rights in or use
11 of the Telecommunications Cable System.

12 Grantor conveys the Easement without warranty of title to any property interest in the
13 Easement Premises. This instrument does not address and shall not affect any real property
14 rights, including the priority of interests, between Grantor and any railroad or between Grantee
15 and any railroad, or any of their predecessors, successors, past or present predecessors in interest,
16 successors in interest, successors in title, members, partners, parents, subsidiaries, affiliates,
17 lessees, assigns, and past, current, or future licensees or assignees. This Easement is not
18 intended to impact or diminish any railroad's existing rights or property interests in the Right of
19 Way. This Easement shall not be construed to permit Grantee to interfere with railroad
20 operations. This Easement also shall not permit any component of a Telecommunications Cable
21 System to remain in a Railroad Right of Way except (a) under existing or future agreements with
22 the railroad or (b) in any Railroad Right of Way in which no railroad operates and no railroad
23 retains any right, title, or interest. This Easement also shall not permit any new components to
24 be installed to connect the existing Telecommunications Cable System to the edge of the Right
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1 of Way in any Railroad Right of Way as to which the Interstate Commerce Commission or the
2 Surface Transportation Board has entered an order, pursuant to 49 U.S.C. § 10903, that the
3 railroad is authorized to cease to provide or maintain rail service over that right of way and the
4 railroad no longer provides or maintains rail service over that line, provided that if the railroad
5 does not cease such rail service or later reactivates such service, then this limitation shall not
6 apply.
7

8 This Telecommunications Cable System Easement Deed is executed and delivered on
9 behalf of Grantor for the purpose of granting the Easement to Grantee in, on, over, under,
10 through and/or across the Easement Premises to the full extent of Grantor's right, title or interest,
11 if any, in or to the Easement Premises, and the Easement granted hereby shall affect the
12 Easement Premises only to the extent of Grantor's right, title, and interest therein. Grantor and
13 Grantee agree that this Telecommunications Cable System Easement Deed shall not grant any
14 rights to the Easement Premises, or any portion thereof, in which Grantor holds no right, title or
15 interest.
16

17 No rights reserved to Grantor herein shall be deemed to expand rights reserved to Grantor
18 under any other easement, right of way, license, lease, or any similar instrument or court order.
19 No limitation herein on the rights of Grantee shall be deemed to limit rights heretofore granted
20 by Grantor or its predecessors in interest under any other easement, right of way, license, lease,
21 or any similar instrument or court order.
22

23 The terms and provisions of this instrument shall constitute covenants running with the
24 land and shall be binding upon and inure to the benefit of the Settling Defendants, the Grantor,
25 their successors, assigns, personal representatives, and heirs.
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This instrument fully sets forth the terms and conditions of the Easement. There are no oral or other written agreements between Grantor and Grantee that modify, alter, or amend this instrument.

TO HAVE AND TO HOLD the Easement, rights and privileges unto Grantee, its successors and assigns in perpetuity or until such time as Grantee shall cause the Easement to be released of record.

3. Settling Defendants may record this Easement under the terms and conditions set forth in the Settlement Agreement.

Date: 6/27/13



Honorable Thelton E. Henderson, Judge
United States District Court

EEC ORIGINAL PKG
PC ORIGINAL PKG

Grantee's Name: Qwest as defined in the "Settlement Agreement" referenced in the text of the Easement Deed by Court Order in Settlement of Landowner Action. That Settlement Agreement defines "Qwest" to include: (1) Qwest Communications International Inc., (2) Qwest Communications Corporation now known as Qwest Communications Company, LLC, and (3) all of these entities' predecessors, successors, assigns, parents, affiliates and subsidiaries.

Grantee's Address: 700 West Mineral Avenue, Littleton, Colorado 80120

EXHIBIT 1

IMPERIAL COUNTY

LIST OF AFFECTED PARCELS¹

Assessor's Parcel No.	T-R-S	Owner's/Grantor's Name	Owner's/Grantor's Mailing Address ²
021-160-017	11S-14E-3	Southern Pacific Pipe Lines Partnership	888 So Figueroa St, Los Angeles, CA 90017
021-160-020	11S-14E-3	TNT Enterprises Inc	PO Box 427, Wildomar, CA 92395
021-280-003	11S-14E-10	Juan Chavez	PO Box 642, Calipatria, CA 92233
021-280-005	11S-14E-10	Y Ranches	PO Box 267, Calipatria, CA 92233
021-280-010	11S-14E-10	IID - Trust Lands	PO Box 937, Imperial, CA 92251
021-290-013	11S-14E-12	IID - Trust Lands	PO Box 937, Imperial, CA 92251
021-290-015	11S-14E-11	IID - Trust Lands	PO Box 937, Imperial, CA 92251
021-321-004	11S-14E-15	Anna S Sandhu Tr et al	6212 Commodore Ln, Oklahoma, OK 73162
021-331-002	11S-14E-15	TNT Enterprises Inc	PO Box 427, Wildomar, CA 92395
021-331-003	11S-14E-15	IID - Trust Lands	PO Box 937, Imperial, CA 92251
021-331-004	11S-14E-15	IID - Trust Lands	PO Box 937, Imperial, CA 92251
021-340-003	11S-14E-13	Andrew & Marlene Currier	290 River Wood Dr, Brawley, CA 92227
022-020-005	11S-14E-22	IID - Trust Lands	PO Box 937, Imperial, CA 92251

¹In accordance with Paragraph 1 of the Easement Deed by Court Order in Settlement of Landowner Action (the "Court Order"), Qwest prepared this Exhibit 1 and attached it to the Court Order.

²The owner's/grantor's mailing address is not necessarily the same as the affected parcel's address.

IMPERIAL

Assessor's Parcel No.	T-R-S	Owner's/Grantor's Name	Owner's/Grantor's Mailing Address ²
022-020-009	11S-14E-22	Dennis & Orvin Lambert	PO Box 158, Montrose, CO 81402
022-110-006	11S-14E-27	TNT Enterprises Inc	PO Box 427, Wildomar, CA 92395
022-110-007	11S-14E-27	IID - Trust Lands	PO Box 937, Imperial, CA 92251
022-110-008	11S-14E-27	IID - Trust Lands	PO Box 937, Imperial, CA 92251
022-110-009	11S-14E-27	TNT Enterprises Inc	PO Box 427, Wildomar, CA 92395
022-170-004	12S-14E-3	TNT Enterprises Inc	PO Box 427, Wildomar, CA 92395
022-170-005	12S-14E-3	SM me LLC	111 Woodmere Rd, Folsom, CA 95630
023-020-015	12S-14E-10	F L & Deanie Johnson	2327 Hwy 86, Imperial, CA 92251
023-020-016	12S-14E-10	James R & Barbara A Smith	1593 Gonder Rd, Brawley, CA 92227
023-101-003	12S-14E-15	TNT Enterprises Inc	PO Box 427, Wildomar, CA 92395
023-101-004	12S-14E-15	Williams First Choice Onion Properties LLC et al	PO Box 1058, Nuevo, CA 92567
023-130-004	12S-14E-15	Golden Eagle Hay Co Inc	PO Box 467, Calipatria, CA 92281
023-130-005	12S-14E-15	Chavez Bros	PO Box 1545, Calipatria, CA 92233
023-141-002	12S-14E-15	TNT Enterprises Inc	PO Box 427, Wildomar, CA 92395
023-141-006	12S-14E-15	Superior Land & Cattle Co	PO Box 1828, Calipatria, CA 92233
023-201-002	12S-14E-15	TNT Enterprises Inc	PO Box 427, Wildomar, CA 92395
023-201-003	12S-14E-15	Superior Land & Cattle Co	PO Box 1828, Calipatria, CA 92233
023-261-002	12S-14E-15	TNT Enterprises Inc	PO Box 427, Wildomar, CA 92395
023-261-003	12S-14E-15	Superior Land & Cattle Co	PO Box 1828, Calipatria, CA 92233
023-331-002	12S-14E-15	TNT Enterprises Inc	PO Box 427, Wildomar, CA 92395
023-331-003	12S-14E-15	Superior Land & Cattle Co	PO Box 1828, Calipatria, CA 92233
023-380-003	12S-14E-15	Superior Land & Cattle Co	PO Box 1828, Calipatria, CA 92233
023-380-007	12S-14E-15	TNT Enterprises Inc	PO Box 427, Wildomar, CA 92395
023-380-008	12S-14E-15	Superior Land & Cattle Co	PO Box 1828, Calipatria, CA 92233
023-391-002	12S-14E-15	TNT Enterprises Inc	PO Box 427, Wildomar, CA 92395
023-391-005	12S-14E-15	Superior Land & Cattle Co	PO Box 1828, Calipatria, CA 92233
023-391-006	12S-14E-15	Superior Land & Cattle Co	PO Box 1828, Calipatria, CA 92233
024-260-031	12S-14E-22	Thomas Young et al	PO Box 537, Homer, AK 99603
024-260-059	12S-14E-22	Supr Terminal LLC	PO Box 509, Calipatria, CA 92233

¹In accordance with Paragraph 1 of the Easement Deed by Court Order in Settlement of Landowner Action (the "Court Order"), Quest prepared this Exhibit 1 and attached it to the Court Order.

²The owner's/grantor's mailing address is not necessarily the same as the affected parcel's address.

IMPERIAL

Assessor's Parcel No.	T-R-S	Owner's/Grantor's Name	Owner's/Grantor's Mailing Address ²
024-260-061	12S-14E-22	EZ Properties LLC	2506 Kentia St, Oxnard, CA 93036
024-290-004	12S-14E-27	IID - Trust Lands	PO Box 937, Imperial, CA 92251
024-290-021	12S-14E-27	Herbert J & Elizabeth L Bool	6844 N 36th St, Phoenix, AZ 85018
024-290-022	12S-14E-27	Herbert J & Elizabeth L Bool	6844 N 36th St, Phoenix, AZ 85018
024-290-025	12S-14E-27	TNT Enterprises Inc	PO Box 427, Wildomar, CA 92395
024-340-015	12S-14E-34	Herbert J & Elizabeth L Bool	6844 N 36th St, Phoenix, AZ 85018
024-340-016	12S-14E-34	Herbert J & Elizabeth L Bool	6844 N 36th St, Phoenix, AZ 85018
025-260-003	11S-15E-18	Timothy Bopp	2401 E GlenOaks Blvd, Glendale, CA 91206
025-260-006	11S-15E-18	Mark A Wheeler	28229 Branch Rd, Castaic, CA 91384
025-260-008	11S-15E-18	Denis L Kleidosty	2986 Tisbury Dr, Henderson, NV 89052
025-260-019	11S-15E-17	Lincoln H Banks	777 Alvarado Rd, La Mesa, CA 91941
025-260-031	11S-15E-18	Ricardo Martinez	PO Box 572, Niland, CA 92257
025-290-010	11S-15E-36	S B Grant & E B Franklin LLC et al	901 N Brutscher St, Newberg, OR 97132
025-290-019	11S-15E-36	J M Foigelman et al	27 Gleneagles, Newport Beach, CA 92660
025-290-036	11S-15E-36	Helen E Johnson	PO Box 1131, 105 Cornville, AZ 86325
034-360-036	16S-11E-12	Ed L Construction Inc	PO Box 785, San Marcos, CA 92069
034-360-037	16S-11E-12	Ed L Construction Inc	PO Box 785, San Marcos, CA 92069
037-030-012	13S-14E-3	Barbara D Cox	249 Andrita Pl, Brawley, CA 92227
037-030-022	13S-14E-2	Carl E Weiler	5451 N 25th St, Phoenix, AZ 85016
037-060-018	13S-14E-3	Lawrence W & Tina Cox	PO Box 301, Brawley, CA 92227
037-070-013	13S-14E-3	Henrietta Farms Inc	PO Box 239, Brawley, CA 92227
037-100-003	13S-14E-10	SP & ML Rutherford Tr	PO Box 6, Brawley, CA 92227
037-100-004	13S-14E-3	Matthew Lee Rutherford	PO Box 6, Brawley, CA 92227
037-110-004	13S-14E-10	Gargiulo Farms	PO Box 96, Brawley, CA 92227
037-140-006	13S-14E-15	ORNI LLC	6225 Neil Rd, Reno, NV 89511
037-140-021	13S-14E-15	ORNI LLC	6225 Neil Rd, Reno, NV 89511
037-160-011	13S-14E-15	IID-Imperial Irrigation District	PO Box 937, Imperial, CA 92251
037-160-012	13S-14E-22	Emma Loucille Walk	110 I St, Brawley, CA 92227
037-160-019	13S-14E-22	JLF Ranches Ltd	PO Box 134, Brawley, CA 92227
037-160-021	13S-14E-22	Matthew Lee Rutherford Tr	PO Box 6, Brawley, CA 92227

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²The owner's/grantor's mailing address is not necessarily the same as the affected parcel's address.

IMPERIAL

Assessor's Parcel No.	T-R-S	Owner's/Grantor's Name	Owner's/Grantor's Mailing Address ²
037-160-022	13S-14E-22	California R/W Inc	PO Box 357, Niland, CA 92257
037-160-024	13S-14E-21	Matthew Lee Rutherford Tr	PO Box 6, Brawley, CA 92227
039-310-026	13S-18E-33	Eugene L Leblanc	5775 E Hwy 78, Brawley, CA 92227
039-310-028	13S-18E-33	Eugene L Leblanc	5775 E Hwy 78, Brawley, CA 92227
040-130-008	14S-14E-09	Avelardo Rodriguez	10235 Otis St, South Gate, CA 90280
040-130-009	14S-14E-04	IID - Trust Lands	PO Box 1809, El Centro, CA 92243
040-130-011	14S-14E-09	Avelardo Rodriguez	10235 Otis St, South Gate, CA 90280
040-130-012	14S-14E-08	John R & Carolyn F Benson	PO Box 239, Brawley, CA 92227
040-190-004	14S-14E-17	Brookfield 101 Ranch LLC	12865 Pointe del Mar, Ste 200 Del Mar, CA 92014
040-230-006	14S-14E-20	Evelyn S Ayala	462 W G St, Brawley, CA 92227
040-230-013	14S-14E-20	Pioneer Livestock Inc	PO Box 328, Trust Dept Meridian, ID 83642
040-230-016	14S-14E-20	Barkley Seed Inc	PO Box 5540, Yuma, AZ 85366
040-230-017	14S-14E-20	Barkley Seed Inc	PO Box 5540, Yuma, AZ 85366
040-240-003	14S-14E-20	IID-Imperial Irrigation District	PO Box 937, Imperial, CA 92251
040-240-018	14S-14E-20	Barkley Seed Inc	PO Box 5540, Yuma, AZ 85366
040-330-005	14S-14E-29	Spreckels Sugar Co Inc	PO Box 581, Brawley, CA 92227
040-330-009	14S-14E-30	IID-Imperial Irrigation District	PO Box 937, Imperial, CA 92251
040-340-020	14S-14E-31	IID-Imperial Irrigation District	PO Box 937, Imperial, CA 92251
040-340-022	14S-14E-32	Wayne & Di Peng Yang	2478 N Stevens Ave, Rosemead, CA 91770
040-340-036	14S-14E-31	Central Pipe Mechanical Inc	PO Box 3682, El Centro, CA 92244
040-340-041	14S-14E-31	J C Floyd Sr & Nancy C Nale	196 W Harris Rd, Imperial, CA 92251
043-380-008	15S-13E-35	Ruth Schultz-Rudof Tre	10975 Rim Rd, Escondido, CA 92026
043-450-092	15S-14E-31	Pacific West Management LLC	16027 Ventura Blvd, 550 Encino, CA 91436
043-540-015	15S-14E-07	Veronica Sam	716 E Sunrise, Imperial, CA 92251
043-673-006	15S-14E-18	Nicholas Sanchez	531 W Belford RD, Imperial, CA 92251
044-200-043	15S-14E-19	Hector Margain	PO Box 8214, Chula Vista, CA 91912
044-200-065	15S-14E-19	Robert S & Marie Ellison	PO Box 351, Imperial, CA 92251
044-200-077	15S-14E-19	James A & Janet R Lamphere	2925 W Main St, El Centro, CA 92243
044-200-078	15S-14E-19	James A & Janet R Lamphere	2925 W Main St, El Centro, CA 92243

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²The owner's/grantor's mailing address is not necessarily the same as the affected parcel's address

IMPERIAL

Assessor's Parcel No.	T-R-S	Owner's/Grantor's Name	Owner's/Grantor's Mailing Address ²
044-200-079	15S-14E-19	Delgado Secundino Arellano & Martha Co Tr	1161 Obeliscos, Calexico,CA 92231
044-200-079	15S-14E-19	Martha Delgado et al	1161 Obeliscos, Calexico,CA 92231
044-200-081	15S-14E-19	Hector F Margain	PO Box 8214, Chula Vista,CA 92012
044-200-086	15S-14E-30	Ana Bastidas et al	320 Aten Rd, Imperial,CA 92251
044-220-004	15S-14E-30	Simcal Chemical Co	PO Box 27, Boise,ID 83707
044-220-022	15S-14E-30	WHB Enterprises	1085 State St, El Centro,CA 92243
044-290-015	15S-14E-31	Dubois Land & Livestock Co LLC	801 W Ross Rd, El Centro,CA 92243
044-313-001	15S-14E-31	Maria Nicolasa Beltran	1097 Stacey Ave, El Centro,CA 92243
044-313-002	15S-14E-31	Francisco J & Maria Martinez	1087 Stacey Ave, El Centro,CA 92243
044-313-003	15S-14E-31	Mary Helen Gloria	1077 Stacey, El Centro,CA 92243
044-313-004	15S-14E-31	Rosa N Maldonado	1067 Stacey Ave, El Centro,CA 92243
044-313-005	15S-14E-31	Joseph Lee Houseman	PO Box 387, Imperial,CA 92251
044-313-006	15S-14E-31	Jose C & Socorro M Antunez	2257 Pepper Ave, El Centro,CA 92243
044-313-007	15S-14E-31	Reyes A & Romelia Gonzalez	1037 Stacey Ave, El Centro,CA 92243
044-313-008	15S-14E-31	Ernesto Bustamante	1027 Stacey Ave, El Centro,CA 92243
044-313-009	15S-14E-31	John Angel & Navar I Garcia	1017 Stacey Ave, El Centro,CA 92243
044-313-010	15S-14E-31	Ruben & Dahlia Jimenez	2490 Brighton Ave, El Centro,CA 92243
044-313-011	15S-14E-31	Victor & Gloria Herrera	1001 Stacey Ave, El Centro,CA 92243
044-313-012	15S-14E-31	Frank J & Maria A Perdomo	897 Stacey, El Centro,CA 92243
044-313-013	15S-14E-31	Tomas E & Maria Jesus Diaz	887 Stacey Ave, El Centro,CA 92243
044-313-014	15S-14E-31	Martin J Aguilera et al	1526 Trinity Way, Salinas,CA 93906
044-313-015	15S-14E-31	Frank G & Anita A Cruz	867 Stacey Ave, El Centro,CA 92243
044-313-016	15S-14E-31	Arnulfo V De Hoyos et al	857 Stacey Ave, El Centro,CA 92243
044-313-017	15S-14E-31	Delvin & Patricia Yarnall	2275 Pepper Dr, El Centro,CA 92243
044-313-018	15S-14E-31	Encarnacion & Rosamaria Cabrera	837 Stacey Ave, El Centro,CA 92243
044-313-019	15S-14E-31	Gale L Larran	4410 Glistening Spgs, Rowlett,TX 75088
044-313-020	15S-14E-31	Rafael & Jacqueline Gutierrez	817 Stacey Ave, El Centro,CA 92243
044-313-021	15S-14E-31	Rosalinda Garcia-Herrera	807 Stacey, El Centro,CA 92243

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IMPERIAL

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044-320-014	15S-14E-31	Conrado R & Martha Andrade	731 Stacey Ave, El Centro, CA 92243
044-320-015	15S-14E-31	Lorenzo & Laura Cancel	434 E Hamilton Ave, El Centro, CA 92243
044-320-016	15S-14E-31	Francisco Hernandez et al	749 Stacey Ave, El Centro, CA 92243
044-320-017	15S-14E-31	Guadalupe Moreno	759 Stacey Ave, El Centro, CA 92243
044-320-018	15S-14E-31	Maria & Raul Mungarro	769 Stacey Ave, El Centro, CA 92243
044-320-019	15S-14E-31	Baltazar & Frances Romero	779 Stacey Ave, El Centro, CA 92243
044-320-020	15S-14E-31	Imperial Valley Properties LLC	375 E Commercial Ave, El Centro, CA 92243
044-320-021	15S-14E-31	Fernando & Margarita Lozano	799 Stacey Ave, El Centro, CA 92243
044-331-006	15S-14E-31	Sun Wah & Kay Fun Louie	610 E Holton Rd, El Centro, CA 92243
044-332-016	15S-14E-32	Floyd D & Emma L Berryman	PO Box 2154, El Centro, CA 92244
044-332-018	15S-14E-31	RGT El Centro LLC	7825 Fay Ave, La Jolla, CA 92037
044-332-020	15S-14E-31	El Centro Police Athletic League	1100 N 4th St, El Centro, CA 92243
044-332-020	15S-14E-32	El Centro Police Athletic League	1100 N 4th St, El Centro, CA 92243
044-343-003	15S-14E-32	Juana Lopez et al	915 N Fourth St, El Centro, CA 92243
044-440-024	15S-14E-32	Montecito Land	PO Box 360, El Centro, CA 92244
044-440-025	15S-14E-31	Michael Brett Driscoll	1470 State St, El Centro, CA 92243
044-440-035	15S-14E-31	Brenda Rodriguez et al	220 E Villa Rd, El Centro, CA 92243
044-440-060	15S-14E-32	Maria Leticia Barriga	1803 Barbara Worth, El Centro, CA 92243
044-530-004	15S-14E-06	Central Pipe Mechanical Inc	PO Box 3682, El Centro, CA 92244
044-530-008	15S-14E-06	R M Mosqueda et al	3102 Clark Rd, Imperial, CA 92251
044-530-009	15S-14E-06	Jason Hathaway	PO Box 2047, Beaver, UT 84713
044-530-016	15S-14E-06	Western Farm Service Inc	3005 Rocky Mountain Ave, Loveland, CO 80538
044-530-017	15S-14E-06	Crop Production Services Inc	3005 Rocky Mountain Ave, Loveland, CO 80538
044-550-004	15S-14E-07	Ogwaro Holdings LLC	1509 Brookside Ct, San Marcos, CA 92078
044-561-001	15S-14E-31	Angel L & Josefina V Lopez	1201 Stacey Ave, El Centro, CA 92243
044-561-002	15S-14E-31	Nicolas A & Consuelo Sanchez	531 Belford Rd, Imperial, CA 92251
044-561-003	15S-14E-31	Jaime & Rosa Edith Ahumada	1221 Stacey Ave, El Centro, CA 92243
044-561-004	15S-14E-31	Joe M & Consuelo L Puga	2442 Ross Ave, El Centro, CA 92243

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044-561-005	15S-14E-31	Cesar & Donna Martinez	1241 Stacey Ave, El Centro, CA 92243
044-561-006	15S-14E-31	Arthur & Yvette M Garcia	1251 Stacey, El Centro, CA 92243
044-561-007	15S-14E-31	Herminia Rios	1261 Stacy Ave, El Centro, CA 92243
044-561-008	15S-14E-31	Jose Luis D Gonzales	1271 Stacey Ave, El Centro, CA 92243
044-561-009	15S-14E-31	Ricardo M & Maria D Larios	1281 Stacey Ave, El Centro, CA 92243
044-561-010	15S-14E-31	Peggy J Artrup	1291 Stacey Ave, El Centro, CA 92243
044-561-011	15S-14E-31	Lucinda Parkinson	1299 Stacey, El Centro, CA 92243
044-561-012	15S-14E-31	Sixto & Estella Diaz	910 N 14th St, El Centro, CA 92243
047-010-029	13S-14E-27	National Beef California LP	57 E Shank Rd, Brawley, CA 92227
047-050-012	13S-14E-28	Chevron USA Inc	PO Box 1392, Bakersfield, CA 93302
047-060-003	13S-14E-28	Chevron USA Inc	PO Box 1392, Bakersfield, CA 93302
047-140-005	13S-14E-28	IID - Trust Lands	PO Box 937, Imperial, CA 92251
047-281-006	13S-14E-33	Brawley American Citizens Club Inc	PO Box 529, Brawley, CA 92227
047-281-007	13S-14E-33	Brawley American Citizens Club Inc	PO Box 529, Brawley, CA 92227
047-281-010	13S-14E-33	Brawley American Citizens Club Inc	PO Box 529, Brawley, CA 92227
047-281-011	13S-14E-33	Chubasco LLC	385 N 9th St, Brawley, CA 92227
047-281-012	13S-14E-33	El Redentor Assembly of God Church	305 N 9th St, Brawley, CA 92227
047-281-018	13S-14E-33	El Redentor Assembly of God Church	305 N 9th St, Brawley, CA 92227
047-351-008	13S-14E-33	Thomas A Gargiulo	PO Box 1207, Brawley, CA 92227
047-351-009	13S-14E-33	Thomas A Gargiulo	PO Box 1207, Brawley, CA 92227
048-250-037	14S-14E-04	Jimmy Dean Tucker	4201 Dogwood Rd, Brawley, CA 92227
048-250-054	14S-14E-04	Delvin J & Frances M Ashurst	PO Box 100, Westmorland, CA 92281
048-250-055	14S-14E-04	Jon Montgomery Self	4201 Dogwood Rd, Brawley, CA 92227
049-031-011	13S-14E-33	The Hartford Center LLC	4425 Brandt Rd, Brawley, CA 92227
049-032-009	13S-14E-33	Bob L & Juanita Merrill	PO Box 1434, Brawley, CA 92227

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049-090-015	13S-14E-33	Bob L & Juanita Merrill	PO Box 1434, Brawley, CA 92227
049-140-001	13S-14E-33	J R Norton Co	PO Box 44015, Phoenix, AZ 85064
049-140-002	13S-14E-33	John Norton Farms	PO Box 44015, Phoenix, AZ 85064
049-140-003	13S-14E-33	John Norton Farms	PO Box 44015, Phoenix, AZ 85064
049-140-004	13S-14E-33	Martin Franco	644 Stanley Pl, Brawley, CA 92227
049-140-005	13S-14E-33	Robert W Poff et al	618 Calle Vicente, San Clemente, CA 92673
049-191-002	13S-14E-33	NM & SM Property Holdings LLC	PO Box 1531, Brawley, CA 92227
049-270-003	14S-14E-03	Brawley Development Group LLC	11593 S Fortuna Rd, Yuma, AZ 85367
049-270-009	14S-14E-04	Debbie Davis	591 Marilyn Ave, Brawley, CA 92227
049-270-013	14S-14E-04	Sarah A Mohamed	551 W Main St, Brawley, CA 92227
049-270-014	14S-14E-04	Five Crowns Inc	551 W Main St, Brawley, CA 92227
049-270-015	14S-14E-04	Five Crowns Inc	551 W Main St, Brawley, CA 92227
049-270-016	14S-14E-04	Five Crowns Inc	995 S 9th St, Brawley, CA 92227
050-120-013	15S-20E-27	North American Land Corp	4656 Burkholm Rd, Mims, FL 32754
050-120-032	15S-20E-34	JWDCO LLC	401 S Harbor Blvd, La Habra, CA 90631
050-120-036	15S-20E-35	Susan A Todd	9340 Cordoba Blvd, Sparks, NV 89436
050-120-037	15S-20E-35	JWDCO LLC	401 S Harbor Blvd, La Habra, CA 90631
050-120-039	15S-20E-35	Susan A Todd	9340 Cordoba Blvd, Sparks, NV 89436
050-120-044	15S-20E-35	William H French	6559 S Lazy Ln, Gold Canyon, AZ 85118
050-120-045	15S-20E-35	George & Zelma L Donoho	436 Sirretta, Kernville, CA 93238
051-020-012	16S-12E-08	Edward R & Joan Cuin	2370 West Hwy 80, Imperial, CA 92251
051-020-018	16S-12E-08	Tony Castaneda	330 W Heil Ave, El Centro, CA 92243
051-020-024	16S-12E-07	Heidi L Kuhn	5743 Meadows del Mar, San Diego, CA 92130
051-020-032	16S-12E-08	Imperial Valley Cheese of California LLC	1051 N 1000 W, Logan, UT 84321
051-020-033	16S-12E-08	Kuhn Farms	1870 B Jeffrey Rd, El Centro, CA 92243
051-051-003	16S-12E-07	IID-Imperial Irrigation District	PO Box 937, Imperial, CA 92251
051-081-001	16S-12E-07	Carlos Perez et al	17229 Garlen Ct, Salinas, CA 93907

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051-084-001	16S-12E-07	Carmen Redondo et al	PO Box 208, Seeley, CA 92273
051-084-003	16S-12E-07	Jesus Redondo	2825-A W Evan Hewes Hwy, Imperial, CA 92251
051-091-001	16S-12E-07	IID-Imperial Irrigation District	PO Box 937, Imperial, CA 92251
051-092-001	16S-12E-07	Sam Estes	PO Box 830, Seeley, CA 92273
051-092-002	16S-12E-07	Maria Lourdes Acuna	371 Ross Rd, El Centro, CA 92243
051-092-010	16S-12E-07	Heidi L Kuhn	5743 Meadows del Mar, San Diego, CA 92130
051-092-014	16S-12E-07	Heidi L Kuhn	5743 Meadows del Mar, San Diego, CA 92130
051-120-024	16S-12E-09	George J & Clemence V Lerno	2801 W Main St, El Centro, CA 92243
051-120-025	16S-12E-09	FC & MK Tomlinson LLC	259 S Randolph Ave, Brea, CA 92821
051-120-039	16S-12E-10	George J & Clemence V Lerno	2801 W Main St, El Centro, CA 92243
051-120-047	16S-12E-10	Frank N & Carma J Tomlinson	PO Box 2577, Capistrano Beach, CA 92624
051-120-060	16S-12E-10	Madeline L Kuhn	47 Medina Dr, Palm Desert, CA 92260
051-215-001	16S-12E-12	Roman Catholic Bishop of San Diego	795 So La Brucherie Rd, El Centro, CA 92243
051-242-001	16S-12E-11	Val-Rock Inc	3200 San Fernando Rd, Los Angeles, CA 90065
051-250-007	16S-12E-11	Francisco & Maria T Parga	PO Box 476, Imperial, CA 92251
051-250-008	16S-12E-12	Francisco & Maria T Parga	PO Box 476, Imperial, CA 92251
051-250-010	16S-12E-12	Seeley Properties LLC	1805 Evan Hewes, PO Box 549 Seeley, CA 92273
051-250-011	16S-12E-11	First Baptist Church of Seeley	PO Box 770, Indio, CA 92202
051-420-030	16S-12E-12	Paul E & Beverly A Benefield	1191 River Front Dr, Bullhead City, AZ 86442
051-420-033	16S-12E-12	Roman Catholic Bishop of San Diego	795 So La Brucherie Rd, El Centro, CA 92243
051-420-034	16S-12E-12	Norman P Pearse	1958 Sunderidge, San Antonio, TX 78260
051-420-035	16S-12E-12	Paul & Beverly Benefield	1191 River Front Dr, Bullhead City, AZ 86442
051-420-036	16S-12E-12	Paul & Beverly Benefield	1191 River Front Dr, Bullhead City, AZ 86442
051-420-037	16S-12E-12	Wigwam Investments LLC	10920 Via Frontera, San Diego, CA 92127
051-420-065	16S-12E-12	Johnny P & Gloria S Singh	607 Russell, Brawley, CA 92227
051-420-066	16S-12E-12	Bernadette Strobel	21351 Autumnwood, Lake Forrest, CA 92630
051-440-001	16S-12E-11	Madeline L Kuhn	47 Medina Dr, Palm Desert, CA 92260
051-440-005	16S-12E-11	IID-Imperial Irrigation District	PO Box 937, Imperial, CA 92251

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051-440-006	16S-12E-11	IID-Imperial Irrigation District	PO Box 937, Imperial, CA 92251
051-440-015	16S-12E-11	Danny C & Antonia Nichols	1880 Derrick Rd, El Centro, CA 92243
051-440-023	16S-12E-11	Melvin J Preece Jr	2396 W Vaughn Rd, El Centro, CA 92243
056-060-017	16S-21E-8	Pilot Knob Corp	2 Center of World Plz, Felicity, CA 92283
056-060-018	16S-21E-7	William H French	6559 S Lazy Ln, Gold Canyon, AZ 85118
056-060-022	16S-21E-7	George A Biffle	14726 El Monte Rd, Lakeside, CA 92040
056-060-023	16S-21E-7	Will Biffle	14726 El Monte Rd, Lakeside, CA 92040
056-060-031	16S-21E-7	Robert C Watson	40616 Rock Mtn Dr, Fallbrook, CA 92028
056-060-042	16S-21E-7	Bertha Popeney	5285 Wellesley St, La Mesa, CA 91942
056-060-043	16S-21E-6	Bertha Popeney	5285 Wellesley St, La Mesa, CA 91942
056-060-044	16S-21E-7	R & L M Sanchez et al	822 Mesa Verde, Yuba City, CA 95993
056-060-045	16S-21E-7	Ogden Environmental Services Inc	40 Lane Rd, Fairfield, NJ 07007
056-080-012	16S-21E-17	Pilot Knob Corp	2 Center of World Plz, Felicity, CA 92283
056-440-001	16S-21E-16	Pilot Knob Corp	2 Center of World Plz, Felicity, CA 92283
056-440-044	16S-21E-16	Pilot Knob Corp	2 Center of World Plz, Felicity, CA 92283
056-460-009	16S-21E-22	Eller Telecasting Co of Arizona	7950 Jones Branch Dr, McLean, VA 22107
056-460-010	16S-21E-22	Thomas R & Terrence J Glenn	19557 Valley Ford Dr, Cottonwood, CA 96022
056-460-011	16S-21E-22	James A Griffin	5551 Kenwood Ave, Buena Park, CA 90621
056-460-012	16S-21E-22	Gilda F Correnti-Kroos	2111 Whitfield Park Ave, Sarasota, FL 34243
056-470-003	16S-21E-21	Jacques A & Felicia L Istel	One Center of The World Plaza, Felicity, CA 92283
056-470-027	16S-21E-21	David A Ligas	10556 Emerald Ave, Yuma, AZ 85365
056-470-029	16S-21E-21	Eleodoro A Lopez	1158 S 3rd Ave, Yuma, AZ 85364
056-470-035	16S-21E-21	Jacques A & Felicia L Istel	One Center of The World Plaza, Felicity, CA 92283
056-570-005	16S-22E-20	USA For Shirley VP Ropp PG	1661 S 4th St, El Centro, CA 92243
056-590-011	16S-22E-23	Tovar Family LP	2261 E 27th Way, Yuma, AZ 85365
056-600-006	16S-22E-26	Roman Catholic Bishop of San Diego	PO Box 1176, WinterHaven, CA 92283
062-080-013	15S-13E-32	La Valle Sabbia Inc	2015 Silsbee Rd, El Centro, CA 92243
062-080-031	16S-12E-01	George Amaral	PO Box 1402, Gonzales, CA 93926

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062-080-055	155-13E-31	Gustavo & Debra T Ramirez	1591 W Elm Ave, El Centro, CA 92243
062-080-056	155-13E-31	Robert E & Margaret P Horton	1614 W Ames Rd, El Centro, CA 92243
062-080-057	155-13E-31	Fernando & Rosario Maestre	1620 W Ames Rd, El Centro, CA 92243
062-080-058	155-13E-31	Jose & Juana Rodriguez	1624 Ames Rd, El Centro, CA 92243
062-080-060	155-13E-31	Sm Seed & Milling LLC	2050 Bennett Rd, El Centro, CA 92243
062-080-069	155-13E-31	Smith-Kandal Real Estate & Ramsay M D & G	510 W Main St, Brawley, CA 92227
062-090-009	155-13E-34	Meyer Imperial Investments III LLC	2921 B S Kish Ave, Yuma, AZ 85365
062-090-012	155-13E-34	Meyer Imperial Investments III LLC	2921 B S Kish Ave, Yuma, AZ 85365
062-090-017	155-13E-33	La Valle Sabbia Inc	2015 Silsbee Rd, El Centro, CA 92243
062-090-022	155-13E-33	La Valle Sabbia Inc	2015 Silsbee Rd, El Centro, CA 92243
062-090-025	155-13E-32	La Valle Sabbia Inc	2015 Silsbee Rd, El Centro, CA 92243
062-090-035	155-13E-34	Heidi Kuhn	5743 Meadows Del Mar, San Diego, CA 92130
062-101-001	155-13E-31	Smith-Kandal Real Estate & Ramsay M D & G	510 W Main St, Brawley, CA 92227
062-102-002	155-13E-31	Smith-Kandal Real Estate & Ramsay M D & G	510 W Main St, Brawley, CA 92227
062-111-021	155-13E-32	Rafael & Gloria Escutia	1599 N 12th St, El Centro, CA 92243
062-112-002	155-13E-32	Heidi L Kuhn	5743 Meadows Del Mar, San Diego, CA 92130
063-112-004	155-14E-18	Alan M Thornburg	PO Box 39, Julian, CA 92036
063-112-007	155-14E-18	Adam & Alma Lopez	4534 Carter Ct, Chino, CA 91710
063-121-005	155-14E-18	Adam & Alma Lopez	4534 Carter Ct, Chino, CA 91710
063-122-006	155-14E-18	Dennis H & Arlene M Devermont et al	PO Box 421217, San Diego, CA 92142
063-122-007	155-14E-18	Joseph R Flores	PO Box 1204, Boulevard, CA 91905
063-122-008	155-14E-18	Maximiano & Consuelo Torres	PO Box 605, Imperial, CA 92251
063-122-009	155-14E-18	Maximiano & Consuelo Torres	PO Box 605, Imperial, CA 92251
063-141-001	155-14E-18	Gary A & Sue W Shumard	647 Desert Gardens Dr, El Centro, CA 92243

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063-142-001	15S-14E-18	B Wesley & Susan A Blakely et al	2391 Desert Gardens Dr, El Centro, CA 92243
064-072-001	15S-14E-18	R T & C L BW SA Mills II	PO Box 1804, El Centro, CA 92244
064-074-026	15S-14E-18	Lydell W & Elizabeth M Gordon	975 W Evan Hewes Hwy, El Centro, CA 92243
064-082-003	15S-14E-18	Gabriel Medina	PO Box 4122, El Centro, CA 92244
064-082-004	15S-14E-18	Jose Ramon Topete	1126 Wanda St, Crockett, CA 94525
064-082-005	15S-14E-18	Robert Melendrez	1418 Hayes Ct, Calexico, CA 99231
064-082-010	15S-14E-18	Larry & Patricia Rose	PO Box 995, Imperial, CA 99251
064-082-011	15S-14E-18	John R Hansen	310 West Tenth, Imperial, CA 92251
064-082-048	15S-14E-18	Lydell W & Elizabeth M Gordon	975 W Evan Hewes Hwy, El Centro, CA 92243
064-162-001	15S-14E-18	Angelita Ramirez	400 South N St, Imperial, CA 92251
064-162-002	15S-14E-18	Gutierrez Real Estate Investments	2950 Sandalwood Ct, El Centro, CA 92243
064-162-005	15S-14E-18	Joe & Linda Esparza	421 W 6th St, Imperial, CA 92251
064-162-012	15S-14E-18	Joe & Linda D Esparza	421 W 6th St, Imperial, CA 92251
064-163-003	15S-14E-18	Alejandra Yanez	522 So N St, Imperial, CA 92251
064-163-004	15S-14E-18	David & Jaan Wilson	123 W 23rd St, Imperial, CA 92251
064-163-005	15S-14E-18	William George & Rita C Wilson Tr	522 W 4th St, Imperial, CA 92251
064-163-006	15S-14E-18	Wilston William George & Rita C Wilson Tr	522 W 4th St, Imperial, CA 92251
064-163-007	15S-14E-18	Almon Dale Martin	PO Box 176, San Manuel, AZ 85631
064-173-003	15S-14E-18	Miguel & Rosa L Ybarra	601 E 2nd St, Imperial, CA 92251
064-173-004	15S-14E-18	Jo E or Aurora Guizar	690 W Neckel Rd, Imperial, CA 92251
064-173-005	15S-14E-18	L N Pena	612 S N St, Imperial, CA 92251
064-173-007	15S-14E-18	Hope & Ferrere Petra Estrada et al	600 S N St, Imperial, CA 92251
064-174-003	15S-14E-18	Chevron USA Inc	PO Box 1392, Bakersfield, CA 93302
064-174-004	15S-14E-18	Chevron USA Inc	PO Box 1392, Bakersfield, CA 93302
064-174-006	15S-14E-18	Gregorio Garcia	602 E 2nd St, Imperial, CA 92251

¹In accordance with Paragraph 1 of the Easement Deed by Court Order in Settlement of Landowner Action (the "Court Order"), the request prepared for this Exhibit 1 and attached to it to the Court Order.

²The owner's/grantor's mailing address is not necessarily the same as the affected parcel's address.

IMPERIAL

Assessor's Parcel No.	T-R-S	Owner's/Grantor's Name	Owner's/Grantor's Mailing Address ²
064-460-001	15S-13E-34	Meyer Imperial Investments III LLC	2921 B S Kish Ave, Yuma, AZ 85365
064-460-007	15S-13E-36	MSPM Associates LP	2815A Lafayette Ave, Newport Beach, CA 92663
064-470-046	15S-13E-36	Donald L & Marilyn J Scoville et al	PO Box 394, El Centro, CA 92244
064-470-091	15S-14E-31	Cole PB Portfolio I LP	3111 W Allegheny Ave, Philadelphia, PA 19132
064-542-005	15S-13E-36	Jose & Margarita Ordonez	901 N 17th St, El Centro, CA 92243
064-542-006	15S-13E-36	Humberto & Martha Aguilera	1701 Stacey Ct, El Centro, CA 92243
064-542-007	15S-13E-36	Julietta Anduro	1715 Stacey Ct, El Centro, CA 92243
064-542-008	15S-13E-36	Robert Jones	1735 Stacey Ct, El Centro, CA 92243
064-542-009	15S-13E-36	Joe Heger Farms LLC	PO Box 880, El Centro, CA 92244
064-542-010	15S-13E-36	Carlos Vasquez	649 Cinnabar St, Imperial, CA 92251
064-542-011	15S-13E-36	Jesus & Marisa Torres	1801 Stacey Ct, El Centro, CA 92243
064-542-012	15S-13E-36	Ramon & Ana Bertha Mendoza	1815 Stacey Ct, El Centro, CA 92243
064-542-013	15S-13E-36	Lopez Jorge I & Velasquez Mayra	1835 Stacey Ct, El Centro, CA 92243
064-542-014	15S-13E-36	George & Margarita Ontiveros	1855 Stacey Ct, El Centro, CA 92243
064-542-015	15S-13E-36	Efrain A Jr & Bethzabe L Tanori	1875 Stacey Ct, El Centro, CA 92243
064-542-016	15S-13E-36	Elifonso M & Linda A Nava	1895 Stacey Ct, El Centro, CA 92243
064-542-017	15S-13E-36	Francisco & Alma Rosa Cervantes	902 N 19th St, El Centro, CA 92243

¹In accordance with Paragraph 1 of the Easement Deed by Court Order in Settlement of Landowner Action (the "Court Order"),
 Qwest prepared this Exhibit 1 and attached it to the Court Order.

²The owner's/grantor's mailing address is not necessarily the same as the affected parcel's address

CHUCK STOREY
COUNTY CLERK/RECORDER

P Public

Doc#: **2013019494**



Titles:	1	Pages:	18
Fees		88.00	
Taxes		0.00	
Other		0.00	
PAID		88.00	

Recording Requested by and
When Recorded Mail to:

Level 3 Communications, LLC
ROW – NIS Administrator
c/o Scott Farkas
1025 Eldorado Blvd.
Broomfield, CO 80021

ENVELOPE

THIS SPACE FOR RECORDERS USE ONLY

TITLE OF DOCUMENT

EASEMENT DEED BY COURT ORDER IN SETTLEMENT OF LANDOWNER ACTION

EEC ORIGINAL PKG

PC ORIGINAL PKG

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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

TODD SMITH, DIRK REGAN and CAROL
REGAN, JACQUELYN SHELDRIK,
GLENN L. BOOM, and WILLIAM NELSON
and LINDA NELSON, INDIVIDUALLY AND
AS REPRESENTATIVES OF A CLASS OF
PERSONS SIMILARLY SITUATED,

Plaintiffs,

v.

QWEST COMMUNICATIONS COMPANY,
LLC; SPRINT COMMUNICATIONS
COMPANY L.P.; LEVEL 3
COMMUNICATIONS, LLC; and WITEL
COMMUNICATIONS, LLC,
Defendants.

CASE NO. 3:11-cv-02599-TEH

ECF DOCUMENT
I hereby attest and certify this is a printed copy of a
document which was electronically filed with the United States
District Court for the Northern District of California.
JUN 27 2013

Date Filed:

RICHARD W. WIERING, Clerk

By: THELMA NUDO

Deputy Clerk

**EASEMENT DEED BY COURT ORDER
IN SETTLEMENT OF LANDOWNER ACTION**

WHEREAS, the parties to the above-captioned class action (the "Action") entered into a California Class Settlement Agreement, as of September 5, 2012, (the "Settlement Agreement") (terms capitalized herein and not otherwise defined shall have the meanings ascribed to them in the Settlement Agreement);

WHEREAS, on June 24, 2013, the Court entered a final Order and Judgment approving the Settlement Agreement and ordering that this Action may be settled as a class action on behalf of the following class:

[A] class under the Settlement Agreement (the "Settlement Class"), defined as follows:

a class comprising all Persons who own or who claim to own, for any period of time during a Compensation Period, any Covered Property, except for: (1) Right-of-Way Providers and their predecessors, successors, parents, subsidiaries, and affiliates, past or present; (2) federal, state, and local governmental entities; (3) Native American nations and tribes; or (4) any Person who files a valid and timely exclusion on or before the Opt-Out Deadline.

1 Members of this Class are referred to below as Class Members; and

2 WHEREAS, the Settlement Agreement provides for the entry of an Easement Deed by
3 Court Order in Settlement of Landowner Action by which the Settling Defendants acquire, to the
4 extent that Class Members have the right to transfer it, a permanent telecommunications
5 easement in the Right of Way adjacent to the property of each Class Member;

6 THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED THAT:
7

8 1. To the extent that each Class Member owns rights in the Easement Premises (as
9 hereafter defined), the Class Member (the "Grantor") hereby grants to whichever of Sprint
10 Communications Company L.P., Qwest Communications Company, LLC, Level 3
11 Communications, LLC, and WilTel Communications, Inc. has Designated for inclusion under a
12 Settlement Agreement the Right of Way which adjoins, underlies or includes Covered Property
13 owned by the Class Member, together with its successors, assigns, and licensees (the "Grantee"),
14 a permanent telecommunications easement in the Easement Premises. For each county in which
15 this Easement Deed by Court Order in Settlement of Landowner Action is being recorded, a list
16 of affected Class Members and their affected parcels is attached as Exhibit 1. Exhibit 1 shall
17 describe Class Members' affected parcels with the following information, to the extent that it is
18 in the Database of Identification Information: owner name; owner mailing address; tax map
19 identification number; tax parcel identification number; lot number; and section, township, and
20 range. Exhibit 1 may describe Class Members' affected parcels with any other available
21 information.
22

23
24 2. The terms and conditions of the permanent telecommunications easement that is
25 the subject of this Easement Deed by Court Order in Settlement of Landowner Action are:

26 a perpetual easement and right of way (hereinafter, together with the rights and privileges
27 herein granted, the "Easement") and right to place, lay, bury, construct, install, operate, repair,

1 maintain (including aerial patrol), renew, rebuild, replace, upgrade, expand, relocate, and remove
2 fiber optic cables, copper cables, coaxial cables or other cables through which voice, data, video
3 or other signals are transmitted, conduits, inner ducts, hand holes, splice vaults, poles, optical or
4 electronic equipment, regenerator huts, marker posts or signs, and other related facilities
5 appropriate for installation, use, or maintenance of such cables (collectively, the
6 “Telecommunications Cable System”), in, on, over, under, through and/or across the Easement
7 Premises. The Easement Premises means all that real property that (a) either (i) is included
8 within a parcel of property that is described in Exhibit 1 or (ii) has a common boundary with a
9 parcel of property described in Exhibit 1 (the “Grantor’s Property”) (for purposes of this
10 Telecommunications Cable System Easement Deed, a parcel of property shall be deemed to have
11 a common boundary with the Easement Premises if it is separated by a non-navigable river or a
12 street, road, or highway, other than a numbered state or federal highway) and that (b) (i) is or
13 was used as a railroad right of way (“Railroad Right of Way”) and (ii) is on a side of the
14 centerline of the Railroad Right of Way that is next to the Grantor’s Property (the “Grantor
15 Side”), and (iii) extends no more than ten (10) feet on each side of the Grantee’s
16 Telecommunications Cable System (A) as it existed on November 21, 2012 (B) where the
17 actively used components of the Grantee’s Telecommunications Cable System are moved or
18 placed, provided, however, that only a single 20-foot easement per moved component may exist
19 at any point in time in the Easement Premises, and the width of the moved component’s
20 Easement Premises shall be reduced on one side and increased by an equal linear footage on the
21 other side wherever necessary in order that it shall in all places remain solely within the limits of
22 a single Grantor Side of the Railroad Right of Way, and (C) where new components are installed
23 to connect the existing Telecommunications Cable System to the edge of the Right of Way. The
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1 Easement shall be construed to grant Grantee all rights necessary to abandon in place unused
2 components of Grantee's Telecommunications Cable System.

3 The Easement shall not include the right to construct on the Easement Premises
4 regenerator huts and similar structures ("Buildings") in addition to those existing on November
5 21, 2012. The Easement shall include the rights to repair, replace, and expand existing
6 Buildings, provided, however, that no such repair, replacement, or expansion shall increase the
7 site that the Buildings occupy, or the height of any Building, by more than twenty-five percent.
8 The Easement does not permit the construction of microwave towers, cell towers, or other
9 components of a primarily aboveground statewide Telecommunications Cable System.
10

11 The Easement includes the right to temporarily use the entire Grantor Side of the
12 Railroad Right of Way for construction or maintenance, so long as Grantee uses its best efforts
13 not to interfere with any real property which, although within the boundaries of the Easement
14 Premises, is actually being used by Grantor; provided, however, that in no event shall Grantee be
15 prohibited from using such real property if it is commercially reasonable to do so under the
16 circumstances or if Grantee's Telecommunications Cable System is currently located within such
17 area. The Easement shall include the right of reasonable ingress and egress to and from the
18 Easement Premises over that portion of the Grantor's real property that underlies the Railroad
19 Right of Way and, for repair and maintenance, over any existing private roads of Grantor, where
20 access from public or railroad roads is not reasonably practical, provided Grantee has made
21 commercially reasonable efforts to give prior notice to Grantor of Grantee's use of Grantor's
22 private roads. Grantee shall not be liable for damages caused by its removal of trees,
23 undergrowth, and brush within the Easement Premises necessary or appropriate for the
24 enjoyment of the Easement. Nothing contained herein shall constitute a waiver of any right that
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1 Grantor may have for any damages to Grantor's property outside of the Easement Premises
2 caused by Grantee's action. If Grantee's action causes damage to any of Grantor's existing
3 improvements, including houses, garages, shops, sheds, and fences, or growing crops, which are
4 within the Easement Premises, Grantee shall pay reasonable compensation to the Grantor for
5 such damage to the extent provided by law.

6
7 From and after June 24, 2013, subject to all the restrictions and limitations stated herein,
8 the Easement includes the right to construct and install additional components of a
9 Telecommunications Cable System within the Easement Premises. Grantee agrees that unless
10 (a) it is required to do so by the railroad or other owner of Railroad Right of Way or (b) it is
11 commercially reasonable under the circumstances to do so, it will not install additional
12 components of a Telecommunications Cable System in the area of the Easement Premises that is
13 outside a parallel fence constructed by the railroad or other owner of Railroad Right of Way or is
14 actually being used by the Grantor or its successor, provided, however, that the foregoing shall
15 not be binding upon Grantee if Grantee's Telecommunications Cable System is currently located
16 within such area. If Grantee's action causes damage to any of Grantor's existing improvements,
17 including houses, garages, shops, sheds, and fences, or growing crops, which are within the
18 Easement Premises, Grantee shall pay reasonable compensation to the Grantor for such damage
19 to the extent provided by law.
20

21 The Easement includes all rights necessary to the lawful occupation of the Easement
22 Premises by an existing Telecommunications Cable System, and by any additional
23 Telecommunications Cable System that is constructed and installed by or on behalf of Grantee in
24 the Easement Premises and that is owned or operated by either (a) Grantee or (b) any person or
25 entity to which Grantee sold, granted, leased, or otherwise transferred or may hereafter sell,
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1 grant, lease, assign, or otherwise transfer, all or any part of the rights in or use of such
2 Telecommunications Cable System.

3 The Easement, however, does not apply to any Telecommunications Cable System that
4 existed on November 21, 2012, but that was acquired by Grantee after that date (unless such
5 Telecommunications Cable System or component thereof was acquired from any of Sprint
6 Communications Company L.P.; Qwest Communications Company, LLC, f/k/a Qwest
7 Communications Corporation; Level 3 Communications, LLC, Level 3 Communications, Inc.,
8 and Level 3 Telecom Holdings, Inc.; WilTel Communications, Inc.; WilTel Communications,
9 LLC; and Williams Communications, LLC, f/k/a Williams Communications, Inc., f/k/a Vyvx,
10 Inc.).
11

12 No oil, gas, or other mineral rights are granted and no existing oil, gas, or other mineral
13 rights are expanded, limited, or affected by this instrument, provided, however, that Grantor shall
14 not use a method of extraction that interferes with or impairs in any way the Easement, the
15 Telecommunications Cable System, or the exercise of Grantee's rights herein.
16

17 Grantor shall not, nor shall Grantor authorize others to, construct or create any road,
18 reservoir, excavation, obstruction, structure, or building or change the land grade on, in, over,
19 under, through, or across the Easement Premises without the prior written consent of Grantee,
20 provided that nothing herein shall be construed to affect the rights and obligations of any railroad
21 with respect to the use, improvement, or alteration of its Railroad Right of Way, as provided in
22 any agreement between the railroad and the Grantee, by applicable law, or otherwise.
23

24 It is understood and agreed that the Easement is not exclusive and is subject to all pre-
25 existing uses and pre-existing rights to use the Easement Premises, whether such uses are by
26 Grantor or others and whether for surface uses, crossings, or encroachments by communication
27

1 companies or utilities. It is further understood and agreed that Grantor retains all of its existing
2 rights, if any, to grant, convey, assign, and restrict any and all rights (including future rights and
3 uses) on the Easement Premises, provided, however, and notwithstanding the foregoing, that
4 Grantor shall not use or authorize others to use the Easement Premises in a manner that interferes
5 with or impairs in any way Grantee's Telecommunications Cable System or the exercise by
6 Grantee of the rights granted herein.
7

8 Subject to the terms hereof, Grantee shall have all other rights and benefits necessary or
9 useful to the full and complete enjoyment and use of the Easement for the purposes stated herein,
10 including the right to sell, grant, lease, or otherwise transfer all or any part of the rights in or use
11 of the Telecommunications Cable System.

12 Grantor conveys the Easement without warranty of title to any property interest in the
13 Easement Premises. This instrument does not address and shall not affect any real property
14 rights, including the priority of interests, between Grantor and any railroad or between Grantee
15 and any railroad, or any of their predecessors, successors, past or present predecessors in interest,
16 successors in interest, successors in title, members, partners, parents, subsidiaries, affiliates,
17 lessees, assigns, and past, current, or future licensees or assignees. This Easement is not
18 intended to impact or diminish any railroad's existing rights or property interests in the Right of
19 Way. This Easement shall not be construed to permit Grantee to interfere with railroad
20 operations. This Easement also shall not permit any component of a Telecommunications Cable
21 System to remain in a Railroad Right of Way except (a) under existing or future agreements with
22 the railroad or (b) in any Railroad Right of Way in which no railroad operates and no railroad
23 retains any right, title, or interest. This Easement also shall not permit any new components to
24 be installed to connect the existing Telecommunications Cable System to the edge of the Right
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1 of Way in any Railroad Right of Way as to which the Interstate Commerce Commission or the
2 Surface Transportation Board has entered an order, pursuant to 49 U.S.C. § 10903, that the
3 railroad is authorized to cease to provide or maintain rail service over that right of way and the
4 railroad no longer provides or maintains rail service over that line, provided that if the railroad
5 does not cease such rail service or later reactivates such service, then this limitation shall not
6 apply.
7

8 This Telecommunications Cable System Easement Deed is executed and delivered on
9 behalf of Grantor for the purpose of granting the Easement to Grantee in, on, over, under,
10 through and/or across the Easement Premises to the full extent of Grantor's right, title or interest,
11 if any, in or to the Easement Premises, and the Easement granted hereby shall affect the
12 Easement Premises only to the extent of Grantor's right, title, and interest therein. Grantor and
13 Grantee agree that this Telecommunications Cable System Easement Deed shall not grant any
14 rights to the Easement Premises, or any portion thereof, in which Grantor holds no right, title or
15 interest.
16

17 No rights reserved to Grantor herein shall be deemed to expand rights reserved to Grantor
18 under any other easement, right of way, license, lease, or any similar instrument or court order.
19 No limitation herein on the rights of Grantee shall be deemed to limit rights heretofore granted
20 by Grantor or its predecessors in interest under any other easement, right of way, license, lease,
21 or any similar instrument or court order.
22

23 The terms and provisions of this instrument shall constitute covenants running with the
24 land and shall be binding upon and inure to the benefit of the Settling Defendants, the Grantor,
25 their successors, assigns, personal representatives, and heirs.
26
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1 This instrument fully sets forth the terms and conditions of the Easement. There are no
2 oral or other written agreements between Grantor and Grantee that modify, alter, or amend this
3 instrument.

4 TO HAVE AND TO HOLD the Easement, rights and privileges unto Grantee, its
5 successors and assigns in perpetuity or until such time as Grantee shall cause the Easement to be
6 released of record.

7
8 3. Settling Defendants may record this Easement under the terms and conditions set
9 forth in the Settlement Agreement.

10 Date: 6/27/13



11 _____
12 Honorable Thelton E. Henderson, Judge
13 United States District Court
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EXHIBIT 1
Imperial County, CA

DMS ID	ASSESSOR PARCEL ID	T/R/S	NAME / COMPANY NAME	MAILING ADDRESS	GRANTEE
CA025_00121	025-260-031	115-15E-18	Martinez, Ricardo	PO Box 572, Niland, CA, 92257	WiFiTel Communications, LLC
CA025_00122	025-260-003	115-15E-18	Bopp, Timothy	2401 E GlenOak Blvd, Glendale, CA, 91206	WiFiTel Communications, LLC
CA025_00123	025-260-006	115-15E-18	Wheeler, Mark A	2829 Branch Rd, Castaic, CA, 91384	WiFiTel Communications, LLC
CA025_00124	025-260-008	115-15E-18	Kieldosty, Denis L	2986 Tibbury Dr, Henderson, NV, 89052	WiFiTel Communications, LLC
CA025_00126	025-260-019	115-15E-17	Banks, Lincoln H	777 Alvarado Rd, La Mesa, CA, 91941	WiFiTel Communications, LLC
CA025_00136	025-290-036	115-15E-36	Johnson, Helen E	PO Box 1131, 105, Cornville, AZ, 86325	WiFiTel Communications, LLC
CA025_00137	025-290-019	115-15E-36	Folgerman et al J M	27 Gleneagles, Newport Beach, CA, 92660	WiFiTel Communications, LLC
CA025_00138	025-290-010	115-15E-36	S B Grant & E B Franklin LLC et al	901 N Brutischer St, Newberg, OR, 97132	WiFiTel Communications, LLC
CA025_00161	034-360-037	165-11E-12	Ed L Construction Inc	PO Box 785, San Marcos, CA, 92069	Level3 Communications, LLC
CA025_00163	034-360-036	165-11E-12	Ed L Construction Inc	PO Box 785, San Marcos, CA, 92069	Level3 Communications, LLC
CA025_00211	039-310-026	135-18E-33	Leblanc, Eugene L	5775 E Hwy 78, Brawley, CA, 92227	WiFiTel Communications, LLC
CA025_00212	039-310-028	135-18E-33	Leblanc, Eugene L	5775 E Hwy 78, Brawley, CA, 92227	WiFiTel Communications, LLC
CA025_0032	003-230-053	105-14E-31	Newmont Realty Co Western Golffields Inc	6363 S Fiddlers Green Cir, Greenwood Villa, CO, 80111	WiFiTel Communications, LLC
CA025_00344	062-090-010	155-13E-34	Amaral Ranches PS	PO Box 3035, Gonzales, CA, 92243	Level3 Communications, LLC
CA025_00345	064-460-009	155-13E-34	Amaral Ranches PS	PO Box 1402, Gonzales, CA, 93926	Level3 Communications, LLC
CA025_00346	064-460-010	155-13E-35	Meyer Imperial Investments III LLC	2921 B S Kish Ave, Yuma, AZ, 85365	Level3 Communications, LLC
CA025_00347	043-380-012	155-13E-35	Ruth Schulte-RudoFir	10975 Rim Rd, c/o Michael Schultz, Escondido, CA, 92026	Level3 Communications, LLC
CA025_00348	062-090-011	155-13E-34	Amaral Ranches PS	PO Box 3035, Gonzales, CA, 93926	Level3 Communications, LLC
CA025_00349	062-090-036	155-13E-34	Barrett, Terry L & Marie S	2035 Forrester Rd, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00350	062-090-029	155-13E-34	Ormond, Peter M	496 Mountain Ave, Piedmont, CA, 94611	Level3 Communications, LLC
CA025_00351	062-090-027	155-13E-34	Fowler, James R & C V	PO Box 2524, El Centro, CA, 92244	Level3 Communications, LLC
CA025_00352	064-460-017	155-13E-36	MSPM Associates LP	2815A Lafayette Ave, Newport Beach, CA, 92663	Level3 Communications, LLC
CA025_00353	062-090-041	155-13E-32	La Valle Sabbia Inc	2015 Silsbee Rd, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00354	062-090-040	155-13E-33	Nickus, Steven V & Cynthia A	1085 W State St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00355	062-090-046	155-13E-33	Mercurio, Bernard J & Vita	1140 W Evan Hewes Hwy, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00356	062-090-045	155-13E-33	Bingkeil, Amy	1130 Evan Hewes Hwy, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00357	062-090-044	155-13E-33	Samuel L & Mirra L Birdsong Tr	1112 W Evan Hewes Hwy, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00358	062-090-043	155-13E-33	Koch, Robert A	1110 West Evan Hewes Hwy, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00359	062-090-028	155-13E-33	Hurley, Marjolise	1108 W Evan Hewes Hwy, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00360	062-090-034	155-13E-33	Tagaban Elizabeth C De Hoyos Oscar	1098 W Evan Hewes Hwy, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00361	062-090-047	155-13E-33	Winkler, Anthony Jr	1078 W Evan Hewes Hwy, El Centro, CA, 92243	Level3 Communications, LLC

EEC ORIGINAL PKG

PC ORIGINAL PKG

EXHIBIT 1
Imperial County, CA

DMS ID	ASSESSOR PARCEL ID	T/R/S	NAME / COMPANY NAME	MAILING ADDRESS	GRANTEE
CA025_00362	062-090-048	155-13E-33	Bermudez, C & K	1070 W Ewan Hewes Hwy, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00363	062-090-049	155-13E-33	Cesena, Gilbert D & Elva	1044 W Ewan Hewes Hwy, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00364	062-090-050	155-13E-33	Cesena, Gilbert D & Elva R	1044 W Ewan Hewes Hwy, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00365	062-080-015	155-13E-32	La Valle Sabbia Inc	2015 Slibee Rd, c/o Alex Abatti Jr, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00366	064-460-018	155-13E-36	IID-Imperial Irrigation District	PO Box 937, Imperial, CA, 92251	Level3 Communications, LLC
CA025_00367	064-551-001	155-13E-36	IID-Imperial Irrigation District	PO Box 937, Imperial, CA, 92251	Level3 Communications, LLC
CA025_00368	064-551-014	155-13E-36	Fisher Wireless Services Inc	14530 S Commercial St, Blythe, CA, 92555	Level3 Communications, LLC
CA025_00369	064-551-012	155-13E-36	Dyke Tom C & Pippin Robert III & Nona G	PO Box 352, Alpine, CA, 91903	Level3 Communications, LLC
CA025_00370	064-551-005	155-13E-36	Fernandez, Alfredo & Maria	1250 El Dorado Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00371	064-551-011	155-13E-36	Fernandez, Alfredo & Maria	1250 El Dorado Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00372	064-551-010	155-13E-36	Imperial Gardens Family Associates	151 Kalmus Dr, Costa Mesa, CA, 92626	Level3 Communications, LLC
CA025_00373	064-551-008	155-13E-36	Smith, Betty	765 Yucca Dr, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00374	064-551-009	155-13E-36	Smith, Betty	765 Yucca Dr, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00375	064-551-001	155-13E-36	Smith, Betty	765 Yucca Dr, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00376	064-560-002	155-13E-36	Smith, Betty	765 Yucca Dr, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00377	064-560-003	155-13E-36	Miles, Blake	940 N 14th St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00378	064-560-004	155-14E-31	J A & M Edney Tr	PO Box 3544, El Centro, CA, 92244	Level3 Communications, LLC
CA025_00379	064-560-026	155-14E-31	Safeway Stores 23 Inc	1371 Oakland Blvd, 200, c/o The Vons Companies Inc, Walnut Creek, CA, 94596	Level3 Communications, LLC
CA025_00380	064-560-028	155-14E-31	Robert L & Ann L Carter Tr et al	559 S Palm Canyon Dr, c/o Terra West, Palm Springs, CA, 92264	Level3 Communications, LLC
CA025_00381	064-560-030	155-14E-31	Darden, Ronald L & Susan B	1118 N Sandhurst Ln, La Verne, CA, 91750	Level3 Communications, LLC
CA025_00382	062-080-051	155-13E-32	Abatti, C Alex & Roseangela M	2015 Slibee Rd, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00383	062-120-001	155-13E-31	KM Properties and land Development LLC	1490 W Ewan Hewes Hwy, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00384	062-080-035	155-13E-31	Keema, Barbara	8975 Junipero Ave, Atascadero, CA, 93422	Level3 Communications, LLC
CA025_00385	062-131-003	155-13E-32	Garcia, Honorio A & Lucy V	2020 Low Rd, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00386	062-120-006	155-13E-31	Figueras, James R & Priscilla	22525 Santa Clara St, Hayward, CA, 94541	Level3 Communications, LLC
CA025_00387	062-120-007	155-13E-32	Robinson et al, David P	210 Morongo Dr, Imperial, CA, 92251	Level3 Communications, LLC
CA025_00388	062-131-023	155-13E-32	Favela, Juan O & Praytor Molly	PO Box 304, Seelye, CA, 92273	Level3 Communications, LLC
CA025_00389	062-080-036	155-13E-31	Lyon, Tyler R	1592 West Ewan Hewes Hwy, El Centro, CA, 92243	Level3 Communications, LLC

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DMS ID	ASSESSOR PARCEL ID	T/R/S	NAME / COMPANY NAME	MAILING ADDRESS	GRANTEE
CA025_00399	021-030-018	11S-14E-4	McManus, Randall C	2840 Fletcher Pkwy, El Cajon, CA, 92020	WillTel Communications, LLC
CA025_00394	062-080-066	15S-13E-31	Imperial Agr-Corp	548 C Broadway, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00395	062-080-019	15S-13E-31	Locher, Werner R Jr & Ronda Ann	1860 A Silsbee Rd, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00396	062-080-063	15S-13E-31	Hidalgo, David & Candelaria	2005 Bennett Rd, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00416	044-343-003	15S-14E-32	Lopez et al, Juana	915 N Fourth St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_0042	021-030-004	11S-14E-4	Saptravonian, Soodebah	PO Box 9430, Santa Fe, CA, 92067	WillTel Communications, LLC
CA025_0043	021-062-019	11S-14E-4	S Darde Tr	PO Box 23387, San Diego, CA, 92193	WillTel Communications, LLC
CA025_0044	021-062-020	11S-14E-4	S Darde Tr	PO Box 23387, San Diego, CA, 92193	WillTel Communications, LLC
CA025_0045	021-062-021	11S-14E-4	S Darde Tr	PO Box 23387, San Diego, CA, 92193	WillTel Communications, LLC
CA025_0046	021-160-020	11S-14E-3	TNT Enterprises Inc	PO Box 427, Wildomar, CA, 92395	WillTel Communications, LLC
CA025_00483	050-120-013	15S-20E-27	North American Land Corp	4656 Burdholm Rd, Mirms, FL, 32754	WillTel Communications, LLC
CA025_00484	050-120-032	15S-20E-34	JWDCO LLC	401 S Harbor Blvd, La Habra, CA, 90631	WillTel Communications, LLC
CA025_00485	050-120-037	15S-20E-35	JWDCO LLC	401 S Harbor Blvd, La Habra, CA, 90631	WillTel Communications, LLC
CA025_00486	050-120-036	15S-20E-35	Todd, Susan A	9340 Cordoba Blvd, Sparks, NV, 89436	WillTel Communications, LLC
CA025_00487	050-120-039	15S-20E-35	Todd, Susan A	9340 Cordoba Blvd, Sparks, NV, 89436	WillTel Communications, LLC
CA025_00488	050-120-044	15S-20E-35	French, William H	6559 S Lazy Ln, Gold Canyon, AZ, 85118	WillTel Communications, LLC
CA025_00489	050-120-045	15S-20E-35	Donoho, George & Zelma L	436 Sirretta, Kernville, CA, 93238	WillTel Communications, LLC
CA025_00491	051-420-037	16S-12E-12	Wigram Investments LLC	10920 Via Frontera, San Diego, CA, 92127	Level3 Communications, LLC
CA025_00493	051-420-036	16S-12E-12	First American Tr	5 First American Way, Santa Ana, CA, 92707	Level3 Communications, LLC
CA025_00494	051-420-036	16S-12E-12	Benefield, Paul & Beverly	1191 River Front Dr, Bullhead City, AZ, 86442	Level3 Communications, LLC
CA025_00495	051-420-035	16S-12E-12	Benefield, Paul & Beverly	1191 River Front Dr, Bullhead City, AZ, 86442	Level3 Communications, LLC
CA025_00496	051-420-040	16S-12E-12	Dessert, Mary Margaret	731 Desert Gardens Dr, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00497	051-420-034	16S-12E-12	Pearse, Norman P	1958 Sunderidge, c/o Ronald H Davidson, San Antonio, TX, 78260	Level3 Communications, LLC
CA025_00498	051-215-001	16S-12E-12	Roman Catholic Bishop of San Diego	795 So La Brucherle Rd, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00499	051-420-033	16S-12E-12	Roman Catholic Bishop of San Diego	795 So La Brucherle Rd, c/o St Marys Church, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00500	051-420-066	16S-12E-12	Strohbel, Bernadette	21351 Autmwood, Lake Forrest, CA, 92630	Level3 Communications, LLC
CA025_00501	051-420-065	16S-12E-12	Singh, Johnny P & Gloria S	607 Russell, Brawley, CA, 92227	Level3 Communications, LLC
CA025_00502	051-420-030	16S-12E-12	Benefield, Paul E & Beverly A	1191 River Front Dr, Bullhead City, AZ, 86442	Level3 Communications, LLC
CA025_00503	051-051-003	16S-12E-07	IID-Imperial Irrigation District	PO Box 937, Imperial, CA, 92251	Level3 Communications, LLC
CA025_00504	051-242-001	16S-12E-11	Val-Rock Inc	3200 San Fernando Rd, Los Angeles, CA, 90065	Level3 Communications, LLC
CA025_00505	051-250-011	16S-12E-11	First Baptist Church of Sealey	PO Box 770, Indio, CA, 92202	Level3 Communications, LLC

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DMS ID	ASSESSOR PARCEL ID	T/R/S	NAME / COMPANY NAME	MAILING ADDRESS	GRANTEE
CA025_00508	051-250-010	165-12E-12	Seeley Properties LLC	1805 Evan Hewes, PO Box 549, Seeley, CA, 92273	Level3 Communications, LLC
CA025_00509	051-430-011	165-12E-11	IID-Imperial Irrigation District	PO Box 937, Imperial, CA, 92251	Level3 Communications, LLC
CA025_0051	021-160-017	11S-14E-3	Southern Pacific Pipe Lines Partnership	888 So Figueroa St, Los Angeles, CA, 90017	WITel Communications, LLC
CA025_00510	051-250-007	165-12E-11	Parga, Francisco & Maria T	PO Box 476, Imperial, CA, 92251	Level3 Communications, LLC
CA025_00511	051-430-013	165-12E-11	IID-Imperial Irrigation District	PO Box 937, Imperial, CA, 92251	Level3 Communications, LLC
CA025_00512	051-250-008	165-12E-12	Parga, Francisco & Maria T	PO Box 476, Imperial, CA, 92251	Level3 Communications, LLC
CA025_00513	051-091-001	165-12E-07	IID-Imperial Irrigation District	PO Box 937, Imperial, CA, 92251	Level3 Communications, LLC
CA025_00514	051-084-001	165-12E-07	Redondo et al, Carmen	PO Box 208, Seeley, CA, 92273	Level3 Communications, LLC
CA025_00515	051-081-001	165-12E-07	Perez et al, Carlos	17229 Garlen Ct, Salinas, CA, 93907	Level3 Communications, LLC
CA025_00516	051-092-001	165-12E-07	Estes, Sam	PO Box 830, Seeley, CA, 92273	Level3 Communications, LLC
CA025_00517	051-092-002	165-12E-07	Acuna, Maria Lourdes	371 Ross Rd, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00521	051-430-023	165-12E-11	Agustin, Lydia	1878 Derrick Rd, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00528	051-092-010	165-12E-07	Kuhn, Heidi L	5743 Meadows del Mar, San Diego, CA, 92130	Level3 Communications, LLC
CA025_00529	051-092-014	165-12E-07	Kuhn, Heidi L	5743 Meadows del Mar, San Diego, CA, 92130	Level3 Communications, LLC
CA025_0053	021-280-005	11S-14E-10	Y Ranches	PO Box 267, Calipatria, CA, 92233	WITel Communications, LLC
CA025_00530	051-020-024	165-12E-07	Kuhn, Heidi L	5743 Meadows del Mar, San Diego, CA, 92130	Level3 Communications, LLC
CA025_00531	051-020-032	165-12E-08	Imperial Valley Cheese of California LLC	1051 N 1000 W, Logan, UT, 84321	Level3 Communications, LLC
CA025_00533	051-020-033	165-12E-08	Kuhn Farms	1870 B Jeffrey Rd, c/o K & F Dairy, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00535	051-020-012	165-12E-08	Cuin, Edward R & Joan	2370 West Hwy 80, Imperial, CA, 92251	Level3 Communications, LLC
CA025_00536	051-020-018	165-12E-08	Castaneda, Tony	330 W Hell Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00537	051-120-024	165-12E-09	Lerro, George J & Clemence V	2801 W Main St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00538	051-120-025	165-12E-09	FC & MK Tomlinson LLC	259 S Randolph Ave, Brea, CA, 92821	Level3 Communications, LLC
CA025_00539	051-084-003	165-12E-07	Redondo, Jesus	2825-A W Evan Hewes Hwy, Imperial, CA, 92251	Level3 Communications, LLC
CA025_00540	051-120-060	165-12E-10	Kuhn, Madeline L	47 Medina Dr, Palm Desert, CA, 92260	Level3 Communications, LLC
CA025_00541	051-120-047	165-12E-10	Tornilinson, Frank N & Carme J	PO Box 2577, Capistrano Beach, CA, 92624	Level3 Communications, LLC
CA025_00542	051-120-039	165-12E-10	Lerro, George J & Clemence V	2801 W Main St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00544	051-440-001	165-12E-11	Kuhn, Madeline L	47 Medina Dr, Palm Desert, CA, 92260	Level3 Communications, LLC
CA025_00545	051-440-015	165-12E-11	Nichols, Danny C & Antonia	1880 Derrick Rd, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00546	051-440-005	165-12E-11	IID-Imperial Irrigation District	PO Box 937, Imperial, CA, 92251	Level3 Communications, LLC
CA025_00549	053-061-003	165-14E-05	Mesley, Edwin C & Mary C	1805 Bass Cove, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00551	053-050-003	165-14E-05	Simpson, Bette G	17718 Villamouira Dr, Poway, CA, 92064	Level3 Communications, LLC

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DMS ID	ASSESSOR PARCEL ID	T/R/S	NAME / COMPANY NAME	MAILING ADDRESS	GRANTEE
CA025_00552	053-050-013	165-14E-05	Alastra Investment Co LLC	3672 Hidden Trail Dr, Jamul, CA, 91935	Level3 Communications, LLC
CA025_00553	053-050-026	165-14E-05	Quesada, Jesus & Esther D	PO Box 2417, El Centro, CA, 92244	Level3 Communications, LLC
CA025_00554	053-050-016	165-14E-05	Sweedon, Celia	1015 Commercial Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00556	053-120-027	165-14E-05	D- Properties	1470 State St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00557	053-120-008	165-14E-05	D- Properties	1470 State St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00558	053-120-009	165-14E-05	Tabarez, Arlene Virulia	1703 Whitney Way, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00559	053-200-010	165-14E-05	Martin & Marfariane Inc	PO Box 7003, Paso Robles, CA, 93447	Level3 Communications, LLC
CA025_00561	053-200-046	165-14E-05	Center for Employment Training *	701 Vine St, c/o Aryanpour Mohammad, San Jose, CA, 95110	Level3 Communications, LLC
CA025_00562	053-200-047	165-14E-05	Center for Employment Training	701 Vine St, c/o Aryanpour Mohammad, San Jose, CA, 95110	Level3 Communications, LLC
CA025_00563	053-200-048	165-14E-05	Center for Employment Training	701 Vine St, San Jose, CA, 95110	Level3 Communications, LLC
CA025_00564	053-212-001	165-14E-05	Avila, Ramon M	26674 Ave 18, Madera, CA, 93638	Level3 Communications, LLC
CA025_00566	053-283-003	165-14E-05	Center for Employment Training	701 Vine St, San Jose, CA, 95110	Level3 Communications, LLC
CA025_00567	053-411-006	165-14E-05	Ramirez, Jesus T	PO Box 13949, c/o Atlas Pallet Co, San Diego, CA, 92170	Level3 Communications, LLC
CA025_00568	053-411-003	165-14E-05	Ramirez, Jesus T	PO Box 13949, c/o Atlas Pallet Co, San Diego, CA, 92170	Level3 Communications, LLC
CA025_00570	053-411-004	165-14E-05	Triple D Investments	341 W Crown Ct, Imperial, CA, 92251	Level3 Communications, LLC
CA025_00571	053-411-005	165-14E-05	Valencia et al, Guillermo	257 Maple Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00572	053-491-002	165-14E-05	Wells Fargo Bank National Assoc	9070 W Glendale Ave, Glendale, AZ, 85305	Level3 Communications, LLC
CA025_00573	053-491-003	165-14E-05	Wells Fargo Bank National Assoc	9070 W Glendale Ave, Glendale, AZ, 85305	Level3 Communications, LLC
CA025_00574	053-491-010	165-14E-05	Market Street Assets LLC	3148 Market St, San Diego, CA, 92102	Level3 Communications, LLC
CA025_00575	053-491-009	165-14E-05	Rilling, Larina	3838 Via Escuda, La Mesa, CA, 92041	Level3 Communications, LLC
CA025_00576	053-491-011	165-14E-05	Jones Bros Glass Inc	1050 South 2nd St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00577	053-491-012	165-14E-05	Williams, Edward & Cheryl	975 Westwind Dr, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00578	053-491-006	165-14E-05	Blackman et al, Diane L	1930 Aurora Dr, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00579	053-491-007	165-14E-05	Imperial Valley Fence Co Inc	267 N 8th, El Centro, CA, 92243	Level3 Communications, LLC
CA025_0058	021-290-015	11S-14E-11	IID - Trust Lands	PO Box 937, Attn: General Manager, Imperial, CA, 92251	WITel Communications, LLC
CA025_00580	053-491-008	165-14E-05	Blackman et al, Diane L	1930 Aurora Dr, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00581	053-493-002	165-14E-08	Southland Cooling	520 Olive Ave, Holtville, CA, 92250	Level3 Communications, LLC
CA025_00588	056-060-043	165-21E-6	Popeney, Bertha	5285 Wellesley St, La Mesa, CA, 91942	WITel Communications, LLC
CA025_00589	056-060-042	165-21E-7	Popeney, Bertha	5285 Wellesley St, La Mesa, CA, 91942	WITel Communications, LLC

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CA025_00590	056-060-045	16S-21E-7	Ogden Environmental Services Inc	40 Lane Rd, Fairfield, NJ, 07007	WITTEL Communications, LLC
CA025_00591	056-060-031	16S-21E-7	Watson, Robert C	40516 Rock Mtn Dr, Fallbrook, CA, 92028	WITTEL Communications, LLC
CA025_00592	056-060-044	16S-21E-7	Sanchez et al, R & L M	822 Mesa Verde, Yuba City, CA, 95993	WITTEL Communications, LLC
CA025_00593	056-060-022	16S-21E-7	Biffle, George A	14726 El Monte Rd, Lakeside, CA, 92040	WITTEL Communications, LLC
CA025_00594	056-060-023	16S-21E-7	Biffle, Will	14726 El Monte Rd, c/o George Biffle, Lakeside, CA, 92040	WITTEL Communications, LLC
CA025_00595	056-060-018	16S-21E-7	French, William H	6559 S Lazy Ln, Gold Canyon, AZ, 85118	WITTEL Communications, LLC
CA025_00596	056-060-017	16S-21E-8	Pilot Knob Corp	2 Center of World Plz, Felicity, CA, 92283	WITTEL Communications, LLC
CA025_00597	056-080-012	16S-21E-17	Pilot Knob Corp	2 Center of World Plz, Felicity, CA, 92283	WITTEL Communications, LLC
CA025_00602	056-440-001	16S-21E-16	Pilot Knob Corp	2 Center of World Plz, Felicity, CA, 92283	WITTEL Communications, LLC
CA025_00608	056-470-034	16S-21E-21	Isiel, Jacques A & Felicia L	1 Center of The World Pl, Felicity, CA, 92283	WITTEL Communications, LLC
CA025_0061	021-290-013	11S-14E-12	IID - Trust Lands	PO Box 937, Attn General Manager, Imperial, CA, 92251	WITTEL Communications, LLC
CA025_00615	056-570-005	16S-22E-20	USA For Shirley VP Ropp PG	1661 S 4th St, Attn Margaret Goodro - BLM Mgr, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00616	056-470-030	16S-21E-21	Lewis, James McClellan	95 E Judy St, Flagstaff, AZ, 86001	WITTEL Communications, LLC
CA025_00618	056-570-006	16S-22E-20	USA For Shirley VP Ropp PG	1661 S 4th St, Attn Margaret Goodro - BLM Mgr, El Centro, CA, 92243	WITTEL Communications, LLC
CA025_00621	056-470-031	16S-21E-21	11LC	8191 Center St, La Mesa, CA, 91942	WITTEL Communications, LLC
CA025_00622	056-460-009	16S-21E-22	Eller Telecasting Co of Arizona	7950 Jones Branch Dr, c/o Gannett Co Inc Tax Dept, McLean, VA, 22107	Level3 Communications, LLC
CA025_00623	056-460-010	16S-21E-22	Glenn, Thomas R & Terrence J	19557 Valley Ford Dr, Cottonwood, CA, 96022	Level3 Communications, LLC
CA025_00624	056-460-011	16S-21E-22	Griffin, James A	5551 Kenwood Ave, Buena Park, CA, 90621	Level3 Communications, LLC
CA025_00625	056-460-012	16S-21E-22	Correnti-Kroos, Gilda F	2111 Whitfield Park Ave, Sarasota, FL, 34243	Level3 Communications, LLC
CA025_00627	056-470-036	16S-21E-21	Isiel, Jacques A & Felicia L	One Center of The World Plaza, Felicity, CA, 92283	Level3 Communications, LLC / WITTEL Communications, LLC
CA025_00628	056-470-035	16S-21E-21	Isiel, Jacques A & Felicia L	One Center of The World Plaza, Felicity, CA, 92283	Level3 Communications, LLC
CA025_00637	056-460-046	16S-21E-22	Lemon, John R & Diane M	153 E Cole Rd, Calexico, CA, 92231	WITTEL Communications, LLC
CA025_00638	056-460-047	16S-21E-22	Lemon, John R & Diane M	153 E Cole Rd, Calexico, CA, 92231	WITTEL Communications, LLC
CA025_00648	056-600-006	16S-22E-26	Roman Catholic Bishop of San Diego	PO Box 1176, Winterhaven, CA, 92283	Level3 Communications, LLC / WITTEL Communications, LLC
CA025_0065	021-340-003	11S-14E-13	Currier, Andrew & Marlene	290 River Wood Dr, Brawley, CA, 92227	WITTEL Communications, LLC
CA025_00715	044-351-015	15S-14E-31	Mah, Nellie	1536 Hamilton Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00716	044-351-024	15S-14E-31	Quality Quarters Co LLC	429 W Main St, El Centro, CA, 92243	Level3 Communications, LLC

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CA025_00717	044-351-023	155-14E-31	Henos et al, Carl G	2450 Holt, c/o DBA Apt at 1224 Woodward A, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00718	044-351-012	155-14E-31	R O & E C Villalobos Tr et al	2450 Holt Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00719	044-371-033	155-14E-31	Garddis III, Thomas Samuel	582 Broadway St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00720	044-371-034	155-14E-31	Saad, Meleek & Jill	125 W Main St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00721	044-371-031	155-14E-31	Holguin, Cesar G & Emma D	1818 Farmer Dr, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00722	044-351-011	155-14E-31	Contreras, Juan S & Leonor	1248 Woodward Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00723	044-371-032	155-14E-31	Cameron, Frank M & Melita A	589 Wensley, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00724	044-371-004	155-14E-31	Flores et al, Joe R	825 N 7th St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00725	044-371-005	155-14E-31	Flores et al, Joe R	825 1/2 N 7th St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00726	044-371-006	155-14E-31	Quintero, Cesar T	450 Wensley Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00727	044-351-010	155-14E-31	Figuerroa, Eddie P & Sharon L	1258 Woodward, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00728	044-351-009	155-14E-31	Patron, Guadalupe I	534 Lincoln, Calexico, CA, 92231	Level3 Communications, LLC
CA025_00729	044-351-008	155-14E-31	Zamora, Veronica & Vincente	1282 Woodward Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00730	044-351-007	155-14E-31	Ruiz, Robert B	1400 Woodward Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00731	044-351-006	155-14E-31	Figuerroa, Cynthia Kim	1294 Woodward Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00732	044-351-019	155-14E-31	Villanueva, Vicki R	PO Box 178985, San Diego, CA, 92117	Level3 Communications, LLC
CA025_00733	044-351-022	155-14E-31	Villanueva, Eddie R	PO Box 1048, El Centro, CA, 92244	Level3 Communications, LLC
CA025_00734	044-351-004	155-14E-31	Toma et al, Michael	825 N Imperial Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00735	044-351-003	155-14E-31	Toma et al, Michael	825 N Imperial Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00736	044-351-021	155-14E-31	R & M Petroleum Co	1292 Chaparral Cir, San Luis Obispo, CA, 93401	Level3 Communications, LLC
CA025_00737	044-361-021	155-14E-31	Southeastern CA Assn of 7th Day Adventists	PO Box 8050, Riverside, CA, 92515	Level3 Communications, LLC
CA025_00738	044-361-004	155-14E-31	Zapata, Martha	1064 Woodward Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00739	044-361-005	155-14E-31	Wasson, Margaret B	2696 W Canyon Ave, San Diego, CA, 92123	Level3 Communications, LLC
CA025_00740	044-361-006	155-14E-31	Loo et al, Douglas	868 Stacey, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00741	044-361-007	155-14E-31	Camacho-Zapata, Emma	1064 Woodward Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00742	044-361-008	155-14E-31	Martinez et al, Martha & Rubio S	1239 Main St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00743	044-361-009	155-14E-31	Childers et al, Ryan D	PO Box 3102, El Centro, CA, 92244	Level3 Communications, LLC
CA025_00744	044-361-010	155-14E-31	Childers et al, Ryan D	PO Box 3102, El Centro, CA, 92244	Level3 Communications, LLC
CA025_00745	044-361-011	155-14E-31	Varley, Randall A	1665 Ocotillo Dr, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00746	044-361-012	155-14E-31	Cangel, Lorenzo & Laura	PO Box 859, Heber, CA, 92249	Level3 Communications, LLC
CA025_00747	044-361-013	155-14E-31	Pierson et al, Herbert E	628 W Main St, El Centro, CA, 92244	Level3 Communications, LLC
CA025_00748	044-361-022	155-14E-31	Martin, Robert A & Patricia A	2984 Bayside Walk, San Diego, CA, 92109	Level3 Communications, LLC

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EXHIBIT 1
Imperial County, CA

<u>DMS ID</u>	<u>ASSESSOR PARCEL ID</u>	<u>T/R/S</u>	<u>NAME / COMPANY NAME</u>	<u>MAILING ADDRESS</u>	<u>GRANTEE</u>
CA025_00749	044-361-017	155-14E-31	Preciado, Jose Luis & Guadalupe G	834 Woodward Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00750	044-361-018	155-14E-31	Garcia, John M & Gloria D	824 Woodward Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00751	044-361-019	155-14E-31	Lopez, Alfonso Luna	814 Woodward St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00752	044-361-020	155-14E-31	Quality Quarters Co LLC	429 W Main St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00753	044-381-002	155-14E-31	Tsoucalas, Mike	PO Box 421217, c/o Federal Home Loans, San Diego, CA, 92112	Level3 Communications, LLC
CA025_00754	044-381-003	155-14E-31	Villarreal, Cervando & Elvira	2174 R Cabrillo Ct, Calexico, CA, 92231	Level3 Communications, LLC
CA025_00755	044-381-004	155-14E-31	Varley, Randall A	1665 Occotillo Dr, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00756	044-381-036	155-14E-31	Rose, Ronnie Lynn	558 Woodward Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00757	044-381-006	155-14E-31	Neld, Ramond J	PO Box 3667, El Centro, CA, 92244	Level3 Communications, LLC
CA025_00758	044-381-007	155-14E-31	Mederos, Humberto L	546 Woodward Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00759	044-381-008	155-14E-31	Alva, Raymond & Rosa	534 Woodward, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00760	044-381-009	155-14E-31	Del Valle, Jose A & Maria J	526 Woodward Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00761	044-381-010	155-14E-32	Guisalain, Charles P	518 Woodward Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00762	044-381-011	155-14E-32	Patel et al, Vijaykumar & Nalini	850 Adams Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00763	044-381-012	155-14E-32	Alvarez, Francisco B & Martha C	294 N 21th St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00764	044-381-013	155-14E-32	Martinez, Maria Teresa	815 N 5th St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00765	044-381-022	155-14E-32	Nevarez et al, Gina L	631 Tiker Lily Ln, Imperial, CA, 92251	Level3 Communications, LLC
CA025_00766	044-381-034	155-14E-32	Estrada, Gregorio & Maria	450 Euclid Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00767	044-381-035	155-14E-32	Estrada, Gregorio & Maria	450 Euclid Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00769	044-381-024	155-14E-32	Jeffrey O & Cheryl E Lyon Tr	1778 Lotus Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00777	021-030-020	115-14E-4	Swink, George	PO Box 232307, Leucadia, CA, 92023	WITTEL Communications, LLC
CA025_00783	056-590-011	165-22E-23	Tovar Family LP	2261 E 27th Way, Yuma, AZ, 85365	Level3 Communications, LLC

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15 RECORDING REQUESTED BY
and RETURN TO:
C. Corporation System
251 Montgomery Street
San Francisco, California 94104

47 JOHN W. KENNEDY
COURT

'69 DEC 9 AM 11:10
BOOK 1286 PAGE 821

OFFICIAL USE ONLY
INFERIOR COURT
#200

State of Delaware



Office of Secretary of State

J. Eugene Bunting, Secretary of State of the State of Delaware,

do hereby certify

that the Certificate of Agreement of Merger of the "SOUTHERN PACIFIC COMPANY", merging with and into the "SOUTHERN PACIFIC TRANSPORTATION COMPANY", under the name of "SOUTHERN PACIFIC TRANSPORTATION COMPANY", was received and filed in this office the twenty-sixth day of November, A.D. 1969, at 8:35 o'clock A.M.

And I do hereby further certify that the aforesaid Corporation is duly incorporated under the laws of the State of Delaware and is in good standing and has a legal corporate existence so far as the records of this office show and is duly authorized to transact business.

In Testimony Whereof, I have hereunto set my hand

and official seal at Dover this second day of December in the year of our Lord one thousand nine hundred and sixty-nine.



Eugene Bunting

Secretary of State

R. H. Caldwell

Attorney General

RECORDING REQUESTED BY
IMPERIAL COUNTY PUBLIC WORKS

AND WHEN RECORDED RETURN TO:

IMPERIAL COUNTY PUBLIC WORKS
155 SOUTH 11TH STREET
EL CENTRO, CA 92243

Recorded in Official Records, IMPERIAL COUNTY

CHUCK STOREY
COUNTY CLERK/RECORDER

P PUBLIC

Doc#: 2017028554



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12/28/2017
02:53 PM
IsabelVargas

Titles:	1	Pages:	4
Fees			14.00
Taxes			0.00
Other			0.00
PAID			14.00

BOOK: 23 PAGES: 7-9

MAP COVER SHEET
RECORD OF SURVEY
I.C.S.R. No 681

LEGAL DESCRIPTION:

PORTIONS OF TRACT 37, T13 SO R18 EAST, SBM IN AN UNINCORPORATED AREA
OF THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA

GRANTORS:

SPRINKLE, BETTY J/ICSR 681
LEBLANC, EUGENE LOUIS JR/ICSR 681
TRACT 37/ICSR 681
T13 SO R18 EAST SBM/ICSR 681
ICSR 681/T13 SO R18 EAST SBM

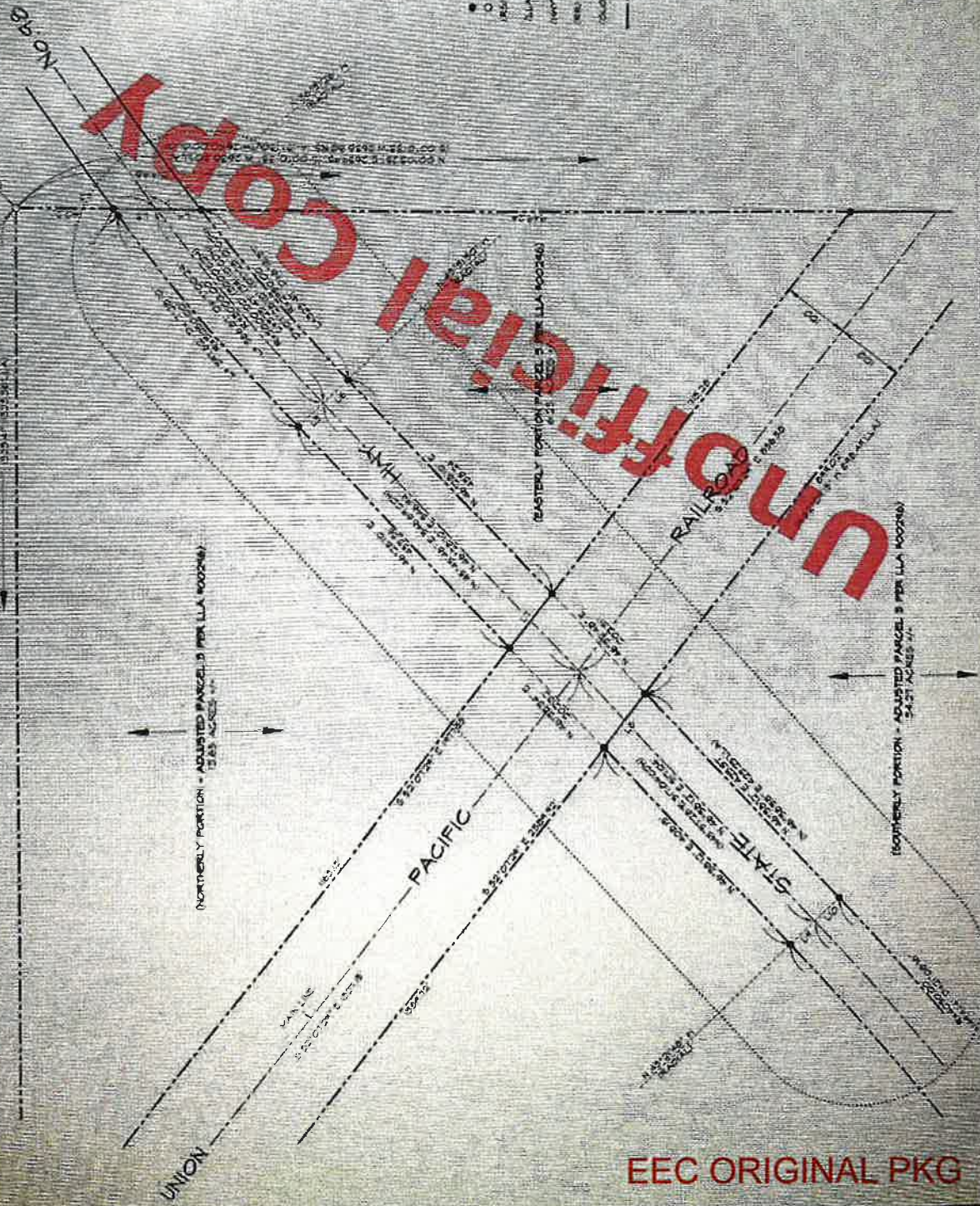
Unofficial Copy

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

IN AN UNINCORPORATED AREA OF THE COUNTY OF IMPERIAL STATE OF CALIFORNIA

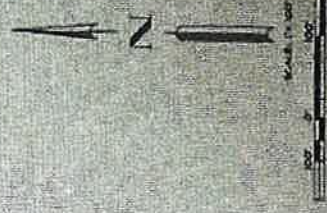


LINE DATA TABLE

LINE	LENGTH	BEARING	REFERENCE
L1	12.50'	N84°00'30"E	
L2	202.50'	N00°00'30"E	
L3	81.87'	N00°00'30"E	
L4	65.34'	N00°00'30"E	
L5	50.00'	N45°31'50"W	
L6	50.00'	N45°31'50"W	
L7	0.14'	N53°07'37"W	
L8	0.18'	N53°07'37"W	
L9	50.00'	N45°31'49"W	
L10	50.00'	N45°31'49"W	

LEGEND:

- SET 1/2" IRON PIPE HORSS NAILS STAMPED T13-1197 9 COLONY
- ROAD MONUMENT AS NOTED
- AREA SECOND DATA PER RECORD OF SURVEY FILED IN BOOK AND PAGE AS SPECIFIED IN THE COUNTY RECORDER'S OFFICE
- AREA CALCULATED DATA PER LOT LINE ADJUSTMENT FILED AS CERTIFICATE OF COMPLIANCE BOOK 20-1-00338 IN THE COUNTY RECORDER'S OFFICE
- (NWT) CALCULATED DATA PER UNRECORDED CITY ENGINEER'S MAP ON FILE IN THE OFFICE OF THE COUNTY SUPERVISOR
- RECORD DATA PER PARCEL MAP FILED IN BOOK AND PAGE AS SPECIFIED IN THE COUNTY RECORDER'S OFFICE
- RECORD DATA PER LOT LINE ADJUSTMENT FILED IN BOOK AND PAGE AS SPECIFIED IN THE COUNTY RECORDER'S OFFICE
- RECORD DATA PER UNRECORDED CITY ENGINEER'S MAP ON FILE IN THE OFFICE OF THE COUNTY SUPERVISOR



IMPERIAL COUNTY SURVEY REF NO. 681

DEVELOPMENT DESIGN & ENGINEERING

SHEET 3 OF 5

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Narrative Overview

CitySwitch seeks approval for a Conditional Use Permit (“CUP”), a Height Variance (“Variance”) and any other permits or approvals necessary in order to install a communications facility on property located at 637-639 Sidewinder Rd N, Felicity, CA 92283. CitySwitch proposes to erect this tower and will be offering it as a shared facility to Union Pacific (with whom CitySwitch already has a commitment), AT&T Mobility, and any other communication carriers that have a need for a facility in this area. CitySwitch thus submits this Application (as that term is defined in Sections 92404.01 and 92405.01 of the Imperial County Land Use Code (the “Code”)) seeking a CUP and Variance for the siting and construction of a new communication facility.

The proposed site is located in a S-2, Open Space/Preservation zone. Pursuant to Sections 90519.02(d) of the Code, Communication Facilities are allowed in this district with CUP approval. The property consists of a railroad line in the desert, located approximately 1,200’ north of the on-ramp to I-8.

The wireless communications facility that CitySwitch is proposing to install on the property for Union Pacific and AT&T is necessary to provide critical communications for the railroad line and uninterrupted AT&T wireless services to the residents and visitors of Felicity and the surrounding area, including wireless telephone service, voice paging, messaging and wireless internet and broadband data transmission. All registered wireless providers’ technology operate at various radio frequency bands allocated by the FCC as part of their license.

Wireless systems operate on a grid system where overlapping cells mesh together, forming a seamless network. No single site can function as a stand-alone entity as each site is interconnected, forming the network. The technical criteria for establishing cell sites are very exacting as to the location and height. The proposed site at 637-639 Sidewinder Rd N, Felicity, CA 92283 is within the geographic area deemed necessary by radio frequency engineers for the anchor wireless telecommunications providers to provide uninterrupted services.

In accordance with Sections 92402.01s and 92405.01 of the Code, CitySwitch is submitting this Application to install a new Communications Facility. The proposed new communications

facility will consist of a 170'-0" tall monopole tower with a 10'-0" lightning rod for a total height of 180'-0" to be located within a 57'-0" x 45'-0" ground area.

After the initial construction, the facility is unstaffed and will only require service technicians, in a pick-up/van sized vehicle, to visit the site approximately once per month. Access will be provided via an easement with the proposed access entry point off Sidewinder Rd N. The only utilities required to service the facility are power and fiber. The site is entirely self-monitored through a sophisticated alarm system which is connected to a main switch station. The system alerts personnel to any equipment malfunction or breach of security. Additionally, there is no impact on Imperial County's utilities such as water and sanitation, as they are not used at the site.

In accordance with FCC regulations, the mobile service facility will not interfere with any form of communications, including but not limited to, land-line phones, cable and satellite television and radio broadcasts. Wireless technology has become a vital part of emergency services, aiding local residents and motorists in a variety of situations, thus helping to protect the general public's health, safety and welfare. The proposed communications facility at this site will further enhance goals of providing the most reliable wireless coverage possible in this area.

The proposed communications facility will be designed and constructed to meet all applicable governmental and industry safety standards. Specifically, CitySwitch will comply with all FCC and FAA rules and regulations regarding construction requirements and technical standards. RF emissions are subject to the exclusive jurisdiction of the FCC, and the proposed facility will comply with the FCC's RF emission standards.. Any height, lighting or marking issues are also subject to the exclusive jurisdiction of the FAA, and the proposed facility will comply with the FAA's requirements for height, lighting, and marking.

LCC Telecom Services and Sherman & Howard, on behalf of CitySwitch, look forward to working with Imperial County to bring the benefits of the proposed improved wireless services to the area. The addition of the facility will ensure improved railroad communications and the best uninterrupted wireless services for Imperial County. This application addresses all applicable standards of Sections 92404.01 and 92405.01 of the Imperial County Zoning Ordinance and satisfies the requirements of those sections.

Compliance with Section 92404.01 – General Requirements for Communications Facilities

All new, altered and re-permitted communication facilities in unincorporated areas of Imperial County, with the exception of those exempted under Section 92401.03, shall meet the following general requirements, regardless of the zone in which they are located:

- A. Zones. Wireless communication facilities may be located in all base zones which allow such facilities, upon approval of a conditional use permit as described below.

Telecommunications towers, along with related equipment are allowed with CUP approval in the S-2 Open Space/Preservation zone pursuant to Section 90519.02(d) of the ordinance.

- B. Use Permit Required. All wireless communication facilities and all wired or fiber regeneration facilities other than those designated as exempt under Section 92401.03 require a conditional use permit (CUP). To obtain a conditional use permit, a hearing is required before either the planning director or the planning commission, as provided for in Title 9.

The proposed wireless communications facility is not exempt under Section 92401.03, therefore CitySwitch has applied for a CUP, and will follow the CUP process provided for in Title 9.

- C. Building Permit Required. All communication facilities shall require a building permit issued by the county of Imperial.

If and when the CUP has been approved, CitySwitch will apply for the necessary building permits through Imperial County.

- D. Design Consistency with the Surrounding Environment. To the maximum extent feasible, all wireless communication facilities and all regeneration facilities shall blend in with the predominant features of the existing natural and/or built environments in which they are located. To this end, co-location, stealth mounts, structure mounts and ground mounts are particularly encouraged.

Due to the diminutive size of the parcel and the tower's location adjacent to the railroad tracks in the desert, there will be little impact on the surrounding environment.

- E. Height. All communication facilities shall conform to the following height requirements:
1. All communication facilities shall be of the minimum functional height, with additional provisions for co-location, as allowed in the respective base zone unless a variance is approved concurrent with a CUP. (For example, if the number of co-locators that a particular facility is designed for is four and the required height is eighty (80) feet, then the allowed height of the facility would be one hundred ten (110) feet and if it is five co-locators, then it would be one hundred twenty (120) feet).

The proposed monopole tower is designed to be 170'-0" with a 10' lightning rod for a total height of 180'-0". The proposed height is the minimum functional height for Union Pacific and AT&T to provide the necessary coverage for the area. A height variance has been requested as part of this application. See Site Plans

2. All communication facilities constructed within three-quarters mile of a scenic corridor (as designated by the Imperial County General Plan) shall conform with the height limit in the zone in which they are located. New facilities that are co-located with an existing facility may exceed their zone's height limit, provided that the installation of the new facility does not require a height increase of the existing facility.

According to the General Plan, the area is designated as Recreation/Open Space, there is no designation of a scenic corridor in the vicinity. Therefore, this section does not apply.

3. Outside of the three-quarter-mile range of a designated scenic corridor, communication facility, except an exempt facility, may exceed one hundred twenty (120) feet. A bonus of twenty (20) additional feet per facility, up to a maximum height of three hundred (300) feet, is permissible for operators co-locating on a single facility.

The proposed tower height is 180'-0" and a height variance has been requested as part of this application.

4. No roof-mounted wireless communication facility, except an exempt facility, may be more than twelve (12) feet taller than the roof of the building on which it is mounted, unless facility is fully screened and height does not exceed height permitted by applicable zoning code.

The application is for a new communications tower facility and not a rooftop facility, Therefore, this section does not apply.

5. If an operator wishes to apply for an exception to these height limitations, then the facility shall be subject to the provisions at Title 9 relating to conditional use permits and variances hearing processes.

The proposed tower height is 180'-0" and a height variance has been applied for as part of this application.

- F. Screening. All communication facilities shall be screened to the maximum extent possible, pursuant to the following requirements.
 1. Ground- and tower-mounted antennas and all sound structures shall be located within areas where substantial screening by vegetation, landform and/or buildings can be achieved. Additional vegetation and/or other screening may be required as a condition of approval. Each structural screening shall be based on a recommendation from the planning department having addressed the visual impacts, which in some instance may, in fact, warrant no screening.

No screening is proposed with this application. The proposed tower site is within the railroad right-of-way in the desert with no residential structures in the area.

2. The projection of structure-mounted antennas from the face of the structure to which they are attached shall be minimized.

The proposed wireless communications facility is a new tower, not a co-location on an existing structure. Therefore, this section does not apply.

3. Roof-mounted antennas shall be set back from the edge of the roof a distance greater than or equal to the height of the antenna, except when the antennas are fully screened. For roofmounted antennas, a screening structure that is architecturally compatible with the building on which it is mounted may also be required as a condition of approval. Antenna panels mounted flush on the outside of the parapet wall of an existing building and painted to match the exterior of the building may be allowed.

The proposed wireless communications facility is a new tower, not a co-location on an existing structure. Therefore, this section does not apply.

- G. Radio Frequency Exposure. No communication facility shall be sited or operated in such a manner that it poses, either by itself or in combination with other such facilities, a

potential threat to public health. To that end, no communications facility or combination of facilities shall produce at any time power densities that exceed the current FCC adopted standards for human exposure to RF fields. Certification that a facility meets this standard is required. A copy of the certification from the FCC shall be submitted to the county.

All spectrum used by both railroad users and wireless providers are solely regulated by the FCC which includes the power densities, therefore, no signals will exceed the current FCC adopted standards for human exposure.

- H. Cabling. For structure-mounted antennas, all visible cabling between equipment and antennas shall be routed within the building wherever feasible, or on the roof below the parapet wall. Cabling on the exterior of a building or monopole shall be located within cable trays painted to match. All cabling shall be performed in accordance with the NEC (National Electrical Code).

All cabling is proposed for the interior of the monopole and will be in accordance with the NEC guidelines. In the event that any future cabling needs to be on the exterior of the tower, a cable tray painted to match the tower will be used.

- I. Painting and Lighting. All facilities shall be painted or constructed of materials to minimize visual impact. All towers shall be painted in a non-reflective and preferably earth tone color. All towers shall be lit with approved lighting as required by the FAA and the Airport Land Use Commissions Standards.

The proposed tower is going to be galvanized metal which is a non-reflective material. The proposed tower is going to be 170'-0" with a 10'-0" lightning rod for a total height of 180'-0" which is below the 200' threshold requiring lighting per the FAA. Therefore, no lighting will be provided.

- J. Noise. All communication facilities shall be designed to minimize noise. If a facility is located in or within one hundred (100) feet of a residential zone, noise attenuation measures shall be included to reduce noise levels to a maximum exterior noise level of fifty (50) L dn at the facility site's property lines.

The proposed wireless communications facility does not generate significant noise. The proposed facility will not initially have a back-up generator, therefore there will be no noise generated at the site. There are no residential zone parcels within one hundred (100) feet of the proposed facility Therefore, no noise attenuation measures will be necessary.

- K. Accessory Structures. Enclosures and cabinets housing equipment related to a wireless communication facility shall meet setback and height restrictions for such structures in

their zones. Such structures shall appear architecturally compatible (as determined by the planning director evaluating the facility on the basis of color and materials) with their surroundings and be designed to minimize their visual impact. To meet this requirement, underground vaults may be required.

The proposed facility will be in compliance with all local, state and federal guidelines, therefore the zero setback will be applicable. Additionally, the equipment will be architecturally compatible with the rest of the communications facility and surrounding area.

- L. Roads and Parking. Communication facilities shall be served by the minimum roads and parking areas necessary and shall use existing roads and parking areas whenever possible.

A 12' wide gravel access road is proposed to run parallel to the train tracks in the Union Pacific right-of-way. The access road will connect to Sidewinder Road N., just south of the tracks.

- M. Provisions for Future Co-location. All commercial communication facilities shall be encouraged to promote future facility and site sharing. Technical evidence will be provided as to the infeasibility either technical and/or economic, of co-location or grouping prior to the issuance of a new use permit for a facility that would not be considered to be co-located or grouped under this ordinance.

There is an existing tower owned by SBA Structures, LLC which is located approximately 0.36 miles southeast of the proposed tower site. AT&T is currently co-located on that tower, however, the lease rate has sharply increased over the term of the agreement and has caused an economic burden which is shown in the attached Sworn Statement of Spencer Gambrell in Support of New Tower Construction from AT&T Mobility Services LLC. As shown on the drawings the proposed tower is designed to potentially add five additional future carriers.

- N. Removal Upon Discontinuation of Use. All equipment associated with a communication facility shall be removed within one hundred eighty (180) days of the discontinuation of the use and the site shall be restored to its original pre-construction condition. The operator's agreeing to such removal and allowing the county access across private property to effect such removal shall be a condition of approval of each permit issued. At its discretion, the county may require a financial guarantee acceptable to the county to ensure removal.

CitySwitch agrees to removal of the tower in the event it is no longer in use for more than 180 days as a condition of the Conditional Use approval.

- O. Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

The proposed wireless communications facility is an accessory use on the property to the principal use of the railroad. As stated above, this will not preclude the installation of antennas on within the right-of-way.

- P. Lot Size. For purposes of determining whether the installation of a facility complies with county development regulations, including, but not limited to, setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on lease parcels within such lot. This shall also take into consideration the height of the tower in the event of a failure whereby it could fall thereby crossing property lines.

The proposed tower is going to be located within the railroad right-of-way, therefore the development regulations do not strictly apply to this facility because there is no actual lot size. The proposed tower will be designed to collapse onto itself in the unlikely event of a failure. The surrounding area is desert, so even an unlikely failure will not have an impact.

- Q. Inventory of Existing Sites. Each applicant for a facility shall provide to the planning director an inventory of its existing towers, antennas, or sites approved for facilities, that are either within the jurisdiction of Imperial County or within one mile of the border thereof, including specific information about the location, height and design of each facility. The planning director may share such information with other applicants applying for administrative approvals or special use permits under this ordinance or other organizations seeking to locate facilities within the jurisdiction of Imperial County, provided, however that the planning director is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

See attached Coverage Plots.

- R. Aesthetics. Towers and antennas shall meet the following requirements:
- a. Towers shall either maintain a galvanized steel finish, or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obstructiveness.

The proposed tower will maintain a galvanized steel finish so as to reduce visual obstructiveness.

- b. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.

The proposed support equipment will consist of galvanized metal equipment cabinets that are similar to gym lockers. The materials will match the tower and fit in with the natural surroundings.

- c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobstructive as possible.

The proposed wireless communications facility is a new tower, not a co-location on an existing structure, therefore this provision does not apply.

- S. Lighting. Towers shall not artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views and community.

The proposed tower is going to be 170'-0" with a 10'-0" lightning rod for a total height of 180'-0" which is below the 200' threshold requiring lighting per the FAA, therefore no lighting will be provided.

- T. State or Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations as mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

The proposed tower will meet and / or exceed all FAA, FCC and any other agencies of the State of California or federal government with authority to regulate towers and antennas. In the event of a change in regulations, CitySwitch and the providers co-located on the tower will make their equipment compliant.

- U. Building Codes; Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the county concludes that a tower fails to comply with such codes and

standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

CitySwitch will be compliant with all Electronic Industries Association along with any local, state or federal guidelines relating to the construction and maintenance of the communications facility.

- V. Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the unincorporated areas of the county of Imperial according to the provisions of Title 9 for the respective base zone.

Noted, the setbacks are shown on the drawings and the separation distance has been calculated based on the coordinates of the existing tower and the coordinates for the SBA tower shown on the FCC ASR Search website.

- W. Not Essential Services. Towers and antennas shall be regulated and permitted pursuant to this ordinance and shall not be regulated or permitted as essential services, public utilities or private utilities.

CitySwitch, Union Pacific, and AT&T Mobility are private corporations and are not essential service providers.

- X. Franchises. Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a communication system in Imperial County have been obtained and shall file a copy of all required franchises with the planning director.

Any required certifications of franchise will be filed with Imperial County as required.

- Y. Public Notice. For purposes of this ordinance, any conditional use permit request, variance request, or appeal of an administratively approved CUP or special use permit shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed for a CUP or variance in the respective base zone, under Title 9, in addition to any notice otherwise required by the planning director.

CitySwitch will comply with any notice obligations for the CUP process, to the extent the public notice is not required by Imperial County.

- Z. Signs. No signs shall be allowed on an antenna or tower except as may be required by law or another permitting or licensing agency.

The only signage displayed on the communications facility site will be that which is required by federal regulations, specifically those signs needed for health and safety reasons.

- AA. Buildings and Support Equipment. Buildings and support equipment associated with antennas or towers shall comply with requirements of Title 9.

All support equipment used in the communications facility will comply with the requirements of Title 9.

- BB. Multiple Antenna/Tower Plan. Imperial County encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.

CitySwitch is submitting three (3) total applications for sites within Imperial County.

Compliance with Section 92405.01 – Wireless Communications Permitting Requirements

All communication facilities not specifically exempted from these regulations are subject to one of the two permit processes described below. Both processes include a conditional use permit and may have a concurrent variance. Applications for all permits required pursuant to this division shall be made in writing on a form prescribed by the planning director, and shall be accompanied by plans and data to assure the fullest practical presentation of facts for the permanent record. Such application shall be accompanied by a fee or fees as may be set by the board of supervisors. No part of such fee shall be refundable.

- A. Conditional Use Permit before the planning director. Certain communication facilities may be conditionally approved by the planning director, as described in this subsection.
 - 1. Qualifying Facilities. The following types of communication facilities qualify for a use permit before the planning director:
 - a. Receive-only radio and television antennas and satellite dishes or antennas that do not qualify for exemption under Section 92401.3, including multiple antennas or dishes on a single parcel.
 - b. Amateur radio facilities that do not qualify for exemption under Section 92401.3. When required, a conditional use permit before the planning director shall be granted to amateur radio operators with no fee.
 - c. Communication facilities installed on publicly owned property, regardless of zone, provided they comply with the general requirements in Section 92401.04 and hold an executed license or lease agreement.
 - d. Co-located communication facilities, regardless of zone, provided they comply with the general requirements in Section 92401.04.

The proposed wireless communications is located within the Union Pacific right-of-way and does not qualify for a CUP before the Planning Director.

- 2. Required Findings. In order for the planning director to approve a proposed communication facility under a conditional use permit, the planning director shall make the findings required for a conditional use permit, as well as, the following additional findings:
 - a. The facility complies with all applicable Section 92401.04.

The application includes all items required in Section 92401.04 and complies with all requirements in said section.

- b. The facility either 1) does not require an RF environmental evaluation report as described in Section 92401.08, or 2) the RF environmental evaluation report for the facility shows that the cumulative radio-frequency energy emitted by the facility and any nearby facilities will be consistent with FCC regulations.

The proposed installation is not required to include a RF Environmental Evaluation Report as spelled out in Section 92401.08.

- c. The facility blends in with its existing environment and will not have significant adverse visual impacts.

The proposed tower is being located within an existing railroad right-of-way in the desert and will not have a significant adverse visual impact on surrounding area.

3. Administrative Approval Process. The planning director may administratively approve a proposed communication facility by using the following process:
 - a. Each applicant for administrative approval shall apply to the planning director providing the information and fees set forth in Section 92401.09 of this ordinance.
 - b. The planning director shall review the application and determine if the proposed use complies with Sections 92401.04 and 92401.05 of this ordinance.
 - c. The planning director shall respond to each such application within sixty (60) days after receiving it by either approving or denying the application.
 - d. In connection with any such administrative approval, the planning director may, in order to encourage shared use, administratively waive any setback requirements or separation distances between towers in the base zone by up to fifty percent (50%).
 - e. In connection with any such administrative approval, the planning director may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.
 - f. If an administrative approval is denied, the applicant shall file an application for a conditional use permit pursuant to Section 91401.05B. prior to filing any special appeal that may be available under the Title 9.

The proposed wireless telecommunications facility requires a Conditional Use Permit and a Height Variance, therefore this site does not meet the criteria for an Administratively Approved site.

4. List of Administratively Approved Uses. The following uses may be approved by the planning director after conducting an administrative review:

- a. Locating a tower, antenna or facility, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any industrial or heavy commercial zone or a grouped facility.
- b. Locating antennas or existing structures or towers consistent with the terms of subsections (1) and (2) below.
 - (1) Antennas on existing structures. Any antenna, which is not attached to a tower, may be approved by the planning director as an accessory use to any commercial, industrial, professional, institutional, or multi-family structure of eight or more dwelling units, provided:
 - (a) The antenna does not extend more than thirty (30) feet above the highest point of the structure;
 - (b) The antenna complies with all applicable FCC and FAA regulations;
 - (c) The antenna complies with all applicable building codes.
 - (2) Antennas on existing towers. An antenna which is attached to an existing tower may be approved by the planning director and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:
 - (a) A tower which is modified or reconstructed to accommodate to collocation of an additional antenna shall be of the same tower type as the existing tower, unless the planning director allows reconstruction as a monopole.
 - (b) Height.
 - (i) An existing tower may be modified or rebuilt to a taller height, not to exceed thirty (30) feet over the tower's existing height, to accommodate the collocation of an additional antenna.
 - (ii) The height change referred to in subsection (b)(i) may only occur one time per communication tower.
 - (iii) The additional height referred to in subsection (c)(i) shall not require an additional distance separation. The tower's premodification height shall be used to calculate such distance separation.
 - (c) On-site location.
 - (i) A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within fifty (50) feet of its existing location.
 - (ii) After the tower is rebuilt to accommodate collocation, only one tower may remain on the site.
 - (iii) A relocation onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to the base zone.

- (iv) The onsite relocation of a tower which comes within the separation distances to residential units or residentially zoned lands shall only be permitted when approved by the planning director.
- c. New towers in nonresidential zones. Locating any new tower in a nonresidential zone other than industrial or heavy commercial, provided a licensed professional engineer certifies that the tower can structurally accommodate the number of shared users proposed by the applicant; the planning director concludes the tower is in conformity with the goals set forth in [Section] 92401.00 and the requirements of Section 92401.04; the tower meets all setback and separation requirements of the base zone; and the tower meets the following height and usage criteria:
- (1) For a single user, up to ninety (90) feet in height;
 - (2) For two users, up to one hundred twenty (120) feet in height; and
 - (3) For three or more users, up to one hundred twenty (120) feet in height; and
 - (4) For four or more users up to one hundred eighty (180) feet in height.
- d. Locating any alternative tower structure in a zone other than industrial or heavy commercial that in the judgment of the planning director is in conformity with the goals set forth in Section 92401.00 of this ordinance.
- e. Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

The proposed wireless telecommunications facility requires a CUP and a Variance for height. Therefore, this site does not meet the criteria for an Administratively Approved site.

- B. Conditional Use Permit before the planning commission. All other communication facilities or any facility requiring an exception to these regulations shall require a conditional use permit with a public hearing before the planning commission.
1. Qualifying Facilities. A conditional use permit is required for any communication facility that is not exempt under these regulations and that does not qualify for a conditional use permit before the planning director.

The proposed 170'-0" monopole tower is not exempt under Section 92401, therefore a Conitional Use Permit and Variance for height are required.

2. Required Findings. In order for the planning commission to approve a proposed communication facility under a conditional use permit, the commission shall make the findings required for a conditional use permit, as well as the following additional findings:

- a. No alternative site or design is available that would allow for issuance of a conditional use permit before the planning director for the facility. This finding shall be based on the results of an alternatives analysis, as described in Section 92401.06, below.

AT&T Mobility is currently located on the existing SBA tower which is approximately 0.36 miles southeast of the proposed location. At the current lease rate, AT&T is burdened by the high rent, as stated in the attached Sworn Statement of Spencer Gambrell in Support of New Tower Construction from AT&T Mobility Services LLC. Should SBA be allowed to continue charging above market rates, AT&T will not be able to upgrade its equipment and stay competitive in the market.

- b. Facility either 1) does not require an RF environmental evaluation report as described in Section 92401.08, or 2) the RF environmental evaluation report for the facility shows that the cumulative radio frequency exposure emitted by the facility and any nearby facilities will be consistent with FCC regulations.

The proposed installation is not required to include a RF Environmental Evaluation Report as spelled out in Section Section 92401.08.

- c. The facility blends in with its existing environment and will not have significant visual impacts.

As stated above, the proposed facility is located within the Union Pacific railroad right-of-way and is located in the desert. The proposed facility will not have a significant visual impact on the surrounding area.

4. Conditional Use Permit Process. Applications for conditional use permits under this subsection shall conform to the requirements of Section 92401.04 and shall be subject to the procedures and requirements of Title 9 relating to the granting of conditional use permits.

The proposed application is in conformity with Section 92401.04 and Title 9 relating to the granting of the Conditional Use Permit.

5. Conditions. In granting a conditional use permit, the planning commission may impose conditions to the extent the planning commission concludes such conditions are necessary to minimize any adverse effects if the proposed facilities on adjoining properties.

CitySwitch is aware that the Planning Commission may impose conditions on the Conditional Use Permit to minimize adverse effects on the adjoining properties.

TITLE 9

DIVISION 4: SIGNS, PARKING, FENCE, HOME OCCUPATIONS, ACCESSORY DWELLING UNITS AND CANNABIS & INDUSTRIAL HEMP OPERATIONS

- CHAPTER 1: SIGNS
- CHAPTER 2: PARKING
- CHAPTER 3: FENCES
- CHAPTER 4: HOME OCCUPATIONS
- CHAPTER 5: ACCESSORY DWELLING UNITS (ADUs)
- CHAPTER 6: CANNABIS & INDUSTRIAL HEMP OPERATIONS

CHAPTER 1: SIGNS

- § 90401.00 PURPOSE/APPLICATION
- § 90401.01 DESIGN/DEVELOPMENT STANDARDS FOR MONUMENT SIGNS
- § 90401.02 DESIGN/DEVELOPMENT STANDARDS/POLE SIGNS
- § 90401.03 DESIGN/DEVELOPMENT STANDARDS/SIGNS ATTACHED TO BUILDINGS
- § 90401.04 DESIGN/DEVELOPMENT STANDARDS/OFF-SITE ADVERTISING SIGNS
- § 90401.05 DESIGN/DEVELOPMENT STANDARDS/TEMPORARY REAL ESTATE SIGNS
- § 90401.06 DESIGN/DEVELOPMENT STANDARDS/TEMPORARY SUBDIVISION SIGNS
- § 90401.07 DESIGN/DEVELOPMENT STANDARDS/PERMANENT SUBDIVISION AREA SIGNS
- § 90401.08 DESIGN/DEVELOPMENT STANDARDS/TEMPORARY CONSTRUCTION SIGNS
- § 90401.09 DESIGN/DEVELOPMENT STANDARDS/TEMPORARY CAMPAIGN SIGNS
- § 90401.10 DESIGN/DEVELOPMENT STANDARDS/AGRICULTURAL SIGNS
- § 90401.11 DESIGN/DEVELOPMENT STANDARDS/AGRICULTURAL INDUSTRY SIGNS
- § 90401.12 DESIGN/DEVELOPMENT STANDARD/INSTITUTIONAL IDENTIFICATION SIGNS
- § 90401.13 EXEMPT SIGNS
- § 90401.14 PROHIBITED SIGNS
- § 90401.15 SPECIAL SIGN PROVISIONS
- § 90401.16 DESIGN AND DEVELOPMENT STANDARDS FOR WIND-FETHERED BANNER FLAG SIGNS (FEATHER SIGNS)
- § 90401.17 NON-CONFORMING SIGNS
- § 90401.18 ILLUSTRATIONS

§ 90401.00 PURPOSE/APPLICATION

The purpose and intent of this Chapter is to provide and promote for the orderly and attractive construction, placement, and display of signs throughout the County of Imperial. It is the policy of the County of Imperial that the primary purpose of signs is for identification and public information. All signs shall be located on the property on which they are advertising unless otherwise specified. Signs that cause a distraction and present potential safety hazards, as well as, aesthetic problems or public nuisance problems are discouraged and/or prohibited. The provisions of this Chapter serve as specific development standards to be applied in addition to the sign codes required under the building construction provisions.

§ 90401.01 DESIGN AND DEVELOPMENT STANDARDS FOR MONUMENT SIGNS

Freestanding monument signs shall comply with all of the following standards.

- A. No monument sign shall be located within the existing road right-of-way or designated future road right-of-way.
- B. The maximum area of the sign shall not exceed 48 square feet per side.

The proposed location is within the Union Pacific Railroad right-of-way and will be designed to minimize the adverse effects of this application. Further, CitySwitch will work with the County Officials to provide the best possible design for the proposed site.

6. Professional Engineer. Any information of an engineering nature that the applicant submits, whether civil, mechanical or electrical, shall be certified by a licensed professional engineer.

All required information relating to the engineering of this site will be certified by a California licensed professional engineer, including all civil, mechanical or electrical documents.

Conditional Use Permit Standards

90203.09 Action on a conditional use permit.

An application for a conditional use permit shall be reviewed, and approved, conditionally approved, or denied by the decision-making authority.

The authority may approve or conditionally approve an application only if it finds all of the following:

- A. The proposed use is consistent with the goals and policies of the adopted county general plan;

Legislative Mandate

For the reasons stated above, the California legislature has established the General Plan as the comprehensive statement of public policy by which to evaluate all decisions regarding the development of land, the extension of public infrastructure, and the conservation and wise use of natural resources.

Although wireless telecommunications is not technically the extension of public infrastructure, it does serve the general public as a service that is essential to the fabric of Imperial County. Wireless technology has become as important to society as all other forms of public infrastructure such as roads, water, electricity and others.

County Population

The West Shores communities of Salton City, Salton Sea Beach, and Desert Shores are also largely retirement and recreation communities, though increasingly their populations are becoming more diversified. These communities experience a noticeable increase in population during the winter months when visitors converge to the area to avoid cold, wet winters in other parts of the United States and Canada.

The comprehensive plan acknowledges the influx of “snow-birds” in the winter months causing a noticeable increase in the population. A robust wireless infrastructure is essential to the common good of the population of Imperial County because with the seasonal change in population, a strong wireless network is critical.

Public Safety

Additional public safety is provided by the County Fire Department/Office of Emergency Services in cooperation with the incorporated cities and volunteer units in the unincorporated communities. The County Fire Department's main facility is located at the County Airport in Imperial.

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Public Safety

Additional public safety is provided by the County Fire Department/Office of Emergency Services in cooperation with the incorporated cities and volunteer units in the unincorporated communities. The County Fire Department's main facility is located at the County Airport in Imperial.

Companies like CitySwitch have worked with local emergency service agencies to allow for the placement of equipment in and around their facilities. Additionally, with AT&T co-locating on the tower, 5G will be a part of the installation. 5G technology is used by first responders to create a network which supports their needs in the time of crisis which will provide better response times and services by local emergency services.

- B. The proposed use is consistent with the purpose of the zone or sub-zone within which the use will be located;

The proposed communications facility is consistent with the with the purpose of the zone within which it will be located. Per Section 90519.00, the "primary intent" of the S-2 zone is "to preserve the cultural, biological, and open space areas that are rich and natural as well as cultural resources. The S-2 zone is dominated by native desert habitat and stark topographic features. While certain uses are allowed within the S-2 zone, such uses must be compatible with the intent of the open space and conservation element of the general plan."

In this case, a communications facility is an allowable use in the zone with conditional use approval. The site is located approximately 0.23 miles north of I-8 and will serve to ensure a robust wireless network for AT&T and Union Pacific in this area.

- C. The proposed use is listed as a use within the zone or sub-zone or is found to be similar to a listed conditional use according to the procedures of Section 90203.10;

Communications towers are an articulated conditional use in the S-2 (Open Space/Preservation) zone pursuant to Section 90519.02(d) of the Imperial County Zoning Ordinance.

- D. The proposed use meets the minimum requirements of this title applicable to the use and complies with all applicable laws, ordinances and regulations of the county of Imperial and the state of California;

The proposed communications facility meets the minimum requirements of this title applicable to the use as addressed above and complies with all applicable laws, ordinances and regulations of Imperial County and the State of California.

- E. The proposed use will not be detrimental to the health, safety, and welfare of the public or to the property and residents in the vicinity;

Due to the diminutive size of the proposed equipment, it will not have an adverse effect on the surrounding properties nor the character of the area. Wireless

transmissions do not interfere with any other form of communications whether public or private, or in any way endanger the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors. Wireless telephones provide an alternate communication system which has repeatedly proven its effectiveness in emergency situations and is commonly being used by police and fire departments to protect the general public's health, safety, and welfare. All wireless telecommunications facilities are governed by FCC and FAA regulations. As such, all spectrum used to provide a wireless signal are allocated by the FCC which has deemed the signals will not cause any health-related affects.

- F. The proposed use does not violate any other law or ordinance;

The application on behalf of CitySwitch, Union Pacific and AT&T conforms to the applicable regulations of the S-2 zone and the facility is allowable as a conditional use in that zone. The proposed wireless telecommunications facility is also designed to conform to all federal, state and local regulations.

- G. The proposed use is not granting a special privilege.

No special privilege will be granted to CitySwitch, Union Pacific or AT&T by granting the Conditional Use Permit. AT&T is currently located on an existing tower owned by SBA Structures, LLC approximately 0.36 miles southeast of the proposed location. At the current lease rate, AT&T is burdened by the high rent, as stated in the attached Sworn Statement of Spencer Gambrell in Support of New Tower Construction from AT&T Mobility Services LLC. Should SBA be allowed to continue charging above market rates, AT&T will not be able to upgrade its equipment and stay competitive in the market.

Variance Standards

The planning director, the planning commission and/or the board of supervisors, shall approve, approve subject to conditions or disapprove a variance with the following findings:

A. Findings. Approval or conditional approval may be granted only if the director/commission/board of supervisors first determines that the variance satisfies the criteria set forth in Government Code Section 65906, and the following findings can be made:

1. That there are special circumstances applicable to the property described in the variance application, that do not apply generally to the property or class of use in the same zone or vicinity;

The proposed location has special circumstances that are not applicable to other properties in the area. The proposed location is within Union Pacific's right-of-way and will host communication equipment for railroad use and will also service wireless providers. The property is located in a railroad right-of-way within the desert, there are no residential properties in the area that would be affected.

2. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such zone or vicinity in which the property is located;

The proposed variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such zone or vicinity. The area is a mostly undeveloped area in the desert located approximately 0.33 miles north of Interstate 8. The location is far removed from any residential uses.

3. That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of zoning laws is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classifications;

There are special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of zoning laws is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classifications. The proposed location is within Union Pacific's right-of-way and will host communication equipment that will service wireless providers along with the railroad's needs. The height required for the proposed tower is necessary to allow for the Union Pacific Railroad and AT&T to utilize the tower to provide the necessary signal.

4. That the granting of such variance will not adversely affect the comprehensive general plan.

The granting of such variance will not adversely affect the comprehensive general plan. As previously stated:

Legislative Mandate

For the reasons stated above, the California legislature has established the General Plan as the comprehensive statement of public policy by which to evaluate all decisions regarding the development of land, the extension of public infrastructure, and the conservation and wise use of natural resources.

Although wireless telecommunications is not technically the extension of public infrastructure, it does serve the general public as a service that is essential to the fabric of Imperial County. Wireless technology has become as important to society as all other forms of public infrastructure such as roads, water, electricity and others.

County Population

The West Shores communities of Salton City, Salton Sea Beach, and Desert Shores are also largely retirement and recreation communities, though increasingly their populations are becoming more diversified. These communities experience a noticeable increase in population during the winter months when visitors converge to the area to avoid cold, wet winters in other parts of the United States and Canada.

The comprehensive plan acknowledges the influx of “snow-birds” in the winter months causing a noticeable increase in the population. A robust wireless infrastructure is essential to the common good of the population of Imperial County because with the seasonal change in population, a strong wireless network is critical.

Public Safety

Additional public safety is provided by the County Fire Department/Office of Emergency Services in cooperation with the incorporated cities and volunteer units in the unincorporated communities. The County Fire Department's main facility is located at the County Airport in Imperial.

Companies like CitySwitch have worked with local emergency service agencies to allow for the placement of equipment in and around their facilities. Additionally, with AT&T co-locating on the tower, 5G will be a part of the installation. 5G technology is used by first responders to create a network which supports their needs in the time of crisis which will provide better response times and services by local emergency services.

B. Conditions of Approval. In approving a variance, the director/commission/board of supervisors may impose such conditions deemed necessary to enable making the findings listed under subsection A of this section.

C. Denial of Variance. Where the director/commission/board of supervisors cannot make the findings under subsection A of this section (with or without conditions) the variance shall be denied.

Alternatives Analysis

For a facility requiring a conditional use permit before the planning commission, an alternatives analysis shall be prepared by or on behalf of the operator, as described below.

- A. Alternatives to be Considered. The alternatives analysis shall consider alternative locations and designs for the proposed facility, including those which would not require a conditional use permit. At a minimum, alternatives included in the analysis shall include: (1) co-location at all existing communication facilities whether in the unincorporated area of the county, a city or an adjacent county; (2) lower, more closely spaced communication facilities; and (3) mounting on any existing nonresidential structure within one-half mile of the proposed facility in the unincorporated area of Imperial County. The alternatives analyzed shall be approved by the planning director. For facilities to be located near an incorporated city, the analysis shall also explain why siting within the city is not possible.

Union Pacific and AT&T have considered co-location on existing facilities and deemed that no other tower in the area is appropriate for the following reasons.

(1) As stated in previous narrative, AT&T is currently on an SBA Structures, LLC tower approximately 0.36 miles southeast of the proposed CitySwitch facility. AT&T has deemed this tower to be economically burdensome as shown in the attached Sworn Statement of Spencer Gambrell in Support of New Tower Construction from AT&T Mobility Services LLC. In addition, Union Pacific requires direct access to their equipment along the railroad line and the ability to upgrade as needed which would be much more difficult locating on the SBA tower.

(2) Providing lower towers more closely spaced out would not benefit AT&T, Union Pacific or the County. When evaluating a network, carriers such as AT&T require specific height and locations based on the existing network. Lowering the height and building more towers would create a degradation of the signal in the area. Doing this would create coverage gaps in some areas and a bleed over into other cell sites.

(3) AT&T is currently on an SBA Structures, LLC tower approximately 0.36 miles southeast of the proposed CitySwitch facility. The proposed tower is in a non-residential area, north of I-8. The nearest incorporated city is Yuma, Arizona which is approximately 4.75 miles southeast of the proposed tower which would not be a possible alternative. As stated above, due to the economic burden on AT&T it is no longer desirable to co-locate on this tower.

- B. Findings. The alternatives analysis shall show whether or not the proposed siting and design would have the least possible environmental and visual effect on the community and whether any alternative site or design is available that would allow for issuance of a conditional use permit before the planning director for the facility.

The proposed location for the CitySwitch communications facility is within the right-of-way of the Union Pacific railroad line northwest of I-8 and Sidewinder Rd N. The proposed location is in the desert in an unpopulated area. With the SBA tower being located 0.36 miles southeast of the proposed facility, Imperial County has already deemed that a communications facility would be visually acceptable in this area. Additionally, CitySwitch has chosen to use a monopole design for the tower which is the least obtrusive design for a 170' tower in this area.

- C. Review. The planning director may, at his or her discretion, employ on behalf of the county an independent technical expert to review this alternative analysis. The operator shall bear the reasonable costs of this review.

Based on the information submitted in the Sworn Statement of Spencer Gambrell in Support of New Tower Construction from AT&T Mobility Services LLC, included as part of this application, CitySwitch believes a third party is not necessary, however, if deemed necessary by the planning director, CitySwitch will bear the reasonable costs for this review.

**Sworn Statement of Spencer Gambrell in
Support of New Tower Construction from
AT&T Mobility Services LLC**

Sworn Statement of Spencer Gambrell in Support of New Tower Construction from AT&T Mobility Services LLC



AT&T Mobility Services LLC
Tower Strategy
17000 Cantrell Rd
Little Rock, Arkansas 72201

**SWORN STATEMENT OF SPENCER GAMBRELL IN SUPPORT OF NEW TOWER
CONSTRUCTION**

BY **CitySwitch II-A, LLC**

PULASKI COUNTY)
) ss.
STATE OF ARKANSAS)

SPENCER GAMBRELL, being first duly sworn on oath, deposes and says that:

1. I am an adult resident of the State of Arkansas and serve as Director-Network Planning for AT&T Wireless (“AT&T”).

2. I manage AT&T’s high-rent relocation program, under which AT&T identifies high-cost or economically burdensome antenna site leases that accommodate AT&T’s communications equipment and materially inhibits AT&T from improving or maintaining wireless services and relocates its communications equipment onto lower-cost alternative antenna site lease locations to either improve or maintain wireless coverage.

3. I am familiar with the proposed tower to be constructed by **CitySwitch II-A, LLC** (“CitySwitch”) at **637-639 Sidewinder Road, Felicity, California 92283 APN 056-470-002** (the “CitySwitch Tower”). I am also familiar with the existing communications tower (the “SBA Tower”) owned by **SBA Towers II, LLC (“SBA”)** which is located at 612 Sidewinder Road, Winterhaven, California 99283. Both the existing **SBA** Tower and the location of the proposed **CitySwitch** Tower are located in AT&T’s coverage search ring for this part of **Imperial County**.

4. AT&T currently leases space on the SBA Tower, along with related ground space at the base of the SBA Tower, to locate its communications equipment (the “Wireless Facilities”). AT&T has located its Wireless Facilities on the **SBA** Tower since **[Old site lease commencement month & year]** but AT&T

Winterhaven
FA #15797965

now desires to relocate its Wireless Facilities onto the CitySwitch Tower as the SBA Tower has become a high-cost antenna site structure for AT&T.

5. This sworn statement is made to attest that having its Wireless Facilities remain on the SBA Tower, which is the only existing communications support structure in AT&T's search ring, is economically burdensome for AT&T and would not result in the same cost-effective operation as compared to what AT&T could achieve if it relocated its Wireless Facilities to the CitySwitch Tower and, thus, would materially inhibit AT&T from improving and maintaining wireless services.

Co-Location on the SBA Tower is Economically Burdensome.

6. AT&T maintains a co-location agreement with SBA for the SBA Tower. Under this agreement, SBA increases the rent, assesses other costs and poses other logistical issues when AT&T installs additional Wireless Facilities on the SBA Tower. AT&T anticipates future rent increases and costs from SBA if it remains co-located at the SBA Tower. Those rent increases and costs would result from, among other things, AT&T's equipment rights on the SBA Tower.

7. The current rent charged by SBA to co-locate on the SBA Tower is over [Three] times what CitySwitch will charge AT&T to co-locate on the CitySwitch Tower. Pursuant to the agreement between AT&T and CitySwitch, annual rent increases are less than the annual rent increases charged by SBA. At the current rate of rent increases, over the next twenty (20) years, the difference in rent paid by AT&T to remain on the SBA Tower versus relocating on the CitySwitch Tower is well over [Four] million dollars.

8. Since AT&T located on the SBA Tower in [3/24/2006], rent and escalators have become more competitive in the tower marketplace. New tower companies have entered the marketplace since [3/24/2006], which has also led to more competitive economic terms in tower lease agreements. Considering these competitive economic terms from other tower companies, AT&T has requested tower rent reductions from SBA. Unlike other tower companies, SBA has resisted an economically sustainable cost structure with its existing AT&T co-location leases, such that many of these leases have become economically burdensome for AT&T.

9. Decommissioning an existing Wireless Facility in favor of moving to an alternate tower location is something AT&T will only do in limited circumstances. AT&T will bear a significant capital cost in decommissioning its Wireless Facilities installation on the SBA Tower and relocating to the CitySwitch Tower. Despite these relocation costs, the CitySwitch Tower remains a better co-location option for AT&T.

10. AT&T has made this determination because the current rents and other charges to co-locate on the SBA Tower have been categorized as high-cost as compared to other existing sites in AT&T's portfolio and the rents charged by other tower companies, such as CitySwitch.

11. AT&T has entered into nationwide development and master lease agreements with CitySwitch, which I am familiar with. Under these agreements, CitySwitch will construct, at its own expense, its own communications towers upon which AT&T will lease space to install its Wireless Facilities. AT&T does not bear any costs for the construction of a tower owned by CitySwitch.

12. Per these agreements and as is the case with the CitySwitch Tower, AT&T pays CitySwitch rent in return for 30,000 square inches of wind load surface area of loading and defined space on each tower and does not pay increased rent for additions to its Wireless Facilities provided said facilities remain within the predetermined space and loading limits. The agreed upon tower space and loading limits have taken into consideration the future additions and upgrades projected for AT&T's Wireless Facilities.

13. There are no other structures (other than the SBA Tower) located in AT&T's search ring capable of accommodating its Wireless Facilities.

14. The economic terms imposed upon AT&T by SBA to remain co-located on the SBA Tower are not cost-effective and are economically burdensome for AT&T especially when the nearby CitySwitch Tower presents a more competitive and flexible co-location option.

The CitySwitch Tower Provides Superior Mobile Service Functionality.

15. Technological changes and market trends in the wireless communications industry require AT&T to continuously upgrade its Wireless Facilities. AT&T is also obligated to build out FirstNet, which is our country's first nationwide integrated data network for providers of emergency services.

AT&T's lease agreement for the SBA Tower does not include "set aside" capacity reserved for the future needs of AT&T's Wireless Facilities. Every time AT&T desires to improve the Wireless Facilities installed on the SBA Tower, it must apply to SBA which then triggers an application fee and a lengthy administrative review process, which typically includes a structural analysis of the tower and an amendment to the existing lease agreement. This administrative process may take several months and results in unnecessary time delay and additional costs in the deployment of the upgraded Wireless Facilities.

16. Conversely, AT&T's master tower lease agreement with CitySwitch allows AT&T to rent 30,000 square inches of tower space and loading on a CitySwitch Tower. This space and loading capacity is reserved exclusively for AT&T and will accommodate the needs for AT&T's Wireless Facilities well into the future. This arrangement benefits AT&T because it increases the speed of deploying Wireless Facilities and gives AT&T greater flexibility to upgrade technologies and respond to the ever-changing coverage and capacity demands of its wireless network and does not materially inhibit AT&T from improving and maintaining its wireless services. Provided it does not exceed the reserved space and capacity limits in the co-location agreement, AT&T is free to upgrade its Wireless Facilities on the CitySwitch Tower with little to no delay.

Spencer Gambrell



Subscribed and sworn to before me
this 28 day of February, 2023.


Notary Public State of Arkansas
My Commission Expires



Winterhaven
EA #13797963

Carrier Coverage Plot

CAL02722 COVERAGE PLOTS

PC ORIGINAL PKG

EEC ORIGINAL PKG

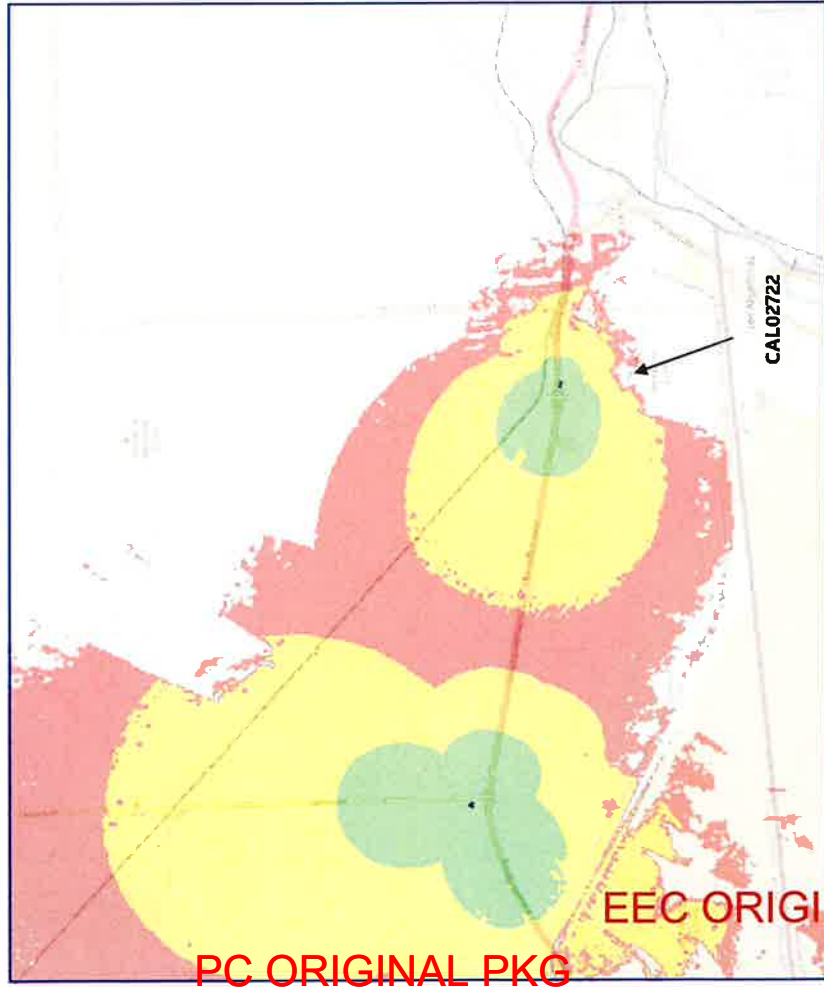
Coverage Plots v1



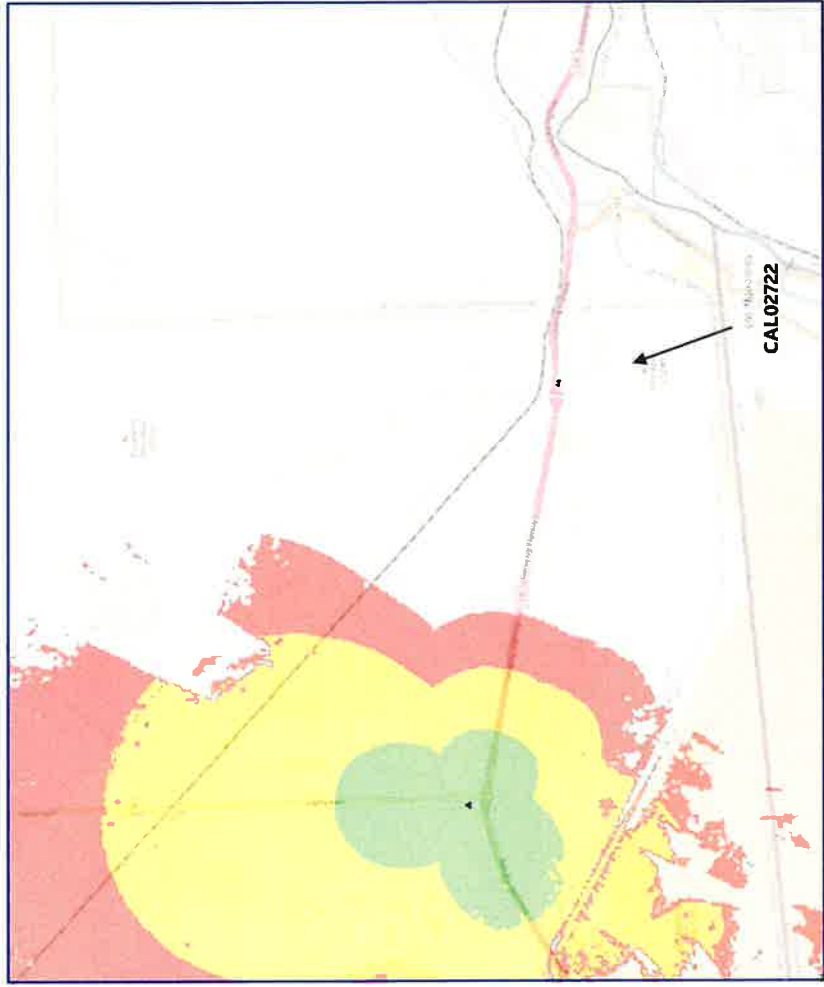
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CAL02722

EXISTING COVERAGE

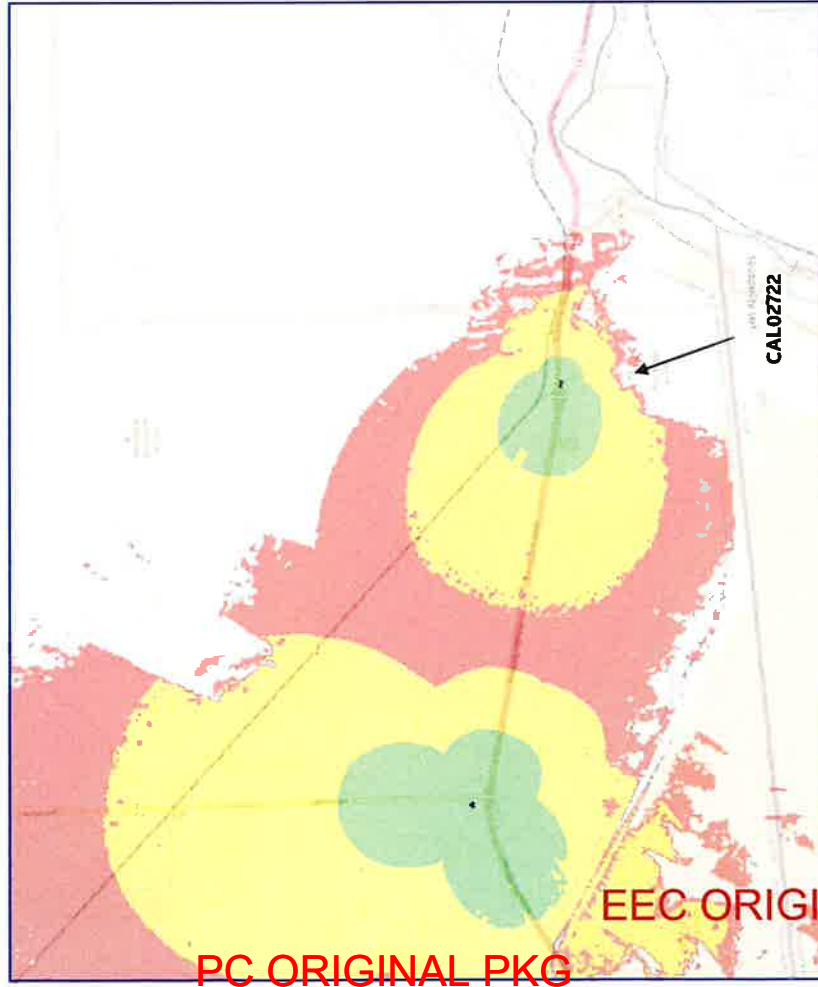


EXISTING COVERAGE SITE OFF

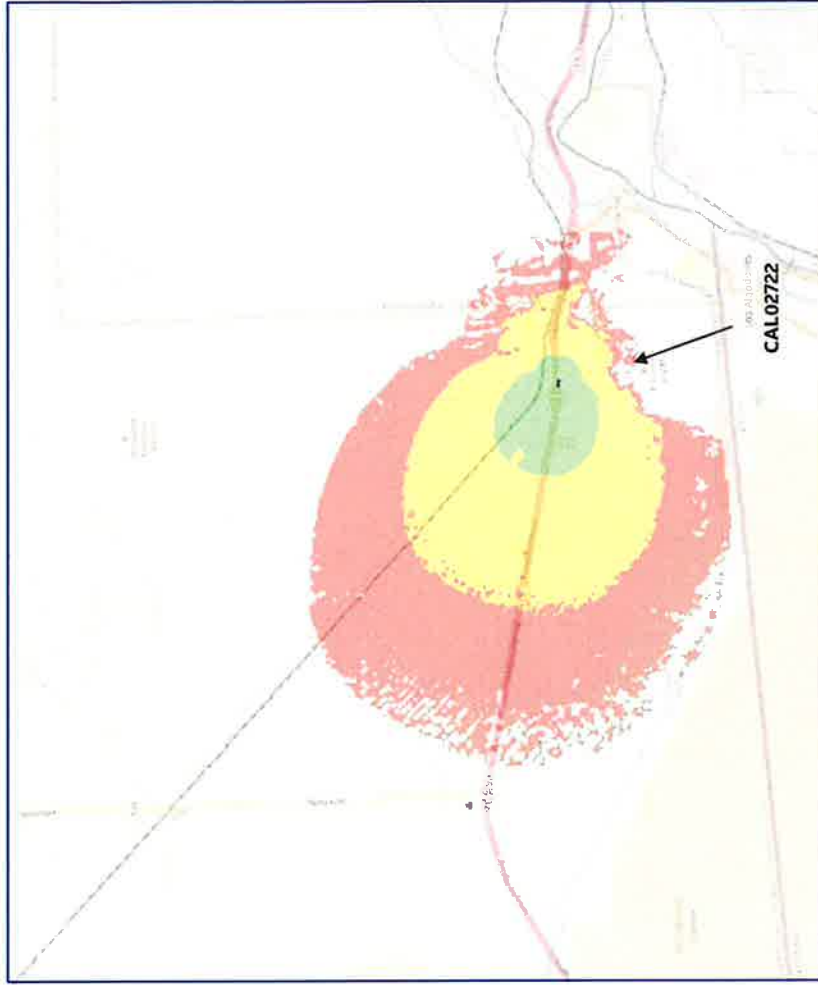


CAL02722

EXISTING COVERAGE



SINGLE SITE COVERAGE



EEC ORIGINAL PKG

FAA Determination Letter



Mail Processing Center
 Federal Aviation Administration
 Southwest Regional Office
 Obstruction Evaluation Group
 10101 Hillwood Parkway
 Fort Worth, TX 76177

Aeronautical Study No.
 2022-AWP-12871-OE

Issued Date: 08/22/2022

Leslie Lindeman
 Palm-Tech Consulting, LLC
 11365 Little Bear Way
 Boca Raton, FL 33428

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure: Antenna Tower Winterhaven
 Location: Winterhaven, CA
 Latitude: 32-45-01.45N NAD 83
 Longitude: 114-45-20.84W
 Heights: 285 feet site elevation (SE)
 170 feet above ground level (AGL)
 455 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking/lighting are accomplished on a voluntary basis, we recommend it be installed in accordance with FAA Advisory circular 70/7460-1 M.

This determination expires on 02/22/2024 unless:

- (a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
- (b) extended, revised, or terminated by the issuing office.
- (c) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO

SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power, except those frequencies specified in the Colo Void Clause Coalition; Antenna System Co-Location; Voluntary Best Practices, effective 21 Nov 2007, will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA. This determination includes all previously filed frequencies and power for this structure.

If construction or alteration is dismantled or destroyed, you must submit notice to the FAA within 5 days after the construction or alteration is dismantled or destroyed.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

A copy of this determination will be forwarded to the Federal Communications Commission (FCC) because the structure is subject to their licensing authority.

If we can be of further assistance, please contact our office at (847) 294-7575, or vivian.vilaro@faa.gov. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2022-AWP-12871-OE.

Signature Control No: 539127066-550711763

(DNE)

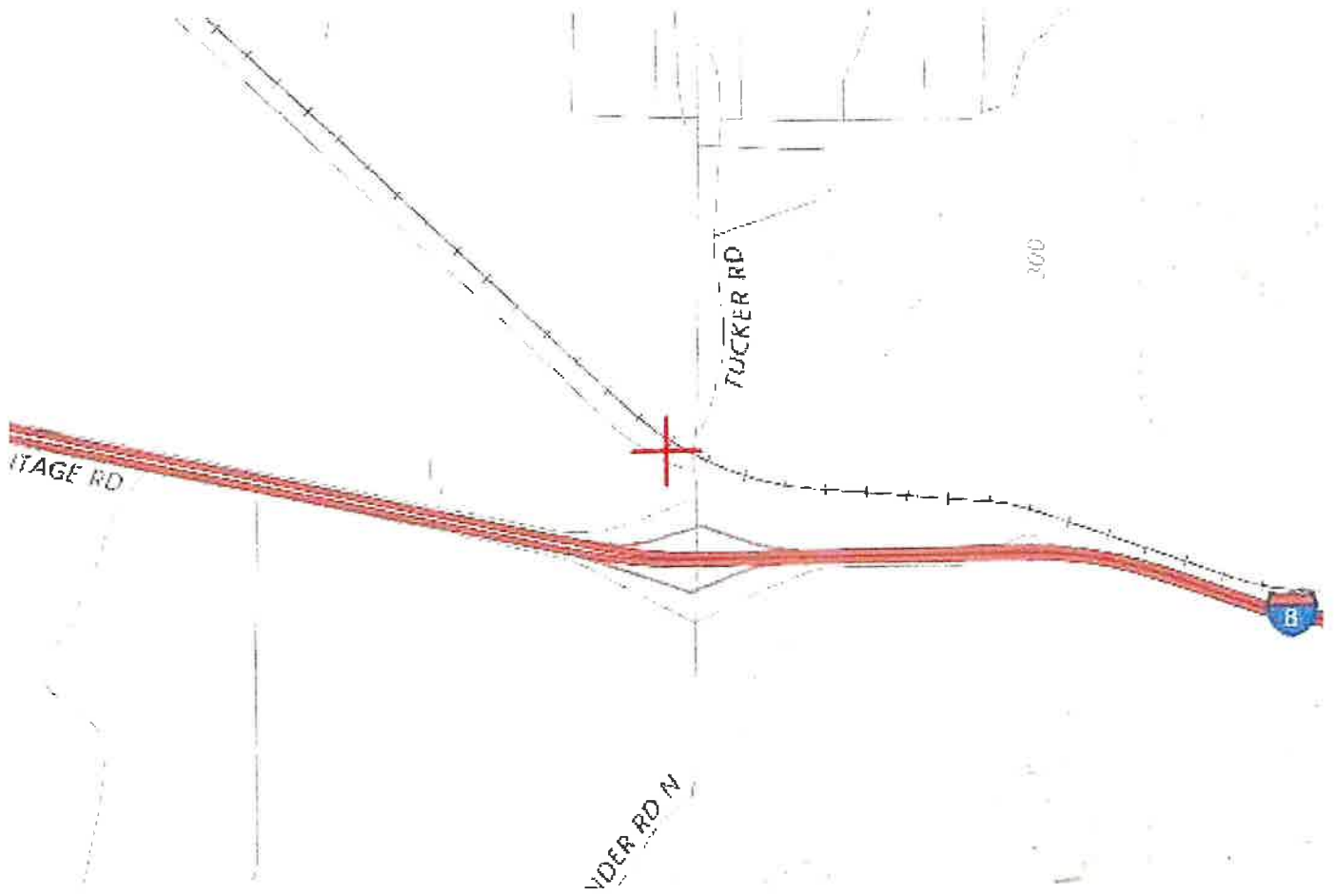
Vivian Vilaro
Specialist

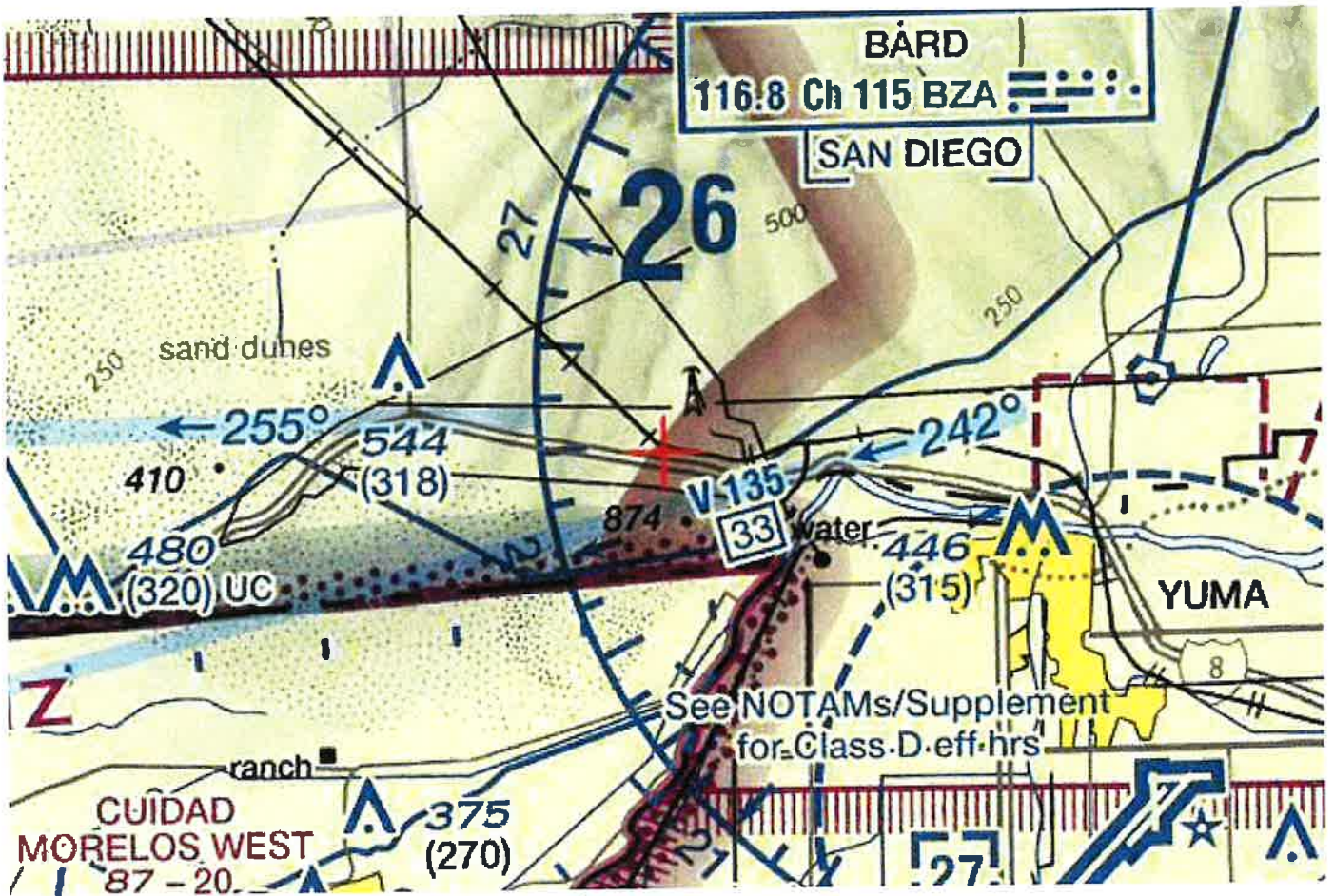
Attachment(s)
Frequency Data
Map(s)

cc: FCC

Frequency Data for ASN 2022-AWP-12871-JE

LOW FREQUENCY	HIGH FREQUENCY	FREQUENCY UNIT	ERP	ERP UNIT
6	7	GHz	55	dBW
6	7	GHz	42	dBW
10	11.7	GHz	55	dBW
10	11.7	GHz	42	dBW
17.7	19.7	GHz	55	dBW
17.7	19.7	GHz	42	dBW
21.2	23.6	GHz	55	dBW
21.2	23.6	GHz	42	dBW
614	698	MHz	1000	W
614	698	MHz	2000	W
698	806	MHz	1000	W
806	901	MHz	500	W
806	824	MHz	500	W
824	849	MHz	500	W
851	866	MHz	500	W
869	894	MHz	500	W
896	901	MHz	500	W
901	902	MHz	7	W
929	932	MHz	3500	W
930	931	MHz	3500	W
931	932	MHz	3500	W
932	932.5	MHz	17	dBW
935	940	MHz	1000	W
940	941	MHz	3500	W
1670	1675	MHz	500	W
1710	1755	MHz	500	W
1850	1910	MHz	1640	W
1850	1990	MHz	1640	W
1930	1990	MHz	1640	W
1990	2025	MHz	500	W
2110	2200	MHz	500	W
2305	2360	MHz	2000	W
2305	2310	MHz	2000	W
2345	2360	MHz	2000	W
2496	2690	MHz	500	W





Fall Zone Certification

March 3, 2023

Tim Cook
CitySwitch, LLC
1900 Century Place NE, Suite 320
Atlanta, GA 30345

RE: Proposed 170' Sabre Monopole for Winterhaven, CA

Dear Mr. Cook,

Upon receipt of order, we propose to design and supply the above referenced Sabre monopole for an Ultimate Wind Speed of 99 mph, Risk Category II, Exposure Category C, and Topographic Category 1, in accordance with the Telecommunications Industry Association Standard ANSI/TIA 222-H-2017 "Structural Standard for Antenna Supporting Structures, Antennas and Small Wind Turbine Support Structures". The monopole will also meet the requirements of the 2022 California Building Code.

When designed according to this standard, the wind pressures and steel strength capacities include several safety factors. Therefore, it is highly unlikely that the monopole will fail structurally in a wind event where the design wind speed is exceeded within the range of the built-in safety factors.

Should the wind speed increase beyond the capacity of the built-in safety factors, to the point of failure of one or more structural elements, the most likely location of the failure would be within the monopole shaft, above the base plate. Assuming that the wind pressure profile is similar to that used to design the monopole, the monopole will buckle at the location of the highest combined stress ratio within the monopole shaft. This is likely to result in the portion of the monopole above leaning over and remaining in a permanently deformed condition. This would effectively result in a fall radius of 30 feet or less at ground level. *Please note that this letter only applies to the above referenced monopole designed and manufactured by Sabre Industries.*

Sincerely,

Keith J. Tindall, P.E.
Vice President, Telecom Engineering



3/3/23

Site Plan



NOT FOR CONSTRUCTION

DRAWN BY: MN
CHECKED BY: RSM

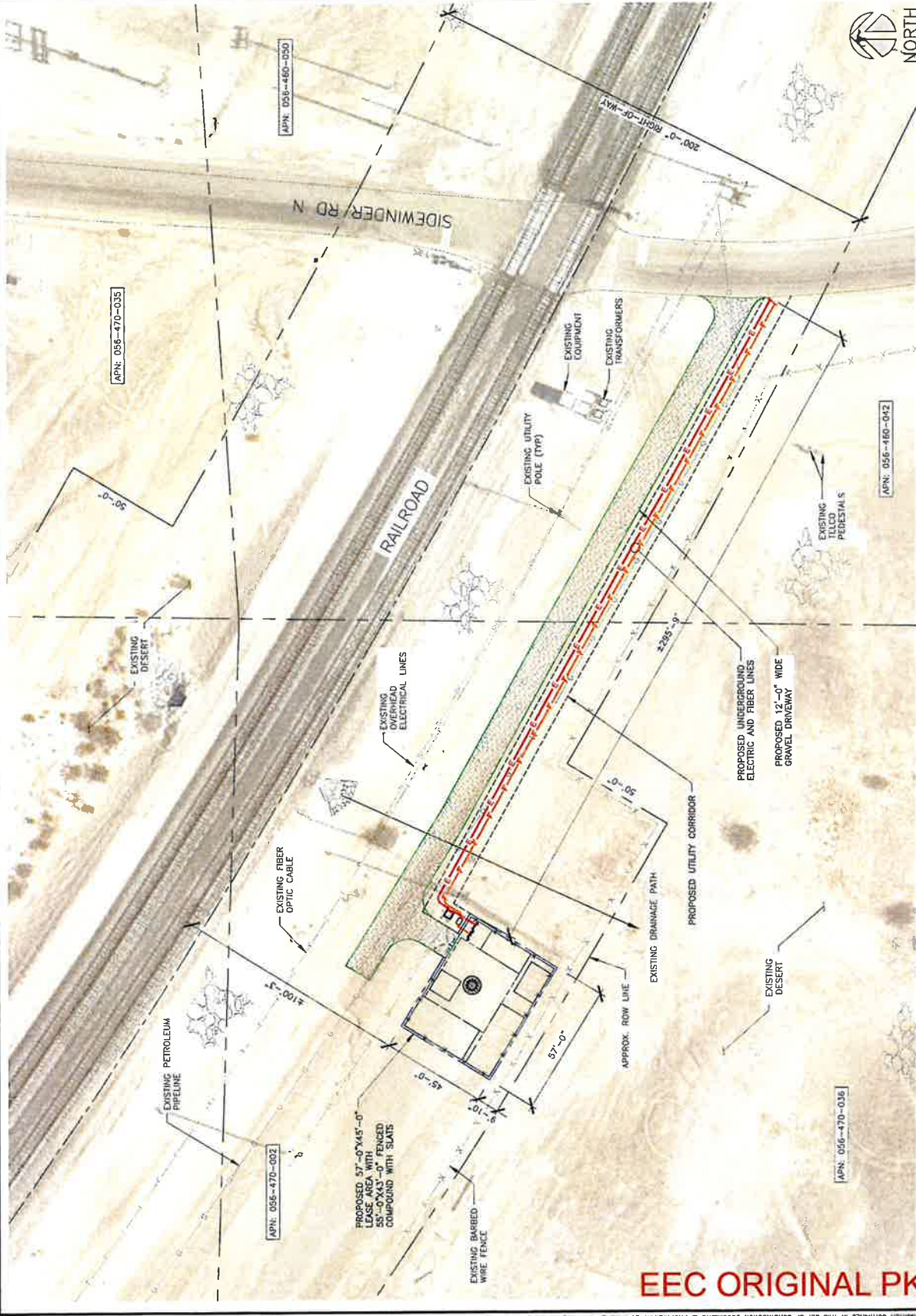
REV	DATE	DESCRIPTION
A	03/19/22	ZONING DRAWINGS
B	03/28/22	ZONING DRAWINGS
C	10/29/22	ZONING DRAWINGS

* HERBERT CUNYAN, THAT THESE PLANS WERE PREPARED BY HIM OR UNDER HIS SUPERVISION AND THAT HE IS A DULY REGISTERED PROFESSIONAL ENGINEER IN THE STATE OF CALIFORNIA.

SITE NAME:
WATERHAVEN
SITE ADDRESS:
637-639 SIDEWINDER RD N
FELICITY, CA 92283
IMPERIAL COUNTY

SHEET TITLE
OVERALL
SITE PLAN

SHEET NUMBER
C-1



OVERALL SITE PLAN

SCALE: 1"=30'-0" (1/8"=1')



EEC ORIGINAL PKG

PC ORIGINAL PKG

THE INFORMATION CONTAINED IN THIS SET OF CONSTRUCTION DOCUMENTS IS PROPRIETARY BY NATION. ANY USE OR DISCLOSURE OTHER THAN THAT WHICH RELATES TO THESE DOCUMENTS IS STRICTLY PROHIBITED.



ZONING DRAWINGS
NOT FOR CONSTRUCTION

DRAWN BY:	MAN	REM
CHECKED BY:		

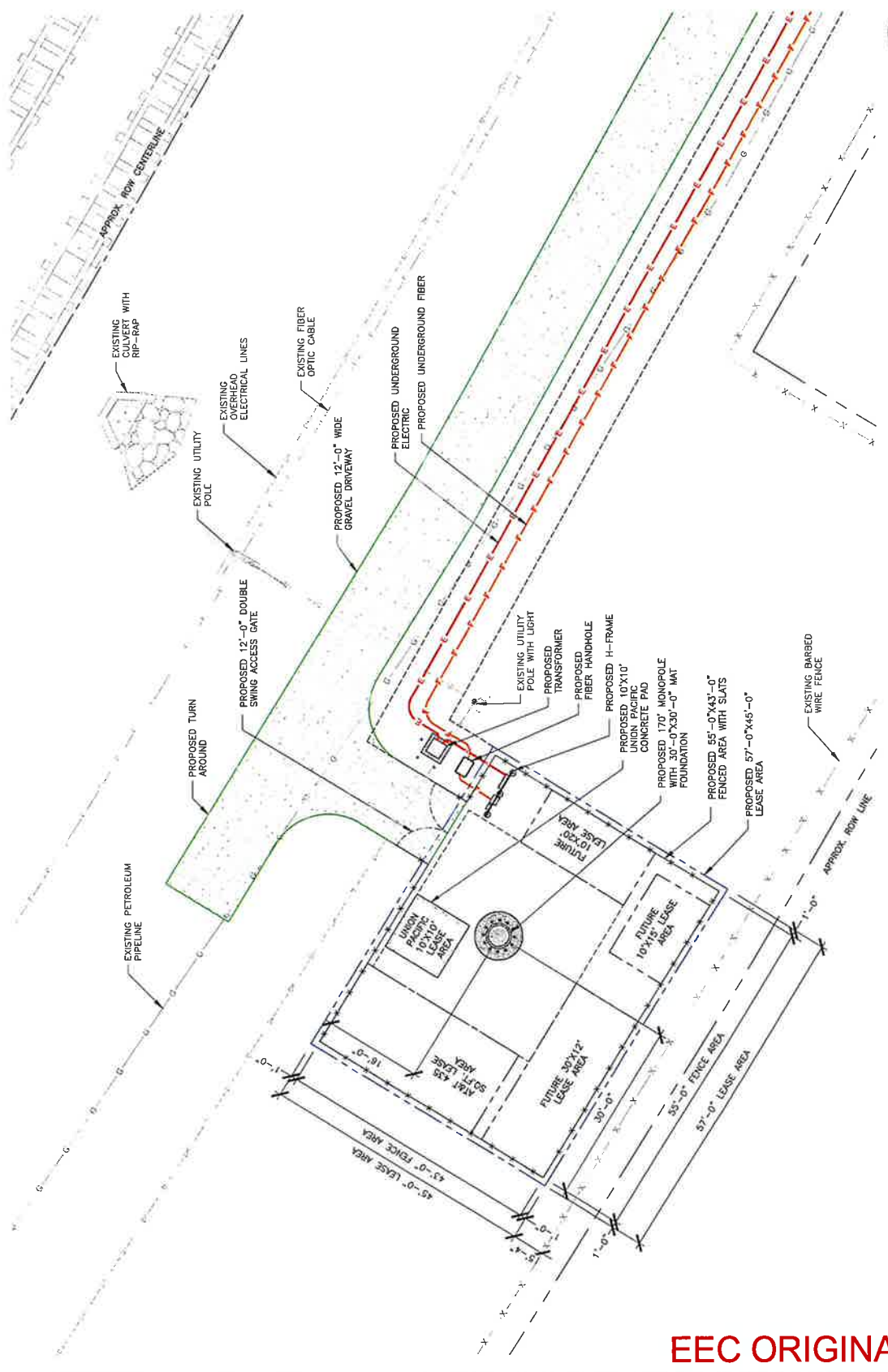
REV	DATE	DESCRIPTION
A	03/19/22	ZONING DRAWINGS
B	03/29/22	ZONING DRAWINGS
C	10/25/22	ZONING DRAWINGS

1. HEREBY CERTIFY THAT THESE PLANS WERE PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT I AM A DULY REGISTERED PROFESSIONAL ENGINEER IN THE STATE OF CALIFORNIA.

SITE NAME:
WINTERHAVEN
SITE ADDRESS:
637-639 SIDEWINDER RD N
FELICITY, CA 92283
IMPERIAL COUNTY

SHEET TITLE
ENLARGED
SITE PLAN

SHEET NUMBER
C-2



ENLARGED SITE PLAN

SCALE: 1"=30'-0" (11x17)
(0-0) 3"=30'-0" (24x36)



EEC ORIGINAL PKG

PC ORIGINAL PKG

THE INFORMATION CONTAINED IN THIS SET OF CONSTRUCTION DOCUMENTS IS PROPRIETARY BY AND FOR THE EXCLUSIVE USE OF THE CLIENT. IT IS TO BE KEPT IN CONFIDENCE AND NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE ENGINEER OF RECORD.



WESTCHESTER SERVICES, LLC
 601 POX GLEN
 BARRINGTON, IL 60010
 TELEPHONE: 815.779.0070
 FAX: 815.779.0080
 ans@westchester-services.com

ZONING DRAWINGS
 NOT FOR CONSTRUCTION

DRAWN BY: JN
 CHECKED BY: RSM

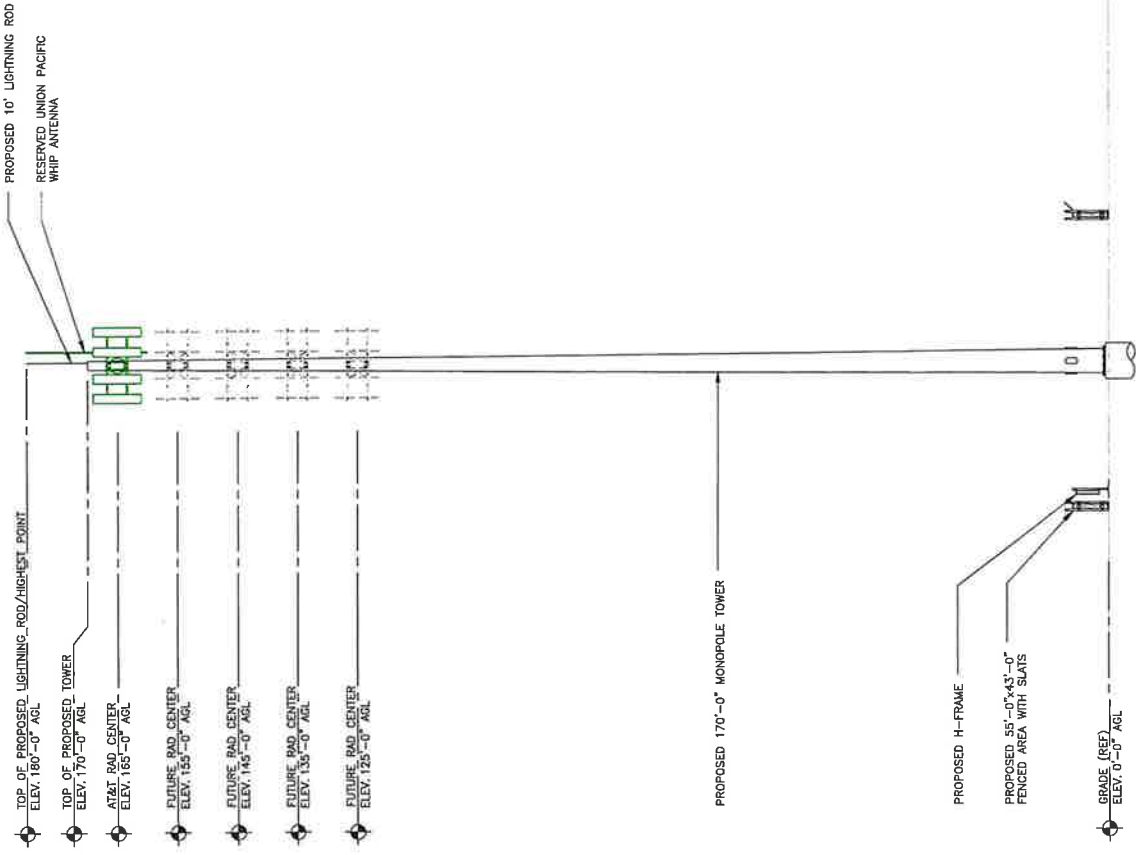
REV	DATE	DESCRIPTION
A	03/18/22	ZONING DRAWINGS
B	03/28/22	ZONING DRAWINGS
C	10/28/22	ZONING DRAWINGS

I HEREBY CERTIFY THAT THESE PLANS WERE PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER IN THE STATE OF CALIFORNIA.

SITE NAME:
 WHITEHAVEN
 SITE ADDRESS:
 637-639 SIDEWINDER RD N
 FELICITY, CA 92283
 IMPERIAL COUNTY

SHEET TITLE
 TOWER
 ELEVATION

SHEET NUMBER
 A-1



TOWER ELEVATION

SCALE: 1"=20'-0" (1/16")
 (0/1) 2"=30'-0" (2/32")



EEC ORIGINAL PKG

PC ORIGINAL PKG

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SHEET INDEX

NO.	DESCRIPTION
T1	TITLE SHEET
S	SURVEY (1 SHEET)
SP1	NOTES & SPECIFICATIONS
SP2	NOTES & SPECIFICATIONS
SP3	NOTES & SPECIFICATIONS
SP4	NOTES & SPECIFICATIONS
A1	OVERALL SITE PLAN
A1.1	COMPOUND PLAN & LEGEND
A2	EQUIPMENT PLAN
A3	TOWER ELEVATION & ANTENNA PLAN
A4	SCHEDULE & CABLE NOTES
A5	ANTENNA RRH, RRUS, & RAYCAP DETAILS
A5.1	DETAILS
A5.2	DETAILS
A5.3	DETAILS
A5.4	CANOPY DETAILS
A6	WALK-UP-CABINET DETAILS
A7	GENERATOR DETAILS
A7.1	GENERATOR DETAILS
A7.2	GENERATOR DETAILS
A8	CONCRETE PAD DETAILS
A9	FENCE DETAILS
A10	SITE GRADING PLAN
A11	EROSION CONTROL DETAILS
A12	GRADING DETAILS
E1	OVERALL UTILITY PLAN
E1.1	COMPOUND UTILITY PLAN
E2	1" FRAME DETAILS
E3	SINGLE LINE DIAGRAM
E4	PACKET SCHEDULES
E5	DC WIRING DIAGRAM
G1	COMPOUND GROUNDING PLAN
G2	GROUNDING PLAN & RISER DIAGRAM
G3	GROUNDING PLAN & NOTES
G3.1	GROUNDING DETAILS
G3.2	GROUNDING DETAILS
BWDG	BONDAGE REQUIREMENTS

SCOPE OF WORK

- 1. NEW FENCED TELECOMMUNICATIONS COMPOUND
- 2. NEW ELECTRICAL AND FIBER UTILITIES
- 3. NEW DRIVEWAY
- 4. NEW MONOPOLE TOWER
- 5. (8) NEW ANTENNAS & (6) NEW RRU'S
- 6. RUC PLATFORM & GENERATOR ON CONCRETE PAD

PROFESSIONAL LICENSURE

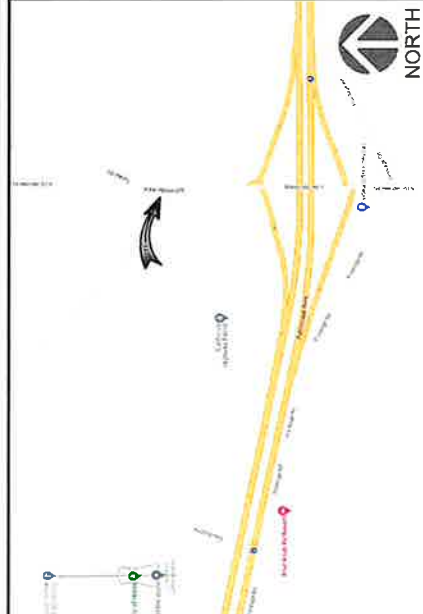
I HEREBY CERTIFY THAT THESE DRAWINGS WERE PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND CONTROL AND TO THE BEST OF MY KNOWLEDGE AND BELIEF COMPLY WITH THE REQUIREMENTS OF THE GOVERNING LOCAL BUILDING CODE.

EXEMPTED: _____ SIGNED: _____

REGIONAL MAP



VICINITY MAP





CITY SWITCH

CITY SWITCH SITE #
CAC002



AT&T

AT&T SITE #
CAL02722

AT&T FA #
10101309

AT&T USID #
43762

SITE NAME
 WINTERHAVEN
SITE ADDRESS
 637-639 SIDEWINDER RD N
 FELICITY, CA 92283



CITY SWITCH

CITY SWITCH SITE #
CAC002



AT&T

AT&T SITE #
CAL02722

AT&T FA #
10101309

AT&T USID #
43762

SITE NAME
 WINTERHAVEN
SITE ADDRESS
 637-639 SIDEWINDER RD N
 FELICITY, CA 92283

PROJECT INFORMATION

LATITUDE:	32.755411°
LONGITUDE:	-114.755777°
APN:	055-470-002
SITE TYPE:	MONOPOLE TOWER
JURISDICTION:	IMPERIAL COUNTY
COUNTY:	IMPERIAL COUNTY
OVERALL STRUCTURE HEIGHT:	189' A.G.L.
GROUND ELEVATION:	285.1' A.M.S.L.

ALL WORK AND MATERIALS SHALL BE PERFORMED AND INSTALLED IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE FOLLOWING CODES AS ADOPTED BY THE LOCAL GOVERNING AUTHORITIES. NOTHING IN THESE PLANS IS TO BE CONSTRUED TO PERMIT WORK NOT CONFORMING TO THE LATEST EDITION OF THE FOLLOWING CODES:

- 2019 CALIFORNIA STANDARDS CODE
- 2019 CALIFORNIA ELECTRIC CODE

IN THE EVENT OF CONFLICT, THE MOST RESTRICTIVE CODE SHALL PREVAIL.

TO OBTAIN LOCATION OF PARTICIPANTS UNDERGROUND FACILITIES BEFORE YOU DIG IN CALIFORNIA (SOUTH), CALL TOLL FREE: 1-800-227-2600 OR www.digright.org





CALIFORNIA STATUTE
WORKING DAYS NOTICE
BEFORE YOU EXCAVATE

**Know what's below.
Call before you dig.**

SITE NAME:
WINTERHAVEN
SITE ADDRESS:
637-639 SIDEWINDER RD N
FELICITY, CA 92283
IMPERIAL COUNTY

SHEET TITLE
TITLE SHEET

SHEET NUMBER
T1

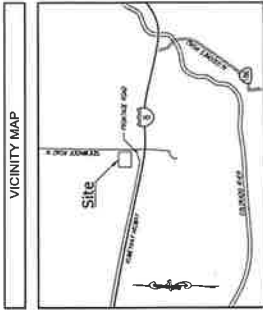
WESTCHESTER SERVICES, LLC
141 FOX GLEN
BARRINGTON, IL 60010
TEL: 815.377.0010
FAX: 815.377.0080
wc@westchesterservices.com
WESTCHESTER, ILLINOIS

PRELIMINARY DRAWINGS
NOT FOR CONSTRUCTION

CHECKED BY: _____ MSN
DRAWN BY: _____ RSM

REV	DATE	DESCRIPTION
A	10/24/23	PRELIMINARY

THESE PLANS CERTIFY THAT THESE PLANS WERE PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND CONTROL AND TO THE BEST OF MY KNOWLEDGE AND BELIEF COMPLY WITH THE REQUIREMENTS OF THE GOVERNING LOCAL BUILDING CODE.



Title Report
 ORDERED BY: [Redacted]
 DATE: APRIL 11, 2023

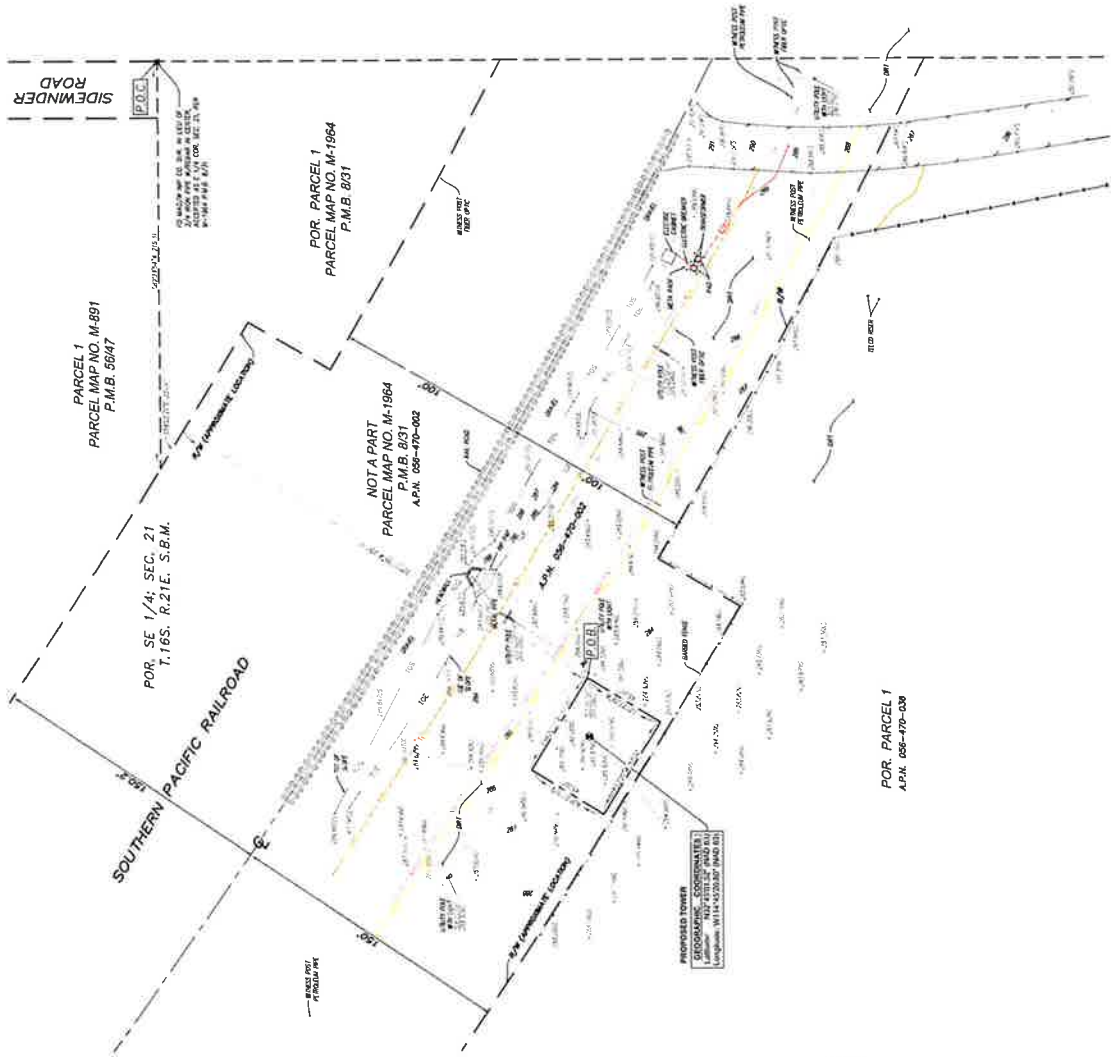
Legal Description
 A PART OF REPORT FOR THE LEGAL ESTATE AND BOUND ADJUSTMENT

Assessor's Parcel No.
 08-10-001

Easements
 SEE PARAGRAPHS 1.1.1.1 & 1.1.1.2

Lease Area Description
 THE LEASE AREA IS THAT PORTION OF THE TRACT DESCRIBED IN PARAGRAPH 1.1.1.1 OF THE REPORT FOR THE LEGAL ESTATE AND BOUND ADJUSTMENT...

Geographic Coordinates at Proposed Tower
 THE LEASE AREA IS LOCATED AT THE FOLLOWING COORDINATES: NAD 83 UTM ZONE 18Q UTM EASTING: 114,478.98 UTM NORTING: 4,611,111.11



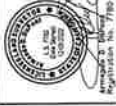
GRAPHIC SCALE
 30 0 15 30
 FEET

LEGEND

SYMBOL	DESCRIPTION
(Symbol)	EXISTING UTILITY MARKER
(Symbol)	PROPOSED UTILITY MARKER
(Symbol)	EXISTING EASEMENT
(Symbol)	PROPOSED EASEMENT
(Symbol)	EXISTING RIGHT-OF-WAY
(Symbol)	PROPOSED RIGHT-OF-WAY
(Symbol)	EXISTING FENCE
(Symbol)	PROPOSED FENCE
(Symbol)	EXISTING CONCRETE
(Symbol)	PROPOSED CONCRETE
(Symbol)	EXISTING METAL
(Symbol)	PROPOSED METAL
(Symbol)	EXISTING WOOD
(Symbol)	PROPOSED WOOD
(Symbol)	EXISTING UNKNOWN
(Symbol)	PROPOSED UNKNOWN

REVISIONS		UTILITY STATEMENT		PREPARED FOR		BASIS OF BEARINGS		BENCHMARK		SITE INFORMATION		SURVEYOR OF RECORD	
NO.	DATE	BY	REVISIONS	CLIENT	PROJECT	DATE	DESCRIPTION	MARK	TYPE	MARK	TYPE	NAME	DATE
0	02/24/23	DN	INITIAL SUBMITTAL	UNDERGROUND SERVICE ALERT	277-2600	02/24/23	UNDERGROUND SERVICE ALERT	1	1-800-277-2600	1	1-800-277-2600	CAL VADA SURVEYING, INC.	02/24/23
1	07/08/23	MN	TITLE REPORT					2		2			
2	07/11/23	LN	UNDERGROUND UTILITY LINES					3		3			
3	11/24/23	HP	LEGAL DESCRIPTION										

CAL VADA SURVEYING, INC.
 411 JOHN C. BILEY BLVD. COLTON, CA 95926
 TEL: 916-438-1111 FAX: 916-438-1112
 WWW.CALVADA.COM
 EST. 1989 JOB NO. 23107



PC ORIGINAL PKG

FILE ORIGINAL PKG

GENERAL NOTES:

1. FOR THE PURPOSE OF CONSTRUCTION DRAWING, THE FOLLOWING DEFINITIONS SHALL APPLY:
CONTRACTOR / CM - CITYSWITCH
SUB-CONTRACTOR - PER TRADE
OWNER - AT&T WIRELESS
2. SITE WORK (IF APPLICABLE) SHALL BE COMPLETED AS INDICATED ON THE DRAWINGS AND PROJECT SPECIFICATIONS.
3. DRAWINGS PROVIDED HERE ARE NOT TO BE SCALED AND ARE INTENDED TO DEPICT THE DESIGN INTENT OF THE INSTALLATION.
4. ANY MATERIALS FURNISHED AND INSTALLED SHALL BE IN STRICT ACCORDANCE WITH ALL APPLICABLE CODES, REGULATIONS, AND ORDINANCES. SUBCONTRACTOR SHALL ISSUE ALL APPROPRIATE NOTICES AND COMPLY WITH ALL LAWS, ORDINANCES, RULES, REGULATIONS, AND LAWFUL ORDERS OF ANY PUBLIC AUTHORITY REGARDING THE PERFORMANCE OF THE WORK.
5. THE SUBCONTRACTOR SHALL INSTALL ALL EQUIPMENT AND MATERIALS IN ACCORDANCE WITH MANUFACTURER'S RECOMMENDATIONS UNLESS SPECIFICALLY STATED OTHERWISE.
6. IF THE SPECIFIED EQUIPMENT CANNOT BE INSTALLED AS SHOWN ON THESE DRAWINGS, THE SUBCONTRACTOR SHALL DOCUMENT & PROPOSE AN ALTERNATIVE INSTALLATION SPACE FOR APPROVAL BY THE CONTRACTOR.
7. CONTRACTOR / SUBCONTRACTORS SHALL RESTORE AND REPAIR ANY DAMAGED AREAS CAUSED BY CONSTRUCTION.
8. SUBCONTRACTOR SHALL VERIFY ALL EXISTING DIMENSIONS AND CONDITIONS PRIOR TO COMMENCING ANY WORK. ALL DIMENSIONS OF EXISTING CONSTRUCTION SHOWN ON DRAWINGS SHALL BE VERIFIED PRIOR TO PROCEEDING WITH CONSTRUCTION. CONTRACTOR SHALL VERIFY EXISTING BURIED AND OVERHEAD UTILITIES PRIOR TO EXCAVATION. CONTRACTOR SHALL REPAIR ANY UTILITIES DAMAGED DURING THE COURSE OF CONSTRUCTION AND COORDINATE ANY REPAIRS WITH UTILITY COMPANY.
9. N / A
10. M/A
11. SUBCONTRACTOR SHALL LEGALLY AND PROPERLY DISPOSE OF ALL SCRAP MATERIALS SUCH AS COAXIAL CABLES AND OTHER ITEMS REMOVED FROM THE EXISTING FACILITY.

SITE PREPARATION:

1. PROTECTION OF EXISTING TREES, VEGETATION, AND LANDSCAPING
 2. CLEARING AND GRUBBING OF STUMPS, VEGETATION, DEBRIS, RUBBISH, DISOBTAINED TREES, AND SITE IMPROVEMENTS.
 3. TEMPORARY PROTECTION OF ADJACENT PROPERTY, STRUCTURES, BENCHMARKS, AND MONUMENTS.
- SUB-CONTRACTORS QUALITY ASSURANCE
1. SUB-CONTRACTOR SHALL BE COMPLETELY RESPONSIBLE FOR CONTAINMENT OF EQUIPMENT AND CONTROL OF EROSION ON SITE. ANY DAMAGE TO ADJACENT OR DOWNSTREAM PROPERTIES WILL BE CORRECTED BY THE SUB-CONTRACTOR AT NO COST TO THE CONTRACTOR.
 2. SUB-CONTRACTOR SHALL MAINTAIN ADEQUATE DRAINAGE AT ALL TIMES. DO NOT ALLOW WATER TO STAND OR POND. ANY DAMAGE TO STRUCTURES OR WORK ON SITE CAUSED BY INADEQUATE MAINTENANCE OF DRAINAGE WILL BE THE RESPONSIBILITY OF THE SUB-CONTRACTOR AND COST ASSOCIATED WITH REPAIRS OF SUCH DAMAGE WILL BE AT THE SUB-CONTRACTORS EXPENSE.

SITE WORK:





- EARTHWORK AND DRAINAGE**
- PART 1 - GENERAL**
1. WORK INCLUDED: SEE SITE PLAN.
 2. DESCRIPTIONS
- ACCESS DRIVE W/ TURNAROUND AREA, LEASE AREA, AND IF APPLICABLE UNDERGROUND UTILITY EASEMENTS ARE TO BE CONSTRUCTED TO PROVIDE A WELL DRAINED, EASILY MAINTAINED, EVEN SURFACE FOR MATERIAL AND EQUIPMENT DELIVERIES AND MAINTENANCE PERSONNEL ACCESS.
3. QUALITY ASSURANCE
- A. APPLY SOIL STERILIZER IN ACCORDANCE WITH MANUFACTURER'S INSTRUCTIONS (AS REQUIRED).
 - B. APPLY AND MAINTAIN GRASS SEED AS RECOMMENDED BY THE SEED PRODUCER (IF REQUIRED).
 - C. PLACE AND MAINTAIN VEGETATION LANDSCAPING, IF INCLUDED WITHIN THE CONTRACT, AS RECOMMENDED BY NURSERY INDUSTRY STANDARDS.
 4. SEQUENCING
- A. COUNTRY SURVEY STAKES AND SET ELEVATION STAKES PRIOR TO ANY CONSTRUCTION.
 - B. COMPLETELY GRUB THE ACCESS DRIVE W/ TURNAROUND, UNDERGROUND UTILITY EASEMENTS, (IF APPLICABLE) AND LEASE AREA PRIOR TO FOUNDATION CONSTRUCTION, PLACEMENT OF BACKFILL AND SUB-BASE MATERIAL.
 - C. CONSTRUCT TEMPORARY CONSTRUCTION AREA ALONG ACCESS DRIVE.
 - D. ELEVATION PRIOR TO INSTALLING FOUNDATION.
 - E. APPLY SOIL STERILIZER PRIOR TO PLACING BASE MATERIALS.
 - F. GRADE, SEED, FERTILIZE, AND MULCH ALL AREAS DISTURBED BY CONSTRUCTION (INCLUDING UNDERGROUND UTILITY EASEMENTS) IMMEDIATELY AFTER BRINGING ELEVATION, WATER TO ENSURE GROWTH.
 - G. REMOVE GRAVEL FROM TEMPORARY CONSTRUCTION ZONE TO AN AUTHORIZED AREA OR AS DIRECTED BY PROJECT MANAGER.
 - H. AFTER APPLICATIONS OF FINAL SURFACES, APPLY SOIL STERILIZER TO STONE SURFACES.
5. SUBMITTALS
- A. BEFORE CONSTRUCTION IF LANDSCAPING IS APPLICABLE TO THE CONTRACT, THE SUBMITTALS OF THE LANDSCAPING PLAN SHALL INCLUDE THE CONTRACT PRICES AND ITEMIZED LISTING OF PROPOSED COSTS ON NURSERY LETTERHEAD (REFER TO PLANS FOR LANDSCAPING REQUIREMENTS).
 - B. AFTER CONSTRUCTION
 1. MANUFACTURER'S DESCRIPTION OF PRODUCT AND WARRANTY STATEMENT ON SOIL STERILIZED.
 2. MANUFACTURER'S DESCRIPTION OF PRODUCT ON GRASS SEED AND FERTILIZER
 3. LANDSCAPING WARRANTY STATEMENT.
6. WARRANTY
- A. IN ADDITION TO THE WARRANTY ON ALL CONSTRUCTION COVERED IN THE CONTRACT DOCUMENTS, THE CONTRACTOR SHALL REPAIR ALL DAMAGE AND RESTORE AREAS AS CLOSE TO ORIGINAL CONDITION AS POSSIBLE AT THE CONTRACTOR'S EXPENSE.
 - B. SOIL STERILIZATION APPLICATION TO GUARANTEE VEGETATION FREE ROAD AND SITE AREAS FOR ONE YEAR FROM DATE OF FINAL INSPECTION.
 - C. DISTURBED AREAS WILL REFLECT GROWTH OF NEW GRASS COVER PRIOR TO FINAL INSPECTION.
 - D. LANDSCAPING, IF INCLUDED WITHIN THE SCOPE OF THE CONTRACT, WILL BE GUARANTEED FOR ONE YEAR FROM DATE OF FINAL INSPECTION.

PART 2 - PRODUCTS:

1. MATERIALS
- A. SOIL STERILIZER SHALL BE EPA-REGISTERED, PRE-EMERGENCE LIQUID: TOTAL KILL PRODUCT 910 EPA 10292-7 PHASAR CORPORATION P.O. BOX 5123 DEARBORN, MI 48128 (313) 563-8000 AMBUSH HERBICIDE EPA REGISTERED FRAMAR INDUSTRIAL PRODUCTS 1435 MORRIS AVE. UNION, NJ 07083 (800) 528-4824
 - B. ROAD AND SITE MATERIALS SHALL CONFORM TO TOOT SPECIFICATIONS FILL MATERIAL (UNLESS OTHERWISE NOTED) - ACCEPTABLE FILL SHALL BE IN ACCORDANCE WITH STATE DEPARTMENT OF HIGHWAY AND TRANSPORTATION STANDARD SPECIFICATIONS.
 - C. SOIL STABILIZER FABRIC SHALL BE MIRAFAT - 500X.

PART 3 - EXECUTION:

1. INSPECTIONS
- LOCAL BUILDING INSPECTORS SHALL BE NOTIFIED NO LESS THAN 48 HOURS IN ADVANCE OF CONCRETE POURS, UNLESS OTHERWISE SPECIFIED BY JURISDICTION.
2. PREPARATION
- A. CLEAR TREES, BRUSH AND DEBRIS FROM LEASE AREA, ACCESS DRIVE W/ TURNAROUND FOR CONSTRUCTION. B. PRIOR TO OTHER EXCAVATION AND CONSTRUCTION, GRUB ORGANIC MATERIAL TO A MINIMUM OF SIX (6) FEET UNLESS OTHERWISE INSTRUCTED BY AT&T. TRANSPORT ALL REMOVED TREES, BRUSH AND DEBRIS FROM THE PROPERTY TO AN AUTHORIZED LANDFILL.
 - D. PRIOR TO PLACEMENT OF FILL OR BASE MATERIALS, ROLL THE SOIL TO BREAK UP ALL CLUMPS AND COMPACT TO THE SPECIFIED DENSITY.
 - E. WITH STABILIZER MAT PRIOR TO PLACEMENT OF FILL OR BASE MATERIAL.
3. INSTALLATION
- A. GRADE OR FILL THE LEASE AREA AND ACCESS DRIVE W/ TURNAROUND EXCAVATIONS, IN ORDER THAT UPON DISTRIBUTION OF SPILLS, RESULTING FROM EXCAVATIONS, THE RESULTING GRADE WILL CORRESPOND WITH SAID SUB-BASE COURSE. ELEVATIONS ARE TO BE CALCULATED FROM BENCHMARK, FINISHED GRADE OR FINISHED SURFACE OF AN ADJACENT EXISTING DRIVE.
 - B. CLEAR EXCESS SPOILS, IF ANY, FROM JOB SITE AND DO NOT SPREAD BEYOND THE LIMITS OF PROJECT AREA UNLESS AUTHORIZED BY PROJECT MANAGER AND AGREED TO BY LANDOWNER.
 - C. BRING THE ACCESS DRIVE W/ TURNAROUND TO BASE COURSE ELEVATION TO THE SPECIFIED FINISHED GRADE. COMPLETE CONSTRUCTION AND OBSERVATION DURING CONSTRUCTION OF THE SITE.
 - D. AVOID CREATING DEPRESSIONS WHERE WATER MAY POND.
 - E. THE CONTRACTOR SHALL INCLUDE GRADING, BANKING, AND DITCHING, UNLESS OTHERWISE INDICATED. EXISTING ACCESS DRIVE, GRADE THE EXISTING DRIVE TO REMOVE ANY ORGANIC MATTER AND SMOOTH THE SURFACE BEFORE PLACING FILL OR STONE.
 - F. BEFORE PLACING NEXT LIFT, SHALL EXTEND A MINIMUM OF ONE (1) FOOT BEYOND THE SITE FENCE (UNLESS OTHERWISE NOTED) AND SHALL COVER THE AREA AS INDICATED.
 - G. APPLY RIPRAP TO THE SIDE SLOPES OF ALL FENCED SITE AREAS, PARKING AREAS, AND ALL OTHER SLOPES GREATER THAN 2:1.
 - H. RIPRAP ENTIRE DITCH FOR SIX (6) FEET IN ALL DIRECTIONS AT CULVERT OPENINGS.
 - I. APPLY SEED, FERTILIZER, AND STRAW COVER TO ALL OTHER DISTURBED AREAS, DITCHES, AND DRAINAGE SWALES. NOT OTHERWISE RIPRAPPED AREAS SHALL BE SEED, FERTILIZED, AND STRAW COVERED. SEED SHALL BE PLACED SO THAT THEY DIRECT WATER TOWARDS, OR PERMIT STANDING WATER IMMEDIATELY ADJACENT TO SHELTER OR EQUIPMENT. IF DESIGNS OR ELEVATIONS ARE IN CONFLICT WITH THIS, ADVISE CONSTRUCTION MANAGER IMMEDIATELY.
 - J. HEADWALLS WITH SLOPES GREATER THAN 10% WOUND DISSEMINARY HEADWALLS IN THE DITCH AT CULVERT ENTRANCES. POSITION THE HEADWALL AT AN ANGLE NO GREATER THAN 60 DEGREES OFF THE DITCH LINE. RIPRAP THE UPSTREAM SIDE OF THE HEADWALL AS WELL AS THE DITCH FOR SIX (6) FEET ABOVE THE CULVERT ENTRANCE SURFACE.
 - K. ENCOURAGE ROOTING. BARE AREAS TO BE SEEDDED TO EVEN THE SURFACE AND LOOSEN THE SOIL.
 - L. SOIL STABILIZER SHALL BE APPLIED TO ALL AREAS OF THE SURFACE TO ENSURE GROWTH OF SEEDS AND LANDSCAPED AREAS. BY WATERING UP TO THE POINT OF RELEASE FROM THE CONTRACT, CONTINUE TO REWORK THE BARE AREAS UNTIL COMPLETE COVERAGE IS OBTAINED.

			 <p>WESTCHESTER ELECTRIC BARRINGTON, NJ 08007 TEL: 609.527.8779 info@westchesterpower.com</p>	<p>PRELIMINARY DRAWINGS NOT FOR CONSTRUCTION</p>	<p>DRAWN BY: MN CHECKED BY: RM</p>
<p>THESE PLANS WERE PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND I AM A duly LICENSED REGISTERED PROFESSIONAL ENGINEER IN THE STATE OF CALIFORNIA.</p>					
<p>SITE NAME: WINTERHAVEN SITE ADDRESS: 637-639 SIDERWINDER RD N FELICITY, CA 92283 IMPERIAL COUNTY</p>			<p>SHEET TITLE NOTES & SPECIFICATIONS</p>		
<p>SHEET NUMBER SP1</p>					



PRELIMINARY DRAWINGS
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REV	DESCRIPTION
A	10/04/23 PRELIMINARY

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SITE NAME:
WINTERHAVEN
SITE ADDRESS:
637-639 SIDERINDER RD N
FELICITY, CA 92283
IMPERIAL COUNTY

SHEET TITLE
**NORTH &
SPECIFICATIONS**

SHEET NUMBER
SP2

PART 1.3 - ERECTION

- INSPECTION
TO CONFIRM PROPER DEPTH AND DIAMETER OF POST HOLE EXCAVATIONS. ALL POST HOLES WILL BE EXCAVATED AS PER CONSTRUCTION DOCUMENTS.
- INSTALLATION
 - FOUNDATIONS SHALL HAVE A MINIMUM SIX (6) INCH CONCRETE COVER UNDER POST.
 - ALL FENCE POSTS SHALL BE VERTICALLY PLUMB; ONE QUARTER (1/4) INCH GAP AT CORNER POSTS, GATE POSTS, AND SIDES OF GATE FRAME. FABRIC SHALL BE ATTACHED WITH STRETCHER AND TENSION BAND-CLIPS AT FIFTEEN(15) INCH INTERVALS.
 - POSTS, FABRIC SHALL BE ATTACHED WITH BAND-CLIPS AT FIFTEEN (15) INCH INTERVALS.
 - FABRIC SHALL BE ATTACHED TO BRACE RAILS, TENSION WIRE AND TRUSS ROOS WITH TIE-CLIPS AT TWO (2) FOOT INTERVALS.
 - A MAXIMUM GAP OF ONE INCH WILL BE PERMITTED BETWEEN TIE CHAIN LINE AND BRACE RAILS.
 - GATE SHALL BE INSTALLED SO LOCKS ARE ACCESSIBLE FROM BOTH SIDES.
 - GATE HINGE BOLTS SHALL HAVE THEIR THREADS PRENEED OR WELDED TO PREVENT UNAUTHORIZED REMOVAL.
 - CONCRETE TO BE A MINIMUM OF 3,000 PSI.
- PROTECTION
UPON COMPLETION OF ERECTION, INSPECT FENCE MATERIAL AND PAINT FIELD CUTS OR GALVANIZING BREAKS WITH ZINC-BASED PAINT, COLOR TO MATCH THE GALVANIZED METAL.

APPLICABLE STANDARDS

- ASTM-A120
SPECIFICATION FOR PIPE, STEEL BLACK AND HOT-DIPPED GALVANIZED (GALVANIZED) WELDED AND SEAMLESS, FOR CONDUITS AND FITTINGS.
- ASTM-A123
ZINC (HOT-DIP GALVANIZED) COATING ON IRON AND STEEL PRODUCTS.
- ASTM-A153
STANDARD SPECIFICATION FOR ZINC COATING (HOT-DIP) ON IRON AND STEEL HARDWARE.
- ASTM-A392
SPECIFICATION FOR ZINC-COATED STEEL CHAIN LINK FENCE FABRIC.
- ASTM-A481
SPECIFICATION FOR ALUMINUM-COATED STEEL CHAIN LINK FENCE FABRIC.
- ASTM-A525
SPECIFICATION FOR STEEL SHEET ZINC COATED (GALVANIZED) BY THE HOT-DIP PROCESS.
- ASTM-A570
SPECIFICATION FOR HOT-ROLLED CARBON STEEL SHEET AND STRIP, STRUCTURAL QUALITY.
- ASTM-A535
SPECIFICATION FOR ALUMINUM COATED STEEL BARBED WIRE.
- FEDERAL SPECIFICATION RR-F-101 - FENCING, WIRE AND POST METAL (AND GATES, CHAIN LINK FENCE FABRIC, AND ACCESSORIES)

METALS

PART 1.1 - GENERAL

SECTION INCLUDES:
1. STRUCTURAL STEEL FRAMING MEMBERS, BASE PLATES, PLATES, BARS, THREADED STRUCTURAL FASTENERS, ANTI-DAMP SUPPORT ASSEMBLIES, GRATING, STEEL PLATEWORKS AND PRECAST CONCRETE, AND GRADING UNDER BASE PLATE.

QUALITY ASSURANCE

- FABRICATE STRUCTURAL STEEL MEMBERS IN ACCORDANCE WITH AISC SPECIFICATIONS FOR FABRICATION AND ERECTION OF STRUCTURAL STEEL FOR BUILDINGS.
- PERFORM DESIGN UNDER DIRECT SUPERVISION OF A PROFESSIONAL STRUCTURAL ENGINEER LICENSED IN THE STATE.

PART 2.2 - PRODUCTS

- MATERIALS:
A. STRUCTURAL STEEL MEMBERS: ASTM A572 GRADE 50
B. STRUCTURAL TUBING: ASTM A500, GRADE B
C. BOLTS, NUTS, AND WASHERS: ASTM A325
D. ANCHOR BOLTS: ASTM A307
E. WELDING MATERIALS: ASTM D1.1, TYPE REQUIRED FOR MATERIALS BEING WELDED.

FENCING AND GATE(S)

PART 1.1 - GENERAL

- WORK INCLUDED SEE PLAN FOR SITE AND LOCATION OF FENCE AND GATE(S).
- QUALITY ASSURANCE ALL STEEL MATERIALS UTILIZED IN CONSTRUCTION WITH THE EXCEPTED SHALL BE MANUFACTURED IN THE UNITED STATES OF AMERICA. ZINC COATING ON THE FABRIC SHALL NOT BE LESS THAN 12 OUNCES PER SQUARE FOOT OF MATERIAL COVERED. POSTS SHALL BE HOT-DIPPED IN GRADE 7 ZINC 18 OUNCES PER SQUARE FOOT.
- SELECTION OF THE SITE AREA HAS BEEN BROUGHT UP TO SURFACE COURSE TO PREVENT UNAUTHORIZED REMOVAL. SOILS MUST BE CONTROLLED TO PRECLUDE CONTAMINATION OF SAID SURFACE COURSE.
- SUBMITTALS
A. MANUFACTURER'S DESCRIPTIVE LITERATURE.
B. CERTIFICATE OF STATEMENT OF COMPLIANCE WITH THE SPECIFICATIONS.

PART 2.2 - PRODUCTS

- FENCE MATERIAL, BRACE RAILS, HARDWARE, AND OTHER STEEL MATERIALS SHALL BE HOT-DIPPED GALVANIZED.
- FABRIC SHALL BE SIX-FOOT HIGH TWO-INCH CHAIN LINK MESH OF NO. 9 GAUGE (0.148") WIRE. THE FABRIC SHALL HAVE A KNUCKLED FINISH FOR THE TOP SELVAGES. FABRIC SHALL CONFORM TO THE SPECIFICATIONS OF BARBED WIRE SHALL BE DOUBLE-STRAND, 12-1/2 GAUGE TWISTED WIRE WITH 14-GAUGE 4-POINT ROUND BARBS SPACED ON FIVE-INCH CENTERS. ALL POSTS SHALL BE SCHEDULE 40 MECHANICAL SERVICE PIPE AND SHALL BE TYPE 1 ASTM A-128 AND OF THE FOLLOWING DIAMETER: POST GATE POSTS SHALL BE SCHEDULE 40 (3 1/2" O.D.).
E. PROVIDE FOR ATTACHMENT OF BARBED WIRE.
F. ALL TOP AND BRACE RAILS SHALL BE 1/2" DIAMETER SCHEDULE 40 MECHANICAL SERVICE PIPE.
G. MECHANICAL SERVICE PIPE SHALL BE 1.68 INCH DIAMETER, SCHEDULE 40 MECHANICAL SERVICE PIPE FULL-HEIGHT VERTICAL BRACE, AND A FULL-WIDTH HORIZONTAL BRACE, SECURED IN PLACE BY USE OF GATE BRACE CLAMPS.
H. WITH MODEL 6408 180-DEGREE ATTACHMENT.
I. THE GUIDE (LATCH ASSEMBLY) SHALL BE HEAVY INDUSTRIAL DOUBLE GATE LATCHES AND STOPS SHALL BE PROVIDED FOR ALL GATES.
J. LEAF OF ALL CORNER GATE ASSEMBLIES TO BE PROVIDED AT THE INACTIVE LEAF OF ALL CORNER GATE ASSEMBLIES.
K. ALL STOPS SHALL HAVE KEEPERS CAPABLE OF HOLDING THE GATE LEAF IN THE OPEN POSITION.
L. A NO. 7 GAUGE ZINC COATED TENSION WIRE SHALL BE USED AT THE BOTTOM OF EACH LINE/CORNER POST WITH BAND CLIPS AT CORNER AND GATE POSTS. A TOP PLACED AT LINE POSTS.
M. STRETCHER BARS SHALL BE 3/16-INCH BY 3/4-INCH OR HAVE EQUIVALENT CROSS-SECTIONAL AREA.
N. TURNBUCKLES, GATE AND PANELS SHALL HAVE A 3/8-INCH TRUSS ROD WITH WIRE SUPPORTING ARM. GATE POSTS SHALL HAVE A DOME CAP.
O. OTHER HARDWARE INCLUDES BUT MAY NOT BE LIMITED TO TIE CLIPS, BAND CLIPS AND BARBED WIRE GATE GUARDS SHALL BE FITTED WITH DOME CAPS.
P. BARBED WIRE SUPPORT ARMS SHALL BE PRESSED STEEL COMPLETE WITH SET BOLT AND LOCK WIRE IN THE ARM.
Q. PIPE SIZE SHALL BE MALLEABLE IRON, DOME OR ARCH SHAPED AS REQUIRED BY WHERE THE USE OF CONCERTINA HAS BEEN SPECIFIED, 24-INCH DIAMETERS COIL BARBED TAPE, STAINLESS STEEL, CYCLONE FENCE MODEL 68P TO TYPE III SHALL BE FURNISHED. IT SHALL BE SUPPORTED ABOVE THE TOP RAIL BY USE OF SH(6) WIRE BARBED WIRE ARMS POSITIONED ATOP EACH LINE/CORNER POST.

FIELD QUALITY CONTROL

- COMPACT SOILS TO MAXIMUM DENSITY IN ACCORDANCE WITH ASTM D-1557. AREAS OF SETTLEMENT WILL BE EXCAVATED AND RETILLED AT CONTRACTOR'S DRAWINGS.
- INDICATE PERCENTAGE OF COMPACTION ACHIEVED ON AS-BUILT DRAWINGS.
- PROTECTION
A. PROTECT SETDRED AREAS FROM EROSION BY SPREADING STRAW TO A UNIFORM DEPTH OF 1-2 INCHES, STAKE AND TIE DOWN AS REQUIRED. USE OF EROSION CONTROL MESH OR MULCH NET WILL BE AN ACCEPTABLE ALTERNATE.
B. ALL TREES PLACED IN CONJUNCTION WITH A LANDSCAPE CONTRACT WILL BE WATERED, TIED WITH HOSE PROTECTED WIRE, AND SECURED TO 2' X 2' X 4' SIZES OF THE TREE.
C. WHEN EXTENDING TWO-FOOT INTO THE GROUND ON FOUR STRAP BALKS ALL EXPOSED AREAS AGAINST WASHOUTS AND SOIL EROSION. PLACE STRAP BALKS AT THE INLET APPROACH TO ALL NEW OR EXISTING CHAUVERTS. MESHING THE SIDE OF ROAD CUTS HAS BEEN ELEVATED IMMEDIATELY TO THE SWALE TO PREVENT CONTAMINATION OF THE RAIL BALLAST. ALL EROSION CONTROL METHODS SHALL CONFORM TO APPLICABLE BUILDING CODE REQUIREMENTS.

TRENCHING

- MATERIALS SUB-CRACKER SHALL:**
- FILL MATERIAL SHALL BE OBTAINED TO THE MAXIMUM EXTENT POSSIBLE AND SHALL BE APPROVED BY THE CONSTRUCTION MANAGER AND SHALL CONFORM TO LOCAL GOVERNING JURISDICTION AND UTILITY COMPANY REQUIREMENTS. THE FILL MATERIAL SHALL CONTAIN NO ORGANIC MATERIALS, ROCKS, OR OBSTRUCTIVE MATERIALS AND/OR MATERIALS THAT SHALL CONTAIN FINES SUFFICIENT TO FILL ALL Voids IN THE MATERIAL BACKFILL OR BORROW SOIL SHALL BE PLACED IN 6" LOOSE LIFTS.
- PIPE DETECTION AND IDENTIFICATION SUB-CRACKER SHALL:**
- UTILIZE WARNING TAPE. ALL UTILITY SERVICE TRENCHES SHALL BE MARKED WITH WARNING TAPE.
- TRENCH EXCAVATION SUB-CRACKER SHALL:**
- DIG TRENCH TO LINES AND GRADES SHOWN ON THE PLANS OR AS DIRECTED BY THE CONSTRUCTION MANAGER.
 - TRENCH LENGTH SHALL BE SUFFICIENT TO ALLOW FOR SATISFACTORY CONSTRUCTION AND INSPECTION OF THE PROJECT WITHOUT ENDANGERING DISPOSAL OF EXCESS AND UNSUITABLE EXCAVATION MATERIAL PROPERLY AS DIRECTED BY THE CONSTRUCTION MANAGER.
 - USE HAND TRENCHING METHODS FOR EXCAVATION THAT CANNOT BE MACHINERIED WITHOUT ENDANGERING EXISTING OR NEW STRUCTURES AND OTHER FACILITIES.
- EROSION PROTECTION SUB-CRACKER SHALL:**
- PROVIDE MATERIALS, LABOR, AND EQUIPMENT NECESSARY TO PROTECT TRENCHES AT ALL TIMES.
 - SHEETING AND BRACING TO MEET OR EXCEED OSHA REQUIREMENTS.
- BACKFILLING SUB-CRACKER SHALL:**
- NOTIFY THE CONSTRUCTION MANAGER AT LEAST 24 HOURS IN ADVANCE OF BACKFILLING.
 - BACKFILL TRENCH WITH LIFTS UP TO 6" LOOSE MEASURE.
 - STRUCTURES COUNT FROM LATERAL MOVEMENT AND DAMAGE FROM IMPACT OF BACKFILLING. BACKFILLING SHALL BE COMPLETED WITHIN 48 HOURS OF EXCAVATION. DO NOT FREE FALL BACKFILL INTO TRENCH UNTIL AT LEAST 50% COVER IS OVER CONDUIT.
- COMPACTION SUB-CRACKER SHALL:**
- CONTACT BACKFILL TO 95% MAXIMUM DRY DENSITY AS DETERMINED BY ASTM D-1557 WITH PLUS OR MINUS 3% OF OPTIMUM MOISTURE CONTENT.
 - IF REQUIRED COMPACTION DENSITY HAS NOT BEEN OBTAINED REMOVE EXCESS BACKFILL FROM THE TRENCH OR AS SPECIFIED.
 - ALLOW SUFFICIENT SETTLEMENT OF TRENCH OR STRUCTURE BACKFILL DURING THE MAINTENANCE PERIOD SHALL BE CONSIDERED. THE RESULT OF INSUFFICIENT COMPACTION AND SHALL PROMPTLY CORRECTED.

PC ORIGINAL PKG

FIELD PKG



PRELIMINARY DRAWINGS
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REV	DATE	DESCRIPTION
A	10/24/23	PRELIMINARY

I HEREBY CERTIFY THAT THESE PLANS WERE PREPARED BY ME OR UNDER MY SUPERVISION AND THAT I AM A DULY LICENSED ARCHITECT UNDER THE LAWS OF THE STATE OF CALIFORNIA.

SITE NAME:
WINTERHAVEN
SITE ADDRESS:
637-639 SIDERWINDER RD N
FELICITY, CA 92283
IMPERIAL COUNTY

SHEET TITLE
NOTES & SPECIFICATIONS

SHEET NUMBER
SP3

3. PLACING CONCRETE

- A. VIBRATE ALL CONCRETE.
- B. ALL CONCRETE WORK SHALL ADHERE TO THE LATEST A.C.I. STANDARDS FOR WINTER POURING AND CURING PROCEDURES IF SEASONAL CONDITIONS APPLY.
4. CURING
 - A. AFTER PLACEMENT, PROTECT CONCRETE FROM PREMATURE DRYING.
 - B. MAINTAIN CONCRETE WITH MINIMAL MOISTURE LOSS AT RELATIVELY CONSISTENT TEMPERATURE FOR A PERIOD NECESSARY FOR HYDRATION OF CEMENT AND HARDENING OF CONCRETE.
5. PROVIDE HAND RUBBED SMOOTH FINISH TO ALL EXPOSED VERTICAL FORMED CONCRETE SURFACES.
6. FIELD QUALITY CONTROL
 - A. SUBMIT THREE (3) CONCRETE TEST CYLINDERS - TAKEN EVERY 15 CUBIC YARDS OR LESS. SUBMIT CONCRETE TESTS TO THE PROJECT MANAGER IN ACCORDANCE TO ASTM C-31 AND C-38.
 - B. SUBMIT ONE (1) ADDITIONAL TEST CYLINDER - TAKEN DURING COLD WEATHER FOURS, AND CURED ON JOB SITE UNDER THE SAME CONDITIONS AS THE CONCRETE IT REPRESENTS.
 - C. SUBMIT ONE (1) SLUMP TEST - TAKEN FOR EACH SET OF TEST CYLINDERS TAKEN.
7. DEFECTIVE CONCRETE

WORKY OR REPLACE CONCRETE, NOT CONFORMING TO REQUIRED SPECIFICATIONS, DETAILS OR ELEVATIONS AS DIRECTED BY THE AT&TWIRELESS CONSTRUCTION MANAGER.

GENERAL ELECTRICAL NOTES:

1. ALL ELECTRICAL MATERIALS, EQUIPMENT AND INSTALLATION PROCEDURES TO CONFORM WITH AT&TWIRELESS SPECIFICATIONS.
2. CONTRACTOR SHALL PERFORM ALL VERIFICATION TESTS AND EXAMINATION WORK PRIOR TO THE START OF INSTALLATION. CONTRACTOR SHALL ISSUE A WRITTEN NOTICE OF ALL FINDINGS TO THE ENGINEER LISTING ALL MALFUNCTIONS, FAULTY EQUIPMENT AND DISCREPANCIES.
3. ALL MATERIALS SHALL BE MANUFACTURED IN ACCORDANCE WITH APPLICABLE STANDARDS ESTABLISHED BY ANSI, NEMA, NFPA, AND IUL LISTED.
4. THE ENTIRE ELECTRICAL INSTALLATION SHALL BE GROUNDED AS REQUIRED PER THE NEC, AND ALL APPLICABLE LOCAL CODES.
5. ALL CIRCUIT BREAKERS, FUSES AND ELECTRICAL EQUIPMENT SHALL HAVE A MINIMUM INTERRUPTING RATING OF 42,000 AC.
6. FOR COMPLETE INTERNAL WIRING AND ARRANGEMENT REFER TO VENDOR PRINTS PROVIDED BY AT&TWIRELESS FOR BITS CABINET.
7. PATCH, REPAIR, AND PAINT ANY AREA THAT HAS BEEN DAMAGED IN THE COURSE OF THE ELECTRICAL WORK.
 - A. PROVIDE AT&TWIRELESS WITH ONE SET OF COMPLETE ELECTRICAL 'AS-BUILT' DRAWINGS AT THE COMPLETION OF THE JOB SHOWING ACTUAL ROUTINGS AND WIRING CONNECTIONS.
 - B. ALL SINGLE-PHASE SELF CONTAINED METER CONNECTION DEVICES MUST INCLUDE HORN TYPE BY-PASS PROVISION SO THAT SERVICES WILL NOT BE INTERRUPTED WHEN A METER IS REMOVED FROM THE SOCKET.
10. ALL EQUIPMENT PUNCH OUTS AND CONDUITS (USED AND SPARE) TO BE ROBERT PROCURED WITH CAPS, STEEL MESH, AND/OR FOAM FILL BY CONTRACTOR AS NEEDED.
11. NO SPOLS TO BE LEFT ON SITE WITHOUT THE WRITTEN CONSENT OF THE LANDOWNER.
12. CONTRACTOR TO PROVIDE 2 PHENOLIC LABELS AT METER ONE TO IDENTIFY 'AT&TWIRELESS DISCONNECT' AND THE OTHER TO GIVE THE SITE ADDRESS.
13. ALL CONTRACTOR FURNISHED MATERIALS AND EQUIPMENT SPECIFIED ON THE PROJECT SHALL BE NEW AND UNUSED, OF CURRENT MANUFACTURE AND OF THE HIGHEST GRADE.

PART 2 - PRODUCTS

1. REINFORCEMENT MATERIALS
 - A. REINFORCING STEEL, ASTM A615, 60KSI YIELD GRADE, REINFORCING STEEL, ROOFS, PLAIN FINISH.
 - B. WELDED STEEL WIRE FABRIC ASTM A185 PLAIN TYPE, IN FLAT SHEETS, PLAIN FINISH.
 - C. CHAIRS, BOLSTERS, BAR SUPPORTS, SPACERS, SIZED AND SHAPED FOR SUPPORTS OF REINFORCING.
 - D. FABRICATE CONCRETE REINFORCING IN ACCORDANCE WITH A61 315, AND A61 318, AND ASTM A184.
2. CONCRETE MATERIALS
 - A. CEMENT: ASTM C150, PORTLAND TYPE.
 - B. FINE AND COURSE AGGREGATES: ASTM C133 - MAXIMUM SIZE OF CONCRETE AGGREGATE SHALL NOT EXCEED ONE (1) INCH SIZE SUITABLE FOR INSTALLATION AND CURING. ALL AGGREGATE SHALL BE WASHED AND SCREENED TO REMOVE ALL FINE MATERIALS. ALL AGGREGATE SHALL BE WASHED AND SCREENED TO REMOVE ALL FINE MATERIALS. ALL AGGREGATE SHALL BE WASHED AND SCREENED TO REMOVE ALL FINE MATERIALS.
 - C. WATER: CLEAN AND NOT DETRIMENTAL TO CONCRETE.
 - D. AIR ENTRAINING ADMIXTURE: ASTM C260.
 - E. BONDING AGENT: LATEX EMULSION FOR BONDING NEW TO OLD CONCRETE AS MANUFACTURED BY DAYTON SUPERIOR.
 - F. NON-SHRINK GROUT: PREMIUM COMPOUND CONSISTING OF NONMETALLIC AGGREGATE, CEMENT, WATER REDUCING AND PLASTICIZING AGENTS.
3. CONCRETE MIX
 - A. CONCRETE MATERIALS SHALL CONFORM TO THE APPROPRIATE A.C.I. REQUIREMENTS FOR EXPOSED STRUCTURAL CONCRETE.
 - B. MIX AND DELIVER CONCRETE IN ACCORDANCE WITH ASTM C94, ALT. 3.
 - C. PROPORTIONS OF CONCRETE MATERIALS SHALL BE SUITABLE FOR THE INSTALLATION METHOD UTILIZED AND SHALL RESULT IN DURABLE CONCRETE WITH A COMPRESSIVE STRENGTH OF 4000 PSI. DURABLE CONCRETE SHALL BE SUBMITTED TO THE ENGINEER FOR APPROVAL. DURABLE CONCRETE SHALL BE SUBMITTED TO THE ENGINEER FOR APPROVAL. DURABLE CONCRETE SHALL BE SUBMITTED TO THE ENGINEER FOR APPROVAL. DURABLE CONCRETE SHALL BE SUBMITTED TO THE ENGINEER FOR APPROVAL.
 1. COMPRESSIVE STRENGTH 4000 PSI AT 28 DAYS.
 2. SLUMP : 3 INCHES.

EXECUTION:

1. INSERTS, EMBEDDED COMPONENTS AND OPENINGS
 - A. THE CONTRACTOR SHALL COORDINATE AND CROSS CHECK ARCHITECTURAL, BUILDING AND ELECTRICAL DRAWINGS FOR OPENINGS, SLEEVES, ANCHORS, HANGERS, AND OTHER ITEMS RELATED TO CONCRETE WORK AND SHALL ASSUME FULL RESPONSIBILITY FOR THE PROPER LOCATION BEFORE PLACING CONCRETE.
 - B. PROVIDE FORMED OPENINGS WHERE REQUIRED FOR WORK TO BE EMBEDDED IN AND PASSING THROUGH CONCRETE MEMBERS.
 - C. COORDINATE WORK OF OTHER SECTIONS IN FORMING AND SETTING OPENINGS, SLOTS, RECESSES, CHASES, SLEEVES, BOLTS, ANCHORS, AND OTHER INSERTS.
 - D. INSTALL CONCRETE ACCESSORIES STRAIGHT, LEVEL, NO PLUMB.
2. REINFORCEMENT PLACEMENT
 - A. PLACE REINFORCEMENT, SUPPORTED AND SECURED AGAINST DISPLACEMENT.
 - B. ENSURE REINFORCING IS CLEAN, FREE OF LOOSE SCALE, DIRT, OR OTHER FOREIGN COATINGS.
 - C. WELDING IS PROHIBITED ON REINFORCING STEEL AND EMBEDMENTS.
 - D. MINIMUM CONCRETE COVER FOR REINFORCING SHALL BE 3 INCHES UNLESS NOTED OTHERWISE.
 - E. CONCRETE COVER FROM TOP OF FOUNDATION TO ENDS OF VERTICAL REINFORCEMENT SHALL NOT EXCEED 3 INCHES OR BE LESS THAN 2 INCHES.

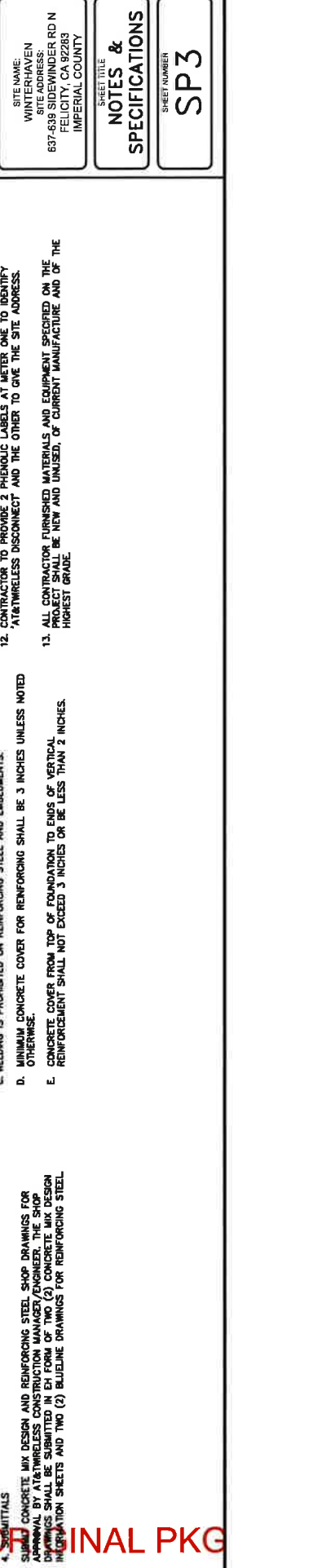
METALS, CONTINUED

- G. GROUT: NON-SHRINK TYPE, PREMIUM COMPOUND CEMENT, WATER REDUCING AND PLASTICIZER ADJUSTED, CAPABLE OF DEVELOPING A MINIMUM COMPRESSIVE STRENGTH OF 7000 psi AT 28 DAYS.
 - H. SHOP AND TOUCH-UP PRIMER: SSPC 15, TYPE 1, RED OXIDE
 - I. TOUCH-UP PRIMER FOR GALV. SURFACES: ZINC RICH TYPE
 2. FABRICATION: CONTINUOUSLY SEAL JOINTED MEMBERS BY CONTINUOUS WELDS. GRIND EXPOSED WELDS SMOOTH.
 3. FINISH:
 - A. PREPARE STRUCTURAL COMPONENT SURFACES IN ACCORDANCE WITH SSPC SP-1 TO SP-10 PROCEDURES.
 - B. STRUCTURAL STEEL MEMBERS SHALL BE HOT DIPPED GALVANIZED.
- PART 3 - EXECUTION**
1. VERIFY THAT THE FIELD CONDITIONS ARE ACCEPTABLE TO PERFORM THE WORK.
 - ERECTOR:
 1. ALLOW FOR ERECTION LOADS. PROVIDE TEMPORARY BRACING TO MAINTAIN FRAMING IN ALIGNMENT UNTIL COMPLETION OF ERECTION AND INSTALLATION OF PERMANENT BRACING.
 2. NO UNAUTHORIZED WELDING SHALL BE PERFORMED ON CROWN CASTLE USA, INC TOWERS. ALL OTHER WELDING SHALL BE IN ACCORDANCE WITH AMERICAN WELDING SOCIETY AWS D11 STRUCTURAL STEEL WELDING CODE-STEEL WELD ELECTRODES SHALL DO NOT FIELD CUT OR ALTER STRUCTURAL MEMBERS WITHOUT APPROVAL OF THE ARCHITECT/ENGINEER.
 3. AFTER ERECTION, TOUCH-UP WELDS, ABRASIONS, AND SURFACES NOT SHOP PRIMED OR GALVANIZED WITH ZINC RICH PAINT (ALL EXISTING AND NEW AREAS).
 - FIELD QUALITY CONTROL:
 1. FIELD INSPECTION OF MEMBERS, CONNECTIONS, WELDS AND BOLT / NUT TORQUE.

CONCRETE:

- PART 1 - GENERAL**
1. WORK INCLUDES FORMWORK, REINFORCEMENT, ACCESSORIES, CAST-IN-PLACE CONCRETE, FINISHING, AND CURING.
 2. INSPECTIONS
 - A. CONTRACTOR IS RESPONSIBLE FOR SCHEDULING BUILDING DEPARTMENT INSPECTIONS REQUIRED FOR THE SCOPE OF WORK BEING PERFORMED.
 - B. ALL REINFORCING STEEL SHALL BE INSPECTED AND APPROVED BY THE AT&TWIRELESS CONSTRUCTION MANAGER PRIOR TO PLACEMENT OF CONCRETE. THAN 48 HOURS IN ADVANCE OF CONCRETE POURS.
 - C. THE AT&TWIRELESS CONSTRUCTION MANAGER SHALL BE NOTIFIED NO LESS THAN 48 HOURS IN ADVANCE OF CONCRETE POURS.
 3. QUALITY ASSURANCE
 - A. CONSTRUCT AND ERECT CONCRETE FORM WORK IN ACCORDANCE WITH ACI 301 AND ACI 318.
 - B. PERFORM CONCRETE REINFORCING WORK IN ACCORDANCE WITH ACI 301, ACI 308, AND ASTM A184.
 - C. PERFORM CAST-IN-PLACE CONCRETE WORK IN ACCORDANCE WITH ACI 301, ACI 318, AND ACI 117-90.
 4. SUBMITTALS

SUBMIT CONCRETE MIX DESIGN AND REINFORCING STEEL SHOP DRAWINGS FOR APPROVAL BY AT&TWIRELESS CONSTRUCTION MANAGER/ENGINEER. THE SHOP DRAWINGS SHALL BE SUBMITTED WITHIN 10 BUSINESS DAYS OF THE DATE OF DESIGN INFORMATION SHEETS AND TWO (2) BLUELINE DRAWINGS FOR REINFORCING STEEL





PRELIMINARY DRAWINGS
NOT FOR CONSTRUCTION

DRAWN BY: NY
RSM

REV	DATE	DESCRIPTION
1		PRELIMINARY

1. THERE IS CERTAIN THAT THESE PLANS WERE SUPERVISED AND THAT I AM A DULY LICENSED SURVEYOR IN THE STATE OF CALIFORNIA.

SITE NAME:
WINTERHAVEN
SITE ADDRESS:
637-639 SIDEWINDER RD N
FELICITY, CA 92283
IMPERIAL COUNTY

SHEET TITLE
NOTES & SPECIFICATIONS
SHEET NUMBER
SP4

GENERAL GROUNDING NOTES (CONTINUED).

17. FERROUS METAL CLIPS WHICH COMPLETELY SURROUND THE GROUNDING CONDUCTORS SHALL BE USED TO SUPPORT GROUNDING CONDUCTORS.
18. ALL BELOW GRADE GROUNDING CONDUCTORS SHALL BE BARE SOLID COPPER WIRE ABOVE-GRADE GROUNDING CONDUCTORS MAY BE EITHER OF AS INDICATED ON THE DRAWINGS.
 - PLASTIC CLIPS
 - STAINLESS STEEL CLIPS WHICH DO NOT COMPLETELY SURROUND THE GROUNDING CONDUCTOR.
 - FERROUS METAL CLIPS WHICH DO NOT COMPLETELY SURROUND THE GROUNDING CONDUCTOR.

GENERAL GROUNDING NOTES.

1. ALL WORK SHALL COMPLY WITH THE LATEST AT&T WIRELESS GROUNDING SPECIFICATIONS AND REQUIREMENTS.
2. ALL METALLIC COMPONENTS ON THE SITE MUST BE GROUNDED TO THE GROUND RING. THIS INCLUDES STEEL UNITS TO THE SITE OR USED TO PROVIDE ACCESS BY UTILITIES OR CONTRACTORS TO THE VARIOUS CABINETS.
3. ALL GROUND LEADS ABOVE GRADE SHALL BE INSTALLED IN 1/2" SEAL TUBING.
4. WHEN EARTH RESISTANCE TEST INDICATES THAT THE SOIL IS ABOVE MINIMUM ALLOWABLE RESISTANCE, THAN THE CONTRACTOR SHALL ESTIMATE THE TYPE, NUMBER AND LOCATION OF ANTI-OXIDATION COMPOUND TO BE USED. HE SHALL ALSO CONSIDER COMPANY'S SITE SPECIFIC APPROACHES FOR IMPROVED EARTH RESISTANCE AT THE SITE BY METHODS INDICATED BELOW:
 - BAW LANO
 - USE MULTIPLE RODS
 - LENGTHEN THE EARTH ELECTRODE
 - TREAT THE SOIL
 - USE CHEMICAL RODS
5. THE CONTRACTOR MUST VERIFY THAT NEW GROUNDING SYSTEM RESISTANCE IS EQUAL TO OR LESS THAN FIVE (5) OHMS PER ATTENWRELESS SPECIFICATIONS.
6. RUN ALL GROUNDING WIRES IN AN ORGANIZED MANNER, AVOID CROSSING OF WIRES WHEREVER POSSIBLE, DO NOT RUN WIRES OVER CONCRETE SLAB.
7. INSTALL ALL GROUND WIRES IN A DOWNWARD SLOPE FOR MAXIMUM LIGHTNING PROTECTION.
8. MAINTAIN ALL MINIMUM BENDING RADI OF THE GROUNDING WIRES.
9. DO NOT REMOVE MORE INSULATION FROM THE GROUNDING THAN NECESSARY WHEN CABLEDING OR CRIMPING IF EXCESS INSULATION IS REMOVED, THE CONNECTION WILL BE WEAKENED. INSULATION SHOULD BE PROTECTED PER THE ATTENWRELESS REPRESENTATIVE'S DIRECTION.
10. DOWN LEAD FOR ANTENNA SECTORS MUST BE CONNECTED DIRECTLY TO THE GROUND RING.
11. ALL BASE TRANSCEIVER SITE EQUIPMENT SHALL BE GROUNDED IN ACCORDANCE WITH THE INTERNATIONAL ELECTRICAL CODE (NEC), AND THE LATEST EDITION OF LIGHTNING PROTECTION CODE NFPA 780 AND ATTENWRELESS STANDARDS.
12. THE ELECTRICAL SERVICE TO THE SITE SHALL BE GROUNDED AT THE SERVICE DISCONNECTING MEANS REQUIRED IN ARTICLE 250 OF THE NATIONAL ELECTRIC CODE, IN ACCORDANCE WITH ANY LOCAL CODE.
13. ALL UNDERGROUND (BELOW GRADE) GROUNDING CONNECTIONS SHALL BE MADE BY THE CADWELD PROCESS (MECHANICAL LUG ATTACHMENTS BELOW GRADE ARE NOT ACCEPTABLE). CONNECTIONS SHALL INCLUDE ALL CABLE SPICES (TEES, X'S, ETC) SOLDER CONNECTIONS TO GROUND RODS, GROUNDING POINTS, AND OTHER CONNECTIONS TO GROUNDING METALS. ALL MATERIALS USED (WELDS, WELDING METALS, TOOLS, ETC) SHALL BE BY CADWELD AND INSTALLED PER MANUFACTURER'S RECOMMENDATION AND PROCEDURES.
14. ALL GROUNDING AND BONDING CONDUCTORS THAT ARE CONNECTED ABOVE GRADE INTERIOR TO A BUILDING SHALL BE CONNECTED TO TWO HOLE CRIMP TYPE (COMPRESSION) CONDUCTORS FOR #2 AND #6 AWG INSULATED COPPER CONDUCTOR.
15. ALL GROUNDING CONNECTIONS, INTERIOR AND EXTERIOR, MADE THROUGHOUT THIS DOCUMENT SHALL BE MADE USING AN ANTI-OXIDATION COMPOUND, THE ANTI-OXIDATION COMPOUND SHALL BE THOMAS AND BETTS KORP-SHIELD (FORM OF # 100-0000), THERE IS NO SUBSTITUTION FOR THIS PRODUCT. THE ANTI-OXIDATION COMPOUND SHALL BE USED ON ALL WIRES BEFORE LOGGING, COAT ALL SURFACES BEFORE CONNECTING.
16. ALL CONNECTIONS SHALL BE MADE TO BARE METAL. ALL PAINTED SURFACES SHALL BE FIELD INSPECTED AND REMOVED TO ENSURE PROPER CONTACT PRIOR TO CADWELD, GALVANIZING SHALL BE REMOVED BY GRINDING SURFACE TO BARE METAL SLAG FROM CADWELD MUST BE REMOVED AND BARE METAL SHALL BE SPRAYED WITH COLD GALVANIZE AFTER COMPLETION.

3. ALL SPARE CONDUITS SHALL HAVE A METALLIC PULL WIRE.
4. CONDUIT SUPPORTS SHALL BE FINISHED AND INSTALLED BY THE CONTRACTOR AND IN ACCORDANCE WITH THE NEC.
5. UNDERGROUND CONDUITS.
 - A. INSTALL A WARNING TAPE TWELVE INCHES ABOVE EACH CONDUIT.
 - B. IDENTIFY EACH CONDUIT AT BOTH ENDS, INSTALL MINIMUM OF TWO MARKERS TO THE FINISHED GRADE, OR DEEPER IF NOTED ON PLAN DRAWINGS.
 - C. SLOPE A MINIMUM OF 4" PER 100'-0" TO DRAIN AWAY FROM BUILDINGS AND EQUIPMENT.
 - D. USE MANUFACTURED ELECTRICAL ELBOWS AND FITTINGS FOR BELOW GRADE BENDS.
 - E. MAKE JOINTS AND FITTINGS WATER-TIGHT ACCORDING TO MANUFACTURER'S INSTRUCTIONS.
 - F. INSTALL A COUPLING BEFORE EACH WALL PENETRATION.
 - G. RESTORE SURFACE FEATURES DISTURBED BY EXCAVATION (AND TRENCHING) IN ALL AREAS.

GENERAL CONDUCTOR NOTES.

1. ALL POWER, CONTROL AND COMMUNICATION WIRING SHALL MEET THE NECA AND IEC STANDARDS FOR MATERIAL AND WORKMANSHIP UNLESS OTHERWISE SPECIFIED.
 - A. SERVICE ENTRANCE CONDUITS SHALL BE COPPER, 800 MINIMUM SIZE, UNLESS OTHERWISE SPECIFIED.
 - B. TYPE USE-2 - THE GROUNDED NEUTRAL CONDUCTOR SHALL BE IDENTIFIED WITH A WHITE MARKING AT EACH TERMINATION.
 - C. CONDUCTORS FOR FEEDER AND BRANCH CIRCUITS SHALL BE COPPER 600 VOLT, TYPE THHN / THWN WITH A MINIMUM SIZE OF #12 AWG.
2. ALL CONDUCTOR ACCESSORIES INCLUDING CONNECTORS, TERMINATIONS, INSULATING MATERIALS, SUPPORT GRIPS, MARKER AND LOCATION INSTRUMENTS, SHALL BE OBTAINED FROM THE REPRESENTATIVE'S LIST OF ACCESSORIES. THESE INSTRUMENTS SHALL BE IN THE POSSESSION OF THE CRAFTSMAN WHILE INSTALLING THE ACCESSORIES AND SHALL BE AVAILABLE TO THE COMPANY FOR REFERENCE.
3. WHERE POSSIBLE, NO. 6 AWG AND SMALLER WIRE SHALL BE COLORED CODED BY THE COLOR OF THE INSULATION COVERING. COLOR CODING OF WIRE LARGER THAN NO. 6 AWG MAY BE BY THE USE OF SELF-ADHESIVE WRAP AROUND TYPE MARKERS, PER NEC.
4. TERMINAL CONNECTOR FOR CONDUCTORS 8 AWG AND LARGER SHALL BE PRESSURE OR BOLTED CLAMP TYPE BURNDY QUILLCLIP, OR EQUIVALENT. CONDUCTORS SMALLER THAN NO. 6 AWG SHALL BE OF THE TYPE OR V-LONG BARREL PLAYOUT TYPE NCA OR BCI OR ACCEPTABLE EQUIVALENT. CONNECTORS INCLUDED WITH COMPANY-FURNISHED EQUIPMENT MAY BE USED.
5. TERMINATION PROVISIONS OF EQUIPMENT FOR CIRCUITS RATED 100 AMPERES OR LESS OR MARKED FOR NIS 6 THROUGH 100 CONDUCTORS SHALL BE USED ONLY FOR CONDUCTORS RATED 86°C (190°F). CONDUCTORS WITH HIGHER TEMPERATURE RATINGS SHALL BE PERMITTED, PROVIDED THE AMPACITY OF THE CONDUCTOR SIZE USED.
6. TERMINATION PROVISIONS OF EQUIPMENT FOR CIRCUITS RATED OVER 100 AMPERES, OR MARKED FOR CONDUCTORS LARGER THAN NO.1 SHALL BE USED ONLY FOR CONDUCTORS RATED 75°C (167°F). CONDUCTORS WITH HIGHER TEMPERATURE RATINGS SHALL BE PERMITTED, PROVIDED THE AMPACITY OF EACH CONDUCTOR IS DETERMINED BASED UPON THE 75°C (167°F) AMPACITY OF THE CONDUCTOR SIZE USED.
7. ALL 600 VOLT OR LESS WIRING, WHERE COMPRESSION TYPE CONNECTORS ARE USED, SHALL BE INSULATED WITH AT LEAST ONE TURN OF SCOTCH-PAK ELECTRICAL INSULATING PUTTY AND THEN COVERED WITH TWO HALF TURNS OF TAPE SIMILAR TO 3M COMPANY'S 33 PLUS (33+) PLASTIC TAPE OR 88 OUTDOR TAPE.
8. TERMINAL CONNECTORS FOR CONDUCTORS SMALLER THAN 8 AWG SHALL BE COMPRESSOR TYPE CONNECTORS. FOR THE CONDUCTOR AND THE TERMINAL, THE CONNECTORS SHALL BE CONSTRUCTED OF FINE GRADE HIGH CONDUCTIVITY COPPER IN ACCORDANCE WITH AN-5-10727. THE INTERIOR SURFACE OF THE CONNECTOR WIRE BARREL SHALL BE SERRATED AND THE EXTERIOR SURFACE OF THE CONNECTOR WIRE BARREL SHALL BE PROVIDED WITH CRIMP GUIDES.

GENERAL ELECTRICAL NOTES (CONTINUED).

14. ALL EQUIPMENT, MATERIAL AND THE INSTALLATION METHODS SPECIFIED ON THE PROJECT DRAWINGS SHALL BE DESIGNED AND FABRICATED IN COMPLIANCE WITH APPLICABLE FEDERAL, STATE, AND LOCAL CODES AND STANDARDS AND CODES INCLUDING ASHRAE, NECA, NFPA, AND UL, ALL AS REVISED AS OF THE DATE OF THIS WORK PACKAGE.
15. ALL ELECTRICAL ITEMS BOTH CONTRACTOR AND OWNER FURNISHED SHALL BE IDENTIFIED BY THE CONTRACTOR AND SHALL BE VISUALLY INSPECTED TO ENSURE THAT SPECIFICATIONS AND IS IN PROPER ALIGNMENT, INSTALLED PER MANUFACTURER'S INSTRUCTIONS, ELECTRICAL CONNECTIONS ARE TIGHT AND PROPERLY INSULATED WHERE REQUIRED, FUSES ARE OF THE PROPER TYPE AND SIZE, AND ELECTRICAL ENCLOSURES ARE OF THE PROPER NAME TYPE.
16. NOTIFY OWNER IN WRITING OF ALL DISCREPANCIES BETWEEN DRAWINGS AND FIELD INSTALLATIONS, OR IF THE VISUAL INSPECTIONS SHOW DAMAGE OR IMPROPER INSTALLATION.
17. THE EQUIPMENT AND MATERIALS SHALL BE FURNISHED AND INSTALLED TO OPERATE SAFELY AND CONTINUOUSLY WITH NO PROTECTION FROM THE WEATHER.
18. ELECTRICAL WORK REPRESENTED ON THE PROJECT DRAWINGS IS SHOWN DIAGRAMMATICALLY. EXACT LOCATIONS AND ELEVATIONS OF ELECTRICAL EQUIPMENT SHALL BE DETERMINED IN THE FIELD AND VERIFIED WITH THE OWNER'S REPRESENTATIVE.
19. CONTRACTOR SHALL COORDINATE THE INSTALLATION OF TEMPORARY, IF REQUIRED, AND PERMANENT POWER WITH THE LOCAL UTILITY COMPANY. THE TEMPORARY POWER AND ALL HOOKUP COSTS ARE TO BE PAID BY THE CONTRACTOR.
20. THE FOLLOWING CASE, BOLT ON, THERMAL MAGNETIC TRIP, SINGLE TWO OR THREE POLE CIRCUIT BREAKERS, MULTIPLE POLE CIRCUIT BREAKERS SHALL BE SINGLE HANDLE COMMON TRIP, SHORT CIRCUIT CURRENT RATING, CIRCUIT BREAKERS, FUSES, AND ELECTRICAL EQUIPMENT SHALL HAVE A SHORT CIRCUIT INTERRUPTING RATING EQUAL TO OR GREATER THAN THAT SHOWN ON THE PROJECT DRAWINGS.
21. CONTRACTOR SHALL PERFORM ALL EXCAVATION, TRENCHING, BACKFILLING, AND REMOVAL OF DEBRIS IN CONNECTION WITH THE ELECTRICAL WORK IN ACCORDANCE WITH THE PROJECT DRAWINGS. CONTRACTOR SHALL COORDINATE THE INSTALLATION OF UNDERGROUND UTILITIES AND GROUND WITH THE FOUNDATION INSTALLATION. HAND DIGGING SHALL BE REQUIRED IN THE COMPOUND ONLY.
22. CONTRACTOR SHALL PROVIDE ALL NECESSARY SUPPORTS FOR EQUIPMENT INSTALLED AS PART OF THIS PROJECT. SUPPORTS SHALL BE CONSTRUCTED OF STEEL OR CONCRETE, AND FASTENED WITH BOLTS, SCREWS OR BY WELDING TO PROVIDE RIGID SUPPORT.
23. CONTRACTOR SHALL CALL THE APPROPRIATE UTILITIES PROTECTION DEPARTMENT TO VERIFY UNDERGROUND UTILITIES, SUCH AS TRENCHING, EXCAVATING, AND DRIVING GROUNDING RODS.
24. ALL ELECTRICAL EQUIPMENT SHALL BE LABELED WITH PERMANENTLY ENGRAVED LAMINATED PHENOLIC NAMEPLATES. (MINIMUM LETTER HEIGHT SHALL BE 1/2" MINIMUM LETTERS). NAMEPLATES SHALL BE PLASTIC OR STEEL SCREWS AND AS PER ATTENWRELESS SPECIFICATIONS.

GENERAL RACEWAY NOTES.

1. CONDUITS AND CONDUIT FITTINGS SHALL MEET ANS AND NEC STANDARDS FOR MATERIAL AND WORKMANSHIP AND SHALL BE UL LISTED.
2. RIGID STEEL CONDUIT SHALL CONFORM TO ANS C601 AND THE REQUIREMENTS OF NEC, PARAGRAPH 347. CONDUIT SHALL BE WEIGHT MILD RING STEEL, HOT DIP GALVANIZED WITH INSIDE AND OUTSIDE FINISHED WITH A PROTECTIVE ZINC COATING. COUPLING ELBOWS AND BENDS SHALL MEET THESE SAME REQUIREMENTS. FITTINGS SHALL BE OF THE GALVANIZED IRON OR STEEL THREADED TYPE.
3. RIGID CONDUIT SHALL CONFORM TO UL STANDARD 651-68 AND THE REQUIREMENTS OF NEC, PARAGRAPH 347. CONDUIT SHALL BE WEIGHT MILD RING STEEL, HOT DIP GALVANIZED WITH INSIDE AND OUTSIDE FINISHED WITH A PROTECTIVE ZINC COATING. COUPLING ELBOWS AND BENDS SHALL MEET THESE SAME REQUIREMENTS. FITTINGS SHALL BE OF THE GALVANIZED IRON OR STEEL THREADED TYPE.
4. ALL CONDUIT (FOR USE BEHIND WALLS OR ABOVE SUSPENDED CEILING ONLY), ELECTRIC METALLIC TUBING SHALL CONFORM TO ANS C601 AND THE REQUIREMENTS OF NEC, PARAGRAPH 348 AND SHALL BE FINISHED WITH A PROTECTIVE ZINC COATING OR LACQUER CHAMEL. FITTINGS SHALL BE ZINC COATED STEEL.
5. MINIMUM CONDUIT SIZE SHALL BE 3/4". SIZES NOT SHOWN ON DRAWINGS SHALL BE PER NEC.





PRELIMINARY DRAWINGS
NOT FOR CONSTRUCTION

CHECKED BY: _____
MIN: _____
RSM: _____

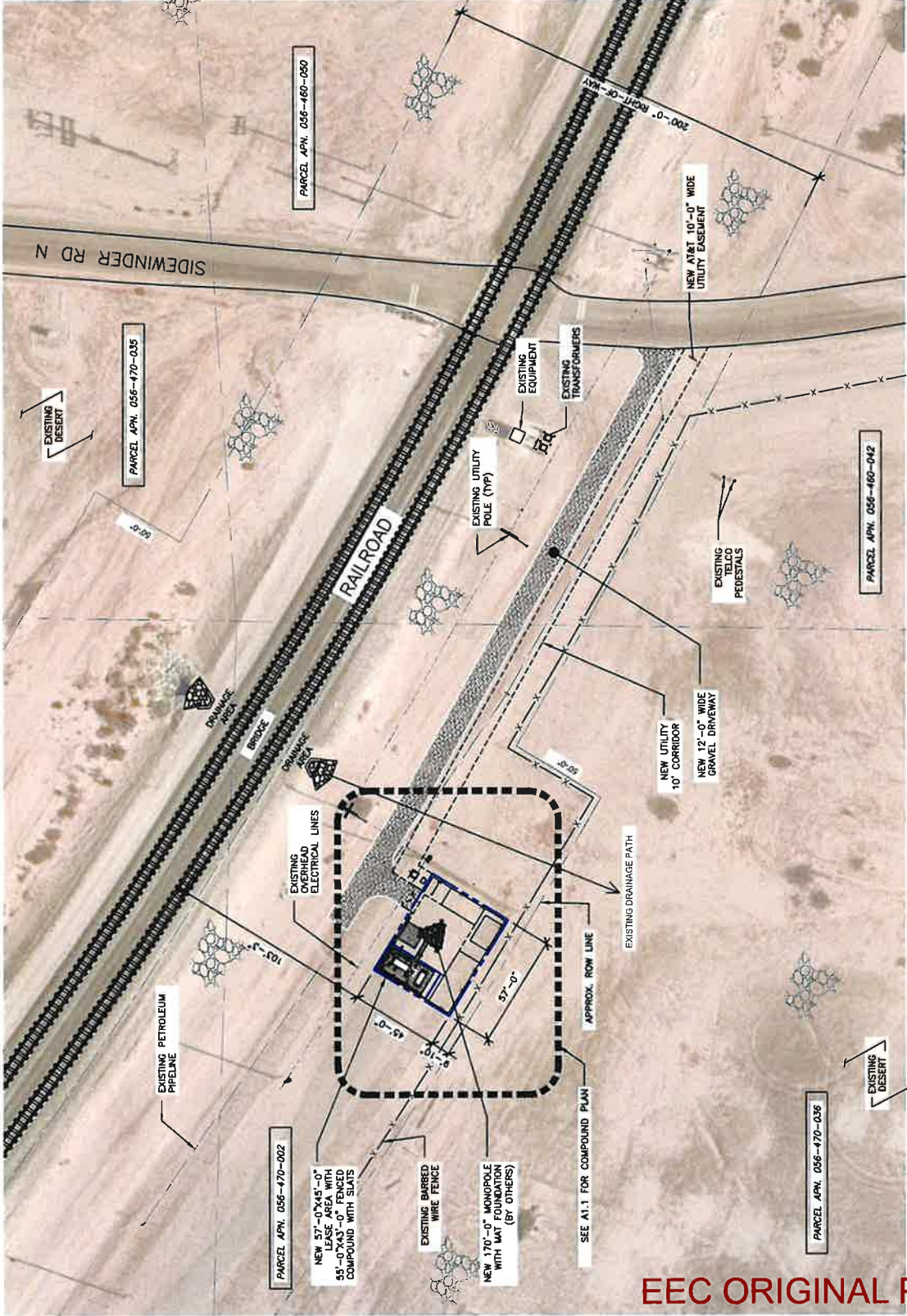
REV	DATE	DESCRIPTION
A	10/04/23	PRELIMINARY

WE HEREBY CERTIFY THAT THESE PLANS WERE PREPARED BY A REGISTERED PROFESSIONAL ENGINEER AND THAT I AM A DULY LICENSED ARCHITECT UNDER THE LAWS OF THE STATE OF CALIFORNIA.

SITE NAME:
WINTERHAVEN
SITE ADDRESS:
637-639 SIDEWINDER RD N
FELICITY, CA 92283
IMPERIAL COUNTY

SHEET TITLE
OVERALL SITE PLAN

SHEET NUMBER
A1



SCALE: 1"=200'-0" (TYP)
DATE: 10/04/23



OVERALL SITE PLAN

EEC ORIGINAL PKG

PC ORIGINAL PKG



WESTCHESTER SERVICES, LLC
 404 FOX GLEN
 BARRINGTON, IL 60010
 TEL: 847.377.4400 FAX: 847.377.4400
 ee@westchester/lcc.com
 WWW.WESTCHESTER.COM

PRELIMINARY DRAWINGS
 NOT FOR CONSTRUCTION

DRAWN BY: MN
 CHECKED BY: RSM

REV	DATE	DESCRIPTION
A	10/04/23	PRELIMINARY

THESE DRAWINGS WERE PREPARED BY AN ENGINEER LICENSED IN THE STATE OF CALIFORNIA. THE ENGINEER'S SIGNATURE AND SEAL ARE REQUIRED FOR THESE DRAWINGS TO BE USED FOR CONSTRUCTION.

SITE NAME:
 WINTERHAVEN
 SITE ADDRESS:
 637-639 SIDERINDER RD N
 FELICITY, CA 92283
 IMPERIAL COUNTY

SHEET TITLE
**COMPOUND PLAN
 & LEGEND**

SHEET NUMBER
A1.1

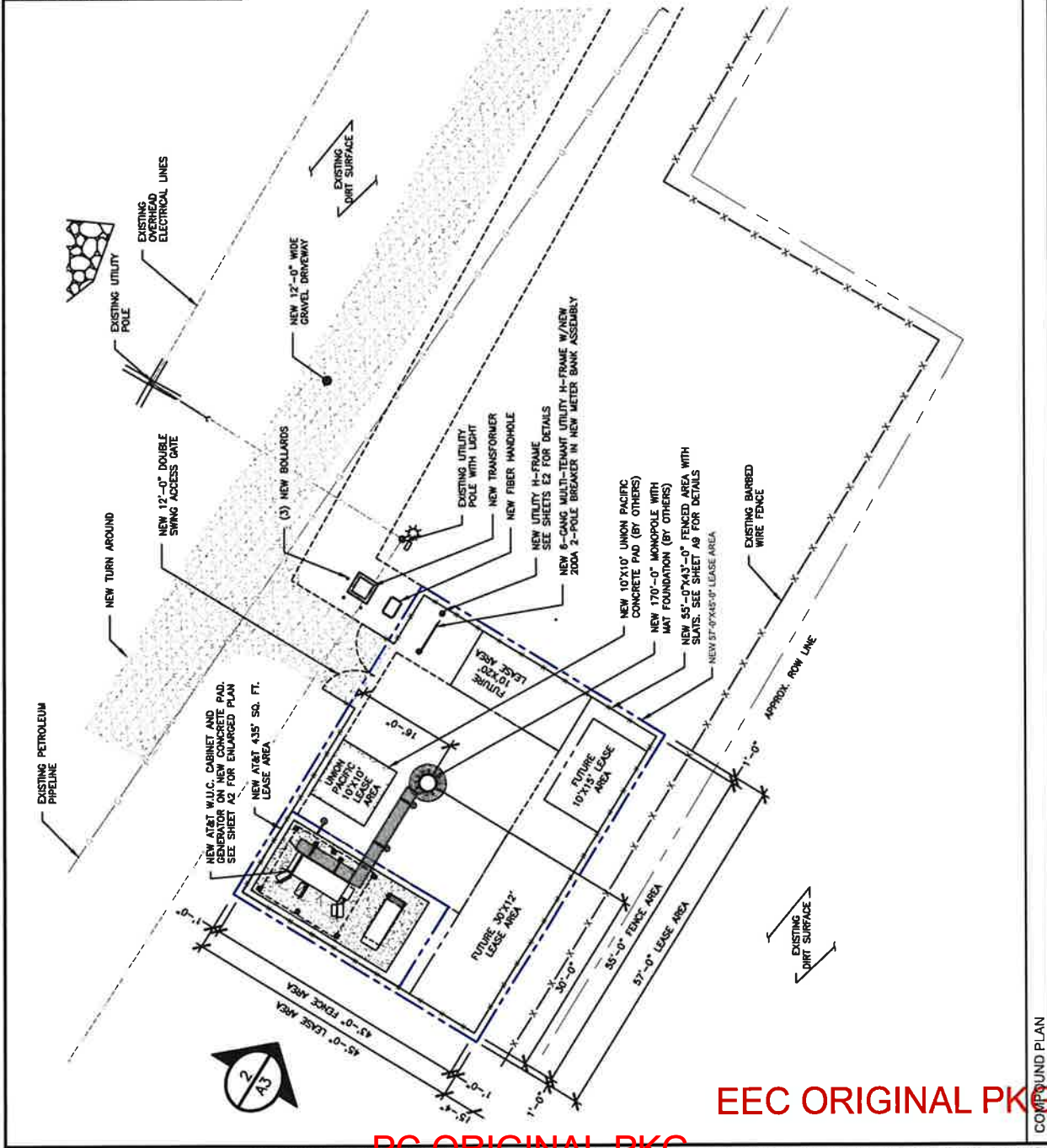
- ELEVATIONS ARE ABOVE MEAN SEA LEVEL.
- DO NOT SCALE DIMENSIONS FROM THIS DRAWING.
- ALL EXISTING RECORDED EASEMENTS ARE INDICATED ON THIS DRAWING. THE USER OF THESE DRAWINGS SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY KNOWLEDGE PER VISUAL INSPECTION, SURVEY DRAWINGS, AND INFORMATION RECEIVED FROM AT&T WIRELESS.
- REFER TO SPT AND SP2 FOR EROSION CONTROL AND SOIL STABILIZATION METHODS IF NECESSARY.

GENERAL NOTES 3

BASE OF TOWER
 LOCATION:
 ELEVATION: 265.1'
 LATITUDE: 32° 45' 01.52" N (32.750541°)
 LONGITUDE: 114° 45' 20.80" W (-114.753777°)

HORIZONTAL DATUM: NAD83
 VERTICAL DATUM: NAVD83

SURVEY BENCHMARK/PROJECT DATUM 2



SCALE: 1"=40' (1:1600)
 NORTH

COMPOUND PLAN 1

PC ORIGINAL PKG

EEC ORIGINAL PKG

THE INFORMATION CONTAINED IN THIS SET OF CONSTRUCTION DOCUMENTS IS PROPRIETARY BY THE ENGINEER AND SHALL BE KEPT IN CONFIDENTIALITY. ANY REPRODUCTION OR DISSEMINATION OF THESE DOCUMENTS WITHOUT THE WRITTEN PERMISSION OF THE ENGINEER IS STRICTLY PROHIBITED.



PRELIMINARY DRAWINGS
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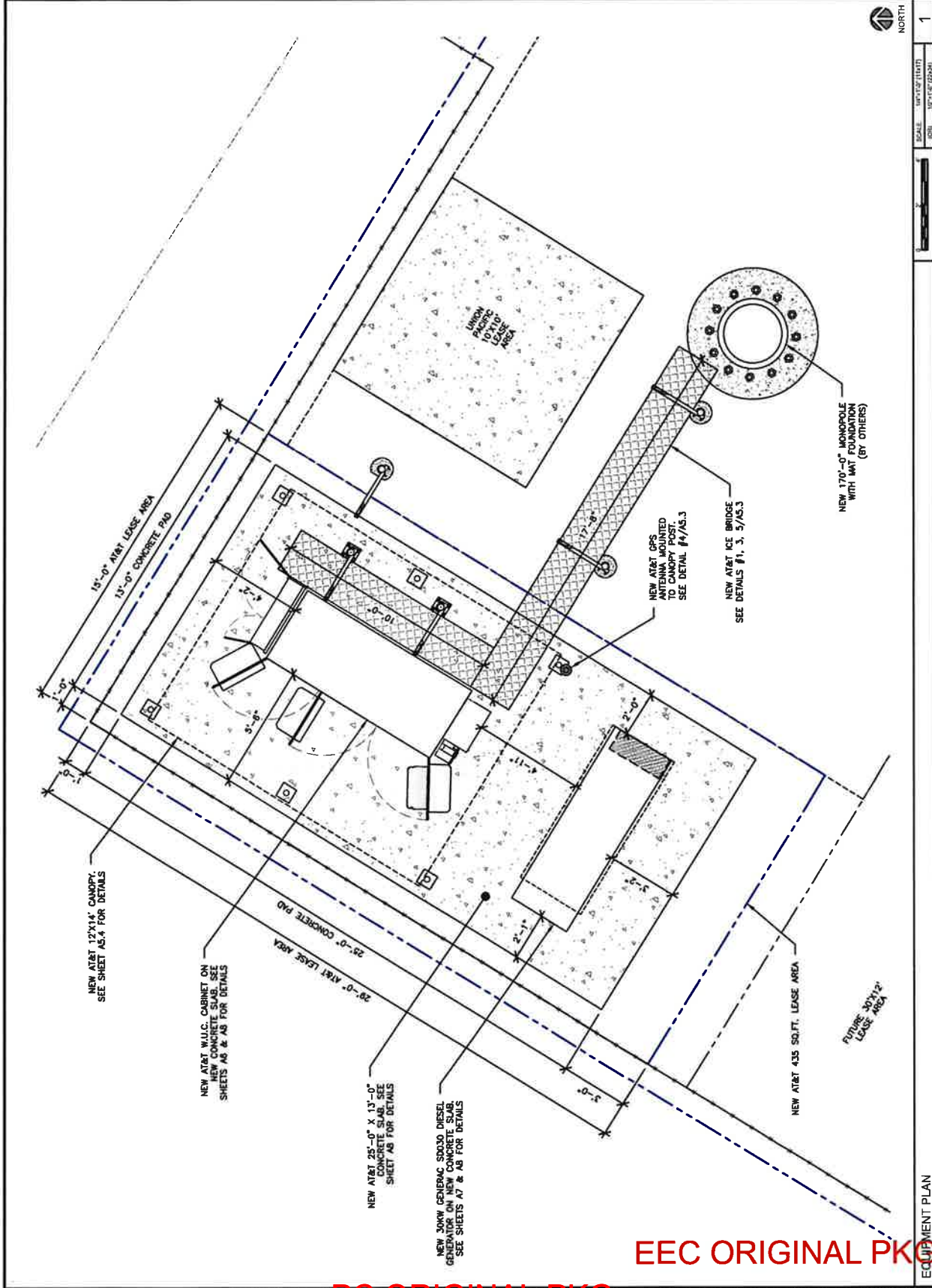
REV	DATE	DESCRIPTION
A	8/20/23	PRELIMINARY

THESEY CERTIFY THAT THESE PLANS WERE PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED ARCHITECT UNDER THE LAWS OF THE STATE OF CALIFORNIA.

SITE NAME:
WINTERHAVEN
SITE ADDRESS:
637-639 SIDEWINDER RD N
FELICITY, CA 92283
IMPERIAL COUNTY

SHEET TITLE
EQUIPMENT PLAN

SHEET NUMBER
A2



SCALE: 1/8" = 1'-0"

NORTH

1

EEC ORIGINAL PKG

PC ORIGINAL PKG

THE INFORMATION CONTAINED IN THIS SET OF CONSTRUCTION DOCUMENTS IS PROPRIETARY BY NATURE AND IS THE PROPERTY OF THE ARCHITECT. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREIN. ANY REUSE OR MODIFICATION OF THESE DOCUMENTS WITHOUT THE WRITTEN CONSENT OF THE ARCHITECT IS STRICTLY PROHIBITED.

CITY SWITCH

AT&T

LCC TELECOM SERVICES

WESTCHESTER SERVICES, LLC
 BARRINGTON, IL 60010
 TEL: 847-271-0000
 FAX: 847-271-0000
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PRELIMINARY DRAWINGS
 NOT FOR CONSTRUCTION

REV	DATE	DESCRIPTION
A	10/04/02	PRELIMINARY

DRAWN BY: MN
 CHECKED BY: RSM

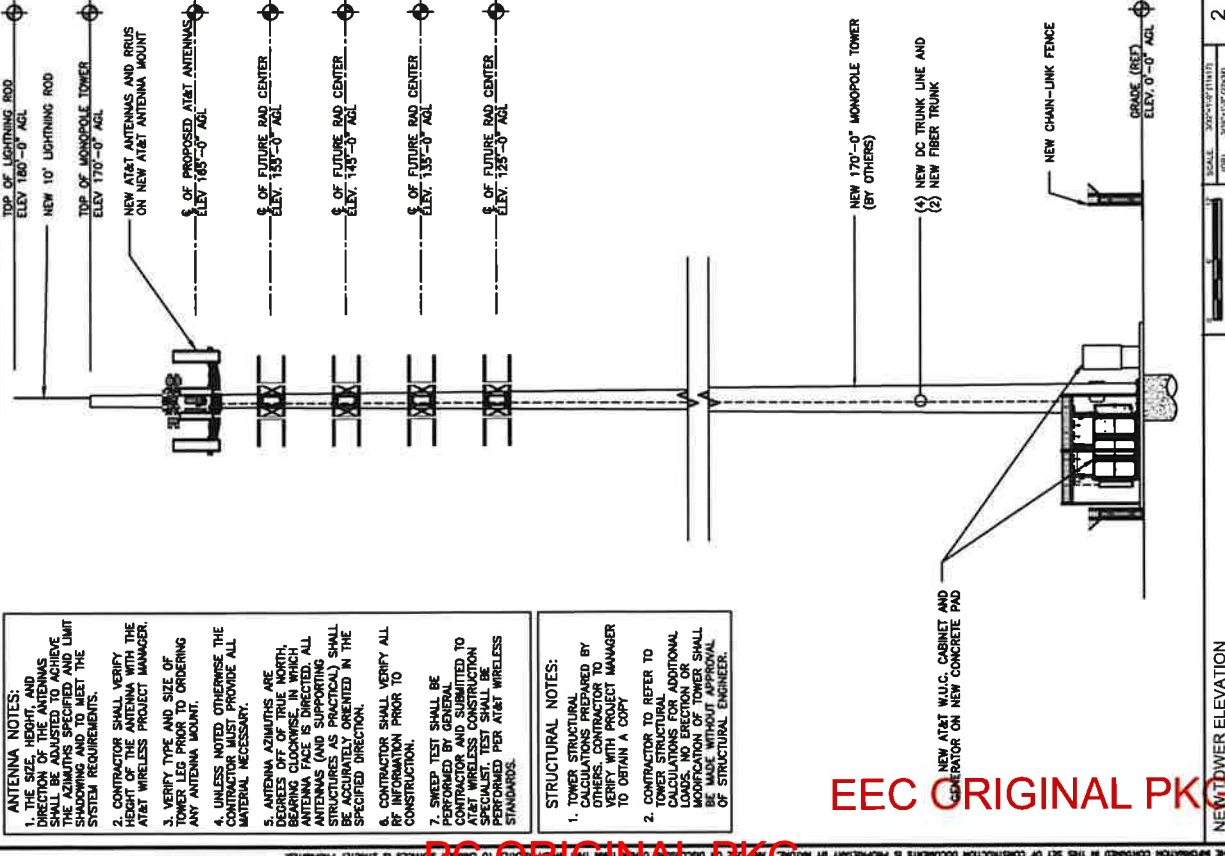
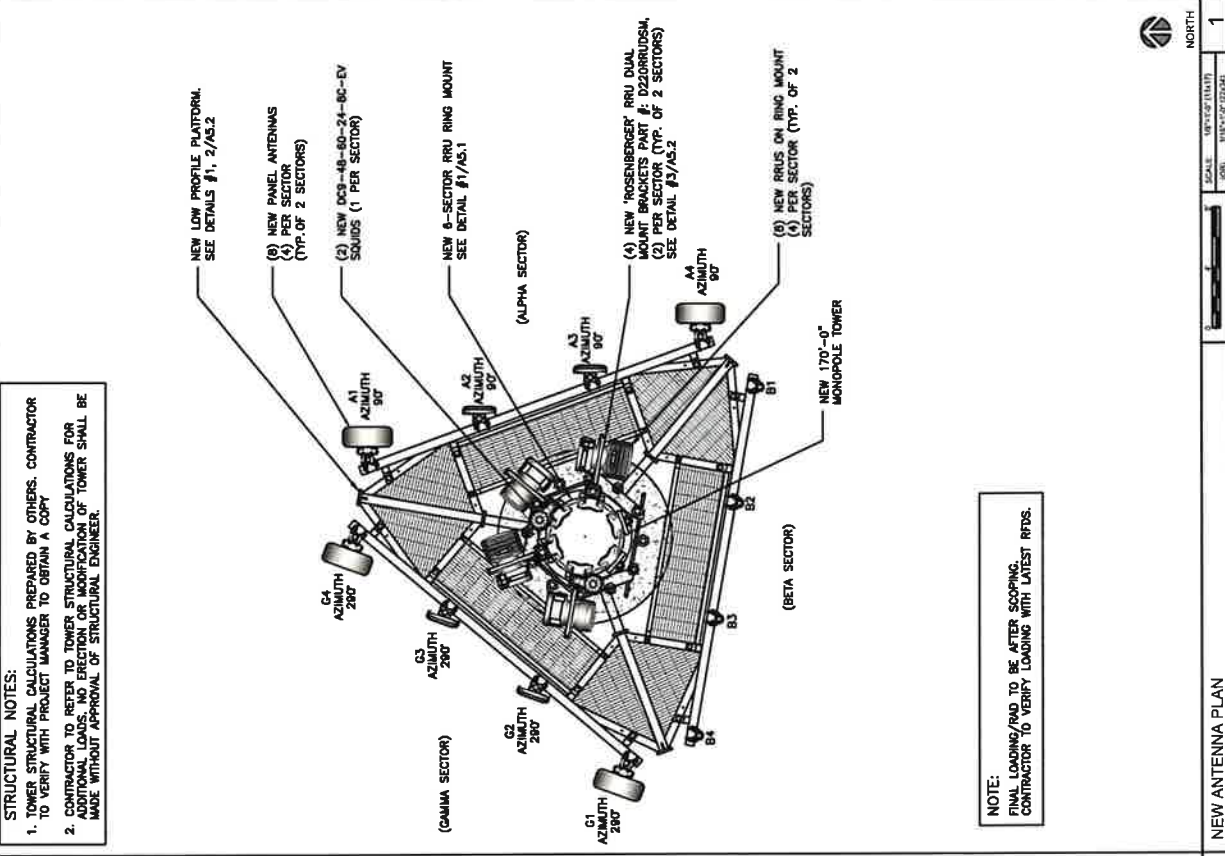
1. I HEREBY CERTIFY THAT THESE PLANS WERE PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED ARCHITECT UNDER THE LAWS OF THE STATE OF ILLINOIS.

SITE NAME:
 WINTERHAVEN
 SITE ADDRESS:
 637-638 SIDEWINDER RD N
 FELICITY, CA 92283
 IMPERIAL COUNTY

TOWER ELEVATION & ANTENNA PLAN

SHEET TITLE

SHEET NUMBER
A3



PC ORIGINAL PKG

EEC ORIGINAL PKG


SCALE: 1/8"=1'-0" (VERTICAL)
 1/4"=1'-0" (HORIZONTAL)


SCALE: 3/8"=1'-0" (VERTICAL)
 3/16"=1'-0" (HORIZONTAL)


NORTH


NEW ANTENNA PLAN 1

NEW TOWER ELEVATION 2









PRELIMINARY DRAWINGS
NOT FOR CONSTRUCTION

CHECKED BY: _____ MN
DATE: _____ RSM

REV	DATE	DESCRIPTION
A	10/04/23	PRELIMINARY

THESE PANS WERE
DESIGNED BY THE
SUPERVISOR AND THEY ARE A DAILY REGISTERED
ARCHITECT UNDER THE STATE OF
CALIFORNIA.

SITE NAME
WINTERHAVEN
SITE ADDRESS:
637-658 SIDEWINDER RD N
FELICITY, CA 92283
IMPERIAL COUNTY

SHEET TITLE
SCHEDULE & CABLE NOTES
SHEET NUMBER
A4

SECTOR	POS	TECH	ANTENNA	ANTENNA HEIGHT	AZ	TWA/RRU	DC SURGE AND DISTRIBUTION	CABLE TYPE	CABLE LENGTH	DOWN TILTS
A	1	LTE 700/1900/AWS	COMMSCOPE NNH4-65B-R6 (N)	90'	(1) ERICSSON 4449 B5/B12 (N)* (1) ERICSSON RRUS-32 B2 (N)* (1) ERICSSON 4426 B86A (N)* *ON DUAL MOUNT BRACKET	(1) DC9-48-80-24-BC-EV (N) FULL SQUJIP* *ON ANTENNA ARM	(2) 6 AWG DC TRUNK LINE (N) (1) 24 PAIR FIBER (N)	225'	0	
	2	LTE	POWERWAVE 7760 (N)	165'-0" AGL	-	-	-	-	0	
	3	LTE	POWERWAVE 7760 (N)	-	-	-	-	-	0	
	4	UMTS 700	COMMSCOPE NNH4-65B-R4 (N)	90'	(1) ERICSSON 4478 B14 (N)* *ON DUAL MOUNT BRACKET	-	-	-	0	
B	1	-	-	-	-	-	-	-	-	
	2	-	-	-	-	-	-	-	-	
	3	-	-	-	-	-	-	-	-	
	4	-	-	-	-	-	-	-	-	
C	1	LTE 700/1900/AWS	COMMSCOPE NNH4-65B-R6 (N)	290'	(1) ERICSSON 4449 B5/B12 (N)* (1) ERICSSON RRUS-32 B2 (N)* (1) ERICSSON 4426 B86A (N)* *ON DUAL MOUNT BRACKET	(1) DC9-48-80-24-BC-EV (N) FULL SQUJIP* *ON ANTENNA ARM	(2) 6 AWG DC TRUNK LINE (N) (1) 24 PAIR FIBER (N)	225'	0	
	2	LTE	POWERWAVE 7760 (N)	165'-0" AGL	-	-	-	-	0	
	3	LTE	POWERWAVE 7760 (N)	-	-	-	-	-	0	
	4	UMTS 700	COMMSCOPE NNH4-65B-R4 (N)	290'	(1) ERICSSON 4478 B14 (N)* *ON DUAL MOUNT BRACKET	-	-	-	0	

CONTRACTOR IS TO REFER TO ATRTS MOST CURRENT RADIO FREQUENCY DATA SHEET (RFDS) PRIOR TO CONSTRUCTION.

CABLE LENGTHS WERE DETERMINED BASED ON THE DESIGN DRAWING. CONTRACTOR TO VERIFY ACTUAL LENGTH DURING PRE-CONSTRUCTION WALK.

CONTRACTOR TO USE ROSENBERGER FIBER LINE HANGER COMPONENTS (OR ENGINEER APPROVED EQUAL).

SCALE N.T.S. 3

CABLE MARKING LOCATIONS TABLE

LOCATIONS

1 EACH TOP-JUMPER SHALL BE COLOR CODED WITH (1) SET OF 3" WIDE BANDS.

2 EACH MAIN COAX SHALL BE COLOR CODED WITH (1) SET OF 3" WIDE BANDS NEAR THE TOP JUMPER CONNECTION AND WITH (1) SET OF 3" WIDE BANDS NEAR THE TRANSMITTER BUILDING.

3 CABLE ENTRY POINT ON THE INTERIOR OF THE SHIELDER.

4 ALL BOTTOM JUMPERS SHALL BE COLOR CODED WITH (1) SET OF 3/4" WIDE BANDS ON EACH END OF THE BOTTOM JUMPER.

5 ALL BOTTOM JUMPERS SHALL BE COLOR CODED WITH (1) SET OF 3/4" WIDE BANDS ON EACH END OF THE BOTTOM JUMPER.

THE ANTENNA SYSTEM COAX SHALL BE LABELED WITH VINYL TAPE BASED ON EXISTING COLORED TAPES-RED, BLUE, GREEN, YELLOW, ORANGE, BROWN, WHITE, AND VIOLET. THESE TAPES MUST BE 3/4" WIDE & UV RESISTANT SUCH AS SCOTCH 35 VINYL ELECTRICAL COLOR CODING TAPE AND SHOULD BE READILY AVAILABLE TO THE ALL TAPE ELECTRICIAN OR CONTRACTOR ON SITE. ALL TAPE SHALL BE WRAPPED IN 3" WIDE BANDS OF (3) THREE WRAPS OF TAPE AND SHALL BE NEATLY TRIMMED AND SMOOTHED OUT SO AS TO AVOID UNRAVELING.

USING COLOR BANDS ON THE CABLES, MARK ALL CABLES BY SECTOR AND CABLE NUMBER AS SHOWN ON CABLE COLOR CHART.

WHEN AN EXISTING COAXIAL LINE THAT IS INTENDED TO BE A SHARED LINE BETWEEN TECHNOLOGIES IS ENCOUNTERED, THE CONTRACTOR SHALL REMOVE THE EXISTING COLOR CODING SCHEME AND TAGGING SCHEME IN THE ABSENCE OF AN EXISTING COLOR CODING AND TAGGING SCHEME. WHEN INSTALLING PROPOSED COAXIAL CABLES, THE GUIDELINE SHALL BE IMPLEMENTED AT THAT REGARDLESS OF TECHNOLOGY.

COLOR BANDS INSTALLED AT THE TOP OF THE TOWER SHALL BE A MINIMUM OF 3" WIDE AND SHALL HAVE A MINIMUM OF 3/4" OF SPACE BETWEEN EACH COLOR.

COLOR CODES SHALL BE INSTALLED SO AS TO INTERMIX WITH ONE ANOTHER FROM TOP-TO-SIDE.

IF EXISTING CABLES AT THE SITE ALREADY HAVE A COLOR CODING SCHEME AND THEY ARE NOT INTENDED TO BE RELEASED OR SHARED WITH THE PROPOSED COLOR CODING SCHEME, THE COLOR CODING SCHEME SHALL REMAIN UNTOUCHED.

SCALE N.T.S. 2

SCHEDULE

ANTENNA & CABLE INFO.

* INCLUDES SAFETY FACTOR OF 20 FT. (10 FT. AT BOTH ENDS OF CABLE RUN)
CONTRACTOR TO VERIFY RF DATA WITH AT&T WIRELESS CONSTRUCTION MANAGER AND/OR RF ENGINEER PRIOR TO INSTALLATION

Site Fiber Color Code Chart

Sector A		Sector B		Sector C	
Fiber Cable Pair #	Function	Fiber Cable Pair #	Function	Fiber Cable Pair #	Function
1	LTE-700-A-RRH-A1	5	LTE-700-B-RRH-B1	9	LTE-700-C-RRH-C1
2	LTE-AWS-A-RRH-A2	6	LTE-AWS-B-RRH-B2	10	LTE-AWS-C-RRH-C2
3	LTE/UMTS-B50/1900-A-RRH-A3	7	LTE/UMTS-B50/1900-B-RRH-B3	11	LTE/UMTS-B50/1900-C-RRH-C3
4	SECTOR A Splice	8	SECTOR B Splice	12	SECTOR C Splice

■ = No Tape Band

CABLE MARKING COLOR CONNECTION TABLE

Alpha A, 2, 4	A1-1	A1-2	A1-3	A1-4	A1-5	A1-6	A1-7	A1-8	A1-9	A1-10	A1-11	A1-12	A1-13	A1-14	A1-15	A1-16	A1-17	A1-18	A1-19	A1-20
RED	RED	RED	RED	RED	RED	RED	RED	RED	RED	RED	RED	RED	RED	RED	RED	RED	RED	RED	RED	RED
WHITE	WHITE	WHITE	WHITE	WHITE	WHITE	WHITE	WHITE	WHITE	WHITE	WHITE	WHITE	WHITE	WHITE	WHITE	WHITE	WHITE	WHITE	WHITE	WHITE	WHITE
ORANGE	ORANGE	ORANGE	ORANGE	ORANGE	ORANGE	ORANGE	ORANGE	ORANGE	ORANGE	ORANGE	ORANGE	ORANGE	ORANGE	ORANGE	ORANGE	ORANGE	ORANGE	ORANGE	ORANGE	ORANGE
BROWN	BROWN	BROWN	BROWN	BROWN	BROWN	BROWN	BROWN	BROWN	BROWN	BROWN	BROWN	BROWN	BROWN	BROWN	BROWN	BROWN	BROWN	BROWN	BROWN	BROWN
SLATE	SLATE	SLATE	SLATE	SLATE	SLATE	SLATE	SLATE	SLATE	SLATE	SLATE	SLATE	SLATE	SLATE	SLATE	SLATE	SLATE	SLATE	SLATE	SLATE	SLATE
YELLOW	YELLOW	YELLOW	YELLOW	YELLOW	YELLOW	YELLOW	YELLOW	YELLOW	YELLOW	YELLOW	YELLOW	YELLOW	YELLOW	YELLOW	YELLOW	YELLOW	YELLOW	YELLOW	YELLOW	YELLOW
BLUE	BLUE	BLUE	BLUE	BLUE	BLUE	BLUE	BLUE	BLUE	BLUE	BLUE	BLUE	BLUE	BLUE	BLUE	BLUE	BLUE	BLUE	BLUE	BLUE	BLUE
VIOLET	VIOLET	VIOLET	VIOLET	VIOLET	VIOLET	VIOLET	VIOLET	VIOLET	VIOLET	VIOLET	VIOLET	VIOLET	VIOLET	VIOLET	VIOLET	VIOLET	VIOLET	VIOLET	VIOLET	VIOLET
GREEN	GREEN	GREEN	GREEN	GREEN	GREEN	GREEN	GREEN	GREEN	GREEN	GREEN	GREEN	GREEN	GREEN	GREEN	GREEN	GREEN	GREEN	GREEN	GREEN	GREEN



PRELIMINARY DRAWINGS
NOT FOR CONSTRUCTION

CHECKED BY: MN
RSM

REV	DATE	DESCRIPTION
A	10/04/03	PRELIMINARY

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SITE NAME:
WINTERHAVEN
SITE ADDRESS:
637-639 SIDERINDER RD N
FELICITY, CA 92283
IMPERIAL COUNTY

SHEET TITLE
**ANTENNA, RRUS &
RAYCAP DETAILS**

SHEET NUMBER
A5

ERISSON RRUS 32 R2
DIMENSIONS, HAWK: 27.2"x12.1"x7.0"
WEIGHT, WITHOUT MOUNTING KIT: 24 kg (53 lbs)

RRU DETAIL SCALE: N.T.S. 2

MANUFACTURER: COMSCOPE
MODEL NO.: M444-650-04
WEIGHT: 11.3 LBS
HEIGHT: 14.1 INCHES
POLARIZATION: DUAL
FREQUENCIES: 800-2300MHz
CONNECTOR: 8 X 4.3-10 DM-F

FRONT VIEW
SIDE VIEW
BOTTOM VIEW

ERISSON RRUS 4448
DIMENSIONS, HAWK: 28"x15"x10"
WEIGHT, WITHOUT MOUNTING KIT: 85 lbs

RRU DETAIL SCALE: N.T.S. 4

MANUFACTURER: COMSCOPE
MODEL NO.: M444-650-08
WEIGHT: 11.3 LBS
HEIGHT: 14.1 INCHES
POLARIZATION: DUAL
FREQUENCIES: 800-2300MHz
CONNECTOR: 8 X 4.3-10 DM-F

FRONT VIEW
SIDE VIEW
BOTTOM VIEW

ERISSON RRUS 4478 B14
DIMENSIONS, HAWK: 18.1"x13.4"x8.28"
WEIGHT, WITHOUT MOUNTING KIT: 27 KG (59.4 LBS)
STACKING OF RRUS IS NOT PERMITTED.
NO PAINTING OF RRUS IS ALLOWED.

RRU DETAIL SCALE: N.T.S. 6

MANUFACTURER: POWERBE
MODEL NO.: 77000
WEIGHT: 11.3 LBS
HEIGHT: 14.1 INCHES
POLARIZATION: DUAL
FREQUENCIES: 1710-1880MHz
CONNECTOR: 4 X 4.3-10 DM-F

FRONT VIEW
SIDE VIEW
BOTTOM VIEW

ERISSON RRUS 4428 B48
DIMENSIONS, HAWK: 14.96"x13.19"x5.8"
WEIGHT, WITHOUT MOUNTING KIT: 421 kg (48.4 lbs)

RRU DETAIL SCALE: N.T.S. 8

RAYCAP DCS OVER VOLTAGE PROTECTOR WITH DOME COVER
RAYCAP SUPPLIED MOUNTING BRACKETS
DOME SECURING BAND
CLIP FOR ATTACHING DCS (OVP) TO BASE ASSEMBLY (TYP)
RAYCAP SUPPLIED BASE ASSEMBLY
POWER CABLE INGRESS PORTS
CABLE TIE BAR

REC ORIGINAL PKG
PC ORIGINAL PKG



PRELIMINARY DRAWINGS
NOT FOR CONSTRUCTION

DRAWN BY: MN
RSB

REV	DATE	DESCRIPTION
A	10/04/23	PRELIMINARY

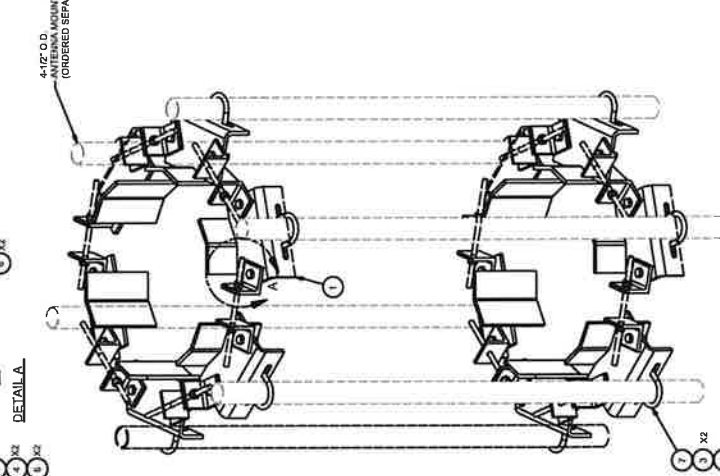
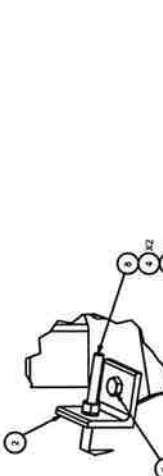
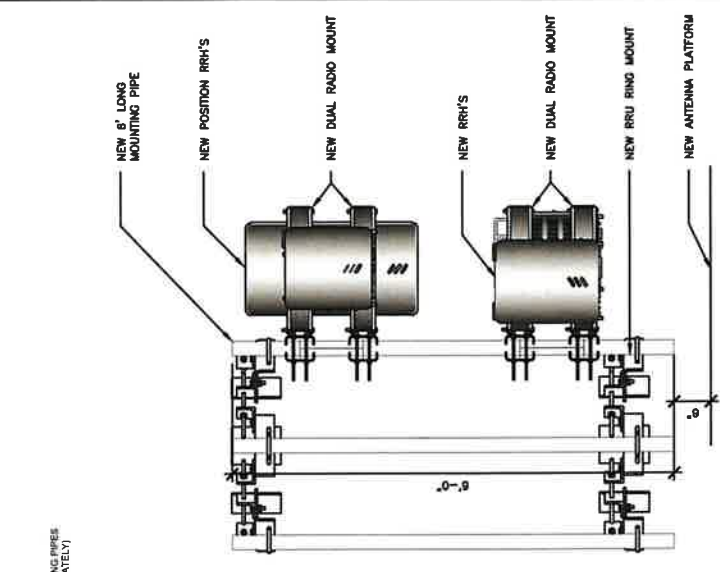
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SITE NAME:
WINTERHAVEN
SITE ADDRESS:
637-659 SIDERINDER RD N
FELICITY, CA 92283
IMPERIAL COUNTY

SHEET TITLE
DETAILS

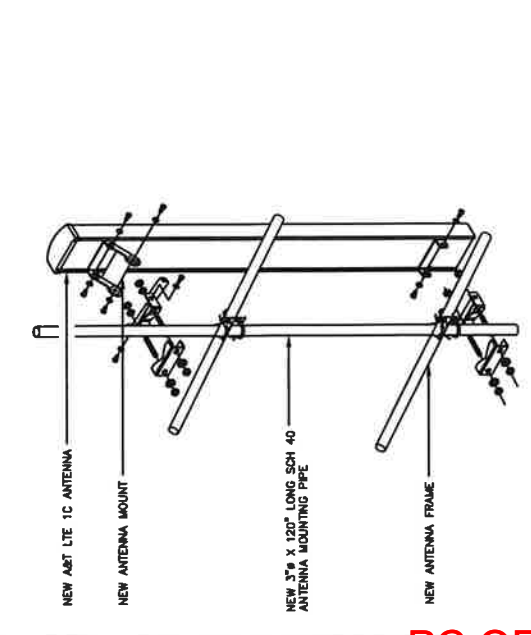
SHEET NUMBER
A5.1

ITEM #	PART NO.	DESCRIPTION	LENGTH	UNIT WT.	NET WT.
1	SHDCAW	CHAIN MOUNT WELDMENT	14.59	175.00	
2	SHDCAW	CHAIN MOUNT TIGHTENER BRACKET	3.00	1.84	44.18
3	G1X2W	1/2" HOD USS FLATWASHER	0.03	0.02	0.62
4	G1X2W	1/2" HOD USS FLATWASHER	0.03	0.01	1.03
5	G1X2W	1/2" X 2" HOD HEX BOLT GRD	2.00	0.18	4.22
6	G1X2W	1/2" HOD HEAVY 2" HEX NUT	0.07	0.07	5.15
7	X-301713	1/2" X 2.012" X 4.1/2" X 2" DUBAL (TODL)	0.73	0.73	8.78
8	G1X2W	1/2" X 2" HOD HEX BOLT GRD	0.03	0.03	0.03
9	G1X2W	1/2" X 2" HOD HEX BOLT GRD	0.03	0.03	0.03
10	G1X2W	1/2" X 2" HOD HEX BOLT GRD	0.03	0.03	0.03
11	G1X2W	1/2" X 2" HOD HEX BOLT GRD	0.03	0.03	0.03
12	G1X2W	1/2" X 2" HOD HEX BOLT GRD	0.03	0.03	0.03
TOTAL WT. #				170.41	

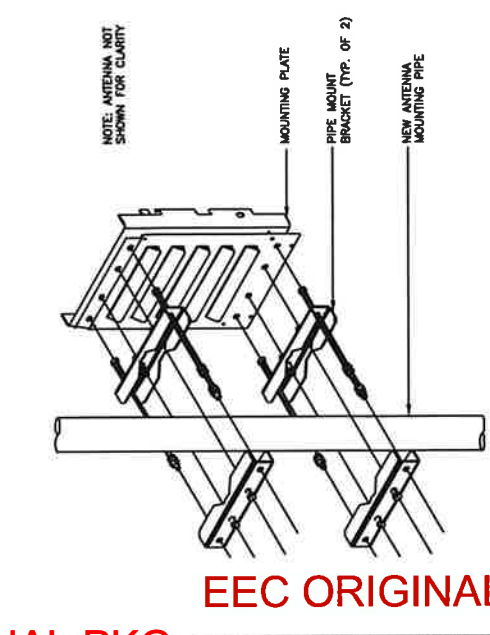


DESCRIPTION:	6 SIDED MONOPOLE MOUNT FOR ROUND OR POLYGON POLES 17-1/2" TO 56" DIA.
DATE:	4/14/2014
DESIGNED BY:	CEK
CHECKED BY:	CUSTOMER
DATE APPROVAL:	BMC 4/16/2014
PROJECT NO.:	6C-HMT
DRAWING NO.:	6C-HMT

TOLERANCE NOTES
DIMENSIONS UNLESS OTHERWISE NOTED ARE:
DRILLED AND GAS CUT HOLES (± 0.005); NO CORING OF HOLES
ALL OTHER MACHINING (± 0.007)
ALL OTHER ASSEMBLY (± 0.007)



TYPICAL ANTENNA MOUNT DETAIL



TYPICAL RRU MOUNTING DETAIL

SCALE: N.T.S. 3

SCALE: N.T.S. 2

RRU RING MOUNT DETAIL

RRU MOUNTING DETAIL

PC ORIGINAL PKC

EEC ORIGINAL PKC



PRELIMINARY DRAWINGS
NOT FOR CONSTRUCTION

CHECKED BY: MN RSM

DRAWN BY: MN RSM

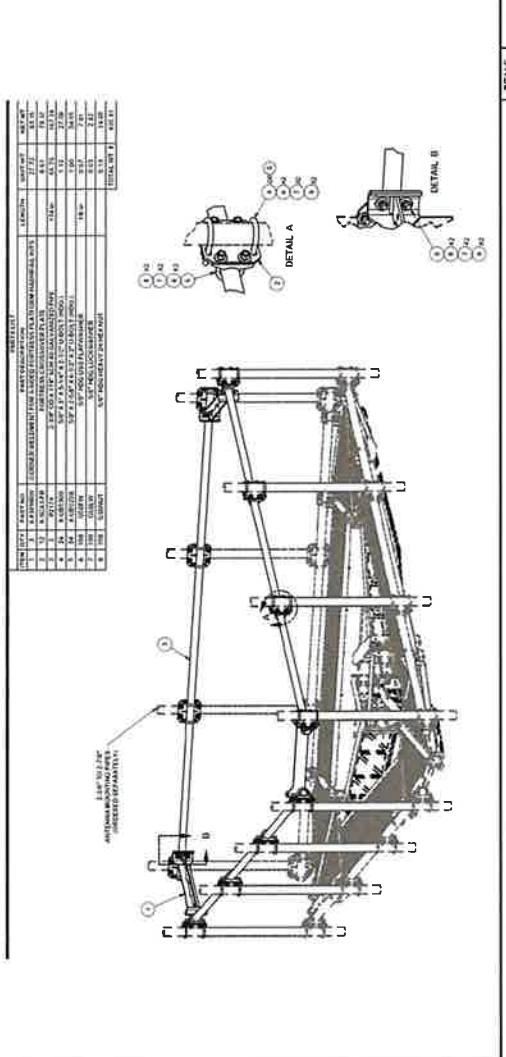
REV	DATE	DESCRIPTION
A	10/04/23	PRELIMINARY

I HEREBY CERTIFY THAT THESE PLANS WERE PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER IN THE STATE OF CALIFORNIA.

SITE NAME:
WINTERHAVEN
SITE ADDRESS:
637-639 SIDERINDER RD N
FELICITY, CA 92283
IMPERIAL COUNTY

SHEET TITLE
DETAILS

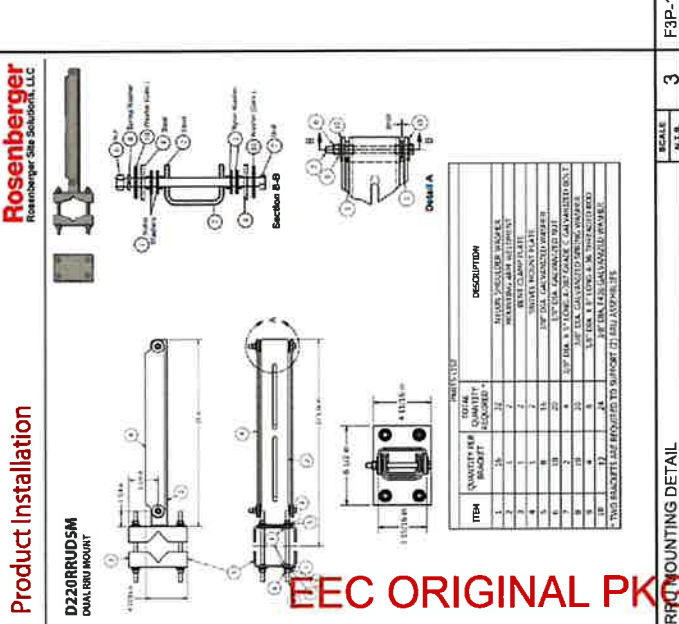
SHEET NUMBER
A5.2



4 F3P-HRK12 HANDRAIL KIT DETAIL SCALE: N.T.S. 2

ITEM	QUANTITY PER FRAME	DESCRIPTION
1	1	8.5\"/>

3 F3P-12W PLATFORM DETAIL SCALE: N.T.S. 1



ITEM	QUANTITY PER FRAME	DESCRIPTION
1	1	8.5\"/>

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PC ORIGINAL PKG

REC ORIGINAL PKG



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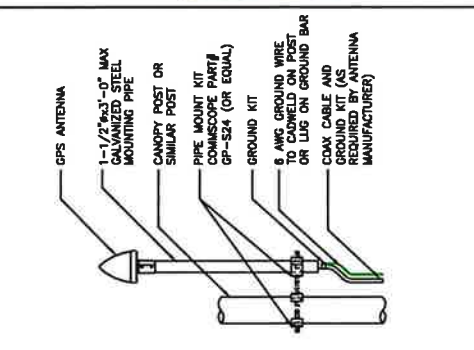
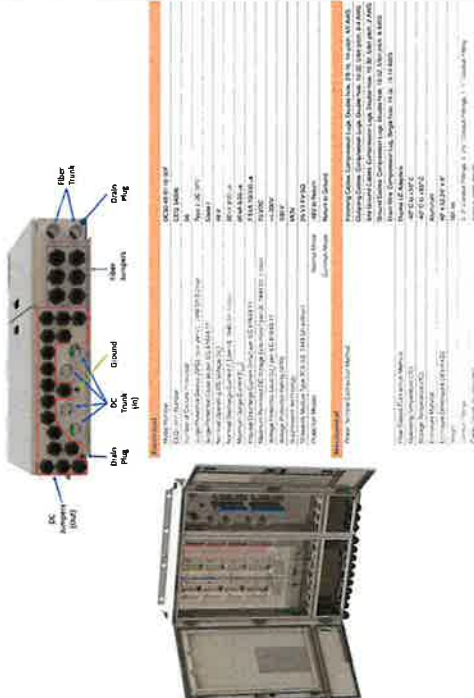
REV	DATE	DESCRIPTION
A	10/20/22	PRELIMINARY

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WINTERHAVEN
SITE ADDRESS:
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FELICITY, CA 92283
IMPERIAL COUNTY

SHEET TITLE
DETAILS

SHEET NUMBER
A5.3



NOT USED

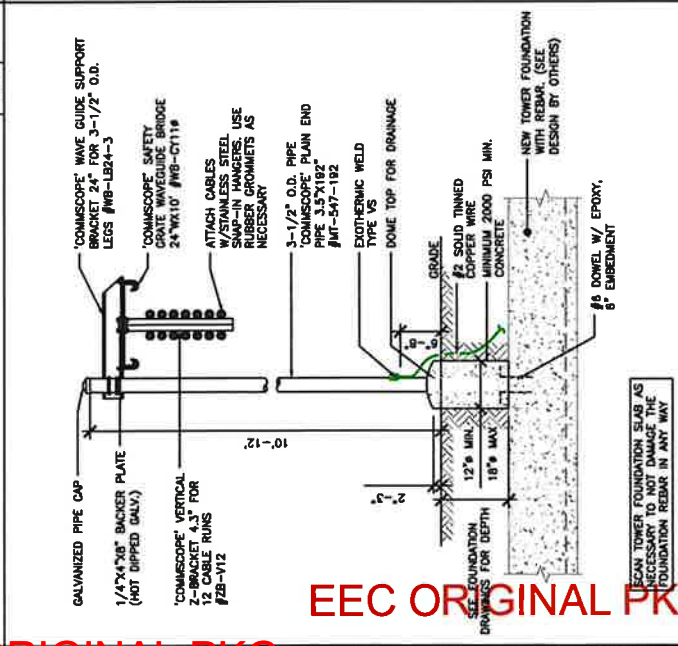
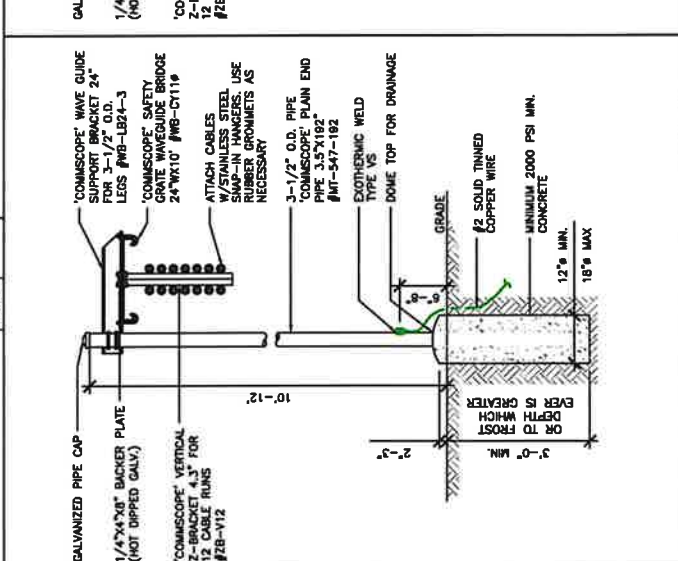
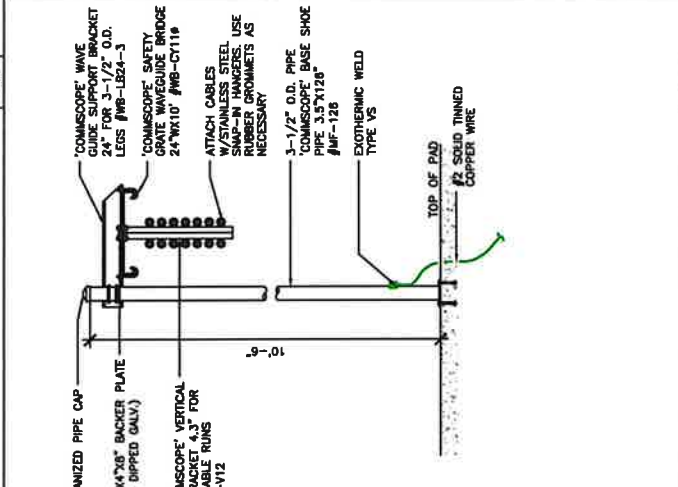
SCALE: N.T.S. 2

DC50-48-60-96-5DF DETAIL

SCALE: N.T.S. 4

GPS ANTENNA DETAIL

SCALE: N.T.S. 6



SCALE: N.T.S. 1

ICE BRIDGE DETAIL ON PAD

SCALE: N.T.S. 3

ICE BRIDGE DETAIL

SCALE: N.T.S. 5

ICE BRIDGE DETAIL OVER MAT FOUNDATION

EEC ORIGINAL PKC

THE INFORMATION CONTAINED IN THIS SET OF CONSTRUCTION DOCUMENTS IS PREPARED BY ENGINEERS AND ARCHITECTS REGISTERED IN THE STATE OF FLORIDA. IT IS THE RESPONSIBILITY OF THE USER TO OBTAIN ALL NECESSARY PERMITS AND TO VERIFY ALL CONDITIONS AND REQUIREMENTS AS SHOWN ON THESE DRAWINGS.



PRELIMINARY DRAWINGS
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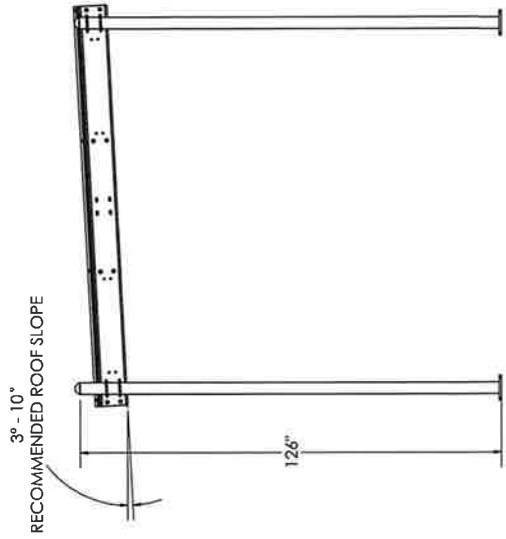
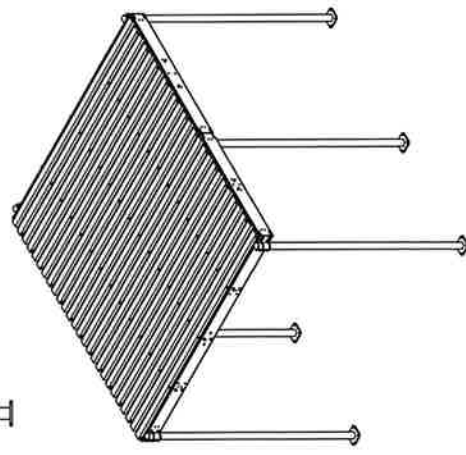
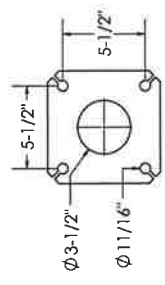
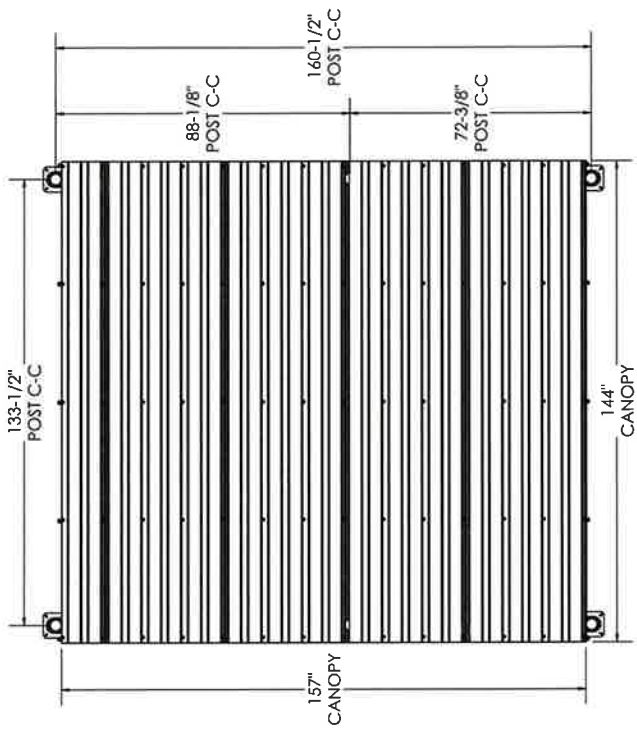
REV	DATE	DESCRIPTION
A	10/04/23	PRELIMINARY

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SITE NAME:
WINTERHAVEN
SITE ADDRESS:
637-639 SIDERWINDER RD N
IMPERIAL COUNTY

SHEET TITLE
CANOPY DETAILS

SHEET NUMBER
A5.4



ELEVATION VIEW

PV-WC1214-B

6-POST WEATHER CANOPY BASE KIT
WEIGHT: 1904 LBS
BASE ANCHORS AND FOUNDATION NOT INCLUDED

SEE DRAWING WCEQ-ENG-01 FOR ADDITIONAL DETAILS

REV	DATE	DESCRIPTION
4		07_Platforms & Canopies
3		01_Canopies
2		PV-WC
1		DJN
0	12/2/21	INITIAL RELEASE

PERFECT VISION
WEATHER CANOPY
PROJECT NUMBER
WC1214-ENG-R0
DATE
12/2/21
SCALE
N.T.S.
SHEET NUMBER
1



PRELIMINARY DRAWINGS
NOT FOR CONSTRUCTION

CHECKED BY: MN
RSM

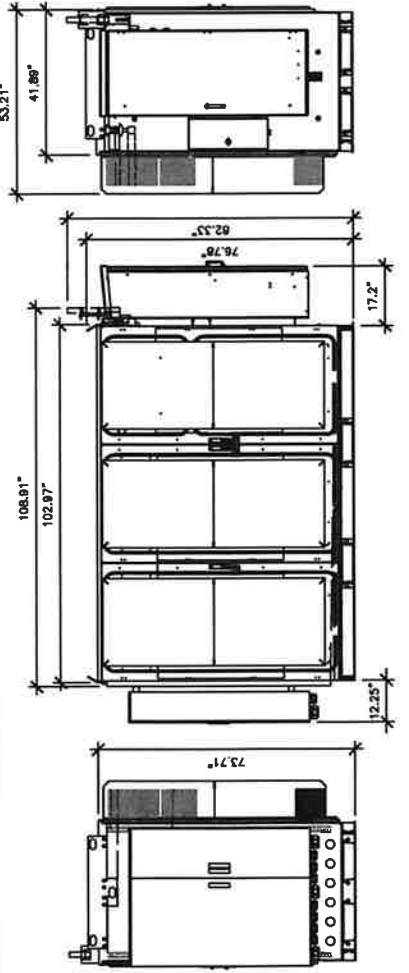
REV	DATE	DESCRIPTION
A	08/20/23	PRELIMINARY

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SITE NAME:
WINTERHAVEN
SITE ADDRESS:
637-689 SIDERWINDER RD N
FELICITY, CA 92283
IMPERIAL COUNTY

SHEET TITLE
**WALK-UP
CABINET DETAILS**

SHEET NUMBER
A6

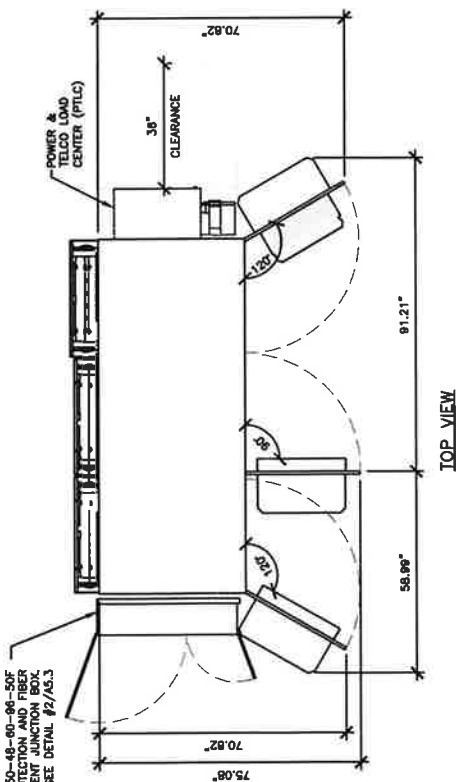


RIGHT VIEW

FRONT VIEW

LEFT VIEW

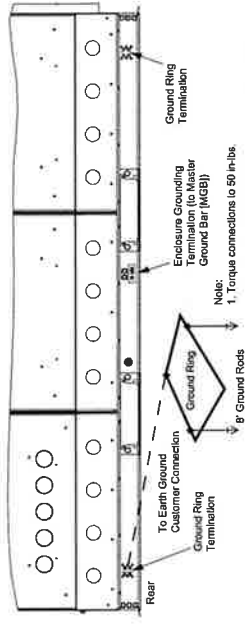
RAYCAP DC50-48-60-96-50F
SURGE PROTECTION AND FIBER
MANAGEMENT JUNCTION BOX
SEE DETAIL #2/AS.3



TOP VIEW

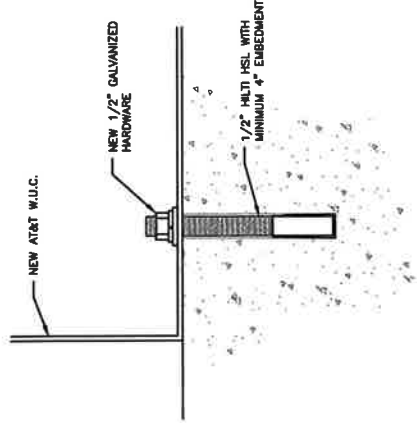
SPECIFICATIONS:

VENDOR:	VERTY 3-BAY ENCLOSURE
MODEL #:	F2020030
DIMENSIONS (MMWD):	82.33" x 102.97" x 53.21"
WEIGHT:	SHIPPING: 1,842 lbs NET: 2,842 lbs
ON PAD:	4,442 lbs (incl. BATTERIES & 1,200 lbs CUSTOMER EQUIP)
COLOR:	COOL WHITE



Note:
1. Torque connections to 90 in-lbs.
2. Ground Rods
3. At the center of the enclosure's mounting panel is a grounding location that provides 3/8-16 threaded holes for installation of a customer provided two-hole lug with 3/8-inch mounting holes on 1-inch spacing. This is used to provide a connection from the mounting plinth to the MGB. Also provided on the rear of the enclosure's mounting plinth, at each end, are ground pad termination points that provide 3/8-16 threaded holes for installation of customer provided two-hole lugs with 3/8-inch mounting holes on 1-inch spacing.

CABINET GROUNDING DETAILS



ANCHOR DETAIL

NO SCALE 1

NO SCALE 1

NO SCALE 2

NO SCALE 2

WALK-UP CABINET (W.U.C.) DETAIL

SD030 | 2.2L | 30 KW
INDUSTRIAL DIESEL GENERATOR SET
 EPA Certified Stationary Emergency

GENERAC INDUSTRIAL POWER



Standby Power Rating
 30 KW, 38 KVA, 60 Hz

Prime Power Rating*
 27 KW, 34 KVA, 60 Hz



*EPA Certified Prime output as indicated in the UL label on the generator.

Image credit: Illustration: Powerline Energy

Codes and Standards

Not all codes and standards apply to all configurations. Contact factory for details.

- UL
- UL2200, UL6200, UL1236, UL469, UL142
- CSA C22.2, ULC S601
- BS5514 and DIN 6271
- SAE J1349
- NFA 37, 70, 99, 110
- NEC700, 701, 702, 708
- ISO 3046, 7637, 8528, 9001
- NEMA ICS10, MG1, 250, ICS6, AB1
- ANSI C62.41

Powering Ahead

For over 60 years, Generac has provided innovative design and superior manufacturing.

Generac ensures superior quality by designing and manufacturing most of its generator components, including alternators, enclosures and base tanks, control systems and communications software.

Generac gensets utilize a wide variety of options, configurations and arrangements, allowing us to meet the standby power needs of practically every application.

Generac searched globally to ensure the most reliable engines power our generators. We choose only engines that have already been proven in heavy-duty industrial applications under adverse conditions.

Generac is committed to ensuring our customers' service support continues after their generator purchase.

EEC ORIGINAL PKG

SD030 | 2.2L | 30 KW
INDUSTRIAL DIESEL GENERATOR SET
 EPA Certified Stationary Emergency

GENERAC INDUSTRIAL POWER

APPLICATION AND ENGINEERING DATA

ENGINE SPECIFICATIONS

General	
Make	Perkins
EPA Emissions Compliance	Stationary Emergency
EPA Emissions Reference	See Emission Data Sheet
Cylinder #	4
Type	In-Line
Displacement - in ³ (l)	135 (2.2)
Bore - in (mm)	3.5 (86)
Stroke - in (mm)	3.2 (80)
Compression Ratio	23.3:1
Inlet Air Method	Turbocharged
Cylinder Head	Cast Iron
Piston Type	Aluminum
Crankshaft Type	Forged Steel
Engine Governing	Electronic Isochronous
Frequency Regulation (Steady State)	±0.5%
Lubrication System	
Oil Pump Type	Gear
Oil Filter Type	Foil Flow
Crankcase Capacity - qt (L)	11.2 (10.6)

Cooling System	
Cooling System Type	Closed Recirculatory
Water Pump Type	Pre-Lubed, Soil Sealing
Fan Type	Pusher
Fan Speed - RPM	1,500
Fan Diameter - in (mm)	16 (457)
Fuel System	
Fuel Type	Ultra Low Sulfur Diesel Fuel #2
Fuel Specifications	ASTM
Fuel Filter (if any)	5
Fuel Inlet Pump	Distribution Injector Pump
Inlet Filter Type	Mechanical
Inlet Filter Element	Mechanical
Fuel Supply Line - in (mm)	0.31 (7.9) ID
Fuel Return Line - in (mm)	0.2 (4.8) ID
Engine Electrical System	
System Voltage	12 VDC
Battery Charger Alternator	Standard
Battery Size	See Battery Index 01619765BF
Battery Voltage	12 VDC
Ground Polarity	Negative

ALTERNATOR SPECIFICATIONS

Standard Excitation	Rotational Brushless
Excitation	Single Sealed
Excitation Type	Direct via Flexible Disc
Excitation Class - Rotor	100%
Excitation Class - Stator	100%
Excitation Short Circuit Test	Yes
Total Harmonic Distortion	<5% (3 Phase OHM)
Telephone Interference Factor (TIF)	< 50
Regulation Accuracy (Steady State)	±0.25%



WESTCHESTER
 SPECIALTY SERVICES
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SITE ADDRESS:
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 FELICITY, CA 92283
 IMPERIAL COUNTY

SHEET TITLE
GENERATOR
DETAILS

SHEET NUMBER
A7

1 of 1
 SPEC SHEET

NO SCALE

GENERATOR DETAILS

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info@westchesterservices.com

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SHEET TITLE
GENERATOR DETAILS

SHEET NUMBER
A7.1

SD030 | 2.2L | 30 kW
INDUSTRIAL DIESEL GENERATOR SET
EPA Certified Stationary Emergency

INDUSTRIAL POWER

DIMENSIONS AND WEIGHTS*

OPEN SET

Run Time - Hours	Usable Capacity - Gal (L)	L x W x H - in (mm)	Weight - lbs (kg)
19	54 (204)	76.0 (1,930) x 37.4 (950) x 44.0 (1,118)	1,485 - 1,641 (671 - 745)
47	132 (500)	76.0 (1,930) x 37.4 (950) x 57.4 (1,459)	1,536 - 2,121 (695 - 962)
67	199 (749)	76.0 (1,930) x 37.4 (950) x 73.3 (2,014)	2,136 - 2,555 (1,001 - 1,160)
75	211 (799)	76.0 (1,930) x 37.4 (950) x 81.9 (2,098)	2,379 - 2,560 (1,078 - 1,160)
107	300 (1,136)	92.9 (2,360) x 37.4 (950) x 85.3 (2,167)	2,438 - 2,623 (1,108 - 1,190)

WEATHER PROTECTED ENCLOSURE

Run Time - Hours	Usable Capacity - Gal (L)	L x W x H - in (mm)	Weight - lbs (kg)
19	54 (204)	94.8 (2,409) x 38.0 (965) x 49.5 (1,258)	241
47	132 (500)	106.0 (2,692) x 38.0 (965) x 64.0 (1,626)	372
67	199 (749)	94.8 (2,409) x 38.0 (965) x 84.0 (2,134)	(109)
75	211 (799)	76.0 (1,930) x 38.0 (965) x 86.5 (2,195)	
107	300 (1,136)	92.9 (2,360) x 38.0 (965) x 90.0 (2,287)	

LEVEL 1 SOUND ATTENUATED ENCLOSURE

Run Time - Hours	Usable Capacity - Gal (L)	L x W x H - in (mm)	Weight - lbs (kg)
19	54 (204)	112.5 (2,857) x 38.0 (965) x 68.5 (1,736)	505
47	132 (500)	112.5 (2,857) x 38.0 (965) x 82.5 (2,100)	538
67	199 (749)	112.5 (2,857) x 38.0 (965) x 102.0 (2,591)	(153)
75	211 (799)	112.5 (2,857) x 38.0 (965) x 106.5 (2,706)	
107	300 (1,136)	122.5 (3,113) x 38.0 (965) x 110.0 (2,794)	

LEVEL 2 SOUND ATTENUATED ENCLOSURE

Run Time - Hours	Usable Capacity - Gal (L)	L x W x H - in (mm)	Weight - lbs (kg)
19	54 (204)	94.8 (2,409) x 38.0 (965) x 92.5 (2,356)	341
47	132 (500)	94.8 (2,409) x 38.0 (965) x 107.5 (2,745)	(153)
67	199 (749)	106.0 (2,692) x 38.0 (965) x 124.0 (3,176)	
75	211 (799)	94.8 (2,409) x 38.0 (965) x 126.5 (3,236)	
107	300 (1,136)	94.8 (2,409) x 38.0 (965) x 150.0 (4,267)	

* All requirements are approximate and for information purposes only. Specifications that determine the weight of the generator set are subject to change without notice.

SD030 | 2.2L | 30 kW
INDUSTRIAL DIESEL GENERATOR SET
EPA Certified Stationary Emergency

INDUSTRIAL POWER

OPERATING DATA

POWER RATINGS

Single-Phase 120/240 VAC @ 0 Bpf	30 kW	Amps: 125
Three-Phase 120/208 VAC @ 0 Bpf	30 kW	Amps: 104
Three-Phase 120/240 VAC @ 0 Bpf	30 kW	Amps: 90
Three-Phase 277/480 VAC @ 0 Bpf	30 kW	Amps: 45
Three-Phase 348/600 VAC @ 0 Bpf	30 kW	Amps: 36

MOTOR STARTING CAPABILITIES (kW)

120/240 VAC 1Ø	30%	277/480 VAC 3Ø	30%	208/240 VAC 3Ø	30%
A05504H21	20	K003512V21	61	K003512V21	46
A05504H21	24	K003017V21	76	K003017V21	58
A05504H21	31	K005012V21	93	K005012V21	75

FUEL CONSUMPTION RATES*

Fuel Pump Lift - ft (m)	Percent Load	Diesel - gph (lph)	Standby
3 (1)	25%	1.0 (3.7)	1.0 (3.7)
	50%	1.4 (5.2)	1.4 (5.2)
	75%	2.0 (7.5)	2.0 (7.5)
	100%	2.8 (10.5)	2.8 (10.5)

* Full load fuel consumption rates are approximate and consumption rates at 100% load.

COOLING

Constant Flow	Standby
Cooling System Capacity - gal (L)	14.0 (52.7)
Heat Rejection to Coolant - BTU/hr (kW)	126,630 (3,684)
Heat Rejection to Ambient - cfm (m ³ /min)	2,800 (7,927)
Maximum Operating Ambient Temperature - °F (°C)	122 (50)
Maximum Operating Ambient Temperature (Before Derate) - °F (°C)	0 (30)
Maximum Ambient Relative Humidity	0 (30)

COMBUSTION AIR REQUIREMENTS

Flow of Rated Power - cfm (m ³ /min)	Standby
88 (25)	88 (25)

EXHAUST

Standby	Standby
Rated Engine Speed - RPM	1,800
Exhaust Flow (Rated Output) - cfm (m ³ /min)	295 (8.4)
Maximum Allowable Backpressure (Post Turbocharger) - inHg (kPa)	1.3 (5.1)
Exhaust Temperature (Rated Output) - °F (°C)	882 (474)

* Refer to "Emissions Data Sheet" for maximum BHP for EPA and SOx/NOx permitting purposes.
 Derate - Operational characteristics consider maximum ambient conditions. Details below may apply under specific site conditions.
 Please contact a Generac Power Systems Industrial Dealer for additional details. All performance ratings in accordance with ISO8543, BS5514, ISO8528, and DIN6271 standards.
 Standby - See Bulletin 0187500558
 Prime - See Bulletin 0187510558



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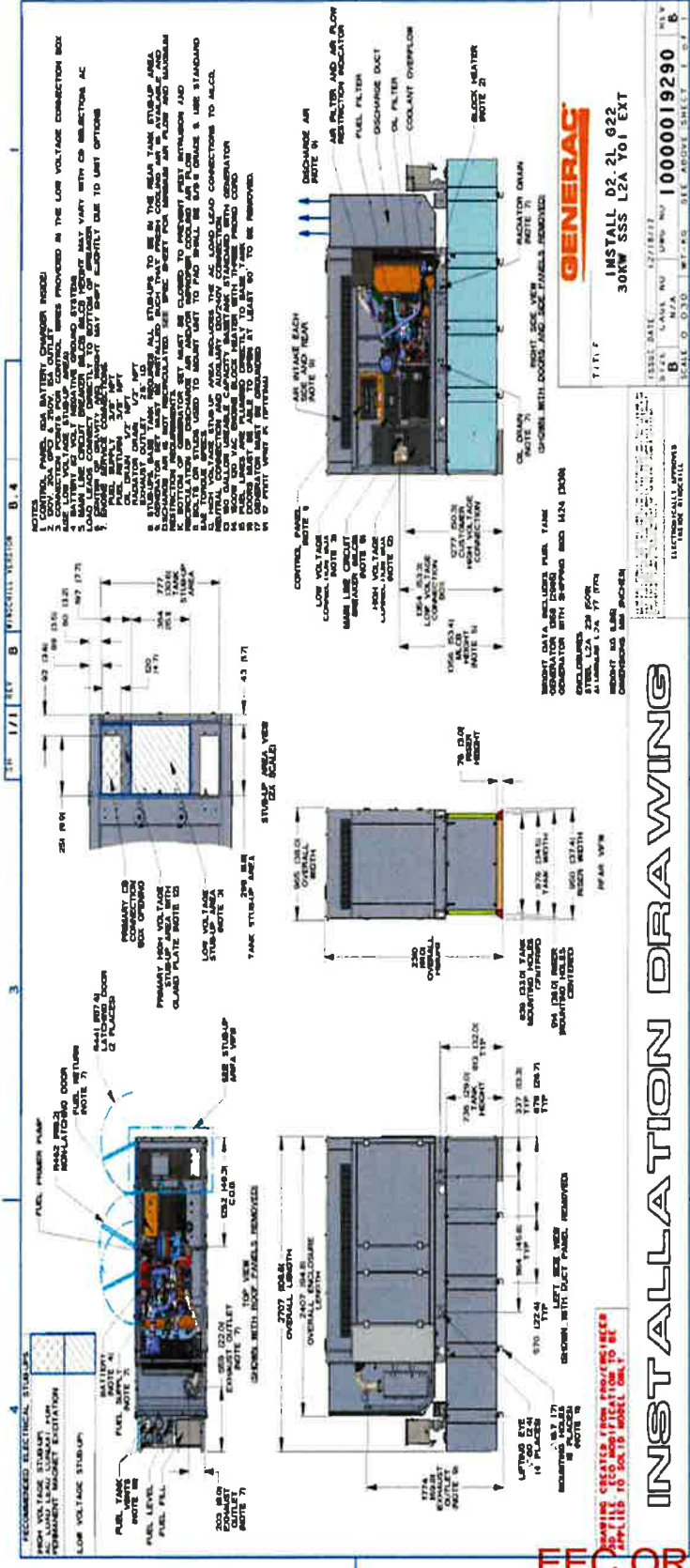
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 IMPERIAL COUNTY

SHEET TITLE
**GENERATOR
 DETAILS**

SHEET NUMBER
A7.2



INSTALLATION DRAWING

GENERAC
 INSTALL D2-2L G22
 30KW SSS L2A Y01 EXT

SCALE: 0.030
 SHEET NO: 10000019290
 SHEET TITLE: GENERATOR DETAILS

PC ORIGINAL PKC

ECC ORIGINAL PKC

GENERATOR DETAILS

NO SCALE 1



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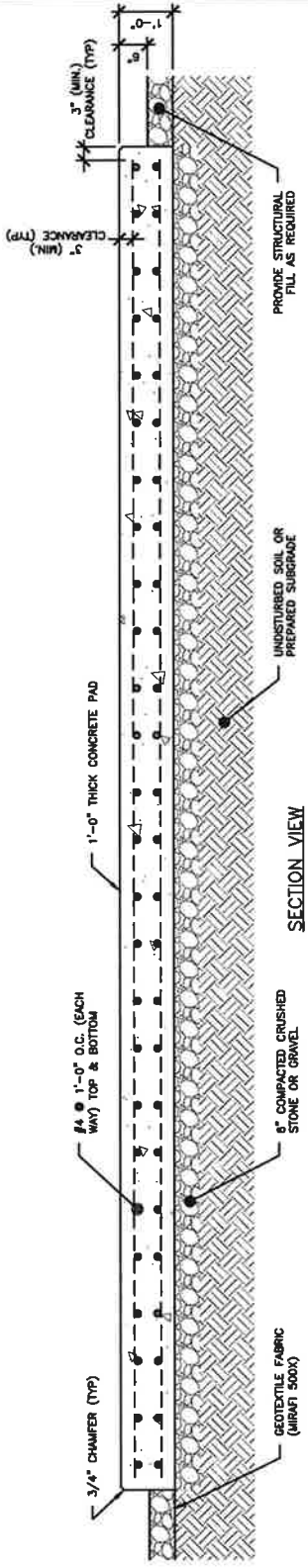
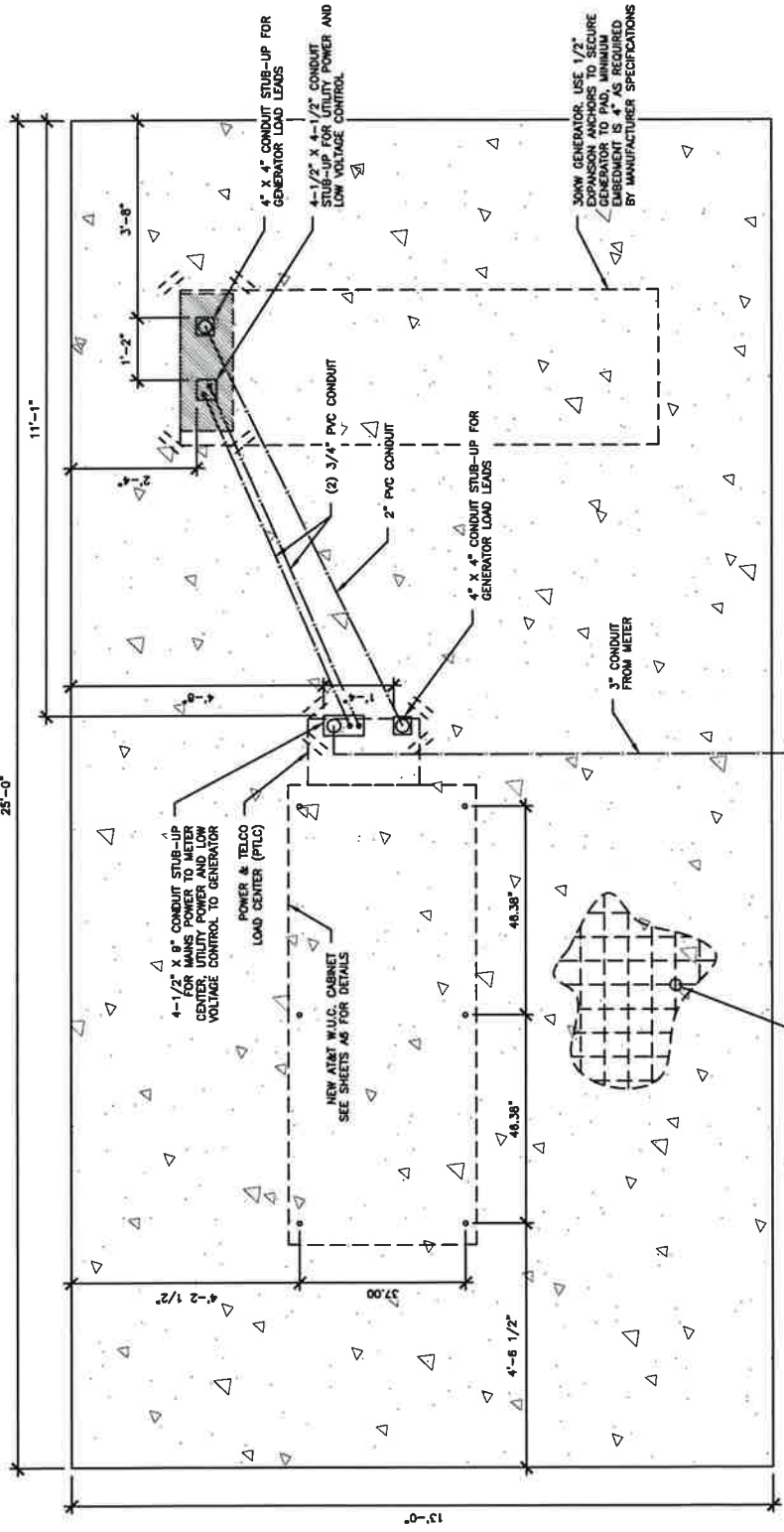
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SHEET TITLE
**CONCRETE PAD
DETAILS**

SHEET NUMBER
A8



SCALE: 1/4" = 1'-0"

GENERATOR DETAIL

PC ORIGINAL PKO

EEC ORIGINAL PK



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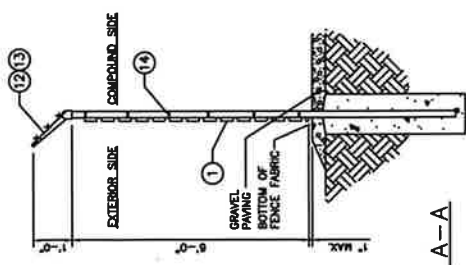
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SHEET TITLE
FENCE DETAILS

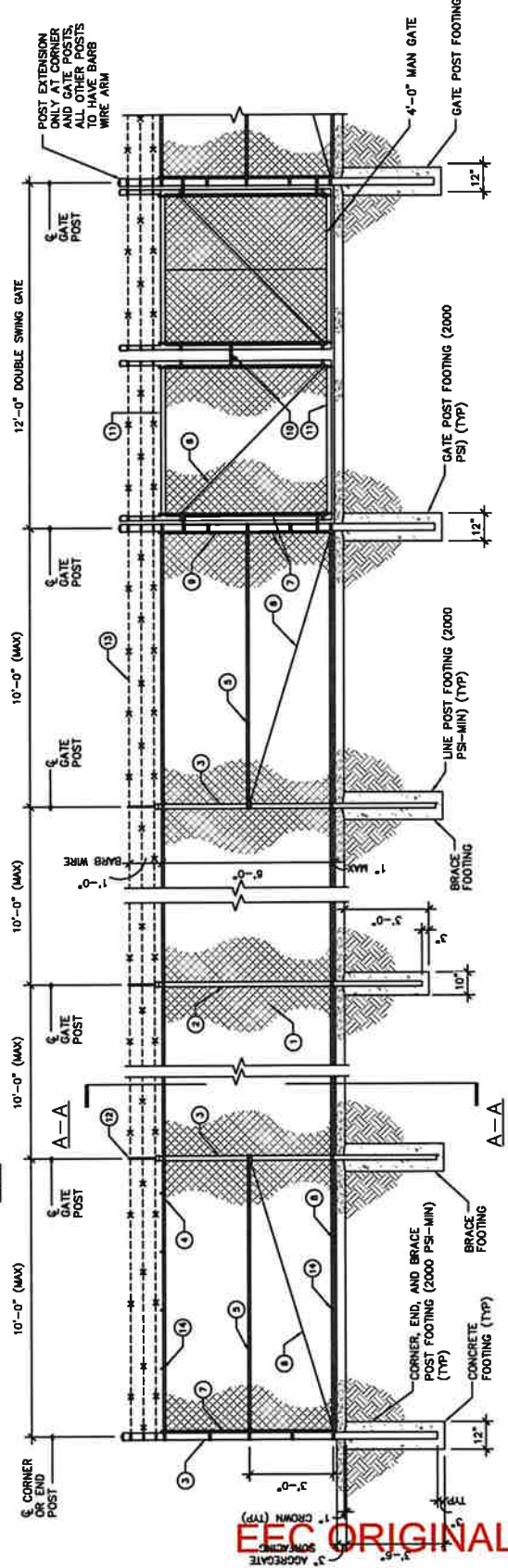
SHEET NUMBER
A9

MATERIAL DESCRIPTION

- 1 CHAIN LINK RESIDUAL FABRIC: 11-1/2 GAUGE, 2-1/4" MESH, GALVANIZED ASTM-A392, CLASS 2; TWISTED SELVAGE ON TOP, KNUCKLED ON BOTTOM.
- 2 LINE POSTS: 2-1/2" O.D. PIPE, 18 GAUGE (GALVANIZED) PER ASTM-F1083.
- 3 CORNER, END AND BRACE POSTS: 2-7/8" O.D. PIPE, SCHEDULE 40 (GALVANIZED).
- 4 TOP RAIL: 1-5/8" O.D. 17 GAUGE PIPE (GALVANIZED) PER ASTM-F1083.
- 5 BRACE RAIL: 1-5/8" O.D. 17 GAUGE PIPE (GALVANIZED).
- 6 DIAGONAL TRUSS ROD: 3/8" GALVANIZED ROD WITH TURNBUCKLE.
- 7 TENSION BAR: 3/16" X 3/4" GALVANIZED FLAT BAR.
- 8 BOTTOM TENSION WIRE: GALVANIZED OR ALUMINUM COATED COIL SPRING WIRE, 7 GAUGE.
- 9 GATE POSTS: 2-7/8" O.D. SCHEDULE 40 PIPE (GALVANIZED).
- 10 COMBINATION PADLOCK ACCORDING TO AT&T REQUIREMENTS.
- 11 GATE FRAMES: 1-7/8" O.D. SCHEDULE 40 PIPE (GALVANIZED).
- 12 BARBED WIRE SUPPORT ARM: SINGLE ARM TYPE (GALVANIZED), ARM SHALL BE INCLINED OUTWARD AT AN ANGLE OF 45 DEGREES.
- 13 BARBED WIRE: GALVANIZED, ASTM A121 CLASS 3; THREE 14 GAUGE MINIMUM STEEL WIRES WITH 4 POINT ROUND 14 GAUGE BARBS SPACED 4" APART.
- 14 FABRIC TESS: ALUMINUM BANDS OR WIRES, FABRIC SHALL BE ATTACHED TO THE TOP RAIL AND BOTTOM TENSION WIRE AT 24" CENTERS AND TO THE POSTS AT 15" CENTERS, ALL ON THE COMPOUND SIDE OF THE FENCE.



SECTION A-A



NO SCALE

CHAIN LINK FENCE DETAILS

1

PC ORIGINAL PKG

EEC ORIGINAL PKG



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SHEET TITLE
SITE GRADING PLAN

SHEET NUMBER
A10

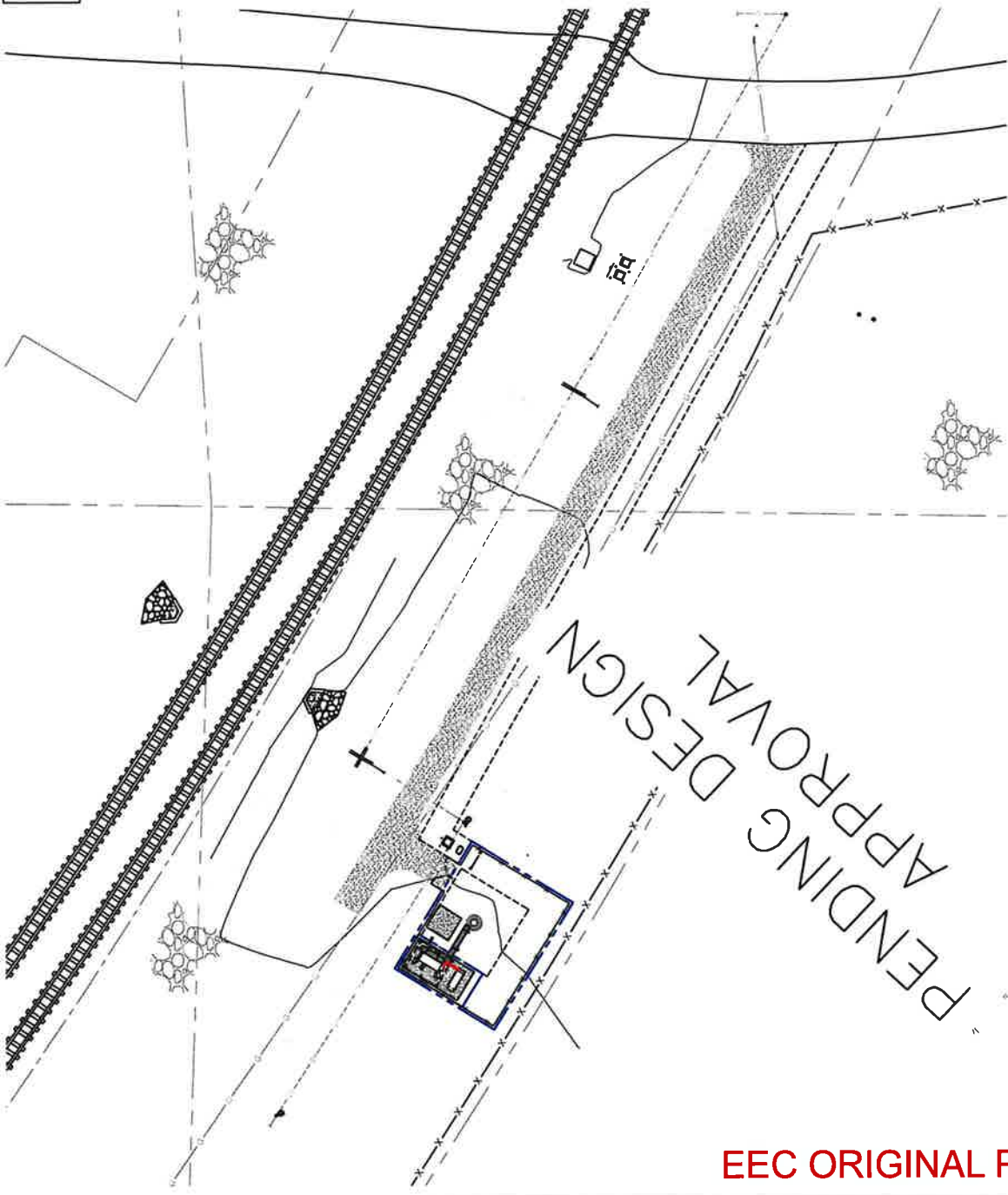
NOTE:
 CONTRACTOR TO CLEAR AND GRUB EXISTING VEGETATION AND REMOVE TREES AS NEEDED WITHIN PROPOSED LEASE AREA AND 10' AROUND ENTIRE LEASE AREA. ENSURE ALL OVERHANGING LIMBS OF BRANCHES ARE REMOVED AS WELL.

NOTE:
 SITE BENCHMARK
 ELEV.: 283.1'
 TOP OF 1/2" REBAR AT
 SOUTHWEST FENCE CORNER
 (SEE SURVEY)

LEGEND

	NEW GRADE
	EXISTING GRADE
	NEW SALT FENCE
	EXISTING PAVEMENT
	EXISTING PROPERTY LINE
	TOP OF PAVEMENT/PAD
	TOP OF FOUNDATION
	GRADE

T/P
 T/F
 XXXXX



SCALE: 1"=40' (1:1600)
 0' 10' 20' 30' 40'

1

GRADING PLAN

EEC ORIGINAL PKG

PC ORIGINAL PKG

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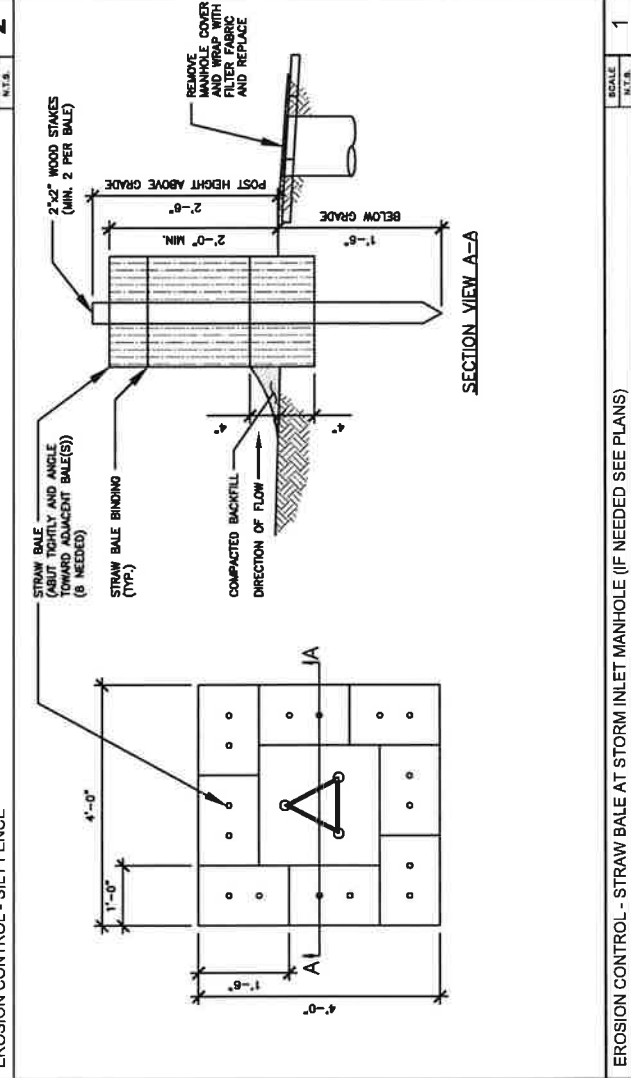
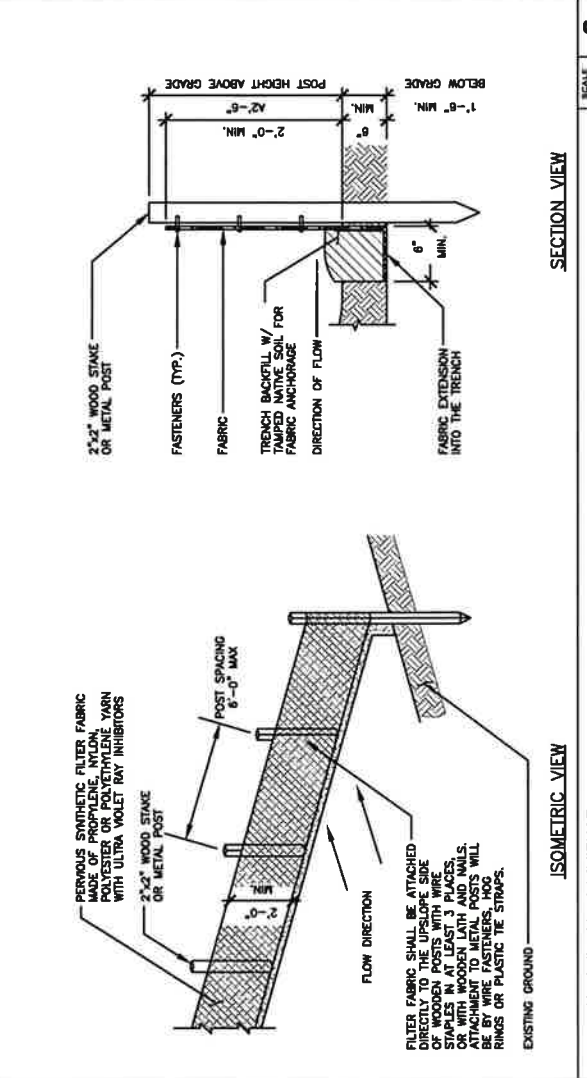
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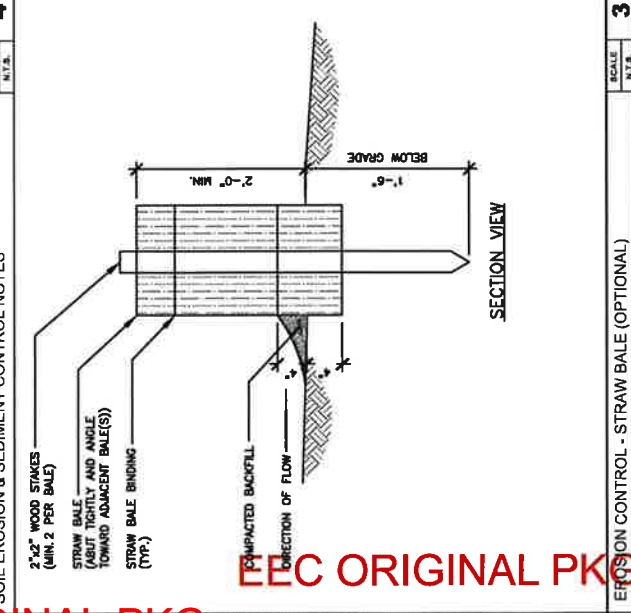
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IMPERIAL COUNTY

EROSION CONTROL DETAILS

SHEET TITLE
A11



1. ALL WEATHER AND STRUCTURAL EROSION CONTROL MEASURES SHALL BE CONSTRUCTED AND MAINTAINED IN ACCORDANCE WITH THE MINIMUM STANDARDS AND SPECIFICATIONS OF THE APPLICABLE STATE ADOPTED "PROCEDURES AND STANDARDS FOR URBAN SOIL EROSION AND SEDIMENTATION CONTROL" AND THE "STANDARDS AND SPECIFICATIONS FOR SOIL EROSION AND SEDIMENT CONTROL" OF THE STATE ENVIRONMENTAL PROTECTION AGENCY.
2. A SOIL EROSION CONTROL FENCE SHALL BE INSTALLED BEFORE DISTURBING THE GROUND AND SHALL BE PROVIDED AS SHOWN ON THE PLAN. THE CONDITION OF THE FENCE SHALL BE INSPECTED REGULARLY AND AFTER EVERY RAINSTORM THAT MIGHT PRODUCE RUNOFF. DAMAGED OR DETERIORATED ITEMS SHALL BE REPLACED AND MAINTAINED IN AN EFFECTIVE CONDITION.
3. SOIL EROSION CONTROL MEASURES SHALL BE INCLUDED IN CONTRACTOR BID AND PRICING.
4. THE ENTIRE SITE SHALL BE GRADED SO THAT NO STORM WATER RUNOFF AND LIKEWISE SOIL SEDIMENT CAN FLOW UNRESTRICTED FROM THE SITE.
5. ALL INLETS, STRUCTURES, PIPES, SWALES, AND ROADS SHALL BE KEPT CLEAN AND FREE OF DIRT AND SILT.
6. MAINTAIN SOIL EROSION CONTROL MEASURES THROUGH THE DURATION OF THIS PROJECT.
7. SEDIMENT DEPOSITS SHALL BE REMOVED WHEN REACHING ONE HALF THE HEIGHT OF THE BARRIER.
8. ALL SOIL EROSION CONTROL MEASURES SHALL REMAIN IN PLACE UNTIL ALL DISTURBED EARTH HAS BEEN PAID OR VEGETATED.
9. ANY EXCESS TOPSOIL THAT IS TO BE STOCKPILED FOR A PERIOD LONGER THAN 2 WEEKS SHALL BE PROTECTED BY EXCAVATING A TRENCH COMPLETELY AROUND THE STOCKPILE TO PREVENT THE ESCAPE OF SOIL MATERIALS THROUGH STORM WATER RUNOFF. STOCKPILES THAT ARE TO REMAIN LONGER THAN 14 DAYS SHALL BE SEEDED WITH AN APPROPRIATE GRASS COVER.
10. TO PREVENT SOIL FROM LEAVING THE SITE ON CONSTRUCTION VEHICLE WHEELS, TEMPORARY GRAVEL ROADS AT WORK ENTRANCES SHALL BE CONSTRUCTED AND SHALL EXTEND INTO JOB SITES. THE EXISTING PAVED SURFACES SHALL BE INSPECTED DAILY FOR SOIL DEBRIS AND SHALL BE CLEANED WHEN NECESSARY.
11. REPLACE SOIL EROSION CONTROL MEASURES WITH SEED, SOIL AND TOPSOIL AT THE COMPLETION OF THE PROJECT.
12. SOIL EROSION CONTROL MEASURES SHALL BE REMOVED AND PROPERLY DISPOSED OF WHEN PROJECT IS COMPLETED.



PC ORIGINAL PKG

EROSION CONTROL - STRAW BALE AT STORM INLET MANHOLE (IF NEEDED SEE PLANS)

EROSION CONTROL - STRAW BALE (OPTIONAL)



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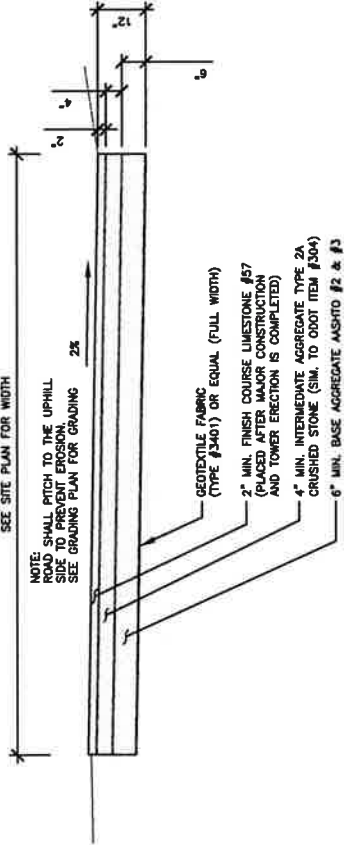
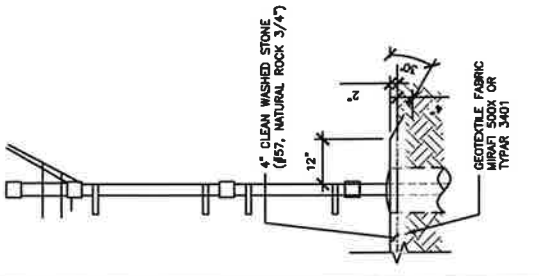
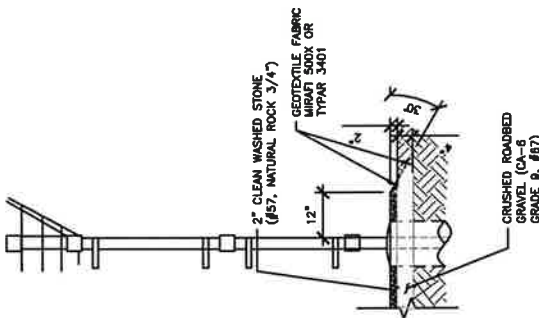
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IMPERIAL COUNTY

SHEET TITLE
GRADING DETAILS

SHEET NUMBER
A12

SCALE	SCALE	SCALE	SCALE	SCALE
N.T.S.	N.T.S.	N.T.S.	N.T.S.	N.T.S.
NOT USED	5	4	3	2
	ALTERNATE COMPOUND GRAVEL DETAIL	TYPICAL COMPOUND GRAVEL DETAIL		NOT USED





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NOT FOR CONSTRUCTION

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IMPERIAL COUNTY

OVERALL UTILITY PLAN

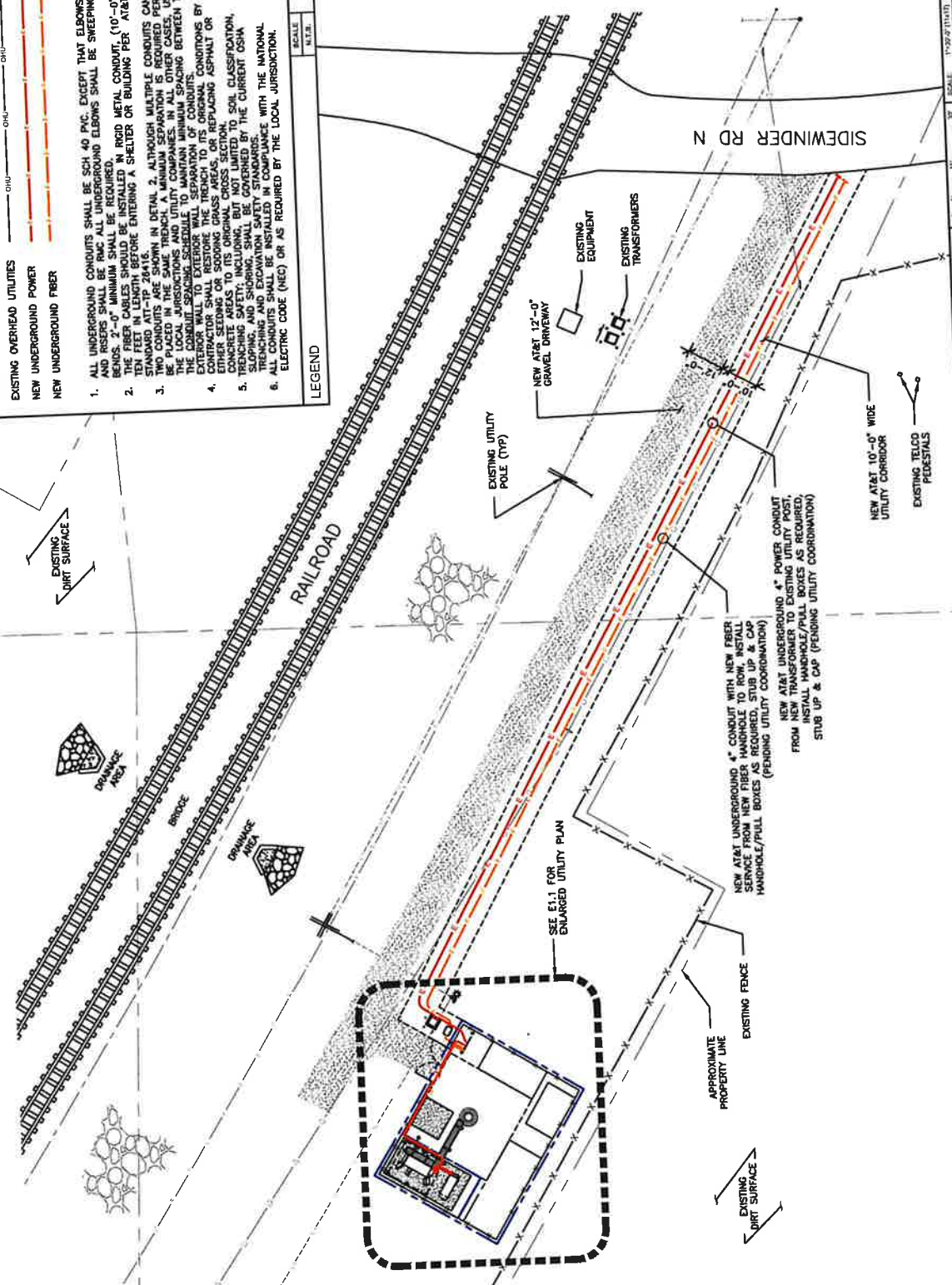
SHEET NUMBER
E1

- EXISTING OVERHEAD POWER
- EXISTING UNDERGROUND UTILITIES
- NEW UNDERGROUND POWER
- NEW UNDERGROUND FIBER

- ALL UNDERGROUND CONDUITS SHALL BE SCH 40 PVC, EXCEPT THAT ELBOWS AND RISERS SHALL BE RUC. ALL UNDERGROUND ELBOWS SHALL BE SWEEPING BENDS. 2'-0" MINIMUM SHALL BE MAINTAINED.
- THE FIBER CABLES SHALL BE INSTALLED IN RIGID METAL CONDUIT, (10'-0" MINIMUM), BEFORE ENTERING A SHELTER OR BUILDING PER AT&T STANDARD AT-TP 28416.
- TWO CONDUITS ARE SHOWN IN DETAIL 2. ALTHOUGH MULTIPLE CONDUITS CAN BE PLACED IN THE SAME TRENCH, THE LOCAL UTILITY COMPANIES, IN ALL OTHER CASES, USE THE LOCAL UTILITY COMPANIES' SCHEDULE TO MAINTAIN MINIMUM SPACING BETWEEN THE CONDUITS. THE LOCAL UTILITY COMPANIES' SCHEDULE TO MAINTAIN MINIMUM SPACING BETWEEN THE CONDUITS SHALL RESTORE GRASS AREAS OR REPLACING ASPHALT OR OTHER SEEDING TO ITS ORIGINAL CROSS SECTION.
- CONTRACTOR SHALL RESTORE GRASS AREAS TO ITS ORIGINAL CROSS SECTION, INCLUDING, BUT NOT LIMITED TO, SOIL CLASSIFICATION, SLOPING, AND SHORING. SHALL BE GOVERNED BY THE CURRENT OSHA TRENCHING AND SHORING REQUIREMENTS.
- ALL CONDUITS SHALL BE INSTALLED IN COMPLIANCE WITH THE NATIONAL ELECTRIC CODE (NEC) OR AS REQUIRED BY THE LOCAL JURISDICTION.

LEGEND

SCALE: 1" = 20'-0"



PC ORIGINAL PKG

EEC ORIGINAL PKG

OVERALL UTILITY PLAN



PRELIMINARY DRAWINGS
NOT FOR CONSTRUCTION

DRAWN BY: MK
CHECKED BY: RSM

REV	DATE	DESCRIPTION
A	10/06/23	PRELIMINARY

"THESE PLANS AND THE DESIGN THEREON ARE THE PROPERTY OF THE ARCHITECT AND ARE TO BE KEPT IN THE ARCHITECT'S OFFICE UNDER THE LOCKS OF THE STATE OF CALIFORNIA"

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FELICITY, CA 92283
IMPERIAL COUNTY

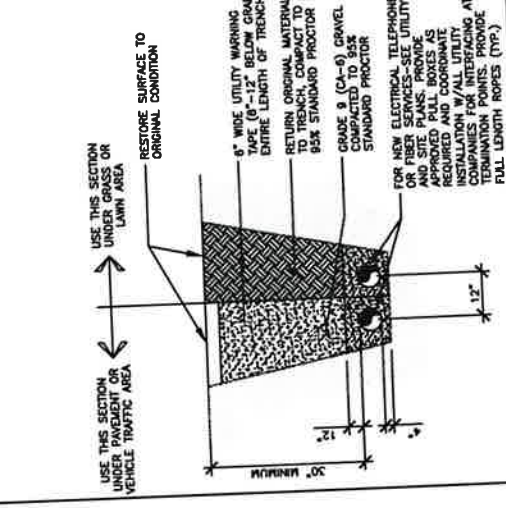
SHEET TITLE
EQUIPMENT UTILITY PLAN

SHEET NUMBER
E1.1

- LEGEND**
- EXISTING OVERHEAD POWER
 - EXISTING UNDERGROUND POWER
 - EXISTING OVERHEAD UTILITIES
 - NEW UNDERGROUND POWER
 - NEW UNDERGROUND FIBER
- ALL UNDERGROUND CONDUITS SHALL BE SCH 40 PVC, EXCEPT THAT ELBOWS AND RISERS SHALL BE RMC. ALL UNDERGROUND ELBOWS SHALL BE SWEEPING BENDS. 2'-0" MINIMUM SHALL BE REQUIRED FOR ALL BENDS. (10'-0" MINIMUM SHALL BE REQUIRED FOR ALL BENDS ENTERING A SHELTER OR BUILDING PER AT&T TEN FEET INT-TP-18415.
 - THE FIBER CABLES SHOULD BE PLACED IN THE SAME TRENCH. SEPARATION IS REQUIRED PER THE LOCAL JURISDICTION SCHEDULE TO MAINTAIN MINIMUM SPACING BETWEEN THE TWO CONDUITS ARE SHOWN IN DETAIL 2. ALTHOUGH MULTIPLE CONDUITS CAN BE PLACED IN THE SAME TRENCH, SEPARATION IS REQUIRED PER THE LOCAL JURISDICTION SCHEDULE TO MAINTAIN MINIMUM SPACING BETWEEN THE TRENCH WALL TO EXTERIOR WALL SEPARATION OF CONDUITS. SEPARATION BY TRENCH WALL TO EXTERIOR WALL SEPARATION OF CONDUITS.
 - CONTRACTOR SHALL RESTORE THE TRENCH TO ORIGINAL CONDITIONS BY EITHER SEEDING OR SOFTENING ORIGINAL GRASS SECTION.
 - CONCRETE SAFETY, INCLUDING, BUT NOT LIMITED TO SOIL CLASSIFICATION, TRENCHING AND EXCAVATION SAFETY, SHALL BE COVERED BY THE CURRENT OSHA.
 - ALL CONDUITS SHALL BE INSTALLED IN COMPLIANCE WITH THE NATIONAL ELECTRIC CODE (NEC) OR AS REQUIRED BY THE LOCAL JURISDICTION.

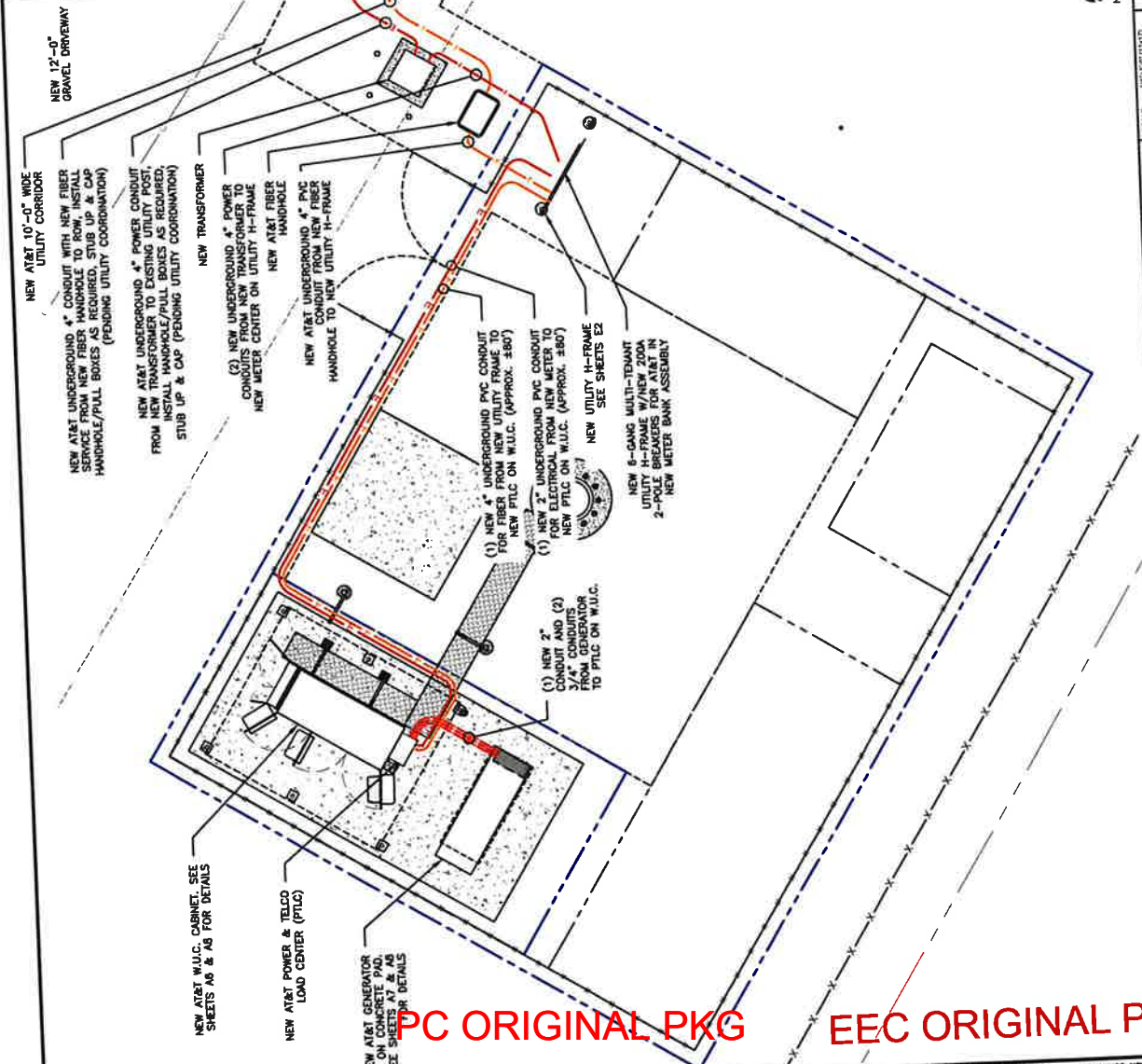
SCALE: N.T.S.

2



CONDUIT SPACING SCHEDULE

CONDUIT #1	MINIMUM CONDUIT SEPARATION	CONDUIT #2
POWER	• • = 6 INCHES	POWER
TELECOM. COMMUNICATIONS & CONTROL CIRCUITS	• • = 12 INCHES	TELECOM. COMMUNICATIONS & CONTROL CIRCUITS
TELECOM. COMMUNICATIONS & CONTROL CIRCUITS	• • = 6 INCHES	TELECOM. COMMUNICATIONS & CONTROL CIRCUITS



SCALE: N.T.S.

1

TRENCH DETAIL

SCALE: 1/8\"/>

3

EQUIPMENT UTILITY PLAN

PC ORIGINAL PKG EEC ORIGINAL PKG



PRELIMINARY DRAWINGS
NOT FOR CONSTRUCTION

CHECKED BY:	MN	RSM
DRAWN BY:		
REV	DATE	DESCRIPTION
A	10/04/23	PRELIMINARY

1. HIGHLY CERTAIN THAT THESE PLANS WERE SUPERVISED AND THAT I AM A DULY REGISTERED ARCHITECT UNDER THE LAWS OF THE STATE OF CALIFORNIA.

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FELICITY, CA 92283
IMPERIAL COUNTY

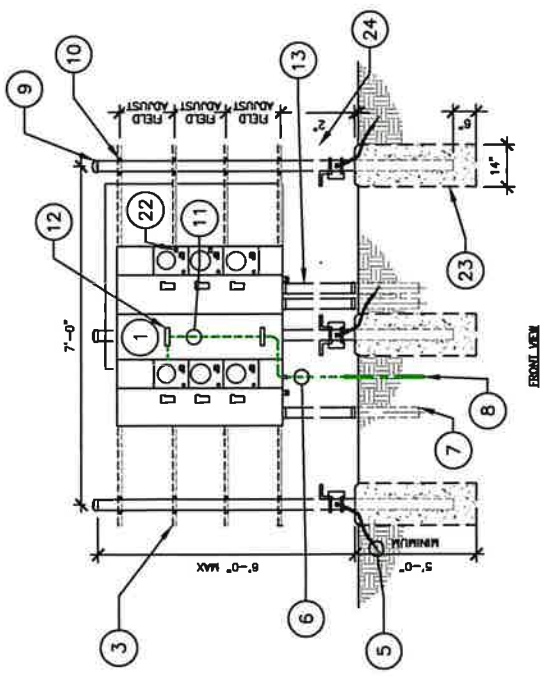
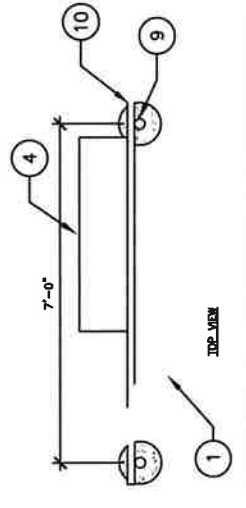
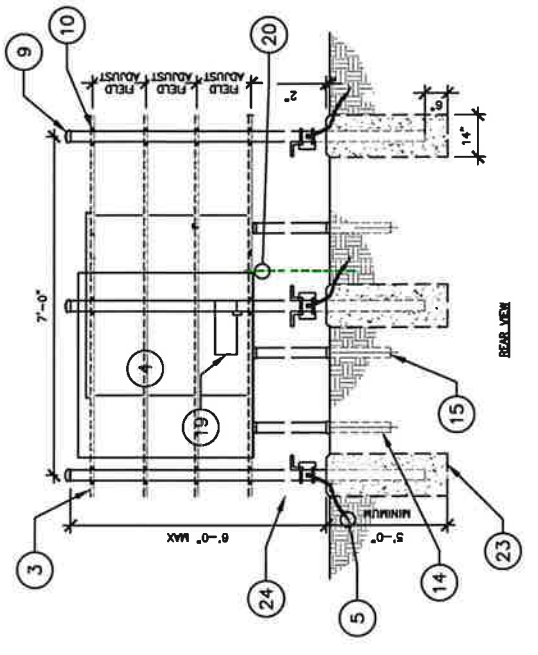
SHEET TITLE
H-FRAME DETAILS

SHEET NUMBER
E2

- NOTES:
- CONTRACTOR SHALL PROVIDE AND INSTALL MODULAR METERING CABINETS, CARRIER LABELS AND (1) METER SERVICE CENTER (1) METER SCHEMATIC (1) EQUALIZER (1) METER SCHEMATIC SHALL BE FINISHED WITH (1) 20AMP CIRCUIT BREAKERS SHALL BE COVERED WITH LEXAN METER COVER.
 - WHERE INDICATED ON PLANS PROVIDE A FIBER/TELCO DEMARCATION BOX TO INCLUDE 48"x48"x12" NEMA 3R CONDUIT, 1/2" COPPER WIRE WITH 1/2" END CAPS, SURGE SUPPRESSION AND 2"x1/2"x1/4" COPPER THIN-PLATED BRG BAR. USE DOUBLE LOCKING RINGS W/WASHERS & RUBBER GROMMETS ON BOTH SIDES OF ALL CONDUIT PENETRATIONS INTO THE BOX.
 - EQUIPMENT LOCATED OUTSIDE OF THE FENCED COMPOUND AREA.

NOTE:
UTILITY METER ENCLOSURE INSTALLATION TO BE COORDINATED WITH THE LOCAL ELECTRICAL PROVIDER

- CALLOUTS:
- MODULAR METERING MAIN SERVICE CENTER (SEE NOTE 1).
 - DISTRIBUTION BREAKER, AND METER/PLATE TO PANEL (TYP.)
 - F-1000 HOT DIPPED UNISTRUT CROSS MEMBER (TYP. OF 4) W/ END CAPS. EQUIPMENT TO BE USED.
 - NEW 48"x48"x12" NEMA 3R HOFFMAN BOX AS INDICATED ON PLANS. SEE NOTE 2.
 - 1/2" ANG SOLID THINNED COPPER WIRE WITH EXOTHERMIC WELD CONNECTION TO POST IN 3/4" NONMETALLIC FLEXIBLE CONDUIT (CONDUIT TO WITHIN 1" OF EXOTHERMIC CONNECTION) (TYP. AT EACH POST).
 - 2/0 ANG SOLID THINNED COPPER GROUND WIRE IN 1" PVC.
 - POWER CONDUIT TO CARRIER EQUIPMENT
 - 5/8"x10'-0" COPPER C/JAD STEEL ISOLATED GROUND ROD PER CODE.
 - 3.5" NOMINAL SCH. 40 GALVANIZED STEEL POSTS WITH CAP (TYP.)
 - 3/8" STAINLESS STEEL BOLTS AND WASHERS (TYP.)
 - 1/2" GREEN INSULATED STRANDED COPPER WIRE.
 - SINGLE LUG CONNECTORS, DRILL & TAP NEUTRAL BUS.
 - POWER CONDUIT(S) FROM ELECTRIC SOURCE TO METER CENTER.
 - TELCO/FIBER CONDUIT TO CARRIER EQUIPMENT.
 - FIBER CONDUIT TO CARRIER EQUIPMENT.
 - NOT USED
 - NOT USED
 - NOT USED
 - HOFFMAN BOX GROUND BAR.
 - 1/2" ANG GROUND WITH MECHANICAL CONNECTION TO HOFFMAN BOX. PROPOSED SINGLE GROUND.
 - WEATHERPROOF DUPLEX RECEPTACLE
 - CARRIER METER LABEL.
 - CONCRETE PIER FOUNDATION TO ACHIEVE A MINIMUM STRENGTH OF 3000 PSI AT 28 DAYS. PIER TO BE A MINIMUM OF 8" DIA. SEE REINFORCEMENT DETAIL ON SHEET C-5 FOR FOUNDATION DETAILS.
 - STEP-UP PLATFORM. SEE DETAIL SHEET E-2-1
 - NOT USED
 - NOT USED



NOTE:
CONTRACTOR TO INSTALL NUMBERED MULE-TAPE/PULL STRINGS IN ALL CONDUITS

PC ORIGINAL PKG

EEC ORIGINAL PKG



WESTCHESTER SERVICES, LLC
 164 FOX GLEN
 BARRINGTON, IL 60010
 TEL: 815.375.1070
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 ee@westchesterllcs.com
 BARRINGTON, ILLINOIS

PRELIMINARY DRAWINGS
 NOT FOR CONSTRUCTION

DRAWN BY: MNU
 CHECKED BY: RSM

REV	DATE	DESCRIPTION
A	10/04/23	PRELIMINARY

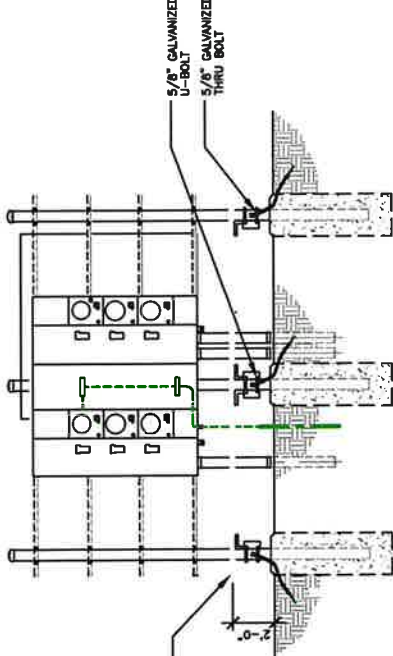
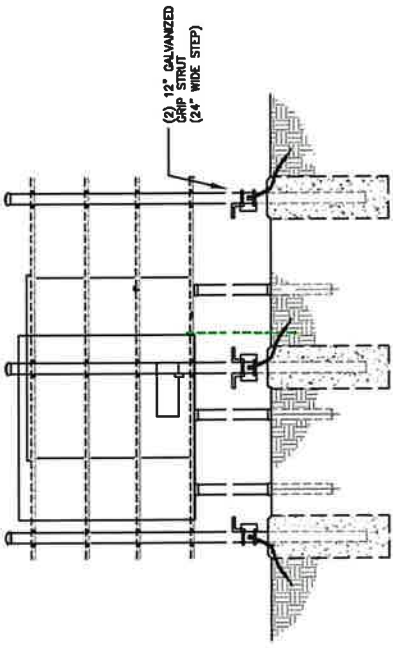
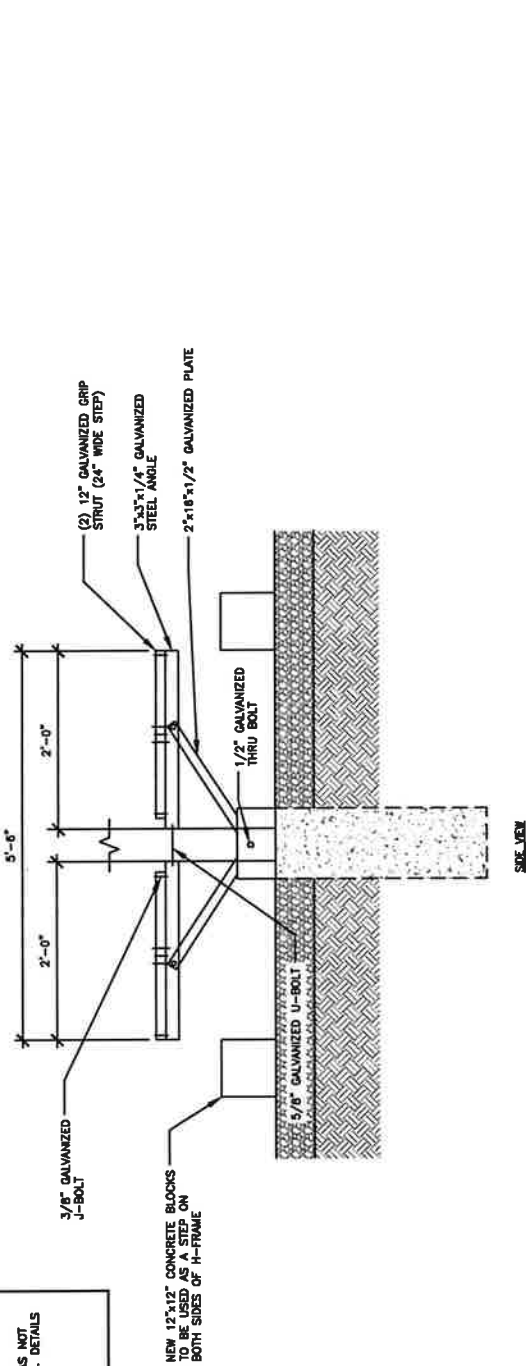
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 SITE ADDRESS: 637-639 SIDERWINDER RD N
 IMPERIAL COUNTY

SHEET TITLE
H-FRAME DETAILS

SHEET NUMBER
E2.1

NOTES:
 1. CONDUITS NOT SHOWN FOR CLARITY.
 2. A STRUCTURAL ANALYSIS OF THIS PLATFORM WAS NOT PERFORMED BY FDH INFRASTRUCTURE SERVICES. DETAILS PROVIDED BY CUSTOMER.
 3. LATEST ABC EDGE DISTANCES AS MINIMUMS.



NOTE:
 CONTRACTOR TO INSTALL NUMBERED MULTIPLEX/PULL STRINGS IN ALL CONDUITS

SCALE
 N.T.S. 1

MULTI-CARRIER UTILITY RACK DETAIL

PC ORIGINAL PKG

EEC ORIGINAL PKG



PRELIMINARY DRAWINGS
NOT FOR CONSTRUCTION

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REV.	DATE	DESCRIPTION
A	10/04/03	PRELIMINARY

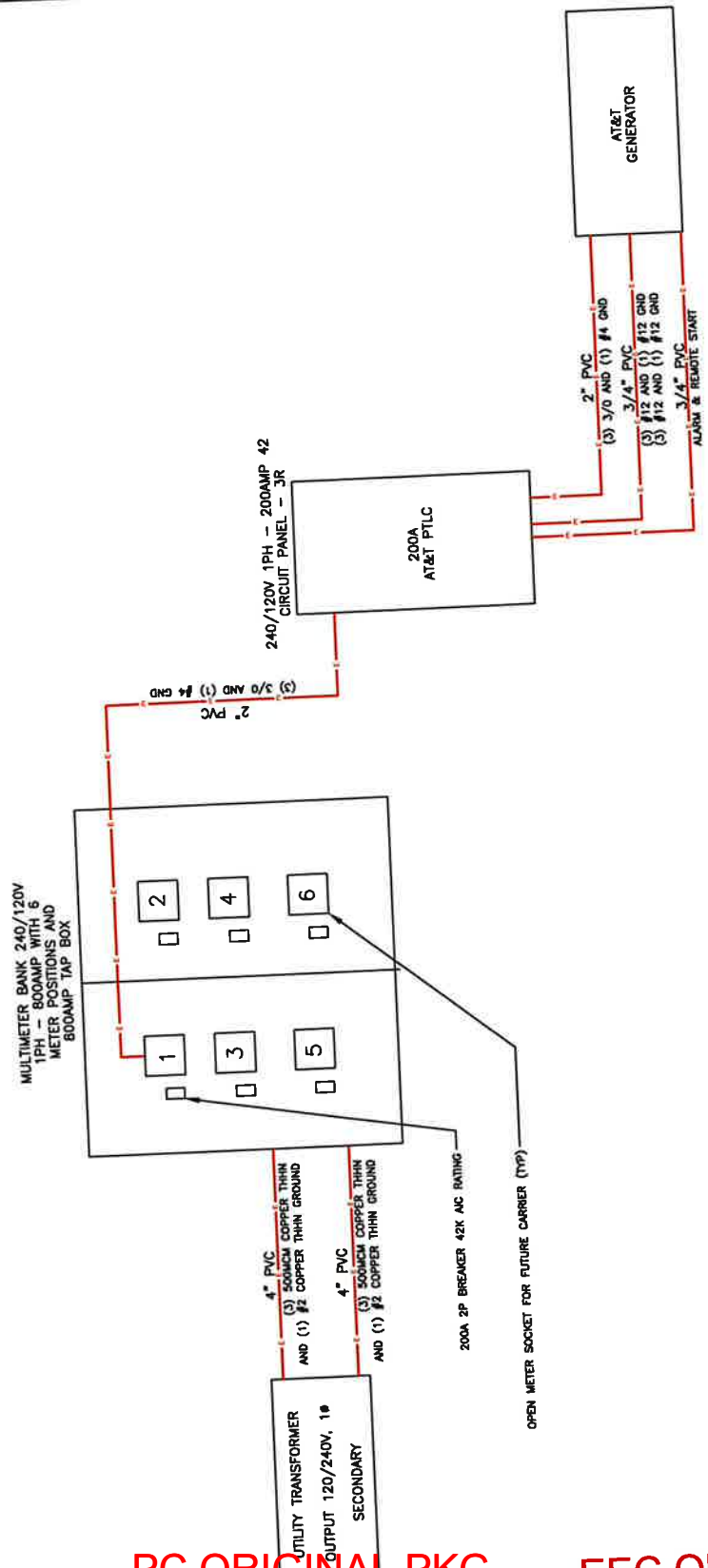
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SITE ADDRESS: 637-639 SIDEWINDER RD N
FELICITY, CA 92283
IMPERIAL COUNTY

SHEET TITLE
**SINGLE-LINE
DIAGRAM**

SHEET NUMBER
E3

SCALE
R.T.S. 1



PC ORIGINAL PKG

EEC ORIGINAL PKG

SINGLE-LINE DIAGRAM



PRELIMINARY DRAWINGS
NOT FOR CONSTRUCTION

DRAWN BY: MN
CHECKED BY: RSM

REV	DATE	DESCRIPTION
A	10/04/23	PRELIMINARY

1. THESE DRAWINGS ARE THE PROPERTY OF WESTCHESTER COMMUNICATIONS AND SHALL REMAIN THE PROPERTY OF WESTCHESTER COMMUNICATIONS UNDER THE LAWS OF THE STATE OF CALIFORNIA.

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SITE ADDRESS:
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IMPERIAL COUNTY

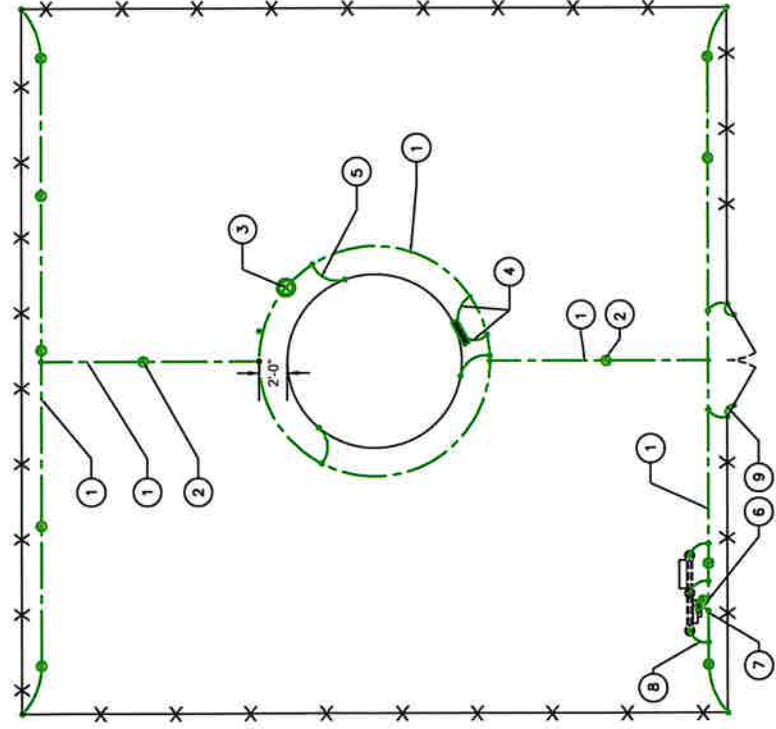
SHEET TITLE
GROUNDING PLAN

SHEET NUMBER
G1

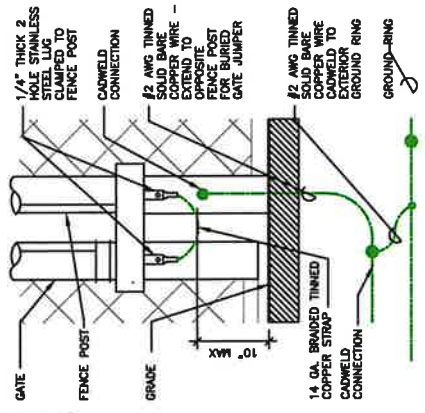
GROUNDING LEGEND

	EXOTHERMIC WELD CONNECTION
	COMPRESSION FITTING CONNECTION
	MECHANICAL CONNECTION
	5/8" x 10' COPPER-CLAD STEEL GROUND ROD WITH INSPECTION WELL
	NEW GROUND WIRING
	EXISTING GROUND WIRING
	TINNED COPPER GROUND BAR
	COLLECTOR GROUND BAR
	MAIN GROUND BAR

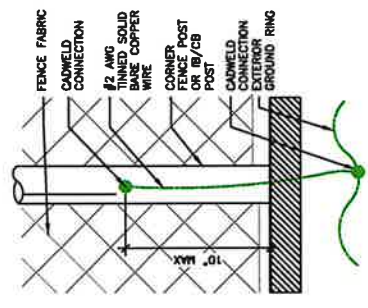
- GROUND RING, #2 SOLID TINNED, BARE COPPER WIRE
- 5/8" x 10' COPPER CLAD STEEL GROUND ROD SPACED MIN. 10'-0", MAX 15'-0" APART
- GROUND SYSTEM TEST WELL
- GROUND RING, #2 SOLID TINNED, BARE COPPER WIRE FROM LOWER TOWER GROUND BAR TO NEW GROUND RING (2 REQ'D)
- #2 SOLID TINNED, BARE COPPER WIRE FROM TOWER BASE PLATE TO NEW GROUND RING
- 5/8" x 10' COPPER CLAD GROUND ROD FOR ELECTRICAL SERVICE GROUND
- #2 SOLID TINNED, BARE COPPER WIRE FROM ELECTRICAL SERVICE GROUND TO LIGHTNING PROTECTION GROUND RING
- #2 SOLID TINNED, BARE COPPER WIRE, BOND UTILITY POST W/ VS TYPE COWELDED, (1 PER POST REQ'D)
- ALL OR EQUIV. 2/0 GROUNDING CONDUCTORS W/ BLACK NEOPRENE INSULATION & PRE-CORRP ENDS ATTACHED TO GATE POST AND GATE FRAME W/ VS TYPE EXOTHERMIC. INSTALL W/ WELLS 18" ABOVE FINISH GRADE
- IN THE EVENT A PAD/PIER FOUNDATION IS INSTALLED, THE BURIED GROUND RING SHALL BE INSTALLED A MINIMUM 2 FT. FROM THE EDGE OF CONCRETE



- NOTES:**
- ALL GROUNDING CONDUCTOR IN EARTH #2 SOLID BARE TINNED COPPER (SBTC).
 - ALL CONDUCTOR CONNECTION IN EARTH EXOTHERMICALLY WELDED.
 - ALL FENCE POST, TOWER LEGS, FRAME, ETC. WELDED CONDUCTOR BONDS EXOTHERMICALLY WELDED.
 - ALL GROUND BAR CONNECTIONS MECHANICALLY BONDED WITH 2-HOLE CONNECTORS LISTED AND AVAILABLE FOR THE APPLICATION.
 - MINIMUM 2-FT SEPARATION BETWEEN GROUND RINGS AND FOUNDATION IN ALL LOCATIONS.
 - EQUIPMENT CABINET, ICE BRIDGE & EQUIPMENT FRAME GROUNDING TO BE INSTALLED ABOVE GRADE AT LOCATIONS DESIGNATED FOR FUTURE INSTALLATION OF GROUND EQUIPMENT.



GATE GROUNDING DETAIL SCALE: 1/4" = 1'-0" 2



FENCE GROUNDING DETAIL SCALE: 1/4" = 1'-0" 1

TOWER, FENCE AND TOWER GROUNDING PLAN

PC ORIGINAL PKG



PRELIMINARY DRAWINGS
NOT FOR CONSTRUCTION

DRAWN BY: MN
CHECKED BY: RBM

REV	DATE	DESCRIPTION
1	09/02/23	PRELIMINARY

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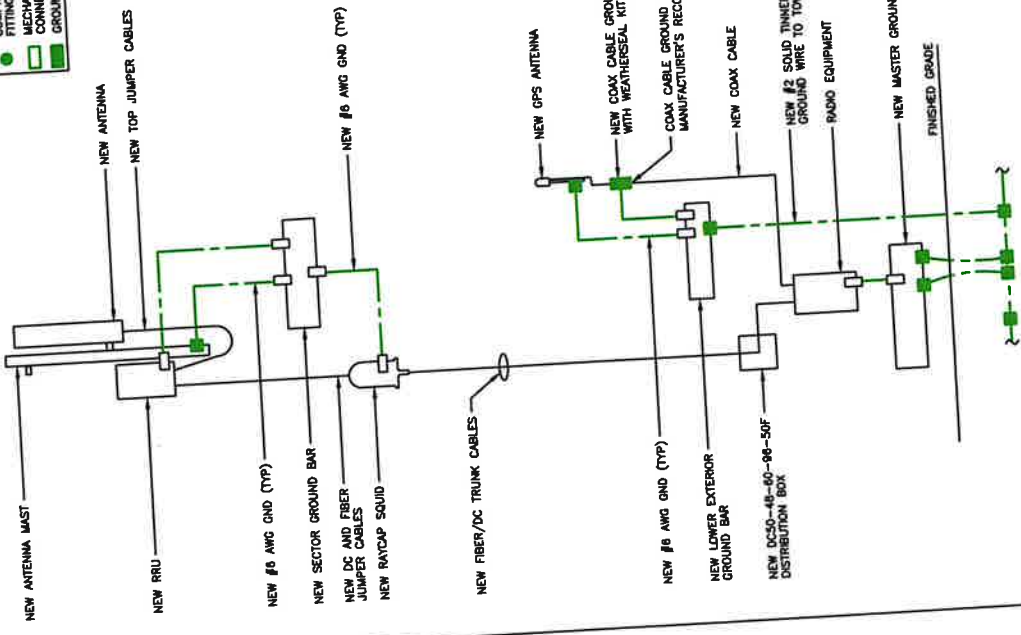
SITE NAME:
WINTERHAVEN
SITE ADDRESS:
637-635 SIDERINDER RD N
FELICITY, CA 92283
IMPERIAL COUNTY

SHEET TITLE
**GROUNDING PLAN
& RISER DIAGRAM**

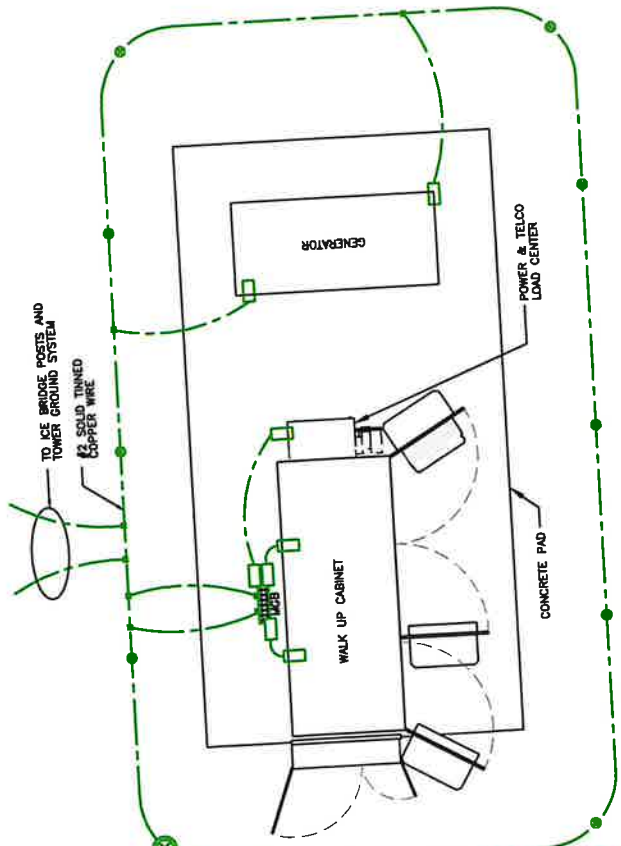
SHEET NUMBER
G2

NOTE: LEAD INSIDE RUBBER GROMMET OR BE ATTACHED WITH X-CROSS ZIP TIES TO BRACKET. DO NOT USE SNAP-IN HANGERS AROUND GROUNDS.

- LEGEND
- MECHANICAL WELD CONNECTION
 - EXOTHERMIC WELD CONNECTION
 - COMPRESSION FITTING CONNECTION
 - MECHANICAL CONNECTION
 - GROUND KIT



- GROUNDING LEGEND
- MECHANICAL CONNECTION
 - EXOTHERMIC WELD CONNECTION
 - COMPRESSION FITTING CONNECTION
 - 5/8"x10" COPPER-CLAD STEEL GROUND ROD
 - 5/8"x10" COPPER-CLAD STEEL GROUND ROD WITH INSPECTION WELL
 - PROPOSED GROUND WIRING
 - EXISTING GROUND WIRING
 - TINNED COPPER GROUND BAR
 - 1/4"x4"x12" OR 1/4"x6"x20"
 - COLLECTOR GROUND BAR
 - MAIN GROUND BAR
 - CGB
 - MCB



SCALE: 1/8" = 1'

RISER DIAGRAM

SCALE: 1/8" = 1'

TYPICAL GROUNDING PLAN

PC ORIGINAL PKG

EEC ORIGINAL PKG

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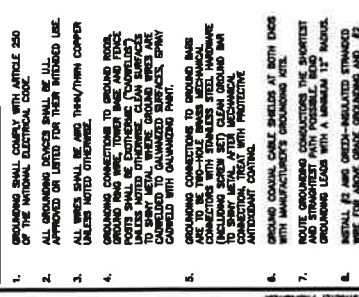
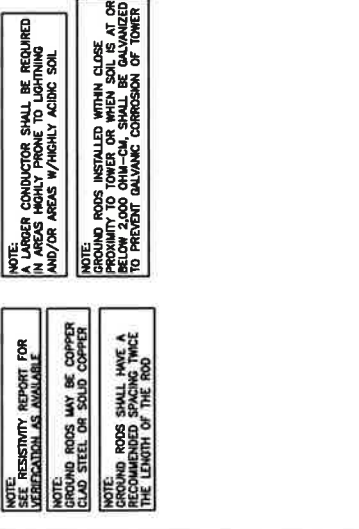
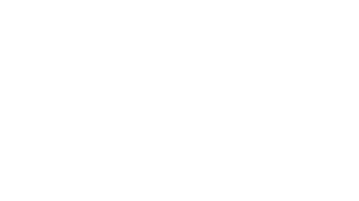
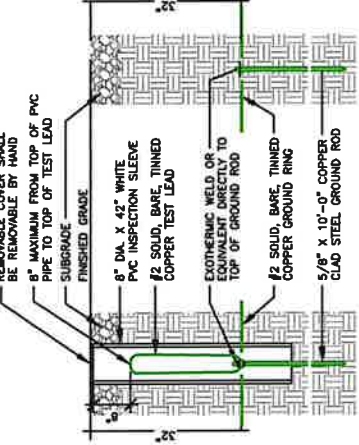
REV	DATE	DESCRIPTION
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SITE NAME: WINTERHAVEN
SITE ADDRESS: 637-659 SIDERINDER RD N
IMPERIAL COUNTY

SHEET TITLE: **GROUNDING DETAILS & NOTES**

SHEET NUMBER: **G3**



GROUNDING NOTES:

- GROUNDING SHALL COMPLY WITH ARTICLE 250 OF THE NATIONAL ELECTRICAL CODE.
- ALL GROUNDING DEVICES SHALL BE U.L. APPROVED OR LISTED FOR THEIR INTENDED USE, UNLESS NOTED OTHERWISE.
- ALL WIRING SHALL BE AWG THIN/TINNED COPPER UNLESS NOTED OTHERWISE.
- GROUNDING CONNECTIONS TO BONDING RINGS, CONDUITS WITH BUS-BUSSES, SLEEVES, TAMPERS (NALLMAN SERIES SET) CLEAN GROUND BARS, AND OTHER DEVICES SHALL BE MADE WITH ANTI-OXIDATION COATING.
- GROUNDING CONNECTIONS TO BONDING BARS WITH MANUFACTURER'S GROUNDING KEYS, ROUTE GROUNDING CONNECTIONS THE SHORTEST AND STRAIGHTEST PATH POSSIBLE. BOND GROUNDING LEADS WITH A MINIMUM 1/2 INCHES.
- USE #2 AWG GREEN-INSULATED STRANDED COPPER WIRE FOR ALL GROUNDING CONNECTIONS UNLESS OTHERWISE NOTED.
- REFER TO GROUNDING PLAN FOR GROUND BAR CONNECTIONS (TYP) (DO NOT BELIEVE TO ANTENNA, MONOPOLES, OR OTHER DEVICES). BONDING CONNECTIONS SHALL BE MADE TO THE COMPRESSION FITTINGS. CONNECTIONS TO GROUND BARS SHALL BE MADE WITH TWO-HOLE LOCK.
- GROUNDING DEVICES SHALL COMPLY WITH THE CONSTRUCTION OF GROUNDING DEVICES POSITION ACCORDING TO GROUNDING PLAN. THE GROUNDING DEVICES SHALL BE IDENTIFIED WITH THE PROVIDED TAGS TO THE VENDOR UNLESS OTHERWISE NOTED.
- ALL GROUND LEADS EXCEPT THOSE TO THE EQUIPMENT ARE TO BE #2 BARE THIN/TINNED COPPER WIRE. ALL EXTERIOR GROUNDING LEADS SHALL BE #2 BARE THIN/TINNED COPPER WIRE.
- BEFORE MAKE COVER GROUND Wires ARE IDENTIFIED FROM ANY CONNECTION ABOVE GROUND AND IDENTIFIED WITH A MINIMUM 1/2 INCH TOP WITH YELLOW TAPES.
- REMOVE ALL BONDING SURFACES FOR GROUNDING CONNECTIONS BY REMOVING ALL EXISTING COATING, INCLUDING ANTI-OXIDATION PAINT.
- ANY SITE WHERE THE EQUIPMENT (ETS) CABLE BREAKS AFTER OPERATION, IT SHALL BE LOCATED AND IDENTIFIED WITH A MINIMUM 1/2 INCH TOP. THE GROUND BARS SHALL BE BONDING TO THE EQUIPMENT (ETS) POST USING (2) BARS OF #2 BARE THIN/TINNED COPPER WIRE.

GROUND WELL, ROD, AND TEST WELL DETAIL

ANTENNA & CABLE GROUNDING

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PRELIMINARY DRAWINGS
NOT FOR CONSTRUCTION

DRAWN BY: MN
RSM

REV	DATE	DESCRIPTION
A	10/04/23	PRELIMINARY

1. THESE PLANS WERE PREPARED BY ME OR UNDER MY SUPERVISION AND THAT I AM A DULY LICENSED ARCHITECT UNDER THE LAWS OF THE STATE OF CALIFORNIA.

SITE NAME:
WINTERHAVEN
SITE ADDRESS:
637-639 SIDEWINDER RD N
FELICITY, CA 92283
IMPERIAL COUNTY

SHEET TITLE
GROUNDING DETAILS

SHEET NUMBER
G3.1

EACH GROUND CONDUCTOR TERMINATING ON ANY GROUND BAR SHALL HAVE AN IDENTIFICATION TAG ATTACHED AT EACH END THAT WILL IDENTIFY ITS ORIGIN AND DESTINATION

SECTION "P" - SURGE PROTECTORS

- (EC) CELL REFERENCE GROUND BAR (IF COLOCATED)
- (EC) GENERATOR FRAMEWORK (IF AVAILABLE) (#2 AWG)
- (EC) TELCO GROUND BAR (#2 AWG)
- (EC) COMMERCIAL POWER COMMON NEUTRAL/GROUND BOND (3/0)
- (EC) FIBER GROUND BAR (#2 AWG)
- (EC) POWER ROOM REFERENCE GROUND BAR (#2 AWG) (AT&T) RECIPER FRAMES

SECTION "A" - SURGE ABSORBERS

- (EC) INTERIOR GROUND RING (#2 AWG)
- (EC) EXTERNAL EARTH GROUND FIELD (BURIED GROUND RING) (#2 AWG)
- (EC) METALLIC COLD WATER PIPE (IF AVAILABLE) (1/0 AWG)
- (EC) BUILDING STEEL (IF AVAILABLE) (1/0 AWG)

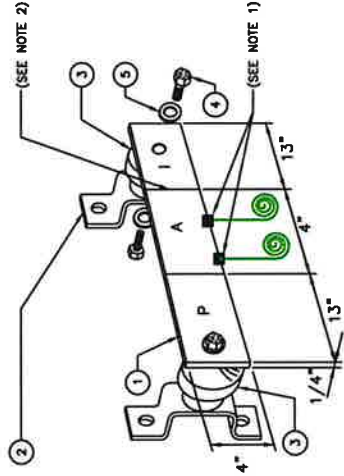
SECTION "I" - ISOLATED GROUND_ZONE

- (AT&T) ALL ISOLATED GROUND REFERENCE (AT&T) GROUND WINDOW BAR

DETAIL NOTES:

- EXOTHERMICALLY WELD #2 AWG BARE TINNED SOLID COPPER CONDUCTOR TO GROUND BAR. ROUTE CONDUCTOR TO BURIED GROUND RING AND PROVIDE PARALLEL EXOTHERMIC WELD.
- THE INSTALLER SHALL USE PERMANENT MARKER TO LABEL EACH SECTION ("P", "A", "I") WITH 1" HIGH LETTERS

NO	REQUIRED	PART NUMBER	DESCRIPTION
1	1	1/4"x4"x12"	SOLID GROUND BAR
2	2	A-0058	WALL MOUNTING BRACKET
3	2	3061-4	INSULATORS
4	4	3012-1	5/8"-11x1" H.H.C.S.
5	4	3015-8	5/8" LOCKWASHER



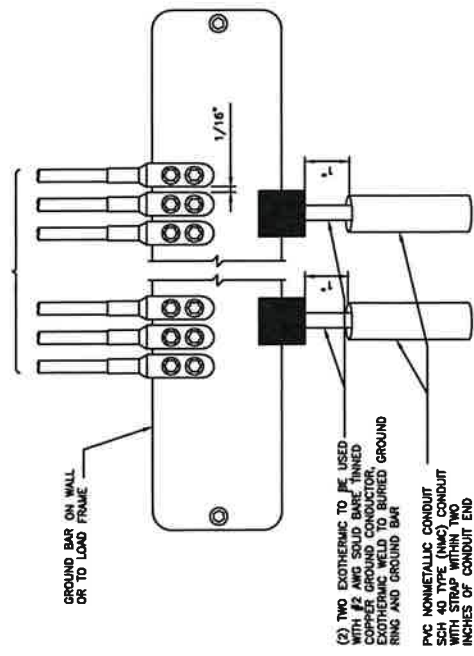
MASTER GROUND BAR DETAIL

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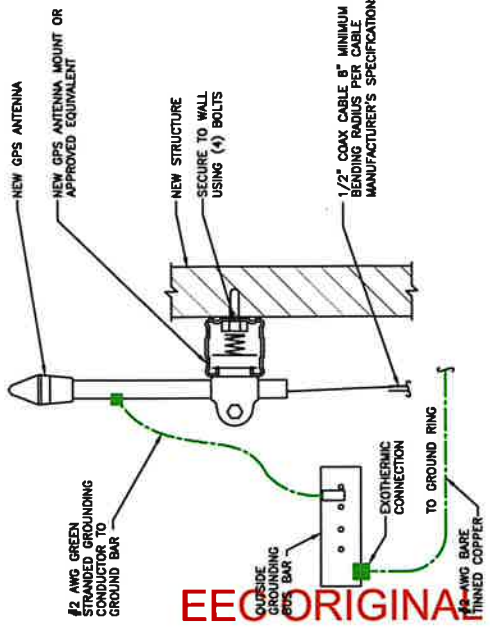
FOLLOW P.A.J GUIDELINES FOR CONNECTING GROUNDS



MAIN GROUND BAR DETAIL

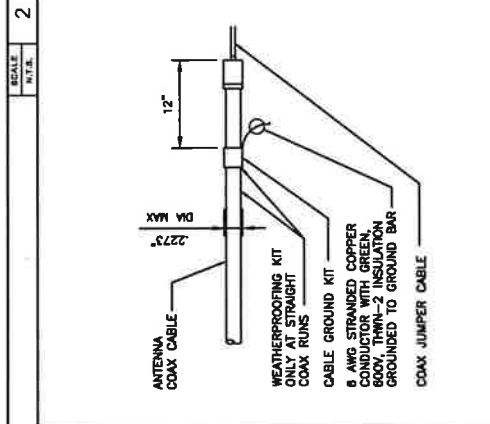
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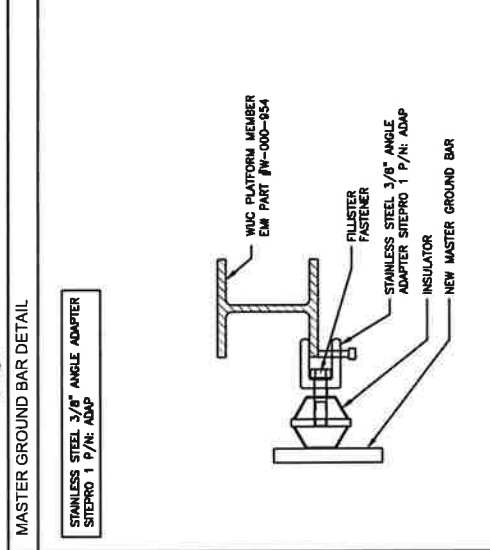
GPS ANTENNA GROUNDING

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COAX GROUND KIT DETAIL

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ANGLE ADAPTER DETAIL

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PRELIMINARY DRAWINGS
NOT FOR CONSTRUCTION

DRAWN BY: MN
RSM

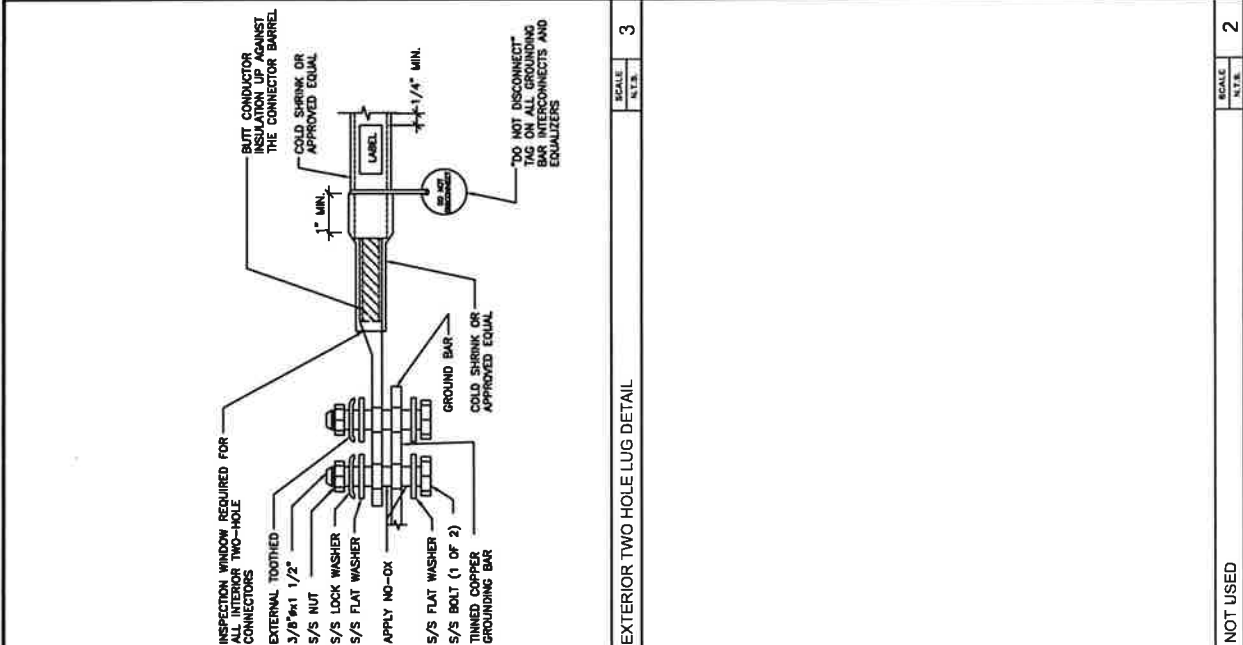
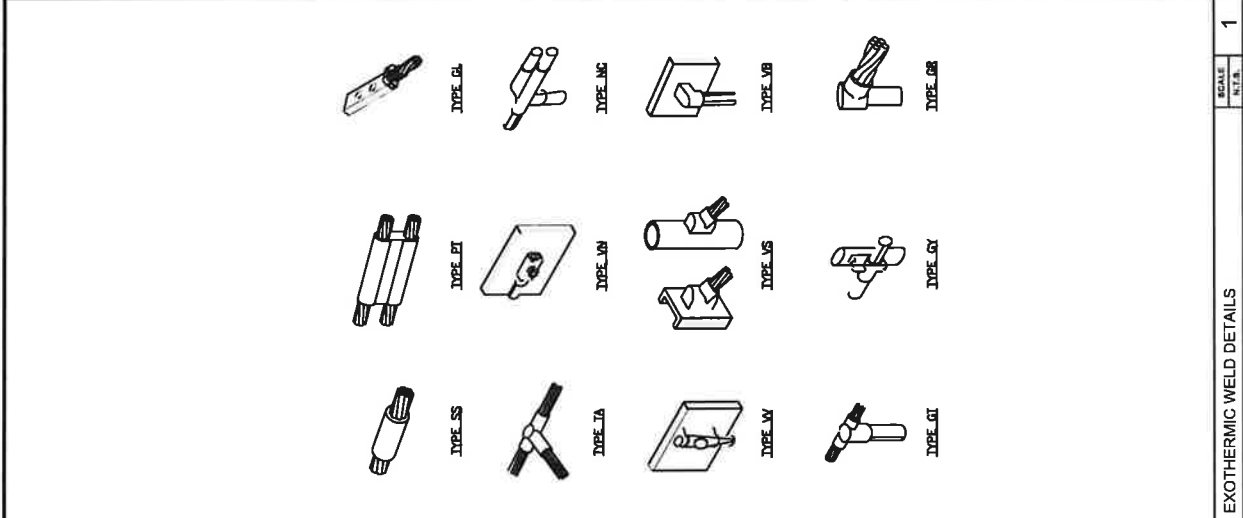
REV	DATE	DESCRIPTION
A	10/04/03	PRELIMINARY

I HEREBY CERTIFY THAT THESE PLANS WERE PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED ARCHITECT UNDER THE LAWS OF THE STATE OF CALIFORNIA.

SITE NAME:
WINTERHAVEN
SITE ADDRESS:
637-639 SIDEWINDER RD N
FELICITY, CA 94263
IMPERIAL COUNTY

SHEET TITLE
**GROUNDING
DETAILS**

SHEET NUMBER
G3.2



EEC ORIGINAL PKG



WESTCHESTER SERVICES, LLC
 401 FOX GLEN
 BARRINGTON, IL 60015
 TEL: 847-371-3700
 FAX: 847-371-3888
 info@westchesterservices.com
 www.westchesterservices.com

PRELIMINARY DRAWINGS
 NOT FOR CONSTRUCTION

DRAWN BY: MN
 RSM

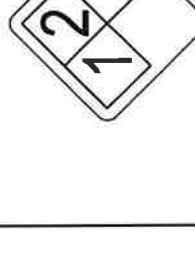
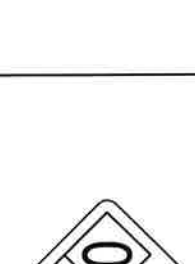
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A	10/04/23	PRELIMINARY

THIS DRAWING IS THE PROPERTY OF WESTCHESTER SERVICES, LLC. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. IT IS NOT TO BE REPRODUCED OR COPIED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF WESTCHESTER SERVICES, LLC.

SITE NAME:
 WINTERHAVEN
 SITE ADDRESS:
 637 635 S WINTER RD N
 FEDERAL CITY, CA 92283
 IMPERIAL COUNTY

SHEET NUMBER
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SIGNAGE



ALERTING SIGN
 (FOR PROPANE)

ALERTING SIGN
 (FOR DIESEL FUEL)

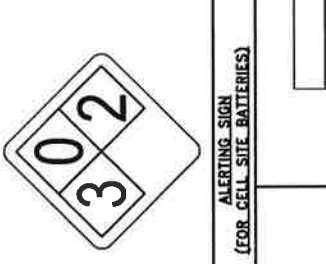
ALERTING SIGN
 (FOR CELL SITE BATTERIES)

GENERAL SIGNAGE GUIDELINES

Structure Type	INFO SIGN #1	INFO SIGN #2	INFO SIGN #3	INFO SIGN #4	Shipping	NOTICE SIGN	CAUTION SIGN
Towers Monopole/Mast/Free Monopole	entrance gates OR on the outdoor cabinets Shelter doors OR on the outdoor cabinets	entrance gates OR on the outdoor cabinets Shelter doors OR on the outdoor cabinets	On backside of Antennas	Shelter doors OR on the outdoor cabinets		At the height of the first climbing step, min 5ft above ground	At the height of the first climbing step, min 5ft above ground
SCE towers / towers with high voltage	entrance gates OR on the outdoor cabinets	entrance gates OR on the outdoor cabinets	On backside of Antennas	Shelter doors OR on the outdoor cabinets		At the height of the first climbing step, min 5ft above ground	At the height of the first climbing step, min 5ft above ground
Light Poles / Flag Poles	entrance gates OR on the outdoor cabinets	entrance gates OR on the outdoor cabinets	On backside of Antennas	Shelter doors OR on the outdoor cabinets		At the height of the first climbing step, min 5ft above ground	At the height of the first climbing step, min 5ft above ground
Utility Wood Poles (UP)	entrance gates OR on the outdoor cabinets	entrance gates OR on the outdoor cabinets	On backside of Antennas	Shelter doors OR on the outdoor cabinets		At the height of the first climbing step, min 5ft above ground	At the height of the first climbing step, min 5ft above ground
Modularly mounted on non-RF poles	entrance gates OR on the outdoor cabinets	entrance gates OR on the outdoor cabinets	On backside of Antennas	Shelter doors OR on the outdoor cabinets		At the height of the first climbing step, min 5ft above ground	At the height of the first climbing step, min 5ft above ground
Roof Tops At all access points to the roof On Antennas Concealed Antennas Antennas mounted facing out into the building Antennas on support structure Roofview Graph Radiation area is within 3ft from antenna Radiation area is beyond 3ft from antenna	X X X X X X X	X X X X X X X	X X X X X X X	X X X X X X X		At the height of the first climbing step, min 5ft above ground	At the height of the first climbing step, min 5ft above ground
Church Steeple Access to steeple Access to ladder	X X	X X	X X	X X		At the height of the first climbing step, min 5ft above ground	At the height of the first climbing step, min 5ft above ground
Water Stations Access to ladder	X	X	X	X		At the height of the first climbing step, min 5ft above ground	At the height of the first climbing step, min 5ft above ground

Notes for Roofing Sites:
 1. Either NOTICE or CAUTION signs need to be posted at each access point, as well as on the outer edge of the stepped-off area or the outer antenna of the tower.
 2. If Roofview, show only blue = Notice Sign, blue and yellow = Caution Sign, only yellow = Caution Sign to be installed.
 3. Should the required signage areas interfere with any structures or equipment (A/C, vents, roof hatch, doors, other antennas, dishes, etc.), please notify A&T to modify the signing area prior to starting the work.

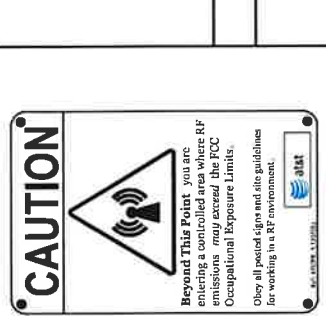
SIGNAGE GUIDELINES CHART



ALERTING SIGN
 (FOR CELL SITE BATTERIES)

STAY BACK 3 FEET FROM ANTENNA

INFO SIGN #3



ALERTING SIGN
 (FOR CELL SITE BATTERIES)



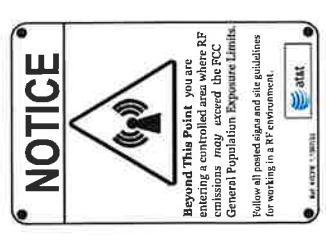
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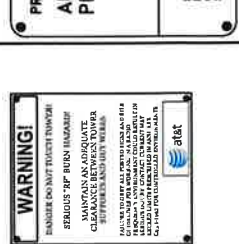
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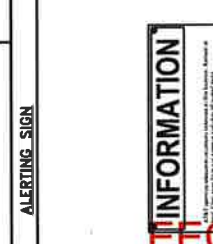
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ALERTING SIGN

Lease

Site Name: Winterhaven
CitySwitch Site: CAC002
UP Audit Number: #####

TOWER CONSTRUCTION AGREEMENT

This Agreement, made the 3rd day of May, 2022 (the "Effective Date"), between Union Pacific Railroad Company, a Delaware corporation, having an office at 1400 Douglas Street, Omaha, Nebraska 68179, hereinafter referred to as "Licensor", and CitySwitch – II-A, LLC, a Georgia company, having an office at 1900 Century Place, Suite 320, Atlanta, Georgia 30345 hereinafter referred to as "Licensee".

The term "Premises" as used in this Agreement, refers to a rectangle measuring approximately forty-five feet (45.00'), by fifty-seven feet (57.00'), containing a total of 2,656 square feet, combined with an approximate two hundred seventy-five feet (275.00') by twelve feet (12.00') access and utility corridor containing 3,300 square feet on the parcel of land on Licensor's railroad right-of-way and located in Felicity, California, in the County of Imperial, as presented on the attached Plot Plan, described in **Exhibit "A"**.

Licensor agrees to allow construction of a One Hundred Seventy foot (170') tower hereinafter referred to as the "Tower"), fenced compound and equipment cabinets (hereinafter referred to as the "Facilities") on the Premises for the location of Licensee's radio equipment; said Tower and Facilities shall be used by Licensee in conducting their communications activities on the Premises.

THEREFORE, in consideration of the mutual covenants herein contained, Licensor and Licensee agree as follows:

1. GRANT:

Licensor grants to Licensee the right to construct the Tower and Facilities together with non-exclusive rights of access for: (a) ingress and egress, seven (7) days a week, twenty-four (24) hours a day, on foot or motor vehicle (including trucks), and (b) the installation and maintenance of utility wires, poles, cables (including fiber optic cable), conduits, and pipes over, under, or along the Licensor's property, the location of said rights of access being limited to the locations shown on **Exhibit "A"** attached hereto. Licensee shall have the right to use the Premises for the location of the Tower and Facilities. Licensee shall be responsible for all costs and activities associated with the construction of the aforementioned Tower and Facilities. Equipment owned by and installed, operated and maintained by Licensee will be installed at the Premises. The Licensee's use of the Premises shall be subject to the terms and conditions of this Agreement, specifically including but not limited to, the General Terms and Conditions, attached hereto as **Exhibit "B"** and made a part hereof.

2. TOWER FACILITIES:

Licensor grants to Licensee the right to construct the Tower on the Premises for the installation of its communications antennas. The Tower and Facilities will be located within the area further defined on **Exhibit "A"** of this Agreement.

3. EQUIPMENT FACILITIES:

EEC ORIGINAL PKG

PC ORIGINAL PKG

Licensor grants to Licensee the right to locate on the Premises, in an area close to the base of the Tower, one (1) concrete slab measuring sixteen (16') feet by twenty-two (22') feet] that will be used to mount the Tower and Facilities installed on the Premises by Licensee. The Facilities will be located within the area further defined on Exhibit "A" of this Agreement. Licensee may install, as part of the Facilities on the Premises all other related equipment, cables, accessories and improvements and any other items necessary to the successful and secure use of the Premises, subject to the other terms and conditions in this Agreement.

4. PLANS:

Licensee shall submit detailed site plans and technical specifications for the construction of the Tower and Facilities at the Premises to Licensor for Licensor's approval prior to the commencement of construction thereof. Licensor shall not unreasonably withhold, condition or delay such approval. The approved site plans shall be made a part of this Agreement and be attached to the Agreement as Exhibit "A". In the event any modifications to the Tower or Facilities, or any other improvements or installations on the Premises, are desired by Licensee or any approved sublicensees of Licensee, then the plans and technical specifications for such modifications, improvements or installations shall also be subject to Licensor's approval prior to commencement of construction thereof.

5. PERMIT:

Licensee shall have the obligation to apply to the municipality or any other state or federal authority, as may be required, for a permit to construct the Tower and Facilities at any time during the term of this Agreement. Licensee shall prepare, at its sole cost and expense, all site plans (i.e., engineering and architectural documents) which are required pursuant to its application for the foregoing permit.

Licensor agrees to reasonably cooperate with Licensee in its efforts to obtain any necessary permits from the municipality or any other state or federal agency, as the case may be. Licensor further agrees not to unreasonably withhold consent to any such application for and during the term of this Agreement, and further agrees to execute all necessary application forms that may be reasonably required. Licensor shall further appear for testimony before any municipal, state or federal board in the event same is required for approval. Any application so filed, however, shall be at the full cost and expense of Licensee, said cost and expense including, but not being limited to engineering fees, application fees, legal fees and such other costs as may be incidental to the pursuance of any such application.

Licensee shall be responsible for ensuring that all equipment installed by Licensee complies with the applicable rules and regulations of the Federal Communications Commission (hereinafter, the "FCC") and the electrical code and other applicable codes of any other governmental authority having jurisdiction over the Premises or such equipment prior to the installation thereof.

6. COST OF PERMITS:

Licensee shall be responsible for payment of expenses for any and all necessary and/or required municipal permits to construct the Tower and Facilities on the Premises. Licensor agrees that it shall not unreasonably withhold or delay its consent of any such application or permit which may be required. Licensee shall pay any and all fees associated with the approval and/or construction of the Tower and Facilities. Licensor

In the event Licensee elects to relocate its Tower and Facilities to the alternative location, the parties shall execute new copies of approved Exhibit "A" as necessary, to reflect such change in the location of Licensee's Tower and Facilities at the Premises.

10. PROTECTION OF FIBER OPTIC CABLE:

Licensee represents and warrants that all work on the Premises performed by Licensee, its contractors, agents and/or employees will be in strict compliance with the provisions set forth in "PROTECTION OF SUBSURFACE FACILITIES ON LICENSOR'S PROPERTY" of the General Terms and Conditions.

In addition to the liability terms contained elsewhere within this Agreement, Licensee shall indemnify and hold Licensor harmless against and from all costs, liability and expense whatsoever (including, without limitation, attorneys' fees and court costs and expenses), arising out of or in any way contributed to by any act or omission of Licensee, its contractors, agents and/or employees, that cause or in any way contribute to (a) any damage to or destruction of any fiber optic cable telecommunications system located on the Premises by Licensee, its contractors, agents and/or employees, (b) any injury to or death of any person employed by or on behalf of any fiber optic cable telecommunications company and/or its contractors, agents and/or employees on the Premises, and/or (c) any claim or cause of action for alleged loss of profits or revenue by, or loss of service by a customer or user of, such telecommunications company or companies.

11. TERMINATION:

In the event that any municipal, state, federal or any other governmental authority prevents Licensee from occupying or operating Licensee's equipment at the Premises, or if in Licensee's reasonably exercised judgment, significant engineering, economic or other developments occur that prevent the economic feasibility of this Agreement, Licensee has the right to terminate this Agreement, upon providing Licensor with six (6) months prior notice and removing Licensee's equipment and restoring the Premises to its original conditions, except for reasonable wear and tear, and removing any underground structures to a depth that is mutually agreeable to the Parties.

The Licensee agrees that upon the expiration or termination of this Agreement or the abandonment of the Premises by the Licensee, the Licensee shall (a) remove from the Premises, at the expense of the Licensee, all structures, property and other materials not belonging to the Licensor; and (b) restore the surface of the ground to as good a condition as the same was in before such structures were erected and/or constructed, including, without limiting the generality of the foregoing the removal of foundations of such structures, the filling in of all excavations and pits, and the removal of all debris and rubbish, all of which shall be performed at the Licensee's expense. If the Licensee should fail to perform such removal, the Licensor may perform the work and the Licensee shall reimburse the Licensor for the cost thereof, within thirty (30) days after the bill is rendered. The Licensee's non-use of the Premises for the purposes described in this Agreement continuing for one (1) year shall be sufficient and conclusive evidence of such abandonment, unless the Licensee shall have notified the Licensor in writing of its reasons for such non-use, and shall continue to pay rent as and when due to the Licensor.

12. OWNERSHIP OF TOWER, FACILITIES AND RADIO EQUIPMENT:

It is understood and agreed that Licensee shall own the Tower and Facilities and all related radio equipment, and/or any such improvements constructed or placed on the Premises by Licensee.

13. OWNER'S RIGHT OF INSTALLATION:

Licensee hereby grants to Licensor the right, reasonably exercised, to locate antennas on the Tower and related radio equipment, upon the Premises, subject to a maximum of 10,000 square inches of wind loading and availability of space upon the Tower being available at the time of Licensor's desire to exercise said right.

Licensor shall assume all costs and liabilities associated with the installation, operation and maintenance of Licensor's equipment at the Premises.

Licensee shall charge Licensor no fee for the installation, operation and maintenance of Licensor's equipment at the Premises.

14. MAINTENANCE:

Licensee shall (i) be responsible for any and all improvements located upon the Premises by Licensee or any approved sublicensees, including the Tower and Facilities, and (ii) shall perform whatever remedial and preventive maintenance, repairs, construction and security which may be required to properly maintain the Tower and Facilities and the equipment located thereupon or therewithin.

15. PAYMENT:

Effective upon the first month following the Commencement Date, Licensee shall pay Licensor [REDACTED] per year for the privileges and rights presented in this Agreement which rental shall increase by [REDACTED] percent [REDACTED] annually. At such time as the amount equal to [REDACTED] of the total gross revenue collected by Licensee from all sublicensees at the Premises exceeds the amount of the then-current annual rental, Licensee shall then begin paying to Licensor the greater of the then-current rental per year, as increased by [REDACTED] annually, or [REDACTED] of the total revenue collected annually from Licensee's sublicensees at the Premises. The annual amount shall be paid in twelve monthly increments, each equal to one-twelfth of the annual total. Each monthly payment shall be made on or before the 20th day of each month.

Licensor shall have the right, no more than once per calendar year, to inspect and audit all of Licensee's documents, agreements, and records relating to the Premises, including any documents, agreements, and records of Licensee regarding billing and collection of fees payable or paid under any agreement related to the Premises, and Licensee shall, for as long as this Agreement remains in effect and for three (3) years following any expiration or termination of this Agreement, maintain copies of all such documents and records. In the event Licensor elects to inspect and audit any such documents and records and/or the payments made by the any person related to the Premises, if Licensor determines that Licensee has failed to pay Licensor any material amounts owed to Licensor hereunder, Licensee shall, in addition to paying Licensor any amounts found by such inspection and audit to remain unpaid, reimburse Licensor for its costs to complete such inspection and audit.

16. **TERM:**

This Agreement shall be for an initial term of ten (10) years, commencing on the date that Licensee starts construction ("Commencement Date"). The License shall automatically renew for three (3) additional term of five (5) years unless terminated under terms herein.

17. **INTERFERENCE:**

Licensor grants to Licensee the use of the Premises exclusively for the construction and use of the Tower and Facilities for the installation of radio communications equipment. The equipment installed by Licensee or its sublicensees shall transmit only on frequencies licensed for such equipment. Licensee shall be responsible for performing all radiofrequency ("RF") engineering studies to ensure that the placement of radio equipment at the Premises will not cause interference to existing equipment located near the Premises by Licensor or Licensor's Licensees, lessees or vendors, and Licensee shall submit such studies to Licensor for approval prior to installation.

If any radio equipment installed by Licensee causes RF interference with such existing equipment of Licensor or Licensor's Licensees, lessees or vendors, Licensee shall be responsible for eliminating or minimizing to an acceptable degree such RF interference within 48 hours after receipt after written notice of such interference from Licensor to Licensee by, for example, removing, replacing or repositioning the equipment causing such interference (hereinafter, the "Interfering Equipment"). In the event such interference is not eliminated or minimized to an acceptable degree within the aforesaid 48 hour period, Licensee or its client, as the case may be, shall discontinue use of the Interfering Equipment (except for intermittent operation for the purpose of correcting such interference). If said interference is not corrected within thirty (30) days after Licensee's receipt of the aforesaid notice from Licensor, Licensee shall remove the Interfering Equipment within an additional ten (10) day period.

18. **INSURANCE:**

Licensee and/or its contractors shall, at its sole cost and expense, procure and maintain during the life of this Agreement the following insurance coverage:

- (a) General Liability insurance providing bodily injury including death, personal injury and property damage coverage with a combined single limit of at least \$2,000,000 each occurrence or claim and an aggregate limit of at least \$4,000,000. This insurance shall contain broad form contractual liability. Exclusions for explosion, collapse and underground hazard shall be removed. Coverage purchased on a claims made form shall provide for at least a two (2) year extended reporting or discovery period if (a) the coverage changes from a claims made form to an occurrence form, (b) there is a lapse/cancellation of coverage, or (c) the succeeding claims made policy retroactive date is different for the expiring policy.
- (b) Automobile Liability insurance providing bodily injury and property damage coverage with a combined single limit of at least \$2,000,000 each occurrence or claim. This insurance shall cover all motor vehicles including hired and non-owned, and mobile equipment if excluded from coverage under the general public liability insurance.

- (c) Workers' Compensation insurance covering Licensee statutory liability under the workers' compensation laws of the state(s) affected by this Agreement, and Employers' Liability. If such insurance will not cover the liability of Licensee in states that require participation in state workers' compensation fund, Licensee shall comply with the laws of such states. If Licensee is self-insured, evidence of state approval must be provided.
- (d) Railroad Protective Liability insurance naming the Licensor as the insured with a combined single limit of \$2,000,000 per occurrence with a \$6,000,000 aggregate. The Licensee may meet this obligation with a commercial general liability policy with Endorsement CG2417 Contractual Liability - Railroads, which amends the definition of an insured contract to include construction or demolition operations on or within 50 feet of a railroad. A binder of insurance for Railroad Protective Liability must be submitted to the Licensor and the original policy or a certified duplicate original policy must be forwarded to the Licensor when available.

Where permitted by law and subject to Licensee's indemnification obligations herein, Licensee and its insurers shall endorse the required insurance policy (ies) to waive their right of subrogation against Licensor. Licensee and its insurers also waive their right of subrogation against Licensor for loss of its owned or leased property or property under its care, custody and control. Licensee's insurance shall be primary with respect to any insurance carried by Licensor. The policy (ies) required under (a) and (b) above shall provide severability of interests and shall name Licensor as an additional insured with respect to liability arising from Licensee's operations for which Licensee has legally assumed responsibility herein.

Prior to commencing the any construction work, Licensee shall furnish to Licensor certificate(s) of insurance evidencing the required coverage. The certificate(s) shall contain a provision that obligates the insurance company (ies) issuing such policy (ies) to notify Licensor in writing of any material alteration including any change in the retroactive date in any "claims-made" policies or substantial reduction of aggregate limits, if such limits apply, or any cancellation at least thirty (30) days prior thereto.

The insurance policy (ies) shall be written by a reputable insurance company (ies) acceptable to Licensor or with a current Best's Insurance Guide Rating of B and Class VII or better and authorized to do business in the state(s) in which the Job Site is located.

The fact that insurance is obtained by Licensee shall not be deemed to release or diminish the liability of Licensee and/or its contractors, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Licensor shall not be limited by the amount of the required insurance coverage.

19. INDEMNIFICATION/HOLD HARMLESS:

Licensee agrees that it shall not, through its actions or omissions, (i) endanger the property or employees of Licensor located at the Premises or (ii) expose any person, including but not being limited to Licensor's employees, contractors, agents or Licensees, or Licensor's property, operations or facilities to any additional hazards. Licensee shall indemnify and hold Licensor and its affiliates, and the officers, agents and employees of each, harmless against and from any and all liability, loss, damage, claims, demands, costs and expenses (including court costs and attorneys' fees) arising directly out of Licensee's use of the Premises, including, without limitation its construction activity thereon pursuant to this Agreement, except for those

claims that are due to or caused solely by the negligence or intentional misconduct of Licensor, its affiliates, or the officers, agents, assigns, contractors and employees.

20. ASSIGNMENT:

The Licensee shall not assign this Agreement, or any interest therein, without the written consent of Licensor. Such consent shall not be unreasonably withheld, conditioned, or delayed. No assignment by Licensee shall relieve Licensee of any of its obligations and liabilities assumed hereunder.

Notwithstanding the foregoing, Licensor agrees that Licensee shall have the right to freely assign its rights and obligations hereunder to any parent company, a wholly-owned subsidiary or affiliate of Licensee, an entity in the business of developing or operating telecommunication towers (excluding FCC licensed wireless carriers and existing Tower sublessees) or a purchaser of all or substantially all of Licensee's assets. The issuance of stock by Licensee shall not be deemed to be an assignment under the provisions of this Paragraph.

Subject to the provisions of this Paragraph, this Agreement shall be binding upon and insure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

21. SUBLEASE AUTHORITY:

Licensor acknowledges that Licensee's intent is to design the Tower and Facilities to accommodate sublicensing in the Premises to FCC licensed wireless carriers. Licensee shall not sublicense in the Premises to FCC licensed wireless carriers, in whole or in part, without Licensor's written consent. Such consent shall not be unreasonably withheld, conditioned, or delayed. Prior to sublicensing to FCC licensed carriers in the Premises, Licensee shall provide to Licensor a copy of the sublicensee's application, construction drawings, sublease agreement and construction schedule. Licensee shall not sublicense the Premises, in whole or in part, to unlicensed wireless carriers or other entities, without Licensor's written consent, which consent shall be in Licensor's sole and absolute discretion. Licensor hereby explicitly reserves the right to condition such consent upon additional financial consideration if the sublease is less than \$1750 per month (or \$1250 per month for DISH Wireless).

22. CASUALTY/CONDEMNATION:

In the event there is a total or partial destruction of the Premises by fire or other casualty (hereinafter, a "Casualty") and the Premises are, in Licensee's judgment, thereby rendered insufficient for Licensee's continued operations thereat and/or restoration thereof would not, in Licensee's reasonable judgment, be economically feasible and/or such restoration could not, in Licensee's reasonable judgment, be accomplished within a period of ninety (90) days from the date of such Casualty, Licensee shall have the right to terminate this Agreement upon thirty (30) days' notice to Licensor. In the event Licensee elects not to terminate this Agreement,

- (a) Licensee shall have the right to restore those portions of the Premises upon which its Tower and Facilities are located and to reconstruct same thereupon at Licensee's sole cost and expense.

- (b) In the event those portions of the Premises upon which Licensee's Tower and Facilities are located are, in Licensee's judgment, incapable of being restored, Licensor shall, upon request of and in consultation with Licensee, designate an alternative location at the Premises upon which Licensee may reconstruct its Tower and Facilities.

In the event the Premises, that portion of the Premises upon which Licensee's Tower and Facilities are located, or any significant portion of either is condemned or is otherwise subjected to a taking by any governmental authority exercising the power of eminent domain, this Agreement shall terminate as of the date upon which Licensee is required by the governmental authority to cease its operations at the Premises. Licensee shall be entitled to seek their own award against the condemning authority.

23. ARBITRATION:

All controversies relating to, in connection with, or arising out of this Agreement, its modification or making, the authority or obligations of the parties hereto, and whether involving the principals, agents, brokers or others who actually subscribe hereto, shall be settled by arbitration. The arbitration proceedings shall be held in the county and state in which the Premises is located and in accordance with the laws of the aforesaid state. The arbitration proceeding is to be governed by the American Arbitration Association and the "Rules of Arbitration" (hereinafter, the "Rules") as they exist at the time of the arbitration (including provisions as to payment of fees and expenses) and presided over by one arbitrator selected in accordance with the aforementioned Rules. Arbitration is the sole remedy hereunder. All notices or service in reference to arbitration or enforcement shall be deemed given if transmitted as required by the aforementioned Rules. The parties agree that any dispute or controversy related solely to an engineering matter, as mutually determined by Licensee and Licensor, shall be settled by arbitration in accordance with the foregoing, except that the one presiding arbitrator shall be a professional licensed engineer or engineering consultant selected in accordance with the Rules.

24. FORCE MAJEURE:

To the extent that either party to this Agreement is prevented from discharging its duties by an event of Force Majeure, such as by reason of flood, war, fire, explosion or other catastrophe or act of God, both parties shall be temporarily excused from the performance of their obligations under this Agreement until such time as the Force Majeure event has abated.

25. INTEGRATED AGREEMENT:

It is agreed and understood that this Agreement including the Exhibits attached hereto and made a part hereof contains all of the agreements, promises, and understandings between Licensor and Licensee and that no prior written, verbal or oral agreements, promises or understandings shall be binding upon either Licensee or Licensor in any dispute, or proceeding at law.

26. GOVERNING LAW:

The performance of this Agreement shall be interpreted, construed, and regulated by the laws of the state of California.

27. **LICENSOR'S REPRESENTATIONS:**

Licensor covenants, represents and agrees it has the full right, power and authority to enter into, execute and deliver this Tower Construction Agreement.

28. **SURVIVORSHIP:**

This Agreement shall be binding upon and shall inure to the benefit of any respective successors and assigns of Licensor and Licensee, subject to prior restrictions on assignments by Licensee.

Notwithstanding the foregoing, in the event there is any successor to Licensee, Licensee and/or such successor must notify Licensor of such succession within five (5) days after such event.

29. **SEVERABILITY:**

The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render the remaining provisions unenforceable, invalid or illegal.

30. **NOTICES:**

All notices hereunder must be in writing and shall be validly given if sent via Registered or Certified Mail, Return Receipt Requested, addressed as follows (or any other address that the party to be notified may have designated to the sender by like notice):

To Licensor: Union Pacific Railroad Company
1400 Douglas Street - 0640
Omaha, Nebraska 68179
Attn: Mike Wallman

To Licensee: CitySwitch – II, LLC
1900 Century Place, Suite 320
Atlanta, GA 30345
Attn: Legal

31. **AUTHORITY TO SIGN:**

Licensor and Licensee each represent that the signatories of this Agreement presently have full authority to enter into this Agreement and to bind and obligate their respective organizations to the terms, rights and obligations under this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this date.

ACCEPTED BY: Licensor
Union Pacific Railroad Company

ACCEPTED BY: Licensee
CitySwitch II-A, LLC

BY: Chris Doble

BY: Robert Ravielle

PRINT NAME: CHRIS D. GOBLE

PRINT NAME: Robert Ravielle
President & CEO

TITLE: Assistant Vice President - Real Estate

TITLE: _____

DATE: 5/3/2022

DATE: 4/21/22

ACKNOWLEDGMENT OF LICENSEE:

STATE OF GEORGIA)
) ss.:
COUNTY OF FULTON)

On this 21 day of APRIL, 2022, before me personally appeared Rob Raville
_____, known to me (or proved to me on the basis of satisfactory evidence) to be the persons
described in and who executed the foregoing instrument, and acknowledged that she executed the same as his free
act and deed.

WITNESS my hand and Official Seal at office this 21 day of APRIL, 2022

Catherine Habel
Notary Public

My Commission Expires:

07-21-2023



ACKNOWLEDGMENT OF LICENSOR:

STATE OF Nebraska)
) ss.
COUNTY OF Douglas)

On this 3rd day of May, 2022, Chris D. Robk before
me personally appeared known to me (or proved to me on the basis of satisfactory evidence) to be the persons
described in and who executed the foregoing instrument, and acknowledged that she executed the same as his free act
and deed.

WITNESS my hand and Official Seal at office this 3rd day of May, 2022

Gregory A. Brigham
Notary Public

My Commission Expires:

May 9, 2026



Exhibit A

Location Print Depicting the Premises



**JOHN M. BANKS
ARCHITECT**
P.O. BOX 1000
BARRINGTON, IL 60010
TEL: (815) 241-1000
FAX: (815) 241-1000
EMAIL: jmbanks@westchesterprojects.com

WESTCHESTER
REG. 12-25-11
844 FOX GLEN
BARRINGTON, IL 60010
TEL: (815) 241-1000
FAX: (815) 241-1000
REGISTRATION: REG. 12-25-11

LEASE EXHIBIT
NOT FOR CONSTRUCTION

DRAWN BY: JMB
CHECKED BY: RSM

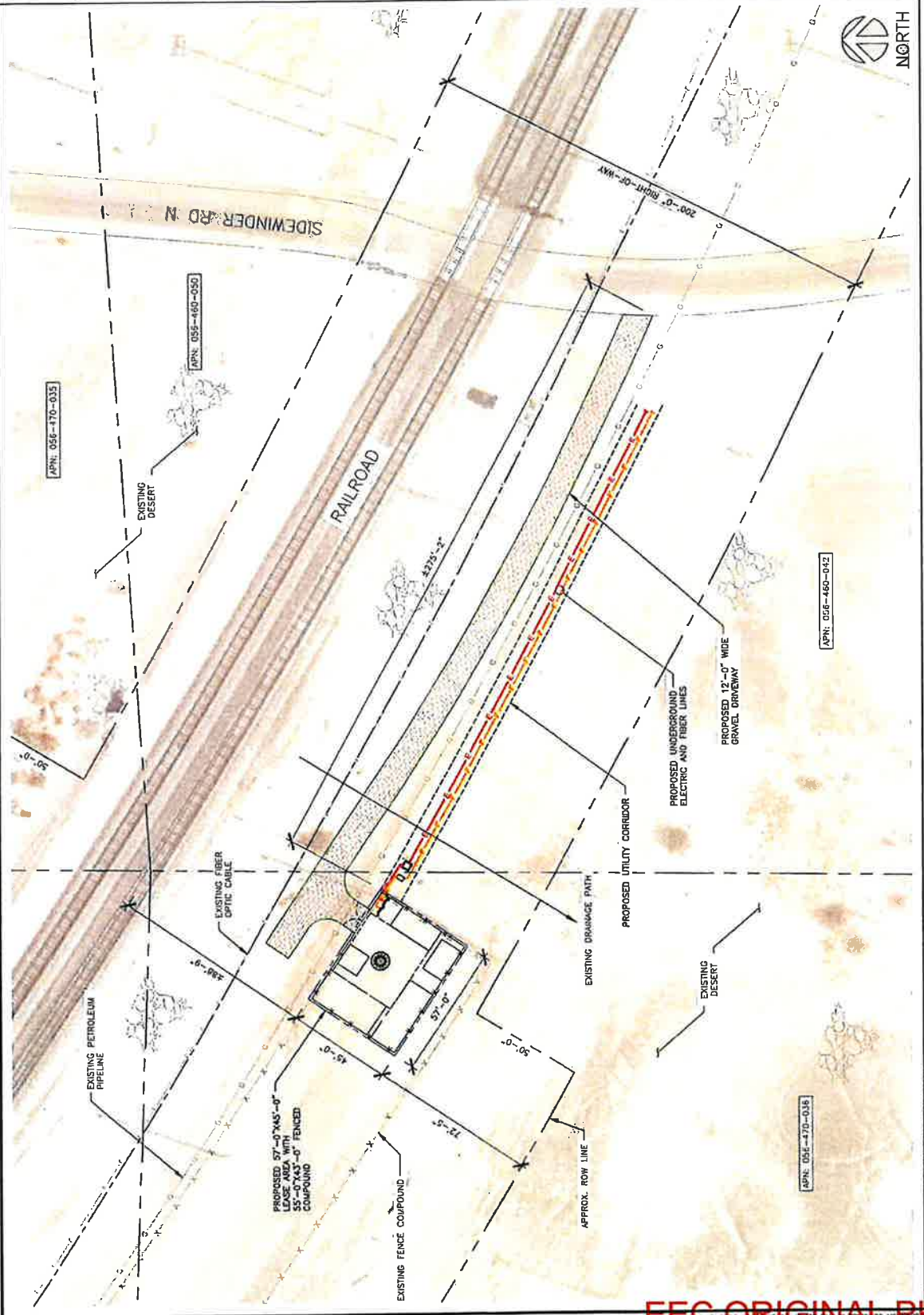
REV	DATE	DESCRIPTION
A	01/12/22	LEASE EXHIBIT
B	01/18/22	REVISED LE
C	02/14/22	REVISED LE

* THIS PROJECT HAS BEEN REVIEWED AND APPROVED BY THE STATE OF CALIFORNIA FOR THE PURPOSES OF THE STATE OF CALIFORNIA'S REGISTERED PROFESSIONAL ENGINEERS AND ARCHITECTS ACT.

FA # 10101309
SITE NAME:
WINTERHAVEN
SITE ADDRESS:
637-639 SIDEWINDER RD N
FELICITY, CA 92283
IMPERIAL COUNTY

SHEET TITLE
OVERALL
SITE PLAN

SHEET NUMBER
LE-1



OVERALL SITE PLAN

SCALE: 1"=50'-0" (11/17/22)
(800) 7-30-07 (22524)

PC ORIGINAL PKG

EEC ORIGINAL PKG

**ATTACHMENT "H"-
ALUC PACKAGE**

PC ORIGINAL PKG



Imperial County Planning & Development Services Planning / Building

Jim Minnick
DIRECTOR

TO:

Commissioner Mike Goodsell
Commissioner Jenell Guerrero
Commissioner Dennis Logue
Commissioner Sylvia Chavez
Commissioner Jerry Arguelles

FROM:

Jim Minnick, Secretary
Planning & Development Services Director

SUBJECT:

Public Hearing for the consideration of a proposed 180-foot wireless communication facility (Conditional Use Permit #23-0010 & Variance #23-0004) located at 637-639 Sidewinder Rd N., Winterhaven, Ca. 92283 (APN 056-470-002-000); Latitude 32° 45' 13.8996"N – Longitude 114° 45' 36.8454"W to determine Consistency with the Airport Land Use Compatibility Plan (ALUCP). [Evelia Jimenez, Planner II] (ALUC 05-23)

DATE OF REPORT:

July 19, 2023

AGENDA ITEM NO:

3

HEARING DATE:

July 19, 2023

HEARING TIME:

6:00 p.m.

HEARING LOCATION:

County Administration Center
Board of Supervisors Chambers
940 Main Street
El Centro, CA 92243

STAFF RECOMMENDATION

It is Staff's recommendation that the Airport Land Use Commission finds the proposed 180-foot wireless communication facility, located at 637-639 Sidewinder Rd N., Winterhaven, CA. 92283 to be consistent with the 1996 Airport Land Use Compatibility Plan.

SECRETARY'S REPORT

Project Location:

The proposed wireless communication facility will be located at 637-639 Sidewinder Rd N., Winterhaven, Ca 92283. The property is identified as Assessor's Parcel Number (APN 056-470-002-000) and is further described as POR SBE 872-13-9-3 OF SEC 21 16-21 Latitude 32° 45' 13.8996"N – Longitude 114° 45' 36.8454"W .

Project Description:

The applicant, CitySwitch, is proposing to construct a communications facility which consists of a 170' monopole tower with a 10'-0" lightning rod, for a total height of 180'-0" to be located within a 57'-0" x 45" leased, fenced area, within a parcel owned by the Union Pacific Railroad Company and within its railroad right-of-way. The proposed telecommunications tower will be erected, owned, and operated by CitySwitch. CitySwitch will be offering it as a shared facility to Union Pacific, with whom CitySwitch already has a commitment with as well as with At&T Mobility. Additionally, the facility will be open for co-location to other wireless providers and any other communication carriers that have a need for a facility in this area. The proposed telecommunications facility requires a Conditional Use Permit (#23-0010) for the wireless communication facility and a Variance (#23-0004) to exceed the 100-foot height limitation for the Open Space/Preservation (S-2) zoned area by 80 feet.

The proposed facility is designed to house the equipment necessary to provide Union Pacific and AT&T's critical communications for the railroad line and uninterrupted AT&T wireless services to the residents and visitors of Winterhaven, Imperial County, and surrounding areas, including wireless telephone service, voice paging, messaging, and wireless internet and broadband data transmission. All registered wireless providers' technology operates at various radio frequency bands allocated by the Federal Communications Commission (FCC) as part of their license.

After construction, the proposed wireless telecommunications facility will be unmanned and will only require service technicians, in a pick-up or van sized vehicle, to visit the site approximately once a month. Access will be provided via an easement with the proposed access entry point off Sidewinder Rd N. The only utilities required to service the facility are power and fiber. The site is entirely self-monitored through a sophisticated alarm system, which is connected to a main switch station. The system alerts personnel of any equipment malfunction or breach of security. Additionally, there will be no impacts on County's water and sanitation (sewer) utilities as they will not be used at the site.

In accordance with Federal Communications Commission (FCC) regulations, the proposed wireless telecommunications facility will be designed and constructed to meet and/or exceed all applicable government and industry safety standards. Specifically, CitySwitch will comply with all Federal Communications Commission (FCC) and Federal Aviation Agency (FAA) rules and regulations regarding construction requirements and technical standards. The proposed wireless communication facility's Radio Frequency (RF) emissions will comply with the Federal Communications Commission's (FCC) Radio Frequency emission standards. Additionally, the proposed wireless communication facility will comply with the Federal Aviation Agency's (FAA) height, lighting, and marking requirements.

General Plan/ALUCP Analysis:

The wireless communication facility is being proposed in the Winterhaven area and is not located near any County Public Airport or airstrip. The nearest airport is the Holtville Airport located approximately eight (30.27) miles northwest of the project site.

The project site is zoned S2 (Open Space/Preservation) per Zoning Map #70 of the Imperial County Title 9 Land Use Ordinance.

The Airport Land Use Compatibility Plan (ALUCP), Chapter 2, Policies, Section 2.3, provides "Types of Actions Reviewed" by the Commission, which shall include:

"Any request for variance from a local agency's height limitation ordinance; and any other proposed land use action, as determined by the local planning agency, involving a question of compatibility with airport activities" (Section 2.3.3(c)(h), pg. 2-3 & 2-4)

The proposed Variance (V#23-0004) and Conditional Use Permit (CUP#23-0010) have been submitted for the Airport Land Use Commission's review and determination of consistency with the 1996 Airport Land Use Compatibility Plan (ALUCP) due to the nature of the application (a 180-foot wireless communication facility).

ATTACHMENTS:

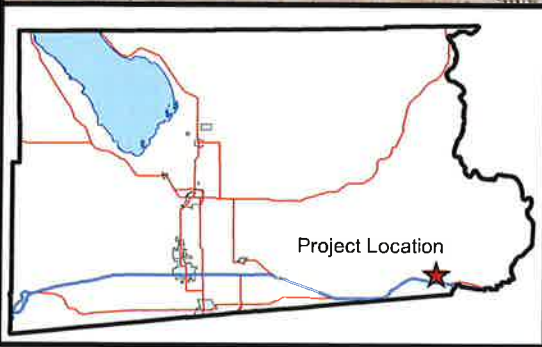
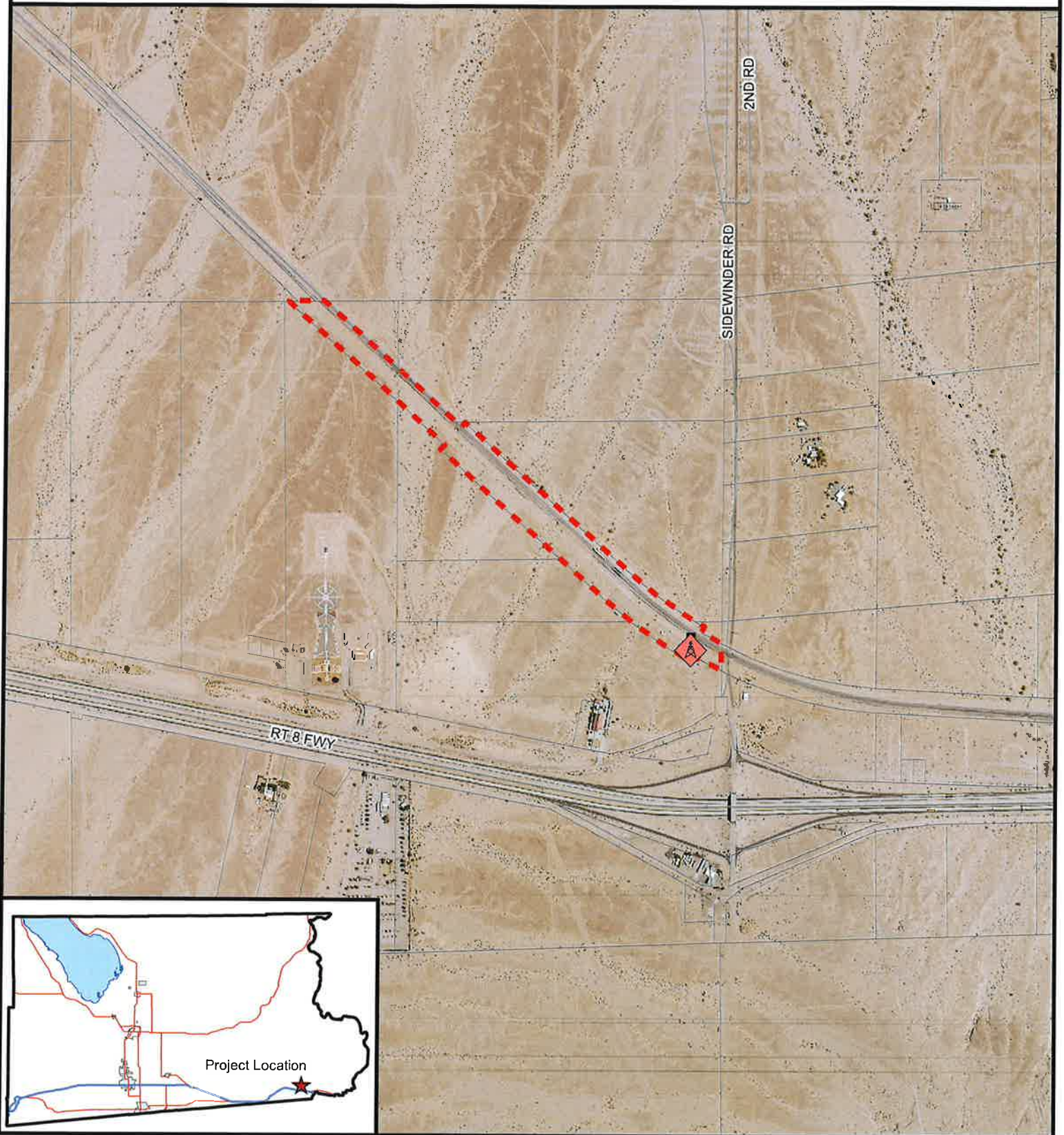
- A. Vicinity Map
- B. ALUC Map
- C. Assessors Plat Map
- D. Site Plan
- E. Application & Supporting Documents
- F. ALUCP Section

EJ\AT\S:\AllUsers\APN\056\470\002\CUP23-0010_IS23-0010_V23-0004\CUP23-0010 ALUC Staff Report.doc





ATTACHMENT A
VICINITY MAP

PC ORIGINAL PKG

PROJECT LOCATION MAP



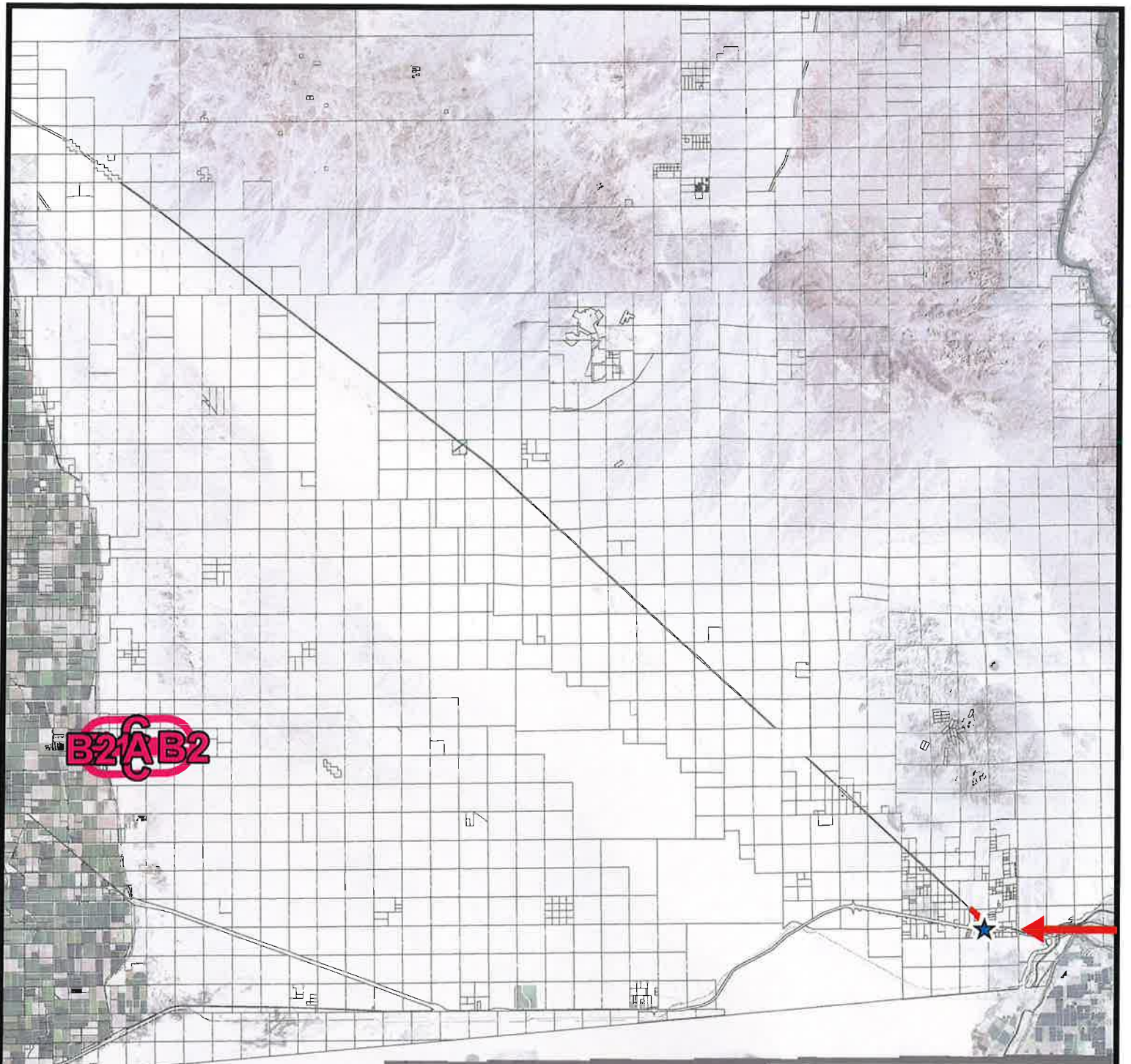
CITYSWITCH
637-639 SIDEWINDER R.
WINTERHAVEN, CA.
CUP #23-0010 / IS 23-0010 / V 23-0004
APN 056-470-002-000
PC ORIGINAL PKG

	Project Location
	Centerline
	Parcels
	Tower Location



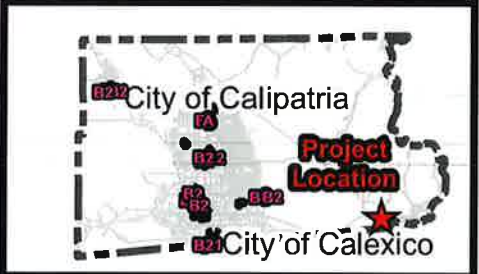
ATTACHMENT B
ALUCP MAP

PC ORIGINAL PKG



B2AB2

-  Project Location
-  Tower Location
-  Airport Compatibility Zones



**IMPERIAL COUNTY AIRPORT LAND USE COMMISSION
CITYSWITCH
673 SIDEWINDER RD, WINTERHAVEN, CA
CUP 23-0010 / IS 23-0010 / V 23-0004
APN 056-470-002-000**

PC ORIGINAL PKG



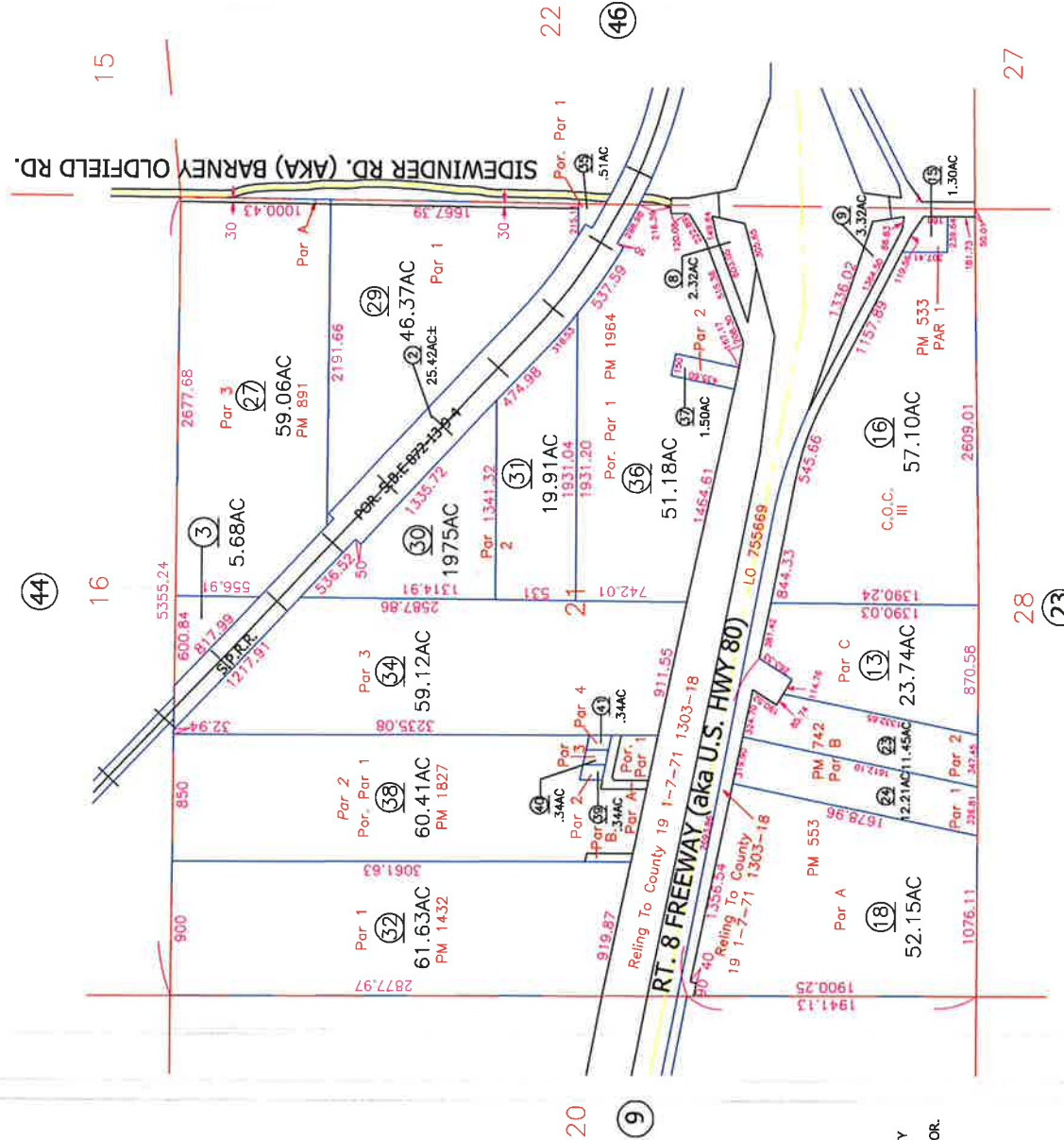
ATTACHMENT C
ASSESSOR PLAT MAP

PC ORIGINAL PKG

SEC. 21 T16S, R21E

Tax Area Code
94-002

56-47



PC ORIGINAL PKG

DISCLAIMER:
 THIS IS NOT AN OFFICIAL MAP.
 THIS MAP WAS CREATED FOR THE IMPERIAL COUNTY
 ASSESSOR, FOR THE SOLE PURPOSE OF AIDING IN
 THE PERFORMANCE OF THE DUTIES OF THE ASSESSOR.
 ANY ERRORS OR OMISSIONS IN THIS MAP ARE NOT
 THE RESPONSIBILITY OF THE COUNTY OF IMPERIAL
 OR THE ASSESSOR. (REV. & TAX. CODE SEC.327)

BLOW - UP
 From 56-10
 7-12-90 LS
 2-10-93 LS

ATTACHMENT D
SITE PLAN

PC ORIGINAL PKG



WESTCHESTER
TELECOM SERVICES

804 FOX GLEN
BARBERSPTON, CA 92008
TEL: 619-427-1000
FAX: 619-427-1000
www.westchester.com

ZONING DRAWINGS
NOT FOR CONSTRUCTION

CHECKED BY: MN
RSU

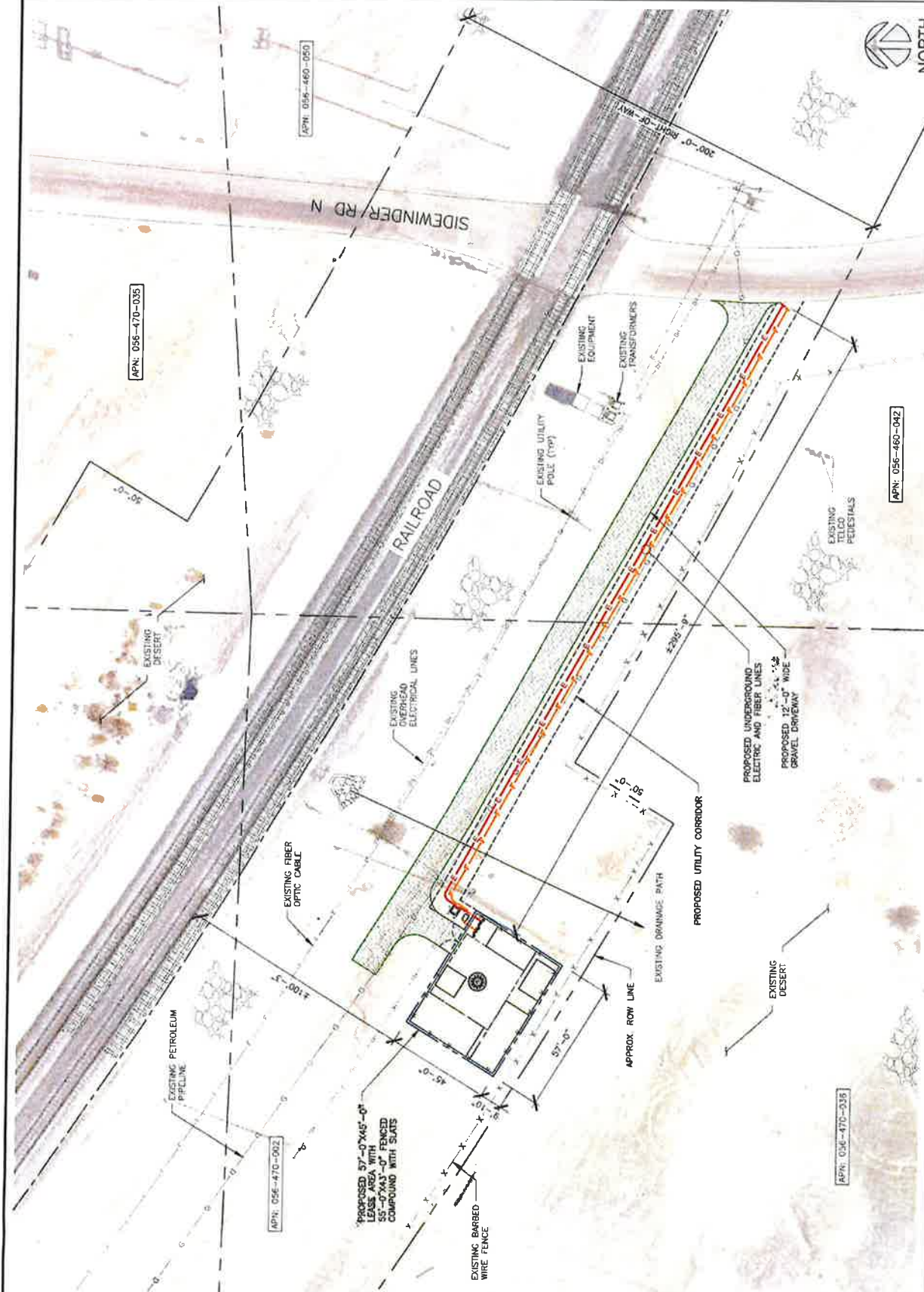
REV	DATE	DESCRIPTION
A	03/15/22	ZONING DRAWINGS
B	03/29/22	ZONING DRAWINGS
C	10/25/22	ZONING DRAWINGS

* THESE PLANS AND THE INFORMATION CONTAINED HEREIN ARE THE PROPERTY OF WESTCHESTER TELECOM SERVICES AND SHALL REMAIN THE PROPERTY OF THE STATE OF CALIFORNIA.

SITE NAME:
WINTERHAVEN
SITE ADDRESS:
637-639 SIDEWINDER RD N
FELICITY, CA 92283
IMPERIAL COUNTY

SHEET TITLE:
OVERALL
SITE PLAN

SHEET NUMBER:
C-1



OVERALL SITE PLAN

SCALE: 1"=30'-0" (11/17)
OR: 2"=30'-0" (22/24)

1

PC ORIGINAL PKG

ATTACHMENT E
APPLICATION & SUPPORTING
DOCUMENTS

PC ORIGINAL PKG

CONDITIONAL USE PERMIT

I.C. PLANNING & DEVELOPMENT SERVICES DEPT.
801 Main Street, El Centro, CA 92243 (760) 482-4236

- APPLICANT MUST COMPLETE ALL NUMBERED (black) SPACES - Please type or print -

1. PROPERTY OWNER'S NAME CitySwitch (Lessee)	EMAIL ADDRESS info@cityswitch.com	
2. MAILING ADDRESS (Street / P O Box, City, State) 1900 Century Place NE, Suite 320, Atlanta, GA	ZIP CODE 30345	PHONE NUMBER 404-857-0858
3. APPLICANT'S NAME Michael Bieniek, AICP / Allison R. Burke (Agents)	EMAIL ADDRESS mbieniek@loctel.com / aburke@shermanhoward.com	
4. MAILING ADDRESS (Street / P O Box, City, State) 10700 W. Higgins, Ste 240, Rosemont, IL / 675 15th Ste 2300 Denver, CO	ZIP CODE 60018 / 80202	PHONE NUMBER 847-287-1156 / 303-299-8045
4. ENGINEER'S NAME Westchester Services, LLC - Glon L Hunt III	CA LICENSE NO.	EMAIL ADDRESS ghunt@westchesterservices.com
5. MAILING ADDRESS (Street / P O Box, City, State) 3470 W. Jasper Drive, Chandler, AZ	ZIP CODE 85226	PHONE NUMBER 602-403-8614
6. ASSESSOR'S PARCEL NO. 056-470-002	SIZE OF PROPERTY (in acres or square feet) Railroad right-of-way	ZONING (existing) S-2
7. PROPERTY (site) ADDRESS Vacant railroad right-of-way 637-639 Sidewinder Rd N, Felcity, CA 92283		
8. GENERAL LOCATION (i.e. city, town, cross street) Sidewinder Road, approximately 1,200' north of Interstate 8, Felcity		
9. LEGAL DESCRIPTION See attached lease agreement		

PLEASE PROVIDE CLEAR & CONCISE INFORMATION (ATTACH SEPARATE SHEET IF NEEDED)

10. DESCRIBE PROPOSED USE OF PROPERTY (list and describe in detail)	Proposed 170' monopole tower with a 10'-0" lightning rod for a total height of 180'-0" to be located within a 57'-0" x 45' lease parcel.
11. DESCRIBE CURRENT USE OF PROPERTY	Railroad right-of-way
12. DESCRIBE PROPOSED SEWER SYSTEM	N/a
13. DESCRIBE PROPOSED WATER SYSTEM	N/a
14. DESCRIBE PROPOSED FIRE PROTECTION SYSTEM	N/a
15. IS PROPOSED USE A BUSINESS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	IF YES, HOW MANY EMPLOYEES WILL BE AT THIS SITE? No permanent employees

I, WE THE LEGAL OWNER (S) OF THE ABOVE PROPERTY CERTIFY THAT THE INFORMATION SHOWN OR STATED HEREIN IS TRUE AND CORRECT

Michael Bieniek, AICP 4/11/23
Print Name Date
Signature
Allison R. Burke 4/11/23
Print Name Date
Signature

REQUIRED SUPPORT DOCUMENTS

A. SITE PLAN	_____
B. FEE	_____
C. OTHER	_____
D. OTHER	_____

APPLICATION RECEIVED BY: _____	DATE: _____	REVIEW / APPROVAL BY OTHER DEPT'S required
APPLICATION DEEMED COMPLETE BY: _____	DATE: _____	<input type="checkbox"/> P W
APPLICATION REJECTED BY: _____	DATE: _____	<input type="checkbox"/> E H S
TENTATIVE HEARING BY: _____	DATE: _____	<input type="checkbox"/> A P C D
FINAL ACTION: <input type="checkbox"/> APPROVED <input type="checkbox"/> DENIED	DATE: _____	<input type="checkbox"/> O E S

CUP #
23-0010


VARIANCE


I.C. PLANNING & DEVELOPMENT SERVICES DEPT.
801 Main Street, El Centro, CA 92243 (760) 482-4236

- APPLICANT MUST COMPLETE ALL NUMBERED (black) SPACES - Please type or print -

1. PROPERTY OWNER'S NAME CitySwitch (Lessee)		EMAIL ADDRESS info@cityswitch.com	
2. MAILING ADDRESS (Street / P O Box, City, State) 1900 Century Place NE, Suite 320, Atlanta, GA		ZIP CODE 30345	PHONE NUMBER 404-857-0858
3. ENGINEERS NAME Westchester Services, LLC - Glen L. Hunt III		CA LICENSE NO	
4. MAILING ADDRESS (Street / P O Box, City, State) 3740 W. Jasper Drive, Chandler, AZ		EMAIL ADDRESS ghunt@westchesterservices.com	
		ZIP CODE 85226	PHONE NUMBER 602-403-8614
5. ASSESSOR'S PARCEL NO. 056-470-002		ZONING (existing) S-2	
6. PROPERTY (site) ADDRESS Vacant railroad right-of-way 637-639 Sidewinder Rd N, Felicity, CA 92283		SIZE OF PROPERTY (in acres or square foot) Railroad right-of-way	
7. GENERAL LOCATION (i.e. city, town, cross street) Sidewinder Road, approximately 1,200' north of Interstate 8, Felicity			
8. LEGAL DESCRIPTION See attached lease agreement			
8. DESCRIBE VARIANCE REQUESTED (i.e. side yard set-back reduction, etc.) for a communications tower is 100' Maximum allowable height in the S-2 district			
9. DESCRIBE REASON FOR, OR WHY VARIANCE IS NECESSARY:			
10. DESCRIBE THE ADJACENT PROPERTY East <u>vacant parcel</u> West <u>vacant parcel</u> North <u>vacant parcel</u> South <u>vacant parcel</u>			

IF WE THE LEGAL OWNER (S) OF THE ABOVE PROPERTY CERTIFY THAT THE INFORMATION SHOWN OR STATED HEREIN IS TRUE AND CORRECT

Michael Bionick, AICP 4/11/23
Print Name Date
 Date
Signature

Allison R. Burke 4/11/23
Print Name Date
 Date
Signature

REQUIRED SUPPORT DOCUMENTS

A	SITE PLAN	_____
B	FEE	_____
C	OTHER	_____
D	OTHER	_____

APPLICATION RECEIVED BY	_____	DATE	_____	REVIEW / APPROVAL BY	_____
APPLICATION DEEMED COMPLETE BY	_____	DATE	_____	OTHER DEPT'S required	<input type="checkbox"/> P W
APPLICATION REJECTED BY	_____	DATE	_____	<input type="checkbox"/> E H S	<input type="checkbox"/> A P C D
TENTATIVE HEARING BY	_____	DATE	_____	<input type="checkbox"/> O E S	<input type="checkbox"/> _____
FINAL ACTION	<input type="checkbox"/> APPROVED	<input type="checkbox"/> DENIED	DATE	_____	<input type="checkbox"/> _____

V #
23-004

RECEIVED

APR 12 2022

IMPERIAL COUNTY
PLANNING & DEVELOPMENT SERVICES



Sherman & Howard^{L.L.C.}



APPLICATION FOR CONDITIONAL USE PERMIT AND HEIGHT VARIANCE
APPROVAL FOR
THE PROPOSED COMMUNICATION FACILITY AT

637-639 SIDEWINDER RD N
FELICITY, CA 92283
APN: 056-470-002

CITYSWITCH SITE NAME / # – WINTERHAVEN CAC002
AT&T SITE NUMBER - 1010309

566209671

RECEIVED

APR 12 2022

Letter of Application

IMPERIAL COUNTY
PLANNING & DEVELOPMENT SERVICES

April 3, 2023

Mr. Jim Minnick
Planning & Development Services Director, Imperial County
801 W. Main Street
El Centro, CA 92243

RE: Proposed CitySwitch Communications Facility – Winterhaven CAC002
AT&T Site - 10101309
637-639 Sidewinder Rd N
APN 056-470-002
Felicity, CA 92283

Dear Mr. Minnick:

LCC Telecom Services and Sherman & Howard L.L.C. represent CitySwitch. CitySwitch has finalized an agreement with the property owners of the site referenced above to develop and construct a Communications Facility that will be available to be used by wireless carriers. The proposed shared use facility is designed to house the equipment necessary to provide clear and uninterrupted wireless telecommunications services to the residents and visitors of Imperial County.

This proposed Communications Facility is being constructed pursuant to Sections 92402.01 and 92405.01 of the Imperial County Land Use Code (the "Code"). The proposed facility will consist of a 170'-0" tall monopole tower with a 10'-0" lightning rod for a total height of 180'-0" to be located within a 57'-0" x 45'-0" lease parcel. The proposed tower will be erected, owned, and operated by CitySwitch. CitySwitch has a commitment with Union Pacific and AT&T Mobility, a wireless services provider, for this site. Additionally, the facility will be open for co-location to other wireless providers.

The proposed Communications Facility is located in an S-2, Open Space/Preservation zone. Pursuant to Section 90519.02(d) of the Code, Communications Facilities are allowed in this district with a Conditional Use Permit approval. Communications Facilities exceeding the maximum allowable height are allowed in this district with Variance approval.

On behalf of the applicant CitySwitch, LCC Telecom Services and Sherman & Howard have submitted all required documentation for the proposed tower in accordance with Section 92402.01 of the Code for this application to be deemed complete. Should you have any questions please feel free to contact me. I look forward to working with you during the review and approval process. CitySwitch looks forward to helping provide Imperial County with improved wireless coverage.

Sincerely,

56620967.1

PC ORIGINAL PKG

Application Materials

56200671

PC ORIGINAL PKG

SITE PLAN REQUIREMENTS

PLAN MUST:

- a. Be drawn to scale upon substantial paper, 11" x 14" (min.) – (20 copies must be submitted.)
- b. Show name of owner, legal description and Assessor's Parcel Number.
- c. Show existing property dimensions, size, adjacent roads, canals, right-of-ways, easements, etc.
- d. Show all existing and proposed structures (both above and below ground) location of sewer and water systems.
- e. Show adjacent property uses and approximate distances to nearest structures.
- f. Indicate name of person preparing site plan.
- g. Show North orientation.
- h. Show sufficient dimensions and information for proper evaluation to be done.

CAUTION: Incomplete or inaccurate applications, plans will cause the entire application to be rejected.

SITE PLAN REQUIREMENTS

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CAUTION: Incomplete or inaccurate applications, plans will cause the entire application to be rejected.

S:\forms_list\8.5 x 11 App\Site\enforce backside 8.5 x 11



U.S. TITLE SOLUTIONS

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Phone (908) 849-3011 Fax (908) 849-7981

www.ustitlesolutions.com

**REPORT OF TITLE
Document Research and Retrieval
U.S. Title Solutions File No. UST71006
Reference No. Brawley
Site Name: Brawley**

Prepared For: LCC Telecom Services, LLC -

Premises: TBD, Brawley, CA 92227

Parcel: 056-470-002

County: Imperial

REPORT POWERED BY LAND-IT™

This Report of Title is for informational purposes only. It is not a representation of the condition of title to real property. It is not an abstract, legal opinion, opinion of title, or any form of title insurance. This report is issued exclusively for the benefit of the applicant therefore, and may not be relied upon by any other person. The liability of U.S. Title Solutions is limited to the amount of the fee paid therefore.

U.S. TITLE SOLUTIONS
File No. UST71006 Reference No. Brawley

REPORT OF TITLE
SCHEDULE - II

(LEGAL DESCRIPTION)

A survey is required for an accurate metes and bounds description.

U.S. TITLE SOLUTIONS
File No. UST71006 Reference No. Brawley

REPORT OF TITLE
SCHEDULE - V

(OWNERSHIP HISTORY)

1. Property card made by Property Card to Southern Pacific Company , in [Instrument No: Property Detail Report](#).

Notes: Searcher advised no vesting deed or patent could be found of record for subject property or grantee. The Imperial County Assessor's Office found old SBE maps that shows the Southern Pacific Railroad being in Section 21 Township 16S Range 21E using the corresponding SBE numbers (872-13-9-3).

For reference only, [Instrument No: SBE Map](#) , attached has the U.S. Government as Grantor and Southern Pacific R.R. Co. as Grantee. Under the remarks, it states "Acquired for station grounds under section 8 of the Act of Congress of Mar. 3 1871" which under this act, is believed to have authorized the Southern Pacific Railroad Company of California to construct a certain line of railroad and granted certain lands.

Property Detail Report

CA

APN: 056-470-002-000

Imperial County Data as of: 12/29/2021

Owner Information

Owner Name: Southern Pacific Co
Vesting: Corporation
Mailing Address:

Occupancy: Unknown

Location Information

Legal Description: Por Sbe 872-13-9-3 Of Sec 21 16-21
APN: 056-470-002-000
Munic / Twnshp: Alternate APN: 0564700201
Subdivision: Twnshp-Rng-Sec:
Neighborhood: Tract #:
Elementary School: San Pasqual Valley... School District: San Pasqual Valley Unified
Latitude: 32.75386 Middle School: San Pasqual Middle
Longitude: -114.76022 High School: San Pasqual Valley...

Last Transfer / Conveyance - Current Owner

Transfer / Rec Date: Price:
Buyer Name: Seller Name: Transfer Doc #:
Deed Type:

Last Market Sale

Sale / Rec Date: Sale Price / Type: Deed Type:
Multi / Split Sale: Price / Sq. Ft.: New Construction:
1st Mtg Amt / Type: 1st Mtg Rate / Type: 1st Mtg Doc #: N/A
2nd Mtg Amt / Type: 2nd Mtg Rate / Type: Sale Doc #: N/A
Seller Name:
Lender: Title Company:

Prior Sale Information

Sale / Rec Date: Sale Price / Type: Prior Deed Type:
1st Mtg Amt / Type: 1st Mtg Rate / Type: Prior Sale Doc #: N/A
Prior Lender:

Property Characteristics

Gross Living Area: Total Rooms: 0 Year Built / Eff:
Living Area: Bedrooms: Stories:
Total Adj. Area: Baths (F / H): Parking Type:
Above Grade: Pool: Garage #:
Basement Area: Fireplace: Garage Area:
Style: Cooling: Porch Type:
Foundation: Heating: Patio Type:
Quality: Exterior Wall: Roof Type:
Condition: Construction Type: Roof Material:

Site Information

Land Use: Public School Lot Area: 1,165,230 Sq. Ft. Zoning:
State Use: Lot Width / Depth:
County Use: 604 - Schools Usable Lot:
Site Influence: Acres: 26.75 Water / Sewer Type:
Flood Zone Code: A Flood Map #: 06025C1875C Flood Map Date: 09/26/2008
Community Name: Fort Yuma Indian Reservation Flood Panel #: 1875C Inside SFHA: True

Tax Information

Assessed Year: 2021 Assessed Value: Market Total Value:
Tax Year: Land Value: Market Land Value:
Tax Area: 94-002 Improvement Value: Market Imprv Value:
Property Tax: Improved %: Market Imprv %:
Exemption: Delinquent Year:

1b RECORDING REQUESTED BY
and RETURN TO:
E. J. Corporation System
239 Montgomery Street
San Francisco, California 94104

47 JOHN V. KERNERSON
COURT ROOMER

'69 DEC 9 AM 11:10
BOOK 1286 PAGE 821

OFFICIAL
COURT
#270



Office of Secretary of State

J. Eugene Bunting, Secretary of State of the State of Delaware.

do hereby certify that the Certificate of Agreement of Merger of the "SOUTHERN PACIFIC COMPANY", merging with and into the "SOUTHERN PACIFIC TRANSPORTATION COMPANY", under the name of "SOUTHERN PACIFIC TRANSPORTATION COMPANY", was received and filed in this office the twenty-sixth day of November, A.D. 1969, at 8:35 o'clock A.M.

And I do hereby further certify that the aforesaid Corporation is duly incorporated under the laws of the State of Delaware and is in good standing and has a legal corporate existence so far as the records of this office show and is duly authorized to transact business.

In Testimony Whereof, I have hereunto set my hand

and official seal at Dover this second day of December in the year of our Lord one thousand nine hundred and sixty-nine.



Eugene Bunting

Secretary of State

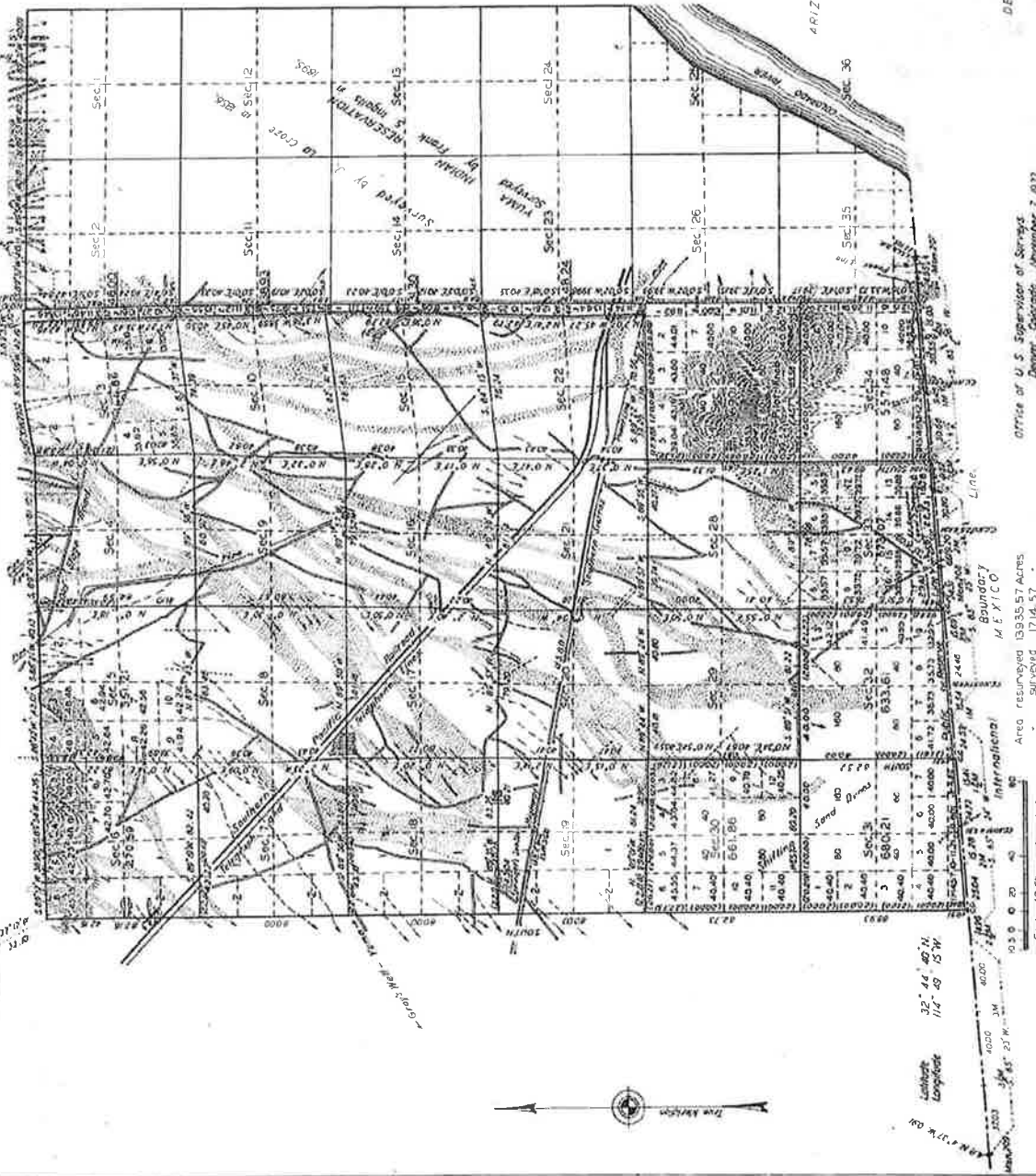
R. H. Howell

Acting Secretary of State

DUPLICATE

TOWNSHIP N° 16 SOUTH, RANGE N° 21 EAST, SAN BERNARDINO MERIDIAN, CALIFORNIA.

34, 35
T. S. R. 202



The part of the survey of Secs. 1 to 24, incl. 15 to 24, inc., 25, and 29, 30, 31, 32, 33, 34, 35, 36, lines of the original survey as shown upon the plat approved February 6, 1857, in their true original position according to the best available evidence of the parties to the survey, and of the original plat and those derived in the retracement have been distributed proportionally between accepted corners and corners not shown on the plat, except where necessary to show the true position of the corners and more detailed descriptions of the various smaller subdivisions.

1526922
DUPLICATE PLAT
 The following stipulations are made a part of this plat:
 Mounted with water damage
 No. 1, 1934
 From SUPERVISOR
 Printed in Duplicate by J. L. Craze
 J. L. Craze, Surveyor
 Plat filed for local land office
 A. S. No. 151, 152 = 154
 March 14, 1934

DEPARTMENT OF THE INTERIOR
 GENERAL LAND OFFICE
 Washington, D. C., April 10, 1934.
 The above plat of Township No. 16 South, Range No. 21 East, of the San Bernardino Meridian, California, is a true and correct copy of the original plat and the requirements of law and the regulations of this office, it hereby accepted.

D. T. Jones
 Acting Assistant Commissioner

Office of U. S. Supervisor of Springs
 Denver, Colorado, March 7, 1933.
 The above plat of Township No. 16 South, Range No. 21 East, of the San Bernardino Meridian, California, is a true and correct copy of the original plat and the requirements of law and the regulations of this office, it hereby accepted and approved.

W. H. Hanna
 U. S. Supervisor of Springs

LINES DESIGNATED BY WHOM SURVEYED	GROUP	DATE	MILES		ACRES	COMPLETES
			INT.	EXTER.		
J. L. Craze	1	12	12	12	12	12
John L. Worboys	2	4	4	4	4	4
Miscellaneous	3	1	1	1	1	1
TOTAL			17	17	17	17

Area returned 13935.57 Acres
 Surveyed 1714.57

PM 8-31

PARCEL MAP No. M 1964

APPROVED FOR RECORDATION BY THE COUNTY CLERK OF TARRANT COUNTY, TEXAS, ON APRIL 27, 1964.

THIS MAP WAS PREPARED BY THE SURVEYOR OF TARRANT COUNTY, TEXAS, IN ACCORDANCE WITH THE PROVISIONS OF THE ACTS OF THE LEGISLATURE OF TEXAS, PASSED AT THE REGULAR SESSION OF THE LEGISLATURE, 1959, CHAP. 107, SECTION 1, AND 1961, CHAP. 107, SECTION 1, AND 1962, CHAP. 107, SECTION 1.



[Signature]
Surveyor of Tarrant County, Texas

GENERAL NOTES:
1. THIS MAP WAS PREPARED IN ACCORDANCE WITH THE PROVISIONS OF THE ACTS OF THE LEGISLATURE OF TEXAS, PASSED AT THE REGULAR SESSION OF THE LEGISLATURE, 1959, CHAP. 107, SECTION 1, AND 1961, CHAP. 107, SECTION 1, AND 1962, CHAP. 107, SECTION 1.

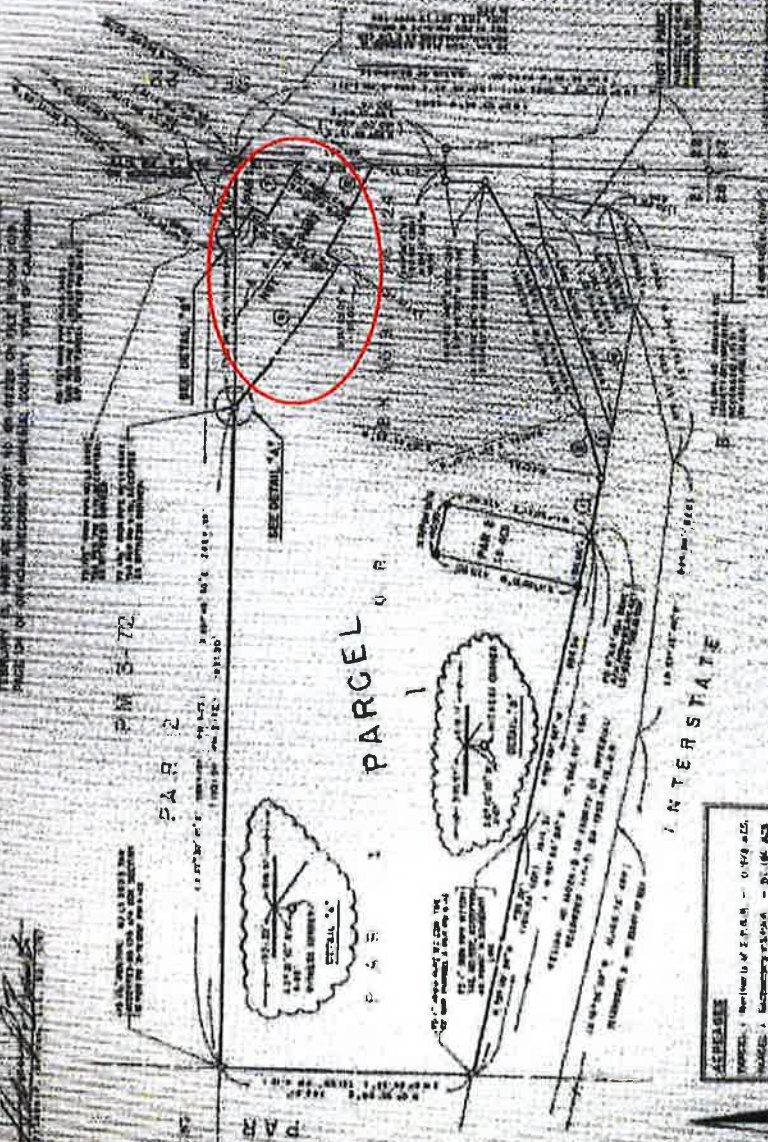
ADDITIONAL NOTES:
1. THIS MAP WAS PREPARED IN ACCORDANCE WITH THE PROVISIONS OF THE ACTS OF THE LEGISLATURE OF TEXAS, PASSED AT THE REGULAR SESSION OF THE LEGISLATURE, 1959, CHAP. 107, SECTION 1, AND 1961, CHAP. 107, SECTION 1, AND 1962, CHAP. 107, SECTION 1.

ADDITIONAL NOTES:
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LOT	ACRES	OWNER
1	0.478	...
2	0.478	...
3	0.478	...
4	0.478	...
5	0.478	...
6	0.478	...
7	0.478	...
8	0.478	...
9	0.478	...
10	0.478	...

ACRES:
TOTAL ACRES - 4.78
TOTAL ACRES - 4.78





Indian Appropriations Act (1871)



Indian Appropriations Act (1871)

In what was supposed to be a routine bill providing funds to Indian Agencies, the Indian Appropriations Act of 1871 included a significant clause declaring that indigenous people did not belong to "independent nations" and could therefore not enter treaties with the United States. A departure from previous US-Indigenous relations, the Act dealt a major blow to Indigenous sovereignty.

The Indian Appropriations Act of 1871 declared that Indigenous people were no longer considered members of "sovereign nations" and that the US government could no longer establish treaties with them. The act effectively made Native Americans wards of the US government and paved the way for other laws that granted the federal government increased power over the land and lives of Indigenous peoples. Although it promised not to "invalidate or impair the obligation" of previous treaties, the act was the first step toward the elimination of Indigenous sovereignty, which was completed in 1898 with the Curtis Act, and the invalidation of previous treaty obligations, a power finally granted to Congress in 1903. One of the first arrangements to be made in the post-treaty era was the Brunot Agreement, in which Utes under Ouray ceded Colorado's San Juan Mountains to the United States.

Origins

Unlike other Indian Appropriations Acts, most of which served the mundane purpose of allocating federal funds to fulfill treaty obligations, the Appropriations Act of 1871 marked a major shift in federal Indigenous policy. Nearly a century earlier, immediately after the nation was established, President George Washington applied the president's treaty-making power to Indigenous nations, setting a precedent for nation-to-nation diplomacy.

<https://coloradoencyclopedia.org/article/indian-appropriations-act-1871>

Appropriations Act, Congress assumed the right to legislate on all matters concerning Indigenous affairs as it saw fit. By breaking up spiritually and culturally significant land that had been held collectively for generations, the Dawes Act dealt another crippling blow to Indigenous sovereignty in the late nineteenth century.

Legacy

By the end of the nineteenth century, indigenous nations within the United States had gone from having the rights due any other foreign country to having almost no right to exist. This process had been under way before 1871, but the Indian Appropriations Act of that year incorporated it into official government policy, opening the door for its rapid acceleration.

While no new treaties have been written since 1871, Congress did eventually restore some measure of Indigenous sovereignty in 1934 with the **Indian Reorganization Act (IRA)**. However, because it forced tribes to hold votes and write their own Constitutions, many tribes correctly viewed the IRA as another government mandate. Even though most federally recognized tribes today have some form of self-government, the fight for Indigenous sovereignty denied in the 1871 Act continues. In New Mexico, for example, Indigenous people are resisting government-sponsored energy drilling near sacred sites on public land; in North Dakota they have protested government-imposed oil pipelines across treaty-protected land. Meanwhile, in Alaska and Colorado, tribes are lobbying for the power and resources to combat disproportionately high rates of sexual assault and other violent crime on federal reservations.

Author

Encyclopedia Staff

References

"An Act Making Appropriations for the Current and Contingent Expenses of the Indian Department..." (Indian Appropriations Act), 41st Congress, Sess. III, Ch. 119–120, March 3, 1871.

Antoine v Washington, 420 US 194 (1975).

Jeff Brady, "2 Years After Standing Rock Protests, Tensions Remain but Oil Business Booms," NPR, November 29, 2018.

Susan Montoya Bryan, "Protecting the 'Incredible, Magical, Spiritual' That Is Chaco Canyon," Associated Press and *Indian Country Today*, October 30, 2019.

Joaquin Estus, "The Fix for Alaska's Public Safety Crisis? Recognize Tribal Powers," *Indian Country Today*, October 30, 2019.

Richard Harless, "Native American Policy," George Washington's Mount Vernon, n.d.

Mark G. Hirsch, "1871: The End of Indian Treaty-Making," *American Indian Magazine* 15, no. 2 (Summer/Fall 2014).

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Alysa Landry, "Ulysses S. Grant: Mass Genocide Through 'Permanent Peace' Policy," *Indian Country Today*, May 3, 2016.

Lone Wolf v. Hitchcock, 187 US 553 (1903).

Jim Mimiaga, "Meeting Addresses Ute Mountain Ute Tribe Plans; Ute Mountain Looks to Hemp, More Officers," *Journal/Cortez, CO*, October 14, 2019.

Worcester v. Georgia, 31 US 515 (1832).

Additional Information

<https://coloradoencyclopedia.org/article/indian-appropriations-act-1871>

Search all cases and statutes....

JX

Opinion Case details

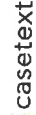
built was accepted by the president, and has performed, to the satisfaction of the government, all the services required of it under said act. Held, that said consolidated company if not, technically, is, substantially, the same company to which said act referred. *Affirming Railroad Co. v. Poole*, 12 Sawy. 544, 32 F. 451; *U.S. v. Railroad Co., and U.S. v. Cotton, etc., Co.*, 45 F. 596.

Pursuant to state authority, recognized by and made a part of the congressional grant of March 3, 1871, the S.P.R.R. Co., April 15, 1871, filed amended articles of '684 incorporation; and August 12, 1873, filed, together with the S.P. Branch R.R. Co., articles of amalgamation and consolidation, under the name of the S.P.R.R. Co. Held, that while in one sense a new corporation was formed, each was substantially and practically the same S.P.R.R. Co. mentioned in the acts of congress, and was so recognized by congress, and that the articles of amendment, amalgamation and consolidation were authorized by congressional as well as by state legislation.

Commissioners having from time to time been appointed to report in regard to the construction of the Southern Pacific Railroad, the road having been accepted by the president, and having been used by the government in the transportation of mail, military stores, etc. Held, that these acts were acts recognizing the defendant company as the S.P.R.R. Co. to which the act of March 3, 1871, applies, and that the defendant company, being subject to burdens imposed by the act, is entitled to the benefits conferred by it as a consideration for those burdens.

Act Cong. July 27, 1866, having expressly granted lands to the S.P.R.R. Co., its successors and assigns, it is held, that if the consolidated company, with the amended articles of incorporation, is not technically the same corporation, referred to in act March 3, 1871, it is within the express provisions of the grant, being the successor or assign of said company.

Inchoate grants were not contemplated by con



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Opinion Case details of the grant.

W. H. H. Miller, Atty. Gen., Willoughby Cole, U.S. Atty., and Joseph H. Call, Sp. Asst. U.S. Atty.

Joseph D. Redding and Chapman & Hendrick, for defendants.

685 Before SAWYER, Circuit Judge, and ROSS, District Judge. *685 SAWYER, J.

These are suits brought against the Southern Pacific Railroad Company, and parties who have purchased the land described, and derived title thereto from the Southern Pacific Railroad Company, to determine the adverse claim of title to said lands and to restrain defendants from cutting timber thereon, or from hereafter setting up any claim of title to said lands. The lands involved in suit No. 177 are sections 1, 11, and 13 of township 3, and section 35 of township 4 N., of range 15 W., San Bernardino meridian; and those in suit No. 178, section 23, township 4 N., range 15 W., same meridian. These lands are claimed by defendants under the act of congress of March 3, 1871, 'to incorporate the Texas Pacific Railroad Co., and to aid in the construction of its road, and for other purposes.' 16 St. 573. Section 23 of said act is as follows:

That for the purpose of connecting the Texas Pacific Railroad with the city of San Francisco, the Southern Pacific Railroad Company of California is hereby authorized (subject to the laws of California) to construct a line of railroad from a point at or near Tehachapa Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river, with the same rights, grants, and privileges, and subject to the same limitations, restrictions, and conditions as were granted to said Southern Pacific Railroad Company of California, by the act of July twenty-seven, eighteen hundred and sixty-six' 16 St. 579.

Section 18 of the act conferring rights upon th



casetext

Search all cases and statutes...

JX

Opinion Case details

the interior, in alternate sections, and designated by odd numbers, not more than ten miles beyond the limits of said alternate sections, and not including the reserved numbers: provided, that if said route shall be found upon the line of any other railroad route, to aid in the construction of which lands have been heretofore granted by the United States, as far as the routes are upon the same general line, the amount of land heretofore granted, shall be deducted from the amount granted by this act.' 14 St. 294, Sec. 3.

Substitute in this section the words, 'the Southern Pacific Railroad Company' for the words, 'the Atlantic & Pacific Railroad Company,' and we shall have the grant to the Southern Pacific Railroad Company both by the act of 1866, and the act of 1871. Soon after the passage of the said act of March 3, 1871, to-wit: on April 3, 1871, the Southern Pacific Railroad Company as it then existed, designated the line of its road from Tehachapa Pass by way of Los Angeles, to Fort Yuma, on the Colorado river, which it on that day filed in the office of the commissioner of the general land-office, and thereby the grant under said act of congress attached to all the odd sections of land, to which it could attach under the provisions of said act of congress. Afterwards, on the 12th day of August, 1873, the said Southern Pacific Railroad Company, in all respects as authorized by the laws of the state of California, existing and in force before and at the time of the passage of said act of congress of March 3, 1871, incorporating the Texas Pacific Railroad Company, amalgamated and consolidated with several smaller companies as shown by Exhibits A, B, annexed to the bill of complaint in these cases; the said consolidated company being called by the name of 'The Southern Pacific Railroad Company,' a part of the object stated in said articles of amalgamation being to construct a line of railroad from a point at or near Tehachapa Pass by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river, a distance of three hundred and twenty-four miles as near as may be, in pursuance of said provisions

mentioning the number on to build a railroad to the b,



casetext

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Search all cases and statutes...


JX

Opinion Case details

the said Southern Pacific Railroad Company, respondent, which constructed its road as aforesaid, to the other respondents to this suit, and the title so conveyed, is now vested in them.

The first point made by complainants is, that the present Southern Pacific Railroad Company, which built the road after the amalgamation and consolidation with sundry smaller roads mentioned, under the same name as the old company, and professedly for the same purpose, made in pursuance of the statutes of the state of California, authorizing such consolidation and amalgamation, which statutes were in force at the date of the congressional grant in question, and prior to which consolidation the grant by congress was made, and which road was to be built in accordance with the laws of the state of California, is not the identical Southern Pacific Railroad Company, to which the act referred, and the grant was made, and therefore, that the defendant took nothing under the act of congress. This point is not new in this court, as it was fully considered and overruled in *Railroad Co. v. Poole*, 12 Sawy. 544, 545; 32 F. 451. Again, the point was made and earnestly urged in the southern district of California, in *U.S. v. Railroad Co. and U.S. v. Colton, etc., Co.*, and the district judge in an able opinion, concurred in, on this point, by the circuit judge, thoroughly examined the 688 point, and overruled it, citing *688 with approval also, the case of *Railroad Co. v. Poole*, referred to, and affirming it. (14 Sawy. 623, 45 F. 596 et seq.) See, also, *Railroad Co. v. Orton*, 6 Sawy. 160, 32 F. 457. We shall adhere to the ruling made in these cases till the point is otherwise determined by the supreme court.

It is earnestly urged on the part of the respondents, that the filing in the office of the secretary of the interior, of the fragmentary maps of the location of the line of the contemplated Atlantic & Pacific road, and to points not authorized by the law, does not constitute a location of the line in such sense, or legal form, as to give any right whatever under the act, to the Atlantic & Pacific Company; and, that, it in no

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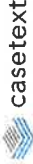
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that this company should file a plat of a route for a railroad, and then play the role of the dog in the manger, and neither build the road itself, and thereby earn the lands, nor allow the respondents to build one, and earn the lands under another grant. The Atlantic & Pacific Company never did anything to earn these lands, except to file, what it was pleased to term a 'map of the location of its route,' six years after the date of the grant, and one year after the respondent had located its road under the grant, made five years subsequently, and after it had commenced building the road; and for failure to comply with the terms of the grant, by the Atlantic & Pacific Company, congress, in 1886, (24 St. 123, 124,) passed an act forfeiting its right to earn these lands altogether. Thus its rights 'present' and 'prospective,' have never ripened into an effective grant, and now they never can so ripen. They now have, and can have no further rights in these lands, whether the respondents get them or not. The building of its road, by the respondents, and earning these lands, which the other party has itself failed to earn, and now never can earn, can in no possible way 'affect or impair' any rights the other company now has, or ever did have. And had that company built the road, and earned the lands, the respondent would not have got them, for that would have been to affect or impair its rights.

The present right of the Atlantic & Pacific Company was to earn the lands by the performance of the required conditions, and the prospective rights, the right to have the lands when so earned. This is all there is of it, and it did neither. Now the grant to the Southern Pacific, being subject, and subordinate, to those rights, could not in any way, or in any degree, have affected, or impaired them, because the Atlantic & Pacific Railroad Company, had it performed the conditions would have taken the said land under the act. It utterly failed to perform the conditions, and all its rights have been forfeited, and now the patenting of the lands to the Southern Pacific cannot in any way possible affect any of these rights which do not now exist. Thus the rights of the Atlantic & Pacific Company present or

prospective, neither could have been affected by



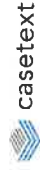
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language of the acts. But the line of the Southern Pacific road is not on the line of the 'Atlantic and Pacific' route as designated on what is claimed to be its map of location. The two roads are not 'upon the same general line.' They simply cross each other. But again: The fair construction of this proviso, and as it was intended by congress, in view of the object sought, is, that 'lands that have heretofore been granted,' and 'the amount of land' to be dedicated, means lands that have been effectively granted, and to which the title has passed, or shall effectively pass out of the United States, and finally become effectively vested in the grantees upon the performance of the prescribed conditions. It does not mean inchoate grants, that are not finally perfected—grants that become forfeited by failure to earn them by performing the prescribed conditions or any of them. These do not, ultimately, become grants at all, within the meaning of the act, and intent of congress. Congress was anxious to procure the construction of these great works, for military, mail-carrying, and other uses, and thereby also develop the resources of the country, and make a market for the public ⁶⁹¹ lands. It contributed nothing, because it received double price for the even sections. In these provisions, it was, only solicitous to protect the vested rights of prior grantees in lands fairly earned in constructing works of a similar kind in pursuance of a similar policy. It did not seek, by forfeitures, to evade its obligations to subsequent roads, and thereby increase its own property, at the expense of those who, actually carry out the objects of the law, and fairly earn the lands intended for them. We cannot attribute any such unworthy purpose, or motive to congress. It manifestly, intended, that the subsequent grantees should take the odd sections subject only to prior rights, and when the prior grants failed, and finally, became no grants, by reasons of a failure to perform the conditions necessary to perfect the grant, and when no rights can possibly be further affected by the grant to the subsequent grantee, that the latter, upon complying with the terms of its grant should have the lands, not ultimately, or effectively granted under the prior acts of congress. Effective, completed grants only, are contemplated in this proviso.



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letter grant.

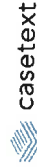
I am, therefore, of the opinion, that the earning and acquiring of these lands by the respondents, under the conditions shown by the record, in no way affected, or impaired, the 'rights present or prospective,' of the Atlantic & Pacific Railroad Company, or any other, within the meaning of the act of congress; and that, these lands are not lands heretofore, or at any time, granted by the act of congress in such sense as to require them to be deducted along the general line of the road, or otherwise, within the meaning of the acts of congress of 1866, and 1871, or of either of them.

Upon the views expressed, the amended bills must be dismissed, and it is so ordered, without costs.

ROSS, J.

These cases have been argued and submitted together. The suits are brought to quiet the complainant's alleged title to certain lands and to enjoin defendant from asserting or claiming any title thereto. The lands are claimed by the defendant by virtue of the act of congress of March 3, 1871, entitled 'An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes.' 16 St.U.S. 573. By the 23d section of that act it was provided as follows:

That for the purpose of connecting the Texas Pacific Railroad with the city of San Francisco, the Southern Pacific Railroad Company of California is hereby authorized (subject to the laws of California) to construct a line of railroad from a point at or near Tehachapa Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river, with the same rights, grants, and privileges, and subject to the same limitations, restrictions, and conditions as were granted to said Southern Pacific Railroad Company of California by the act of July 27, 1866, provided, however that this section shall in



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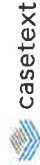
and to be decided. The grant to the Atlantic & Pacific Company was the prior grant-- it having been made by the act of July 27, 1866, entitled 'An act granting lands to aid in the construction of a railroad and telegraph line in the states of Missouri and Arkansas to the Pacific coast.' 14 St.U.S. 293. By that act the Atlantic & Pacific Company was authorized to construct a railroad

'Beginning at or near the town of Springfield, in the state of Missouri, thence to the western boundary of said state, and thence, by the most eligible railroad route as shall be determined by the said company, to a point on the Canadian river; thence to the town of Albuquerque on the river Del Norte, and thence by way of the Agua Frio or other suitable pass to the head-waters of the Colorado Chiquito, and thence along the 35th parallel of latitude, as near as may be found most suitable for a railroad route, to the Colorado river at such point as may be selected by said company for crossing; thence by the most practicable and eligible route to the Pacific.'

To aid in the construction of the road there was granted to the Atlantic & Pacific Company, by the third section of the act, every alternate section of public land, not mineral, designated by odd numbers, to the amount of 10 sections on each side of the road whenever it passes through a state

'And whenever on the line thereof the United States have full title, not reserved, sold, granted, or otherwise appropriated, and free from pre-emption '694 or other claims or rights, at the time the line of said road is designated by a plat thereof filed in the office of the commissioner of the general land-office, and whenever, etc.

The Atlantic & Pacific Company did nothing towards locating its line of road in California until March 12, 1872, and never did do anything towards building it; in consequence of which congress, in 1886, passed an act declaring its land grant forfeited. In the mean time, that is to say, March 3, 1871, the grant under which the defendant co

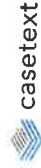


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Southern Pacific Company should be excluded from that grant. It was not to reserve anything to the United States, but to protect the 'present and prospective' rights of the Atlantic & Pacific Company and any other railroad company to which congress may have made grants of lands that the proviso was inserted. Had the line of road the Atlantic & Pacific Company was authorized to build by the act of July 27, 1866, been definitely located at the time of the grant to the Southern Pacific Company of March 3, 1871, and had the Atlantic & Pacific Company thereafter built its road and thereby earned the lands covered by its grant, the lands in controversy would have gone to it without regard to the proviso in question; for its grant which would have attached to such lands at the time of the definite location of the route of its road would have been perfected by the building of the road and the title thus perfected have related back to the date of the grant, July 27, 1866, and of course have excluded any subsequent grant covering the same lands. But the Atlantic & Pacific Company had not designated the route of its road at the time of the grant to the Southern Pacific Company of March 3, 1871. It might do so, however, thereafter and might build the road it was authorized to build and thereby earn the lands embraced by the grant to it of July 27, 1866. It had a 'present and prospective' right to do so. If it did both of those things, it would be entitled to the lands granted to it by that act. If it did not do both of those things, it would not be so entitled and the lands would remain as they then were, public lands of the United States. Congress, therefore, in making its grant to the Southern Pacific Company of March 3, 1871, made it subject to those 'present and prospective' rights. Had they been perfected by a compliance on the part of the Atlantic & Pacific Company with the conditions on which they were based, the title to the lands in controversy would have become vested in the Atlantic & Pacific Company as of date July 27, 1866. But as that company never did comply with the conditions of the grant and as all of its rights thereunder became forfeited in 1886 by act of congress because of such non-compliance, there remain no rights of that company to be, or that ~~ever can be affected or~~



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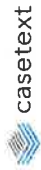
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THIS SPACE FOR RECORDERS USE ONLY

TITLE OF DOCUMENT

EASEMENT DEED BY COURT ORDER
IN SETTLEMENT OF LANDOWNER ACTION

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION
(GOVERNMENT CODE § 27561.6)

1 Members of this Class are referred to below as Class Members; and
2 WHEREAS, the Settlement Agreement provides for the entry of an Easement Deed by
3 Court Order in Settlement of Landowner Action by which the Settling Defendants acquire, to the
4 extent that Class Members have the right to transfer it, a permanent telecommunications
5 easement in the Right of Way adjacent to the property of each Class Member;
6

7 THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED THAT:

8 1. To the extent that each Class Member owns rights in the Easement Premises (as
9 hereafter defined), the Class Member (the "Grantor") hereby grants to whichever of Sprint
10 Communications Company L.P., Qwest Communications Company, LLC, Level 3
11 Communications, LLC, and WITel Communications, Inc. has Designated for inclusion under a
12 Settlement Agreement the Right of Way which adjoins, underlies or includes Covered Property
13 owned by the Class Member, together with its successors, assigns, and licensees (the "Grantee"),
14 a permanent telecommunications easement in the Easement Premises. For each county in which
15 this Easement Deed by Court Order in Settlement of Landowner Action is being recorded, a list
16 of affected Class Members and their affected parcels is attached as Exhibit 1. Exhibit 1 shall
17 describe Class Members' affected parcels with the following information, to the extent that it is
18 in the Database of Identification Information: owner name; owner mailing address; tax map
19 identification number; tax parcel identification number; lot number; and section, township, and
20 range. Exhibit 1 may describe Class Members' affected parcels with any other available
21 information.
22

23
24 2. The terms and conditions of the permanent telecommunications easement that is
25 the subject of this Easement Deed by Court Order in Settlement of Landowner Action are:

26 a perpetual easement and right of way (hereinafter, together with the rights and privileges
27 herein granted, the "Easement") and right to place, lay, bury, construct, install, operate, repair,

Case Number: 3:11-cv-02599-TEH Easement Deed by Court Order in Settlement of Landowner Action

1 Easement shall be construed to grant Grantee all rights necessary to abandon in place unused
2 components of Grantee's Telecommunications Cable System.

3 The Easement shall not include the right to construct on the Easement Premises
4 regenerator huts and similar structures ("Buildings") in addition to those existing on November
5 21, 2012. The Easement shall include the rights to repair, replace, and expand existing
6 Buildings, provided, however, that no such repair, replacement, or expansion shall increase the
7 site that the Buildings occupy, or the height of any Building, by more than twenty-five percent.
8 The Easement does not permit the construction of microwave towers, cell towers, or other
9 components of a primarily aboveground statewide Telecommunications Cable System.
10

11 The Easement includes the right to temporarily use the entire Grantor Side of the
12 Railroad Right of Way for construction or maintenance, so long as Grantee uses its best efforts
13 not to interfere with any real property which, although within the boundaries of the Easement
14 Premises, is actually being used by Grantor; provided, however, that in no event shall Grantee be
15 prohibited from using such real property if it is commercially reasonable to do so under the
16 circumstances or if Grantee's Telecommunications Cable System is currently located within such
17 area. The Easement shall include the right of reasonable ingress and egress to and from the
18 Easement Premises over that portion of the Grantor's real property that underlies the Railroad
19 Right of Way and, for repair and maintenance, over any existing private roads of Grantor, where
20 access from public or railroad roads is not reasonably practical, provided Grantee has made
21 commercially reasonable efforts to give prior notice to Grantor of Grantee's use of Grantor's
22 private roads. Grantee shall not be liable for damages caused by its removal of trees,
23 undergrowth, and brush within the Easement Premises necessary or appropriate for the
24 enjoyment of the Easement. Nothing contained herein shall constitute a waiver of any right that
25
26
27

1 grant, lease, assign, or otherwise transfer, all or any part of the rights in or use of such
2 Telecommunications Cable System.

3 The Easement, however, does not apply to any Telecommunications Cable System that
4 existed on November 21, 2012, but that was acquired by Grantee after that date (unless such
5 Telecommunications Cable System or component thereof was acquired from any of Sprint
6 Communications Company L.P.; Qwest Communications Company, LLC, f/k/a Qwest
7 Communications Corporation; Level 3 Communications, LLC, Level 3 Communications, Inc.,
8 and Level 3 Telecom Holdings, Inc.; WiITel Communications, Inc.; WiITel Communications,
9 LLC; and Williams Communications, LLC, f/k/a Williams Communications, Inc., f/k/a Vyxx,
10 Inc.).

11 No oil, gas, or other mineral rights are granted and no existing oil, gas, or other mineral
12 rights are expanded, limited, or affected by this instrument, provided, however, that Grantor shall
13 not use a method of extraction that interferes with or impairs in any way the Easement, the
14 Telecommunications Cable System, or the exercise of Grantee's rights herein.

15 Grantor shall not, nor shall Grantor authorize others to, construct or create any road,
16 reservoir, excavation, obstruction, structure, or building or change the land grade on, in, over,
17 under, through, or across the Easement Premises without the prior written consent of Grantee,
18 provided that nothing herein shall be construed to affect the rights and obligations of any railroad
19 with respect to the use, improvement, or alteration of its Railroad Right of Way, as provided in
20 any agreement between the railroad and the Grantee, by applicable law, or otherwise.

21 It is understood and agreed that the Easement is not exclusive and is subject to all pre-
22 existing uses and pre-existing rights to use the Easement Premises, whether such uses are by
23 Grantor or others and whether for surface uses, crossings, or encroachments by communication
24

1 of Way in any Railroad Right of Way as to which the Interstate Commerce Commission or the
2 Surface Transportation Board has entered an order, pursuant to 49 U.S.C. § 10903, that the
3 railroad is authorized to cease to provide or maintain rail service over that right of way and the
4 railroad no longer provides or maintains rail service over that line, provided that if the railroad
5 does not cease such rail service or later reactivates such service, then this limitation shall not
6 apply.

7
8 This Telecommunications Cable System Easement Deed is executed and delivered on
9 behalf of Grantor for the purpose of granting the Easement to Grantee in, on, over, under,
10 through and/or across the Easement Premises to the full extent of Grantor's right, title or interest,
11 if any, in or to the Easement Premises, and the Easement granted hereby shall affect the
12 Easement Premises only to the extent of Grantor's right, title, and interest therein. Grantor and
13 Grantee agree that this Telecommunications Cable System Easement Deed shall not grant any
14 rights to the Easement Premises, or any portion thereof, in which Grantor holds no right, title or
15 interest.

16
17 No rights reserved to Grantor herein shall be deemed to expand rights reserved to Grantor
18 under any other easement, right of way, license, lease, or any similar instrument or court order.

19 No limitation herein on the rights of Grantee shall be deemed to limit rights heretofore granted
20 by Grantor or its predecessors in interest under any other easement, right of way, license, lease,
21 or any similar instrument or court order.

22
23 The terms and provisions of this instrument shall constitute covenants running with the
24 land and shall be binding upon and inure to the benefit of the Settling Defendants, the Grantor,
25 their successors, assigns, personal representatives, and heirs.

Assessor's Parcel No.	T-R-S	Owner's/Grantor's Name	Owner's/Grantor's Mailing Address
021-160-017	11S-14E-3	Partnership	888 So Figueroa St, Los Angeles, CA 90017
021-160-020	11S-14E-3	TNT Enterprises Inc	PO Box 427, Wildomar, CA 92395
021-280-003	11S-14E-10	Juan Chavez	PO Box 642, Calipatria, CA 92233
021-280-005	11S-14E-10	Y Ranches	PO Box 267, Calipatria, CA 92233
021-280-010	11S-14E-10	IID - Trust Lands	PO Box 937, Imperial, CA 92251
021-290-013	11S-14E-12	IID - Trust Lands	PO Box 937, Imperial, CA 92251
021-290-015	11S-14E-11	IID - Trust Lands	PO Box 937, Imperial, CA 92251
021-321-004	11S-14E-15	Anna S Sandhu Tr et al	6712 Commodore Ln, Oklahoma, OK 73162
021-331-002	11S-14E-15	TNT Enterprises Inc	PO Box 427, Wildomar, CA 92395
021-331-003	11S-14E-15	IID - Trust Lands	PO Box 937, Imperial, CA 92251
021-331-004	11S-14E-15	IID - Trust Lands	PO Box 937, Imperial, CA 92251
021-340-003	11S-14E-13	Andrew & Marlene Currier	290 River Wood Dr, Brawley, CA 92227
022-020-005	11S-14E-22	IID - Trust Lands	PO Box 937, Imperial, CA 92251

LIST OF AFFECTED PARCELS

IMPERIAL COUNTY
EXHIBIT 1

Grantee's Name: Qwest as defined in the "Settlement Agreement" referenced in the text of the Easement Deed by Court Order in Settlement of Landowner Action. That Settlement Agreement defines "Qwest" to include: (1) Qwest Communications International Inc, (2) Qwest Communications Corporation now known as Qwest Communications Company, LLC, and (3) all of these entities' predecessors, successors, assigns, parents, affiliates and subsidiaries.

Grantee's Address: 700 West Mineral Avenue, Littleton, Colorado 80120

In accordance with Paragraph 1 of the Easement Deed by Court Order in Settlement of Landowner Action (the "Court Order"), Qwest prepared this Exhibit 1 and attached it to the Court Order.

The owner's/grantor's mailing address is not necessarily the same as the affected parcel's address.

IMPERIAL

Assessor's Parcel No.	T-R-S	Owner's/Grantor's Name	Owner's/Grantor's Mailing Address
024-260-061	125-14E-22	EZ Properties LLC	2506 Kentia St, Oxnard, CA 93036
024-290-004	125-14E-27	IID - Trust Lands	PO Box 937, Imperial, CA 92251
024-290-021	125-14E-27	Herbert J & Elizabeth L Bool	6844 N 36th St, Phoenix, AZ 85018
024-290-022	125-14E-27	Herbert J & Elizabeth L Bool	6844 N 36th St, Phoenix, AZ 85018
024-290-025	125-14E-27	TNT Enterprises Inc	PO Box 427, Wildomar, CA 92395
024-340-015	125-14E-34	Herbert J & Elizabeth L Bool	6844 N 36th St, Phoenix, AZ 85018
024-340-016	125-14E-34	Herbert J & Elizabeth L Bool	6844 N 36th St, Phoenix, AZ 85018
025-260-003	115-15E-18	Timothy Bopp	2401 E Glen Oaks Blvd, Glendale, CA 91206
025-260-006	115-15E-18	Mark A Wheeler	28229 Branch Rd, Castaic, CA 91384
025-260-008	115-15E-18	Denis L Kieldosty	2986 Tisbury Dr, Henderson, NV 89052
025-260-019	115-15E-17	Lincoln H Banks	777 Alvarado Rd, La Mesa, CA 91941
025-260-031	115-15E-18	Ricardo Martinez	PO Box 572, Niland, CA 92257
025-290-010	115-15E-36	S B Grant & E B Franklin LLC et al	901 N Brutscher St, Newberg, OR 97132
025-290-019	115-15E-36	I M Fogelman et al	27 Gleneagles, Newport Beach, CA 92660
034-360-036	165-11E-12	Ed L Construction Inc	PO Box 785, San Marcos, CA 92069
034-360-037	165-11E-12	Ed L Construction Inc	PO Box 785, San Marcos, CA 92069
037-030-012	135-14E-3	Barbara D Cox	249 Andrita Pl, Brawley, CA 92227
037-030-022	135-14E-2	Carl E Weller	5451 N 25th St, Phoenix, AZ 85016
037-060-018	135-14E-3	Lawrence W & Tina Cox	PO Box 301, Brawley, CA 92227
037-070-013	135-14E-3	Henrietta Farms Inc	PO Box 239, Brawley, CA 92227
037-100-003	135-14E-10	SP & ML Rutherford Tr	PO Box 6, Brawley, CA 92227
037-100-004	135-14E-3	Matthew Lee Rutherford	PO Box 6, Brawley, CA 92227
037-110-004	135-14E-10	Gargulo Farms	PO Box 96, Brawley, CA 92227
037-140-006	135-14E-15	ORNI LLC	6225 Neil Rd, Reno, NV 89511
037-140-021	135-14E-15	ORNI LLC	6225 Neil Rd, Reno, NV 89511
037-160-011	135-14E-15	IID-Imperial Irrigation District	PO Box 937, Imperial, CA 92251
037-160-012	135-14E-22	Emma Louclie Walk	1101 St, Brawley, CA 92227
037-160-019	135-14E-22	JLF Ranches Ltd	PO Box 134, Brawley, CA 92227
037-160-021	135-14E-22	Matthew Lee Rutherford Tr	PO Box 6, Brawley, CA 92227

*In accordance with Paragraph 1 of the Escrow Deed by Court Order in Settlement of Landowner Action (the "Court Order"),
 Quest prepared this Exhibit 1 and attached it to the Court Order.

The owner's/grantor's mailing address is not necessarily the same as the affected parcel's address.

In accordance with Paragraph 1 of the Easement Deed by Court Order in Settlement of Landowner Action (the "Court Order"),
 the owner's/grantor's mailing address is not necessarily the same as the affected parcel's address.

Assessor's Parcel No.	T-R-S	Owner's/Grantor's Name	Owner's/Grantor's Mailing Address?
044-200-079	155-14E-19	Delgado Secundo Arellano & Martha Co Tr	1161 Obeliscos, Calexico, CA 92231
044-200-079	155-14E-19	Martha Delgado et al	1161 Obeliscos, Calexico, CA 92231
044-200-081	155-14E-19	Hector F Margain	PO Box 8214, Chula Vista, CA 92012
044-200-086	155-14E-30	Ana Bastidas et al	320 Aten Rd, Imperial, CA 92251
044-220-004	155-14E-30	Simcal Chemical Co	PO Box 27, Boise, ID 83707
044-220-022	155-14E-30	WHB Enterprises	1085 State St, El Centro, CA 92243
044-290-015	155-14E-31	Dubois Land & Livestock Co LLC	801 W Ross Rd, El Centro, CA 92243
044-313-001	155-14E-31	Maria Nicolasa Beltran	1097 Stacey Ave, El Centro, CA 92243
044-313-002	155-14E-31	Francisco J & Maria Martinez	1087 Stacey Ave, El Centro, CA 92243
044-313-003	155-14E-31	Mary Helen Gloria	1077 Stacey, El Centro, CA 92243
044-313-004	155-14E-31	Rosa N Maldonado	1067 Stacey Ave, El Centro, CA 92243
044-313-005	155-14E-31	Joseph Lee Houseman	PO Box 387, Imperial, CA 92251
044-313-006	155-14E-31	Jose C & Socorro M Antunez	2257 Pepper Ave, El Centro, CA 92243
044-313-007	155-14E-31	Reyes A & Romelia Gonzalez	1037 Stacey Ave, El Centro, CA 92243
044-313-008	155-14E-31	Ernesto Bustamante	1027 Stacey Ave, El Centro, CA 92243
044-313-009	155-14E-31	John Angel & Navar I Garcia	1017 Stacey Ave, El Centro, CA 92243
044-313-010	155-14E-31	Ruben & Dahlia Jimenez	2490 Brighton Ave, El Centro, CA 92243
044-313-011	155-14E-31	Victor & Gloria Herrera	1001 Stacey Ave, El Centro, CA 92243
044-313-012	155-14E-31	Frank J & Maria A Perdomo	897 Stacey, El Centro, CA 92243
044-313-013	155-14E-31	Thomas E & Maria Jesus Diaz	887 Stacey Ave, El Centro, CA 92243
044-313-014	155-14E-31	Martin J Aguilera et al	1526 Trinky Way, Salinas, CA 93906
044-313-015	155-14E-31	Frank G & Anita A Cruz	867 Stacey Ave, El Centro, CA 92243
044-313-016	155-14E-31	Arnulfo V De Hoyos et al	857 Stacey Ave, El Centro, CA 92243
044-313-017	155-14E-31	Delvin & Patricia Yarnall	2275 Pepper Dr, El Centro, CA 92243
044-313-018	155-14E-31	Encarnacion & Rosamaria Cabrera	837 Stacey Ave, El Centro, CA 92243
044-313-019	155-14E-31	Gale L Laram	4410 Glistening Spgs, Rowlett, TX 75088
044-313-020	155-14E-31	Rafael & Jacqueline Gutierrez	817 Stacey Ave, El Centro, CA 92243
044-313-021	155-14E-31	Rosalinda Garcia-Herrera	807 Stacey, El Centro, CA 92243

IMPERIAL

Assessor's Parcel No.	T-R-S	Owner's/Grantor's Name	Owner's/Grantor's Mailing Address?
044-561-005	155-14E-31	Cesar & Donna Martinez	1241 Stacy Ave, El Centro, CA 92243
044-561-006	155-14E-31	Arthur & Yvette M Garcia	1251 Stacy, El Centro, CA 92243
044-561-007	155-14E-31	Hermilia Rios	1261 Stacy Ave, El Centro, CA 92243
044-561-008	155-14E-31	Jose Luis D Gonzales	1271 Stacy Ave, El Centro, CA 92243
044-561-009	155-14E-31	Ricardo M & Maria D Santos	1281 Stacy Ave, El Centro, CA 92243
044-561-010	155-14E-31	Peggy J Artrup	1291 Stacy Ave, El Centro, CA 92243
044-561-011	155-14E-31	Lucinda Parkinson	1299 Stacy, El Centro, CA 92243
044-561-012	155-14E-31	Sixto & Estella Diaz	910 N 14th St, El Centro, CA 92243
047-010-029	135-14E-27	National Beef California LP	57 E Shank Rd, Brawley, CA 92227
047-050-012	135-14E-28	Chevron USA Inc	PO Box 1392, Bakersfield, CA 93302
047-060-003	135-14E-28	Chevron USA Inc	PO Box 1392, Bakersfield, CA 93302
047-140-005	135-14E-28	IID - Trust Lands	PO Box 937, Imperial, CA 92251
047-281-006	135-14E-33	Brawley American Citizens Club Inc	PO Box 529, Brawley, CA 92227
047-281-007	135-14E-33	Brawley American Citizens Club Inc	PO Box 529, Brawley, CA 92227
047-281-010	135-14E-33	Brawley American Citizens Club Inc	PO Box 529, Brawley, CA 92227
047-281-011	135-14E-33	Chubasco LLC	385 N 9th St, Brawley, CA 92227
047-281-012	135-14E-33	Church	305 N 9th St, Brawley, CA 92227
047-281-018	135-14E-33	Church	305 N 9th St, Brawley, CA 92227
047-351-008	135-14E-33	Thomas A Gargjulo	PO Box 1207, Brawley, CA 92227
047-351-009	135-14E-33	Thomas A Gargjulo	PO Box 1207, Brawley, CA 92227
048-250-037	145-14E-04	Jimmy Dean Tucker	4201 Dogwood Rd, Brawley, CA 92227
048-250-054	145-14E-04	Delvin J & Frances M Ashurst	PO Box 100, Westmorland, CA 92281
048-250-055	145-14E-04	Jon Montgomery Self	4201 Dogwood Rd, Brawley, CA 92227
049-031-011	135-14E-33	The Hartford Center LLC	4425 Brandt Rd, Brawley, CA 92227
049-032-009	135-14E-33	Bob L & Juanita Merrill	PO Box 1434, Brawley, CA 92227

IMPERIAL

*In accordance with Paragraph 1 of the Escrow Deed by Court Order in Settlement of Landowner Action (the "Court Order"),
 Quest prepared this Exhibit 1 and attached it to the Court Order.
 The owner's/grantor's mailing address is not necessarily the same as the affected parcel's address.

The owner's/grantor's mailing address is not necessarily the same as the affected parcel's address.
 In accordance with Paragraph 1 of the Escrow Order in Settlement of Landowner Action (the "Court Order"),
 a copy of this Exhibit 1 and attached it to the Court Order.

Assessor's Parcel No.	T-R-S	Owner's/Grantor's Name	Owner's/Grantor's Mailing Address ²
051-084-001	165-12E-07	Carmen Redondo et al	PO Box 208, Seeley, CA 92273
051-084-003	165-12E-07	Jesus Redondo	2825-A W Evan Hewes Hwy, Imperial, CA 92251
051-091-001	165-12E-07	IID-Imperial Irrigation District	PO Box 937, Imperial, CA 92251
051-092-001	165-12E-07	Sam Estes	PO Box 830, Seeley, CA 92273
051-092-002	165-12E-07	Maria Lourdes Acuna	371 Ross Rd, El Centro, CA 92243
051-092-010	165-12E-07	Heidi L Kuhn	5743 Meadows del Mar, San Diego, CA 92130
051-092-014	165-12E-07	Heidi L Kuhn	5743 Meadows del Mar, San Diego, CA 92130
051-120-024	165-12E-09	George J & Clemence V Lerno	2801 W Main St, El Centro, CA 92243
051-120-025	165-12E-09	FC & MK Tomlinson LLC	259 S Randolph Ave, Brea, CA 92821
051-120-039	165-12E-10	George J & Clemence V Lerno	2801 W Main St, El Centro, CA 92243
051-120-047	165-12E-10	Frank N & Carme J Tomlinson	PO Box 2577, Capistrano Beach, CA 92624
051-120-060	165-12E-10	Madeline L Kuhn	47 Medina Dr, Palm Desert, CA 92260
051-215-001	165-12E-12	Diogo	795 So La Brucherie Rd, El Centro, CA 92243
051-242-001	165-12E-11	Val-Rock Inc	3200 San Fernando Rd, Los Angeles, CA 90065
051-250-007	165-12E-11	Francisco & Maria T Parga	PO Box 476, Imperial, CA 92251
051-250-008	165-12E-12	Francisco & Maria T Parga	PO Box 476, Imperial, CA 92251
051-250-010	165-12E-12	Seeley Properties LLC	1805 Evan Hewes, PO Box 549 Seeley, CA 92273
051-250-011	165-12E-11	First Baptist Church of Seeley	PO Box 770, Indio, CA 92202
051-420-030	165-12E-12	Paul E & Beverly A Benefield	1191 River Front Dr, Bullhead City, AZ 86442
051-420-033	165-12E-12	Diogo	795 So La Brucherie Rd, El Centro, CA 92243
051-420-034	165-12E-12	Norman P Pearse	1958 Sunderidge, San Antonio, TX 78260
051-420-036	165-12E-12	Paul & Beverly Benefield	1191 River Front Dr, Bullhead City, AZ 86442
051-420-037	165-12E-12	Paul & Beverly Benefield	1191 River Front Dr, Bullhead City, AZ 86442
051-420-055	165-12E-12	Wigwam Investments LLC	10920 Via Frontera, San Diego, CA 92127
051-420-066	165-12E-12	Johnny P & Gloria S Singh	607 Russell, Brawley, CA 92227
051-440-001	165-12E-11	Madeline L Kuhn	47 Medina Dr, Palm Desert, CA 92260
051-440-005	165-12E-11	IID-Imperial Irrigation District	PO Box 937, Imperial, CA 92251

IMPERIAL

Assessor's Parcel No.	T-R-S	Owner's/Grantor's Name	Owner's/Grantor's Mailing Address?
063-141-001	155-14E-18	Gary A & Sue W Shumard	647 Desert Gardens Dr, El Centro, CA 92243
063-122-009	155-14E-18	Maximiano & Consuelo Torres	PO Box 605, Imperial, CA 92251
063-122-008	155-14E-18	Maximiano & Consuelo Torres	PO Box 605, Imperial, CA 92251
063-122-007	155-14E-18	Joseph R Flores	PO Box 1204, Boulevard, CA 91905
063-122-006	155-14E-18	Al Denis H & Arlene M Devermont et	PO Box 421217, San Diego, CA 92142
063-121-005	155-14E-18	Adam & Alma Lopez	4534 Carter Ct, Chino, CA 91710
063-112-007	155-14E-18	Adam & Alma Lopez	4534 Carter Ct, Chino, CA 91710
063-112-004	155-14E-18	Alan M Thornburg	PO Box 39, Julian, CA 92036
063-112-002	155-13E-32	Heidi L Kuhn	5743 Meadows Del Mar, San Diego, CA 92130
062-111-021	155-13E-32	Rafael & Gloria Escutia	1599 N 12th St, El Centro, CA 92243
062-102-002	155-13E-31	Ramsay M D & G Smith-Kandal Real Estate &	510 W Main St, Brawley, CA 92227
062-101-001	155-13E-31	Ramsay M D & G Smith-Kandal Real Estate &	510 W Main St, Brawley, CA 92227
062-090-035	155-13E-34	Heidi Kuhn	5743 Meadows Del Mar, San Diego, CA 92130
062-090-025	155-13E-32	La Valle Sabbia Inc	2015 Sliabee Rd, El Centro, CA 92243
062-090-022	155-13E-33	La Valle Sabbia Inc	2015 Sliabee Rd, El Centro, CA 92243
062-090-017	155-13E-33	La Valle Sabbia Inc	2015 Sliabee Rd, El Centro, CA 92243
062-090-012	155-13E-34	Meyer Imperial Investments III LLC	2921 B S Kish Ave, Yuma, AZ 85365
062-090-009	155-13E-34	Meyer Imperial Investments III LLC	2921 B S Kish Ave, Yuma, AZ 85365
062-080-069	155-13E-31	Ramsay M D & G Smith-Kandal Real Estate &	510 W Main St, Brawley, CA 92227
062-080-060	155-13E-31	Sm Seed & Milling LLC	2050 Bennett Rd, El Centro, CA 92243
062-080-058	155-13E-31	Jose & Juana Rodriguez	1624 Ames Rd, El Centro, CA 92243
062-080-057	155-13E-31	Fernando & Rosario Maestre	1620 W Ames Rd, El Centro, CA 92243
062-080-056	155-13E-31	Robert E & Margaret P Horton	1614 W Ames Rd, El Centro, CA 92243
062-080-055	155-13E-31	Gustavo & Debra T Ramirez	1591 W Elm Ave, El Centro, CA 92243

IMPERIAL

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 Owner's/Grantor's Mailing Address is not necessarily the same as the affected parcel's address.

Assessor's Parcel No.	T-R-S	Owner's/Grantor's Name	Owner's/Grantor's Mailing Address
064-460-001	155-13E-34	Meyer Imperial Investments III LLC	2921 B S Kish Ave, Yuma, AZ 85365
064-460-007	155-13E-36	MSPM Associates LP	2815A Lafayette Ave, Newport Beach, CA 92663
064-470-046	155-13E-36	Donald L & Marilyn J Scoville et al	PO Box 394, El Centro, CA 92244
064-470-091	155-14E-31	Cole PB Portfolio LP	3111 W Allegheny Ave, Philadelphia, PA 19132
064-542-005	155-13E-36	Jose & Margarita Ordonez	901 N 17th St, El Centro, CA 92243
064-542-006	155-13E-36	Humberto & Martha Aguilera	1701 Stacey Ct, El Centro, CA 92243
064-542-007	155-13E-36	Julieta Anduro	1715 Stacey Ct, El Centro, CA 92243
064-542-008	155-13E-36	Robert Jones	1735 Stacey Ct, El Centro, CA 92243
064-542-009	155-13E-36	Joe Heger Farms LLC	PO Box 880, El Centro, CA 92244
064-542-010	155-13E-36	Carlos Vasquez	649 Cinnabar St, Imperial, CA 92251
064-542-011	155-13E-36	Jesus & Marisa Torres	1801 Stacey Ct, El Centro, CA 92243
064-542-012	155-13E-36	Ramon & Ana Bertha Mendoza	1815 Stacey Ct, El Centro, CA 92243
064-542-013	155-13E-36	Lopez Jorge I & Velasquez Mayra	1835 Stacey Ct, El Centro, CA 92243
064-542-014	155-13E-36	George & Margarita Ontiveros	1855 Stacey Ct, El Centro, CA 92243
064-542-015	155-13E-36	Efrain A Jr & Bethzabe L Tanori	1875 Stacey Ct, El Centro, CA 92243
064-542-016	155-13E-36	Elifonso M & Linda A Nava	1895 Stacey Ct, El Centro, CA 92243
064-542-017	155-13E-36	Francisco & Alma Rosa Cervantes	902 N 19th St, El Centro, CA 92243

IMPERIAL

In accordance with Paragraph 1 of the Escrow Deed by Court Order in Settlement of Landowner Action (the "Court Order"),
 Owner prepared this Exhibit 1 and attached it to the Court Order.
 The owner's/grantor's mailing address is not necessarily the same as the affected parcel's address.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

TODD SMITH, DIRK REGAN and CAROL
REGAN, JACQUELYN SHELDRIK,
GLENN L. BOOM, and WILLIAM NELSON
and LINDA NELSON, INDIVIDUALLY AND
AS REPRESENTATIVES OF A CLASS OF
PERSONS SIMILARLY SITUATED,

Plaintiffs,

v.

QWEST COMMUNICATIONS COMPANY,
LLC; SPRINT COMMUNICATIONS
COMPANY L.P.; LEVEL 3
COMMUNICATIONS, LLC; and WILTEL
COMMUNICATIONS, LLC,
Defendants.

CASE NO. 3:11-cv-02599-TEH

ECF DOCUMENT
I hereby attest and certify that this is a printed copy of a
document which was electronically filed with the United States
District Court for the Northern District of California.

Date Filed:

RICHARD W. WESKING, Clerk
By: THEOPHANO NUNDO, Deputy Clerk

EASEMENT DEED BY COURT ORDER
IN SETTLEMENT OF LANDOWNER ACTION

WHEREAS, the parties to the above-captioned class action (the "Action") entered into a
California Class Settlement Agreement, as of September 5, 2012, (the "Settlement Agreement")
(terms capitalized herein and not otherwise defined shall have the meanings ascribed to them in
the Settlement Agreement);

WHEREAS, on June 24, 2013, the Court entered a final Order and Judgment approving
the Settlement Agreement and ordering that this Action may be settled as a class action on behalf
of the following class:

[A] class under the Settlement Agreement (the "Settlement Class"),
defined as follows:

a class comprising all Persons who own or who claim to own, for any
period of time during a Compensation Period, any Covered Property, except for:
(1) Right-of-Way Providers and their predecessors, successors, parents,
subsidiaries, and affiliates, past or present; (2) federal, state, and local
governmental entities; (3) Native American nations and tribes; or (4) any Person
who files a valid and timely exclusion on or before the Opt-Out Deadline.

1 maintain (including aerial patrol), renew, rebuild, replace, upgrade, expand, relocate, and remove
2 fiber optic cables, copper cables, coaxial cables or other cables through which voice, data, video
3 or other signals are transmitted, conduits, inner ducts, hand holes, splice vaults, poles, optical or
4 electronic equipment, regenerator huts, marker posts or signs, and other related facilities
5 appropriate for installation, use, or maintenance of such cables (collectively, the
6 "Telecommunications Cable System"), in, on, over, under, through and/or across the Easement
7 Premises. The Easement Premises means all that real property that (a) either (i) is included
8 within a parcel of property that is described in Exhibit 1 or (ii) has a common boundary with a
9 parcel of property described in Exhibit 1 (the "Grantor's Property") (for purposes of this
10 Telecommunications Cable System Easement Deed, a parcel of property shall be deemed to have
11 a common boundary with the Easement Premises if it is separated by a non-navigable river or a
12 street, road, or highway, other than a numbered state or federal highway) and that (b) (i) is or
13 was used as a railroad right of way ("Railroad Right of Way") and (ii) is on a side of the
14 centerline of the Railroad Right of Way that is next to the Grantor's Property (the "Grantor
15 Side"), and (iii) extends no more than ten (10) feet on each side of the Grantee's
16 Telecommunications Cable System (A) as it existed on November 21, 2012 (B) where the
17 actively used components of the Grantee's Telecommunications Cable System are moved or
18 placed, provided, however, that only a single 20-foot easement per moved component may exist
19 at any point in time in the Easement Premises, and the width of the moved component's
20 Easement Premises shall be reduced on one side and increased by an equal linear footage on the
21 other side wherever necessary in order that it shall in all places remain solely within the limits of
22 a single Grantor Side of the Railroad Right of Way, and (C) where new components are installed
23 to connect the existing Telecommunications Cable System to the edge of the Right of Way. The
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1 Grantor may have for any damages to Grantor's property outside of the Easement Premises
2 caused by Grantee's action. If Grantee's action causes damage to any of Grantor's existing
3 improvements, including houses, garages, shops, sheds, and fences, or growing crops, which are
4 within the Easement Premises, Grantee shall pay reasonable compensation to the Grantor for
5 such damage to the extent provided by law.
6

7 From and after June 24, 2013, subject to all the restrictions and limitations stated herein,
8 the Easement includes the right to construct and install additional components of a
9 Telecommunications Cable System within the Easement Premises. Grantee agrees that unless
10 (a) it is required to do so by the railroad or other owner of Railroad Right of Way or (b) it is
11 commercially reasonable under the circumstances to do so, it will not install additional
12 components of a Telecommunications Cable System in the area of the Easement Premises that is
13 outside a parallel fence constructed by the railroad or other owner of Railroad Right of Way or is
14 actually being used by the Grantor or its successor, provided, however, that the foregoing shall
15 not be binding upon Grantee if Grantee's Telecommunications Cable System is currently located
16 within such area. If Grantee's action causes damage to any of Grantor's existing improvements,
17 including houses, garages, shops, sheds, and fences, or growing crops, which are within the
18 Easement Premises, Grantee shall pay reasonable compensation to the Grantor for such damage
19 to the extent provided by law.
20

21 The Easement includes all rights necessary to the lawful occupation of the Easement
22 Premises by an existing Telecommunications Cable System, and by any additional
23 Telecommunications Cable System that is constructed and installed by or on behalf of Grantee in
24 the Easement Premises and that is owned or operated by either (a) Grantee or (b) any person or
25 entity to which Grantee sold, granted, leased, or otherwise transferred or may hereafter sell,
26
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1 companies or utilities. It is further understood and agreed that Grantor retains all of its existing
2 rights, if any, to grant, convey, assign, and restrict any and all rights (including future rights and
3 uses) on the Easement Premises, provided, however, and notwithstanding the foregoing, that
4 Grantor shall not use or authorize others to use the Easement Premises in a manner that interferes
5 with or impairs in any way Grantee's Telecommunications Cable System or the exercise by
6 Grantee of the rights granted herein.
7

8 Subject to the terms hereof, Grantee shall have all other rights and benefits necessary or
9 useful to the full and complete enjoyment and use of the Easement for the purposes stated herein,
10 including the right to sell, grant, lease, or otherwise transfer all or any part of the rights in or use
11 of the Telecommunications Cable System.

12 Grantor conveys the Easement without warranty of title to any property interest in the
13 Easement Premises. This instrument does not address and shall not affect any real property
14 rights, including the priority of interests, between Grantor and any railroad or between Grantee
15 and any railroad, or any of their predecessors, successors, past or present predecessors in interest,
16 successors in interest, successors in title, members, partners, parents, subsidiaries, affiliates,
17 lessees, assigns, and past, current, or future licensees or assignees. This Easement is not
18 intended to impact or diminish any railroad's existing rights or property interests in the Right of
19 Way. This Easement shall not be construed to permit Grantee to interfere with railroad
20 operations. This Easement also shall not permit any component of a Telecommunications Cable
21 System to remain in a Railroad Right of Way except (a) under existing or future agreements with
22 the railroad or (b) in any Railroad Right of Way in which no railroad operates and no railroad
23 retains any right, title, or interest. This Easement also shall not permit any new components to
24 be installed to connect the existing Telecommunications Cable System to the edge of the Right
25
26
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1 This instrument fully sets forth the terms and conditions of the Easement. There are no
2 oral or other written agreements between Grantor and Grantee that modify, alter, or amend this
3 instrument.

4 TO HAVE AND TO HOLD the Easement, rights and privileges unto Grantee, its
5 successors and assigns in perpetuity or until such time as Grantee shall cause the Easement to be
6 released of record.

7
8 3. Settling Defendants may record this Easement under the terms and conditions set
9 forth in the Settlement Agreement.

10 Date: 6/27/13



Honorable Thelton E. Henderson, Judge
United States District Court

EXHIBIT 1
Imperial County, CA

DMS ID	ASSESSOR	T/R/S	NAME / COMPANY NAME	MAILING ADDRESS	GRANTEE
CA025_00362	062-090-048	155-13E-31	Bermudez, C & E	1070 W Evan Hewes Hwy, El Centro, CA 92243	Level3 Communications, LLC
CA025_00364	062-090-050	155-13E-33	Cetena, Gilbert & Eva R	1044 W Evan Hewes Hwy, El Centro, CA 92243	Level3 Communications, LLC
CA025_00365	062-080-015	155-13E-32	La Valle Sabida Inc	2015 Shiber Rd, c/o Alex Abate Jr, El Centro, CA 92243	Level3 Communications, LLC
CA025_00366	064-551-014	155-13E-36	Imperial Irrigation District	PO Box 977, Imperial, CA 92251	Level3 Communications, LLC
CA025_00367	064-551-001	155-13E-36	Imperial Irrigation District	PO Box 977, Imperial, CA 92251	Level3 Communications, LLC
CA025_00368	064-551-012	155-13E-36	Dyer Farm C & Pippin Robert III & Nora	14330 S Commercial St, Blythe, CA 92255	Level3 Communications, LLC
CA025_00370	064-551-005	155-13E-36	Fernandez, Alfredo & Maria	PO Box 352, Appleton, CA 91903	Level3 Communications, LLC
CA025_00371	064-551-011	155-13E-36	Fernandez, Alfredo & Maria	1250 El Dorado Ave, El Centro, CA 92243	Level3 Communications, LLC
CA025_00372	064-551-010	155-13E-36	Imperial Gardens Family Associates	151 Kalmus Dr, Costa Mesa, CA 92626	Level3 Communications, LLC
CA025_00373	064-551-008	155-13E-36	Smith, Betty	785 Yucca Dr, El Centro, CA 92243	Level3 Communications, LLC
CA025_00374	064-551-001	155-13E-36	Smith, Betty	785 Yucca Dr, El Centro, CA 92243	Level3 Communications, LLC
CA025_00375	064-551-001	155-13E-36	Smith, Betty	785 Yucca Dr, El Centro, CA 92243	Level3 Communications, LLC
CA025_00376	064-550-002	155-13E-36	Smith, Betty	785 Yucca Dr, El Centro, CA 92243	Level3 Communications, LLC
CA025_00377	064-550-003	155-13E-36	Smith, Betty	785 Yucca Dr, El Centro, CA 92243	Level3 Communications, LLC
CA025_00378	064-550-004	155-14E-31	Miles, Brian	940 N 14th St, El Centro, CA 92243	Level3 Communications, LLC
CA025_00379	064-560-004	155-14E-31	J A & M Edney Tr	PO Box 3544, El Centro, CA 92243	Level3 Communications, LLC
CA025_00380	064-560-026	155-14E-31	Sarway Stores 23 Inc	1371 Oakland Blvd, 200, c/o The Vong Companies Inc, Walnut Creek, CA 94596	Level3 Communications, LLC
CA025_00381	064-560-010	155-14E-31	Garden, Ronald L & Susan B	1118 N Sandhurst Ln, La Verne, CA 91750	Level3 Communications, LLC
CA025_00382	062-080-051	155-13E-32	Abate, C Lisa & Rosemary M	2015 Shiber Rd, El Centro, CA 92243	Level3 Communications, LLC
CA025_00383	062-120-001	155-13E-31	KM Properties and Land Development LLC	1490 W Evan Hewes Hwy, El Centro, CA 92243	Level3 Communications, LLC
CA025_00384	062-080-035	155-13E-31	Keeney, Barbara	8975 Lampetro Ave, Alhambra, CA 91822	Level3 Communications, LLC
CA025_00385	062-131-003	155-13E-32	Garcia, Honorio A & Lucy V	2020 Low Rd, El Centro, CA 92243	Level3 Communications, LLC
CA025_00386	062-120-006	155-13E-31	Figueras, James A & Priscilla	22325 Santa Clara St, Hayward, CA 94541	Level3 Communications, LLC
CA025_00387	062-120-007	155-13E-32	Robinson et al David P	210 Montego Dr, Imperial, CA 92243	Level3 Communications, LLC
CA025_00388	062-131-023	155-13E-32	Favelle, Juan D & Priscilla Moly	PO Box 304, Sorby, CA 92273	Level3 Communications, LLC
CA025_00389	062-080-036	155-13E-31	Lyons, Tyler R	1592 West Evan Hewes Hwy, El Centro, CA 92243	Level3 Communications, LLC

PC ORIGINAL PKG

EXHIBIT 1
Imperial County, CA

DMS ID	ASSESSOR	PARCEL ID	T/R/S	NAME / COMPANY NAME	MAILING ADDRESS	GRANTEE
CA025 00590	056-060-045	165-21E-7	165-21E-7	Green Environmental Services Inc	40 Lang Rd, Fairfield, NJ, 07007	Writel Communications, LLC
CA025 00591	056-060-031	165-21E-7	165-21E-7	Watson, Robert C	4016 Rock Hill Dr, Redwood, CA, 92028	Writel Communications, LLC
CA025 00593	056-060-022	165-21E-7	165-21E-7	Sanchez et al, R & L M	822 Mesa Verde, Vista City, CA, 92083	Writel Communications, LLC
CA025 00594	056-060-023	165-21E-7	165-21E-7	Blitt, George A	14226 El Monte Rd, Lakeland, CA, 92040	Writel Communications, LLC
CA025 00608	056-470-034	165-21E-21	165-21E-21	Blitt, Jacques A & Felicia L	2 Center of World Pk, Felicity, CA, 92283	Writel Communications, LLC
CA025 00610	056-060-018	165-21E-7	165-21E-7	French, William H	6559 5 Lay Ln, Gold Canyon, AZ, 85118	Writel Communications, LLC
CA025 00595	056-060-017	165-21E-8	165-21E-8	Plan, Knob Corp	2 Center of World Pk, Felicity, CA, 92283	Writel Communications, LLC
CA025 00597	056-060-012	165-21E-17	165-21E-17	Plan, Knob Corp	2 Center of World Pk, Felicity, CA, 92283	Writel Communications, LLC
CA025 00598	056-460-001	165-21E-16	165-21E-16	Plan, Knob Corp	2 Center of World Pk, Felicity, CA, 92283	Writel Communications, LLC
CA025 00618	056-470-030	165-21E-21	165-21E-21	Lewis, James McChesin	95 E Judy St, Thibault, AZ, 86001	Writel Communications, LLC
CA025 00616	056-570-006	165-22E-20	165-22E-20	USA For Shirley VP Ropp PG	1661 S 4th St, A1th Margart Goodie - BLM Mg, El Centro, CA, 92243	Writel Communications, LLC
CA025 00621	056-470-031	165-21E-21	165-21E-21	ILIC	8191 Center St, La Mesa, CA, 91942	Writel Communications, LLC
CA025 00622	056-460-009	165-21E-22	165-21E-22	Eller, Telecasting Co of Arizona	7950 Jones Branch Dr, c/o Branch CO Inc Tax Dept, Mckean, VA, 22107	Writel Communications, LLC
CA025 00623	056-460-010	165-21E-22	165-21E-22	Glenn, Thomas R & Terrence J	19557 Valley Ford Dr, Cottonwood, CA, 96027	Writel Communications, LLC
CA025 00625	056-460-012	165-21E-22	165-21E-22	Griffin, James A	5551 Kenwood Way, Buena Park, CA, 90611	Writel Communications, LLC
CA025 00627	056-470-036	165-21E-22	165-21E-22	Communi-Knopp, Guida F	2111 Whittard Park Ave, Sarasota, FL, 34249	Writel Communications, LLC
CA025 00628	056-470-035	165-21E-21	165-21E-21	Istei, Jacques A & Felicia L	One Center of The World Plaza, Felicity, CA, 92283	Writel Communications, LLC
CA025 00637	056-460-048	165-21E-22	165-21E-22	Istei, Jacques A & Felicia L	One Center of The World Plaza, Felicity, CA, 92283	Writel Communications, LLC
CA025 00638	056-460-047	165-21E-22	165-21E-22	Lemon, John R & Diane M	153 E Cole Rd, Chico, CA, 92311	Writel Communications, LLC
CA025 00648	056-600-008	165-21E-26	165-21E-26	Lemon, John R & Diane M	153 E Cole Rd, Chico, CA, 92311	Writel Communications, LLC
CA025 00655	021-340-001	115-16E-13	115-16E-13	Roman Catholic Bishop of San Diego	PO Box 1176, Whitehaven, CA, 92283	Writel Communications, LLC
CA025 00716	044-351-024	115-16E-31	115-16E-31	Currier, Andrew & Marlene	290 River Wood Dr, Branney, CA, 92237	Writel Communications, LLC
CA025 00715	044-351-015	115-16E-31	115-16E-31	Moh, Nisha	156 Hamilton Way, El Centro, CA, 92243	Writel Communications, LLC
CA025 00716	044-351-024	115-16E-31	115-16E-31	Quality Quarters Co LLC	429 W Main St, El Centro, CA, 92243	Writel Communications, LLC

EXHIBIT 1
Imperial County, CA

DMS ID	ASSESSOR PARCEL ID	T/R/S	NAME / COMPANY NAME	MAILING ADDRESS	GRANTEE
CA025_00749	044-361-017	155-14E-31	Preciado, Jose Luis & Guadalupe G	834 Woodward Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00750	044-361-018	155-14E-31	Garcia, John M & Gloria D	824 Woodward Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00751	044-361-019	155-14E-31	Lopez, Alfonso Luna	814 Woodward St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00752	044-361-020	155-14E-31	Quality Quarters Co LLC	429 W Main St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00753	044-381-002	155-14E-31	Tsoucalas, Mike	PO Box 421217, c/o Federal Home Loans, San Diego, CA, 9212	Level3 Communications, LLC
CA025_00754	044-381-003	155-14E-31	Villarreal, Cervando & Elvira	2174 R Cabrillo Ct, Calexico, CA, 92231	Level3 Communications, LLC
CA025_00755	044-381-004	155-14E-31	Varley, Randall A	1665 Ocotillo Dr, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00756	044-381-036	155-14E-31	Rose, Ronnie Lynn	558 Woodward Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00757	044-381-006	155-14E-31	Nelid, Ramond J	PO Box 3667, El Centro, CA, 92244	Level3 Communications, LLC
CA025_00758	044-381-007	155-14E-31	Mederos, Humberto L	546 Woodward Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00759	044-381-008	155-14E-31	Alva, Raymond & Rosa	534 Woodward, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00760	044-381-009	155-14E-31	Del Valle, Jose A & Maria J	526 Woodward Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00761	044-381-010	155-14E-32	Guislain, Charles P	518 Woodward Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00762	044-381-011	155-14E-32	Patel et al, Vilaykumar & Nalini	850 Adams Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00763	044-381-012	155-14E-32	Alvarez, Francisco B & Martha C	294 N 21th St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00764	044-381-013	155-14E-32	Martinez, Maria Teresa	815 N 5th St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00765	044-381-022	155-14E-32	Nevarez et al, Gina L	631 Tiger Lily Ln, Imperial, CA, 92251	Level3 Communications, LLC
CA025_00766	044-381-034	155-14E-32	Estrada, Gregorio & Maria	450 Euclid Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00767	044-381-035	155-14E-32	Estrada, Gregorio & Maria	450 Euclid Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00769	044-381-024	155-14E-32	Jeffrey O & Cheryl E Lyon Tr	1778 Lotus Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00777	021-030-020	11S-14E-4	Swink, George	PO Box 232307, Leucadia, CA, 92023	WITel Communications, LLC
CA025_00783	05E-59D-011	16S-22E-23	Tovar Family LP	2261 E 27th Way, Yuma, AZ, 85365	Level3 Communications, LLC

RECORDING REQUESTED BY
IMPERIAL COUNTY PUBLIC WORKS

AND WHEN RECORDED RETURN TO:

IMPERIAL COUNTY PUBLIC WORKS
155 SOUTH 11TH STREET
EL CENTRO, CA 92243

Recorded in Official Records, IMPERIAL COUNTY

CHUCK STOREY
COUNTY CLERK/RECORDER

P PUBLIC

Doc#: **2017028554**



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12/28/2017
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IsabelVargas

Titles: 1	Pages: 4
Fees	14.00
Taxes	0.00
Other	0.00
PAID	14.00

BOOK: 23 PAGES: 7-9

MAP COVER SHEET
RECORD OF SURVEY
I.C.S.R. No 681

LEGAL DESCRIPTION:

PORTIONS OF TRACT 37, T13 SO R18 EAST, SBM IN AN UNINCORPORATED AREA
OF THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA

GRANTORS:

SPRINKLE, BETTY J/ICSR 681
LEBLANC, EUGENE LOUIS JR/ICSR 681
TRACT 37/ICSR 681
T13 SO R18 EAST SBM/ICSR 681
ICSR 681/T13 SO R18 EAST SBM

Unofficial Copy

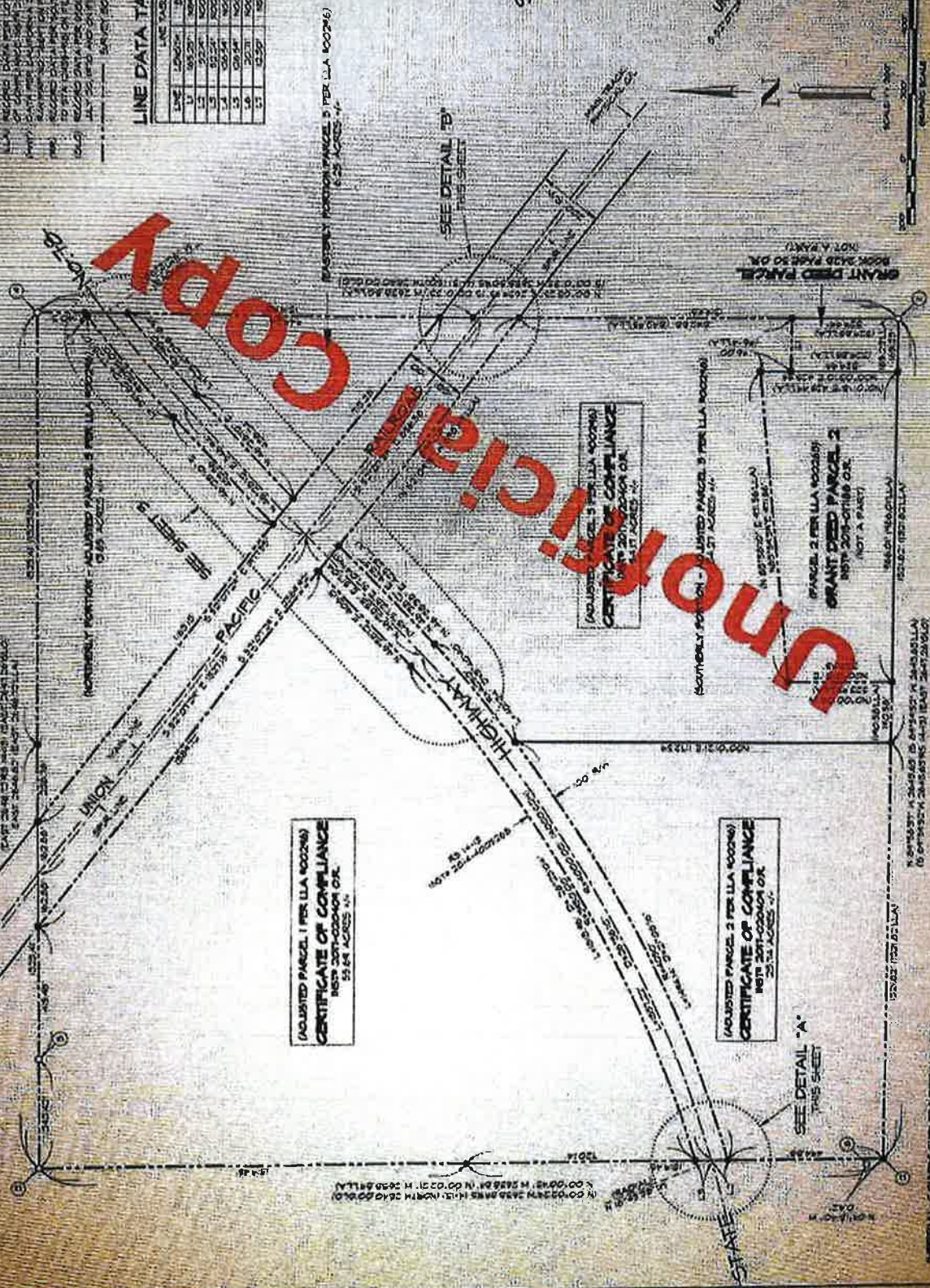
RECORD OF SURVEY
 PORTION OF TRACT FOR RICE SEW
 IN AN UNINCORPORATED AREA OF THE COUNTY OF IMPERIAL STATE OF CALIFORNIA

LEGEND:

- 1. ALL LINES AND POINTS SHOWN ARE TO BE CONSIDERED AS THE BOUNDARIES OF THE TRACT.
- 2. ALL LINES AND POINTS SHOWN ARE TO BE CONSIDERED AS THE BOUNDARIES OF THE TRACT.
- 3. ALL LINES AND POINTS SHOWN ARE TO BE CONSIDERED AS THE BOUNDARIES OF THE TRACT.
- 4. ALL LINES AND POINTS SHOWN ARE TO BE CONSIDERED AS THE BOUNDARIES OF THE TRACT.
- 5. ALL LINES AND POINTS SHOWN ARE TO BE CONSIDERED AS THE BOUNDARIES OF THE TRACT.
- 6. ALL LINES AND POINTS SHOWN ARE TO BE CONSIDERED AS THE BOUNDARIES OF THE TRACT.
- 7. ALL LINES AND POINTS SHOWN ARE TO BE CONSIDERED AS THE BOUNDARIES OF THE TRACT.
- 8. ALL LINES AND POINTS SHOWN ARE TO BE CONSIDERED AS THE BOUNDARIES OF THE TRACT.
- 9. ALL LINES AND POINTS SHOWN ARE TO BE CONSIDERED AS THE BOUNDARIES OF THE TRACT.
- 10. ALL LINES AND POINTS SHOWN ARE TO BE CONSIDERED AS THE BOUNDARIES OF THE TRACT.

LINE DATA TABLE:

LINE	LENGTH	BEARING	COORDINATES
L1	100.00	N00°00'00"W	100.00
L2	100.00	N00°00'00"W	100.00
L3	100.00	N00°00'00"W	100.00
L4	100.00	N00°00'00"W	100.00
L5	100.00	N00°00'00"W	100.00
L6	100.00	N00°00'00"W	100.00
L7	100.00	N00°00'00"W	100.00



(ADJUSTED PARCEL 1 PER ILLA 100206)
CERTIFICATE OF COMPLIANCE
 WITH 2017-000401 ORL
 55.85 ACRES ±

(ADJUSTED PARCEL 2 PER ILLA 100206)
CERTIFICATE OF COMPLIANCE
 WITH 2017-000401 ORL
 21.15 ACRES ±



SEE DETAIL "A"
 THIS SHEET

SEE DETAIL "B"
 THIS SHEET

Narrative Overview

CitySwitch seeks approval for a Conditional Use Permit ("CUP"), a Height Variance ("Variance") and any other permits or approvals necessary in order to install a communications facility on property located at 637-639 Sidewinder Rd N, Felicity, CA 92283. CitySwitch proposes to erect this tower and will be offering it as a shared facility to Union Pacific (with whom CitySwitch already has a commitment), AT&T Mobility, and any other communication carriers that have a need for a facility in this area. CitySwitch thus submits this Application (as that term is defined in Sections 92404.01 and 92405.01 of the Imperial County Land Use Code (the "Code")) seeking a CUP and Variance for the siting and construction of a new communication facility.

The proposed site is located in a S-2, Open Space/Preservation zone. Pursuant to Sections 90519.02(d) of the Code, Communication Facilities are allowed in this district with CUP approval. The property consists of a railroad line in the desert, located approximately 1,200' north of the on-ramp to I-8.

The wireless communications facility that CitySwitch is proposing to install on the property for Union Pacific and AT&T is necessary to provide critical communications for the railroad line and uninterrupted AT&T wireless services to the residents and visitors of Felicity and the surrounding area, including wireless telephone service, voice paging, messaging and wireless internet and broadband data transmission. All registered wireless providers' technology operate at various radio frequency bands allocated by the FCC as part of their license.

Wireless systems operate on a grid system where overlapping cells mesh together, forming a seamless network. No single site can function as a stand-alone entity as each site is interconnected, forming the network. The technical criteria for establishing cell sites are very exacting as to the location and height. The proposed site at 637-639 Sidewinder Rd N, Felicity, CA 92283 is within the geographic area deemed necessary by radio frequency engineers for the anchor wireless telecommunications providers to provide uninterrupted services.

In accordance with Sections 92402.01s and 92405.01 of the Code, CitySwitch is submitting this Application to install a new Communications Facility. The proposed new communications

Compliance with Section 92404.01 – General Requirements for Communications Facilities

All new, altered and re-permitted communication facilities in unincorporated areas of Imperial County, with the exception of those exempted under Section 92401.03, shall meet the following general requirements, regardless of the zone in which they are located:

- A. Zones. Wireless communication facilities may be located in all base zones which allow such facilities, upon approval of a conditional use permit as described below.

Telecommunications towers, along with related equipment are allowed with CUP approval in the S-2 Open Space/Preservation zone pursuant to Section 90519.02(d) of the ordinance.

- B. Use Permit Required. All wireless communication facilities and all wired or fiber regeneration facilities other than those designated as exempt under Section 92401.03 require a conditional use permit (CUP). To obtain a conditional use permit, a hearing is required before either the planning director or the planning commission, as provided for in Title 9.

The proposed wireless communications facility is not exempt under Section 92401.03, therefore CitySwitch has applied for a CUP, and will follow the CUP process provided for in Title 9.

- C. Building Permit Required. All communication facilities shall require a building permit issued by the county of Imperial.

If and when the CUP has been approved, CitySwitch will apply for the necessary building permits through Imperial County.

- D. Design Consistency with the Surrounding Environment. To the maximum extent feasible, all wireless communication facilities and all regeneration facilities shall blend in with the predominant features of the existing natural and/or built environments in which they are located. To this end, co-location, stealth mounts, structure mounts and ground mounts are particularly encouraged.

Due to the diminutive size of the parcel and the tower's location adjacent to the railroad tracks in the desert, there will be little impact on the surrounding environment.

5. If an operator wishes to apply for an exception to these height limitations, then the facility shall be subject to the provisions at Title 9 relating to conditional use permits and variances hearing processes.

The proposed tower height is 180'-0" and a height variance has been applied for as part of this application.

- F. Screening. All communication facilities shall be screened to the maximum extent possible, pursuant to the following requirements.
 1. Ground- and tower-mounted antennas and all sound structures shall be located within areas where substantial screening by vegetation, landform and/or buildings can be achieved. Additional vegetation and/or other screening may be required as a condition of approval. Each structural screening shall be based on a recommendation from the planning department having addressed the visual impacts, which in some instance may, in fact, warrant no screening.

No screening is proposed with this application. The proposed tower site is within the railroad right-of-way in the desert with no residential structures in the area.

2. The projection of structure-mounted antennas from the face of the structure to which they are attached shall be minimized.

The proposed wireless communications facility is a new tower, not a co-location on an existing structure. Therefore, this section does not apply.

3. Roof-mounted antennas shall be set back from the edge of the roof a distance greater than or equal to the height of the antenna, except when the antennas are fully screened. For roofmounted antennas, a screening structure that is architecturally compatible with the building on which it is mounted may also be required as a condition of approval. Antenna panels mounted flush on the outside of the parapet wall of an existing building and painted to match the exterior of the building may be allowed.

The proposed wireless communications facility is a new tower, not a co-location on an existing structure. Therefore, this section does not apply.

- G. Radio Frequency Exposure. No communication facility shall be sited or operated in such a manner that it poses, either by itself or in combination with other such facilities, a

their zones. Such structures shall appear architecturally compatible (as determined by the planning director evaluating the facility on the basis of color and materials) with their surroundings and be designed to minimize their visual impact. To meet this requirement, underground vaults may be required.

The proposed facility will be in compliance with all local, state and federal guidelines, therefore the zero setback will be applicable. Additionally, the equipment will be architecturally compatible with the rest of the communications facility and surrounding area.

- L. Roads and Parking. Communication facilities shall be served by the minimum roads and parking areas necessary and shall use existing roads and parking areas whenever possible.

A 12' wide gravel access road is proposed to run parallel to the train tracks in the Union Pacific right-of-way. The access road will connect to Sidewinder Road N., just south of the tracks.

- M. Provisions for Future Co-location. All commercial communication facilities shall be encouraged to promote future facility and site sharing. Technical evidence will be provided as to the infeasibility either technical and/or economic, of co-location or grouping prior to the issuance of a new use permit for a facility that would not be considered to be co-located or grouped under this ordinance.

There is an existing tower owned by SBA Structures, LLC which is located approximately 0.36 miles southeast of the proposed tower site. AT&T is currently co-located on that tower, however, the lease rate has sharply increased over the term of the agreement and has caused an economic burden which is shown in the attached Sworn Statement of Spencer Gambrell in Support of New Tower Construction from AT&T Mobility Services LLC. As shown on the drawings the proposed tower is designed to potentially add five additional future carriers.

- N. Removal Upon Discontinuation of Use. All equipment associated with a communication facility shall be removed within one hundred eighty (180) days of the discontinuation of the use and the site shall be restored to its original pre-construction condition. The operator's agreeing to such removal and allowing the county access across private property to effect such removal shall be a condition of approval of each permit issued. At its discretion, the county may require a financial guarantee acceptable to the county to ensure removal.

CitySwitch agrees to removal of the tower in the event it is no longer in use for more than 180 days as a condition of the Conditional Use approval.

- b. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.

The proposed support equipment will consist of galvanized metal equipment cabinets that are similar to gym lockers. The materials will match the tower and fit in with the natural surroundings.

- c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobstructive as possible.

The proposed wireless communications facility is a new tower, not a co-location on an existing structure, therefore this provision does not apply.

- S. Lighting. Towers shall not artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views and community.

The proposed tower is going to be 170'-0" with a 10'-0" lightning rod for a total height of 180'-0" which is below the 200' threshold requiring lighting per the FAA, therefore no lighting will be provided.

- T. State or Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations as mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

The proposed tower will meet and / or exceed all FAA, FCC and any other agencies of the State of California or federal government with authority to regulate towers and antennas. In the event of a change in regulations, CitySwitch and the providers co-located on the tower will make their equipment compliant.

- U. Building Codes; Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the county concludes that a tower fails to comply with such codes and

- Z. Signs. No signs shall be allowed on an antenna or tower except as may be required by law or another permitting or licensing agency.

The only signage displayed on the communications facility site will be that which is required by federal regulations, specifically those signs needed for health and safety reasons.

- AA. Buildings and Support Equipment. Buildings and support equipment associated with antennas or towers shall comply with requirements of Title 9.

All support equipment used in the communications facility will comply with the requirements of Title 9.

- BB. Multiple Antenna/Tower Plan. Imperial County encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.

CitySwitch is submitting three (3) total applications for sites within Imperial County.

- b. The facility either 1) does not require an RF environmental evaluation report as described in Section 92401.08, or 2) the RF environmental evaluation report for the facility shows that the cumulative radio-frequency energy emitted by the facility and any nearby facilities will be consistent with FCC regulations.

The proposed installation is not required to include a RF Environmental Evaluation Report as spelled out in Section 92401.08.

- c. The facility blends in with its existing environment and will not have significant adverse visual impacts.

The proposed tower is being located within an existing railroad right-of-way in the desert and will not have a significant adverse visual impact on surrounding area.

3. Administrative Approval Process. The planning director may administratively approve a proposed communication facility by using the following process:
 - a. Each applicant for administrative approval shall apply to the planning director providing the information and fees set forth in Section 92401.09 of this ordinance.
 - b. The planning director shall review the application for administrative approval and determine if the proposed use complies with Sections 92401.04 and 92401.05 of this ordinance.
 - c. The planning director shall respond to each such application within sixty (60) days after receiving it by either approving or denying the application.
 - d. In connection with any such administrative approval, the planning director may, in order to encourage shared use, administratively waive any setback requirements or separation distances between towers in the base zone by up to fifty percent (50%).
 - e. In connection with any such administrative approval, the planning director may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.
 - f. If an administrative approval is denied, the applicant shall file an application for a conditional use permit pursuant to Section 91401.05B. prior to filing any special appeal that may be available under the Title 9.

The proposed wireless telecommunications facility requires a Conditional Use Permit and a Height Variance, therefore this site does not meet the criteria for an Administratively Approved site.

4. List of Administratively Approved Uses. The following uses may be approved by the planning director after conducting an administrative review:

- (iv) The onsite relocation of a tower which comes within the separation distances to residential units or residentially zoned lands shall only be permitted when approved by the planning director.
- c. New towers in nonresidential zones. Locating any new tower in a nonresidential zone other than industrial or heavy commercial, provided a licensed professional engineer certifies that the tower can structurally accommodate the number of shared users proposed by the applicant; the planning director concludes the tower is in conformity with the goals set forth in [Section] 92401.00 and the requirements of Section 92401.04; the tower meets all setback and separation requirements of the base zone; and the tower meets the following height and usage criteria:
 - (1) For a single user, up to ninety (90) feet in height;
 - (2) For two users, up to one hundred twenty (120) feet in height; and
 - (3) For three or more users, up to one hundred twenty (120) feet in height; and
 - (4) For four or more users up to one hundred eighty (180) feet in height.
- d. Locating any alternative tower structure in a zone other than industrial or heavy commercial that in the judgment of the planning director is in conformity with the goals set forth in Section 92401.00 of this ordinance.
- e. Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

The proposed wireless telecommunications facility requires a CUP and a Variance for height. Therefore, this site does not meet the criteria for an Administratively Approved site.

- B. Conditional Use Permit before the planning commission. All other communication facilities or any facility requiring an exception to these regulations shall require a conditional use permit with a public hearing before the planning commission.
 - 1. Qualifying Facilities. A conditional use permit is required for any communication facility that is not exempt under these regulations and that does not qualify for a conditional use permit before the planning director.

The proposed 170'-0" monopole tower is not exempt under Section 92401, therefore a Conditional Use Permit and Variance for height are required.

- 2. Required Findings. In order for the planning commission to approve a proposed communication facility under a conditional use permit, the commission shall make the findings required for a conditional use permit, as well as the following additional findings:

The proposed location is within the Union Pacific Railroad right-of-way and will be designed to minimize the adverse effects of this application. Further, CitySwitch will work with the County Officials to provide the best possible design for the proposed site.

6. Professional Engineer. Any information of an engineering nature that the applicant submits, whether civil, mechanical or electrical, shall be certified by a licensed professional engineer.

All required information relating to the engineering of this site will be certified by a California licensed professional engineer, including all civil, mechanical or electrical documents.

Companies like CitySwitch have worked with local emergency service agencies to allow for the placement of equipment in and around their facilities. Additionally, with AT&T co-locating on the tower, 5G will be a part of the installation. 5G technology is used by first responders to create a network which supports their needs in the time of crisis which will provide better response times and services by local emergency services.

- B. The proposed use is consistent with the purpose of the zone or sub-zone within which the use will be located;

The proposed communications facility is consistent with the with the purpose of the zone within which it will be located. Per Section 90519.00, the "primary intent" of the S-2 zone is "to preserve the cultural, biological, and open space areas that are rich and natural as well as cultural resources. The S-2 zone is dominated by native desert habitat and stark topographic features. While certain uses are allowed within the S-2 zone, such uses must be compatible with the intent of the open space and conservation element of the general plan."

In this case, a communications facility is an allowable use in the zone with conditional use approval. The site is located approximately 0.23 miles north of I-8 and will serve to ensure a robust wireless network for AT&T and Union Pacific in this area.

- C. The proposed use is listed as a use within the zone or sub-zone or is found to be similar to a listed conditional use according to the procedures of Section 90203.10;

Communications towers are an articulated conditional use in the S-2 (Open Space/Preservation) zone pursuant to Section 90519.02(d) of the Imperial County Zoning Ordinance.

- D. The proposed use meets the minimum requirements of this title applicable to the use and complies with all applicable laws, ordinances and regulations of the county of Imperial and the state of California;

The proposed communications facility meets the minimum requirements of this title applicable to the use as addressed above and complies with all applicable laws, ordinances and regulations of Imperial County and the State of California.

- E. The proposed use will not be detrimental to the health, safety, and welfare of the public or to the property and residents in the vicinity;

Due to the diminutive size of the proposed equipment, it will not have an adverse effect on the surrounding properties nor the character of the area. Wireless

Variance Standards

The planning director, the planning commission and/or the board of supervisors, shall approve, approve subject to conditions or disapprove a variance with the following findings:

A. Findings. Approval or conditional approval may be granted only if the director/commission/board of supervisors first determines that the variance satisfies the criteria set forth in Government Code Section 65906, and the following findings can be made:

1. That there are special circumstances applicable to the property described in the variance application, that do not apply generally to the property or class of use in the same zone or vicinity;

The proposed location has special circumstances that are not applicable to other properties in the area. The proposed location is within Union Pacific's right-of-way and will host communication equipment for railroad use and will also service wireless providers. The property is located in a railroad right-of-way within the desert, there are no residential properties in the area that would be affected.

2. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such zone or vicinity in which the property is located;

The proposed variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such zone or vicinity. The area is a mostly undeveloped area in the desert located approximately 0.33 miles north of Interstate 8. The location is far removed from any residential uses.

3. That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of zoning laws is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classifications;

There are special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of zoning laws is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classifications. The proposed location is within Union Pacific's right-of-way and will host communication equipment that will service wireless providers along with the railroad's needs. The height required for the proposed tower is necessary to allow for the Union Pacific Railroad and AT&T to utilize the tower to provide the necessary signal.

B. Conditions of Approval. In approving a variance, the director/commission/board of supervisors may impose such conditions deemed necessary to enable making the findings listed under subsection A of this section.

C. Denial of Variance. Where the director/commission/board of supervisors cannot make the findings under subsection A of this section (with or without conditions) the variance shall be denied.

- B. Findings. The alternatives analysis shall show whether or not the proposed siting and design would have the least possible environmental and visual effect on the community and whether any alternative site or design is available that would allow for issuance of a conditional use permit before the planning director for the facility.

The proposed location for the CitySwitch communications facility is within the right-of-way of the Union Pacific railroad line northwest of I-8 and Sidewinder Rd N. The proposed location is in the desert in an unpopulated area. With the SBA tower being located 0.36 miles southeast of the proposed facility, Imperial County has already deemed that a communications facility would be visually acceptable in this area. Additionally, CitySwitch has chosen to use a monopole design for the tower which is the least obtrusive design for a 170' tower in this area.

- C. Review. The planning director may, at his or her discretion, employ on behalf of the county an independent technical expert to review this alternative analysis. The operator shall bear the reasonable costs of this review.

Based on the information submitted in the Sworn Statement of Spencer Gambrell in Support of New Tower Construction from AT&T Mobility Services LLC, included as part of this application, CitySwitch believes a third party is not necessary, however, if deemed necessary by the planning director, CitySwitch will bear the reasonable costs for this review.



AT&T Mobility Services LLC
Tower Strategy
17000 Cantrell Rd
Little Rock, Arkansas 72201

**SWORN STATEMENT OF SPENCER GAMBRELL IN SUPPORT OF NEW TOWER
CONSTRUCTION**

BY **CitySwitch II-A, LLC**

PULASKI COUNTY)
) ss.
STATE OF ARKANSAS)

SPENCER GAMBRELL, being first duly sworn on oath, deposes and says that:

1. I am an adult resident of the State of Arkansas and serve as Director-Network Planning for AT&T Wireless (“**AT&T**”).

2. I manage AT&T’s high-rent relocation program, under which AT&T identifies high-cost or economically burdensome antenna site leases that accommodate AT&T’s communications equipment and materially inhibits AT&T from improving or maintaining wireless services and relocates its communications equipment onto lower-cost alternative antenna site lease locations to either improve or maintain wireless coverage.

3. I am familiar with the proposed tower to be constructed by **CitySwitch II-A, LLC** (“**CitySwitch**”) at **637-639 Sidewinder Road, Felicity, California 92283 APN 056-470-002** (the “**CitySwitch Tower**”). I am also familiar with the existing communications tower (the “**SBA Tower**”) owned by **SBA Towers II, LLC (“SBA”)** which is located at 612 Sidewinder Road, Winterhaven, California 99283. Both the existing **SBA** Tower and the location of the proposed **CitySwitch** Tower are located in AT&T’s coverage search ring for this part of **Imperial County**.

4. AT&T currently leases space on the SBA Tower, along with related ground space at the base of the SBA Tower, to locate its communications equipment (the “**Wireless Facilities**”). AT&T has located its Wireless Facilities on the **SBA** Tower since **[Old site lease commencement month & year]** but AT&T

**Winterhaven
CA 915797963**

9. Decommissioning an existing Wireless Facility in favor of moving to an alternate tower location is something AT&T will only do in limited circumstances. AT&T will bear a significant capital cost in decommissioning its Wireless Facilities installation on the SBA Tower and relocating to the CitySwitch Tower. Despite these relocation costs, the CitySwitch Tower remains a better co-location option for AT&T.

10. AT&T has made this determination because the current rents and other charges to co-locate on the SBA Tower have been categorized as high-cost as compared to other existing sites in AT&T's portfolio and the rents charged by other tower companies, such as CitySwitch.

11. AT&T has entered into nationwide development and master lease agreements with CitySwitch, which I am familiar with. Under these agreements, CitySwitch will construct, at its own expense, its own communications towers upon which AT&T will lease space to install its Wireless Facilities. AT&T does not bear any costs for the construction of a tower owned by CitySwitch.

12. Per these agreements and as is the case with the CitySwitch Tower, AT&T pays CitySwitch rent in return for 30,000 square inches of wind load surface area of loading and defined space on each tower and does not pay increased rent for additions to its Wireless Facilities provided said facilities remain within the predetermined space and loading limits. The agreed upon tower space and loading limits have taken into consideration the future additions and upgrades projected for AT&T's Wireless Facilities.

13. There are no other structures (other than the SBA Tower) located in AT&T's search ring capable of accommodating its Wireless Facilities.

14. The economic terms imposed upon AT&T by SBA to remain co-located on the SBA Tower are not cost-effective and are economically burdensome for AT&T especially when the nearby CitySwitch Tower presents a more competitive and flexible co-location option.

The CitySwitch Tower Provides Superior Mobile Service Functionality.

15. Technological changes and market trends in the wireless communications industry require AT&T to continuously upgrade its Wireless Facilities. AT&T is also obligated to build out FirstNet, which is our country's first nationwide integrated data network for providers of emergency services.

Carrier Coverage Plot

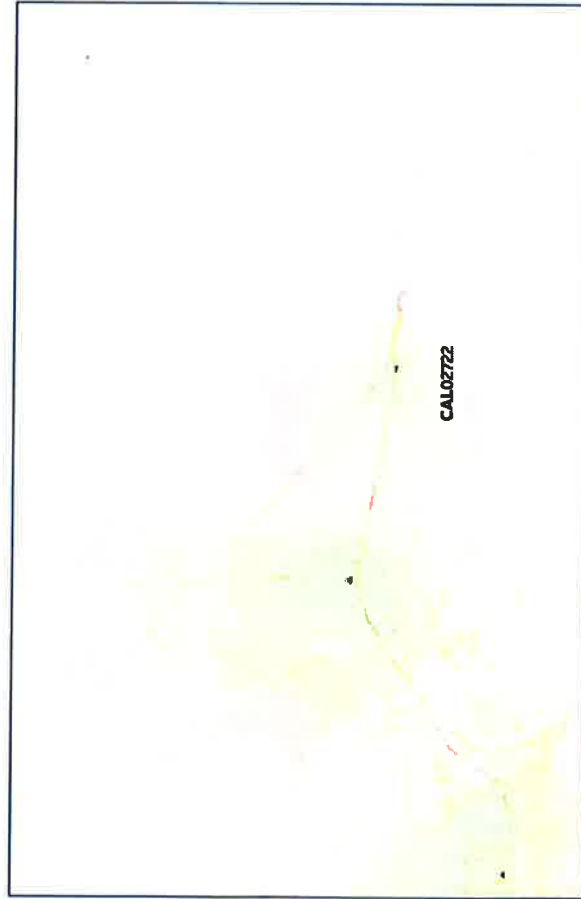
56620967.1

PC ORIGINAL PKG

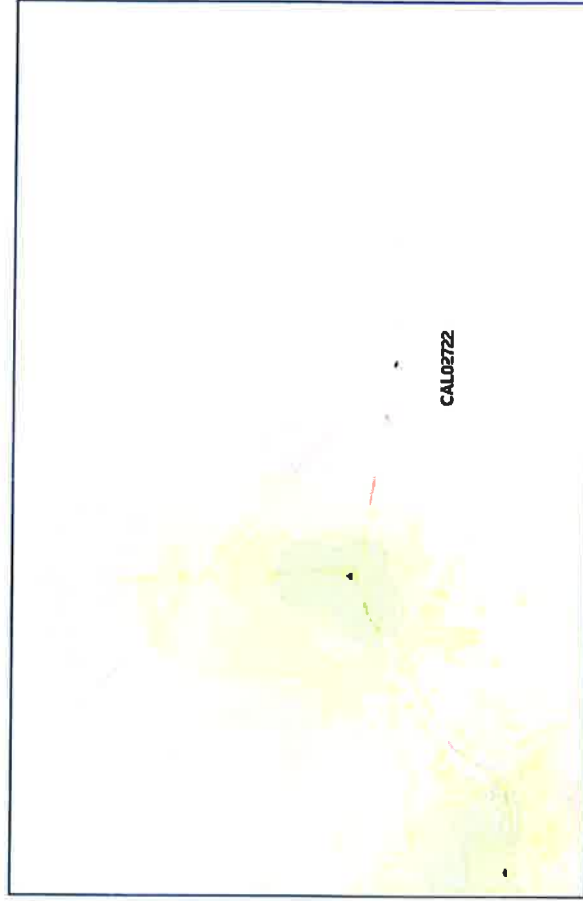
CAL03748

Good
Fair
Poor

Coverage with site



Coverage without site

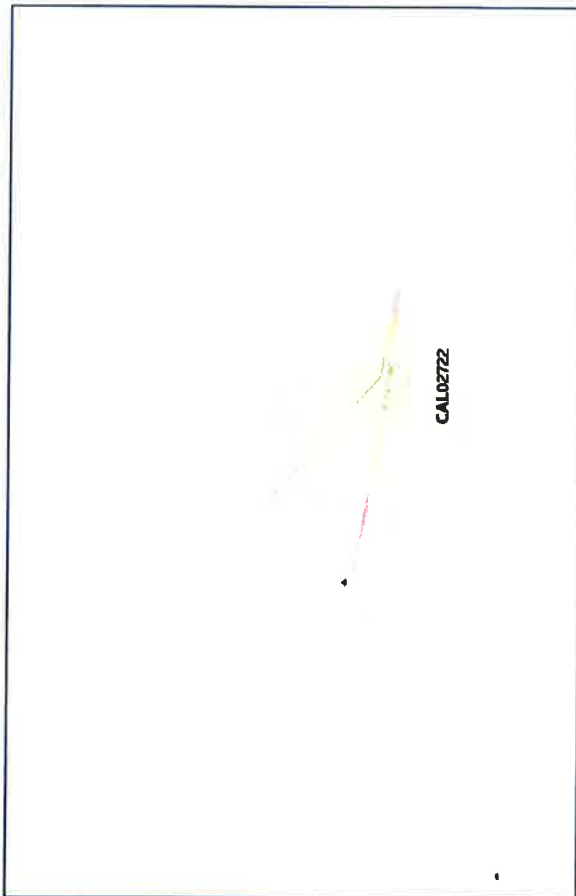


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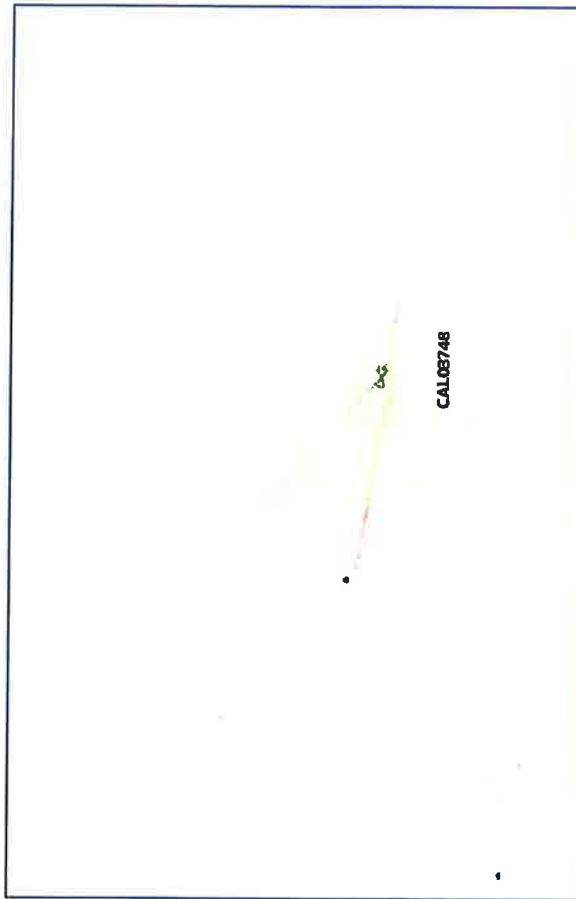
CAL03748

Good
Fair
Poor

Existing location coverage only



New location coverage only



PC ORIGINAL PKG



Mail Processing Center
Federal Aviation Administration
Southwest Regional Office
Obstruction Evaluation Group
10101 Hillwood Parkway
Fort Worth, TX 76177

Aeronautical Study No.
2022-AWP-12871-OE

Issued Date: 08/22/2022

Leslie Lindeman
Palm-Tech Consulting, LLC
11365 Little Bear Way
Boca Raton, FL 33428

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure:	Antenna Tower Winterhaven
Location:	Winterhaven, CA
Latitude:	32-45-01.45N NAD 83
Longitude:	114-45-20.84W
Heights:	285 feet site elevation (SF) 170 feet above ground level (AGL) 455 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking/lighting are accomplished on a voluntary basis, we recommend it be installed in accordance with FAA Advisory circular 70/7460-1 M.

This determination expires on 02/22/2024 unless:

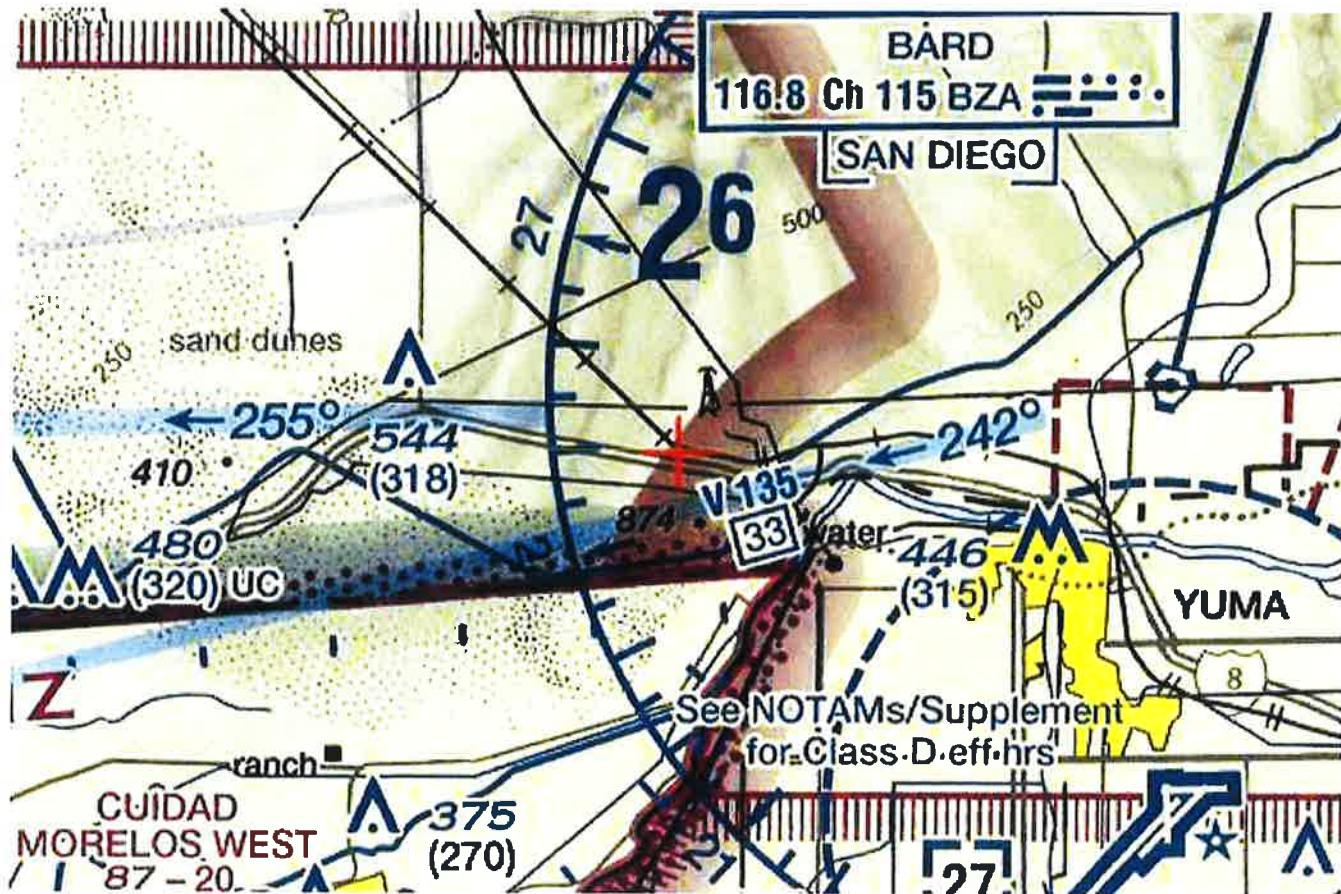
- (a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
- (b) extended, revised, or terminated by the issuing office.
- (c) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO

Frequency Data for ASN 2022-AWP-12871-OE

LOW FREQUENCY	HIGH FREQUENCY	FREQUENCY UNIT	ERP	ERP UNIT
6	7	GHz	55	dBW
6	7	GHz	42	dBW
10	11.7	GHz	55	dBW
10	11.7	GHz	42	dBW
17.7	19.7	GHz	55	dBW
17.7	19.7	GHz	42	dBW
21.2	23.6	GHz	55	dBW
21.2	23.6	GHz	42	dBW
614	698	MHz	1000	W
614	698	MHz	2000	W
698	806	MHz	1000	W
806	901	MHz	500	W
806	824	MHz	500	W
824	849	MHz	500	W
851	866	MHz	500	W
869	894	MHz	500	W
896	901	MHz	500	W
901	902	MHz	7	W
929	932	MHz	3500	W
930	931	MHz	3500	W
931	932	MHz	3500	W
932	932.5	MHz	17	dBW
935	940	MHz	1000	W
940	941	MHz	3500	W
1670	1675	MHz	500	W
1710	1755	MHz	500	W
1850	1910	MHz	1640	W
1850	1990	MHz	1640	W
1930	1990	MHz	1640	W
1990	2025	MHz	500	W
2110	2200	MHz	500	W
2305	2360	MHz	2000	W
2305	2310	MHz	2000	W
2345	2360	MHz	2000	W
2496	2690	MHz	500	W

Sectional Map for ASN 2022-AWP-12871-OE



March 3, 2023

Tim Cook
CitySwitch, LLC
1900 Century Place NF, Suite 320
Atlanta, GA 30345

RE: Proposed 170' Sabre Monopole for Winterhaven, CA

Dear Mr. Cook,

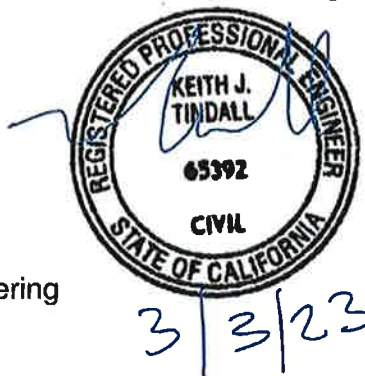
Upon receipt of order, we propose to design and supply the above referenced Sabre monopole for an Ultimate Wind Speed of 99 mph, Risk Category II, Exposure Category C, and Topographic Category 1, in accordance with the Telecommunications Industry Association Standard ANSI/TIA 222-H-2017 "Structural Standard for Antenna Supporting Structures, Antennas and Small Wind Turbine Support Structures". The monopole will also meet the requirements of the 2022 California Building Code.

When designed according to this standard, the wind pressures and steel strength capacities include several safety factors. Therefore, it is highly unlikely that the monopole will fail structurally in a wind event where the design wind speed is exceeded within the range of the built-in safety factors.

Should the wind speed increase beyond the capacity of the built-in safety factors, to the point of failure of one or more structural elements, the most likely location of the failure would be within the monopole shaft, above the base plate. Assuming that the wind pressure profile is similar to that used to design the monopole, the monopole will buckle at the location of the highest combined stress ratio within the monopole shaft. This is likely to result in the portion of the monopole above leaning over and remaining in a permanently deformed condition. This would effectively result in a fall radius of 30 feet or less at ground level. *Please note that this letter only applies to the above referenced monopole designed and manufactured by Sabre Industries.*

Sincerely,

Keith J. Tindall, P.E.
Vice President, Telecom Engineering





ZONING DRAWINGS
NOT FOR CONSTRUCTION

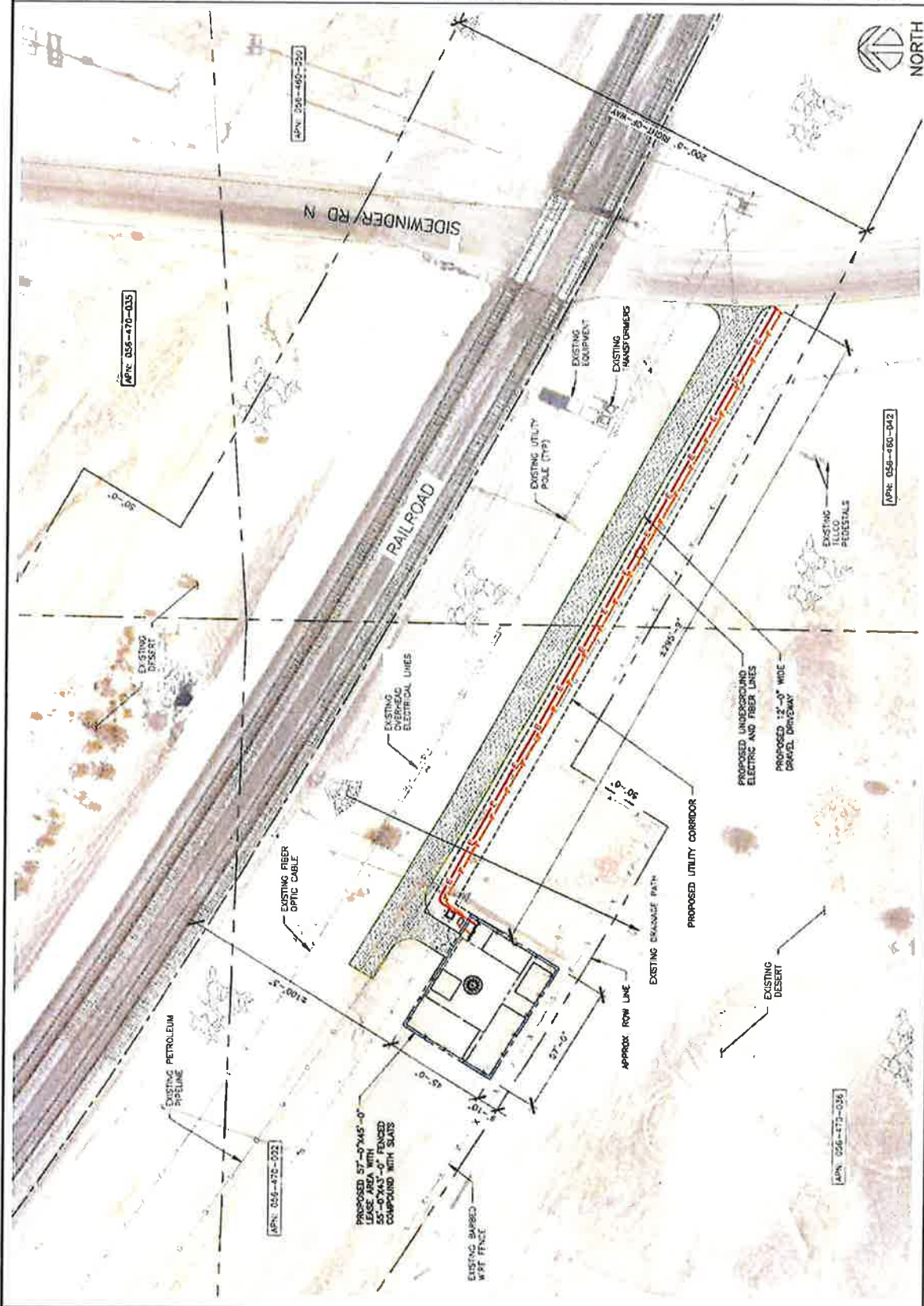
DOWN BY: MN
CHECKED BY: RSM

REV	DATE	DESCRIPTION
A	02/16/22	ZONING DRAWINGS
B	03/29/22	ZONING DRAWINGS
C	10/25/22	ZONING DRAWINGS

* USER CERTIFY THAT THESE PLANS WERE PREPARED BY YOU OR UNDER YOUR SUPERVISION AND THAT YOU ARE A DULY LICENSED PROFESSIONAL ENGINEER IN THE STATE OF CALIFORNIA.

SITE NAME: WINTERHAVEN
SITE ADDRESS: 637-639 SIDEWINDER RD N
FELICITY, CA 92285
IMPERIAL COUNTY

SHEET TITLE: OVERALL SITE PLAN
SHEET NUMBER: C-1



SCALE: 1"=50'-0" (11/16")
(100' 1"=30'-0" (3/16"))

THE INFORMATION CONTAINED IN THIS SET OF CONSTRUCTION DOCUMENTS IS PREPARED BY ARCHITECT. ANY USE OR DISSEMINATION OTHER THAN THAT WHICH RELATES TO GRAPHIC SERVICES IS STRICTLY PROHIBITED.

PC ORIGINAL PKG



DAVID GLEN
 8450 W. CENTRAL AVENUE
 SUITE 100
 TEL: 951.277.0000
 FAX: 951.277.0000
 info@westchesterlcc.com

ZONING DRAWINGS
 NOT FOR CONSTRUCTION

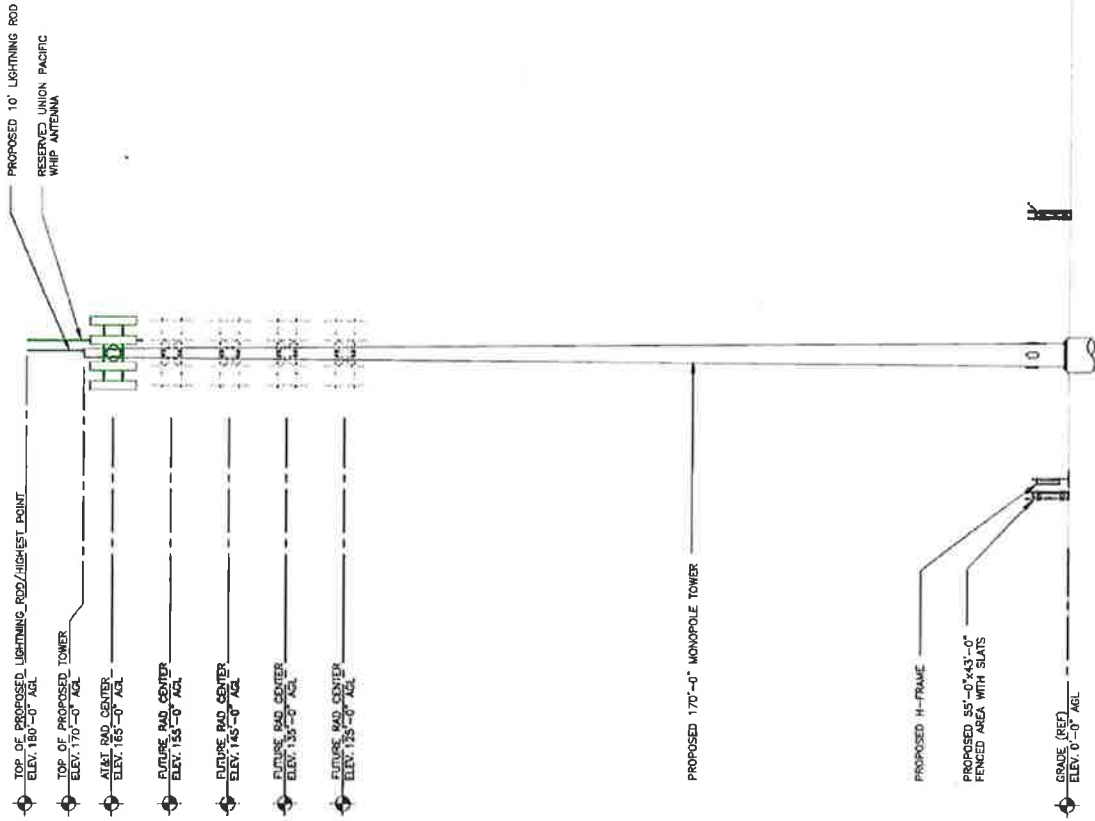
DATE:	DESCRIPTION:
01/18/22	ZONING DRAWINGS
02/23/22	ZONING DRAWINGS
10/25/22	ZONING DRAWINGS

* BEST COPY THAT THESE PLANS WERE
 SUBMITTED AND MADE AVAILABLE TO THE
 PUBLIC BY THE CITY OF IMPERIAL
 THE STATE OF CALIFORNIA

SITE NAME:
 WINTERHAVEN
 SITE ADDRESS:
 637-633 WADENBURG RD N
 FELICITY, CA 92525
 IMPERIAL COUNTY

SHEET TITLE
 TOWER
 ELEVATION

SHEET NUMBER
 A-1



TOWER ELEVATION

SCALE: 1"=30'-0" (11.1875)
 (100' 3"=30'-0" 220.64)



Site Name: Winterhaven
CitySwitch Site: CAC002
UP Audit Number: #####

TOWER CONSTRUCTION AGREEMENT

This Agreement, made the 3rd day of May, 2022 (the "Effective Date"), between Union Pacific Railroad Company, a Delaware corporation, having an office at 1400 Douglas Street, Omaha, Nebraska 68179, hereinafter referred to as "Licensor", and CitySwitch – II-A, LLC, a Georgia company, having an office at 1900 Century Place, Suite 320, Atlanta, Georgia 30345 hereinafter referred to as "Licensee".

The term "Premises" as used in this Agreement, refers to a rectangle measuring approximately forty-five feet (45.00'), by fifty-seven feet (57.00'), containing a total of 2,656 square feet, combined with an approximate two hundred seventy-five feet (275.00') by twelve feet (12.00') access and utility corridor containing 3,300 square feet on the parcel of land on Licensor's railroad right-of-way and located in Felicity, California, in the County of Imperial, as presented on the attached Plot Plan, described in Exhibit "A".

Licensor agrees to allow construction of a One Hundred Seventy foot (170') tower hereinafter referred to as the "Tower"), fenced compound and equipment cabinets (hereinafter referred to as the "Facilities") on the Premises for the location of Licensee's radio equipment; said Tower and Facilities shall be used by Licensee in conducting their communications activities on the Premises.

THEREFORE, in consideration of the mutual covenants herein contained, Licensor and Licensee agree as follows:

1. **GRANT:**

Licensor grants to Licensee the right to construct the Tower and Facilities together with non-exclusive rights of access for: (a) ingress and egress, seven (7) days a week, twenty-four (24) hours a day, on foot or motor vehicle (including trucks), and (b) the installation and maintenance of utility wires, poles, cables (including fiber optic cable), conduits, and pipes over, under, or along the Licensor's property, the location of said rights of access being limited to the locations shown on Exhibit "A" attached hereto. Licensee shall have the right to use the Premises for the location of the Tower and Facilities. Licensee shall be responsible for all costs and activities associated with the construction of the aforementioned Tower and Facilities. Equipment owned by and installed, operated and maintained by Licensee will be installed at the Premises. The Licensee's use of the Premises shall be subject to the terms and conditions of this Agreement, specifically including but not limited to, the General Terms and Conditions, attached hereto as Exhibit "B" and made a part hereof.

2. **TOWER FACILITIES:**

Licensor grants to Licensee the right to construct the Tower on the Premises for the installation of its communications antennas. The Tower and Facilities will be located within the area further defined on Exhibit "A" of this Agreement.

3. **EQUIPMENT FACILITIES:**

agrees to execute any such document reasonably required by Licensee in its operations which states this Agreement is in full force and effect, and the number of years with renewals remaining in this Agreement.

All costs for any permits, licenses, plans, specifications or any other documentation required shall be at the sole cost and expense of Licensee.

7. GENERAL TERMS AND CONDITIONS:

Licensee represents and warrants that all work on the Premises performed by Licensee, its contractors, agents and/or employees, and all entry upon and use of Licensor's property will be in strict compliance with the General Terms and Conditions.

8. UTILITY SERVICE:

Licensee shall have the non-exclusive right to locate utility lines and cables providing service to the Premises, as described in Exhibit "A", provided, however, that Licensee's utility service providers, or Licensee, as applicable, may be required to apply for and receive a "Wireline Crossing Agreement" from Licensor's Real Estate Department prior to installing any utility service to the Premises at no additional cost to such service provider(s) or Licensee. Licensor will not unreasonably delay or deny granting of any such agreement.

9. RELOCATION:

The approximate location of the Tower and Facilities will be as presented in the attached Exhibit "A". If, for engineering reasons, it is necessary for Licensee to select a different location, such relocation is subject to the approval of Licensor, in Licensor's sole discretion.

If, after the installation of the Tower and Facilities, Licensor determines that either or both constitute a material hindrance or cause material interference to railroad operations (e.g., blocking new track expansion, blocking line of sight, safety needs, etc.), Licensor may require the removal of the Tower and Facilities, as the case may be by Licensee at Licensee's sole cost and expense, within a period of (180) days (provided Licensor shall allow Licensee more than one hundred eighty (180) days to complete such removal, if in Licensor's sole discretion, allowing Licensee such additional time to complete such removal will not result in too much hindrance or interference with Licensor's operations or safety) from the date of receipt of notice from Licensor, provided that (i) such hindrance or interference affects the operation of Licensor's business or creates a safety hazard and ii) Licensee cannot promptly eliminate or minimize such hindrance or interference to an acceptable degree within the aforesaid 180-day period by performing alterations or modifications to the Tower and Facilities, as the case may be, or implementing other mitigative measures at the Premises. In such event, Licensor shall, in consultation with Licensee, use commercially reasonable efforts to designate an alternative location at the Premises upon which Licensee may relocate its Tower and Facilities. Licensee shall then have the right, at its option, to relocate its Tower and Facilities, as the case may be, to said alternative location at Licensee's sole expense. All monthly rent payable by Licensee hereunder shall abate for the time during which Licensee is prohibited from operating its existing tower and facilities at the Premises and the date upon which construction of the new Tower, Facilities and/or equipment cabinets at the alternative location is completed.

It is understood and agreed that Licensee shall own the Tower and Facilities and all related radio equipment, and/or any such improvements constructed or placed on the Premises by Licensee.

13. **OWNER'S RIGHT OF INSTALLATION:**

Licensee hereby grants to Licensor the right, reasonably exercised, to locate antennas on the Tower and related radio equipment, upon the Premises, subject to a maximum of 10,000 square inches of wind loading and availability of space upon the Tower being available at the time of Licensor's desire to exercise said right.

Licensor shall assume all costs and liabilities associated with the installation, operation and maintenance of Licensor's equipment at the Premises.

Licensee shall charge Licensor no fee for the installation, operation and maintenance of Licensor's equipment at the Premises.

14. **MAINTENANCE:**

Licensee shall (i) be responsible for any and all improvements located upon the Premises by Licensee or any approved sublicensees, including the Tower and Facilities, and (ii) shall perform whatever remedial and preventive maintenance, repairs, construction and security which may be required to properly maintain the Tower and Facilities and the equipment located thereupon or therewithin.

15. **PAYMENT:**

Effective upon the first month following the Commencement Date, Licensee shall pay Licensor [REDACTED] per year for the privileges and rights presented in this Agreement which rental shall increase by [REDACTED] percent [REDACTED] annually. At such time as the amount equal to [REDACTED] of the total gross revenue collected by Licensee from all sublicenses at the Premises exceeds the amount of the then-current annual rental, Licensee shall then begin paying to Licensor the greater of the then-current rental per year, as increased by [REDACTED] annually, or [REDACTED] of the total revenue collected annually from Licensee's sublicenses at the Premises. The annual amount shall be paid in twelve monthly increments, each equal to one-twelfth of the annual total. Each monthly payment shall be made on or before the 20th day of each month.

Licensor shall have the right, no more than once per calendar year, to inspect and audit all of Licensee's documents, agreements, and records relating to the Premises, including any documents, agreements, and records of Licensee regarding billing and collection of fees payable or paid under any agreement related to the Premises, and Licensee shall, for as long as this Agreement remains in effect and for three (3) years following any expiration or termination of this Agreement, maintain copies of all such documents and records. In the event Licensor elects to inspect and audit any such documents and records and/or the payments made by the any person related to the Premises, if Licensor determines that Licensee has failed to pay Licensor any material amounts owed to Licensor hereunder, Licensee shall, in addition to paying Licensor any amounts found by such inspection and audit to remain unpaid, reimburse Licensor for its costs to complete such inspection and audit.

- (c) Workers' Compensation insurance covering Licensee statutory liability under the workers' compensation laws of the state(s) affected by this Agreement, and Employers' Liability. If such insurance will not cover the liability of Licensee in states that require participation in state workers' compensation fund, Licensee shall comply with the laws of such states. If Licensee is self-insured, evidence of state approval must be provided.
- (d) Railroad Protective Liability insurance naming the Licensor as the insured with a combined single limit of \$2,000,000 per occurrence with a \$6,000,000 aggregate. The Licensee may meet this obligation with a commercial general liability policy with Endorsement CG2417 Contractual Liability - Railroads, which amends the definition of an insured contract to include construction or demolition operations on or within 50 feet of a railroad. A binder of insurance for Railroad Protective Liability must be submitted to the Licensor and the original policy or a certified duplicate original policy must be forwarded to the Licensor when available.

Where permitted by law and subject to Licensee's indemnification obligations herein, Licensee and its insurers shall endorse the required insurance policy (ies) to waive their right of subrogation against Licensor. Licensee and its insurers also waive their right of subrogation against Licensor for loss of its owned or leased property or property under its care, custody and control. Licensee's insurance shall be primary with respect to any insurance carried by Licensor. The policy (ies) required under (a) and (b) above shall provide severability of interests and shall name Licensor as an additional insured with respect to liability arising from Licensee's operations for which Licensee has legally assumed responsibility herein.

Prior to commencing the any construction work, Licensee shall furnish to Licensor certificate(s) of insurance evidencing the required coverage. The certificate(s) shall contain a provision that obligates the insurance company (ies) issuing such policy (ies) to notify Licensor in writing of any material alteration including any change in the retroactive date in any "claims-made" policies or substantial reduction of aggregate limits, if such limits apply, or any cancellation at least thirty (30) days prior thereto.

The insurance policy (ies) shall be written by a reputable insurance company (ies) acceptable to Licensor or with a current Best's Insurance Guide Rating of B and Class VII or better and authorized to do business in the state(s) in which the Job Site is located.

The fact that insurance is obtained by Licensee shall not be deemed to release or diminish the liability of Licensee and/or its contractors, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Licensor shall not be limited by the amount of the required insurance coverage.

19. **INDEMNIFICATION/HOLD HARMLESS:**

Licensee agrees that it shall not, through its actions or omissions, (i) endanger the property or employees of Licensor located at the Premises or (ii) expose any person, including but not being limited to Licensor's employees, contractors, agents or Licensees, or Licensor's property, operations or facilities to any additional hazards. Licensee shall indemnify and hold Licensor and its affiliates, and the officers, agents and employees of each, harmless against and from any and all liability, loss, damage, claims, demands, costs and expenses (including court costs and attorneys' fees) arising directly out of Licensee's use of the Premises, including, without limitation its construction activity thereon pursuant to this Agreement, except for those

- (b) In the event those portions of the Premises upon which Licensee's Tower and Facilities are located are, in Licensee's judgment, incapable of being restored, Licensor shall, upon request of and in consultation with Licensee, designate an alternative location at the Premises upon which Licensee may reconstruct its Tower and Facilities.

In the event the Premises, that portion of the Premises upon which Licensee's Tower and Facilities are located, or any significant portion of either is condemned or is otherwise subjected to a taking by any governmental authority exercising the power of eminent domain, this Agreement shall terminate as of the date upon which Licensee is required by the governmental authority to cease its operations at the Premises. Licensee shall be entitled to seek their own award against the condemning authority.

23. ARBITRATION:

All controversies relating to, in connection with, or arising out of this Agreement, its modification or making, the authority or obligations of the parties hereto, and whether involving the principals, agents, brokers or others who actually subscribe hereto, shall be settled by arbitration. The arbitration proceedings shall be held in the county and state in which the Premises is located and in accordance with the laws of the aforesaid state. The arbitration proceeding is to be governed by the American Arbitration Association and the "Rules of Arbitration" (hereinafter, the "Rules") as they exist at the time of the arbitration (including provisions as to payment of fees and expenses) and presided over by one arbitrator selected in accordance with the aforementioned Rules. Arbitration is the sole remedy hereunder. All notices or service in reference to arbitration or enforcement shall be deemed given if transmitted as required by the aforementioned Rules. The parties agree that any dispute or controversy related solely to an engineering matter, as mutually determined by Licensee and Licensor, shall be settled by arbitration in accordance with the foregoing, except that the one presiding arbitrator shall be a professional licensed engineer or engineering consultant selected in accordance with the Rules.

24. FORCE MAJEURE:

To the extent that either party to this Agreement is prevented from discharging its duties by an event of Force Majeure, such as by reason of flood, war, fire, explosion or other catastrophe or act of God, both parties shall be temporarily excused from the performance of their obligations under this Agreement until such time as the Force Majeure event has abated.

25. INTEGRATED AGREEMENT:

It is agreed and understood that this Agreement including the Exhibits attached hereto and made a part hereof contains all of the agreements, promises, and understandings between Licensor and Licensee and that no prior written, verbal or oral agreements, promises or understandings shall be binding upon either Licensee or Licensor in any dispute, or proceeding at law.

26. GOVERNING LAW:

The performance of this Agreement shall be interpreted, construed, and regulated by the laws of the state of California.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this date.

ACCEPTED BY: Licensor
Union Pacific Railroad Company

ACCEPTED BY: Licensee
CitySwitch II-A, LLC

BY: Chris Doble

BY: Robert Raville

PRINT NAME: CHRIS D. GOBLE

PRINT NAME: Robert Raville
President & CEO

TITLE: Assistant Vice President - Real Estate

TITLE: _____

DATE: 5/3/2022

DATE: 4/21/22

Exhibit A

Location Print Depicting the Premises



JOHN M. BANKS ARCHITECT
 604 FOX CLEN
 SAN FRANCISCO, CA 94110
 TEL: (415) 777-0080
 FAX: (415) 777-0080
 EMAIL: jbanks@jmbanksarchitect.com



**LEASE EXHIBIT
 NOT FOR CONSTRUCTION**

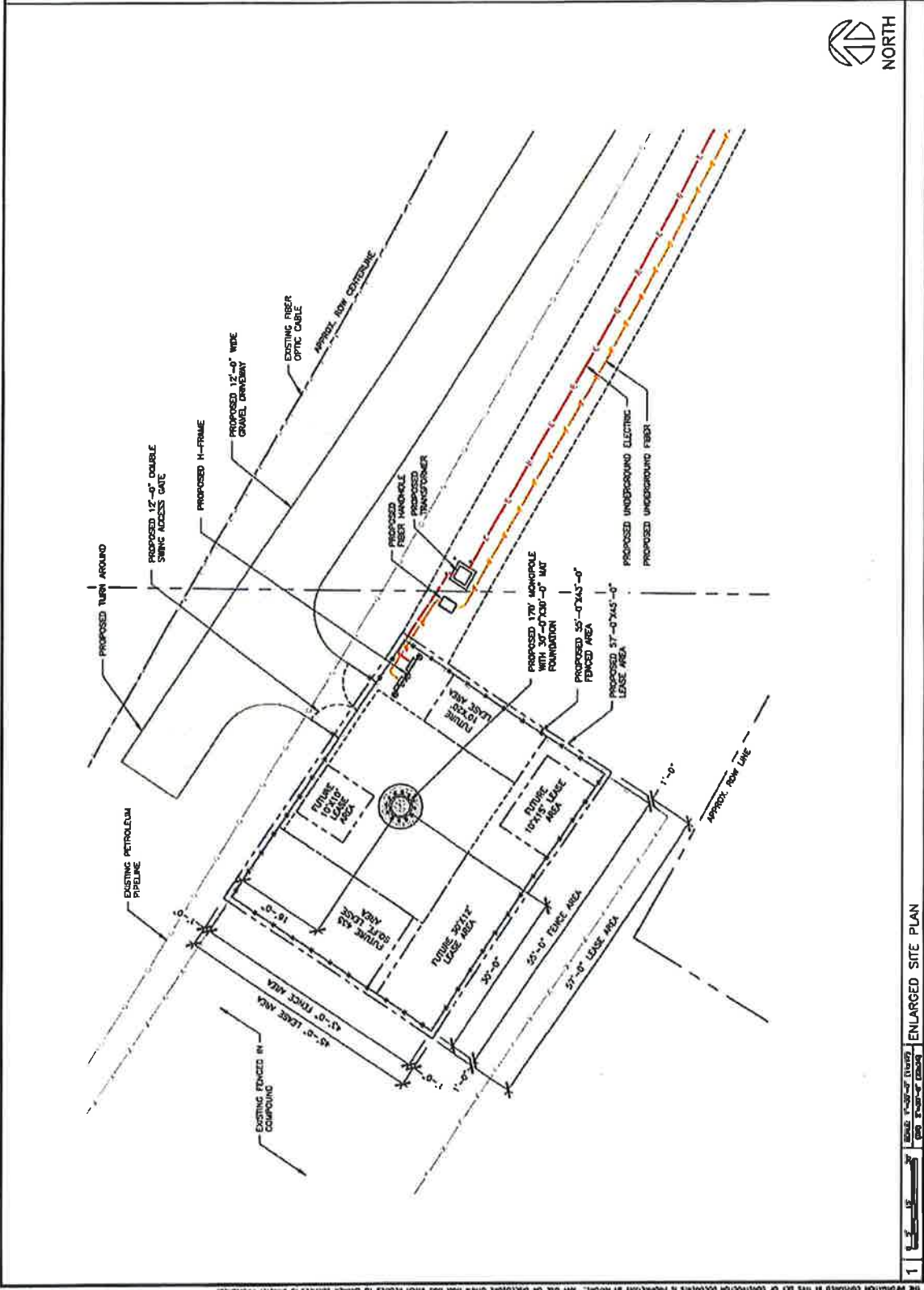
REV	DATE	DESCRIPTION
A	01/12/22	LEASE EXHIBIT
B	01/18/22	REVISED LE
C	03/14/22	REVISED LE

1. VERIFY EXISTING AND PROPOSED CONDITIONS AND LOCATIONS OF ALL UTILITIES AND STRUCTURES PRIOR TO CONSTRUCTION.
 2. VERIFY ALL UTILITIES ARE DEEPLY RECORDED AND ACCURATELY LOCATED.
 3. VERIFY ALL UTILITIES ARE DEEPLY RECORDED AND ACCURATELY LOCATED.
 4. VERIFY ALL UTILITIES ARE DEEPLY RECORDED AND ACCURATELY LOCATED.
 5. VERIFY ALL UTILITIES ARE DEEPLY RECORDED AND ACCURATELY LOCATED.

PA # 1010309
 SITE MAP
 WINTERHAVEN
 SITE ADDRESS
 637-639 SIDEWINDER RD N
 FELICITY, CA 92283
 IMPERIAL COUNTY

**ENLARGED
 SITE PLAN**

LE-2



1
 ENLARGED SITE PLAN

PC ORIGINAL PKG



JOHN M BANKS
ARCHITECT
 1000 W. 10TH ST., SUITE 100
 SAN ANTONIO, TX 78204
 TEL: 512-343-1111 FAX: 512-343-1112
 EMAIL: JMBANKS@JMBANKSARCHITECTS.COM



WESTCHESTER
 1000 W. 10TH ST., SUITE 100
 SAN ANTONIO, TX 78204
 TEL: 512-343-1111 FAX: 512-343-1112
 EMAIL: JMBANKS@JMBANKSARCHITECTS.COM

LEASE EXHIBIT
NOT FOR CONSTRUCTION

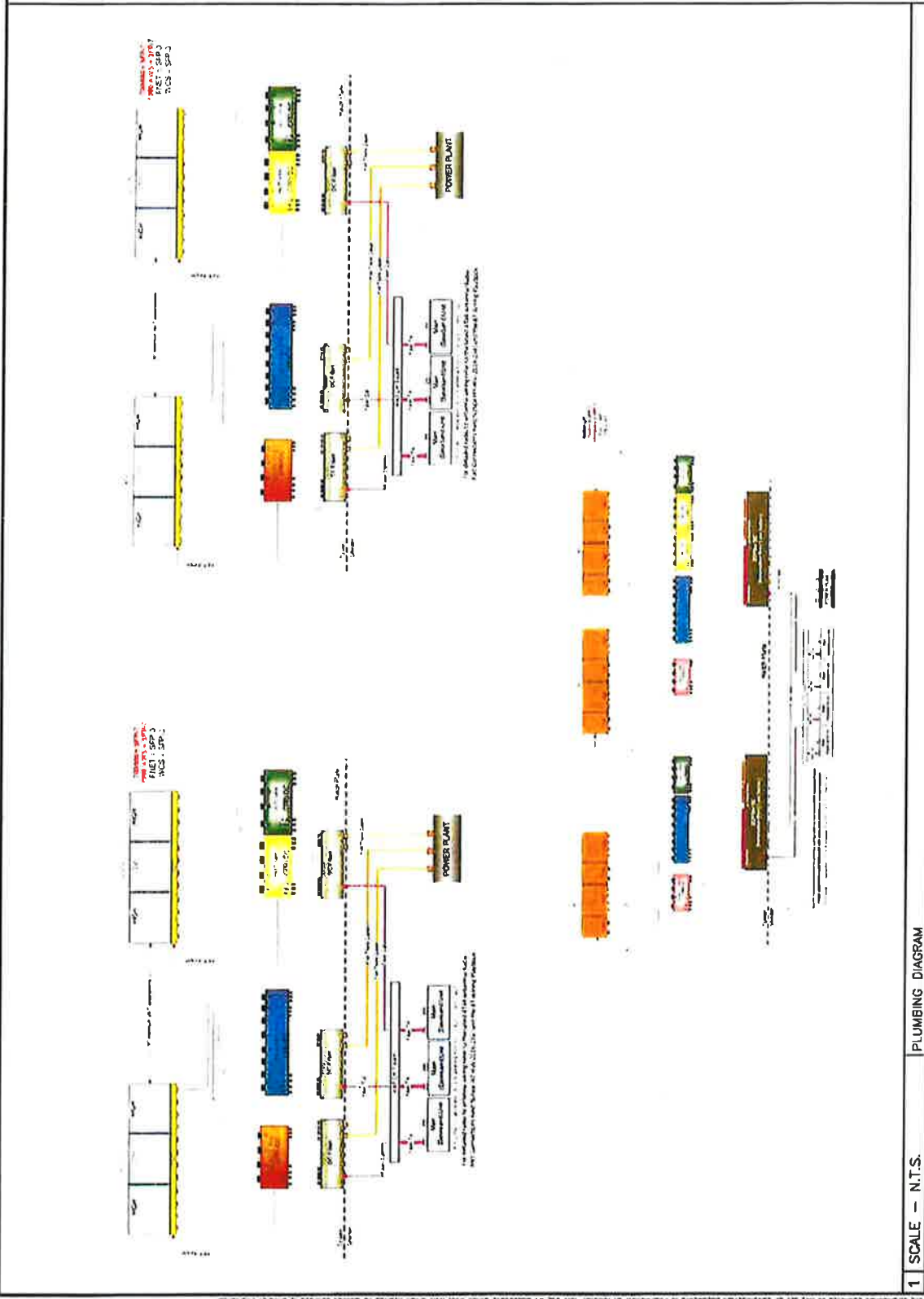
REV#	DATE	DESCRIPTION
A	01/12/22	LEASE EXHIBIT
B	01/18/22	REVISED LE
C	03/14/22	REVISED LE

1. THIS DOCUMENT IS THE PROPERTY OF WESTCHESTER. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREIN. IT IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE WRITTEN PERMISSION OF WESTCHESTER.

PA # 10101309
 SITE NAME: WINTERHAVEN
 637-639 SOWANDER RD N
 FELICITY, CA 92283
 IMPERIAL COUNTY

SHEET TITLE
PLUMBING
DIAGRAM

SHEET NUMBER
LE-4



1 SCALE - N.T.S.

PLUMBING DIAGRAM

PC ORIGINAL PKG

health, environmental or communication permits or licenses required to perform any work on Licensee's Tower and/or Facilities.

Section 2. NOTIFICATION; SAFETY; PROTECTION OF RAILROAD OPERATIONS.

It is understood and recognized that safety and continuity of the Licensor's operations and communications, and the safety of Licensor's personnel, property and the public are of the utmost importance; and in order that the same may be adequately safeguarded, protected and assured, and in order that accidents may be prevented and avoided, it is agreed with respect to all work by Licensee and the presence of Licensee on Licensor's Property, the safety standards set forth in this Agreement will be strictly adhered to by Licensee.

A. **Entry on to Licensor's Property.** Licensee and its contractors are strictly prohibited from entry onto Licensor's Property without first providing notification to Licensor as set forth in this Section.

B. **Work on Licensor's Property.** Licensee and its contractor are strictly prohibited from commencing any work associated with Licensee's Tower and Facilities without Licensor's written approval that the work will be in strict compliance with the "ENGINEERING REQUIREMENTS; PERMITS" Section of this Exhibit B. Upon Licensor's approval of work, the Licensee agrees to notify Licensor in accordance with the notification requirements set forth in this Section.

C. **Advance Notification Requirements.**

(i) The Licensee agrees to notify the Licensor at least ten (10) working days in advance of any entry on to Licensor's Property or work by Licensee that will take place at a distance of more than twenty-five (25) feet of any track. Licensee agrees to provide advance notice to Licensor at least thirty (30) working days in advance of proposed performance of any entry on to Licensor's Property or work by Licensee in which any person, equipment, machinery, tool(s), material(s), or thing(s) will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within twenty-five (25) feet of any track.

(ii) Upon receipt of such notifications, the Licensor, in its sole and absolute discretion, will determine whether (a) Licensee's contractor will need to enter into Licensor's then current form of Contractor Right of Entry Agreement and/or (b) a flagman or other special protective or safety measures (any of the foregoing, collectively "Flagging Services") are needed.

(iii) Licensee or its contractor shall not commence any work until (a) such determinations have been made by Licensor, (b) Licensee has complied with the "PROTECTION OF SUBSURFACE FACILITIES ON LICENSOR'S PROPERTY" of this Exhibit B, and (c) Licensor has provided Licensee written authorization to commence work.

D. **Inspections.** If Licensee needs to enter Licensor's Property in order to perform an inspection of Licensee's Tower and/or Facilities, the same advance notification requirements as set forth in this Section shall apply. Licensee may use unmanned aircraft systems ("UAS") to inspect

http://www.up.com/cs/groups/public/@uprr/@suppliers/documents/up_pdf_natedocs/pdf_up_supplier_safety_req.pdf

(ii) Licensee shall keep the job site on Licensor's property free from safety and health hazards and ensure that their employees are competent and adequately trained in all safety and health aspects of the work.

(iii) Licensor shall have the right, if it so elects, to provide any support it deems necessary for the safety of Licensor's operations and trackage during Licensee's or its contractor's construction, maintenance, repair, renewal, modification, relocation, reconstruction, or removal of Licensee's Tower and Facilities. In the event Licensor provides such support, Licensor shall invoice Licensee, and Licensee shall pay Licensor as set forth in the "LICENSEE'S PAYMENT OF EXPENSES" Section of this **Exhibit B**.

G. **Compliance With Laws.** Licensee shall comply with all applicable federal, state and local laws, regulations and enactments affecting the Licensee's Tower and Facilities. The Licensee shall comply with all applicable state and federal occupational safety and health acts and regulations. All Federal Railroad Administration regulations shall be followed when work is performed on the Licensor's Property. If any failure by the Licensee to comply with any such laws, regulations, and enactments, shall result in any fine, penalty, cost or charge being assessed, imposed or charged against the Licensor, the Licensee shall reimburse, and to the extent it may lawfully do so, indemnify the Licensor for any such fine, penalty, cost, or charge, including without limitation attorney's fees, court costs and expenses. The Licensee further agrees in the event of any such action, upon notice thereof being provided by the Licensor, to defend such action free of cost, charge, or expense to the Licensor.

H. **No Interference or Delays.**

(i) Licensee represents and warrants that all parts of Licensee's Tower and Facilities within and outside of the limits of Licensor's property will not interfere whatsoever with the constant, continuous, and uninterrupted use and operation of the tracks, property, and facilities of Licensor, and nothing shall be done, suffered to be done or permitted by Licensee at any time that would in any manner obstruct, endanger, interfere with, hinder or delay maintenance or operation of the Licensor's tracks or facilities, or any communication or signal lines, installations of any appurtenances thereof, or the operations of others lawfully occupying or using the Licensor's property or facilities, including, without limitation, Licensor's lessees, licensees, and any other railroad company. Licensee shall take all suitable precaution to prevent interference (by induction, leakage of electricity, or otherwise) with the operation of the signal, communication lines or other installations or facilities of Licensor or of its tenants. If, at any time, the operation or maintenance of Licensee's Tower and/or Facilities result in any electrostatic effects which Licensor deems undesirable or harmful, or causes interference with the operation of the signal, communication lines or other installations or facilities, as now existing or which may hereafter be provided by Licensor and/or its tenants, Licensee shall, at the sole cost and expense of Licensee, immediately modify or take action as may be necessary to eliminate such interference.

(e.g., wayside horn, switching, and signal control systems), and utility systems and facilities (e.g., electrical lines, natural gas and water main pipelines and distribution / supply lines, and sewer pipes and lines). Protection of such facilities is of extreme importance since any break in or damage to the facilities could, among other things, disrupt service to users, result in business interruption and loss of revenue and profits, result in injury or death to persons and damage to property, cause other economic losses and/or create safety risks. In addition to the notifications required under the "NOTIFICATION; SAFETY; PROTECTION OF RAILROAD OPERATIONS" in Section of this Exhibit B, prior to the performance of any work on Licensor's property, Licensee shall (i) comply with all one-call and local and state requirements for subsurface detection, and (ii) exercise due diligence in an effort to determine from the Licensor and all appropriate utilities, telecommunications companies, etc., if such facilities are present, and (iii) telephone Licensor during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except for holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) to determine if fiber optic cable is buried anywhere on Licensor's property to be used by Licensee. If it is, Licensee shall telephone the telecommunications company(ies) involved, and arrange for a cable locator, make arrangements for relocation or other protection of the fiber optic cable, all at Licensee's expense, and will not commence any work on Licensor's property until all such protection or relocation has been completed.

N. **Crossing Railroad Tracks.** Licensee and its contractor are strictly prohibited from vehicular crossings of Licensor's tracks except at existing open public crossings.

O. **Emergencies.** If, at any time, an emergency arises involving Licensee's Tower and/or Facilities, Licensee or its contractor shall immediately contact Licensor's Response Management Communications Center at (888) 877-7267 (a 24-hour line).

P. **Maintenance of Right-of-Way.** Licensor shall not be responsible for maintenance of Licensee's occupancy areas or for clearing or removal of trees, shrubs, plants, ice, snow or debris therefrom. If requested to do so by Licensee and if Licensor agrees to extend maintenance to cover Licensee's area of occupation at Licensee's request and to cut, mow and/or treat such right-of-way growth at the same time as Licensor performs its own track or right-of-way maintenance, Licensor shall perform such extended maintenance and Licensee shall reimburse Licensor for Licensor's actual costs incurred in performing such extended maintenance.

Section 3. LICENSEE'S PAYMENT OF EXPENSES.

A. Licensee shall bear the entire cost and expense of the design, construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Tower and Facilities.

B. Licensee shall fully pay for all materials joined, affixed to and labor performed on Licensor's property in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Tower and Facilities, and shall not permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the property for any work done or materials furnished thereon at the instance or request or on behalf of

EXHIBIT C

MEMORANDUM OF LICENSE

[FOLLOWS ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have executed this Memorandum of License as of the day and year first above written.

ACCEPTED BY: Licensor
Union Pacific Railroad Company

ACCEPTED BY: Licensee
CitySwitch II-A, LLC

BY: Chris Doble

BY: Robert Ravielle

PRINT NAME: CHRIS D. GOBLE

PRINT NAME: Robert Ravielle
President & CEO

TITLE: Assistant Vice President - Real Estate

TITLE: _____

DATE: 5/3/2022

DATE: 4/21/22

EXHIBIT 1 TO MEMORANDUM OF LICENSE

DESCRIPTION OF PROPERTY AND PREMISES

Premises is depicted as follows and shall be replaced with a surveyed legal description
when available.

**ATTACHMENT F
ALUCP SECTION**

Policies

1. SCOPE OF REVIEW

1. Geographic Area of Concern

The Imperial County Airport Land Use Commission's planning area encompasses:

1. *Airport Vicinity* - All lands on which the uses could be negatively affected by present or future aircraft operations at the following airports in the County and lands on which the uses could negatively affect said airports. The specific limits of the planning area for each airport are depicted on the respective *Compatibility Map* for that airport as presented in Chapter 3.
 - (a) Brawley Municipal Airport.
 - (b) Calexico International Airport.
 - (c) Calipatria Municipal Airport.
 - (d) Holtville Airport.
 - (e) Imperial County Airport.
 - (f) Salton Sea Airport.
 - (g) Naval Air Facility El Centro.

2. *Countywide Impacts on Flight Safety* - Those lands, regardless of their location in the County, on which the uses could adversely affect the safety of flight in the County. The specific uses of concern are identified in Paragraph 2.
3. *New Airports and Heliports* - The site and environs of any proposed new airport or heliport anywhere in the County. The Brawley Pioneers Memorial Hospital has a heliport area on-site.

2. **Types of Airport Impacts**

The Commission is concerned only with the potential impacts related to aircraft noise, land use safety (with respect both to people on the ground and the occupants of aircraft), airspace protection, and aircraft over-flights. Other impacts sometimes created by airports (e.g., air pollution, automobile traffic, etc.) are beyond the scope of this plan. These impacts are within the authority of other local, state, and federal agencies and are addressed within the environmental review procedures for airport development.

3. **Types of Actions Reviewed**

1. *General Plan Consistency Review* - Within 180 days of adoption of the *Airport Land Use Compatibility Plan*, the Commission shall review the general plans and specific plans of affected local jurisdictions to determine their consistency with the Commission's policies. Until such time as (1) the Commission finds that the local general plan or specific plan is consistent with the *Airport Land Use Compatibility Plan*, or (2) the local agency has overruled the Commission's determination of inconsistency, the local jurisdiction shall refer all actions, regulations, and permits (as specified in Paragraph 3) involving the airport area of influence to the Commission for review (Section 21676.5 (a)).
2. *Statutory Requirements* -As required by state law, the following types of actions shall be referred to the Airport Land Use Commission for determination of consistency with the Commission's plan *prior to their approval* by the local jurisdiction:

- (a) The adoption or approval of any amendment to a general or specific plan affecting the Commission's geographic area of concern as indicated in Paragraph 1 (Section 21676 (b)).
- (b) The adoption or approval of a zoning ordinance or building regulation which (1) affects the Commission's geographic area of concern as indicated in Paragraph 1 and (2) involves the types of airport impact concerns listed in Paragraph 2 (Section 21676 (b)).
- (c) Adoption or modification of the master plan for an existing public-use airport (Section 21676 (c)).
- (d) Any proposal for a new airport or heliport whether for public use or private use (Section 21661.5).

3. *Other Project Review* - State law empowers the Commission to review additional types of land use "actions, regulations, and permits" involving a question of airport/land use compatibility if either: (1) the Commission and the local agency agree that these types of individual projects shall be reviewed by the Commission (Section 21676.5 (b)); or (2) the Commission finds that a local agency has not revised its general plan or specific plan or overruled the Commission and the Commission requires that the individual projects be submitted for review (Section 21676.5 (a)). For the purposes of this plan, the specific types of "actions, regulations, and permits" which the Commission shall review include:

- a) Any proposed expansion of a city's sphere of influence within an airport's planning area.
- b) Any proposed residential planned unit development consisting of five or more dwelling units within an airport's planning area.
- c) Any request for variance from a local agency's height limitation ordinance.
- d) Any proposal for construction or alteration of a structure (including antennas) taller than 150 feet above the ground anywhere within the County.

- e) Any major capital improvements (e.g., water, sewer, or roads) that would promote urban development.
- f) Proposed land acquisition by a government entity (especially, acquisition of a school site).
- g) Building permit applications for projects having a valuation greater than \$500,000.
- h) Any other proposed land use action, as determined by the local planning agency, involving a question of compatibility with airport activities.

4. Review Process

1. *Timing of Project Submittal* - Proposed actions listed in Paragraph 3.1 must be submitted to the Commission for review prior to approval by the local government entity. All projects shall be referred to the Commission at the earliest reasonable point in time so that the Commission's review can be duly considered by the local jurisdiction prior to formalizing its actions. At the local government's discretion, submittal of a project for Airport Land Use Commission review can be done before, after, or concurrently with review by the local planning commission or other local advisory bodies.
2. *Commission Action Choices* - When reviewing a land use project proposal, the Airport Land Use Commission has a choice of either of two actions: (1) find the project *consistent* with the *Airport Land Use Compatibility Plan*; or, (2) find the project *inconsistent* with the Plan. In making a finding of inconsistency, the Commission may note the conditions under which the project would be consistent with the Plan. The Commission cannot, however, find a project consistent with the Plan subject to the inclusion of certain conditions in the project.

Table 2A
Compatibility Criteria

Imperial County Airport Land Use Compatibility Plan

Zone	Location	Impact Elements	Maximum Densities		Required Open Land ¹
			Residential (dw/ac)	Other Uses (people/ac) ²	
A	Runway Protection Zone or within Building Restriction Line	<ul style="list-style-type: none"> High risk High noise levels 	0	10	All Remaining
B1	Approach/Departure Zone and Adjacent to Runway	<ul style="list-style-type: none"> Substantial risk - aircraft commonly below 400 ft. AGL or within 1,000 ft. of runway Substantial noise 	0.1	100	30%
B2	Extended Approach/Departure Zone	<ul style="list-style-type: none"> Significant risk - aircraft commonly below 800 ft. AGL Significant noise 	1	100	30%
C	Common Traffic Pattern	<ul style="list-style-type: none"> Limited risk - aircraft at or below 1,000 ft. AGL Frequent noise intrusion 	6	200	15%
D	Other Airport Environs	<ul style="list-style-type: none"> Negligible risk Potential for annoyance from overflights 	No Limit	No Limit	No Requirement

Zone	Additional Criteria		Examples	
	Prohibited Uses	Other Development Conditions	Normally Acceptable Uses ⁴	Uses Not Normally Acceptable
A	<ul style="list-style-type: none"> All structures except ones with location set by aeronautical function Assemblages of people Objects exceeding FAR Part 77 height limits Hazards to flight⁵ 	<ul style="list-style-type: none"> Dedication of aviation easement 	<ul style="list-style-type: none"> Aircraft tiedown apron Pastures, field crops, vineyards Automobile parking 	<ul style="list-style-type: none"> Heavy poles, signs, large trees, etc.
B1 and B2	<ul style="list-style-type: none"> Schools, day care centers, libraries Hospitals, nursing homes Highly noise-sensitive uses Above ground storage Storage of highly flammable materials Hazards to flight⁶ 	<ul style="list-style-type: none"> Locate structures maximum distance from extended runway centerline Minimum NLR⁷ of 25 dBA in residential and office buildings Dedication of aviation easement 	<ul style="list-style-type: none"> Uses in Zone A Any agricultural use except ones attracting bird flocks Warehousing, truck terminals Single-story offices 	<ul style="list-style-type: none"> Residential subdivisions Intensive retail uses Intensive manufacturing or food processing uses Multiple story offices Hotels and motels
C	<ul style="list-style-type: none"> Schools Hospitals, nursing homes Hazards to flight⁶ 	<ul style="list-style-type: none"> Dedication of overflight easement for residential uses 	<ul style="list-style-type: none"> Uses in Zone B Parks, playgrounds Low-intensity retail, offices, etc. Low-intensity manufacturing, food processing Two-story motels 	<ul style="list-style-type: none"> Large shopping malls Theaters, auditoriums Large sports stadiums Hi-rise office buildings
D	<ul style="list-style-type: none"> Hazards to flight⁶ 	<ul style="list-style-type: none"> Deed notice required for residential development 	<ul style="list-style-type: none"> All except ones hazardous to flight 	

**Table 2A Continued
Compatibility Criteria**

Imperial County Airport Land Use Compatibility Plan

NOTES

- 1 Residential development should not contain more than the indicated number of dwelling units per gross acre. Clustering of units is encouraged as a means of meeting the Required Open Land requirements.
- 2 The land use should not attract more than the indicated number of people per acre at any time. This figure should include all individuals who may be on the property (e.g., employees, customers/visitors, etc.). These densities are intended as general planning guidelines to aid in determining the acceptability of proposed land uses.
- 3 See Policy 2.5.
- 4 These uses typically can be designed to meet the density requirements and other development conditions listed.
- 5 These uses typically do not meet the density and other development conditions listed. They should be allowed only if a major community objective is served by their location in this zone and no feasible alternative location exists.
- 6 See Policy 3.4
- 7 NLR = Noise Level Reduction; i.e., the attenuation of sound level from outside to inside provided by the structure.

BASIS FOR COMPATIBILITY ZONE BOUNDARIES

The following general guidelines are used in establishing the Compatibility Zone boundaries for each civilian airport depicted in Chapter 3. Modifications to the boundaries may be made to reflect specific local conditions such as existing roads, property lines, and land uses. Boundaries for NAF El Centro are modified in recognition of the differences between civilian and military aircraft characteristics and flight tracks.

- A The boundary of this zone for each airport is defined by the runway protection zones (formerly called runway clear zones) and the airfield building restriction lines.

Runway protection zone dimensions and locations are set in accordance with Federal Aviation Administration standards for the proposed future runway location, length, width, and approach type as indicated on an approved Airport Layout Plan. If no such plan exists, the existing runway location, length, width, and approach type are used.

The building restriction line location indicated on an approved Airport Layout Plan is used where such plans exist. For airports not having an approved Airport Layout Plan, the zone boundary is set at the following distance laterally from the runway centerline:

Visual runway for small airplanes	370 feet
Visual runway for large airplanes	500 feet
Nonprecision instrument runway for large airplanes	500 feet
Precision instrument runway	750 feet

These distances allow structures up to approximately 35 feet height to remain below the airspace surfaces defined by Federal Aviation Regulations Part 77.

- B1 The outer boundary of the Approach/Departure Zone is defined as the area where aircraft are commonly below 400 feet above ground level (AGL). For visual runways, this location encompasses the base leg of the traffic pattern as commonly flown. For instrument runways, the

altitudes established by approach procedures are used. Zone B1 also includes areas within 1,000 feet laterally from the runway centerline.

- B2 The Extended Approach/Departure Zone includes areas where aircraft are commonly below 800 feet AGL on straight-in approach or straight-out departure. It applies to runways with more than 500 operations per year by large aircraft (over 12,500 pounds maximum gross takeoff weight) and/or runway ends with more than 10,000 total annual takeoffs.

- C The outer boundary of the Common Traffic Pattern Zone is defined as the area where aircraft are commonly below 1,000 feet AGL (i.e., the traffic pattern and pattern entry points). This area is considered to extend 5,000 feet laterally from the runway centerline and from 5,000 to 10,000 feet longitudinally from the end of the runway primary surface. The length depends upon the runway classification (visual versus instrument) and the type and volume of aircraft accommodated. For runways having an established traffic solely on one side, the shape of the zone is modified accordingly.

- D The outer boundary of the Other Airport Environs Zone conforms with the adopted Planning Area for each airport.

sm/Impr:it.

**ATTACHMENT "I" - CUP#23-0010
APPLICATION & SUPPORTING
DOCUMENTS**

PC ORIGINAL PKG

CONDITIONAL USE PERMIT

I.C. PLANNING & DEVELOPMENT SERVICES DEPT.
801 Main Street, El Centro, CA 92243 (760) 482-4236

- APPLICANT MUST COMPLETE ALL NUMBERED (black) SPACES - Please type or print -

1. PROPERTY OWNER'S NAME CitySwitch (Lessee)	EMAIL ADDRESS info@cityswitch.com	
2. MAILING ADDRESS (Street / P O Box, City, State) 1900 Century Place NE, Suite 320, Atlanta, GA	ZIP CODE 30345	PHONE NUMBER 404-857-0858
3. APPLICANT'S NAME Michael Bieniek, AICP / Allison R. Burke (Agents)	EMAIL ADDRESS mbieniek@lcctelecom.com / aburke@shermanhoward.com	
4. MAILING ADDRESS (Street / P O Box, City, State) 10700 W. Higgins, Ste 240, Rosemont, IL / 675 15th Ste 2300 Denver, CO	ZIP CODE 60018 / 80202	PHONE NUMBER 847-287-1156 / 303-299-8045
4. ENGINEER'S NAME Westchester Services, LLC - Glen L Hunt III	CA. LICENSE NO.	EMAIL ADDRESS ghunt@westchesterservices.com
5. MAILING ADDRESS (Street / P O Box, City, State) 3470 W. Jasper Drive, Chandler, AZ	ZIP CODE 85226	PHONE NUMBER 602-403-8614
6. ASSESSOR'S PARCEL NO. 056-470-002	SIZE OF PROPERTY (in acres or square foot) Railroad right-of-way	ZONING (existing) S-2
7. PROPERTY (site) ADDRESS Vacant railroad right-of-way 637-639 Sidewinder Rd N, Felicity, CA 92283		
8. GENERAL LOCATION (i.e. city, town, cross street) Sidewinder Road, approximately 1,200' north of Interstate 8, Felicity		
9. LEGAL DESCRIPTION <u>See attached lease agreement</u>		

PLEASE PROVIDE CLEAR & CONCISE INFORMATION (ATTACH SEPARATE SHEET IF NEEDED)

10. DESCRIBE PROPOSED USE OF PROPERTY (list and describe in detail)	<u>Proposed 170' monopole tower with a 10'-0" lightning rod for a total height of 180'-0" to be located within a 57'-0" x 45' lease parcel.</u>
11. DESCRIBE CURRENT USE OF PROPERTY	<u>Railroad right-of-way</u>
12. DESCRIBE PROPOSED SEWER SYSTEM	<u>N/a</u>
13. DESCRIBE PROPOSED WATER SYSTEM	<u>N/a</u>
14. DESCRIBE PROPOSED FIRE PROTECTION SYSTEM	<u>N/a</u>
15. IS PROPOSED USE A BUSINESS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	IF YES, HOW MANY EMPLOYEES WILL BE AT THIS SITE? <u>No permanent employees</u>

I / WE THE LEGAL OWNER (S) OF THE ABOVE PROPERTY CERTIFY THAT THE INFORMATION SHOWN OR STATED HEREIN IS TRUE AND CORRECT.

Michael Bieniek, ACIP	4/11/23
Print Name	Date
Signature	
Allison R. Burke	4/11/23
Print Name	Date
Signature	

REQUIRED SUPPORT DOCUMENTS

A. SITE PLAN	_____
B. FEE	_____
C. OTHER	_____
D. OTHER	_____

APPLICATION RECEIVED BY:	_____	DATE	_____	REVIEW / APPROVAL BY OTHER DEPT'S required. <input type="checkbox"/> P. W. <input type="checkbox"/> E. H. S. <input type="checkbox"/> A. P. C. D. <input type="checkbox"/> O. E. S. <input type="checkbox"/> _____ <input type="checkbox"/> _____
APPLICATION DEEMED COMPLETE BY:	_____	DATE	_____	
APPLICATION REJECTED BY:	_____	DATE	_____	
TENTATIVE HEARING BY:	_____	DATE	_____	
FINAL ACTION: <input type="checkbox"/> APPROVED <input type="checkbox"/> DENIED		DATE	_____	

CUP #
23-0010

SITE PLAN REQUIREMENTS

PLAN MUST:

- a. Be drawn to scale upon substantial paper, 11" x 14" (min.) – (20 copies must be submitted.)
- b. Show name of owner, legal description and Assessor's Parcel Number.
- c. Show existing property dimensions, size, adjacent roads, canals, right-of-ways, easements, etc.
- d. Show all existing and proposed structures (both above and below ground) location of sewer and water systems.
- e. Show adjacent property uses and approximate distances to nearest structures.
- f. Indicate name of person preparing site plan.
- g. Show North orientation.
- h. Show sufficient dimensions and information for proper evaluation to be done.

CAUTION: Incomplete or inaccurate applications, plans will cause the entire application to be rejected.



NOT FOR CONSTRUCTION
 DRAWN BY: MN
 CHECKED BY: RSM

REV	DATE	DESCRIPTION
A	03/19/22	ZONING DRAWINGS
B	03/28/22	ZONING DRAWINGS
C	10/29/22	ZONING DRAWINGS

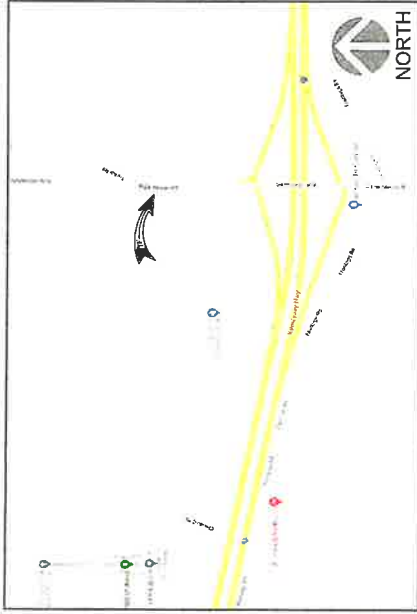
* I HEREBY CERTIFY THAT THESE PLANS WERE PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF CALIFORNIA.

SITE NAME:
 WINTERHAVEN
 SITE ADDRESS:
 637-639 SIDEWINDER RD N
 FELICITY, CA 92283
 IMPERIAL COUNTY

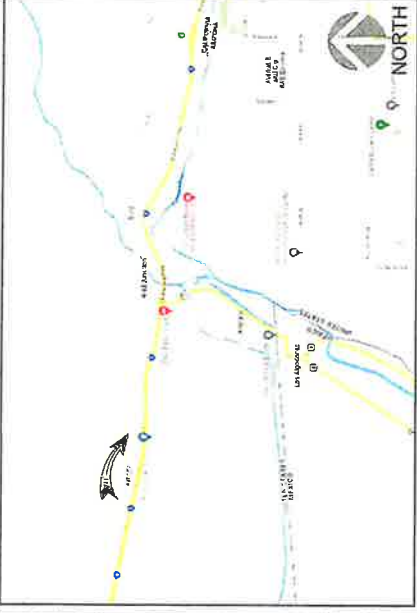
SHEET TITLE
 TITLE SHEET

SHEET NUMBER
 T-1

VICINITY MAP



REGIONAL MAP



AT&T FA#
 10101309



CITYSWITCH SITE #
 CAC002
 CITYSWITCH FA #
 15797965

SITE NAME
 WINTERHAVEN
 SITE ADDRESS
 637-639 SIDEWINDER RD N
 FELICITY, CA 92283
 IMPERIAL COUNTY

SHEET INDEX

NO.	DESCRIPTION
T-1	TITLE SHEET
	LAND SURVEY
C-1	OVERALL SITE PLAN
C-2	ENLARGED SITE PLAN
A-1	TOWER ELEVATION

SCOPE OF WORK

SCOPE OF WORK:

- NEW FENCED TELECOMMUNICATIONS COMPOUND
- NEW FIBER OPTICAL AND FIBER UTILITIES
- NEW DRIVEWAY
- NEW MONOPOLE TOWER

PROFESSIONAL LICENSURE

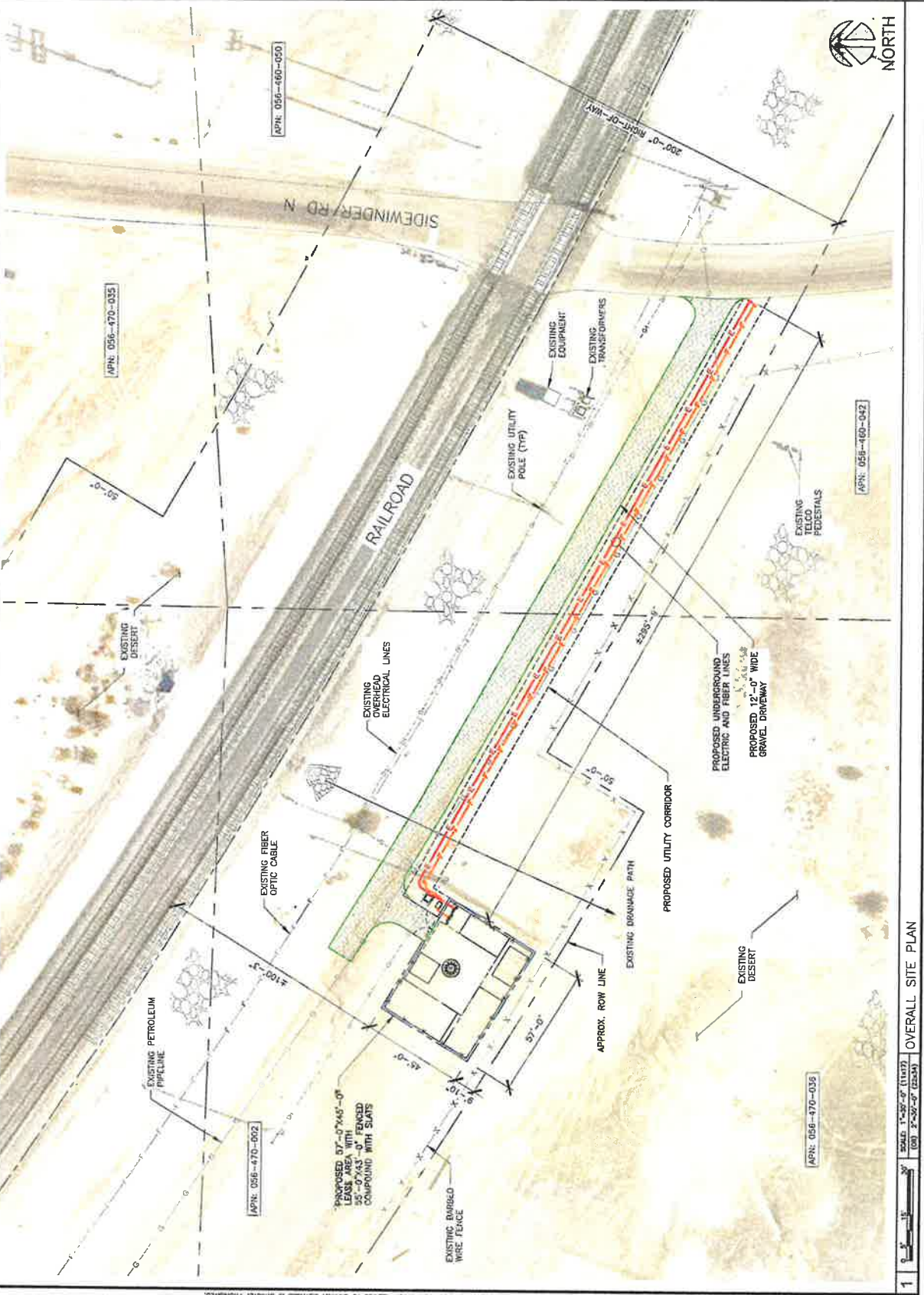
I CERTIFY THAT THESE DRAWINGS WERE PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND CONTROL AND TO THE BEST OF MY KNOWLEDGE AND BELIEF COMPLY WITH THE REQUIREMENTS OF THE GOVERNING LOCAL BUILDING CODE.

EXPRES: _____ SIGNED: _____

PROJECT INFORMATION

<p>LATITUDE: 32°45'02.45" N 32.750403°</p> <p>LONGITUDE: -114°45'20.84" W -114.755795°</p> <p>APN: 056-470-002</p> <p>SITE TYPE: MONOPOLE</p> <p>JURISDICTION: IMPERIAL COUNTY</p> <p>COUNTY: IMPERIAL COUNTY</p> <p>OVERALL STRUCTURE HEIGHT: 180' A.G.L. GROUND ELEVATION: 285.1' A.M.S.L.</p>	<p>CITYSWITCH 1500 CENDRY PL NE SUITE 380 ATLANTA, GA 30345 (404) 857-0858</p> <p>ARCHITECT CONTACT: GLEN L HUNT III 3470 V JASPER DR CHANDLER, AZ 85226 (602) 922-1893 (623) 321-1893</p>	<p>ALL WORK AND MATERIALS SHALL BE PERFORMED AND INSTALLED IN ACCORDANCE WITH THE CURRENT CALIFORNIA ELECTRICAL CODE. NOTHING IN THESE PLANS IS TO BE CONSTRUED TO PERMIT WORK NOT CONFORMING TO THE LATEST EDITION OF THE FOLLOWING CODES:</p> <p>CODES:</p> <ul style="list-style-type: none"> 2019 CALIFORNIA STANDARDS CODE 2019 CALIFORNIA ELECTRIC CODE <p>IN THE EVENT OF CONFLICT, THE MOST RESTRICTIVE CODE SHALL PREVAIL.</p> <p>TO OBTAIN LOCATION OF PARTICIPANTS UNDERGROUND FACILITIES BEFORE YOU DIG IN CALIFORNIA (SOUTH), CALL DIG ALERT TOLL FREE: 1-800-227-2800 OR www.digalert.org</p> <p>CALIFORNIA STATUTE SECTION 67000 WORKING DAYS NOTICE BEFORE YOU EXCAVATE</p> <p>Know what's below. Call before you dig.</p>
---	---	---

					ZONING DRAWINGS NOT FOR CONSTRUCTION	DRAWN BY: JH CHECKED BY: RSM DATE: 07/18/22 DESCRIPTION: ZONING DRAWINGS 10/25/22 ZONING DRAWINGS 10/25/22 ZONING DRAWINGS	SITE NAME: WATERHAVEN SITE ADDRESS: 637-639 SIDEWINDER RD N FELICITY, CA 92283 IMPERIAL COUNTY	SHEET TITLE: OVERALL SITE PLAN	SHEET NUMBER: C-1
--	--	--	--	--	--	---	---	-----------------------------------	-----------------------------



THE INFORMATION CONTAINED IN THIS SET OF CONSTRUCTION DOCUMENTS IS PREPARED BY AND FOR THE EXCLUSIVE USE OF THE CLIENT. ANY USE OR DISCLOSURE OTHER THAN THAT WHICH RELATES TO THE PROJECT IS STRICTLY PROHIBITED.

PC ORIGINAL PKG



ZONING DRAWINGS
NOT FOR CONSTRUCTION

CHECKED BY: MN
DRAWN BY: MN

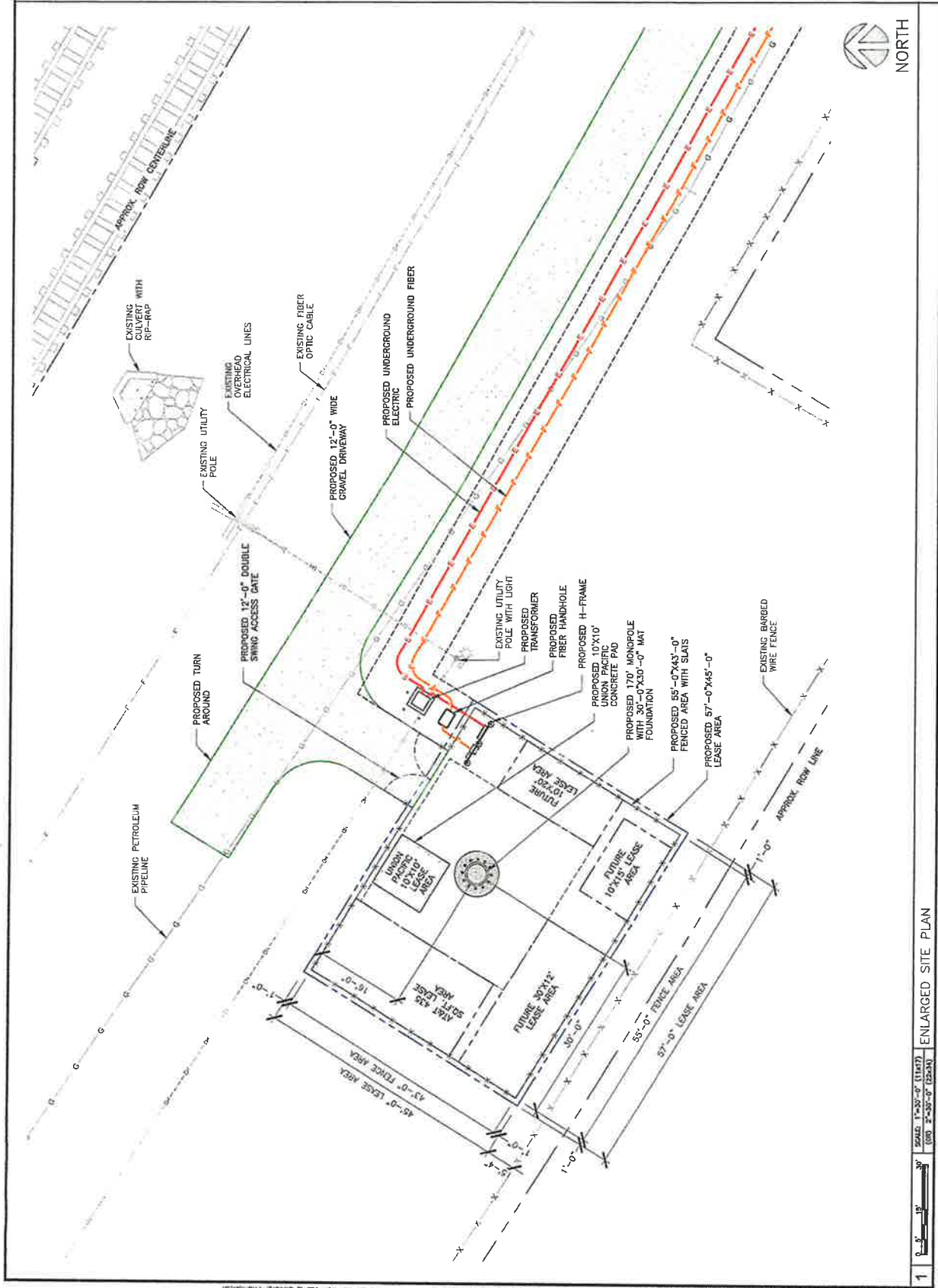
REV	DATE	DESCRIPTION
A	03/18/22	ZONING DRAWINGS
B	03/28/22	ZONING DRAWINGS
C	10/25/22	ZONING DRAWINGS

1. HERBERT CLERRY THAT THESE PLANS WERE PREPARED AND TO THE BEST OF HIS KNOWLEDGE AND BELIEF THEY COMPLY WITH ALL CITY ORDINANCES AND REGULATIONS AND THAT HE IS A REGISTERED ARCHITECT UNDER THE LAWS OF THE STATE OF CALIFORNIA.

SITE NAME:
WINTERHAVEN
SITE ADDRESS:
637-639 SIDESWINDER RD N
FELICITY, CA 92283
IMPERIAL COUNTY

SHEET TITLE
ENLARGED
SITE PLAN

SHEET NUMBER
C-2



1 0'-5" 15' 30'
SCALE 1"=50'-0" (11x17)
(000 2"=50'-0" (22x34))
ENLARGED SITE PLAN

PC ORIGINAL PKG



ZONING DRAWINGS
NOT FOR CONSTRUCTION

DRWN BY: MK
CHKD BY: RSM

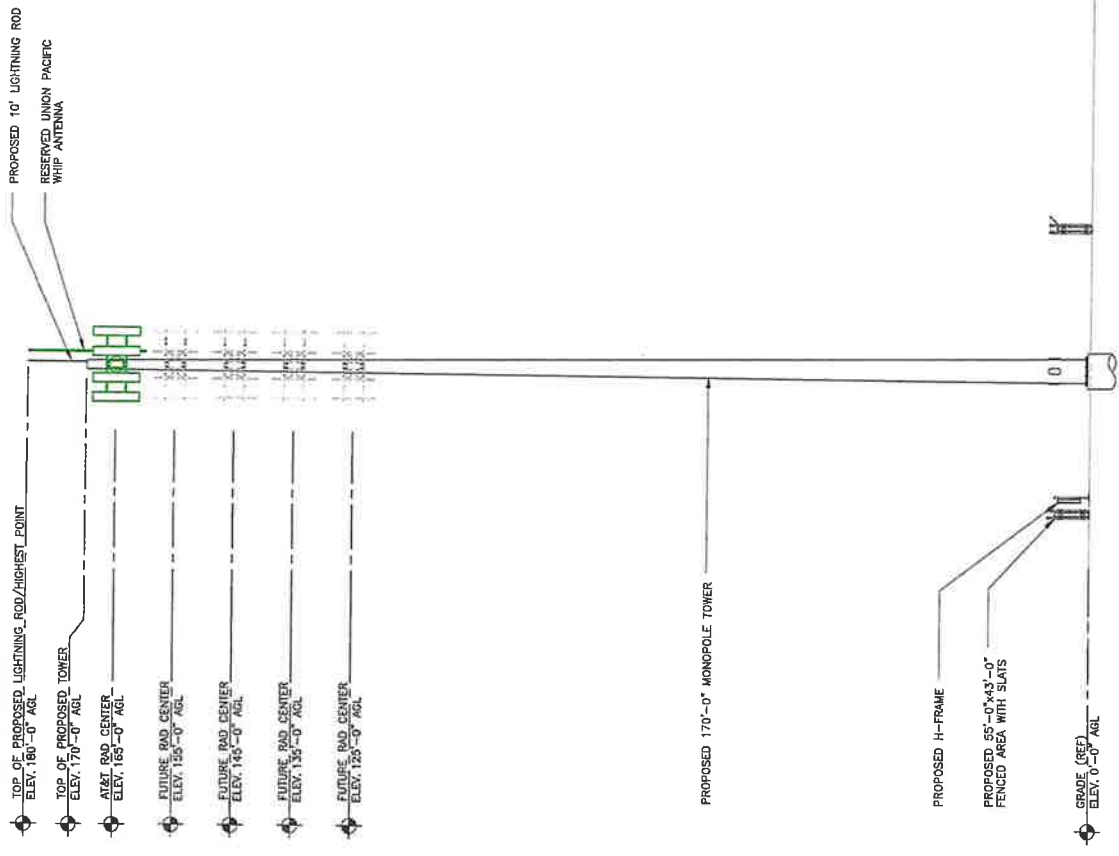
REV	DATE	DESCRIPTION
A	03/16/22	ZONING DRAWINGS
B	03/29/22	ZONING DRAWINGS
C	10/25/22	ZONING DRAWINGS

1. MEETINGS GROUP THAT THESE PLANS WERE PREPARED BY ARE OR UNDER AN EXIST REGISTERED ARCHITECT UNDER THE NAME OF THE STATE OF CALIFORNIA

SITE NAME:
WINTERHAVEN
SITE ADDRESS:
637-639 SIDERWINDER RD N
FELICITY, CA 92283
IMPERIAL COUNTY

SHEET TITLE
TOWER
ELEVATION

SHEET NUMBER
A-1



TOWER ELEVATION



1

THE INFORMATION CONTAINED IN THIS SET OF CONSTRUCTION DOCUMENTS IS PROPRIETARY BY NATURE. ANY USE OR DISCLOSURE OTHER THAN THAT WHICH RELATES TO CARRIER SERVICES IS STRICTLY PROHIBITED.

PC ORIGINAL PKG

VARIANCE

I.C. PLANNING & DEVELOPMENT SERVICES DEPT.
801 Main Street, El Centro, CA 92243 (760) 482-4236

- APPLICANT MUST COMPLETE ALL NUMBERED (black) SPACES - Please type or print -

1. PROPERTY OWNER'S NAME CitySwitch (Lessee)	EMAIL ADDRESS info@cityswitch.com	
2. MAILING ADDRESS (Street / P O Box, City, State) 1900 Century Place NE, Suite 320, Atlanta, GA	ZIP CODE 30345	PHONE NUMBER 404-857-0858
3. ENGINEERS NAME Westchester Services, LLC - Glen L. Hunt III	CA. LICENSE NO.	EMAIL ADDRESS ghunt@westchesterservices.com
4. MAILING ADDRESS (Street / P O Box, City, State) 3740 W. Jasper Drive, Chandler, AZ	ZIP CODE 85226	PHONE NUMBER 602-403-8614
5. ASSESSOR'S PARCEL NO. 056-470-002	ZONING (existing) S-2	
6. PROPERTY (site) ADDRESS Vacant railroad right-of-way 637-639 Sidewinder Rd N, Felicity, CA 92283	SIZE OF PROPERTY (in acres or square foot) Railroad right-of-way	
7. GENERAL LOCATION (i.e. city, town, cross street) Sidewinder Road, approximately 1,200' north of Interstate 8, Felicity		
8. LEGAL DESCRIPTION See attached lease agreement		
8. DESCRIBE VARIANCE REQUESTED (i.e. side yard set-back reduction, etc.) Maximum allowable height in the S-2 district for a communications tower is 100'.		
9. DESCRIBE REASON FOR, OR WHY VARIANCE IS NECESSARY :		
10. DESCRIBE THE ADJACENT PROPERTY East <u>vacant parcel</u> West <u>vacant parcel</u> North <u>vacant parcel</u> South <u>vacant parcel</u>		

I / WE THE LEGAL OWNER (S) OF THE ABOVE PROPERTY CERTIFY THAT THE INFORMATION SHOWN OR STATED HEREIN IS TRUE AND CORRECT.

Michael Bieniek, AICP 4/11/23
Print Name Date
[Signature]
Signature
Allison R. Burke 4/11/23
Print Name Date
[Signature]
Signature

REQUIRED SUPPORT DOCUMENTS

- A. SITE PLAN
- B. FEE _____
- C. OTHER _____
- D. OTHER _____

APPLICATION RECEIVED BY: _____	DATE _____	REVIEW / APPROVAL BY OTHER DEPT'S required.
APPLICATION DEEMED COMPLETE BY: _____	DATE _____	<input type="checkbox"/> P. W.
APPLICATION REJECTED BY: _____	DATE _____	<input type="checkbox"/> E. H. S.
TENTATIVE HEARING BY: _____	DATE _____	<input type="checkbox"/> A. P. C. D.
FINAL ACTION: <input type="checkbox"/> APPROVED <input type="checkbox"/> DENIED	DATE _____	<input type="checkbox"/> O. E. S.
		<input type="checkbox"/> _____
		<input type="checkbox"/> _____

V #
23-004

PC ORIGINAL PKG

OWNER'S AFFIDAVIT

In the event the applicant is not owner, the following shall be signed and acknowledge by the owner.

Permission is hereby granted to CitySwitch - II-A, LLC to apply for this
(Lessee, Tenant, Contractor-Specify)

Conditional Use Permit and Variance on the described property located at address
(State permit type clearly i.e. building, land used)

637-639 Sidewinder Road N, Felicity, CA 92283 Further identified by Assessor's Parcel Number

(APN) 056-470-002 is hereby granted.

Joe McGoever for Southern Pacific
OWNER (SIGNATURE)

Southern Pacific Company

OWNER (TYPED OR PRINT)

1400 Douglas St. Stop 0640, Omaha, NE 68179

OWNER'S ADDRESS

06/27/2023

DATE

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

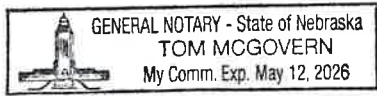
~~STATE OF CALIFORNIA~~ Nebraska
COUNTY OF Imperial Douglas } S.S.

On June 27th, 2023 before me,
Tom McGoever personally appeared
Joe McGoever, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Tom McGoever (Seal)



ATTENTION NOTARY: Although the information requested below is **OPTIONAL**, it could prevent fraudulent attachment of this certificate to unauthorized document.

Title or Type of Document _____
Number of Pages _____ Date of Document _____
Signer(s) Other Than Named Above _____



Imperial County Planning & Development Services Planning / Building / Parks & Recreation

Jim Minnick
DIRECTOR

NOTICE TO APPLICANT

SUBJECT: PAYMENT OF FEES

Dear Applicant:

Pursuant to County Codified Ordinance Division 9, Chapter 1, Section 90901.02, all Land Use Applications must be submitted with their appropriate application fee. Failure to comply will cause application to be rejected.

Please note that once the Department application is received and accepted, a "time track" billing will commence immediately. Therefore, should you decide to cancel or withdraw your project at any time, the amount of time incurred against your project will be billed and deducted from your payment. As a consequence, if you request a refund pursuant to County Ordinance, your refund, if any, will be the actual amount paid minus all costs incurred against the project.

Please note there will be no exceptions to this policy. Thank you for your attention.

Sincerely yours,



Jim Minnick, Director
Planning & Development Services

RECEIVED BY:



DATE:

6-23-23

IMPERIAL COUNTY PLANNING & DEVELOPMENT SERVICES GENERAL INDEMNIFICATION AGREEMENT

As part of this application, applicant and real party in interest, if different, agree to defend, indemnify, hold harmless, and release the County of Imperial ("County"), its agents, officers, attorneys, and employees (including consultants) from any claim, action, or proceeding brought against any of them, the purpose of which is to attack, set aside, void, or annul the approval of this application or adoption of the environmental document which accompanies it. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney fees, or expert witness fees that may be asserted by any person or entity, including the applicant, arising out of or in connection with the approval of this application, whether or not there is concurrent negligence on the part of the County, its agents, officers, attorneys, or employees (including consultants).

If any claim, action, or proceeding is brought against the County, its agents, officers, attorneys, or employees (including consultants), to attack, set aside, void, or annul the approval of the application or adoption of the environmental document which accompanies it, then the following procedures shall apply:

1. The Planning Director shall promptly notify the County Board of Supervisors of any claim, action or proceeding brought by an applicant challenging the County's action. The County, its agents, attorneys and employees (including consultants) shall fully cooperate in the defense of that action.
2. The County shall have the final determination on how to best defend the case and will consult with applicant regularly regarding status and the plan for defense. The County will also consult and discuss with applicant the counsel to be used by County to defend it, either with in-house counsel, or by retaining outside counsel provided that the County shall have the final decision on the counsel retained to defend it. Applicant shall be fully responsible for all costs incurred. Applicant shall be entitled to provide his or her own counsel to defend the case, and said independent counsel shall work with County Counsel to provide a joint defense.

Executed at Charleston County, South Carolina on June 23, 2023

APPLICANT

REAL PARTY IN INTEREST (If different from Applicant)

Name: Cityswitch IEA, LLC
By: [Signature]
Title: DIRECTOR OF DEVELOPMENT

Name _____
By _____
Title _____

Mailing Address:

Mailing Address:

3715 NORTHSIDE PARKWAY
SUITE 1-200
ATLANTA, GA 30327

ACCEPTED/RECEIVED BY _____ Date _____

PROJECT ID NO _____ APN _____

RECEIVED

APR 12 2022

IMPERIAL COUNTY
PLANNING & DEVELOPMENT SERVICES



Sherman & Howard_{LLC}



**APPLICATION FOR CONDITIONAL USE PERMIT AND HEIGHT VARIANCE
APPROVAL FOR
THE PROPOSED COMMUNICATION FACILITY AT**

**637-639 SIDEWINDER RD N
FELICITY, CA 92283
APN: 056-470-002**

**CITYSWITCH SITE NAME / # – WINTERHAVEN CAC002
AT&T SITE NUMBER - 1010309**

Table of Contents

1. Letter of Application
2. Application Materials
3. Site Data Sheet
4. Right-of-Way Title
5. Narrative Overview
6. Compliance with Section 92402.01
7. Compliance with Section 92405.01
8. Conditional Use Permit Standards
9. Variance Standards
10. Alternatives Analysis
11. Sworn Statement of AT&T
12. Carrier Coverage Plot
13. Fall Zone Certification
14. Site Plan
15. FAA Determination
16. Lease

RECEIVED
APR 12 2022
IMPERIAL COUNTY
PLANNING & DEVELOPMENT SERVICES

RECEIVED

APR 12 2022

**IMPERIAL COUNTY
PLANNING & DEVELOPMENT SERVICES**

Letter of Application

April 3, 2023

Mr. Jim Minnick
Planning & Development Services Director, Imperial County
801 W. Main Street
El Centro, CA 92243

RE: Proposed CitySwitch Communications Facility – Winterhaven CAC002
AT&T Site - 10101309
637-639 Sidewinder Rd N
APN 056-470-002
Felicity, CA 92283

Dear Mr. Minnick:

LCC Telecom Services and Sherman & Howard L.L.C. represent CitySwitch. CitySwitch has finalized an agreement with the property owners of the site referenced above to develop and construct a Communications Facility that will be available to be used by wireless carriers. The proposed shared use facility is designed to house the equipment necessary to provide clear and uninterrupted wireless telecommunications services to the residents and visitors of Imperial County.

This proposed Communications Facility is being constructed pursuant to Sections 92402.01 and 92405.01 of the Imperial County Land Use Code (the "Code"). The proposed facility will consist of a 170'-0" tall monopole tower with a 10'-0" lightning rod for a total height of 180'-0" to be located within a 57'-0" x 45'-0" lease parcel. The proposed tower will be erected, owned, and operated by CitySwitch. CitySwitch has a commitment with Union Pacific and AT&T Mobility, a wireless services provider, for this site. Additionally, the facility will be open for co-location to other wireless providers.

The proposed Communications Facility is located in an S-2, Open Space/Preservation zone. Pursuant to Section 90519.02(d) of the Code, Communications Facilities are allowed in this district with a Conditional Use Permit approval. Communications Facilities exceeding the maximum allowable height are allowed in this district with Variance approval.

On behalf of the applicant CitySwitch, LCC Telecom Services and Sherman & Howard have submitted all required documentation for the proposed tower in accordance with Section 92402.01 of the Code for this application to be deemed complete. Should you have any questions please feel free to contact me. I look forward to working with you during the review and approval process. CitySwitch looks forward to helping provide Imperial County with improved wireless coverage.

Sincerely,



Michael Bieniek, AICP
Zoning Director



Allison R. Burke
Associate

Application Materials

Site Data Sheet

Applicant:	CitySwitch 1900 Century Place NE Suite 320 Atlanta, GA 30345
Authorized Agent:	Michael Bieniek, AICP LCC Telecom Services 10700 Higgins Road Suite 240 Rosemont, IL 60018 Allison R. Burke Sherman & Howard, LLC 675 Fifteenth Street Suite 2300 Denver, CO 80202
Tower Owner:	CitySwitch 1900 Century Place NE Suite 320 Atlanta, GA 30345
Applicant's Interest in the Property:	Leasehold
Property Owner:	Union Pacific Railroad 1400 Douglas Street Omaha, NE 68179
Address of Property:	637-639 Sidewinder Rd N Felicity, CA 92283
Parcel Number:	APN: 056-470-002
Request:	Application for a Conditional Use Permit, Height Variance and any other approvals or permits necessary to erect a 170'-0" monopole tower with a 10'-0" lightning rod for a total height of 180'-0" and telecommunications equipment to be located within a 57'-0" x 45'-0" ground area.

Right-of-Way Title



100 Corporate Drive, Suite 305, Lebanon, NJ 08833
Phone (908) 849-3011 Fax (908) 849-7981
www.ustitlesolutions.com

REPORT OF TITLE
Document Research and Retrieval
U.S. Title Solutions File No. UST71006
Reference No. Brawley
Site Name: Brawley

Prepared For: LCC Telecom Services, LLC -

Premises: TBD, Brawley, CA 92227

Parcel: 056-470-002

County: Imperial

REPORT POWERED BY LAND-IT™

This Report of Title is for informational purposes only. It is not a representation of the condition of title to real property. It is not an abstract, legal opinion, opinion of title, or any form of title insurance. This report is issued exclusively for the benefit of the applicant therefore, and may not be relied upon by any other person. The liability of U.S. Title Solutions is limited to the amount of the fee paid therefore.

U.S. TITLE SOLUTIONS
File No. UST71006 Reference No. Brawley

REPORT OF TITLE
SCHEDULE - I

1. **DATE OF REPORT** : April 07, 2022
2. **SCOPE OF SEARCH:** Beginning **January 01, 1908** and extending through **February 28, 2022**, a search of the land records for the jurisdiction where the property is located was conducted and we have reported what was found regarding taxes; deeds; mortgages; easements and right of ways; covenants and restrictions; judgments; liens and UCCs; and other matters commonly recorded or filed in the County records.
3. **THE ESTATE OR INTEREST IN THE LAND DESCRIBED OR REFERRED TO IN THIS REPORT IS:**

Fee Simple

4. **TITLE TO SAID ESTATE OR INTEREST IN THE LAND DESCRIBED OR REFERRED TO IN THIS REPORT IS AT THE EFFECTIVE DATE HEREOF VESTED IN:**

Southern Pacific Company

5. **SOURCE OF TITLE :**

Property card made by Property Card, in [Instrument No: Property Detail Report.](#)

Notes: Searcher advised no vesting deed or patent could be found of record for subject property or grantee. The Imperial County Assessor's Office found old SBE maps that shows the Southern Pacific Railroad being in Section 21 Township 16S Range 21E using the corresponding SBE numbers (872-13-9-3).

For reference only, [Instrument No: SBE Map](#), attached has the U.S. Government as Grantor and Southern Pacific R.R. Co. as Grantee. Under the remarks, it states "Acquired for station grounds under section 8 of the Act of Congress of Mar. 3 1871" which under this act, is believed to have authorized the Southern Pacific Railroad Company of California to construct a certain line of railroad and granted certain lands.

6. **PROPERTY IS IDENTIFIED AS FOLLOWS :**

Parcel ID : 056-470-002
Tax Year : 2021
Status : Exempt

7. **THE LAND REFERRED TO IN THIS REPORT IS SET FORTH ON SCHEDULE - II ATTACHED HERETO**

U.S. TITLE SOLUTIONS
File No. UST71006 Reference No. Brawley

REPORT OF TITLE
SCHEDULE - II

(LEGAL DESCRIPTION)

A survey is required for an accurate metes and bounds description.

U.S. TITLE SOLUTIONS
File No. UST71006 Reference No. Brawley

REPORT OF TITLE
SCHEDULE - III

The items set forth herein are intended to provide you with notice of matters affecting title to the land described in Schedule - II of this Report. Any statement of facts or matters which an accurate survey of the land would disclose, rights of tenants or parties in possession under unrecorded leases and easements or claims of easements not shown by the public record are not included in this report. No liability is assumed for items not indexed or mis-indexed in the County Records.

1. MORTGAGES, DEEDS OF TRUST AND UCCs

None found within period searched.

2. JUDGMENTS AND LIENS

None found within period searched.

3. COVENANTS AND RESTRICTIONS

None found within period searched.

4. EASEMENTS AND RIGHTS OF WAY

None found within period searched.

5. OTHER RECORDED DOCUMENTS

5.1 Parcel Map No. M-891 **Recorded** July 18, 1977, in [Book 3, Page 72.](#)

5.2 Certificate of Merger between Southern Pacific Company and Southern Pacific Transportation Company, **Dated** December 02, 1969, **Recorded** December 09, 1969, in [Book 1286, Page 821.](#)

5.3 Township No. 16 South, Range No. 21 East, San Bernardino Meridian, California **Recorded** November 07, 1934, in [Instrument No: 1933 Government Survey.](#)

5.4 Parcel Map No. M-1964 in [Book 8, Page 31.](#)

Notes: For reference - shows portion of subject property as "not a part".

6. OTHER UNRECORDED DOCUMENTS

6.1 [Assessor's Map](#)

U.S. TITLE SOLUTIONS
File No. UST71006 Reference No. Brawley

REPORT OF TITLE
SCHEDULE - V

(OWNERSHIP HISTORY)

1. Property card made by Property Card to Southern Pacific Company , in [Instrument No: Property Detail Report](#).

Notes: Searcher advised no vesting deed or patent could be found of record for subject property or grantee. The Imperial County Assessor's Office found old SBE maps that shows the Southern Pacific Railroad being in Section 21 Township 16S Range 21E using the corresponding SBE numbers (872-13-9-3).

For reference only, [Instrument No: SBE Map](#) , attached has the U.S. Government as Grantor and Southern Pacific R.R. Co. as Grantee. Under the remarks, it states "Acquired for station grounds under section 8 of the Act of Congress of Mar. 3 1871" which under this act, is believed to have authorized the Southern Pacific Railroad Company of California to construct a certain line of railroad and granted certain lands.

Property Detail Report

CA

APN: 056-470-002-000

Imperial County Data as of: 12/29/2021

Owner Information

Owner Name: Southern Pacific Co
Vesting: Corporation
Mailing Address:

Occupancy: Unknown

Location Information

Legal Description: Por Sbe 872-13-9-3 Of Sec 21 16-21
APN: 056-470-002-000
Munic / Twnshp: Subdivision:
Neighborhood: San Pasqual Valley...
Elementary School: San Pasqual Valley...
Latitude: 32.75386

Alternate APN: 0564700201
Twncshp-Rng-Sec: Tract #:
School District: San Pasqual Valley Unified
Middle School: San Pasqual Middle
Longitude: -114.76022

County: Imperial, CA
Census Tract / Block:
Legal Lot / Block:
Legal Book / Page:
High School: San Pasqual Valley...

Last Transfer / Conveyance - Current Owner

Transfer / Rec Date: Price:
Buyer Name: Seller Name: Transfer Doc #:
Deed Type:

Last Market Sale

Sale / Rec Date: Sale Price / Type: Deed Type:
Multi / Split Sale: Price / Sq. Ft.: New Construction:
1st Mtg Amt / Type: 1st Mtg Rate / Type: 1st Mtg Doc #: N/A
2nd Mtg Amt / Type: 2nd Mtg Rate / Type: Sale Doc #: N/A
Seller Name:
Lender: Title Company:

Prior Sale Information

Sale / Rec Date: Sale Price / Type: Prior Deed Type:
1st Mtg Amt / Type: 1st Mtg Rate / Type: Prior Sale Doc #: N/A
Prior Lender:

Property Characteristics

Gross Living Area: Total Rooms: 0 Year Built / Eff:
Living Area: Bedrooms: Stories:
Total Adj. Area: Baths (F / H): Parking Type:
Above Grade: Pool: Garage #:
Basement Area: Fireplace: Garage Area:
Style: Cooling: Porch Type:
Foundation: Heating: Patio Type:
Quality: Exterior Wall: Roof Type:
Condition: Construction Type: Roof Material:

Site Information

Land Use: Public School Lot Area: 1,165,230 Sq. Ft. Zoning:
State Use: Lot Width / Depth: # of Buildings:
County Use: 604 - Schools Usable Lot: Res / Comm Units:
Site Influence: Acres: 26.75 Water / Sewer Type:
Flood Zone Code: A Flood Map #: 06025C1875C Flood Map Date: 09/26/2008
Community Name: Fort Yuma Indian Reservation Flood Panel #: 1875C Inside SFHA: True

Tax Information

Assessed Year: 2021 Assessed Value: Market Total Value:
Tax Year: Land Value: Market Land Value:
Tax Area: 94-002 Improvement Value: Market Imprv Value:
Property Tax: Improved %: Market Imprv %:
Exemption: Delinquent Year:

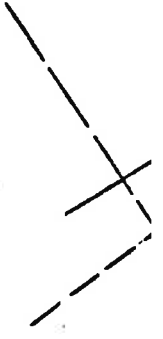
Disclaimer: This report is not an insured product or service or a representation of the condition of title to real property. It is not an abstract, legal opinion, opinion of title, title insurance, commitment or preliminary report, or any form of title insurance or guaranty. Estimated property values are: (i) based on available data; (ii) are not guaranteed or warranted; (iii) do not constitute an appraisal; and (iv) should not be relied upon in lieu of an appraisal. This report is issued exclusively for the benefit of the applicant therefor, and may not be used or relied upon by any other person. This report may not be reproduced in any manner without the issuing party's prior written consent. The issuing party does not represent or warrant that the information herein is complete or free from error, and the information herein is provided without any warranties of any kind, as-is, and with all faults. As a material part of the consideration given in exchange for the issuance of this report, recipient agrees that the issuing party's sole liability for any loss or damage caused by an error or omission due to inaccurate information or negligence in preparing this report shall be limited to the fee charged for the report. Recipient accepts this report with this limitation and agrees that the issuing party would not have issued this report but for the limitation of liability described above. The issuing party makes no representation or warranty as to the legality or propriety of recipient's use of the information herein.

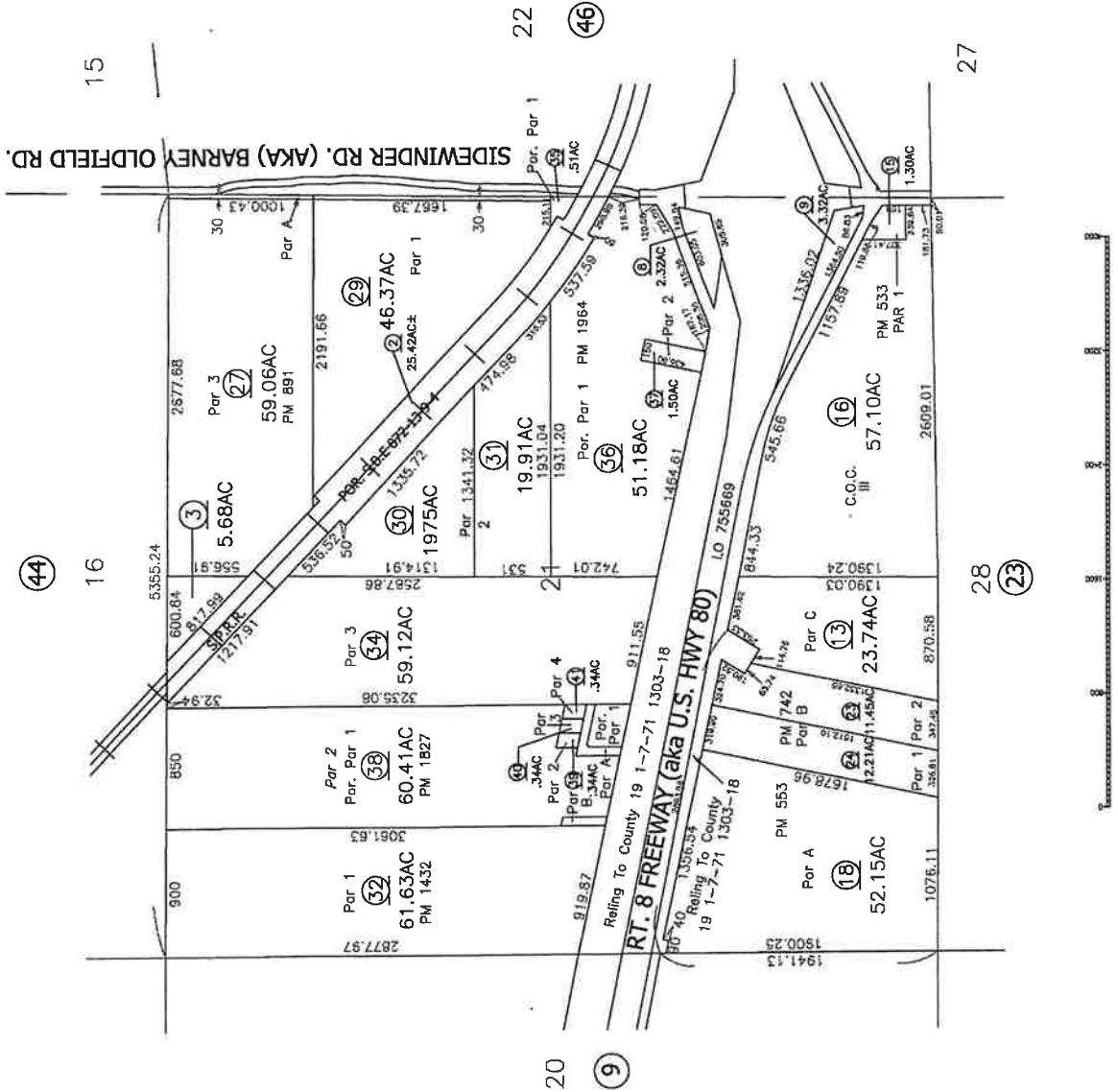
School information is copyrighted and provided by GreatSchools.org.

SCHEDULE OF PROPERTY

No.	GRANTOR	GRANTEE	INSTRUMENT	DATE	RECORD	Custb No	AREA	
							Sq. Ft.	Acres
1	U.S. Government	Southern Pacific R.R. Co.	Act of Cong.	Mar. 3 1871			182 129	
2	State of California	"	A.R. Inc Act Sec 474 C.C.P.C.	May 20 1861			3 022	
3							5 209	No record a
4	U.S. Government	Southern Pacific R.R. Co.	Act of Cong	Mar. 3-1875				See Note N
5	"	"	" " "	Mar 2-1899				See Note N
	U.S. Gov. (Dept. of the Int.)	Southern Pacific R.R. Co.	Schedule	May 19-1910		10442		Covers above r-jrc
Und 3								See Remark
Und 4	S.P.R.R. Co.	U.S. Government	Relinquishment	Nov. 24, 1928		37725		32 545 ac. re
Und 5						37363		See Note N

Note No. 1: Acquired for station grounds under section 8 of the Act of Congress of Mar. 3, 1871. See letter C.F.R. Ogilby to Guy
 Note No. 2: The 32 545 ac. previously shown as Par. 4 has been eliminated acct. Relinquishment of land as per deed Audit 37725 below
 Note No. 3: The 12 625 ac. previously shown in area column have been eliminated and shown hatched as per deed Audit 37363 below
 Note No. 4: 166 565 ac. lost; 12 625 ac. acq'd. by Par. 5 this map; 153 939 ac. acq'd. by Par. 8, Map 18, letter Gup V. Shoup to G.W. Boschke d

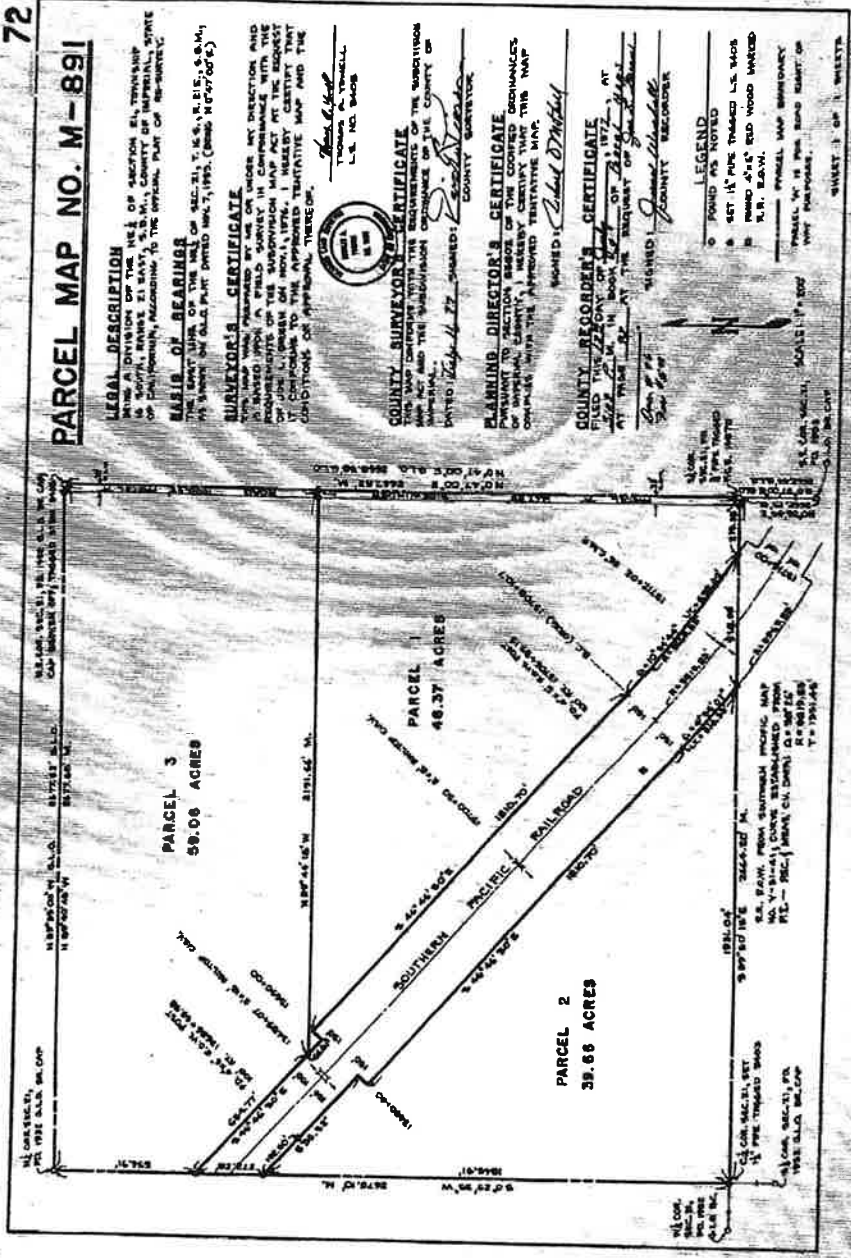




DISCLAIMER:
THIS IS NOT AN OFFICIAL MAP.
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BLOW - UP
From 56-10
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2-10-93 LS 8-28-12 MF

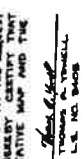
PARCEL MAP NO. M-891



LEGAL DESCRIPTION
 WITH A DIVISION OF THE EASE OF SECTION 24, TOWNSHIP
 23 NORTH, RANGE 21 EAST, S.B.M. 35,000, COUNTY OF
 CALIFORNIA, ACCORDING TO THE ORIGINAL PLAT OF RECORDED
 MAP NO. 1841, DATED MAY 7, 1914, (PAGE 14 OF 14)

BASIS OF BEARINGS
 THE BEARINGS ON THIS MAP OF SEC. 24, T. 23 N., R. 21 E., S.B.M. 35,000,
 WAS TAKEN ON OLD PLAT DATED MAY 7, 1914, (PAGE 14 OF 14)

SURVEYOR'S CERTIFICATE
 I HEREBY CERTIFY THAT I AM OR UNDER MY DIRECTION AND
 SUPERVISION, AND IN ACCORDANCE WITH THE REQUIREMENTS OF THE SURVEYOR'S
 LICENSE, HAVE CAUSED THIS MAP TO BE PREPARED AND CHECKED
 IN ACCORDANCE WITH THE REQUIREMENTS OF THE SURVEYOR'S
 LICENSE, AND THE SUBDIVISION ORDINANCE OF THE COUNTY OF
 CALIFORNIA, AND I HEREBY CERTIFY THAT THIS MAP
 CONFORMS TO THE APPROVED TENTATIVE MAP AND THE
 CONDITIONS OF APPROVAL THEREOF.



COUNTY SURVEYOR'S CERTIFICATE
 THIS MAP CONFORMS WITH THE REQUIREMENTS OF THE SURVEYOR'S
 LICENSE, AND THE SUBDIVISION ORDINANCE OF THE COUNTY OF
 CALIFORNIA, AND I HEREBY CERTIFY THAT THIS MAP
 CONFORMS TO THE APPROVED TENTATIVE MAP.

DATED July 14, 1972 SIGNED: [Signature] COUNTY SURVEYOR

PLANNING DIRECTOR'S CERTIFICATE
 PURSUANT TO SECTION 56000 OF THE GOVERNMENT CODE, I HEREBY CERTIFY THAT THIS MAP
 CONFORMS TO THE APPROVED TENTATIVE MAP.

WITNESSED: [Signature] COUNTY RECORDER

COUNTY RECORDER'S CERTIFICATE
 I HEREBY CERTIFY THAT THIS MAP WAS RECORDED AT THE
 OFFICE OF THE COUNTY RECORDER OF CALIFORNIA, COUNTY OF
 CALIFORNIA, ON July 14, 1972, AT
11:00 A.M. IN ACCORDANCE WITH THE
 REQUIREMENTS OF THE GOVERNMENT CODE, AND I HEREBY
 CERTIFY THAT THIS MAP CONFORMS TO THE APPROVED
 TENTATIVE MAP.

DATED July 14, 1972 SIGNED: [Signature] COUNTY RECORDER

LEGEND

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16 RECORDING REQUESTED BY
and RETURN TO:
D Corporation Systems
235 Montgomery Street
San Francisco, California 94104

47 JOHN V. KENNEDY
COUNTY RECORDER

'69 DEC 9 AM 11:10
BOOK 1286 PAGE 821

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State of Delaware



Office of Secretary of State

Eugene Wonting, Secretary of State of the State of Delaware,
do hereby certify

that the Certificate of Agreement of Merger
of the "SOUTHERN PACIFIC COMPANY", merging with and into the
"SOUTHERN PACIFIC TRANSPORTATION COMPANY", under the name of
"SOUTHERN PACIFIC TRANSPORTATION COMPANY", was received and
filed in this office the twenty-sixth day of November, A.D.
1969, at 8:35 o'clock A.M.

And I do hereby further certify that the aforesaid Corporation
is duly incorporated under the laws of the State of Delaware and is
in good standing and has a legal corporate existence so far as the
records of this office show and is duly authorized to transact business.

In Testimony Whereof, I have hereunto set my hand

and official seal at Dover this second day of
December in the year of our Lord one thousand
nine hundred and sixty-nine.



Eugene Wonting

Secretary of State

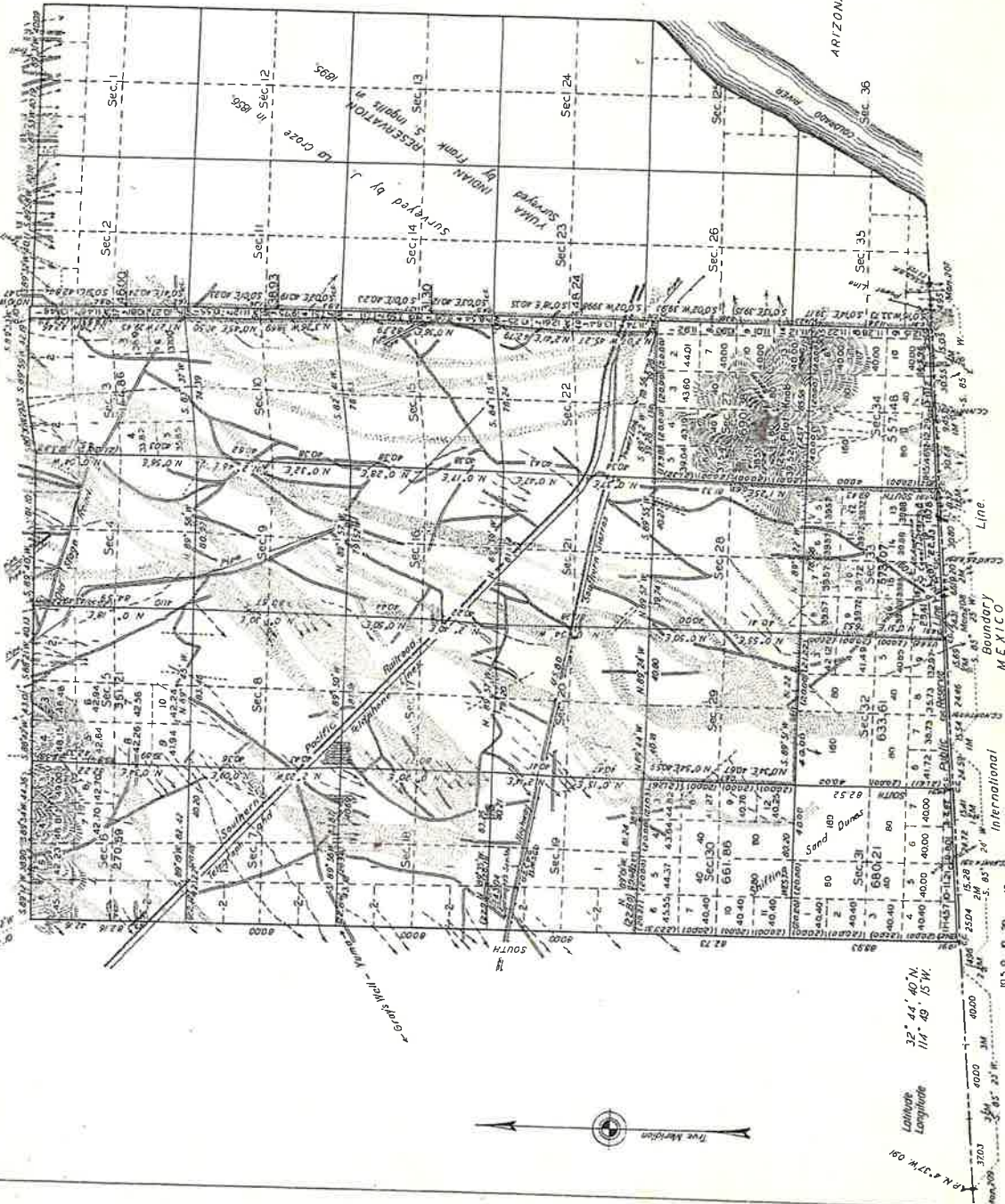
R. H. Caldwell

Acting Secretary of State

DUPLICATE

TOWNSHIP N° 16 SOUTH, RANGE N° 21 EAST, SAN BERNARDINO MERIDIAN, CALIFORNIA.
DEPENDENT AND INDEPENDENT RESURVEY AND SURVEY

Sec. 36
T. 15 S., R. 20 E.



The plat of the survey of Secs. 3 to 21, Inc. 15 to 22 and 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, of the original survey as shown upon the plat approved February 6, 1857, in their true original position, according to the best available evidence of the position of the original corners, all differences between the measurements on the original plat and those observed in the retracement original distribution proportionally between accepted corners and corners with surveying lines, except where such corners are shown on the original plat, reference will be made to the original plat, the bearings of the lines and more detailed descriptions of the various smaller subdivisions.

DUPLICATE PLAT
The following simulation are not intended to be used as evidence.

Matched with letter dated
Nov. 7, 1934
From Dependence

Printed in D.C. by *W. H. ...*
U.S. G.P.O. 1934
Plat filed in land book volume
...
Microfilm

DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE
Washington, D.C. April 10, 1934.
The survey represented by this plat having been carefully executed in accordance with the requirements of law and the regulations of this office, is hereby accepted.

D. C. ...
Acting Assistant Commissioner.

Office of U.S. Supervisor of Surveys
Denver, Colorado, November 7, 1933
The above plat of Township No. 16 South, Range No. 21 East, of the Bernardino Meridian, California, is strictly conformable to the field notes of the survey thereon which have been examined and approved.

W. H. ...
U.S. Supervisor of Surveys.

Area resurveyed 139,935.57 Acres
surveyed 1714.57

LINES DESIGNATED BY WHOM SURVEYED	GROUP	DATE	MILEAGE		WHEN SURVEYED
			MIS.	CH.		BEGIN	COMPLETED
Interior	1	264 Sept 12, 1931	12	19.97	1931
Extensional	2	..	6	3.64	..
International Bdy.	3	..	4.4	37.62	..
Subnational	4	..	..	..	..
Miscellaneous	5	..	..	..	..
GR.	6	..	..	..	..

PM 8-31

PARCEL MAP No. M-19614

RECORDING INSTRUMENTS:
 This map is subject to the following:
 1. The map is subject to the provisions of the
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GENERAL NOTES:
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[Signature]
 State of California
 Department of Public Safety
 Division of Motor Vehicles

DATE: 21 April 1964
BY: *[Signature]*
 State of California
 Department of Public Safety
 Division of Motor Vehicles

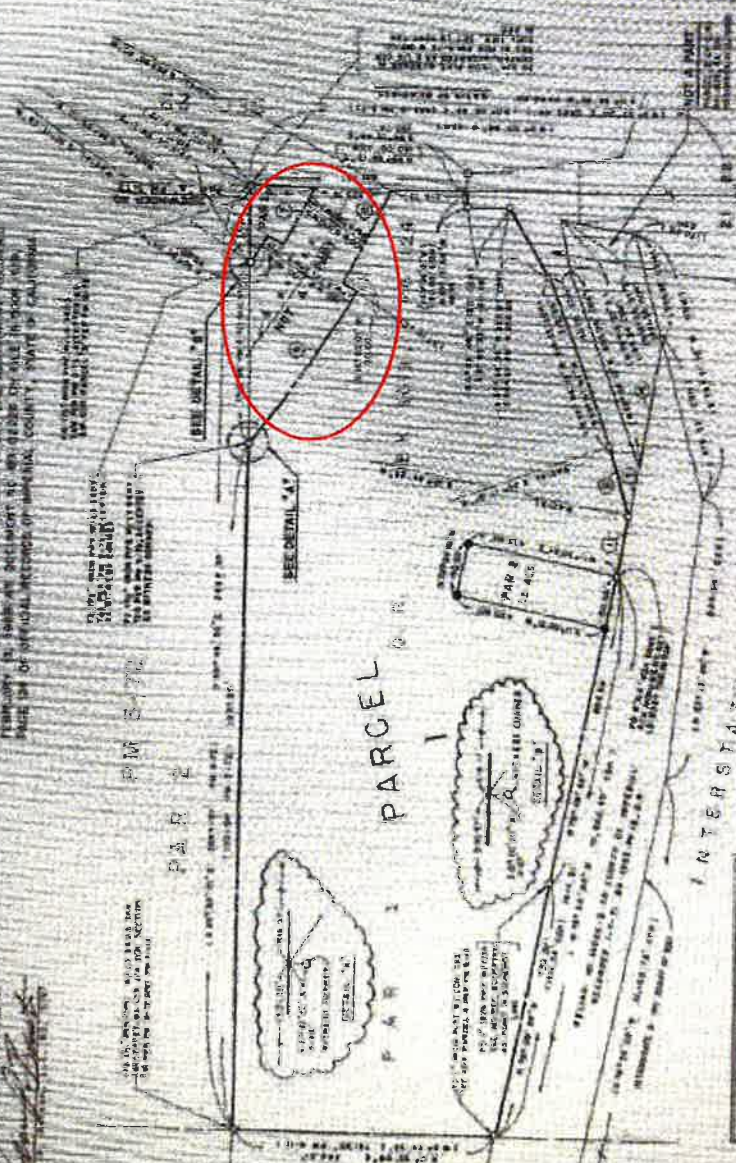
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Parcel	Area (Acres)	Area (Square Feet)
1	1.0000	69,696.00
2	0.5000	34,848.00
3	0.5000	34,848.00
4	0.5000	34,848.00
5	0.5000	34,848.00
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9	0.5000	34,848.00
10	0.5000	34,848.00

ACRES:
 PARCEL 1 - 1.0000 ACRES
 PARCEL 2 - 0.5000 ACRES
 PARCEL 3 - 0.5000 ACRES
 TOTAL AREA - 2.0000 ACRES



Property Detail Report

CA

APN: 039-310-019-000

Imperial County Data as of: 12/29/2021

Owner Information

Owner Name: Southern Pacific Co
Vesting: Corporation
Mailing Address:

Occupancy: Unknown

Location Information

Legal Description: Por Sbe 872-13-6A-5 & -7-1 Of Tr 37 & Sec 34 13-18 39.34Ac
APN: 039-310-019-000
Munic / Twnshp: Twnshp-Rng-Sec:
Subdivision: Tract #: 37
Neighborhood: School District: San Pasqual Valley Unified
Elementary School: San Pasqual Valley... Middle School: San Pasqual Middle
Latitude: 32.99305 Longitude: -115.06406

County: Imperial, CA
Census Tract / Block:
Legal Lot / Block:
Legal Book / Page:
High School: San Pasqual Valley...

Last Transfer / Conveyance - Current Owner

Transfer / Rec Date:
Buyer Name:

Price:
Seller Name:

Transfer Doc #:
Deed Type:

Last Market Sale

Sale / Rec Date:
Multi / Split Sale:
1st Mtg Amt / Type:
2nd Mtg Amt / Type:
Seller Name:
Lender:

Sale Price / Type:
Price / Sq. Ft.:
1st Mtg Rate / Type:
2nd Mtg Rate / Type:

Deed Type:
New Construction:
1st Mtg Doc #: N/A
Sale Doc #: N/A
Title Company:

Prior Sale Information

Sale / Rec Date:
1st Mtg Amt / Type:
Prior Lender:

Sale Price / Type:
1st Mtg Rate / Type:

Prior Deed Type:
Prior Sale Doc #: N/A

Property Characteristics

Gross Living Area:
Living Area:
Total Adj. Area:
Above Grade:
Basement Area:
Style:
Foundation:
Quality:
Condition:

Total Rooms: 0
Bedrooms:
Baths (F / H):
Pool:
Fireplace:
Cooling:
Heating:
Exterior Wall:
Construction Type:

Year Built / Eff:
Stories:
Parking Type:
Garage #:
Garage Area:
Porch Type:
Patio Type:
Roof Type:
Roof Material:

Site Information

Land Use: Public School
State Use:
County Use: 604 - Schools
Site Influence:
Flood Zone Code: A
Community Name: Imperial County

Lot Area: 1,705,374 Sq. Ft.
Lot Width / Depth:
Usable Lot:
Acres: 39.15
Flood Map #: 06025C1475C
Flood Panel #: 1475C

Zoning:
of Buildings:
Res / Comm Units:
Water / Sewer Type:
Flood Map Date: 09/26/2008
Inside SFHA: True

Tax Information

Assessed Year: 2021
Tax Year:
Tax Area: 94-002
Property Tax:
Exemption:

Assessed Value:
Land Value:
Improvement Value:
Improved %:
Delinquent Year:

Market Total Value:
Market Land Value:
Market Imprv Value:
Market Imprv %:

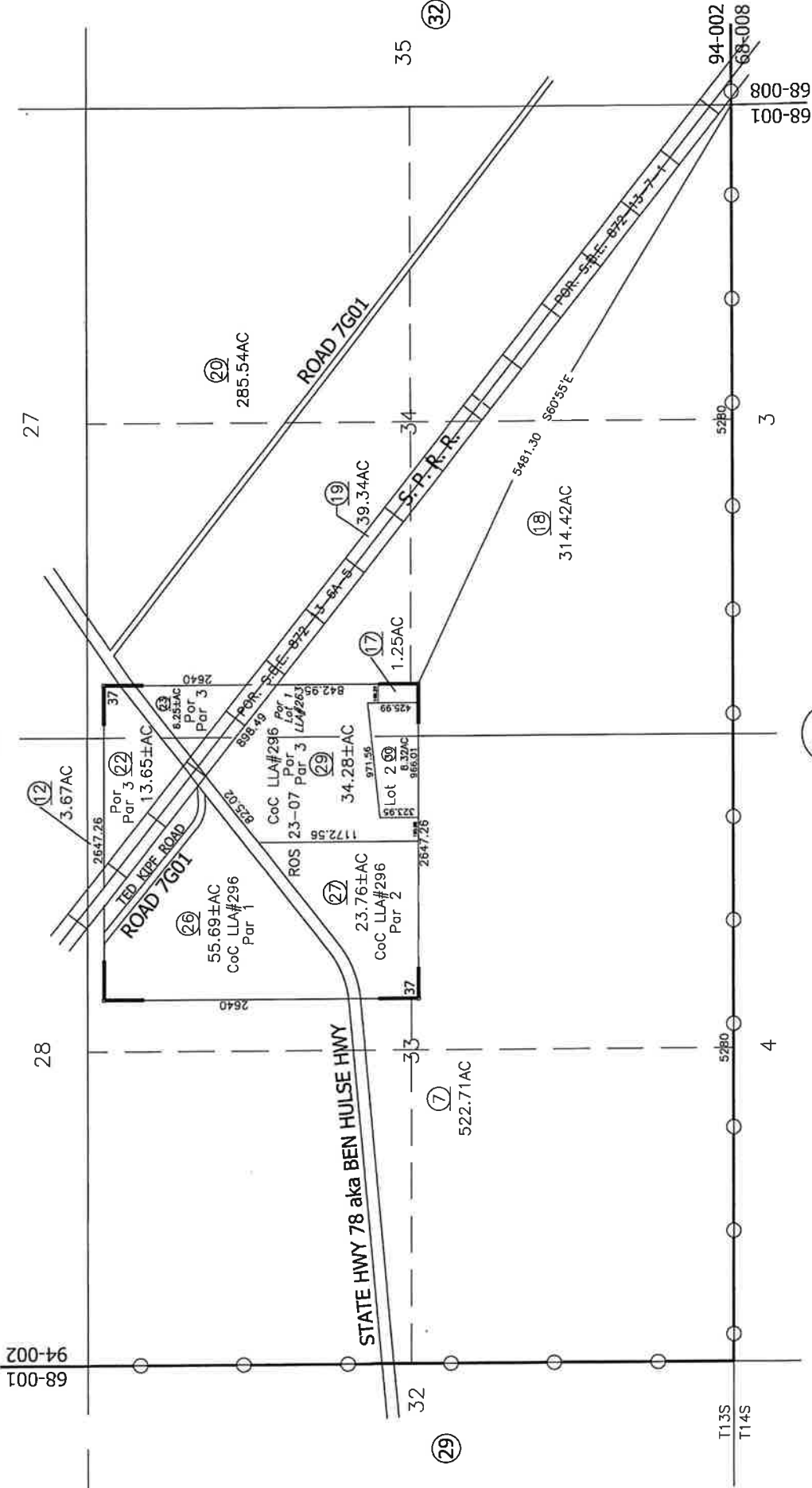
Disclaimer: This report is not an insured product or service or a representation of the condition of title to real property. It is not an abstract, legal opinion, opinion of title, title insurance, commitment or preliminary report, or any form of title insurance or guaranty. Estimated property values are: (i) based on available data; (ii) are not guaranteed or warranted; (iii) do not constitute an appraisal; and (iv) should not be relied upon in lieu of an appraisal. This report is issued exclusively for the benefit of the applicant therefor, and may not be used or relied upon by any other person. This report may not be reproduced in any manner without the issuing party's prior written consent. The issuing party does not represent or warrant that the information herein is complete or free from error, and the information herein is provided without any warranties of any kind, as-is, and with all faults. As a material part of the consideration given in exchange for the issuance of this report, recipient agrees that the issuing party's sole liability for any loss or damage caused by an error or omission due to inaccurate information or negligence in preparing this report shall be limited to the fee charged for the report. Recipient accepts this report with this limitation and agrees that the issuing party would not have issued this report but for the limitation of liability described above. The issuing party makes no representation or warranty as to the legality or propriety of recipient's use of the information herein.

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39-31

Tax Area Code
94-002 MPR

TRACT 37 & SEC. 33 & 34 T13S, R18E



Bk. 42
Pg. 15

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ASSESSOR FOR THE SOLE PURPOSE OF AIDING IN
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- 2-10-11 MF
- 1-21-09 MF
- 5-10-73 RM
- REMAP
- From 39-33
- 8-3-71 R. M.
- 1-8-18 MF
- 10-9-17 MF
- 9-20-17 MF
- 6-22-15 MF
- 4-30-14 MF

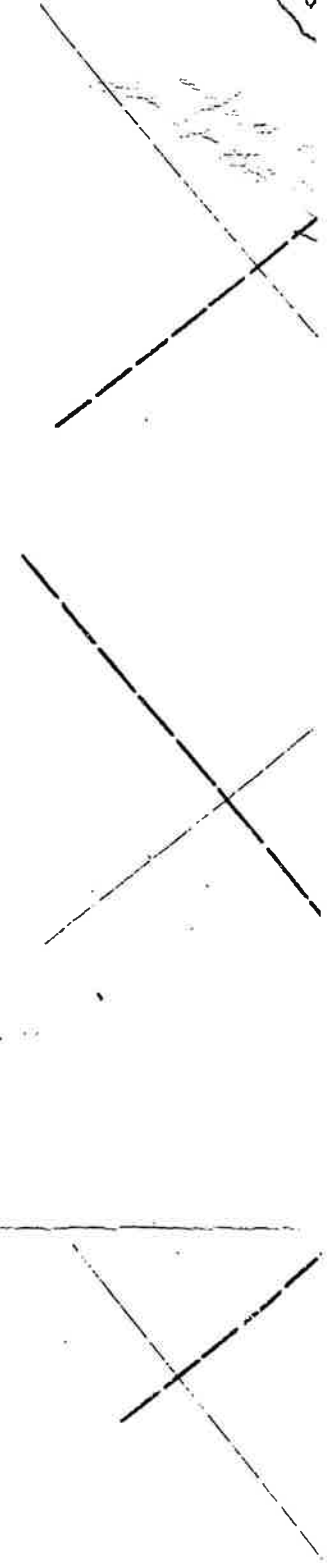
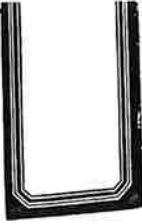
Assessor's Map Bk.39-Pg.31
County of Imperial, Calif.

PC ORIGINAL PKG

SCHEDULE OF PROPERTY

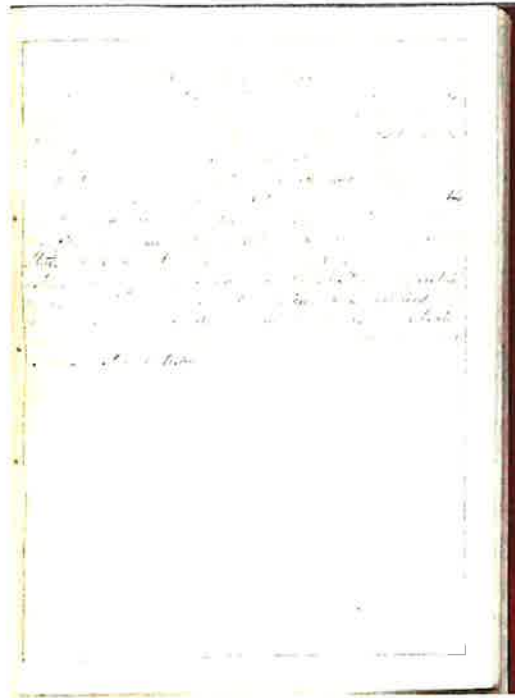
No.	GRANTOR	GRANTEE	INSTRUMENT	DATE	RECORD	CUSTO No	AREA		REMARKS.
							SQ. FT.	ACRES	
1	U.S Government	Southern Pacific R.R.Co.	Act of Cong.	Mar. 3, 1871			242,429		See Remarks for Parcel No. 1
2							5,969		See Remarks for Parcel 2
und 2									

Note No. 1 :- Acquired for station grounds under section 8 of the Act of Congress of Mar. 3, 1871. See letter C.E.R. Ogilby to Guy V. Shoup dated May 14, 1926.



*NO. 100 PLAT
242,429*

Indian Appropriations Act (1871)



Indian Appropriations Act (1871)

In what was supposed to be a routine bill providing funds to Indian Agencies, the Indian Appropriations Act of 1871 included a significant clause declaring that Indigenous people did not belong to "independent nations" and could therefore not enter treaties with the United States. A departure from previous US-Indigenous relations, the Act dealt a major blow to Indigenous sovereignty.

The Indian Appropriations Act of 1871 declared that Indigenous people were no longer considered members of "sovereign nations" and that the US government could no longer establish treaties with them. The act effectively made Native Americans wards of the US government and paved the way for other laws that granted the federal government increased power over the land and lives of Indigenous peoples.

Although it promised not to "invalidate or impair the obligation" of previous treaties, the act was the first step toward the elimination of Indigenous sovereignty, which was completed in 1898 with the **Curtis Act**, and the invalidation of previous treaty obligations, a power finally granted to Congress in 1903. One of the first arrangements to be made in the post-treaty era was the **Brunot Agreement**, in which **Utes** under **Ouray** ceded Colorado's **San Juan Mountains** to the United States.

Origins

Unlike other Indian Appropriations Acts, most of which served the mundane purpose of allocating federal funds to fulfill treaty obligations, the Appropriations Act of 1871 marked a major shift in federal Indigenous policy. Nearly a century earlier, immediately after the nation was established, President George Washington applied the president's treaty-making power to Indigenous nations, setting a precedent for nation-to-nation diplomacy.

Four decades later, Indigenous sovereignty was upheld in the 1832 Supreme Court decision *Worcester v. Georgia*, which declared that Indigenous people did indeed belong to “sovereign nation[s].” This result obliged the United States to engage with Indigenous people in diplomacy the same as it would Spain, Britain, or France. President Andrew Jackson ignored the ruling, but future administrations respected it, forging treaties with various Native nations that had to be ratified by Congress.

Many Indigenous leaders who signed treaties did not fully understand what they were signing because they were unfamiliar with the US government as well as American legal writing and practices. That eventually changed, however, and over time treaties became an important source of Indigenous power since they were by definition made between equal partners—nation to nation. If nothing else, Indigenous nations could point to treaties to protest nondelivery or delay of **annuities** (money and supplies promised in treaties) or trespassing on Indigenous land. Many Indigenous leaders rightly came to regard treaties as the final say on what the US government and its citizens could or could not do regarding Indigenous land and people.

After the Civil War, however, a renewed spirit of white national unity, as well as the ongoing conquest of the American West, compelled many in Congress and the western territories to reconsider Indigenous sovereignty. Treaties that created reservations and **Indian agencies**, they argued, essentially made Indians dependent on the government, so why must they continue to be recognized as independent nations?

The Appropriations Act of 1871

Under the Constitution, treaty making was the prerogative of the president, acting with the advice and consent of the Senate. The House of Representatives had no say in creating treaties and was only responsible for allocating funds to carry out their provisions. By the 1870s, however, the House had new members representing new constituencies in western states, many of whom lobbied for the removal of Indigenous people. The House as a whole had also come to resent its minor role in Indigenous affairs, going so far as to refuse to fund new treaties. As the House debated the Appropriations Act of 1871, representatives hitched a rider denying Native sovereignty to what was otherwise a routine allocations bill. Even though the rider increased the House’s power in Indigenous affairs, the Senate approved the bill on March 3, 1871, and President Ulysses S. Grant signed it into law.

A New Era

Although it prevented new treaties from being written, the Appropriations Act did not end binding agreements with Indigenous nations. These agreements, however, differed from treaties in that they were not bilateral—meaning the US government could choose to respect Native Americans’ demands at its own discretion. The Brunot Agreement of 1873, for example, still had to be ratified by Congress and made the government accountable for the agreement’s stated compensation to the Utes. However, the Appropriations Act laid the groundwork for the government to abandon past obligations, a right that the Supreme Court granted to Congress in its 1903 decision *Lone Wolf v. Hitchcock*.

After the 1871 Appropriations Act, historian Mark G. Hirsch writes, “US repudiation of treaties and tribalism was steadfastly opposed by American Indians, who continued to identify themselves as members of autonomous, self-governing nations.” This resistance took many forms, from religious movements such as the **Ghost Dance** to outright refusal to participate in subsequent laws, such as the **Dawes Act of 1887**. In Colorado, the 1879 **Meeker Incident** stemmed from the Utes’ refusal to give up either their tribal identity or their sovereignty, especially because the latter was protected by treaty. While not opposing the Appropriations Act by name, these assertions of autonomy were responses to the denial of Indigenous self-determination that was codified in the 1871 Act.

The Dawes Act, which broke up collectively owned Indigenous reservations into individual lots, demonstrated Congress’s true intent with the Appropriations Act. Nothing in any treaty signed before 1871 gave the federal government the right to forcibly break up reservations, but after tribal sovereignty was nullified in the

Appropriations Act, Congress assumed the right to legislate on all matters concerning Indigenous affairs as it saw fit. By breaking up spiritually and culturally significant land that had been held collectively for generations, the Dawes Act dealt another crippling blow to Indigenous sovereignty in the late nineteenth century.

Legacy

By the end of the nineteenth century, indigenous nations within the United States had gone from having the rights due any other foreign country to having almost no right to exist. This process had been under way before 1871, but the Indian Appropriations Act of that year incorporated it into official government policy, opening the door for its rapid acceleration.

While no new treaties have been written since 1871, Congress did eventually restore some measure of Indigenous sovereignty in 1934 with the **Indian Reorganization Act** (IRA). However, because it forced tribes to hold votes and write their own Constitutions, many tribes correctly viewed the IRA as another government mandate. Even though most federally recognized tribes today have some form of self-government, the fight for Indigenous sovereignty denied in the 1871 Act continues. In New Mexico, for example, Indigenous people are resisting government-sponsored energy drilling near sacred sites on public land; in North Dakota they have protested government-imposed oil pipelines across treaty-protected land. Meanwhile, in Alaska and Colorado, tribes are lobbying for the power and resources to combat disproportionately high rates of sexual assault and other violent crime on federal reservations.

Author

Encyclopedia Staff

References

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From Casetext: Smarter Legal Research

United States v. Southern Pac. R. Co.

United States Court of Appeals, Ninth Circuit

Jun 22, 1891

46 F. 683 (9th Cir. 1891)

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683 *683 **46 F. 683 (S.D.Cal. 1891) UNITED STATES v. SOUTHERN PAC. R. CO. et al., (two cases.) United States Circuit Court, S.D. California. June 22, 1891**

Syllabus by the Court

The act of congress of March 3, 1871, authorized the Southern Pacific Railroad Company of California, subject to the laws of California, to construct a certain line of railroad, and granted it certain lands. The Southern Pacific Railroad Company, as it then existed, accepted said grant, and filed its plat of definite location in the proper office August 12, 1873. Said Southern Pacific Railroad Company, as authorized by the laws of California

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built was accepted by the president, and has performed, to the satisfaction of the government, all the services required of it under said act. Held, that said consolidated company if not, technically, is, substantially, the same company to which said act referred. *Affirming Railroad Co. v. Poole*, 12 Sawy. 544, 32 F. 451; *U.S. v. Railroad Co.*, and *U.S. v. Cotton, etc., Co.*, 45 F. 596.

Pursuant to state authority, recognized by and made a part of the congressional grant of March 3, 1871, the S.P.R.R. Co., April 15, 1871, filed 684 amended articles of *684 incorporation; and August 12, 1873, filed, together with the S.P. Branch R.R. Co., articles of amalgamation and consolidation, under the name of the S.P.R.R. Co. Held, that while in one sense a new corporation was formed, each was substantially and practically the same S.P.R.R. Co. mentioned in the acts of congress, and was so recognized by congress, and that the articles of amendment, amalgamation and consolidation were authorized by congressional as well as by state legislation.

Commissioners having from time to time been appointed to report in regard to the construction of the Southern Pacific Railroad, the road having been accepted by the president, and having been used by the government in the transportation of mail, military stores, etc. Held, that these acts were acts recognizing the defendant company as the S.P.R.R. Co. to which the act of March 3, 1871, applies, and that the defendant company, being subject to burdens imposed by the act, is entitled to the benefits conferred by it as a consideration for those burdens.

Act Cong. July 27, 1866, having expressly granted lands to the S.P.R.R. Co., its successors and assigns, it is held, that if the consolidated company, with the amended articles of incorporation, is not technically the same corporation, referred to in act March 3, 1871, it is within the express provisions of the grant, being the successor or assign of said company.

Inchoate grants were not contemplated by cor [redacted] vi [redacted]

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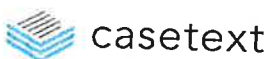
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The section of the act of Congress, 1871, granting lands to the Southern Pacific Railroad Company, provided that said section should in no way affect or impair the rights, present or prospective, of the Atlantic & Pacific Company. Held, that this language did not constitute an exception from the grant, nor a reservation in favor of the United States, but that it made the grant to the Southern Pacific Railroad Company subject and subordinate to any rights the Atlantic & Pacific Company, a prior grantee, may then have secured, or might thereafter acquire under the law.

The present and prospective rights of the Atlantic & Pacific Company were to secure the odd sections of land provided for along the line of the road they should build by actually building the road and earning the lands by performing the acts required. Their rights were to earn the lands, and not to obtain them without earning them.

As the Atlantic & Pacific Company never did comply with the condition of the grant to it, and as all of its rights thereunder became forfeited in 1886, by act of congress, because of such non-compliance, its rights have never ripened into an effective grant, and now they never can so ripen. The only condition imposed upon the grant to the Southern Pacific Railroad Company has thus become inoperative.

The Southern Pacific Railroad Company, having performed all the conditions required of it by the act of 1871, thereby acquired a right to the odd sections for the prescribed distance on each side of the road, subject only to be defeated by the Atlantic & Pacific Company having an older grant, and filing its map of definite location, and performing the other conditions necessary to earn the lands; but the Atlantic & Pacific Company never having performed said conditions, and its grant having been declared forfeited by congress, the lands never were granted to it, within the meaning of the act of congress, and the grant to the Southern Pacific Railroad Company therefore became effective and perfect without in any way affecting or impairing any rights of the Atlantic & Pacific Company.



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of the grant.

W. H. H. Miller, Atty. Gen., Willoughby Cole, U.S. Atty., and Joseph H. Call,
Sp. Asst. U.S. Atty.

Joseph D. Redding and Chapman & Hendrick, for defendants.

685 Before SAWYER, Circuit Judge, and ROSS, District Judge. *685 SAWYER, J.

These are suits brought against the Southern Pacific Railroad Company, and parties who have purchased the land described, and derived title thereto from the Southern Pacific Railroad Company, to determine the adverse claim of title to said lands and to restrain defendants from cutting timber thereon, or from hereafter setting up any claim of title to said lands. The lands involved in suit No. 177 are sections 1, 11, and 13 of township 3, and section 35 of township 4 N., of range 15 W., San Bernardino meridian; and those in suit No. 178, section 23, township 4 N., range 15 W., same meridian. These lands are claimed by defendants under the act of congress of March 3, 1871, 'to incorporate the Texas Pacific Railroad Co., and to aid in the construction of its road, and for other purposes.' 16 St. 573. Section 23 of said act is as follows:

'That for the purpose of connecting the Texas Pacific Railroad with the city of San Francisco, the Southern Pacific Railroad Company of California is hereby authorized (subject to the laws of California) to construct a line of railroad from a point at or near Tehachapa Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river, with the same rights, grants, and privileges, and subject to the same limitations, restrictions, and conditions as were granted to said Southern Pacific Railroad Company of California, by the act of July twenty-seven, eighteen hundred and sixty-six.' 16 St. 579.

Section 18 of the act conferring rights upon th

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...the laws of the state of California, is hereby authorized to connect with the said Atlantic & Pacific Railroad, formed under this act, at such point, near the boundary line of the state of California, as they shall deem most suitable for a railroad line to San Francisco, and shall have a uniform gauge and rate of freight or fare with said road; and in consideration thereof, to aid in its construction, shall have similar grants of land, subject to all the conditions and limitations herein provided, and shall be required to construct its road on the like regulations, as to time and manner, with the Atlantic & Pacific Railroad herein provided for.'

And the provision of the same act, made applicable to the Southern Pacific Railroad Company, and granting it lands putting it upon the same footing in all particulars with the Atlantic & Pacific Railroad Company incorporated by the same act, is as follows:

'And be it further enacted, that there be and hereby is granted to the Atlantic & Pacific Company, (substitute Southern Pacific Railroad Company,) its successors and assigns, for the purpose of aiding in the construction of said railroad and telegraph line to the Pacific Coast, and to secure the safe and speedy transportation of the mails, troops, munitions of war, and public stores, over the route of said line of railway and its branches, every alternate section of public land, not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile, on each side of said railroad line, as said company may adopt, through the territories of the United States, and ten alternate sections of land per mile on each side of said railroad whenever it passes through any state, and whenever, on the line thereof, the United States have full title, not reserved, sold, granted, or otherwise appropriated, *686 and free from pre-emption of other claims or rights, at the time the line of said road is designated by a plat thereof, filed in the office of the

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the interior, in alternate sections, and designated by odd numbers, not more than ten miles beyond the limits of said alternate sections, and not including the reserved numbers: provided, that if said route shall be found upon the line of any other railroad route, to aid in the construction of which lands have been heretofore granted by the United States, as far as the routes are upon the same general line, the amount of land heretofore granted, shall be deducted from the amount granted by this act.' 14 St. 294, Sec. 3.

Substitute in this section the words, 'the Southern Pacific Railroad Company' for the words, 'the Atlantic & Pacific Railroad Company,' and we shall have the grant to the Southern Pacific Railroad Company both by the act of 1866, and the act of 1871. Soon after the passage of the said act of March 3, 1871, to-wit: on April 3, 1871, the Southern Pacific Railroad Company as it then existed, designated the line of its road from Tehachapa Pass by way of Los Angeles, to Fort Yuma, on the Colorado river, which it on that day filed in the office of the commissioner of the general land-office, and thereby the grant under said act of congress attached to all the odd sections of land, to which it could attach under the provisions of said act of congress. Afterwards, on the 12th day of August, 1873, the said Southern Pacific Railroad Company, in all respects as authorized by the laws of the state of California, existing and in force before and at the time of the passage of said act of congress of March 3, 1871, incorporating the Texas Pacific Railroad Company, amalgamated and consolidated with several smaller companies as shown by Exhibits A, B, annexed to the bill of complaint in these cases; the said consolidated company being called by the name of 'The Southern Pacific Railroad Company,' a part of the object stated in said articles of amalgamation being to construct 'a line of railroad from a point at or near Tehachapa Pass by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river, a distance of three hundred and twenty-four miles as near as may be,' in pursuance of said provisions granting the right so to build a railroad to the [redacted] Pa [redacted]

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Pacific Railroad Company. The said amalgamated and consolidated company afterwards built the said railroad along the line so hereinbefore designated from Tehachapa Pass by the way of Los Angeles to the Colorado river, and fully completed the same within the time, and in all respects, as required by said act of congress; and the said several sections were examined from time to time, and reported upon to the president by commissioners appointed for the purpose, and the whole line accepted by 687 the president. Ever since its completion and acceptance, *687 the said road has performed to the satisfaction of the United States government, all the services, such as carrying the mails, transporting troops, supplies, etc., in all respects as required by the provisions of said act of congress incorporating the Texas Pacific Railroad Company; and said services have been accepted by the United States.

The Atlantic & Pacific Railroad Company, on March 12, 1872, long subsequent to the definite location of the line of the Southern Pacific line, and after it commenced building its road, filed in the office of the secretary of the interior-- not in the office of the commissioner of the general land-office--two maps of portions of a line of road in the state of California. These were the first maps of any part of the contemplated road in California ever filed. These maps are designated 'Master's Exhibits Nos. 122 and 127.' Some time subsequently, the said company filed in the same office, two other maps designated 'Master's Exhibits Nos. 130 and 131.' These are the only maps filed relating to the location of the California portion of the Atlantic & Pacific road. The Atlantic & Pacific Railroad Company never constructed any portion of the road authorized to be constructed by it, in the state of California; and for failure to construct said road or any part of it, congress, on July 6, 1886, passed an act declaring a forfeiture of all lands within the state of California, before granted to it, to aid in the construction of the road. 24 St. 123. The line of the Atlantic & Pacific Railroad, as shown upon said maps filed in the office of the secretary of the interior, crosses the line of the Southern Pacific Railroad as located

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the said Southern Pacific Railroad Company, respondent, which constructed its road as aforesaid, to the other respondents to this suit, and the title so conveyed, is now vested in them.

The first point made by complainants is, that the present Southern Pacific Railroad Company, which built the road after the amalgamation and consolidation with sundry smaller roads mentioned, under the same name as the old company, and professedly for the same purpose, made in pursuance of the statutes of the state of California, authorizing such consolidation and amalgamation, which statutes were in force at the date of the congressional grant in question, and prior to which consolidation the grant by congress was made, and which road was to be built in accordance with the laws of the state of California, is not the identical Southern Pacific Railroad Company, to which the act referred, and the grant was made, and therefore, that the defendant took nothing under the act of congress. This point is not new in this court, as it was fully considered and overruled in *Railroad Co. v. Poole*, 12 Sawy. 544, 545, 32 F. 451. Again, the point was made and earnestly urged in the southern district of California, in *U.S. v. Railroad Co. and U.S. v. Colton, etc., Co.*, and the district judge in an able opinion, concurred in, on this point, by the circuit judge, thoroughly examined the point, and overruled it, citing *688 with approval also, the case of *Railroad Co. v. Poole*, referred to, and affirming it. (14 Sawy. 623, 45 F. 596 et seq.) See, also, *Railroad Co. v. Orton*, 6 Sawy. 160, 32 F. 457. We shall adhere to the ruling made in these cases till the point is otherwise determined by the supreme court.

It is earnestly urged on the part of the respondents, that the filing in the office of the secretary of the interior, of the fragmentary maps of the location of the line of the contemplated Atlantic & Pacific road, and to points not authorized by the law, does not constitute a location of the line in such sense, or legal form, as to give any right whatever under the act, to the Atlantic & Pacific Company; and, that, it in no

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company, since, upon the view I take upon the rights of the parties, and of the effect of the act forfeiting the grant to the Atlantic & Pacific Company, it will not be necessary to decide the point raised.

The only remaining question is, whether, in view of all the facts of the case, the clause in the provision of section 23 in the act of 1871, 'that this section shall in no way affect or impair the rights, present, or prospective, of the Atlantic & Pacific Railroad Company, or any other railroad company,' or any clause in the act of 1866, under the facts of the case, defeats the grant to the Southern Pacific Railroad Company to these lands, which lie within the primary limits of the grant? This question did not arise in *U.S. v. Railroad Co. and U.S. v. Colton, etc., Co.*, 14 Sawy. 620, 45 F. 596. It is now directly presented however, and we address ourselves to its consideration and solution. In my judgment, neither the proviso to section 23 of the act of 1871, nor any provision of the act of 1866, defeats the title to the lands in question, in view of all the facts in the case. That proviso is as follows: 'Provided however, that this section shall in no way affect or impair the rights present or prospective of the Atlantic & Pacific Railroad Company, or any other company.' Now what is the fair import of this language? What was the intent of congress, in view of the important objects sought, in making the grant to respondents, in adopting this peculiar language? It is not the language of exception from the grant, of any lands that the Atlantic & Pacific Company might lay claim to without earning them under the statute. It is not the language of exception at all. On the contrary, it merely made the grant to defendant, subordinate, and subject to any rights, that the Atlantic & Pacific Company may then have secured, or might thereafter, acquire under the law, authorizing it to acquire lands, by the performance of the acts prescribed. Congress intended that the respondent should not interfere with any lands which that other company should lawfully earn. It simply intended to protect any rights, that it should acquire, by performing the
689 required acts. *689 What were 'the rights, present and prospective of the Atlantic & Pacific Railroad Company?' Their

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that this company should file a plat of a route for a railroad, and then play the role of the dog in the manger, and neither build the road itself, and thereby earn the lands, nor allow the respondents to build one, and earn the lands under another grant. The Atlantic & Pacific Company never did anything to earn these lands, except to file, what it was pleased to term a 'map of the location of its route,' six years after the date of the grant, and one year after the respondent had located its road under the grant, made five years subsequently, and after it had commenced building the road; and for failure to comply with the terms of the grant, by the Atlantic & Pacific Company, congress, in 1886, (24 St. 123, 124,) passed an act forfeiting its right to earn these lands altogether. Thus its rights 'present' and 'prospective,' have never ripened into an effective grant, and now they never can so ripen. They now have, and can have no further rights in these lands, whether the respondents get them or not. The building of its road, by the respondents, and earning these lands, which the other party has itself failed to earn, and now never can earn, can in no possible way 'affect or impair' any rights the other company now has, or ever did have. And had that company built the road, and earned the lands, the respondent would not have got them, for that would have been to affect or impair its rights.

The present right of the Atlantic & Pacific Company was to earn the lands by the performance of the required conditions, and the prospective rights, the right to have the lands when so earned. This is all there is of it, and it did neither. Now the grant to the Southern Pacific, being subject, and subordinate, to those rights, could not in any way, or in any degree, have affected, or impaired them, because the Atlantic & Pacific Railroad Company, had it performed the conditions would have taken the said land under the act. It utterly failed to perform the conditions, and all its rights have been forfeited, and now the patenting of the lands to the Southern Pacific cannot in any way possible affect any of these rights which do not now exist. Thus the rights of the Atlantic & Pacific Company present or prospective, never could have been affected by

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the prior valid claim, had the work been performed. The prior claimant failed to acquire any real right to the lands, by earning them, and they were forfeited and left to the respondent to earn under its grant, and it has faithfully earned them without in the slightest degree 'affecting or impairing any prior rights' 'present or prospective,' and it now cannot impair them. It seems to me, that the respondent is justly entitled to these lands under its grant. An exception, from a grant, is an entirely different matter from taking a grant subject to other claims or rights, as is, manifestly, the case here. When the other claims are satisfied, or lost, the grantee, subject to those rights, takes what is left. The proviso in section 23 of the act of 1871, seems to me, clearly to prescribe all the limitations intended by congress in that act to be put upon the grant to respondent. It is specific and clear on this point, and, only intended to be subject to any rights that should be actually acquired and perfected under any prior act. The reference to the act of 1866, does not modify the provision in this particular section. It puts no restriction upon respondent, not expressly put upon the Southern Pacific Company by the act of 1866, and that act, in the precise language used, taken literally, or substantially, does not affect this point. In that act, the Southern Pacific Company was put upon the precise footing with the Atlantic & Pacific Company. Both took under the same act, upon equal terms. In the act of 1871, the Southern Pacific Company was put upon the same footing as the Southern Pacific Company was put by the act of 1866. The proviso in section 3 of the latter act is

'That if said route shall be found upon the line of any other railroad route, to aid in the construction of which lands have been heretofore granted by the United States, as far as the routes are upon the same general line, the amount of land heretofore granted shall be deducted from the amount granted by this act.'

The language is 'have been heretofore granted;' that is to say, granted before the passage of the act of 1866, not the act of 1871.

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language of the acts. But the line of the Southern Pacific road is not on the line of the 'Atlantic and Pacific' route as designated on what is claimed to be its map of location. The two roads are not 'upon the same general line.' They simply cross each other. But again: The fair construction of this proviso, and as it was intended by congress, in view of the object sought, is, that 'lands that have heretofore been granted,' and 'the amount of land' to be dedicated, means lands that have been effectively granted, and to which the title has passed, or shall effectively pass out of the United States, and finally become effectively vested in the grantees upon the performance of the prescribed conditions. It does not mean inchoate grants, that are not finally perfected--grants that become forfeited by failure to earn them by performing the prescribed conditions or any of them. These do not, ultimately, become grants at all, within the meaning of the act, and intent of congress. Congress was anxious to procure the construction of these great works, for military, mail-carrying, and other uses, and thereby also develop the resources of the country, and make a market for the public *691 lands. It contributed nothing, because it received double price for the even sections. In these provisions, it was, only solicitous to protect the vested rights of prior grantees in lands fairly earned in constructing works of a similar kind in pursuance of a similar policy. It did not seek, by forfeitures, to evade its obligations to subsequent roads, and thereby increase its own property, at the expense of those who, actually carry out the objects of the law, and fairly earn the lands intended for them. We cannot attribute any such unworthy purpose, or motive to congress. It manifestly, intended, that the subsequent grantees should take the odd sections subject only to prior rights, and when the prior grants failed, and finally, became no grants, by reasons of a failure to perform the conditions necessary to perfect the grant, and when no rights can possibly be further affected by the grant to the subsequent grantee, that the latter, upon complying with the terms of its grant should have the lands, not ultimately, or effectively granted under the prior acts of congress. Effective, completed grants only, are contemplated in this proviso

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sections of land along the general line of its route, upon building the road as required, but upon no other conditions. The grantee did not, for six years, do anything to locate its road in the state of California, or earn the grant. The act of 1871 was passed, making a similar grant to respondent, subject however to any prior rights of the other company. Within a month it filed its map of location, and immediately, went to work and continued till it performed all the required conditions, had its road completed, and accepted by the president, and earned its lands. By filing its map of definite location, it acquired a right to the odd sections for the prescribed distance on each side of the road, subject only to be defeated by the Atlantic & Pacific Company, having an older grant, by filing its map of definite location, and then performing the other conditions necessary to earn the lands. At the time of locating the Southern Pacific line, there was nothing to indicate that the Atlantic & Pacific would ever move in the matter. A year afterwards, and six years after the date of its grant, the Atlantic & Pacific Company filed what is claimed to be its definite location; and by that act, if properly done, and not already too late, under the law, it acquired what? Not a perfect, or complete title, to the land but at most a temporary provisional title, with a right to build the road, earn the lands, along its line, perfect its title, and defeat the right of the respondents to acquire the land. But it did nothing more, and, after waiting 20 years for it, without anything more being done, congress passed the act referred to, forfeiting its grant, and the lands never were fully granted--never became granted, within the reasonable meaning of the act of congress providing for deducting therefrom subsequent grants, and thereby the grant to respondents became effective and perfect, without in the slightest degree, or 'in any way,' 'affecting' or 'impairing any right,' 692 'present or prospective' of the *692 Atlantic & Pacific Company, or any other prior grantee. If this be not the true view of the case, then no lands could have been acquired by the respondents under its grants, and the act, purporting to be a grant, as to it, was a dead letter-- a mere illusion; for, if the acts mentioned, performed by the Atlantic & Pacific Company, at that

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latter grant.

I am, therefore, of the opinion, that the earning and acquiring of these lands by the respondents, under the conditions shown by the record, in no way affected, or impaired, the 'rights present or prospective,' of the Atlantic & Pacific Railroad Company, or any other, within the meaning of the act of congress; and that, these lands are not lands heretofore, or at any time, granted by the act of congress in such sense as to require them to be deducted along the general line of the road, or otherwise, within the meaning of the acts of congress of 1866, and 1871, or of either of them.

Upon the views expressed, the amended bills must be dismissed, and it is so ordered, without costs.

ROSS, J.

These cases have been argued and submitted together. The suits are brought to quiet the complainant's alleged title to certain lands and to enjoin defendant from asserting or claiming any title thereto. The lands are claimed by the defendant by virtue of the act of congress of March 3, 1871, entitled 'An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes.' 16 St.U.S. 573. By the 23d section of that act it was provided as follows:

'That for the purpose of connecting the Texas Pacific Railroad with the city of San Francisco, the Southern Pacific Railroad Company of California is hereby authorized (subject to the laws of California) to construct a line of railroad from a point at or near Tehachapa Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river, with the same rights, grants, and privileges, and subject to the same limitations, restrictions, and conditions as were granted to said Southern Pacific Railroad Company of California by the act of July 27, 1866, provided, however, that this section shall in

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thereby authorized to build, and proceeded to build it and completed its construction, to the satisfaction of the government, in January, 1878. It thereby earned the lands embraced by the grant to it. The point that the present Southern Pacific Railroad Company is not the same Southern Pacific
693 Railroad Company to which the act of *693 March 3, 1871, applied, was decided against the government in the recent cases of *U.S. v. Railroad Co. and U.S. v. Colton, etc., Co.*, 45 F. 596, (March 6, 1891.) The reasons for so holding were given at length in the opinions then rendered, and need not now be repeated.

It is admitted that the lands in controversy in the present suits are situated within 20 miles of the line of road so located and built by the Southern Pacific Company, but as they are also within 20 miles of the line that the Atlantic & Pacific Railroad Company, under the act of congress of July 27, 1866, designated for its road, it is earnestly contended on behalf of the government that they are excluded from the grant to the Southern Pacific Company. When the cases of *U.S. v. Railroad Co. and U.S. v. Colton, etc., Co.*, 39 F. 132, were before the court on demurrers to the bills-- the lands then involved being within the indemnity limits of the Atlantic & Pacific grant and within the primary limits of that of the Southern Pacific Company-- it was said:

'Had they been situated within 20 miles of the designated route of the Atlantic & Pacific Company they would clearly have fallen within the grant to that company and consequently have been excluded from the subsequent grant to the Southern Pacific Company; for, if the construction above put upon the act of July 27, 1866, be the correct one, every alternate section of public land, designated by odd numbers, within 20 miles of the line of the road, as definitely fixed, would have passed to the Atlantic & Pacific Company as of the date of its grant.'

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and to be decided. The grant to the Atlantic & Pacific Company was the prior grant-- it having been made by the act of July 27, 1866, entitled 'An act granting lands to aid in the construction of a railroad and telegraph line in the states of Missouri and Arkansas to the Pacific coast.' 14 St.U.S. 293. By that act the Atlantic & Pacific Company was authorized to construct a railroad

'Beginning at or near the town of Springfield, in the state of Missouri, thence to the western boundary of said state, and thence, by the most eligible railroad route as shall be determined by the said company, to a point on the Canadian river; thence to the town of Albuquerque on the river Del Norte, and thence by way of the Agua Frio or other suitable pass to the head-waters of the Colorado Chiquito, and thence along the 35th parallel of latitude, as near as may be found most suitable for a railroad route, to the Colorado river at such point as may be selected by said company for crossing; thence by the most practicable and eligible route to the Pacific.'

To aid in the construction of the road there was granted to the Atlantic & Pacific Company, by the third section of the act, every alternate section of public land, not mineral, designated by odd numbers, to the amount of 10 sections on each side of the road whenever it passes through a state

'And whenever on the line thereof the United States have full title, not reserved, sold, granted, or otherwise appropriated, and free from pre-emption *694 or other claims or rights, at the time the line of said road is designated by a plat thereof filed in the office of the commissioner of the general land-office, and whenever,' etc.

The Atlantic & Pacific Company did nothing towards locating its line of road in California until March 12, 1872, and never did do anything towards building it; in consequence of which congress, in 1886, passed an act declaring its land grant forfeited. In the mean time, that is to say, March 3, 1871, the grant under which the defendant co

Search all cases and statutes...

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Opinion Case details

non-mineral in character, as should fall within the designated limits and be, at the time the line of its road should be designated by a plat thereof filed in the office of the commissioner of the general land-office, not reserved, sold, granted, or otherwise appropriated and free from pre-emption or other claims or rights. No valid reason, therefore, existed why congress could not include the lands in controversy in the grant it made to the Southern Pacific Railroad Company. Did it do so? The act of March 3, 1871, refers to that of July 27, 1866, for the terms of the grant thereby made to the Southern Pacific Company to aid it in building a road from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river, for the purpose of connecting the Texas Pacific Railroad with the city of San Francisco. The grant was for 10 odd-numbered sections of public land, not mineral, on each side of the road. As has already been said, the lands in controversy here were at that time public lands of the United States. They are within 20 miles of the line of road the Southern Pacific Company was by the act of March 3, 1871, authorized to locate and build and which it did locate and build and which the government accepted as having been built in compliance with the terms of that act and which it has since used for its own purposes. The lands in controversy are therefore within the primary limits of that grant and justly belong to the Southern Pacific Company unless there be something in the act of March 3, 1871, excluding them from the grant thereby made to it. It is urged that such exclusion is effected by the concluding clause of the section making the grant, which is in these words: 'Provided, however, that this section shall in no way affect or impair the rights, present or prospective, of the Atlantic & Pacific Railroad Company, or any other railroad company.'

It is plain that this clause is not in the form of an exception from the grant. Congress was, of course, aware of its previous grant to the Atlantic & Pacific Company of date July 27, 1866, and being desirous of making that to the Southern Pacific Company subordinate and subject to its previous grants, inserted the proviso that the grant to the South

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Southern Pacific Company should be excluded from that grant. It was not to reserve anything to the United States, but to protect the 'present and prospective' rights of the Atlantic & Pacific Company and any other railroad company to which congress may have made grants of lands that the proviso was inserted. Had the line of road the Atlantic & Pacific Company was authorized to build by the act of July 27, 1866, been definitely located at the time of the grant to the Southern Pacific Company of March 3, 1871, and had the Atlantic & Pacific Company thereafter built its road and thereby earned the lands covered by its grant, the lands in controversy would have gone to it without regard to the proviso in question; for its grant which would have attached to such lands at the time of the definite location of the route of its road would have been perfected by the building of the road and the title thus perfected have related back to the date of the grant, July 27, 1866, and of course have excluded any subsequent grant covering the same lands. But the Atlantic & Pacific Company had not designated the route of its road at the time of the grant to the Southern Pacific Company of March 3, 1871. It might do so, however, thereafter and might build the road it was authorized to build and thereby earn the lands embraced by the grant to it of July 27, 1866. It had a 'present and prospective' right to do so. If it did both of those things, it would be entitled to the lands granted to it by that act. If it did not do both of those things, it would not be so entitled and the lands would remain as they then were, public lands of the United States. Congress, therefore, in making its grant to the Southern Pacific Company of March 3, 1871, made it subject to those 'present and prospective' rights. Had they been perfected by a compliance on the part of the Atlantic & Pacific Company with the conditions on which they were based, the title to the lands in controversy would have become vested in the Atlantic & Pacific Company as of date July 27, 1866. But as that company never did comply with the conditions of the grant and as all of its rights thereunder became forfeited in 1886 by act of congress because of such non-compliance, there remain no rights of that company to be, or that ever can be affected or

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United States any land that would otherwise be included in the granting clause of the act. The lands in controversy were public lands of the United States at the time of that grant; the terms of the granting clause include them, provided, only, that the grant be without prejudice to the present or prospective rights of the Atlantic & Pacific Railroad Company, or any other railroad company. The Atlantic & Pacific Company having forfeited its right to earn the lands in question by failing to build the road it was required to build as a consideration for the grant, it never acquired any title thereto

Page 696.

and thenceforward there remained no right, 'present or prospective,' to be affected or impaired. When its rights became forfeited (there being no pretense that the case is affected by the rights of any other railroad company than those herein spoken of) there came to an end the only condition imposed by congress upon the grant to the Southern Pacific Company of March 3, 1871.

These views render it unnecessary to determine the question elaborately and ably argued by counsel as to whether there ever was a valid designation of the route of the proposed road of the Atlantic & Pacific Company.

I concur in the dismissal of the amended bill in each case, without costs, and wish to add that I would not have written this brief opinion had I known the circuit judge was engaged in the preparation of an opinion; but as each of us reached the same conclusion in a separate examination of the cases, at his suggestion both opinions are filed.

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303-299-8474

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TITLE OF DOCUMENT

**EASEMENT DEED BY COURT ORDER
IN SETTLEMENT OF LANDOWNER ACTION**

23
(34)

**THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION
(GOVERNMENT CODE § 27361.6)**

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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

TODD SMITH, DIRK REGAN and CAROL
REGAN, JACQUELYN SHELDRIK,
GLENN L. BOOM, and WILLIAM NELSON
and LINDA NELSON, INDIVIDUALLY AND
AS REPRESENTATIVES OF A CLASS OF
PERSONS SIMILARLY SITUATED,

Plaintiffs,

v.

QWEST COMMUNICATIONS COMPANY,
LLC; SPRINT COMMUNICATIONS
COMPANY L.P.; LEVEL 3
COMMUNICATIONS, LLC; and WILTEL
COMMUNICATIONS, LLC,
Defendants.

CASE NO. 3:11-cv-02599-TEH

ECF DOCUMENT
I hereby attest and certify this is a printed copy of a
document which was electronically filed with the United States
District Court for the Northern District of California.
Date Filed: **JUN 27 2013**
By: RICHARD W. WIEKING Clerk
[Signature] Deputy Clerk

**EASEMENT DEED BY COURT ORDER
IN SETTLEMENT OF LANDOWNER ACTION**

WHEREAS, the parties to the above-captioned class action (the "Action") entered into a California Class Settlement Agreement, as of September 5, 2012, (the "Settlement Agreement") (terms capitalized herein and not otherwise defined shall have the meanings ascribed to them in the Settlement Agreement);

WHEREAS, on June 24, 2013, the Court entered a final Order and Judgment approving the Settlement Agreement and ordering that this Action may be settled as a class action on behalf of the following class:

[A] class under the Settlement Agreement (the "Settlement Class"), defined as follows:

a class comprising all Persons who own or who claim to own, for any period of time during a Compensation Period, any Covered Property, except for: (1) Right-of-Way Providers and their predecessors, successors, parents, subsidiaries, and affiliates, past or present; (2) federal, state, and local governmental entities; (3) Native American nations and tribes; or (4) any Person who files a valid and timely exclusion on or before the Opt-Out Deadline.

1 Members of this Class are referred to below as Class Members; and
2 WHEREAS, the Settlement Agreement provides for the entry of an Easement Deed by
3 Court Order in Settlement of Landowner Action by which the Settling Defendants acquire, to the
4 extent that Class Members have the right to transfer it, a permanent telecommunications
5 easement in the Right of Way adjacent to the property of each Class Member;
6

7 THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED THAT:

8 1. To the extent that each Class Member owns rights in the Easement Premises (as
9 hereafter defined), the Class Member (the "Grantor") hereby grants to whichever of Sprint
10 Communications Company L.P., Qwest Communications Company, LLC, Level 3
11 Communications, LLC, and WiTel Communications, Inc. has Designated for inclusion under a
12 Settlement Agreement the Right of Way which adjoins, underlies or includes Covered Property
13 owned by the Class Member, together with its successors, assigns, and licensees (the "Grantee"),
14 a permanent telecommunications easement in the Easement Premises. For each county in which
15 this Easement Deed by Court Order in Settlement of Landowner Action is being recorded, a list
16 of affected Class Members and their affected parcels is attached as Exhibit 1. Exhibit 1 shall
17 describe Class Members' affected parcels with the following information, to the extent that it is
18 in the Database of Identification Information: owner name; owner mailing address; tax map
19 identification number; tax parcel identification number; lot number; and section, township, and
20 range. Exhibit 1 may describe Class Members' affected parcels with any other available
21 information.
22

23
24 2. The terms and conditions of the permanent telecommunications easement that is
25 the subject of this Easement Deed by Court Order in Settlement of Landowner Action are:
26 a perpetual easement and right of way (hereinafter, together with the rights and privileges
27 herein granted, the "Easement") and right to place, lay, bury, construct, install, operate, repair,

1 maintain (including aerial patrol), renew, rebuild, replace, upgrade, expand, relocate, and remove
2 fiber optic cables, copper cables, coaxial cables or other cables through which voice, data, video
3 or other signals are transmitted, conduits, inner ducts, hand holes, splice vaults, poles, optical or
4 electronic equipment, regenerator huts, marker posts or signs, and other related facilities
5 appropriate for installation, use, or maintenance of such cables (collectively, the
6 "Telecommunications Cable System"), in, on, over, under, through and/or across the Easement
7 Premises. The Easement Premises means all that real property that (a) either (i) is included
8 within a parcel of property that is described in Exhibit 1 or (ii) has a common boundary with a
9 parcel of property described in Exhibit 1 (the "Grantor's Property") (for purposes of this
10 Telecommunications Cable System Easement Deed, a parcel of property shall be deemed to have
11 a common boundary with the Easement Premises if it is separated by a non-navigable river or a
12 street, road, or highway, other than a numbered state or federal highway) and that (b) (i) is or
13 was used as a railroad right of way ("Railroad Right of Way") and (ii) is on a side of the
14 centerline of the Railroad Right of Way that is next to the Grantor's Property (the "Grantor
15 Side"), and (iii) extends no more than ten (10) feet on each side of the Grantee's
16 Telecommunications Cable System (A) as it existed on November 21, 2012 (B) where the
17 actively used components of the Grantee's Telecommunications Cable System are moved or
18 placed, provided, however, that only a single 20-foot easement per moved component may exist
19 at any point in time in the Easement Premises, and the width of the moved component's
20 Easement Premises shall be reduced on one side and increased by an equal linear footage on the
21 other side wherever necessary in order that it shall in all places remain solely within the limits of
22 a single Grantor Side of the Railroad Right of Way, and (C) where new components are installed
23 to connect the existing Telecommunications Cable System to the edge of the Right of Way. The
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1 Easement shall be construed to grant Grantee all rights necessary to abandon in place unused
2 components of Grantee's Telecommunications Cable System.

3 The Easement shall not include the right to construct on the Easement Premises
4 regenerator huts and similar structures ("Buildings") in addition to those existing on November
5 21, 2012. The Easement shall include the rights to repair, replace, and expand existing
6 Buildings, provided, however, that no such repair, replacement, or expansion shall increase the
7 site that the Buildings occupy, or the height of any Building, by more than twenty-five percent.
8 The Easement does not permit the construction of microwave towers, cell towers, or other
9 components of a primarily aboveground statewide Telecommunications Cable System.
10

11 The Easement includes the right to temporarily use the entire Grantor Side of the
12 Railroad Right of Way for construction or maintenance, so long as Grantee uses its best efforts
13 not to interfere with any real property which, although within the boundaries of the Easement
14 Premises, is actually being used by Grantor; provided, however, that in no event shall Grantee be
15 prohibited from using such real property if it is commercially reasonable to do so under the
16 circumstances or if Grantee's Telecommunications Cable System is currently located within such
17 area. The Easement shall include the right of reasonable ingress and egress to and from the
18 Easement Premises over that portion of the Grantor's real property that underlies the Railroad
19 Right of Way and, for repair and maintenance, over any existing private roads of Grantor, where
20 access from public or railroad roads is not reasonably practical, provided Grantee has made
21 commercially reasonable efforts to give prior notice to Grantor of Grantee's use of Grantor's
22 private roads. Grantee shall not be liable for damages caused by its removal of trees,
23 undergrowth, and brush within the Easement Premises necessary or appropriate for the
24 enjoyment of the Easement. Nothing contained herein shall constitute a waiver of any right that
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1 Grantor may have for any damages to Grantor's property outside of the Easement Premises
2 caused by Grantee's action. If Grantee's action causes damage to any of Grantor's existing
3 improvements, including houses, garages, shops, sheds, and fences, or growing crops, which are
4 within the Easement Premises, Grantee shall pay reasonable compensation to the Grantor for
5 such damage to the extent provided by law.

6
7 From and after June 24, 2013, subject to all the restrictions and limitations stated herein,
8 the Easement includes the right to construct and install additional components of a
9 Telecommunications Cable System within the Easement Premises. Grantee agrees that unless
10 (a) it is required to do so by the railroad or other owner of Railroad Right of Way or (b) it is
11 commercially reasonable under the circumstances to do so, it will not install additional
12 components of a Telecommunications Cable System in the area of the Easement Premises that is
13 outside a parallel fence constructed by the railroad or other owner of Railroad Right of Way or is
14 actually being used by the Grantor or its successor, provided, however, that the foregoing shall
15 not be binding upon Grantee if Grantee's Telecommunications Cable System is currently located
16 within such area. If Grantee's action causes damage to any of Grantor's existing improvements,
17 including houses, garages, shops, sheds, and fences, or growing crops, which are within the
18 Easement Premises, Grantee shall pay reasonable compensation to the Grantor for such damage
19 to the extent provided by law.
20

21 The Easement includes all rights necessary to the lawful occupation of the Easement
22 Premises by an existing Telecommunications Cable System, and by any additional
23 Telecommunications Cable System that is constructed and installed by or on behalf of Grantee in
24 the Easement Premises and that is owned or operated by either (a) Grantee or (b) any person or
25 entity to which Grantee sold, granted, leased, or otherwise transferred or may hereafter sell,
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1 grant, lease, assign, or otherwise transfer, all or any part of the rights in or use of such
2 Telecommunications Cable System.

3 The Easement, however, does not apply to any Telecommunications Cable System that
4 existed on November 21, 2012, but that was acquired by Grantee after that date (unless such
5 Telecommunications Cable System or component thereof was acquired from any of Sprint
6 Communications Company L.P.; Qwest Communications Company, LLC, f/k/a Qwest
7 Communications Corporation; Level 3 Communications, LLC, Level 3 Communications, Inc.,
8 and Level 3 Telecom Holdings, Inc.; WiTel Communications, Inc.; WiTel Communications,
9 LLC; and Williams Communications, LLC, f/k/a Williams Communications, Inc., f/k/a Vyvx,
10 Inc.).
11

12 No oil, gas, or other mineral rights are granted and no existing oil, gas, or other mineral
13 rights are expanded, limited, or affected by this instrument, provided, however, that Grantor shall
14 not use a method of extraction that interferes with or impairs in any way the Easement, the
15 Telecommunications Cable System, or the exercise of Grantee's rights herein.
16

17 Grantor shall not, nor shall Grantor authorize others to, construct or create any road,
18 reservoir, excavation, obstruction, structure, or building or change the land grade on, in, over,
19 under, through, or across the Easement Premises without the prior written consent of Grantee,
20 provided that nothing herein shall be construed to affect the rights and obligations of any railroad
21 with respect to the use, improvement, or alteration of its Railroad Right of Way, as provided in
22 any agreement between the railroad and the Grantee, by applicable law, or otherwise.
23

24 It is understood and agreed that the Easement is not exclusive and is subject to all pre-
25 existing uses and pre-existing rights to use the Easement Premises, whether such uses are by
26 Grantor or others and whether for surface uses, crossings, or encroachments by communication
27

1 companies or utilities. It is further understood and agreed that Grantor retains all of its existing
2 rights, if any, to grant, convey, assign, and restrict any and all rights (including future rights and
3 uses) on the Easement Premises, provided, however, and notwithstanding the foregoing, that
4 Grantor shall not use or authorize others to use the Easement Premises in a manner that interferes
5 with or impairs in any way Grantee's Telecommunications Cable System or the exercise by
6 Grantee of the rights granted herein.
7

8 Subject to the terms hereof, Grantee shall have all other rights and benefits necessary or
9 useful to the full and complete enjoyment and use of the Easement for the purposes stated herein,
10 including the right to sell, grant, lease, or otherwise transfer all or any part of the rights in or use
11 of the Telecommunications Cable System.
12

13 Grantor conveys the Easement without warranty of title to any property interest in the
14 Easement Premises. This instrument does not address and shall not affect any real property
15 rights, including the priority of interests, between Grantor and any railroad or between Grantee
16 and any railroad, or any of their predecessors, successors, past or present predecessors in interest,
17 successors in interest, successors in title, members, partners, parents, subsidiaries, affiliates,
18 lessees, assigns, and past, current, or future licensees or assignees. This Easement is not
19 intended to impact or diminish any railroad's existing rights or property interests in the Right of
20 Way. This Easement shall not be construed to permit Grantee to interfere with railroad
21 operations. This Easement also shall not permit any component of a Telecommunications Cable
22 System to remain in a Railroad Right of Way except (a) under existing or future agreements with
23 the railroad or (b) in any Railroad Right of Way in which no railroad operates and no railroad
24 retains any right, title, or interest. This Easement also shall not permit any new components to
25 be installed to connect the existing Telecommunications Cable System to the edge of the Right
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1 of Way in any Railroad Right of Way as to which the Interstate Commerce Commission or the
2 Surface Transportation Board has entered an order, pursuant to 49 U.S.C. § 10903, that the
3 railroad is authorized to cease to provide or maintain rail service over that right of way and the
4 railroad no longer provides or maintains rail service over that line, provided that if the railroad
5 does not cease such rail service or later reactivates such service, then this limitation shall not
6 apply.
7

8 This Telecommunications Cable System Easement Deed is executed and delivered on
9 behalf of Grantor for the purpose of granting the Easement to Grantee in, on, over, under,
10 through and/or across the Easement Premises to the full extent of Grantor's right, title or interest,
11 if any, in or to the Easement Premises, and the Easement granted hereby shall affect the
12 Easement Premises only to the extent of Grantor's right, title, and interest therein. Grantor and
13 Grantee agree that this Telecommunications Cable System Easement Deed shall not grant any
14 rights to the Easement Premises, or any portion thereof, in which Grantor holds no right, title or
15 interest.
16

17 No rights reserved to Grantor herein shall be deemed to expand rights reserved to Grantor
18 under any other easement, right of way, license, lease, or any similar instrument or court order.
19 No limitation herein on the rights of Grantee shall be deemed to limit rights heretofore granted
20 by Grantor or its predecessors in interest under any other easement, right of way, license, lease,
21 or any similar instrument or court order.
22

23 The terms and provisions of this instrument shall constitute covenants running with the
24 land and shall be binding upon and inure to the benefit of the Settling Defendants, the Grantor,
25 their successors, assigns, personal representatives, and heirs.
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This instrument fully sets forth the terms and conditions of the Easement. There are no oral or other written agreements between Grantor and Grantee that modify, alter, or amend this instrument.

TO HAVE AND TO HOLD the Easement, rights and privileges unto Grantee, its successors and assigns in perpetuity or until such time as Grantee shall cause the Easement to be released of record.

3. Settling Defendants may record this Easement under the terms and conditions set forth in the Settlement Agreement.

Date: 6/27/13



Honorable Thelton E. Henderson, Judge
United States District Court

Grantee's Name: Qwest as defined in the "Settlement Agreement" referenced in the text of the Easement Deed by Court Order in Settlement of Landowner Action. That Settlement Agreement defines "Qwest" to include: (1) Qwest Communications International Inc., (2) Qwest Communications Corporation now known as Qwest Communications Company, LLC, and (3) all of these entities' predecessors, successors, assigns, parents, affiliates and subsidiaries.

Grantee's Address: 700 West Mineral Avenue, Littleton, Colorado 80120

EXHIBIT 1

IMPERIAL COUNTY

LIST OF AFFECTED PARCELS¹

Assessor's Parcel No.	T-R-S	Owner's/Grantor's Name	Owner's/Grantor's Mailing Address ²
021-160-017	11S-14E-3	Southern Pacific Pipe Lines Partnership	888 So Figueroa St, Los Angeles, CA 90017
021-160-020	11S-14E-3	TNT Enterprises Inc	PO Box 427, Wildomar, CA 92395
021-280-003	11S-14E-10	Juan Chavez	PO Box 642, Calipatria, CA 92233
021-280-005	11S-14E-10	Y Ranches	PO Box 267, Calipatria, CA 92233
021-280-010	11S-14E-10	IID - Trust Lands	PO Box 937, Imperial, CA 92251
021-290-013	11S-14E-12	IID - Trust Lands	PO Box 937, Imperial, CA 92251
021-290-015	11S-14E-11	IID - Trust Lands	PO Box 937, Imperial, CA 92251
021-321-004	11S-14E-15	Anna S Sandhu Tr et al	6212 Commodore Ln, Oklahoma, OK 73162
021-331-002	11S-14E-15	TNT Enterprises Inc	PO Box 427, Wildomar, CA 92395
021-331-003	11S-14E-15	IID - Trust Lands	PO Box 937, Imperial, CA 92251
021-331-004	11S-14E-15	IID - Trust Lands	PO Box 937, Imperial, CA 92251
021-340-003	11S-14E-13	Andrew & Marlene Currier	290 River Wood Dr, Brawley, CA 92227
022-020-005	11S-14E-22	IID - Trust Lands	PO Box 937, Imperial, CA 92251

¹In accordance with Paragraph 1 of the Easement Deed by Court Order in Settlement of Landowner Action (the "Court Order"), Qwest prepared this Exhibit 1 and attached it to the Court Order.

²The owner's/grantor's mailing address is not necessarily the same as the affected parcel's address.

IMPERIAL

Assessor's Parcel No.	T-R-S	Owner's/Grantor's Name	Owner's/Grantor's Mailing Address ²
022-020-009	11S-14E-22	Dennis & Orvin Lambert	PO Box 158, Montrose, CO 81402
022-110-006	11S-14E-27	TNT Enterprises Inc	PO Box 427, Wildomar, CA 92395
022-110-007	11S-14E-27	IID - Trust Lands	PO Box 937, Imperial, CA 92251
022-110-008	11S-14E-27	IID - Trust Lands	PO Box 937, Imperial, CA 92251
022-110-009	11S-14E-27	TNT Enterprises Inc	PO Box 427, Wildomar, CA 92395
022-170-004	12S-14E-3	TNT Enterprises Inc	PO Box 427, Wildomar, CA 92395
022-170-005	12S-14E-3	SM me LLC	111 Woodmere Rd, Folsom, CA 95630
023-020-015	12S-14E-10	F L & Deanie Johnson	2327 Hwy 86, Imperial, CA 92251
023-020-016	12S-14E-10	James R & Barbara A Smith	1593 Gonder Rd, Brawley, CA 92227
023-101-003	12S-14E-15	TNT Enterprises Inc	PO Box 427, Wildomar, CA 92395
023-101-004	12S-14E-15	Williams First Choice Onion Properties LLC et al	PO Box 1058, Nuevo, CA 92567
023-130-004	12S-14E-15	Golden Eagle Hay Co Inc	PO Box 467, Calipatria, CA 92281
023-130-005	12S-14E-15	Chavez Bros	PO Box 1545, Calipatria, CA 92233
023-141-002	12S-14E-15	TNT Enterprises Inc	PO Box 427, Wildomar, CA 92395
023-141-006	12S-14E-15	Superior Land & Cattle Co	PO Box 1828, Calipatria, CA 92233
023-201-002	12S-14E-15	TNT Enterprises Inc	PO Box 427, Wildomar, CA 92395
023-201-003	12S-14E-15	Superior Land & Cattle Co	PO Box 1828, Calipatria, CA 92233
023-261-002	12S-14E-15	TNT Enterprises Inc	PO Box 427, Wildomar, CA 92395
023-261-003	12S-14E-15	Superior Land & Cattle Co	PO Box 1828, Calipatria, CA 92233
023-331-002	12S-14E-15	TNT Enterprises Inc	PO Box 427, Wildomar, CA 92395
023-331-003	12S-14E-15	Superior Land & Cattle Co	PO Box 1828, Calipatria, CA 92233
023-380-003	12S-14E-15	Superior Land & Cattle Co	PO Box 1828, Calipatria, CA 92233
023-380-007	12S-14E-15	TNT Enterprises Inc	PO Box 427, Wildomar, CA 92395
023-380-008	12S-14E-15	Superior Land & Cattle Co	PO Box 1828, Calipatria, CA 92233
023-391-002	12S-14E-15	TNT Enterprises Inc	PO Box 427, Wildomar, CA 92395
023-391-005	12S-14E-15	Superior Land & Cattle Co	PO Box 1828, Calipatria, CA 92233
023-391-006	12S-14E-15	Superior Land & Cattle Co	PO Box 1828, Calipatria, CA 92233
024-260-031	12S-14E-22	Thomas Young et al	PO Box 537, Homer, AK 99603
024-260-059	12S-14E-22	Supr Terminal LLC	PO Box 509, Calipatria, CA 92233

¹In accordance with Paragraph 1 of the Easement Deed by Court Order in Settlement of Landowner Action (the "Court Order"), Quest prepared this Exhibit 1 and attached it to the Court Order.

²The owner's/grantor's mailing address is not necessarily the same as the affected parcel's address.

IMPERIAL

Assessor's Parcel No.	T-R-S	Owner's/Grantor's Name	Owner's/Grantor's Mailing Address ²
024-260-061	12S-14E-22	EZ Properties LLC	2506 Kentia St, Oxnard, CA 93036
024-290-004	12S-14E-27	IID - Trust Lands	PO Box 937, Imperial, CA 92251
024-290-021	12S-14E-27	Herbert J & Elizabeth L Bool	6844 N 36th St, Phoenix, AZ 85018
024-290-022	12S-14E-27	Herbert J & Elizabeth L Bool	6844 N 36th St, Phoenix, AZ 85018
024-290-025	12S-14E-27	TNT Enterprises Inc	PO Box 427, Wildomar, CA 92395
024-340-015	12S-14E-34	Herbert J & Elizabeth L Bool	6844 N 36th St, Phoenix, AZ 85018
024-340-016	12S-14E-34	Herbert J & Elizabeth L Bool	6844 N 36th St, Phoenix, AZ 85018
025-260-003	11S-15E-18	Timothy Bopp	2401 E GlenOaks Blvd, Glendale, CA 91206
025-260-006	11S-15E-18	Mark A Wheeler	28229 Branch Rd, Castaic, CA 91384
025-260-008	11S-15E-18	Denis L Kleidosty	2986 Tisbury Dr, Henderson, NV 89052
025-260-019	11S-15E-17	Lincoln H Banks	777 Alvarado Rd, La Mesa, CA 91941
025-260-031	11S-15E-18	Ricardo Martinez	PO Box 572, Niland, CA 92257
025-290-010	11S-15E-36	S B Grant & E B Franklin LLC et al	901 N Brutscher St, Newberg, OR 97132
025-290-019	11S-15E-36	J M Foigelman et al	27 Gleneagles, Newport Beach, CA 92660
025-290-036	11S-15E-36	Helen E Johnson	PO Box 1131, 105 Cornville, AZ 86325
034-360-036	16S-11E-12	Ed L Construction Inc	PO Box 785, San Marcos, CA 92069
034-360-037	16S-11E-12	Ed L Construction Inc	PO Box 785, San Marcos, CA 92069
037-030-012	13S-14E-3	Barbara D Cox	249 Andrita Pl, Brawley, CA 92227
037-030-022	13S-14E-2	Carl E Weiler	5451 N 25th St, Phoenix, AZ 85016
037-060-018	13S-14E-3	Lawrence W & Tina Cox	PO Box 301, Brawley, CA 92227
037-070-013	13S-14E-3	Henrietta Farms Inc	PO Box 239, Brawley, CA 92227
037-100-003	13S-14E-10	SP & ML Rutherford Tr	PO Box 6, Brawley, CA 92227
037-100-004	13S-14E-3	Matthew Lee Rutherford	PO Box 6, Brawley, CA 92227
037-110-004	13S-14E-10	Gargiulo Farms	PO Box 96, Brawley, CA 92227
037-140-006	13S-14E-15	ORNI LLC	6225 Neil Rd, Reno, NV 89511
037-140-021	13S-14E-15	ORNI LLC	6225 Neil Rd, Reno, NV 89511
037-160-011	13S-14E-15	IID-Imperial Irrigation District	PO Box 937, Imperial, CA 92251
037-160-012	13S-14E-22	Emma Loucille Walk	1101 St, Brawley, CA 92227
037-160-019	13S-14E-22	JLF Ranches Ltd	PO Box 134, Brawley, CA 92227
037-160-021	13S-14E-22	Matthew Lee Rutherford Tr	PO Box 6, Brawley, CA 92227

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IMPERIAL

Assessor's Parcel No.	T-R-S	Owner's/Grantor's Name	Owner's/Grantor's Mailing Address ²
037-160-022	13S-14E-22	California R/W Inc	PO Box 357, Niland, CA 92257
037-160-024	13S-14E-21	Matthew Lee Rutherford Tr	PO Box 6, Brawley, CA 92227
039-310-026	13S-18E-33	Eugene L Leblanc	5775 E Hwy 78, Brawley, CA 92227
039-310-028	13S-18E-33	Eugene L Leblanc	5775 E Hwy 78, Brawley, CA 92227
040-130-008	14S-14E-09	Avelardo Rodriguez	10235 Otis St, South Gate, CA 90280
040-130-009	14S-14E-04	IID - Trust Lands	PO Box 1809, El Centro, CA 92243
040-130-011	14S-14E-09	Avelardo Rodriguez	10235 Otis St, South Gate, CA 90280
040-130-012	14S-14E-08	John R & Carolyn F Benson	PO Box 239, Brawley, CA 92227
040-190-004	14S-14E-17	Brookfield 101 Ranch LLC	12865 Pointe del Mar, Ste 200 Del Mar, CA 92014
040-230-006	14S-14E-20	Evelyn S Ayala	462 W G St, Brawley, CA 92227
040-230-013	14S-14E-20	Pioneer Livestock Inc	PO Box 328, Trust Dept Meridian, ID 83642
040-230-016	14S-14E-20	Barkley Seed Inc	PO Box 5540, Yuma, AZ 85366
040-230-017	14S-14E-20	Barkley Seed Inc	PO Box 5540, Yuma, AZ 85366
040-240-003	14S-14E-20	IID-Imperial Irrigation District	PO Box 937, Imperial, CA 92251
040-240-018	14S-14E-20	Barkley Seed Inc	PO Box 5540, Yuma, AZ 85366
040-330-005	14S-14E-29	Spreckels Sugar Co Inc	PO Box 581, Brawley, CA 92227
040-330-009	14S-14E-30	IID-Imperial Irrigation District	PO Box 937, Imperial, CA 92251
040-340-020	14S-14E-31	IID-Imperial Irrigation District	PO Box 937, Imperial, CA 92251
040-340-022	14S-14E-32	Wayne & Di Peng Yang	2478 N Stevens Ave, Rosemead, CA 91770
040-340-036	14S-14E-31	Central Pipe Mechanical Inc	PO Box 3682, El Centro, CA 92244
040-340-041	14S-14E-31	J C Floyd Sr & Nancy C Nale	196 W Harris Rd, Imperial, CA 92251
043-380-008	15S-13E-35	Ruth Schultz-Rudof Tre	10975 Rim Rd, Escondido, CA 92026
043-450-092	15S-14E-31	Pacific West Management LLC	16027 Ventura Blvd, 550 Encino, CA 91436
043-540-015	15S-14E-07	Veronica Sam	716 E Sunrise, Imperial, CA 92251
043-673-006	15S-14E-18	Nicholas Sanchez	531 W Belford RD, Imperial, CA 92251
044-200-043	15S-14E-19	Hector Margain	PO Box 8214, Chula Vista, CA 91912
044-200-065	15S-14E-19	Robert S & Marie Ellison	PO Box 351, Imperial, CA 92251
044-200-077	15S-14E-19	James A & Janet R Lamphere	2925 W Main St, El Centro, CA 92243
044-200-078	15S-14E-19	James A & Janet R Lamphere	2925 W Main St, El Centro, CA 92243

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044-200-079	15S-14E-19	Delgado Secundino Arellano & Martha Co Tr	1161 Obeliscos, Calexico, CA 92231
044-200-079	15S-14E-19	Martha Delgado et al	1161 Obeliscos, Calexico, CA 92231
044-200-081	15S-14E-19	Hector F Margain	PO Box 8214, Chula Vista, CA 92012
044-200-086	15S-14E-30	Ana Bastidas et al	320 Aten Rd, Imperial, CA 92251
044-220-004	15S-14E-30	Simcal Chemical Co	PO Box 27, Boise, ID 83707
044-220-022	15S-14E-30	WHB Enterprises	1085 State St, El Centro, CA 92243
044-290-015	15S-14E-31	Dubois Land & Livestock Co LLC	801 W Ross Rd, El Centro, CA 92243
044-313-001	15S-14E-31	Maria Nicolasa Beltran	1097 Stacey Ave, El Centro, CA 92243
044-313-002	15S-14E-31	Francisco J & Maria Martinez	1087 Stacey Ave, El Centro, CA 92243
044-313-003	15S-14E-31	Mary Helen Gloria	1077 Stacey, El Centro, CA 92243
044-313-004	15S-14E-31	Rosa N Maldonado	1067 Stacey Ave, El Centro, CA 92243
044-313-005	15S-14E-31	Joseph Lee Houseman	PO Box 387, Imperial, CA 92251
044-313-006	15S-14E-31	Jose C & Socorro M Antunez	2257 Pepper Ave, El Centro, CA 92243
044-313-007	15S-14E-31	Reyes A & Romelia Gonzalez	1037 Stacey Ave, El Centro, CA 92243
044-313-008	15S-14E-31	Ernesto Bustamante	1027 Stacey Ave, El Centro, CA 92243
044-313-009	15S-14E-31	John Angel & Navar I Garcia	1017 Stacey Ave, El Centro, CA 92243
044-313-010	15S-14E-31	Ruben & Dahlia Jimenez	2490 Brighton Ave, El Centro, CA 92243
044-313-011	15S-14E-31	Victor & Gloria Herrera	1001 Stacey Ave, El Centro, CA 92243
044-313-012	15S-14E-31	Frank J & Maria A Perdomo	897 Stacey, El Centro, CA 92243
044-313-013	15S-14E-31	Tomas E & Maria Jesus Diaz	887 Stacey Ave, El Centro, CA 92243
044-313-014	15S-14E-31	Martin J Aguilera et al	1526 Trinity Way, Salinas, CA 93906
044-313-015	15S-14E-31	Frank G & Anita A Cruz	867 Stacey Ave, El Centro, CA 92243
044-313-016	15S-14E-31	Arnulfo V De Hoyos et al	857 Stacey Ave, El Centro, CA 92243
044-313-017	15S-14E-31	Delvin & Patricia Yarnall	2275 Pepper Dr, El Centro, CA 92243
044-313-018	15S-14E-31	Encarnacion & Rosamaria Cabrera	837 Stacey Ave, El Centro, CA 92243
044-313-019	15S-14E-31	Gale L Larran	4410 Glistening Spgs, Rowlett, TX 75088
044-313-020	15S-14E-31	Rafael & Jacqueline Gutierrez	817 Stacey Ave, El Centro, CA 92243
044-313-021	15S-14E-31	Rosalinda Garcia-Herrera	807 Stacey, El Centro, CA 92243

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IMPERIAL

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044-320-014	15S-14E-31	Conrado R & Martha Andrade	731 Stacey Ave, El Centro, CA 92243
044-320-015	15S-14E-31	Lorenzo & Laura Cancel	434 E Hamilton Ave, El Centro, CA 92243
044-320-016	15S-14E-31	Francisco Hernandez et al	749 Stacey Ave, El Centro, CA 92243
044-320-017	15S-14E-31	Guadalupe Moreno	759 Stacey Ave, El Centro, CA 92243
044-320-018	15S-14E-31	Maria & Raul Mungarro	769 Stacey Ave, El Centro, CA 92243
044-320-019	15S-14E-31	Baltazar & Frances Romero	779 Stacey Ave, El Centro, CA 92243
044-320-020	15S-14E-31	Imperial Valley Properties LLC	375 E Commercial Ave, El Centro, CA 92243
044-320-021	15S-14E-31	Fernando & Margarita Lozano	799 Stacey Ave, El Centro, CA 92243
044-331-006	15S-14E-31	Sun Wah & Kay Fun Louie	610 E Holton Rd, El Centro, CA 92243
044-332-016	15S-14E-32	Floyd D & Emma L Berryman	PO Box 2154, El Centro, CA 92244
044-332-018	15S-14E-31	RGT El Centro LLC	7825 Fay Ave, La Jolla, CA 92037
044-332-020	15S-14E-31	El Centro Police Athletic League	1100 N 4th St, El Centro, CA 92243
044-332-020	15S-14E-32	El Centro Police Athletic League	1100 N 4th St, El Centro, CA 92243
044-343-003	15S-14E-32	Juana Lopez et al	915 N Fourth St, El Centro, CA 92243
044-440-024	15S-14E-32	Montecito Land	PO Box 360, El Centro, CA 92244
044-440-025	15S-14E-31	Michael Brett Driscoll	1470 State St, El Centro, CA 92243
044-440-035	15S-14E-31	Brenda Rodriguez et al	220 E Villa Rd, El Centro, CA 92243
044-440-060	15S-14E-32	Maria Leticia Barriga	1803 Barbara Worth, El Centro, CA 92243
044-530-004	15S-14E-06	Central Pipe Mechanical Inc	PO Box 3682, El Centro, CA 92244
044-530-008	15S-14E-06	R M Mosqueda et al	3102 Clark Rd, Imperial, CA 92251
044-530-009	15S-14E-06	Jason Hathaway	PO Box 2047, Beaver, UT 84713
044-530-016	15S-14E-06	Western Farm Service Inc	3005 Rocky Mountain Ave, Loveland, CO 80538
044-530-017	15S-14E-06	Crop Production Services Inc	3005 Rocky Mountain Ave, Loveland, CO 80538
044-550-004	15S-14E-07	Ogwaro Holdings LLC	1509 Brookside Ct, San Marcos, CA 92078
044-561-001	15S-14E-31	Angel L & Josefina V Lopez	1201 Stacey Ave, El Centro, CA 92243
044-561-002	15S-14E-31	Nicolas A & Consuelo Sanchez	531 Belford Rd, Imperial, CA 92251
044-561-003	15S-14E-31	Jaime & Rosa Edith Ahumada	1221 Stacey Ave, El Centro, CA 92243
044-561-004	15S-14E-31	Joe M & Consuelo L Puga	2442 Ross Ave, El Centro, CA 92243

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044-561-005	15S-14E-31	Cesar & Donna Martinez	1241 Stacey Ave, El Centro, CA 92243
044-561-006	15S-14E-31	Arthur & Yvette M Garcia	1251 Stacey, El Centro, CA 92243
044-561-007	15S-14E-31	Herminia Rios	1261 Stacy Ave, El Centro, CA 92243
044-561-008	15S-14E-31	Jose Luis D Gonzales	1271 Stacey Ave, El Centro, CA 92243
044-561-009	15S-14E-31	Ricardo M & Maria D Larios	1281 Stacey Ave, El Centro, CA 92243
044-561-010	15S-14E-31	Peggy J Artrup	1291 Stacey Ave, El Centro, CA 92243
044-561-011	15S-14E-31	Lucinda Parkinson	1299 Stacey, El Centro, CA 92243
044-561-012	15S-14E-31	Sixto & Estella Diaz	910 N 14th St, El Centro, CA 92243
047-010-029	13S-14E-27	National Beef California LP	57 E Shank Rd, Brawley, CA 92227
047-050-012	13S-14E-28	Chevron USA Inc	PO Box 1392, Bakersfield, CA 93302
047-060-003	13S-14E-28	Chevron USA Inc	PO Box 1392, Bakersfield, CA 93302
047-140-005	13S-14E-28	IID - Trust Lands	PO Box 937, Imperial, CA 92251
047-281-006	13S-14E-33	Brawley American Citizens Club Inc	PO Box 529, Brawley, CA 92227
047-281-007	13S-14E-33	Brawley American Citizens Club Inc	PO Box 529, Brawley, CA 92227
047-281-010	13S-14E-33	Brawley American Citizens Club Inc	PO Box 529, Brawley, CA 92227
047-281-011	13S-14E-33	Chubasco LLC	385 N 9th St, Brawley, CA 92227
047-281-012	13S-14E-33	El Redentor Assembly of God Church	305 N 9th St, Brawley, CA 92227
047-281-018	13S-14E-33	El Redentor Assembly of God Church	305 N 9th St, Brawley, CA 92227
047-351-008	13S-14E-33	Thomas A Gargiulo	PO Box 1207, Brawley, CA 92227
047-351-009	13S-14E-33	Thomas A Gargiulo	PO Box 1207, Brawley, CA 92227
048-250-037	14S-14E-04	Jimmy Dean Tucker	4201 Dogwood Rd, Brawley, CA 92227
048-250-054	14S-14E-04	Delvin J & Frances M Ashurst	PO Box 100, Westmorland, CA 92281
048-250-055	14S-14E-04	Jon Montgomery Self	4201 Dogwood Rd, Brawley, CA 92227
049-031-011	13S-14E-33	The Hartford Center LLC	4425 Brandt Rd, Brawley, CA 92227
049-032-009	13S-14E-33	Bob L & Juanita Merrill	PO Box 1434, Brawley, CA 92227

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049-090-015	13S-14E-33	Bob L & Juanita Merrill	PO Box 1434, Brawley, CA 92227
049-140-001	13S-14E-33	J R Norton Co	PO Box 44015, Phoenix, AZ 85064
049-140-002	13S-14E-33	John Norton Farms	PO Box 44015, Phoenix, AZ 85064
049-140-003	13S-14E-33	John Norton Farms	PO Box 44015, Phoenix, AZ 85064
049-140-004	13S-14E-33	Martin Franco	644 Stanley Pl, Brawley, CA 92227
049-140-005	13S-14E-33	Robert W Poff et al	618 Calle Vicente, San Clemente, CA 92673
049-191-002	13S-14E-33	NM & SM Property Holdings LLC	PO Box 1531, Brawley, CA 92227
049-270-003	14S-14E-03	Brawley Development Group LLC	11593 S Fortuna Rd, Yuma, AZ 85367
049-270-009	14S-14E-04	Debbie Davis	591 Marilyn Ave, Brawley, CA 92227
049-270-013	14S-14E-04	Sarah A Mohamed	551 W Main St, Brawley, CA 92227
049-270-014	14S-14E-04	Five Crowns Inc	551 W Main St, Brawley, CA 92227
049-270-015	14S-14E-04	Five Crowns Inc	551 W Main St, Brawley, CA 92227
049-270-016	14S-14E-04	Five Crowns Inc	995 S 9th St, Brawley, CA 92227
050-120-013	15S-20E-27	North American Land Corp	4656 Burkholm Rd, Mims, FL 32754
050-120-032	15S-20E-34	JWDCO LLC	401 S Harbor Blvd, La Habra, CA 90631
050-120-036	15S-20E-35	Susan A Todd	9340 Cordoba Blvd, Sparks, NV 89436
050-120-037	15S-20E-35	JWDCO LLC	401 S Harbor Blvd, La Habra, CA 90631
050-120-039	15S-20E-35	Susan A Todd	9340 Cordoba Blvd, Sparks, NV 89436
050-120-044	15S-20E-35	William H French	6559 S Lazy Ln, Gold Canyon, AZ 85118
050-120-045	15S-20E-35	George & Zelma L Donoho	436 Sirretta, Kernville, CA 93238
051-020-012	16S-12E-08	Edward R & Joan Cuin	2370 West Hwy 80, Imperial, CA 92251
051-020-018	16S-12E-08	Tony Castaneda	330 W Heil Ave, El Centro, CA 92243
051-020-024	16S-12E-07	Heidi L Kuhn	5743 Meadows del Mar, San Diego, CA 92130
051-020-032	16S-12E-08	Imperial Valley Cheese of California LLC	1051 N 1000 W, Logan, UT 84321
051-020-033	16S-12E-08	Kuhn Farms	1870 B Jeffrey Rd, El Centro, CA 92243
051-051-003	16S-12E-07	IID-Imperial Irrigation District	PO Box 937, Imperial, CA 92251
051-081-001	16S-12E-07	Carlos Perez et al	17229 Garlen Ct, Salinas, CA 93907

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051-084-001	16S-12E-07	Carmen Redondo et al	PO Box 208, Seeley, CA 92273
051-084-003	16S-12E-07	Jesus Redondo	2825-A W Evan Hewes Hwy, Imperial, CA 92251
051-091-001	16S-12E-07	IID-Imperial Irrigation District	PO Box 937, Imperial, CA 92251
051-092-001	16S-12E-07	Sam Estes	PO Box 830, Seeley, CA 92273
051-092-002	16S-12E-07	Maria Lourdes Acuna	371 Ross Rd, El Centro, CA 92243
051-092-010	16S-12E-07	Heidi L Kuhn	5743 Meadows del Mar, San Diego, CA 92130
051-092-014	16S-12E-07	Heidi L Kuhn	5743 Meadows del Mar, San Diego, CA 92130
051-120-024	16S-12E-09	George J & Clemence V Lerno	2801 W Main St, El Centro, CA 92243
051-120-025	16S-12E-09	FC & MK Tomlinson LLC	259 S Randolph Ave, Brea, CA 92821
051-120-039	16S-12E-10	George J & Clemence V Lerno	2801 W Main St, El Centro, CA 92243
051-120-047	16S-12E-10	Frank N & Carma J Tomlinson	PO Box 2577, Capistrano Beach, CA 92624
051-120-060	16S-12E-10	Madelaine L Kuhn	47 Medina Dr, Palm Desert, CA 92260
051-215-001	16S-12E-12	Roman Catholic Bishop of San Diego	795 So La Brucherie Rd, El Centro, CA 92243
051-242-001	16S-12E-11	Val-Rock Inc	3200 San Fernando Rd, Los Angeles, CA 90065
051-250-007	16S-12E-11	Francisco & Maria T Parga	PO Box 476, Imperial, CA 92251
051-250-008	16S-12E-12	Francisco & Maria T Parga	PO Box 476, Imperial, CA 92251
051-250-010	16S-12E-12	Seeley Properties LLC	1805 Evan Hewes, PO Box 549 Seeley, CA 92273
051-250-011	16S-12E-11	First Baptist Church of Seeley	PO Box 770, Indio, CA 92202
051-420-030	16S-12E-12	Paul E & Beverly A Benefield	1191 River Front Dr, Bullhead City, AZ 86442
051-420-033	16S-12E-12	Roman Catholic Bishop of San Diego	795 So La Brucherie Rd, El Centro, CA 92243
051-420-034	16S-12E-12	Norman P Pearse	1958 Sunderidge, San Antonio, TX 78260
051-420-035	16S-12E-12	Paul & Beverly Benefield	1191 River Front Dr, Bullhead City, AZ 86442
051-420-036	16S-12E-12	Paul & Beverly Benefield	1191 River Front Dr, Bullhead City, AZ 86442
051-420-037	16S-12E-12	Wigwam Investments LLC	10920 Via Frontera, San Diego, CA 92127
051-420-065	16S-12E-12	Johnny P & Gloria S Singh	607 Russell, Brawley, CA 92227
051-420-066	16S-12E-12	Bernadette Strobel	21351 Autmnwood, Lake Forrest, CA 92630
051-440-001	16S-12E-11	Madelaine L Kuhn	47 Medina Dr, Palm Desert, CA 92260
051-440-005	16S-12E-11	IID-Imperial Irrigation District	PO Box 937, Imperial, CA 92251

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051-440-006	16S-12E-11	IID-Imperial Irrigation District	PO Box 937, Imperial, CA 92251
051-440-015	16S-12E-11	Danny C & Antonia Nichols	1880 Derrick Rd, El Centro, CA 92243
051-440-023	16S-12E-11	Melvin J Preece Jr	2396 W Vaughn Rd, El Centro, CA 92243
056-060-017	16S-21E-8	Pilot Knob Corp	2 Center of World Plz, Felicity, CA 92283
056-060-018	16S-21E-7	William H French	6559 S Lazy Ln, Gold Canyon, AZ 85118
056-060-022	16S-21E-7	George A Biffle	14726 El Monte Rd, Lakeside, CA 92040
056-060-023	16S-21E-7	Will Biffle	14726 El Monte Rd, Lakeside, CA 92040
056-060-031	16S-21E-7	Robert C Watson	40616 Rock Mtn Dr, Fallbrook, CA 92028
056-060-042	16S-21E-7	Bertha Popeney	5285 Wellesley St, La Mesa, CA 91942
056-060-043	16S-21E-6	Bertha Popeney	5285 Wellesley St, La Mesa, CA 91942
056-060-044	16S-21E-7	R & L M Sanchez et al	822 Mesa Verde, Yuba City, CA 95993
056-060-045	16S-21E-7	Ogden Environmental Services Inc	40 Lane Rd, Fairfield, NJ 07007
056-080-012	16S-21E-17	Pilot Knob Corp	2 Center of World Plz, Felicity, CA 92283
056-440-001	16S-21E-16	Pilot Knob Corp	2 Center of World Plz, Felicity, CA 92283
056-440-044	16S-21E-16	Pilot Knob Corp	2 Center of World Plz, Felicity, CA 92283
056-460-009	16S-21E-22	Eller Telecasting Co of Arizona	7950 Jones Branch Dr, McLean, VA 22107
056-460-010	16S-21E-22	Thomas R & Terrence J Glenn	19557 Valley Ford Dr, Cottonwood, CA 96022
056-460-011	16S-21E-22	James A Griffin	5551 Kenwood Ave, Buena Park, CA 90621
056-460-012	16S-21E-22	Gilda F Correnti-Kroos	2111 Whitfield Park Ave, Sarasota, FL 34243
056-470-003	16S-21E-21	Jacques A & Felicia L Istel	One Center of The World Plaza, Felicity, CA 92283
056-470-027	16S-21E-21	David A Ligas	10556 Emerald Ave, Yuma, AZ 85365
056-470-029	16S-21E-21	Eleodoro A Lopez	1158 S 3rd Ave, Yuma, AZ 85364
056-470-035	16S-21E-21	Jacques A & Felicia L Istel	One Center of The World Plaza, Felicity, CA 92283
056-570-005	16S-22E-20	USA For Shirley VP Ropp PG	1661 S 4th St, El Centro, CA 92243
056-590-011	16S-22E-23	Tovar Family LP	2261 E 27th Way, Yuma, AZ 85365
056-600-006	16S-22E-26	Roman Catholic Bishop of San Diego	PO Box 1176, WinterHaven, CA 92283
062-080-013	15S-13E-32	La Valle Sabbia Inc	2015 SIsbee Rd, El Centro, CA 92243
062-080-031	16S-12E-01	George Amaral	PO Box 1402, Gonzales, CA 93926

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 Qwest prepared this Exhibit 1 and attached it to the Court Order.

²The owner's/grantor's mailing address is not necessarily the same as the affected parcel's address

IMPERIAL

Assessor's Parcel No.	T-R-S	Owner's/Grantor's Name	Owner's/Grantor's Mailing Address ²
062-080-055	15S-13E-31	Gustavo & Debra T Ramirez	1591 W Elm Ave, El Centro, CA 92243
062-080-056	15S-13E-31	Robert E & Margaret P Horton	1614 W Ames Rd, El Centro, CA 92243
062-080-057	15S-13E-31	Fernando & Rosario Maestre	1620 W Ames Rd, El Centro, CA 92243
062-080-058	15S-13E-31	Jose & Juana Rodriguez	1624 Ames Rd, El Centro, CA 92243
062-080-060	15S-13E-31	Sm Seed & Milling LLC	2050 Bennett Rd, El Centro, CA 92243
062-080-069	15S-13E-31	Smith-Kandal Real Estate & Ramsay M D & G	510 W Main St, Brawley, CA 92227
062-090-009	15S-13E-34	Meyer Imperial Investments III LLC	2921 B S Kish Ave, Yuma, AZ 85365
062-090-012	15S-13E-34	Meyer Imperial Investments III LLC	2921 B S Kish Ave, Yuma, AZ 85365
062-090-017	15S-13E-33	La Valle Sabbia Inc	2015 Silsbee Rd, El Centro, CA 92243
062-090-022	15S-13E-33	La Valle Sabbia Inc	2015 Silsbee Rd, El Centro, CA 92243
062-090-025	15S-13E-32	La Valle Sabbia Inc	2015 Silsbee Rd, El Centro, CA 92243
062-090-035	15S-13E-34	Heidi Kuhn	5743 Meadows Del Mar, San Diego, CA 92130
062-101-001	15S-13E-31	Smith-Kandal Real Estate & Ramsay M D & G	510 W Main St, Brawley, CA 92227
062-102-002	15S-13E-31	Smith-Kandal Real Estate & Ramsay M D & G	510 W Main St, Brawley, CA 92227
062-111-021	15S-13E-32	Rafael & Gloria Escutia	1599 N 12th St, El Centro, CA 92243
062-112-002	15S-13E-32	Heidi L Kuhn	5743 Meadows Del Mar, San Diego, CA 92130
063-112-004	15S-14E-18	Alan M Thornburg	PO Box 39, Julian, CA 92036
063-112-007	15S-14E-18	Adam & Alma Lopez	4534 Carter Ct, Chino, CA 91710
063-121-005	15S-14E-18	Adam & Alma Lopez	4534 Carter Ct, Chino, CA 91710
063-122-006	15S-14E-18	Dennis H & Arlene M Devermont et al	PO Box 421217, San Diego, CA 92142
063-122-007	15S-14E-18	Joseph R Flores	PO Box 1204, Boulevard, CA 91905
063-122-008	15S-14E-18	Maximiano & Consuelo Torres	PO Box 605, Imperial, CA 92251
063-122-009	15S-14E-18	Maximiano & Consuelo Torres	PO Box 605, Imperial, CA 92251
063-141-001	15S-14E-18	Gary A & Sue W Shumard	647 Desert Gardens Dr, El Centro, CA 92243

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IMPERIAL

Assessor's Parcel No.	T-R-S	Owner's/Grantor's Name	Owner's/Grantor's Mailing Address ²
063-142-001	15S-14E-18	B Wesley & Susan A Blakely et al	2391 Desert Gardens Dr, El Centro, CA 92243
064-072-001	15S-14E-18	R T & C L BW SA Mills II	PO Box 1804, El Centro, CA 92244
064-074-026	15S-14E-18	Lydell W & Elizabeth M Gordon	975 W Evan Hewes Hwy, El Centro, CA 92243
064-082-003	15S-14E-18	Gabriel Medina	PO Box 4122, El Centro, CA 92244
064-082-004	15S-14E-18	Jose Ramon Topete	1126 Wanda St, Crockett, CA 94525
064-082-005	15S-14E-18	Robert Melendrez	1418 Hayes Ct, Calexico, CA 99231
064-082-010	15S-14E-18	Larry & Patricia Rose	PO Box 995, Imperial, CA 99251
064-082-011	15S-14E-18	John R Hansen	310 West Tenth, Imperial, CA 92251
064-082-048	15S-14E-18	Lydell W & Elizabeth M Gordon	975 W Evan Hewes Hwy, El Centro, CA 92243
064-162-001	15S-14E-18	Angelita Ramirez	400 South N St, Imperial, CA 92251
064-162-002	15S-14E-18	Gutierrez Real Estate Investments	2950 Sandalwood Ct, El Centro, CA 92243
064-162-005	15S-14E-18	Joe & Linda Esparza	421 W 6th St, Imperial, CA 92251
064-162-012	15S-14E-18	Joe & Linda D Esparza	421 W 6th St, Imperial, CA 92251
064-163-003	15S-14E-18	Alejandra Yanez	522 So N St, Imperial, CA 92251
064-163-004	15S-14E-18	David & Jaan Wilson	123 W 23rd St, Imperial, CA 92251
064-163-005	15S-14E-18	William George & Rita C Wilson Tr	522 W 4th St, Imperial, CA 92251
064-163-006	15S-14E-18	Wilston William George & Rita C Wilson Tr	522 W 4th St, Imperial, CA 92251
064-163-007	15S-14E-18	Almon Dale Martin	PO Box 176, San Manuel, AZ 85631
064-173-003	15S-14E-18	Miguel & Rosa L Ybarra	601 E 2nd St, Imperial, CA 92251
064-173-004	15S-14E-18	Jo E or Aurora Guizar	690 W Neckel Rd, Imperial, CA 92251
064-173-005	15S-14E-18	L N Pena	612 S N St, Imperial, CA 92251
064-173-007	15S-14E-18	Hope & Ferrere Petra Estrada et al	600 S N St, Imperial, CA 92251
064-174-003	15S-14E-18	Chevron USA Inc	PO Box 1392, Bakersfield, CA 93302
064-174-004	15S-14E-18	Chevron USA Inc	PO Box 1392, Bakersfield, CA 93302
064-174-006	15S-14E-18	Gregorio Garcia	602 E 2nd St, Imperial, CA 92251

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IMPERIAL

Assessor's Parcel No.	T-R-S	Owner's/Grantor's Name	Owner's/Grantor's Mailing Address ²
064-460-001	15S-13E-34	Meyer Imperial Investments III LLC	2921 B S Kish Ave, Yuma, AZ 85365
064-460-007	15S-13E-36	MSPM Associates LP	2815A Lafayette Ave, Newport Beach, CA 92663
064-470-046	15S-13E-36	Donald L & Marilyn J Scoville et al	PO Box 394, El Centro, CA 92244
064-470-091	15S-14E-31	Cole PB Portfolio I LP	3111 W Allegheny Ave, Philadelphia, PA 19132
064-542-005	15S-13E-36	Jose & Margarita Ordonez	901 N 17th St, El Centro, CA 92243
064-542-006	15S-13E-36	Humberto & Martha Aguilera	1701 Stacey Ct, El Centro, CA 92243
064-542-007	15S-13E-36	Julieta Anduro	1715 Stacey Ct, El Centro, CA 92243
064-542-008	15S-13E-36	Robert Jones	1735 Stacey Ct, El Centro, CA 92243
064-542-009	15S-13E-36	Joe Heger Farms LLC	PO Box 880, El Centro, CA 92244
064-542-010	15S-13E-36	Carlos Vasquez	649 Cinnabar St, Imperial, CA 92251
064-542-011	15S-13E-36	Jesus & Marisa Torres	1801 Stacey Ct, El Centro, CA 92243
064-542-012	15S-13E-36	Ramon & Ana Bertha Mendoza	1815 Stacey Ct, El Centro, CA 92243
064-542-013	15S-13E-36	Lopez Jorge I & Velasquez Mayra	1835 Stacey Ct, El Centro, CA 92243
064-542-014	15S-13E-36	George & Margarita Ontiveros	1855 Stacey Ct, El Centro, CA 92243
064-542-015	15S-13E-36	Efrain A Jr & Bethzabe L Tanori	1875 Stacey Ct, El Centro, CA 92243
064-542-016	15S-13E-36	Elifonso M & Linda A Nava	1895 Stacey Ct, El Centro, CA 92243
064-542-017	15S-13E-36	Francisco & Alma Rosa Cervantes	902 N 19th St, El Centro, CA 92243

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CHUCK STOREY
COUNTY CLERK/RECORDER

P Public

Doc#: **2013019494**



* \$ R 0 0 0 0 0 6 3 9 8 4 \$ *

Titles:	1	Pages:	18
Fees		88.00	
Taxes		0.00	
Other		0.00	
PAID		88.00	

Recording Requested by and
When Recorded Mail to:

Level 3 Communications, LLC
ROW – NIS Administrator
c/o Scott Farkas
1025 Eldorado Blvd.
Broomfield, CO 80021

ENVELOPE

THIS SPACE FOR RECORDERS USE ONLY

TITLE OF DOCUMENT

EASEMENT DEED BY COURT ORDER IN SETTLEMENT OF LANDOWNER ACTION

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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

TODD SMITH, DIRK REGAN and CAROL
REGAN, JACQUELYN SHELDRIK,
GLENN L. BOOM, and WILLIAM NELSON
and LINDA NELSON, INDIVIDUALLY AND
AS REPRESENTATIVES OF A CLASS OF
PERSONS SIMILARLY SITUATED,

Plaintiffs,

v.

QWEST COMMUNICATIONS COMPANY,
LLC; SPRINT COMMUNICATIONS
COMPANY L.P.; LEVEL 3
COMMUNICATIONS, LLC; and WITEL
COMMUNICATIONS, LLC,
Defendants.

CASE NO. 3:11-cv-02599-TEH

ECF DOCUMENT
I hereby attest and certify this is a printed copy of a
document which was electronically filed with the United States
District Court for the Northern District of California.

Date Filed: JUN 27 2013

RICHARD W. WIERING, Clerk

By: THELMA NUDO, Deputy Clerk

**EASEMENT DEED BY COURT ORDER
IN SETTLEMENT OF LANDOWNER ACTION**

WHEREAS, the parties to the above-captioned class action (the "Action") entered into a California Class Settlement Agreement, as of September 5, 2012, (the "Settlement Agreement") (terms capitalized herein and not otherwise defined shall have the meanings ascribed to them in the Settlement Agreement);

WHEREAS, on June 24, 2013, the Court entered a final Order and Judgment approving the Settlement Agreement and ordering that this Action may be settled as a class action on behalf of the following class:

[A] class under the Settlement Agreement (the "Settlement Class"), defined as follows:

a class comprising all Persons who own or who claim to own, for any period of time during a Compensation Period, any Covered Property, except for: (1) Right-of-Way Providers and their predecessors, successors, parents, subsidiaries, and affiliates, past or present; (2) federal, state, and local governmental entities; (3) Native American nations and tribes; or (4) any Person who files a valid and timely exclusion on or before the Opt-Out Deadline.

1 Members of this Class are referred to below as Class Members; and

2 WHEREAS, the Settlement Agreement provides for the entry of an Easement Deed by
3 Court Order in Settlement of Landowner Action by which the Settling Defendants acquire, to the
4 extent that Class Members have the right to transfer it, a permanent telecommunications
5 easement in the Right of Way adjacent to the property of each Class Member;
6

7 THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED THAT:

8 1. To the extent that each Class Member owns rights in the Easement Premises (as
9 hereafter defined), the Class Member (the "Grantor") hereby grants to whichever of Sprint
10 Communications Company L.P., Qwest Communications Company, LLC, Level 3
11 Communications, LLC, and WiTel Communications, Inc. has Designated for inclusion under a
12 Settlement Agreement the Right of Way which adjoins, underlies or includes Covered Property
13 owned by the Class Member, together with its successors, assigns, and licensees (the "Grantee"),
14 a permanent telecommunications easement in the Easement Premises. For each county in which
15 this Easement Deed by Court Order in Settlement of Landowner Action is being recorded, a list
16 of affected Class Members and their affected parcels is attached as Exhibit 1. Exhibit 1 shall
17 describe Class Members' affected parcels with the following information, to the extent that it is
18 in the Database of Identification Information: owner name; owner mailing address; tax map
19 identification number; tax parcel identification number; lot number; and section, township, and
20 range. Exhibit 1 may describe Class Members' affected parcels with any other available
21 information.
22

23
24 2. The terms and conditions of the permanent telecommunications easement that is
25 the subject of this Easement Deed by Court Order in Settlement of Landowner Action are:

26 a perpetual easement and right of way (hereinafter, together with the rights and privileges
27 herein granted, the "Easement") and right to place, lay, bury, construct, install, operate, repair,

1 maintain (including aerial patrol), renew, rebuild, replace, upgrade, expand, relocate, and remove
2 fiber optic cables, copper cables, coaxial cables or other cables through which voice, data, video
3 or other signals are transmitted, conduits, inner ducts, hand holes, splice vaults, poles, optical or
4 electronic equipment, regenerator huts, marker posts or signs, and other related facilities
5 appropriate for installation, use, or maintenance of such cables (collectively, the
6 "Telecommunications Cable System"), in, on, over, under, through and/or across the Easement
7 Premises. The Easement Premises means all that real property that (a) either (i) is included
8 within a parcel of property that is described in Exhibit 1 or (ii) has a common boundary with a
9 parcel of property described in Exhibit 1 (the "Grantor's Property") (for purposes of this
10 Telecommunications Cable System Easement Deed, a parcel of property shall be deemed to have
11 a common boundary with the Easement Premises if it is separated by a non-navigable river or a
12 street, road, or highway, other than a numbered state or federal highway) and that (b) (i) is or
13 was used as a railroad right of way ("Railroad Right of Way") and (ii) is on a side of the
14 centerline of the Railroad Right of Way that is next to the Grantor's Property (the "Grantor
15 Side"), and (iii) extends no more than ten (10) feet on each side of the Grantee's
16 Telecommunications Cable System (A) as it existed on November 21, 2012 (B) where the
17 actively used components of the Grantee's Telecommunications Cable System are moved or
18 placed, provided, however, that only a single 20-foot easement per moved component may exist
19 at any point in time in the Easement Premises, and the width of the moved component's
20 Easement Premises shall be reduced on one side and increased by an equal linear footage on the
21 other side wherever necessary in order that it shall in all places remain solely within the limits of
22 a single Grantor Side of the Railroad Right of Way, and (C) where new components are installed
23 to connect the existing Telecommunications Cable System to the edge of the Right of Way. The
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1 Easement shall be construed to grant Grantee all rights necessary to abandon in place unused
2 components of Grantee's Telecommunications Cable System.

3 The Easement shall not include the right to construct on the Easement Premises
4 regenerator huts and similar structures ("Buildings") in addition to those existing on November
5 21, 2012. The Easement shall include the rights to repair, replace, and expand existing
6 Buildings, provided, however, that no such repair, replacement, or expansion shall increase the
7 site that the Buildings occupy, or the height of any Building, by more than twenty-five percent.
8 The Easement does not permit the construction of microwave towers, cell towers, or other
9 components of a primarily aboveground statewide Telecommunications Cable System.
10

11 The Easement includes the right to temporarily use the entire Grantor Side of the
12 Railroad Right of Way for construction or maintenance, so long as Grantee uses its best efforts
13 not to interfere with any real property which, although within the boundaries of the Easement
14 Premises, is actually being used by Grantor; provided, however, that in no event shall Grantee be
15 prohibited from using such real property if it is commercially reasonable to do so under the
16 circumstances or if Grantee's Telecommunications Cable System is currently located within such
17 area. The Easement shall include the right of reasonable ingress and egress to and from the
18 Easement Premises over that portion of the Grantor's real property that underlies the Railroad
19 Right of Way and, for repair and maintenance, over any existing private roads of Grantor, where
20 access from public or railroad roads is not reasonably practical, provided Grantee has made
21 commercially reasonable efforts to give prior notice to Grantor of Grantee's use of Grantor's
22 private roads. Grantee shall not be liable for damages caused by its removal of trees,
23 undergrowth, and brush within the Easement Premises necessary or appropriate for the
24 enjoyment of the Easement. Nothing contained herein shall constitute a waiver of any right that
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1 Grantor may have for any damages to Grantor's property outside of the Easement Premises
2 caused by Grantee's action. If Grantee's action causes damage to any of Grantor's existing
3 improvements, including houses, garages, shops, sheds, and fences, or growing crops, which are
4 within the Easement Premises, Grantee shall pay reasonable compensation to the Grantor for
5 such damage to the extent provided by law.
6

7 From and after June 24, 2013, subject to all the restrictions and limitations stated herein,
8 the Easement includes the right to construct and install additional components of a
9 Telecommunications Cable System within the Easement Premises. Grantee agrees that unless
10 (a) it is required to do so by the railroad or other owner of Railroad Right of Way or (b) it is
11 commercially reasonable under the circumstances to do so, it will not install additional
12 components of a Telecommunications Cable System in the area of the Easement Premises that is
13 outside a parallel fence constructed by the railroad or other owner of Railroad Right of Way or is
14 actually being used by the Grantor or its successor, provided, however, that the foregoing shall
15 not be binding upon Grantee if Grantee's Telecommunications Cable System is currently located
16 within such area. If Grantee's action causes damage to any of Grantor's existing improvements,
17 including houses, garages, shops, sheds, and fences, or growing crops, which are within the
18 Easement Premises, Grantee shall pay reasonable compensation to the Grantor for such damage
19 to the extent provided by law.
20

21 The Easement includes all rights necessary to the lawful occupation of the Easement
22 Premises by an existing Telecommunications Cable System, and by any additional
23 Telecommunications Cable System that is constructed and installed by or on behalf of Grantee in
24 the Easement Premises and that is owned or operated by either (a) Grantee or (b) any person or
25 entity to which Grantee sold, granted, leased, or otherwise transferred or may hereafter sell,
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1 grant, lease, assign, or otherwise transfer, all or any part of the rights in or use of such
2 Telecommunications Cable System.

3 The Easement, however, does not apply to any Telecommunications Cable System that
4 existed on November 21, 2012, but that was acquired by Grantee after that date (unless such
5 Telecommunications Cable System or component thereof was acquired from any of Sprint
6 Communications Company L.P.; Qwest Communications Company, LLC, f/k/a Qwest
7 Communications Corporation; Level 3 Communications, LLC, Level 3 Communications, Inc.,
8 and Level 3 Telecom Holdings, Inc.; WilTel Communications, Inc.; WilTel Communications,
9 LLC; and Williams Communications, LLC, f/k/a Williams Communications, Inc., f/k/a Vyvx,
10 Inc.).
11

12 No oil, gas, or other mineral rights are granted and no existing oil, gas, or other mineral
13 rights are expanded, limited, or affected by this instrument, provided, however, that Grantor shall
14 not use a method of extraction that interferes with or impairs in any way the Easement, the
15 Telecommunications Cable System, or the exercise of Grantee's rights herein.
16

17 Grantor shall not, nor shall Grantor authorize others to, construct or create any road,
18 reservoir, excavation, obstruction, structure, or building or change the land grade on, in, over,
19 under, through, or across the Easement Premises without the prior written consent of Grantee,
20 provided that nothing herein shall be construed to affect the rights and obligations of any railroad
21 with respect to the use, improvement, or alteration of its Railroad Right of Way, as provided in
22 any agreement between the railroad and the Grantee, by applicable law, or otherwise.
23

24 It is understood and agreed that the Easement is not exclusive and is subject to all pre-
25 existing uses and pre-existing rights to use the Easement Premises, whether such uses are by
26 Grantor or others and whether for surface uses, crossings, or encroachments by communication
27

1 companies or utilities. It is further understood and agreed that Grantor retains all of its existing
2 rights, if any, to grant, convey, assign, and restrict any and all rights (including future rights and
3 uses) on the Easement Premises, provided, however, and notwithstanding the foregoing, that
4 Grantor shall not use or authorize others to use the Easement Premises in a manner that interferes
5 with or impairs in any way Grantee's Telecommunications Cable System or the exercise by
6 Grantee of the rights granted herein.
7

8 Subject to the terms hereof, Grantee shall have all other rights and benefits necessary or
9 useful to the full and complete enjoyment and use of the Easement for the purposes stated herein,
10 including the right to sell, grant, lease, or otherwise transfer all or any part of the rights in or use
11 of the Telecommunications Cable System.

12 Grantor conveys the Easement without warranty of title to any property interest in the
13 Easement Premises. This instrument does not address and shall not affect any real property
14 rights, including the priority of interests, between Grantor and any railroad or between Grantee
15 and any railroad, or any of their predecessors, successors, past or present predecessors in interest,
16 successors in interest, successors in title, members, partners, parents, subsidiaries, affiliates,
17 lessees, assigns, and past, current, or future licensees or assignees. This Easement is not
18 intended to impact or diminish any railroad's existing rights or property interests in the Right of
19 Way. This Easement shall not be construed to permit Grantee to interfere with railroad
20 operations. This Easement also shall not permit any component of a Telecommunications Cable
21 System to remain in a Railroad Right of Way except (a) under existing or future agreements with
22 the railroad or (b) in any Railroad Right of Way in which no railroad operates and no railroad
23 retains any right, title, or interest. This Easement also shall not permit any new components to
24 be installed to connect the existing Telecommunications Cable System to the edge of the Right
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1 of Way in any Railroad Right of Way as to which the Interstate Commerce Commission or the
2 Surface Transportation Board has entered an order, pursuant to 49 U.S.C. § 10903, that the
3 railroad is authorized to cease to provide or maintain rail service over that right of way and the
4 railroad no longer provides or maintains rail service over that line, provided that if the railroad
5 does not cease such rail service or later reactivates such service, then this limitation shall not
6 apply.
7

8 This Telecommunications Cable System Easement Deed is executed and delivered on
9 behalf of Grantor for the purpose of granting the Easement to Grantee in, on, over, under,
10 through and/or across the Easement Premises to the full extent of Grantor's right, title or interest,
11 if any, in or to the Easement Premises, and the Easement granted hereby shall affect the
12 Easement Premises only to the extent of Grantor's right, title, and interest therein. Grantor and
13 Grantee agree that this Telecommunications Cable System Easement Deed shall not grant any
14 rights to the Easement Premises, or any portion thereof, in which Grantor holds no right, title or
15 interest.
16

17 No rights reserved to Grantor herein shall be deemed to expand rights reserved to Grantor
18 under any other easement, right of way, license, lease, or any similar instrument or court order.
19 No limitation herein on the rights of Grantee shall be deemed to limit rights heretofore granted
20 by Grantor or its predecessors in interest under any other easement, right of way, license, lease,
21 or any similar instrument or court order.
22

23 The terms and provisions of this instrument shall constitute covenants running with the
24 land and shall be binding upon and inure to the benefit of the Settling Defendants, the Grantor,
25 their successors, assigns, personal representatives, and heirs.
26
27

EXHIBIT 1
Imperial County, CA

DMS ID	ASSESSOR PARCEL ID	T/R/S	NAME / COMPANY NAME	MAILING ADDRESS	GRANTEE
CA025_00121	025-260-031	115-15E-18	Martinez, Ricardo	PO Box 572, Niland, CA, 92257	WiFiTel Communications, LLC
CA025_00122	025-260-003	115-15E-18	Bopp, Timothy	2401 E GlenOaks Blvd, Glendale, CA, 91206	WiFiTel Communications, LLC
CA025_00123	025-260-006	115-15E-18	Wheeler, Mark A	28229 Branch Rd, Castaic, CA, 91384	WiFiTel Communications, LLC
CA025_00124	025-260-008	115-15E-18	Kleidosty, Denis L	2986 Tisbury Dr, Henderson, NV, 89052	WiFiTel Communications, LLC
CA025_00126	025-260-019	115-15E-17	Banks, Lincoln H	777 Alvarado Rd, La Mesa, CA, 91941	WiFiTel Communications, LLC
CA025_00137	025-290-036	115-15E-36	Johnson, Helen E	PO Box 1131, 105, Cornville, AZ, 86375	WiFiTel Communications, LLC
CA025_00138	025-290-019	115-15E-36	Folgelman et al, JM	27 Gleneagles, Newport Beach, CA, 92660	WiFiTel Communications, LLC
CA025_00161	034-360-037	165-11E-12	S B Grant & E B Franklin LLC et al	901 N Brutscher St, Newberg, OR, 97132	WiFiTel Communications, LLC
CA025_00163	034-360-036	165-11E-12	Ed L Construction Inc	PO Box 785, San Marcos, CA, 92069	Level3 Communications, LLC
CA025_00211	039-310-026	135-18E-33	Ed L Construction Inc	PO Box 785, San Marcos, CA, 92069	Level3 Communications, LLC
CA025_00212	039-310-028	135-18E-33	Leblanc, Eugene L	5775 E Hwy 78, Brawley, CA, 92227	WiFiTel Communications, LLC
CA025_0032	003-230-053	105-14E-31	Newmont Realty Co Western Golffields Inc	5775 E Hwy 78, Brawley, CA, 92227	WiFiTel Communications, LLC
CA025_00344	062-090-010	155-13E-34	Amaral Ranches PS	6363 S Fiddlers Green Cir, Greenwood Villa, CO, 80111	WiFiTel Communications, LLC
CA025_00345	064-460-009	155-13E-34	Amaral Ranches PS	PO Box 3035, Gonzales, CA, 92243	Level3 Communications, LLC
CA025_00346	064-460-010	155-13E-35	Meyer Imperial Investments III LLC	PO Box 1402, Gonzales, CA, 93926	Level3 Communications, LLC
CA025_00347	043-380-012	155-13E-35	Ruth Schultz-RudoF.Tr	2921 B S Kish Ave, Yuma, AZ, 85365	Level3 Communications, LLC
CA025_00348	062-090-011	155-13E-34	Amaral Ranches PS	10975 Rim Rd, c/o Michael Schultz, Escondido, CA, 92026	Level3 Communications, LLC
CA025_00349	062-090-036	155-13E-34	Barrett, Terry L & Marie S	PO Box 3035, Gonzales, CA, 93926	Level3 Communications, LLC
CA025_00350	062-090-029	155-13E-34	Ormond, Peter M	2035 Forrester Rd, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00351	062-090-027	155-13E-34	Fowler, James R & C V	496 Mountain Ave, Piedmont, CA, 94611	Level3 Communications, LLC
CA025_00352	064-460-017	155-13E-36	MSPM Associates LP	PO Box 2524, El Centro, CA, 92244	Level3 Communications, LLC
CA025_00353	062-090-041	155-13E-32	La Valle Sabbia Inc	2815A Lafayette Ave, Newport Beach, CA, 92663	Level3 Communications, LLC
CA025_00354	062-090-040	155-13E-33	Nickus, Steven V & Cynthia A	2015 Slisbee Rd, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00355	062-090-046	155-13E-33	Mercurio, Bernard J & Vita	1085 W State St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00356	062-090-045	155-13E-33	Bingelli, Amy	1140 W Evan Hewes Hwy, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00357	062-090-044	155-13E-33	Samuel L & Mirna L Birdsong Tr	1130 Evan Hewes Hwy, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00358	062-090-043	155-13E-33	Koch, Robert A	1112 W Evan Hewes Hwy, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00359	062-090-028	155-13E-33	Hurley, Marilouise	1110 West Evan Hewes Hwy, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00360	062-090-034	155-13E-33	Tagaban Elizabeth C De Hoyos Oscar	1098 W Evan Hewes Hwy, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00361	062-090-047	155-13E-33	Winkler, Anthony Jr	1078 W Evan Hewes Hwy, El Centro, CA, 92243	Level3 Communications, LLC

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<u>DMS ID</u>	<u>ASSESSOR PARCEL ID</u>	<u>T/R/S</u>	<u>NAME / COMPANY NAME</u>	<u>MAILING ADDRESS</u>	<u>GRANTEE</u>
CA025_00362	062-090-048	155-13E-33	Bermudez, C & K	1070 W Evan Hewes Hwy, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00363	062-090-049	155-13E-33	Cesena, Gilbert & Elvia	1044 W Evan Hewes Hwy, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00364	062-090-050	155-13E-33	Cesena, Gilbert D & Elvia R	1044 W Evan Hewes Hwy, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00365	062-080-015	155-13E-32	La Valle Sabbia Inc	2015 Slisbee Rd, c/o Alex Abatti Jr, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00366	064-460-018	155-13E-36	IID-Imperial Irrigation District	PO Box 937, Imperial, CA, 92251	Level3 Communications, LLC
CA025_00367	064-551-001	155-13E-36	IID-Imperial Irrigation District	PO Box 937, Imperial, CA, 92251	Level3 Communications, LLC
CA025_00368	064-551-014	155-13E-36	Fisher Wireless Services Inc	14530 S Commercial St, Blythe, CA, 92555	Level3 Communications, LLC
CA025_00369	064-551-012	155-13E-36	Dyke Tom C & Pippin Robert III & Nona G	PO Box 352, Alpine, CA, 91903	Level3 Communications, LLC
CA025_00370	064-551-005	155-13E-36	Fernandez, Alfredo & Maria	1250 El Dorado Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00371	064-551-011	155-13E-36	Fernandez, Alfredo & Maria	1250 El Dorado Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00372	064-551-010	155-13E-36	Imperial Gardens Family Associates	151 Kalimus Dr, Costa Mesa, CA, 92626	Level3 Communications, LLC
CA025_00373	064-551-008	155-13E-36	Smith, Betty	765 Yucca Dr, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00374	064-551-009	155-13E-36	Smith, Betty	765 Yucca Dr, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00375	064-551-001	155-13E-36	Smith, Betty	765 Yucca Dr, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00376	064-560-002	155-13E-36	Smith, Betty	765 Yucca Dr, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00377	064-560-003	155-13E-36	Miles, Blake	940 N 14th St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00378	064-560-004	155-14E-31	J A & M Edney Tr	PO Box 3544, El Centro, CA, 92244	Level3 Communications, LLC
CA025_00379	064-560-026	155-14E-31	Safeway Stores 23 Inc	1371 Oakland Blvd, 200, c/o The Vons Companies Inc, Walnut Creek, CA, 94596	Level3 Communications, LLC
CA025_00380	064-560-028	155-14E-31	Robert L & Ann L Carter Tr et al	559 S Palm Canyon Dr, c/o Terra West, Palm Springs, CA, 92264	Level3 Communications, LLC
CA025_00381	064-560-030	155-14E-31	Darden, Ronald L & Susan B	1118 N Sandhurst Ln, La Verne, CA, 91750	Level3 Communications, LLC
CA025_00382	062-080-051	155-13E-32	Abatti, C Alex & Roseangela M	2015 Slisbee Rd, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00383	062-120-001	155-13E-31	KM Properties and land Development LLC	1490 W Evan Hewes Hwy, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00384	062-080-035	155-13E-31	Keema, Barbara	8975 Junipero Ave, Atascadero, CA, 93422	Level3 Communications, LLC
CA025_00385	062-131-003	155-13E-32	Garcia, Honorio A & Lucy V	2020 Low Rd, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00386	062-120-006	155-13E-31	Figueroa, James R & Priscilla	22525 Santa Clara St, Hayward, CA, 94541	Level3 Communications, LLC
CA025_00387	062-120-007	155-13E-32	Robinson et al, David P	210 Morongo Dr, Imperial, CA, 92251	Level3 Communications, LLC
CA025_00388	062-131-023	155-13E-32	Favela, Juan O & Praytor Molly	PO Box 304, Seeley, CA, 92273	Level3 Communications, LLC
CA025_00389	062-080-036	155-13E-31	Lyon, Tyler R	1592 West Evan Hewes Hwy, El Centro, CA, 92243	Level3 Communications, LLC

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CA025_0039	021-030-018	11S-14E-4	McManus, Randall C	2840 Fletcher Pkwy, El Cajon, CA, 92020	WiiTel Communications, LLC
CA025_00394	062-080-066	15S-13E-31	Imperial Agri-Corp	548 C Broadway, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00395	062-080-019	15S-13E-31	Locher, Werner R Jr & Ronda Ann	1860 A Silsbee Rd, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00396	062-080-063	15S-13E-31	Hidalgo, David & Candelaria	2005 Bennett Rd, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00416	044-343-003	15S-14E-32	Lopez et al, Juana	915 N Fourth St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_0042	021-030-004	11S-14E-4	Saghravani, Soodabeh	PO Box 9410, Santa Fe, CA, 92067	WiiTel Communications, LLC
CA025_0043	021-062-019	11S-14E-4	S Darde Tr	PO Box 23387, San Diego, CA, 92193	WiiTel Communications, LLC
CA025_0044	021-062-020	11S-14E-4	S Darde Tr	PO Box 23387, San Diego, CA, 92193	WiiTel Communications, LLC
CA025_0045	021-062-021	11S-14E-4	S Darde Tr	PO Box 23387, San Diego, CA, 92193	WiiTel Communications, LLC
CA025_0046	021-160-020	11S-14E-3	S Darde Tr	PO Box 427, Wildomar, CA, 92395	WiiTel Communications, LLC
CA025_00483	050-120-013	15S-20E-27	TNT Enterprises Inc	4656 Burkholm Rd, Mims, FL, 32754	WiiTel Communications, LLC
CA025_00484	050-120-032	15S-20E-34	North American Land Corp	401 S Harbor Blvd, La Habra, CA, 90631	WiiTel Communications, LLC
CA025_00485	050-120-037	15S-20E-35	JWDCO LLC	401 S Harbor Blvd, La Habra, CA, 90631	WiiTel Communications, LLC
CA025_00486	050-120-036	15S-20E-35	JWDCO LLC	9340 Cordoba Blvd, Sparks, NV, 89436	WiiTel Communications, LLC
CA025_00487	050-120-039	15S-20E-35	Todd, Susan A	6559 S Lazy Ln, Gold Canyon, AZ, 85118	WiiTel Communications, LLC
CA025_00488	050-120-044	15S-20E-35	Todd, Susan A	436 Sirretta, Kernville, CA, 93238	WiiTel Communications, LLC
CA025_00489	050-120-045	15S-20E-35	French, William H	10920 Via Frontera, San Diego, CA, 92127	Level3 Communications, LLC
CA025_00491	051-420-037	16S-12E-12	Donoho, George & Zelma L	5 First American Way, Santa Ana, CA, 92707	Level3 Communications, LLC
CA025_00493	051-420-056	16S-12E-12	Wigwam Investments LLC	1191 River Front Dr, Bullhead City, AZ, 86442	Level3 Communications, LLC
CA025_00494	051-420-036	16S-12E-12	First American Tr	731 Desert Gardens Dr, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00495	051-420-035	16S-12E-12	Benfield, Paul & Beverly	1958 Sunderidge, c/o Ronald H Davidson, San Antonio, TX, 78260	Level3 Communications, LLC
CA025_00496	051-420-035	16S-12E-12	Benfield, Paul & Beverly		
CA025_00497	051-420-040	16S-12E-12	Dessert, Mary Margaret		
CA025_00497	051-420-034	16S-12E-12	Pearse, Norman P		
CA025_00498	051-215-001	16S-12E-12	Roman Catholic Bishop of San Diego	795 So La Brucherie Rd, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00499	051-420-033	16S-12E-12	Roman Catholic Bishop of San Diego	795 So La Brucherie Rd, c/o St Marys Church, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00500	051-420-066	16S-12E-12	Strobel, Bernadette		
CA025_00501	051-420-065	16S-12E-12	Singh, Johnny P & Gloria S	21351 Autumnwood, Lake Forrest, CA, 92630	Level3 Communications, LLC
CA025_00502	051-420-030	16S-12E-12	Benfield, Paul E & Beverly A	607 Russel, Brawley, CA, 92217	Level3 Communications, LLC
CA025_00503	051-051-003	16S-12E-07	ID-Imperial Irrigation District	1191 River Front Dr, Bullhead City, AZ, 86442	Level3 Communications, LLC
CA025_00504	051-242-001	16S-12E-11	Vai-Rock Inc	PO Box 937, Imperial, CA, 92251	Level3 Communications, LLC
CA025_00505	051-250-011	16S-12E-11	First Baptist Church of Seeley	3200 San Fernando Rd, Los Angeles, CA, 90065	Level3 Communications, LLC
				PO Box 770, Indio, CA, 92202	Level3 Communications, LLC

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DMS ID	ASSESSOR PARCEL ID	T/R/S	NAME / COMPANY NAME	MAILING ADDRESS	GRANTEE
CA025_00508	051-250-010	165-12E-12	Seeley Properties LLC	1805 Evan Hewes, PO Box 549, Seeley, CA, 92273	Level3 Communications, LLC
CA025_00509	051-430-011	165-12E-11	IID-Imperial Irrigation District	PO Box 937, Imperial, CA, 92251	Level3 Communications, LLC
CA025_0051	021-160-017	11S-14E-3	Southern Pacific Pipe Lines Partnership	888 So Figueroa St, Los Angeles, CA, 90017	WITel Communications, LLC
CA025_00510	051-250-007	16S-12E-11	Parga, Francisco & Maria T	PO Box 476, Imperial, CA, 92251	Level3 Communications, LLC
CA025_00511	051-430-013	16S-12E-11	IID-Imperial Irrigation District	PO Box 937, Imperial, CA, 92251	Level3 Communications, LLC
CA025_00512	051-250-008	16S-12E-12	Parga, Francisco & Maria T	PO Box 476, Imperial, CA, 92251	Level3 Communications, LLC
CA025_00513	051-091-001	16S-12E-07	IID-Imperial Irrigation District	PO Box 937, Imperial, CA, 92251	Level3 Communications, LLC
CA025_00514	051-084-001	16S-12E-07	Redondo et al, Carmen	PO Box 208, Seeley, CA, 92273	Level3 Communications, LLC
CA025_00515	051-081-001	16S-12E-07	Perez et al, Carlos	17229 Garden Ct, Salinas, CA, 93907	Level3 Communications, LLC
CA025_00516	051-092-001	16S-12E-07	Estes, Sam	PO Box 830, Seeley, CA, 92273	Level3 Communications, LLC
CA025_00517	051-092-002	16S-12E-07	Acuna, Maria Lourdes	371 Ross Rd, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00521	051-430-023	16S-12E-11	Agustin, Lydia	1878 Derrick Rd, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00528	051-092-010	16S-12E-07	Kuhn, Heidi L	5743 Meadows del Mar, San Diego, CA, 92130	Level3 Communications, LLC
CA025_00529	051-092-014	16S-12E-07	Kuhn, Heidi L	5743 Meadows del Mar, San Diego, CA, 92130	Level3 Communications, LLC
CA025_0053	021-280-005	11S-14E-10	Y Ranches	PO Box 267, Calipatria, CA, 92233	WITel Communications, LLC
CA025_00530	051-020-024	16S-12E-07	Kuhn, Heidi L	5743 Meadows del Mar, San Diego, CA, 92130	Level3 Communications, LLC
CA025_00531	051-020-032	16S-12E-08	Imperial Valley Cheese of California LLC	1051 N 1000 W, Logan, UT, 84321	Level3 Communications, LLC
CA025_00533	051-020-033	16S-12E-08	Kuhn Farms	1870 B Jeffrey Rd, c/o K & F Dalry, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00535	051-020-012	16S-12E-08	Cuin, Edward R & Jean	2370 West Hwy 80, Imperial, CA, 92251	Level3 Communications, LLC
CA025_00536	051-020-018	16S-12E-08	Castaneda, Tony	330 W Hell Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00537	051-120-024	16S-12E-09	Lerno, George J & Clemence V	2801 W Main St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00538	051-120-025	16S-12E-09	FC & MK Tomlinson LLC	259 S Randolph Ave, Brea, CA, 92821	Level3 Communications, LLC
CA025_00539	051-084-003	16S-12E-07	Redondo, Jesus	2825-A W Evan Hewes Hwy, Imperial, CA, 92251	Level3 Communications, LLC
CA025_00540	051-120-060	16S-12E-10	Kuhn, Madeline L	47 Medina Dr, Palm Desert, CA, 92260	Level3 Communications, LLC
CA025_00541	051-120-047	16S-12E-10	Tomlinson, Frank N & Carmaj	PO Box 2577, Capistrano Beach, CA, 92624	Level3 Communications, LLC
CA025_00542	051-120-039	16S-12E-10	Lerno, George J & Clemence V	2801 W Main St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00544	051-440-001	16S-12E-11	Kuhn, Madeline L	47 Medina Dr, Palm Desert, CA, 92260	Level3 Communications, LLC
CA025_00545	051-440-015	16S-12E-11	Nichols, Danny C & Antonia	1880 Derrick Rd, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00546	051-440-005	16S-12E-11	IID-Imperial Irrigation District	PO Box 937, Imperial, CA, 92251	Level3 Communications, LLC
CA025_00549	053-061-003	16S-14E-05	Mealey, Edwin C & Mary C	1805 Bass Cove, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00551	053-050-003	16S-14E-05	Simpson, Bette G	17718 Villamoura Dr, Poway, CA, 92064	Level3 Communications, LLC

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CA025_00552	053-050-013	165-14E-05	Alastra Investment Co LLC	3672 Hidden Trail Dr, Jamul, CA, 91935	Level3 Communications, LLC
CA025_00553	053-050-026	165-14E-05	Quesada, Jesus & Esther D	PO Box 2417, El Centro, CA, 92244	Level3 Communications, LLC
CA025_00554	053-050-016	165-14E-05	Sweedden, Celia	1015 Commercial Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00556	053-120-027	165-14E-05	D- Properties	1470 State St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00557	053-120-008	165-14E-05	D- Properties	1470 State St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00558	053-120-009	165-14E-05	Tabarez, Arlene Vitulla	1703 Whitney Way, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00559	053-200-010	165-14E-05	Martin & Macfarlane Inc	PO Box 7003, Paso Robles, CA, 93447	Level3 Communications, LLC
CA025_00561	053-200-046	165-14E-05	Center for Employment Training	701 Vine St, c/o Aryanpour Mohammad, San Jose, CA, 95110	Level3 Communications, LLC
CA025_00562	053-200-047	165-14E-05	Center for Employment Training	701 Vine St, c/o Aryanpour Mohammad, San Jose, CA, 95110	Level3 Communications, LLC
CA025_00563	053-200-048	165-14E-05	Center for Employment Training	701 Vine St, San Jose, CA, 95110	Level3 Communications, LLC
CA025_00564	053-212-001	165-14E-05	Avila, Ramon M	26674 Ave 18, Madera, CA, 93638	Level3 Communications, LLC
CA025_00566	053-283-003	165-14E-05	Center for Employment Training	701 Vine St, San Jose, CA, 95110	Level3 Communications, LLC
CA025_00567	053-411-006	165-14E-05	Ramirez, Jesus T	PO Box 13949, c/o Atlas Pallet Co, San Diego, CA, 92170	Level3 Communications, LLC
CA025_00568	053-411-003	165-14E-05	Ramirez, Jesus T	PO Box 13949, c/o Atlas Pallet Co, San Diego, CA, 92170	Level3 Communications, LLC
CA025_00570	053-411-004	165-14E-05	Triple D Investments	341 W Crown Ct, Imperial, CA, 92251	Level3 Communications, LLC
CA025_00571	053-411-005	165-14E-05	Valencia et al, Guillermo	257 Maple Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00572	053-491-002	165-14E-05	Wells Fargo Bank National Assoc	9070 W Glendale Ave, Glendale, AZ, 85305	Level3 Communications, LLC
CA025_00573	053-491-003	165-14E-05	Wells Fargo Bank National Assoc	9070 W Glendale Ave, Glendale, AZ, 85305	Level3 Communications, LLC
CA025_00574	053-491-010	165-14E-05	Market Street Assets LLC	3148 Market St, San Diego, CA, 92102	Level3 Communications, LLC
CA025_00575	053-491-009	165-14E-05	Rilling, Lavina	3838 Via Escuda, La Mesa, CA, 92041	Level3 Communications, LLC
CA025_00576	053-491-011	165-14E-05	Jones Bros Glass Inc	1050 South 2nd St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00577	053-491-012	165-14E-05	Williams, Edward & Cheryl	975 Westwind Dr, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00578	053-491-006	165-14E-05	Blackman et al, Diane L	1930 Aurora Dr, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00579	053-491-007	165-14E-05	Imperial Valley Fence Co Inc	267 N 8th, El Centro, CA, 92243	Level3 Communications, LLC
CA025_0058	021-290-015	115-14E-11	IID - Trust Lands	PO Box 937, Attn General Manager, Imperial, CA, 92251	WITel Communications, LLC
CA025_00580	053-491-008	165-14E-05	Blackman et al, Diane L	1930 Aurora Dr, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00581	053-493-002	165-14E-08	Southland Cooling	520 Olive Ave, Holtville, CA, 92250	Level3 Communications, LLC
CA025_00588	056-060-043	165-21E-6	Popeney, Bertha	5285 Wellesley St, La Mesa, CA, 91942	WITel Communications, LLC
CA025_00589	056-060-042	165-21E-7	Popeney, Bertha	5285 Wellesley St, La Mesa, CA, 91942	WITel Communications, LLC

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CA025_00590	056-060-045	16S-21E-7	Ogden Environmental Services Inc	40 Lane Rd, Fairfield, NJ, 07007	WITel Communications, LLC
CA025_00591	056-060-031	16S-21E-7	Watson, Robert C	40616 Rock Mtn Dr, Fallbrook, CA, 92028	WITel Communications, LLC
CA025_00592	056-060-044	16S-21E-7	Sanchez et al, R & L M	822 Mesa Verde, Yuba City, CA, 95993	WITel Communications, LLC
CA025_00593	056-060-022	16S-21E-7	Biffle, George A	14726 El Monte Rd, Lakeside, CA, 92040	WITel Communications, LLC
CA025_00594	056-060-023	16S-21E-7	Biffle, Will	14726 El Monte Rd, c/o George Biffle, Lakeside, CA, 92040	WITel Communications, LLC
CA025_00595	056-060-018	16S-21E-7	French, William H	6559 S Lazy Ln, Gold Canyon, AZ, 85118	WITel Communications, LLC
CA025_00596	056-060-017	16S-21E-8	Pilot Knob Corp	2 Center of World Plz, Felicity, CA, 92283	WITel Communications, LLC
CA025_00597	056-080-012	16S-21E-17	Pilot Knob Corp	2 Center of World Plz, Felicity, CA, 92283	WITel Communications, LLC
CA025_00602	056-440-001	16S-21E-16	Pilot Knob Corp	2 Center of World Plz, Felicity, CA, 92283	WITel Communications, LLC
CA025_00608	056-470-034	16S-21E-21	Istel, Jacques A & Felicia L	1 Center of The World Pl, Felicity, CA, 92283	WITel Communications, LLC
CA025_0061	071-290-013	11S-14E-12	IID - Trust Lands	PO Box 937, Attn General Manager, Imperial, CA, 92251	WITel Communications, LLC
CA025_00615	056-570-005	16S-22E-20	USA For Shirley VP Ropp PG	1661 S 4th St, Attn Margaret Goodro - BLM Mg, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00616	056-470-030	16S-21E-21	Lewis, James McCiellan	95 E Judy St, Flagstaff, AZ, 86001	WITel Communications, LLC
CA025_00618	056-570-006	16S-22E-20	USA For Shirley VP Ropp PG	1661 S 4th St, Attn Margaret Goodro - BLM Mg, El Centro, CA, 92243	WITel Communications, LLC
CA025_00621	056-470-031	16S-21E-21	I LLC	8191 Center St, La Mesa, CA, 91942	WITel Communications, LLC
CA025_00622	056-460-009	16S-21E-22	Eller Telecasting Co of Arizona	7950 Jones Branch Dr, c/o Gannett Co Inc Tax Dept, McLean, VA, 22107	Level3 Communications, LLC
CA025_00623	056-460-010	16S-21E-22	Glenn, Thomas R & Terrence J	19557 Valley Ford Dr, Cottonwood, CA, 96022	Level3 Communications, LLC
CA025_00624	056-460-011	16S-21E-22	Griffin, James A	5551 Kenwood Ave, Buena Park, CA, 90621	Level3 Communications, LLC
CA025_00625	056-460-012	16S-21E-22	Correnti-Kroos, Gilda F	2111 Whitfield Park Ave, Sarasota, FL, 34243	Level3 Communications, LLC
CA025_00627	056-470-036	16S-21E-21	Istel, Jacques A & Felicia L	One Center of The World Plaza, Felicity, CA, 92283	WITel Communications, LLC / WITel Communications, LLC
CA025_00628	056-470-035	16S-21E-21	Istel, Jacques A & Felicia L	One Center of The World Plaza, Felicity, CA, 92283	WITel Communications, LLC
CA025_00637	056-460-046	16S-21E-22	Lemon, John R & Diane M	153 E Cole Rd, Calexico, CA, 92231	WITel Communications, LLC
CA025_00638	056-460-047	16S-21E-22	Lemon, John R & Diane M	153 E Cole Rd, Calexico, CA, 92231	WITel Communications, LLC
CA025_00648	056-600-006	16S-22E-26	Roman Catholic Bishop of San Diego	PO Box 1176, WinterHaven, CA, 92283	Level3 Communications, LLC / WITel Communications, LLC
CA025_0065	021-340-003	11S-14E-13	Currier, Andrew & Marlene	290 River Wood Dr, Brawley, CA, 92227	WITel Communications, LLC
CA025_00715	044-351-015	15S-14E-31	Mah, Nellie	1536 Hamilton Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00716	044-351-024	15S-14E-31	Quality Quarters Co LLC	429 W Main St, El Centro, CA, 92243	Level3 Communications, LLC

EXHIBIT 1
Imperial County, CA

<u>DMS ID</u>	<u>ASSESSOR PARCEL ID</u>	<u>T/R/S</u>	<u>NAME / COMPANY NAME</u>	<u>MAILING ADDRESS</u>	<u>GRANTEE</u>
CA025_00717	044-351-023	155-14E-31	Henos et al, Carl G	2450 Holt, c/o DBA Apt at 1224 Woodward A, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00718	044-351-012	155-14E-31	R O & E C Villalobos Tr et al	2450 Holt Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00719	044-371-033	155-14E-31	Gaddis III, Thomas Samuel	582 Broadway St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00720	044-371-034	155-14E-31	Saad, Melek & Jill	125 W Main St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00721	044-371-031	155-14E-31	Holguin, Cesar G & Emma D	1818 Farmer Dr, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00722	044-351-011	155-14E-31	Conteras, Juan S & Leonor	1248 Woodward Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00723	044-371-032	155-14E-31	Cameron, Frank M & Melita A	589 Wensley, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00724	044-371-004	155-14E-31	Flores et al, Joe R	825 N 7th St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00725	044-371-005	155-14E-31	Flores et al, Joe R	825 1/2 N 7th St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00726	044-371-006	155-14E-31	Quintero, Cesar T	450 Wensley Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00727	044-351-010	155-14E-31	Figueroa, Eddie P & Sharen L	1258 Woodward, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00728	044-351-009	155-14E-31	Patron, Guadalupe I	534 Lincoln, Calexico, CA, 92231	Level3 Communications, LLC
CA025_00729	044-351-008	155-14E-31	Zamora, Veronica & Vincente	1282 Woodward Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00730	044-351-007	155-14E-31	Ruiz, Robert B	1294 Woodward Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00731	044-351-006	155-14E-31	Figueroa, Cynthia Kim	1400 Woodward Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00732	044-351-019	155-14E-31	Villanueva, Vicky R	PO Box 178985, San Diego, CA, 92177	Level3 Communications, LLC
CA025_00733	044-351-022	155-14E-31	Villanueva, Eddie R	PO Box 1048, El Centro, CA, 92244	Level3 Communications, LLC
CA025_00734	044-351-004	155-14E-31	Toma et al, Michael	825 N Imperial Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00735	044-351-003	155-14E-31	Toma et al, Michael	825 N Imperial Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00736	044-351-021	155-14E-31	R & M Petroleum Co	1292 Chaparral Cir, San Luis Obispo, CA, 93401	Level3 Communications, LLC
CA025_00737	044-361-021	155-14E-31	Southeastern CA Assn of 7th Day Adventists	PO Box 8050, Riverside, CA, 92515	Level3 Communications, LLC
CA025_00738	044-361-004	155-14E-31	Zapata, Martha	1064 Woodward Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00739	044-361-005	155-14E-31	Wasson, Margaret B	2696 W Canyon Ave, San Diego, CA, 92123	Level3 Communications, LLC
CA025_00740	044-361-006	155-14E-31	Loo et al, Douglas	868 Stacey, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00741	044-361-007	155-14E-31	Camacho-Zapata, Emma	1064 Woodward Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00742	044-361-008	155-14E-31	Martinez et al, Martha & Rublo S	1239 Main St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00743	044-361-009	155-14E-31	Childers et al, Ryan D	PO Box 3102, El Centro, CA, 92244	Level3 Communications, LLC
CA025_00744	044-361-010	155-14E-31	Childers et al, Ryan D	PO Box 3102, El Centro, CA, 92244	Level3 Communications, LLC
CA025_00745	044-361-011	155-14E-31	Varley, Randall A	1665 Ocotillo Dr, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00746	044-361-012	155-14E-31	Cancel, Lorenzo & Laura	PO Box 859, Heber, CA, 92249	Level3 Communications, LLC
CA025_00747	044-361-013	155-14E-31	Pierson et al, Herbert E	628 W Main St, El Centro, CA, 92244	Level3 Communications, LLC
CA025_00748	044-361-022	155-14E-31	Martin, Robert A & Patricia A	2984 Bayside Walk, San Diego, CA, 92109	Level3 Communications, LLC

EXHIBIT 1
Imperial County, CA

<u>DMS ID</u>	<u>ASSESSOR PARCEL ID</u>	<u>T/R/S</u>	<u>NAME / COMPANY NAME</u>	<u>MAILING ADDRESS</u>	<u>GRANTEE</u>
CA025_00749	044-361-017	155-14E-31	Preciado, Jose Luis & Guadalupe G	834 Woodward Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00750	044-361-018	155-14E-31	Garcia, John M & Gloria D	824 Woodward Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00751	044-361-019	155-14E-31	Lopez, Alfonso Luna	814 Woodward St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00752	044-361-020	155-14E-31	Quality Quarters Co LLC	429 W Main St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00753	044-381-002	155-14E-31	Tsoucalas, Mike	PO Box 421217, c/o Federal Home Loans, San Diego, CA, 92112	Level3 Communications, LLC
CA025_00754	044-381-003	155-14E-31	Villarreal, Cervando & Elvira	2174 R Cabrillo Ct, Calexico, CA, 92231	Level3 Communications, LLC
CA025_00755	044-381-004	155-14E-31	Varley, Randall A	1665 Ocotillo Dr, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00756	044-381-036	155-14E-31	Rose, Ronnie Lynn	558 Woodward Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00757	044-381-006	155-14E-31	Nellid, Ramond J	PO Box 3667, El Centro, CA, 92244	Level3 Communications, LLC
CA025_00758	044-381-007	155-14E-31	Mederos, Humberto L	546 Woodward Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00759	044-381-008	155-14E-31	Alva, Raymond & Rosa	534 Woodward, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00760	044-381-009	155-14E-31	Del Valle, Jose A & Maria J	526 Woodward Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00761	044-381-010	155-14E-32	Guislain, Charles P	518 Woodward Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00762	044-381-011	155-14E-32	Patel et al, Vijaykumar & Nalini	850 Adams Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00764	044-381-012	155-14E-32	Alvarez, Francisco B & Martha C	294 N 21th St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00765	044-381-013	155-14E-32	Martinez, Maria Teresa	815 N 5th St, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00766	044-381-034	155-14E-32	Navarez et al, Gina L	631 Tiger Lily Ln, Imperial, CA, 92251	Level3 Communications, LLC
CA025_00767	044-381-035	155-14E-32	Estrada, Gregorio & Maria	450 Euclid Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00769	044-381-024	155-14E-32	Estrada, Gregorio & Maria	450 Euclid Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00777	021-030-020	11S-14E-4	Jeffrey O & Cheryl E Lyon Tr	1778 Lotus Ave, El Centro, CA, 92243	Level3 Communications, LLC
CA025_00783	056-590-011	16S-22E-23	Swink, George	PO Box 232307, Leucadia, CA, 92023	Level3 Communications, LLC
			Tovar Family LP	2261 E 27th Way, Yuma, AZ, 85365	Level3 Communications, LLC

15 RECORDING REQUESTED BY
and RETURN TO:
C. Corporation System
235 Montgomery Street
San Francisco, California 94104

47 JOHN V. KENNEDY
COUNTY CLERK

1969 DEC 9 AM 11:10
BOOK 1286 PAGE 821

RECEIVED
IN THE COUNTY CLERK'S OFFICE



Office of Secretary of State

I Eugene Bunting, Secretary of State of the State of Delaware,
do hereby certify

that the Certificate of Agreement of Merger
of the "SOUTHERN PACIFIC COMPANY", merging with and into the
"SOUTHERN PACIFIC TRANSPORTATION COMPANY", under the name of
"SOUTHERN PACIFIC TRANSPORTATION COMPANY", was received and
filed in this office the twenty-sixth day of November, A.D.
1969, at 6:35 o'clock A.M.

And I do hereby further certify that the aforesaid Corporation
is duly incorporated under the laws of the State of Delaware and is
in good standing and has a legal corporate existence so far as the
records of this office show and is duly authorized to transact business.

In Testimony Whereof, I have hereunto set my hand

and official seal at Dover this second day of
December in the year of our Lord one thousand
nine hundred and sixty-nine.



Eugene Bunting

Secretary of State

R. H. Caldwell

Att's Secretary of State

RECORDING REQUESTED BY
IMPERIAL COUNTY PUBLIC WORKS

AND WHEN RECORDED RETURN TO:
IMPERIAL COUNTY PUBLIC WORKS
155 SOUTH 11TH STREET
EL CENTRO, CA 92243

Recorded in Official Records, IMPERIAL COUNTY

CHUCK STOREY
COUNTY CLERK/RECORDER

P PUBLIC

12/28/2017
02:53 PM
IsabelVargas

Doc#: 2017028554



* \$ R 0 0 0 0 2 8 1 7 0 7 \$ *

Titles: 1	Pages: 4
Fees	14.00
Taxes	0.00
Other	0.00
PAID	14.00

BOOK: 23 PAGES: 7-9

MAP COVER SHEET
RECORD OF SURVEY
I.C.S.R. No 681

LEGAL DESCRIPTION:

PORTIONS OF TRACT 37, T13 SO R18 EAST, SBM IN AN UNINCORPORATED AREA
OF THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA

GRANTORS:

SPRINKLE, BETTY J/ICSR 681
LEBLANC, EUGENE LOUIS JR/ICSR 681
TRACT 37/ICSR 681
T13 SO R18 EAST SBM/ICSR 681
ICSR 681/T13 SO R18 EAST SBM

Unofficial Copy

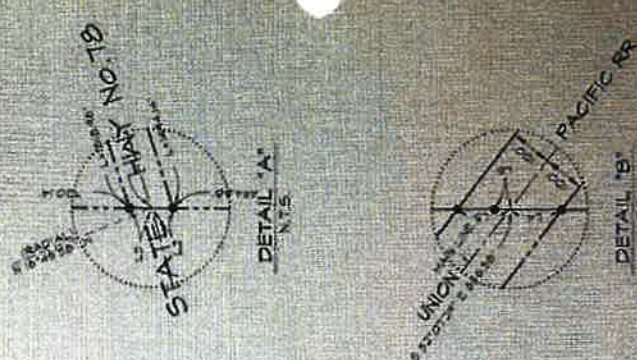
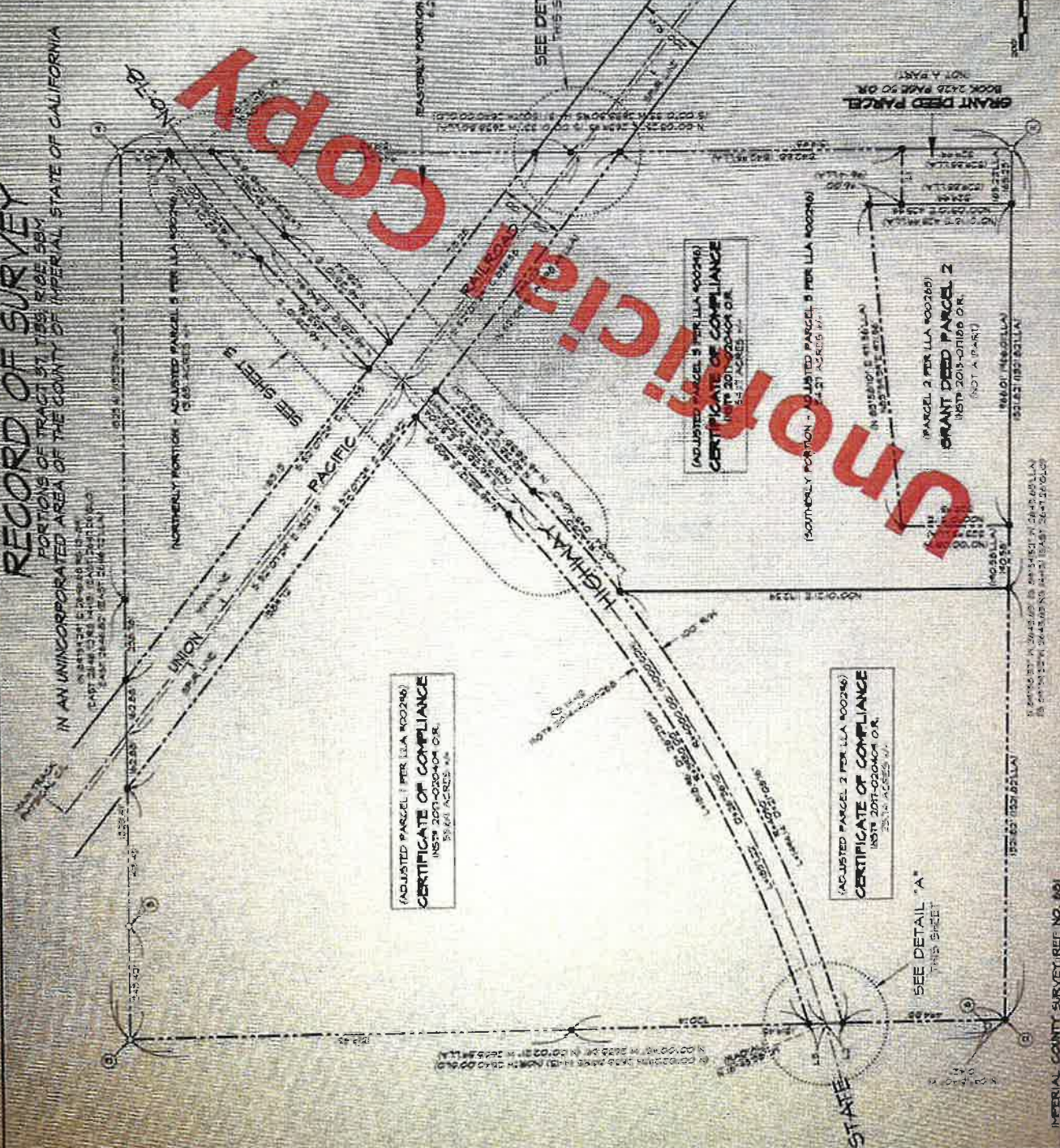
RECORD OF SURVEY
 PORTIONS OF TRACT 37185, RISE 58M
 IN AN UNINCORPORATED AREA OF THE COUNTY OF IMPERIAL STATE OF CALIFORNIA

LEGEND

- ① 1/4 SECTION
- ② 1/4 SECTION
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LINE DATA TABLE

LINE	LENGTH	BEARING	ADJUSTMENT
L1	67.29	N07°16'42"E	
L2	32.74	N07°16'42"E	
L3	55.54	N07°16'42"E	
L4	26.14	N07°16'42"E	
L5	56.34	N07°16'42"E	
L6	30.31	N07°16'42"E	
L7	23.57	N07°16'42"E	

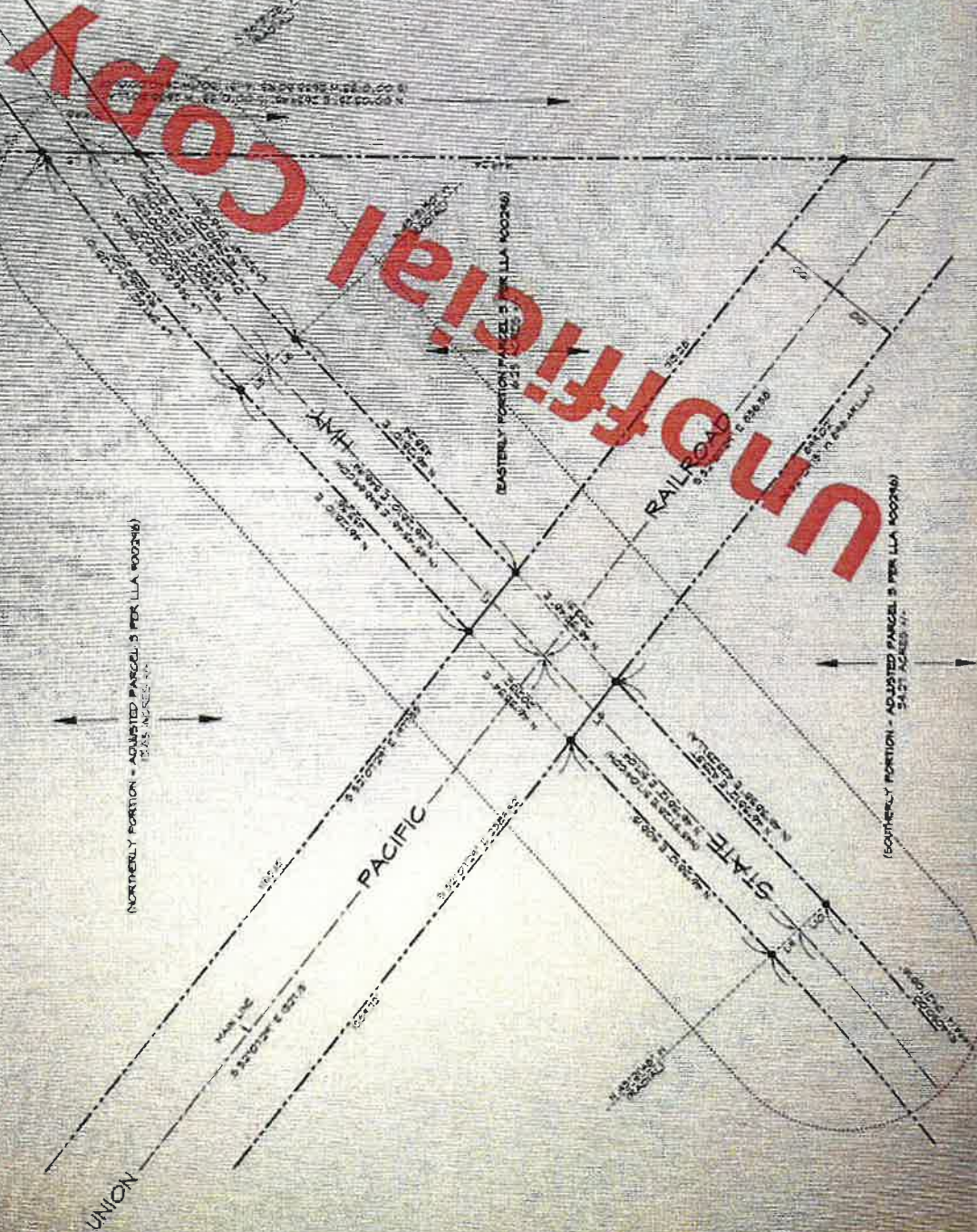


RECORD OF SURVEY

IN AN UNINCORPORATED AREA OF THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA

PORTIONS TRACTS 57, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

No. 98



NORTHERLY PORTION - ADJUSTED PARCEL 3 FOR ILLA 1002946
25.85 ACRES ±

(SOUTHERLY PORTION - ADJUSTED PARCEL 3 FOR ILLA 1002946)
24.27 ACRES ±

LINE DATA TABLE:

LINE	LENGTH	BEARING	REFERENCE
L1	13.50	N41°00'00"W	
L2	202.00	N00°00'00"E	
L3	61.64	N00°00'00"E	
L4	62.54	N00°00'00"E	
L5	50.00	N45°00'00"W	
L6	50.00	N45°00'00"W	
L7	50.00	N45°00'00"W	
L8	50.00	N45°00'00"W	
L9	50.00	N45°00'00"W	
L10	50.00	N45°00'00"W	

LEGEND:

- SET AND IRON PIPE MARKER STAMPED PLS 1107 01/01/01
- ROAD MONUMENT AS NOTED
- IRS RECORDS DATA PER RECORD OF SURVEY FILED IN BOOK AND PAGE AS SPECIFIED IN THE COUNTY RECORDER'S OFFICE
- ILLA RECORD DATA FOR LOT LINE ADJUSTMENT FILED AS CERTIFICATE OF COMPLIANCE WITH 2014-0002288 IN THE COUNTY RECORDER'S OFFICE
- IMPT CALCULATED DATA FOR UNRECORDED CITY ENGINEER'S MAP ON FILE IN THE OFFICE OF THE COUNTY SURVEYOR
- IRRS RECORD DATA FOR PARCEL MAP FILED IN BOOK AND PAGE AS SPECIFIED IN THE COUNTY RECORDER'S OFFICE
- (SOU) RECORD DATA PER MAP OF TOWNSHIP OF S. ENTERED FILED IN BOOK AND PAGE AS SPECIFIED IN THE COUNTY RECORDER'S OFFICE
- NO PAGE AS SPECIFIED IN THE COUNTY RECORDER'S OFFICE
- SURVEY BOUNDARY



Narrative Overview

CitySwitch seeks approval for a Conditional Use Permit (“CUP”), a Height Variance (“Variance”) and any other permits or approvals necessary in order to install a communications facility on property located at 637-639 Sidewinder Rd N, Felicity, CA 92283. CitySwitch proposes to erect this tower and will be offering it as a shared facility to Union Pacific (with whom CitySwitch already has a commitment), AT&T Mobility, and any other communication carriers that have a need for a facility in this area. CitySwitch thus submits this Application (as that term is defined in Sections 92404.01 and 92405.01 of the Imperial County Land Use Code (the “Code”)) seeking a CUP and Variance for the siting and construction of a new communication facility.

The proposed site is located in a S-2, Open Space/Preservation zone. Pursuant to Sections 90519.02(d) of the Code, Communication Facilities are allowed in this district with CUP approval. The property consists of a railroad line in the desert, located approximately 1,200’ north of the on-ramp to I-8.

The wireless communications facility that CitySwitch is proposing to install on the property for Union Pacific and AT&T is necessary to provide critical communications for the railroad line and uninterrupted AT&T wireless services to the residents and visitors of Felicity and the surrounding area, including wireless telephone service, voice paging, messaging and wireless internet and broadband data transmission. All registered wireless providers’ technology operate at various radio frequency bands allocated by the FCC as part of their license.

Wireless systems operate on a grid system where overlapping cells mesh together, forming a seamless network. No single site can function as a stand-alone entity as each site is interconnected, forming the network. The technical criteria for establishing cell sites are very exacting as to the location and height. The proposed site at 637-639 Sidewinder Rd N, Felicity, CA 92283 is within the geographic area deemed necessary by radio frequency engineers for the anchor wireless telecommunications providers to provide uninterrupted services.

In accordance with Sections 92402.01s and 92405.01 of the Code, CitySwitch is submitting this Application to install a new Communications Facility. The proposed new communications

facility will consist of a 170'-0" tall monopole tower with a 10'-0" lightning rod for a total height of 180'-0" to be located within a 57'-0" x 45'-0" ground area.

After the initial construction, the facility is unstaffed and will only require service technicians, in a pick-up/van sized vehicle, to visit the site approximately once per month. Access will be provided via an easement with the proposed access entry point off Sidewinder Rd N. The only utilities required to service the facility are power and fiber. The site is entirely self-monitored through a sophisticated alarm system which is connected to a main switch station. The system alerts personnel to any equipment malfunction or breach of security. Additionally, there is no impact on Imperial County's utilities such as water and sanitation, as they are not used at the site.

In accordance with FCC regulations, the mobile service facility will not interfere with any form of communications, including but not limited to, land-line phones, cable and satellite television and radio broadcasts. Wireless technology has become a vital part of emergency services, aiding local residents and motorists in a variety of situations, thus helping to protect the general public's health, safety and welfare. The proposed communications facility at this site will further enhance goals of providing the most reliable wireless coverage possible in this area.

The proposed communications facility will be designed and constructed to meet all applicable governmental and industry safety standards. Specifically, CitySwitch will comply with all FCC and FAA rules and regulations regarding construction requirements and technical standards. RF emissions are subject to the exclusive jurisdiction of the FCC, and the proposed facility will comply with the FCC's RF emission standards.. Any height, lighting or marking issues are also subject to the exclusive jurisdiction of the FAA, and the proposed facility will comply with the FAA's requirements for height, lighting, and marking.

LCC Telecom Services and Sherman & Howard, on behalf of CitySwitch, look forward to working with Imperial County to bring the benefits of the proposed improved wireless services to the area. The addition of the facility will ensure improved railroad communications and the best uninterrupted wireless services for Imperial County. This application addresses all applicable standards of Sections 92404.01 and 92405.01 of the Imperial County Zoning Ordinance and satisfies the requirements of those sections.

Compliance with Section 92404.01 – General Requirements for Communications Facilities

All new, altered and re-permitted communication facilities in unincorporated areas of Imperial County, with the exception of those exempted under Section 92401.03, shall meet the following general requirements, regardless of the zone in which they are located:

- A. Zones. Wireless communication facilities may be located in all base zones which allow such facilities, upon approval of a conditional use permit as described below.

Telecommunications towers, along with related equipment are allowed with CUP approval in the S-2 Open Space/Preservation zone pursuant to Section 90519.02(d) of the ordinance.

- B. Use Permit Required. All wireless communication facilities and all wired or fiber regeneration facilities other than those designated as exempt under Section 92401.03 require a conditional use permit (CUP). To obtain a conditional use permit, a hearing is required before either the planning director or the planning commission, as provided for in Title 9.

The proposed wireless communications facility is not exempt under Section 92401.03, therefore CitySwitch has applied for a CUP, and will follow the CUP process provided for in Title 9.

- C. Building Permit Required. All communication facilities shall require a building permit issued by the county of Imperial.

If and when the CUP has been approved, CitySwitch will apply for the necessary building permits through Imperial County.

- D. Design Consistency with the Surrounding Environment. To the maximum extent feasible, all wireless communication facilities and all regeneration facilities shall blend in with the predominant features of the existing natural and/or built environments in which they are located. To this end, co-location, stealth mounts, structure mounts and ground mounts are particularly encouraged.

Due to the diminutive size of the parcel and the tower's location adjacent to the railroad tracks in the desert, there will be little impact on the surrounding environment.

- E. Height. All communication facilities shall conform to the following height requirements:
1. All communication facilities shall be of the minimum functional height, with additional provisions for co-location, as allowed in the respective base zone unless a variance is approved concurrent with a CUP. (For example, if the number of co-locators that a particular facility is designed for is four and the required height is eighty (80) feet, then the allowed height of the facility would be one hundred ten (110) feet and if it is five co-locators, then it would be one hundred twenty (120) feet).

The proposed monopole tower is designed to be 170'-0" with a 10' lightning rod for a total height of 180'-0". The proposed height is the minimum functional height for Union Pacific and AT&T to provide the necessary coverage for the area. A height variance has been requested as part of this application. See Site Plans

2. All communication facilities constructed within three-quarters mile of a scenic corridor (as designated by the Imperial County General Plan) shall conform with the height limit in the zone in which they are located. New facilities that are co-located with an existing facility may exceed their zone's height limit, provided that the installation of the new facility does not require a height increase of the existing facility.

According to the General Plan, the area is designated as Recreation/Open Space, there is no designation of a scenic corridor in the vicinity. Therefore, this section does not apply.

3. Outside of the three-quarter-mile range of a designated scenic corridor, communication facility, except an exempt facility, may exceed one hundred twenty (120) feet. A bonus of twenty (20) additional feet per facility, up to a maximum height of three hundred (300) feet, is permissible for operators co-locating on a single facility.

The proposed tower height is 180'-0" and a height variance has been requested as part of this application.

4. No roof-mounted wireless communication facility, except an exempt facility, may be more than twelve (12) feet taller than the roof of the building on which it is mounted, unless facility is fully screened and height does not exceed height permitted by applicable zoning code.

The application is for a new communications tower facility and not a rooftop facility, Therefore, this section does not apply.

5. If an operator wishes to apply for an exception to these height limitations, then the facility shall be subject to the provisions at Title 9 relating to conditional use permits and variances hearing processes.

The proposed tower height is 180'-0" and a height variance has been applied for as part of this application.

- F. Screening. All communication facilities shall be screened to the maximum extent possible, pursuant to the following requirements.

1. Ground- and tower-mounted antennas and all sound structures shall be located within areas where substantial screening by vegetation, landform and/or buildings can be achieved. Additional vegetation and/or other screening may be required as a condition of approval. Each structural screening shall be based on a recommendation from the planning department having addressed the visual impacts, which in some instance may, in fact, warrant no screening.

No screening is proposed with this application. The proposed tower site is within the railroad right-of-way in the desert with no residential structures in the area.

2. The projection of structure-mounted antennas from the face of the structure to which they are attached shall be minimized.

The proposed wireless communications facility is a new tower, not a co-location on an existing structure. Therefore, this section does not apply.

3. Roof-mounted antennas shall be set back from the edge of the roof a distance greater than or equal to the height of the antenna, except when the antennas are fully screened. For roofmounted antennas, a screening structure that is architecturally compatible with the building on which it is mounted may also be required as a condition of approval. Antenna panels mounted flush on the outside of the parapet wall of an existing building and painted to match the exterior of the building may be allowed.

The proposed wireless communications facility is a new tower, not a co-location on an existing structure. Therefore, this section does not apply.

- G. Radio Frequency Exposure. No communication facility shall be sited or operated in such a manner that it poses, either by itself or in combination with other such facilities, a

potential threat to public health. To that end, no communications facility or combination of facilities shall produce at any time power densities that exceed the current FCC adopted standards for human exposure to RF fields. Certification that a facility meets this standard is required. A copy of the certification from the FCC shall be submitted to the county.

All spectrum used by both railroad users and wireless providers are solely regulated by the FCC which includes the power densities, therefore, no signals will exceed the current FCC adopted standards for human exposure.

- H. Cabling. For structure-mounted antennas, all visible cabling between equipment and antennas shall be routed within the building wherever feasible, or on the roof below the parapet wall. Cabling on the exterior of a building or monopole shall be located within cable trays painted to match. All cabling shall be performed in accordance with the NEC (National Electrical Code).

All cabling is proposed for the interior of the monopole and will be in accordance with the NEC guidelines. In the event that any future cabling needs to be on the exterior of the tower, a cable tray painted to match the tower will be used.

- I. Painting and Lighting. All facilities shall be painted or constructed of materials to minimize visual impact. All towers shall be painted in a non-reflective and preferably earth tone color. All towers shall be lit with approved lighting as required by the FAA and the Airport Land Use Commissions Standards.

The proposed tower is going to be galvanized metal which is a non-reflective material. The proposed tower is going to be 170'-0" with a 10'-0" lightning rod for a total height of 180'-0" which is below the 200' threshold requiring lighting per the FAA. Therefore, no lighting will be provided.

- J. Noise. All communication facilities shall be designed to minimize noise. If a facility is located in or within one hundred (100) feet of a residential zone, noise attenuation measures shall be included to reduce noise levels to a maximum exterior noise level of fifty (50) L dn at the facility site's property lines.

The proposed wireless communications facility does not generate significant noise. The proposed facility will not initially have a back-up generator, therefore there will be no noise generated at the site. There are no residential zone parcels within one hundred (100) feet of the proposed facility Therefore, no noise attenuation measures will be necessary.

- K. Accessory Structures. Enclosures and cabinets housing equipment related to a wireless communication facility shall meet setback and height restrictions for such structures in

their zones. Such structures shall appear architecturally compatible (as determined by the planning director evaluating the facility on the basis of color and materials) with their surroundings and be designed to minimize their visual impact. To meet this requirement, underground vaults may be required.

The proposed facility will be in compliance with all local, state and federal guidelines, therefore the zero setback will be applicable. Additionally, the equipment will be architecturally compatible with the rest of the communications facility and surrounding area.

- L. Roads and Parking. Communication facilities shall be served by the minimum roads and parking areas necessary and shall use existing roads and parking areas whenever possible.

A 12' wide gravel access road is proposed to run parallel to the train tracks in the Union Pacific right-of-way. The access road will connect to Sidewinder Road N., just south of the tracks.

- M. Provisions for Future Co-location. All commercial communication facilities shall be encouraged to promote future facility and site sharing. Technical evidence will be provided as to the infeasibility either technical and/or economic, of co-location or grouping prior to the issuance of a new use permit for a facility that would not be considered to be co-located or grouped under this ordinance.

There is an existing tower owned by SBA Structures, LLC which is located approximately 0.36 miles southeast of the proposed tower site. AT&T is currently co-located on that tower, however, the lease rate has sharply increased over the term of the agreement and has caused an economic burden which is shown in the attached Sworn Statement of Spencer Gambrell in Support of New Tower Construction from AT&T Mobility Services LLC. As shown on the drawings the proposed tower is designed to potentially add five additional future carriers.

- N. Removal Upon Discontinuation of Use. All equipment associated with a communication facility shall be removed within one hundred eighty (180) days of the discontinuation of the use and the site shall be restored to its original pre-construction condition. The operator's agreeing to such removal and allowing the county access across private property to effect such removal shall be a condition of approval of each permit issued. At its discretion, the county may require a financial guarantee acceptable to the county to ensure removal.

CitySwitch agrees to removal of the tower in the event it is no longer in use for more than 180 days as a condition of the Conditional Use approval.

- O. Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

The proposed wireless communications facility is an accessory use on the property to the principal use of the railroad. As stated above, this will not preclude the installation of antennas on within the right-of-way.

- P. Lot Size. For purposes of determining whether the installation of a facility complies with county development regulations, including, but not limited to, setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on lease parcels within such lot. This shall also take into consideration the height of the tower in the event of a failure whereby it could fall thereby crossing property lines.

The proposed tower is going to be located within the railroad right-of-way, therefore the development regulations do not strictly apply to this facility because there is no actual lot size. The proposed tower will be designed to collapse onto itself in the unlikely event of a failure. The surrounding area is desert, so even an unlikely failure will not have an impact.

- Q. Inventory of Existing Sites. Each applicant for a facility shall provide to the planning director an inventory of its existing towers, antennas, or sites approved for facilities, that are either within the jurisdiction of Imperial County or within one mile of the border thereof, including specific information about the location, height and design of each facility. The planning director may share such information with other applicants applying for administrative approvals or special use permits under this ordinance or other organizations seeking to locate facilities within the jurisdiction of Imperial County, provided, however that the planning director is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

See attached Coverage Plots.

- R. Aesthetics. Towers and antennas shall meet the following requirements:
- a. Towers shall either maintain a galvanized steel finish, or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obstructiveness.

The proposed tower will maintain a galvanized steel finish so as to reduce visual obstructiveness.

- b. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.

The proposed support equipment will consist of galvanized metal equipment cabinets that are similar to gym lockers. The materials will match the tower and fit in with the natural surroundings.

- c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobstructive as possible.

The proposed wireless communications facility is a new tower, not a co-location on an existing structure, therefore this provision does not apply.

- S. Lighting. Towers shall not artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views and community.

The proposed tower is going to be 170'-0" with a 10'-0" lightning rod for a total height of 180'-0" which is below the 200' threshold requiring lighting per the FAA, therefore no lighting will be provided.

- T. State or Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations as mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

The proposed tower will meet and / or exceed all FAA, FCC and any other agencies of the State of California or federal government with authority to regulate towers and antennas. In the event of a change in regulations, CitySwitch and the providers co-located on the tower will make their equipment compliant.

- U. Building Codes; Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the county concludes that a tower fails to comply with such codes and

standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

CitySwitch will be compliant with all Electronic Industries Association along with any local, state or federal guidelines relating to the construction and maintenance of the communications facility.

- V. Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the unincorporated areas of the county of Imperial according to the provisions of Title 9 for the respective base zone.

Noted, the setbacks are shown on the drawings and the separation distance has been calculated based on the coordinates of the existing tower and the coordinates for the SBA tower shown on the FCC ASR Search website.

- W. Not Essential Services. Towers and antennas shall be regulated and permitted pursuant to this ordinance and shall not be regulated or permitted as essential services, public utilities or private utilities.

CitySwitch, Union Pacific, and AT&T Mobility are private corporations and are not essential service providers.

- X. Franchises. Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a communication system in Imperial County have been obtained and shall file a copy of all required franchises with the planning director.

Any required certifications of franchise will be filed with Imperial County as required.

- Y. Public Notice. For purposes of this ordinance, any conditional use permit request, variance request, or appeal of an administratively approved CUP or special use permit shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed for a CUP or variance in the respective base zone, under Title 9, in addition to any notice otherwise required by the planning director.

CitySwitch will comply with any notice obligations for the CUP process, to the extent the public notice is not required by Imperial County.

Z. Signs. No signs shall be allowed on an antenna or tower except as may be required by law or another permitting or licensing agency.

The only signage displayed on the communications facility site will be that which is required by federal regulations, specifically those signs needed for health and safety reasons.

AA. Buildings and Support Equipment. Buildings and support equipment associated with antennas or towers shall comply with requirements of Title 9.

All support equipment used in the communications facility will comply with the requirements of Title 9.

BB. Multiple Antenna/Tower Plan. Imperial County encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.

CitySwitch is submitting three (3) total applications for sites within Imperial County.

Compliance with Section 92405.01 – Wireless Communications Permitting Requirements

All communication facilities not specifically exempted from these regulations are subject to one of the two permit processes described below. Both processes include a conditional use permit and may have a concurrent variance. Applications for all permits required pursuant to this division shall be made in writing on a form prescribed by the planning director, and shall be accompanied by plans and data to assure the fullest practical presentation of facts for the permanent record. Such application shall be accompanied by a fee or fees as may be set by the board of supervisors. No part of such fee shall be refundable.

- A. Conditional Use Permit before the planning director. Certain communication facilities may be conditionally approved by the planning director, as described in this subsection.
 - 1. Qualifying Facilities. The following types of communication facilities qualify for a use permit before the planning director:
 - a. Receive-only radio and television antennas and satellite dishes or antennas that do not qualify for exemption under Section 92401.3, including multiple antennas or dishes on a single parcel.
 - b. Amateur radio facilities that do not qualify for exemption under Section 92401.3. When required, a conditional use permit before the planning director shall be granted to amateur radio operators with no fee.
 - c. Communication facilities installed on publicly owned property, regardless of zone, provided they comply with the general requirements in Section 92401.04 and hold an executed license or lease agreement.
 - d. Co-located communication facilities, regardless of zone, provided they comply with the general requirements in Section 92401.04.

The proposed wireless communications is located within the Union Pacific right-of-way and does not qualify for a CUP before the Planning Director.

- 2. Required Findings. In order for the planning director to approve a proposed communication facility under a conditional use permit, the planning director shall make the findings required for a conditional use permit, as well as, the following additional findings:
 - a. The facility complies with all applicable Section 92401.04.

The application includes all items required in Section 92401.04 and complies with all requirements in said section.

- b. The facility either 1) does not require an RF environmental evaluation report as described in Section 92401.08, or 2) the RF environmental evaluation report for the facility shows that the cumulative radio-frequency energy emitted by the facility and any nearby facilities will be consistent with FCC regulations.

The proposed installation is not required to include a RF Environmental Evaluation Report as spelled out in Section 92401.08.

- c. The facility blends in with its existing environment and will not have significant adverse visual impacts.

The proposed tower is being located within an existing railroad right-of-way in the desert and will not have a significant adverse visual impact on surrounding area.

3. Administrative Approval Process. The planning director may administratively approve a proposed communication facility by using the following process:
 - a. Each applicant for administrative approval shall apply to the planning director providing the information and fees set forth in Section 92401.09 of this ordinance.
 - b. The planning director shall review the application shall review the application for administrative approval and determine if the proposed use complies with Sections 92401.04 and 92401.05 of this ordinance.
 - c. The planning director shall respond to each such application within sixty (60) days after receiving it by either approving or denying the application.
 - d. In connection with any such administrative approval, the planning director may, in order to encourage shared use, administratively waive any setback requirements or separation distances between towers in the base zone by up to fifty percent (50%).
 - e. In connection with any such administrative approval, the planning director may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.
 - f. If an administrative approval is denied, the applicant shall file an application for a conditional use permit pursuant to Section 91401.05B. prior to filing any special appeal that may be available under the Title 9.

The proposed wireless telecommunications facility requires a Conditional Use Permit and a Height Variance, therefore this site does not meet the criteria for an Administratively Approved site.

4. List of Administratively Approved Uses. The following uses may be approved by the planning director after conducting an administrative review:

- a. Locating a tower, antenna or facility, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any industrial or heavy commercial zone or a grouped facility.
- b. Locating antennas or existing structures or towers consistent with the terms of subsections (1) and (2) below.
 - (1) Antennas on existing structures. Any antenna, which is not attached to a tower, may be approved by the planning director as an accessory use to any commercial, industrial, professional, institutional, or multi-family structure of eight or more dwelling units, provided:
 - (a) The antenna does not extend more than thirty (30) feet above the highest point of the structure;
 - (b) The antenna complies with all applicable FCC and FAA regulations;
 - (c) The antenna complies with all applicable building codes.
 - (2) Antennas on existing towers. An antenna which is attached to an existing tower may be approved by the planning director and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:
 - (a) A tower which is modified or reconstructed to accommodate to collocation of an additional antenna shall be of the same tower type as the existing tower, unless the planning director allows reconstruction as a monopole.
 - (b) Height.
 - (i) An existing tower may be modified or rebuilt to a taller height, not to exceed thirty (30) feet over the tower's existing height, to accommodate the collocation of an additional antenna.
 - (ii) The height change referred to in subsection (b)(i) may only occur one time per communication tower.
 - (iii) The additional height referred to in subsection (c)(i) shall not require an additional distance separation. The tower's premodification height shall be used to calculate such distance separation.
 - (c) On-site location.
 - (i) A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within fifty (50) feet of its existing location.
 - (ii) After the tower is rebuilt to accommodate collocation, only one tower may remain on the site.
 - (iii) A relocation onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to the base zone.

- (iv) The onsite relocation of a tower which comes within the separation distances to residential units or residentially zoned lands shall only be permitted when approved by the planning director.
- c. New towers in nonresidential zones. Locating any new tower in a nonresidential zone other than industrial or heavy commercial, provided a licensed professional engineer certifies that the tower can structurally accommodate the number of shared users proposed by the applicant; the planning director concludes the tower is in conformity with the goals set forth in [Section] 92401.00 and the requirements of Section 92401.04; the tower meets all setback and separation requirements of the base zone; and the tower meets the following height and usage criteria:
 - (1) For a single user, up to ninety (90) feet in height;
 - (2) For two users, up to one hundred twenty (120) feet in height; and
 - (3) For three or more users, up to one hundred twenty (120) feet in height; and
 - (4) For four or more users up to one hundred eighty (180) feet in height.
- d. Locating any alternative tower structure in a zone other than industrial or heavy commercial that in the judgment of the planning director is in conformity with the goals set forth in Section 92401.00 of this ordinance.
- e. Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

The proposed wireless telecommunications facility requires a CUP and a Variance for height. Therefore, this site does not meet the criteria for an Administratively Approved site.

- B. Conditional Use Permit before the planning commission. All other communication facilities or any facility requiring an exception to these regulations shall require a conditional use permit with a public hearing before the planning commission.
 - 1. Qualifying Facilities. A conditional use permit is required for any communication facility that is not exempt under these regulations and that does not qualify for a conditional use permit before the planning director.

The proposed 170'-0" monopole tower is not exempt under Section 92401, therefore a Conditional Use Permit and Variance for height are required.

- 2. Required Findings. In order for the planning commission to approve a proposed communication facility under a conditional use permit, the commission shall make the findings required for a conditional use permit, as well as the following additional findings:

- a. No alternative site or design is available that would allow for issuance of a conditional use permit before the planning director for the facility. This finding shall be based on the results of an alternatives analysis, as described in Section 92401.06, below.

AT&T Mobility is currently located on the existing SBA tower which is approximately 0.36 miles southeast of the proposed location. At the current lease rate, AT&T is burdened by the high rent, as stated in the attached Sworn Statement of Spencer Gambrell in Support of New Tower Construction from AT&T Mobility Services LLC. Should SBA be allowed to continue charging above market rates, AT&T will not be able to upgrade its equipment and stay competitive in the market.

- b. Facility either 1) does not require an RF environmental evaluation report as described in Section 92401.08, or 2) the RF environmental evaluation report for the facility shows that the cumulative radio frequency exposure emitted by the facility and any nearby facilities will be consistent with FCC regulations.

The proposed installation is not required to include a RF Environmental Evaluation Report as spelled out in Section Section 92401.08.

- c. The facility blends in with its existing environment and will not have significant visual impacts.

As stated above, the proposed facility is located within the Union Pacific railroad right-of-way and is located in the desert. The proposed facility will not have a significant visual impact on the surrounding area.

4. Conditional Use Permit Process. Applications for conditional use permits under this subsection shall conform to the requirements of Section 92401.04 and shall be subject to the procedures and requirements of Title 9 relating to the granting of conditional use permits.

The proposed application is in conformity with Section 92401.04 and Title 9 relating to the granting of the Conditional Use Permit.

5. Conditions. In granting a conditional use permit, the planning commission may impose conditions to the extent the planning commission concludes such conditions are necessary to minimize any adverse effects if the proposed facilities on adjoining properties.

CitySwitch is aware that the Planning Commission may impose conditions on the Conditional Use Permit to minimize adverse effects on the adjoining properties.

The proposed location is within the Union Pacific Railroad right-of-way and will be designed to minimize the adverse effects of this application. Further, CitySwitch will work with the County Officials to provide the best possible design for the proposed site.

6. Professional Engineer. Any information of an engineering nature that the applicant submits, whether civil, mechanical or electrical, shall be certified by a licensed professional engineer.

All required information relating to the engineering of this site will be certified by a California licensed professional engineer, including all civil, mechanical or electrical documents.

Conditional Use Permit Standards

90203.09 Action on a conditional use permit.

An application for a conditional use permit shall be reviewed, and approved, conditionally approved, or denied by the decision-making authority.

The authority may approve or conditionally approve an application only if it finds all of the following:

- A. The proposed use is consistent with the goals and policies of the adopted county general plan;

Legislative Mandate

For the reasons stated above, the California legislature has established the General Plan as the comprehensive statement of public policy by which to evaluate all decisions regarding the development of land, the extension of public infrastructure, and the conservation and wise use of natural resources.

Although wireless telecommunications is not technically the extension of public infrastructure, it does serve the general public as a service that is essential to the fabric of Imperial County. Wireless technology has become as important to society as all other forms of public infrastructure such as roads, water, electricity and others.

County Population

The West Shores communities of Salton City, Salton Sea Beach, and Desert Shores are also largely retirement and recreation communities, though increasingly their populations are becoming more diversified. These communities experience a noticeable increase in population during the winter months when visitors converge to the area to avoid cold, wet winters in other parts of the United States and Canada.

The comprehensive plan acknowledges the influx of “snow-birds” in the winter months causing a noticeable increase in the population. A robust wireless infrastructure is essential to the common good of the population of Imperial County because with the seasonal change in population, a strong wireless network is critical.

Public Safety

Additional public safety is provided by the County Fire Department/Office of Emergency Services in cooperation with the incorporated cities and volunteer units in the unincorporated communities. The County Fire Department's main facility is located at the County Airport in Imperial.

Companies like CitySwitch have worked with local emergency service agencies to allow for the placement of equipment in and around their facilities. Additionally, with AT&T co-locating on the tower, 5G will be a part of the installation. 5G technology is used by first responders to create a network which supports their needs in the time of crisis which will provide better response times and services by local emergency services.

- B. The proposed use is consistent with the purpose of the zone or sub-zone within which the use will be located;

The proposed communications facility is consistent with the with the purpose of the zone within which it will be located. Per Section 90519.00, the "primary intent" of the S-2 zone is "to preserve the cultural, biological, and open space areas that are rich and natural as well as cultural resources. The S-2 zone is dominated by native desert habitat and stark topographic features. While certain uses are allowed within the S-2 zone, such uses must be compatible with the intent of the open space and conservation element of the general plan."

In this case, a communications facility is an allowable use in the zone with conditional use approval. The site is located approximately 0.23 miles north of I-8 and will serve to ensure a robust wireless network for AT&T and Union Pacific in this area.

- C. The proposed use is listed as a use within the zone or sub-zone or is found to be similar to a listed conditional use according to the procedures of Section 90203.10;

Communications towers are an articulated conditional use in the S-2 (Open Space/Preservation) zone pursuant to Section 90519.02(d) of the Imperial County Zoning Ordinance.

- D. The proposed use meets the minimum requirements of this title applicable to the use and complies with all applicable laws, ordinances and regulations of the county of Imperial and the state of California;

The proposed communications facility meets the minimum requirements of this title applicable to the use as addressed above and complies with all applicable laws, ordinances and regulations of Imperial County and the State of California.

- E. The proposed use will not be detrimental to the health, safety, and welfare of the public or to the property and residents in the vicinity;

Due to the diminutive size of the proposed equipment, it will not have an adverse effect on the surrounding properties nor the character of the area. Wireless

transmissions do not interfere with any other form of communications whether public or private, or in any way endanger the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors. Wireless telephones provide an alternate communication system which has repeatedly proven its effectiveness in emergency situations and is commonly being used by police and fire departments to protect the general public's health, safety, and welfare. All wireless telecommunications facilities are governed by FCC and FAA regulations. As such, all spectrum used to provide a wireless signal are allocated by the FCC which has deemed the signals will not cause any health-related affects.

- F. The proposed use does not violate any other law or ordinance;

The application on behalf of CitySwitch, Union Pacific and AT&T conforms to the applicable regulations of the S-2 zone and the facility is allowable as a conditional use in that zone. The proposed wireless telecommunications facility is also designed to conform to all federal, state and local regulations.

- G. The proposed use is not granting a special privilege.

No special privilege will be granted to CitySwitch, Union Pacific or AT&T by granting the Conditional Use Permit. AT&T is currently located on an existing tower owned by SBA Structures, LLC approximately 0.36 miles southeast of the proposed location. At the current lease rate, AT&T is burdened by the high rent, as stated in the attached Sworn Statement of Spencer Gambrell in Support of New Tower Construction from AT&T Mobility Services LLC. Should SBA be allowed to continue charging above market rates, AT&T will not be able to upgrade its equipment and stay competitive in the market.

Variance Standards

The planning director, the planning commission and/or the board of supervisors, shall approve, approve subject to conditions or disapprove a variance with the following findings:

A. Findings. Approval or conditional approval may be granted only if the director/commission/board of supervisors first determines that the variance satisfies the criteria set forth in Government Code Section 65906, and the following findings can be made:

1. That there are special circumstances applicable to the property described in the variance application, that do not apply generally to the property or class of use in the same zone or vicinity;

The proposed location has special circumstances that are not applicable to other properties in the area. The proposed location is within Union Pacific's right-of-way and will host communication equipment for railroad use and will also service wireless providers. The property is located in a railroad right-of-way within the desert, there are no residential properties in the area that would be affected.

2. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such zone or vicinity in which the property is located;

The proposed variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such zone or vicinity. The area is a mostly undeveloped area in the desert located approximately 0.33 miles north of Interstate 8. The location is far removed from any residential uses.

3. That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of zoning laws is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classifications;

There are special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of zoning laws is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classifications. The proposed location is within Union Pacific's right-of-way and will host communication equipment that will service wireless providers along with the railroad's needs. The height required for the proposed tower is necessary to allow for the Union Pacific Railroad and AT&T to utilize the tower to provide the necessary signal.

4. That the granting of such variance will not adversely affect the comprehensive general plan.

The granting of such variance will not adversely affect the comprehensive general plan. As previously stated:

Legislative Mandate

For the reasons stated above, the California legislature has established the General Plan as the comprehensive statement of public policy by which to evaluate all decisions regarding the development of land, the extension of public infrastructure, and the conservation and wise use of natural resources.

Although wireless telecommunications is not technically the extension of public infrastructure, it does serve the general public as a service that is essential to the fabric of Imperial County. Wireless technology has become as important to society as all other forms of public infrastructure such as roads, water, electricity and others.

County Population

The West Shores communities of Salton City, Salton Sea Beach, and Desert Shores are also largely retirement and recreation communities, though increasingly their populations are becoming more diversified. These communities experience a noticeable increase in population during the winter months when visitors converge to the area to avoid cold, wet winters in other parts of the United States and Canada.

The comprehensive plan acknowledges the influx of “snow-birds” in the winter months causing a noticeable increase in the population. A robust wireless infrastructure is essential to the common good of the population of Imperial County because with the seasonal change in population, a strong wireless network is critical.

Public Safety

Additional public safety is provided by the County Fire Department/Office of Emergency Services in cooperation with the incorporated cities and volunteer units in the unincorporated communities. The County Fire Department's main facility is located at the County Airport in Imperial.

Companies like CitySwitch have worked with local emergency service agencies to allow for the placement of equipment in and around their facilities. Additionally, with AT&T co-locating on the tower, 5G will be a part of the installation. 5G technology is used by first responders to create a network which supports their needs in the time of crisis which will provide better response times and services by local emergency services.

B. Conditions of Approval. In approving a variance, the director/commission/board of supervisors may impose such conditions deemed necessary to enable making the findings listed under subsection A of this section.

C. Denial of Variance. Where the director/commission/board of supervisors cannot make the findings under subsection A of this section (with or without conditions) the variance shall be denied.

Alternatives Analysis

For a facility requiring a conditional use permit before the planning commission, an alternatives analysis shall be prepared by or on behalf of the operator, as described below.

- A. Alternatives to be Considered. The alternatives analysis shall consider alternative locations and designs for the proposed facility, including those which would not require a conditional use permit. At a minimum, alternatives included in the analysis shall include: (1) co-location at all existing communication facilities whether in the unincorporated area of the county, a city or an adjacent county; (2) lower, more closely spaced communication facilities; and (3) mounting on any existing nonresidential structure within one-half mile of the proposed facility in the unincorporated area of Imperial County. The alternatives analyzed shall be approved by the planning director. For facilities to be located near an incorporated city, the analysis shall also explain why siting within the city is not possible.

Union Pacific and AT&T have considered co-location on existing facilities and deemed that no other tower in the area is appropriate for the following reasons.

(1) As stated in previous narrative, AT&T is currently on an SBA Structures, LLC tower approximately 0.36 miles southeast of the proposed CitySwitch facility. AT&T has deemed this tower to be economically burdensome as shown in the attached Sworn Statement of Spencer Gambrell in Support of New Tower Construction from AT&T Mobility Services LLC. In addition, Union Pacific requires direct access to their equipment along the railroad line and the ability to upgrade as needed which would be much more difficult locating on the SBA tower.

(2) Providing lower towers more closely spaced out would not benefit AT&T, Union Pacific or the County. When evaluating a network, carriers such as AT&T require specific height and locations based on the existing network. Lowering the height and building more towers would create a degradation of the signal in the area. Doing this would create coverage gaps in some areas and a bleed over into other cell sites.

(3) AT&T is currently on an SBA Structures, LLC tower approximately 0.36 miles southeast of the proposed CitySwitch facility. The proposed tower is in a non-residential area, north of I-8. The nearest incorporated city is Yuma, Arizona which is approximately 4.75 miles southeast of the proposed tower which would not be a possible alternative. As stated above, due to the economic burden on AT&T it is no longer desirable to co-locate on this tower.

- B. Findings. The alternatives analysis shall show whether or not the proposed siting and design would have the least possible environmental and visual effect on the community and whether any alternative site or design is available that would allow for issuance of a conditional use permit before the planning director for the facility.

The proposed location for the CitySwitch communications facility is within the right-of-way of the Union Pacific railroad line northwest of I-8 and Sidewinder Rd N. The proposed location is in the desert in an unpopulated area. With the SBA tower being located 0.36 miles southeast of the proposed facility, Imperial County has already deemed that a communications facility would be visually acceptable in this area. Additionally, CitySwitch has chosen to use a monopole design for the tower which is the least obtrusive design for a 170' tower in this area.

- C. Review. The planning director may, at his or her discretion, employ on behalf of the county an independent technical expert to review this alternative analysis. The operator shall bear the reasonable costs of this review.

Based on the information submitted in the Sworn Statement of Spencer Gambrell in Support of New Tower Construction from AT&T Mobility Services LLC, included as part of this application, CitySwitch believes a third party is not necessary, however, if deemed necessary by the planning director, CitySwitch will bear the reasonable costs for this review.

**ATTACHMENT “J”-
COMMENT LETTERS**



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November 27, 2023

RECEIVED

By Imperial County Planning & Development Services at 11:44 am, Nov 27, 2023

Ms. Evelia Jimenez
Planner II
Planning & Development Services Department
County of Imperial
801 Main Street
El Centro, CA 92243

SUBJECT: NOI for the Preparation of an ND City Swytch Telecom Tower Project at Sidewinder Road; IS23-0010/CUP23-0010/V23-0004

Dear Ms. Jimenez:

On November 22, 2023, the Imperial Irrigation District received from the Imperial County Planning & Development Services Department, a Notice of Intent for the preparation of a Negative Declaration for a telecom tower project at Sidewinder Road; Initial Study No. 23-0010, Conditional Use Permit No. 23-0010, Variance No. 23-0004. The applicant, CitySwytch, proposes to install a 170 ft. monopole tower with a 10 ft. lightning rod on a 57 ft. x 45 ft. site located at 673 Sidewinder Road, Winterhaven, CA (APN 056-470-002-000).

IID has reviewed the project information and found that the comments provided in the June 8, 2023 district letter (see attached letter) continue to apply.

Should you have any questions, please do not hesitate to contact me at 760-482-3609 or at dvargas@iid.com. Thank you for the opportunity to comment on this matter.

Respectfully,

Donald Vargas
Compliance Administrator II

Jamie Asbury – General Manager
Mike Pacheco – Manager, Water Dept.
Matthew H Smelser – Manager, Energy Dept.
Geoffrey Holbrook – General Counsel
Michael P. Kemp – Superintendent General, Fleet Services and Reg. & Environ. Compliance
Laura Cervantes. – Supervisor, Real Estate
Jessica Humes – Environmental Project Mgr. Sr., Water Dept.



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Since 1911

June 8, 2023

Ms. Evelia Jimenez
Planner II
Planning & Development Services Department
County of Imperial
801 Main Street
El Centro, CA 92243

SUBJECT: City Swytch Telecom Tower Project at Sidewinder Road; CUP23-0010/V23-0004/IS23-0010

Dear Ms. Jimenez:

On May 26, 2023, the Imperial Irrigation District received from the Imperial County Planning & Development Services Department, a request for agency comments on the telecom tower project at Sidewinder Road; Conditional Use Permit No. 23-0010, Variance No. 23-0004, Initial Study No. 23-0010. The applicant, CitySwytch, proposes to install a 170 ft. monopole tower with a 10 ft. lightning rod on a 57 ft. x 45 ft. site located at 673 Sidewinder Road, Winterhaven, CA (APN 056-470-002-000).

The IID has reviewed the application and has the following comments:

1. For electrical service to the proposed communication tower, the applicant should be advised to contact Joel Lopez, IID project development service planner, at (760) 482-3444 or e-mail Mr. Lopez at jflopez@iid.com to initiate the customer service application process. In addition to submitting a formal application (available for download at the district website <http://www.iid.com/home/showdocument?id=12923>), the applicant will be required to submit a complete set of approved project plans by the County of Imperial (including AutoCAD files of the site plan and electrical plans), electrical panel size and panel location, operating voltage, electrical loads, project schedule, and the applicable fees, permits, easements and environmental compliance documentation pertaining to the provision of electrical service to the project. The applicant shall be responsible for all costs and mitigation measures related to providing electrical service to the project.
2. Electrical capacity is limited in the project area. A circuit study may be required. Any system improvements or mitigation identified in the circuit study to enable the provision of electrical service to the project shall be the financial responsibility of the applicant.
3. Applicant shall provide a surveyed legal description and an associated exhibit certified by a licensed surveyor for all rights of way deemed by IID as necessary to accommodate the project electrical infrastructure. Rights-of-Way and easements shall be in a form acceptable to and at no cost to IID for installation, operation, and maintenance of all electrical facilities.

4. Any construction or operation on IID property or within its existing and proposed right of way or easements including but not limited to: surface improvements such as proposed new streets, driveways, parking lots, landscape; and all water, sewer, storm water, or any other above ground or underground utilities; will require an encroachment permit, or encroachment agreement (depending on the circumstances). A copy of the IID encroachment permit application and instructions for its completion are available at <https://www.iid.com/about-iid/department-directory/real-estate>. The IID Real Estate Section should be contacted at (760) 339-9239 for additional information regarding encroachment permits or agreements. No foundations or buildings will be allowed within IID's right of way.
5. Any new, relocated, modified or reconstructed IID facilities required for and by the project (which can include but is not limited to electrical utility substations, electrical transmission and distribution lines, water deliveries, canals, drains, etc.) need to be included as part of the project's California Environmental Quality Act (CEQA) and/or National Environmental Policy Act (NEPA) documentation, environmental impact analysis and mitigation. Failure to do so will result in postponement of any construction and/or modification of IID facilities until such time as the environmental documentation is amended and environmental impacts are fully analyzed. Any and all mitigation necessary as a result of the construction, relocation and/or upgrade of IID facilities is the responsibility of the project proponent.

Should you have any questions, please do not hesitate to contact me at 760-482-3609 or at dvgargas@iid.com. Thank you for the opportunity to comment on this matter.

Respectfully,



Donald Vargas
Compliance Administrator II

Sergio Quiroz – Interim General Manager
Mike Pacheco – Manager, Water Dept.
Jamie Asbury – Manager, Energy Dept.
Matthew H Smelser – Deputy Mgr. Energy Dept.
Daryl Buckley – Mgr. of Distribution Svcs. & Maint. Optrns., Energy Dept.
Geoffrey Holbrook – General Counsel
Michael P. Kemp – Superintendent General, Fleet Services and Reg. & Environ. Compliance
Laura Cervantes – Supervisor, Real Estate
Jessica Humes – Environmental Project Mgr. Sr., Water Dept.

COUNTY EXECUTIVE OFFICE

Miguel Figueroa
County Executive Officer
miguelfigueroa@co.imperial.ca.us
www.co.imperial.ca.us




County Administration Center
940 Main Street, Suite 208
El Centro, CA 92243
Tel: 442-265-1001
Fax: 442-265-1010

RECEIVED

May 31, 2023

MAY 31 2023

**IMPERIAL COUNTY
PLANNING & DEVELOPMENT SERVICES**

TO: Evelia Jimenez, Planning and Development Services Department
FROM: Rosa Lopez-Solis, Executive Office 
SUBJECT: Comments – City Switch - CUP 23-0010

The County of Imperial Executive Office is commenting on City Switch - CUP 23-0010 project. The Executive Office would like to inform the developer of conditions and responsibilities should the applicant seek a Conditional Use Permit (CUP). The conditions commence prior to the approval of an initial grading permit and subsequently continue throughout the permitting process. This includes, but not limited to:

- **Sales Tax Condition.** The permittee is required to have a Construction Site Permit (prior to the issuance of any grading permits) reflecting the project site address, allowing all eligible sales tax payments are allocated to the **County of Imperial, Jurisdictional Code 13998.**
- The permittee will provide the County of Imperial a copy of the CDTFE account number and sub-permit for its contractor and subcontractors (if any) related to the jobsite. Permittee shall provide in written verification to the County Executive Office that the necessary sales and use tax permits have been obtained, prior to the issuance of any grading permits.
- **Construction/Material Budget:** Prior to a grading permit, the permittee will provide the County Executive Office a construction materials budget: an official construction materials budget or detailed budget outlining the construction and materials cost for the processing facility on permittee letterhead.

Should there be any concerns and/or questions, do not hesitate to contact me.

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

PC ORIGINAL PKG

Melina Rizo

From: Sanchez Rangel, Rogelio@DOT <roger.sanchez-rangel@dot.ca.gov>
Sent: Tuesday, May 30, 2023 10:17 AM
To: Evelia Jimenez
Cc: ICPDSComentLetters
Subject: CUP23-0010/V23-0004/IS23-0010 Requests for Comments (I-8 IMP)

CAUTION: This email originated outside our organization; please use caution.

Hi Evelia,

Thank you for including Caltrans in the project review for the proposed monopole tower out in Winterhaven, Imperial CA.

Below please find Caltrans general comment.

- Any work performed within Caltrans' R/W will require discretionary review and approval by Caltrans and an encroachment permit will be required for any work within the Caltrans' R/W prior to construction.

Thank you,

Rogelio Sanchez
Associate Transportation Planner
Local Development Review | Border Studies
California Department of Transportation
roger.sanchez-rangel@dot.ca.gov
Tel (619) 987-1043

RECEIVED
MAY 30 2023
IMPERIAL COUNTY
PLANNING & DEVELOPMENT SERVICES

Melina Rizo

From: Mario Salinas
Sent: Tuesday, May 30, 2023 8:48 AM
To: Melina Rizo; Donald Vargas ; Jorge Perez
Cc: Jim Minnick; Michael Abraham; Diana Robinson; Evelia Jimenez; Aimee Trujillo; John Robb; Kamika Mitchell; Laryssa Alvarado; Rosa Soto; Valerie Grijalva
Subject: RE: CUP23-0010/V23-0004/IS23-0010 Requests for Comments

Follow Up Flag: Follow up
Flag Status: Flagged

Good morning Ms. Rizo,

Pertaining to CUP# 23-0010, if the applicant intends to have generator(s) or storage equipment storing 1,320-gallons of petroleum based product, please have the applicant contact our office. If not, Division of Environmental Health does not have any comments at this time.

Thank you,

Mario Salinas, MBA

Environmental Health Compliance Specialist
Imperial County Public Health Department
Division of Environmental Health
797 Main Street Suite B, El Centro, CA 92243
mariosalinas@co.imperial.ca.us
Phone: (442) 265-1888
Fax: (442) 265-1903
www.icphd.org



RECEIVED
MAY 30 2023
IMPERIAL COUNTY
PLANNING & DEVELOPMENT SERVICES

The preceding e-mail message (including any attachments) contains information that may be confidential, be protected by the attorney-client or other applicable privileges, or constitute non-public information. It is intended to be conveyed only to the designated recipient(s). If you are not an intended recipient of this message, please notify the sender by replying to this message and then delete it from your system. Use, dissemination, distribution, or reproduction of this message by unintended recipients is not authorized and may be unlawful.

From: Melina Rizo <melinarizo@co.imperial.ca.us>
Sent: May 26, 2023 4:40 PM
To: Alphonso Andrade <AlphonsoAndrade@co.imperial.ca.us>; Ana L Gomez <analgomez@co.imperial.ca.us>; Andrew Loper <AndrewLoper@co.imperial.ca.us>; Belen Leon <BelenLeon@co.imperial.ca.us>; Donald Vargas <dvargas@iid.com>; Eric Havens <EricHavens@co.imperial.ca.us>; Fred Miramontes <fmiramontes@icso.org>; H. Jill McCormick <historicpreservation@quechantribe.com>; Jeff Lamoure <JeffLamoure@co.imperial.ca.us>; Jolene Dessert <JoleneDessert@co.imperial.ca.us>; Jordan D. Joaquin <tribalsecretary@quechantribe.com>; Jorge Perez <JorgePerez@co.imperial.ca.us>; Marcus Cuero <marcuscuero@campo-nsn.gov>; Margo Sanchez <MargoSanchez@co.imperial.ca.us>; Mario Salinas <MarioSalinas@co.imperial.ca.us>; Miguel Figueroa <miguelfigueroa@co.imperial.ca.us>; Monica Soucier <MonicaSoucier@co.imperial.ca.us>; Robert Benavidez

<rbenavidez@icso.org>; Robert Malek <RobertMalek@co.imperial.ca.us>; Rosa Lopez <RosaLopez@co.imperial.ca.us>; Ryan Kelley <RyanKelley@co.imperial.ca.us>; Ryan Kelley <rkelley@isco.org>; Sandra Mendivil <SandraMendivil@co.imperial.ca.us>; Rachel Garewal <RachelGarewal@co.imperial.ca.us>; Jesus Ramirez <JesusRamirez@co.imperial.ca.us>; Jenell Guerrero <JenellGuerrero@co.imperial.ca.us>; John Hawk <johnhawk@co.imperial.ca.us>; Vanessa Ramirez <VanessaRamirez@co.imperial.ca.us>; Salvador Flores <SalvadorFlores@co.imperial.ca.us>; Mark Schmidt <MarkSchmidt@co.imperial.ca.us>; bardwater@outlook.com; hbardorian@aol.com; whavenca@gmail.com; Roger Sanchez <roger.sanchez-rangel@dot.ca.gov>; triddell@blm.gov; Sahagun, Carrie L <csahagun@blm.gov>; jmesa@campo-nsn.gov
Cc: Jim Minnick <JimMinnick@co.imperial.ca.us>; Michael Abraham <MichaelAbraham@co.imperial.ca.us>; Diana Robinson <DianaRobinson@co.imperial.ca.us>; Evelia Jimenez <EJimenez@co.imperial.ca.us>; Aimee Trujillo <aimeetrujillo@co.imperial.ca.us>; John Robb <JohnRobb@co.imperial.ca.us>; Kamika Mitchell <kamikamitchell@co.imperial.ca.us>; Laryssa Alvarado <laryssaalvarado@co.imperial.ca.us>; Melina Rizo <melinarizo@co.imperial.ca.us>; Rosa Soto <RosaSoto@co.imperial.ca.us>; Valerie Grijalva <ValerieGrijalva@co.imperial.ca.us>

Subject: CUP23-0010/V23-0004/IS23-0010 Requests for Comments

Good Afternoon,

Please see attached Request for Comments packet for CUP23-0010/V23-0004/IS23-0010 APN 056-470-002 {673 Sidwinder Rd., Winterhaven, CA}

Comments are due by **June 15th, 2023 at 5:00PM.**

In an effort to increase the efficiency at which information is distributed and reduce paper usage, the Request for Comments packet is being sent to you via this email.

Should you have any questions, please feel free to contact Evelia Jimenez at (442) 265-1736, or submit your comment letters to ICPDScommentletters@co.imperial.ca.us.

Thank you,

Melina Rizo
Account Clerk III
Imperial County Planning & Development Services
801 Main St.
El Centro, CA 92243
(442)265-1736



Melina Rizo

From: Jill McCormick <historicpreservation@quechantribe.com>
Sent: Tuesday, May 30, 2023 4:05 PM
To: Melina Rizo
Cc: Evelia Jimenez; ICPDSComentLetters
Subject: RE: [EXTERNAL]:CUP23-0010/V23-0004/IS23-0010 Requests for Comments

CAUTION: This email originated outside our organization; please use caution.

This email is to inform you that we do not wish to comment on this project.

*Thank you,
H. Jill McCormick, H.A.*

Quechan Indian Tribe
Historic Preservation Officer
P.O. Box 1899
Yuma, AZ 85366-1899
Office: 760-572-2423
Cell: 928-261-0254
E-mail: historicpreservation@quechantribe.com



RECEIVED

MAY 30 2023

**IMPERIAL COUNTY
PLANNING & DEVELOPMENT SERVICES**

From: Melina Rizo <melinarizo@co.imperial.ca.us>
Sent: Friday, May 26, 2023 4:40 PM
To: Alphonso Andrade <AlphonsoAndrade@co.imperial.ca.us>; Ana L Gomez <analgomez@co.imperial.ca.us>; Andrew Loper <AndrewLoper@co.imperial.ca.us>; Belen Leon <BelenLeon@co.imperial.ca.us>; Donald Vargas <dvgas@iid.com>; Eric Havens <EricHavens@co.imperial.ca.us>; Fred Miramontes <fmiramontes@icso.org>; Jill McCormick <historicpreservation@quechantribe.com>; Jeff Lamoure <JeffLamoure@co.imperial.ca.us>; Jolene Dessert <JoleneDessert@co.imperial.ca.us>; Gabby Emerson <tribalsecretary@quechantribe.com>; Jorge Perez <JorgePerez@co.imperial.ca.us>; Marcus Cuero <marcuscuero@campo-nsn.gov>; Margo Sanchez <MargoSanchez@co.imperial.ca.us>; Mario Salinas <MarioSalinas@co.imperial.ca.us>; Miguel Figueroa <miguelfigueroa@co.imperial.ca.us>; Monica Soucier <MonicaSoucier@co.imperial.ca.us>; Robert Benavidez <rbenavidez@icso.org>; Robert Malek <RobertMalek@co.imperial.ca.us>; Rosa Lopez <RosaLopez@co.imperial.ca.us>; Ryan Kelley <RyanKelley@co.imperial.ca.us>; Ryan Kelley <rkelley@isco.org>; Sandra Mendivil <SandraMendivil@co.imperial.ca.us>; Rachel Garewal <RachelGarewal@co.imperial.ca.us>; Jesus Ramirez <JesusRamirez@co.imperial.ca.us>; Jenell Guerrero <JenellGuerrero@co.imperial.ca.us>; John Hawk <johnhawk@co.imperial.ca.us>; Vanessa Ramirez <VanessaRamirez@co.imperial.ca.us>; Salvador Flores <SalvadorFlores@co.imperial.ca.us>; Mark Schmidt <MarkSchmidt@co.imperial.ca.us>; bardwater@outlook.com;

AIR POLLUTION CONTROL DISTRICT



RECEIVED

JUN 15 2023

IMPERIAL COUNTY
PLANNING & DEVELOPMENT SERVICES

June 14, 2023

Jim Minnick
Planning & Development Services Director
801 Main Street
El Centro, CA 92243

SUBJECT: Conditional Use Permit 23-0010 & Variance 23-0004 – Cityswitch

Dear Mr. Minnick,

The Air Pollution Control District (Air District) thanks you for the opportunity to review and comment on Conditional Use Permit (CUP) 23-0010 and Variance (V) 23-0004 (Project). The Project proposes the construction and operation of a new 170-foot tall monopole tower with a 10-foot lightning rod for a total tower height of 180 feet. The project is located off at 673 Sidewinder Rd., Winterhaven also Identified as Assessor's Parcel Number 056-470-002.

The Air District reminds the applicant that the project must comply with all Air District rules and regulations and would emphasize Regulation VIII. Regulation VIII is a collection of rules designed to maintain fugitive dust emissions below 20% visual opacity.

If the project includes a generator it may be subject to permitting requirements, generally generators greater than 50-bhp require permits. The Air District requests the applicant contact Jesus Ramirez, Engineering & Permitting Division Manager, to discuss permitting requirements of any generators that may be part of the project.

For your convenience, the Air District's rules and regulations are available online at <https://apcd.imperialcounty.org/rules-and-regulations/>. If you have any questions or concerns please call our office at (442) 265-1800.

Respectfully,

Ismael Garcia
Environmental Coordinator

Reviewed by,

Monica N. Soucier
APC Division Manager



Imperial County Planning & Development Services Planning / Building

RECEIVED

Jim Minnick
DIRECTOR

JUN 12 2023

May 26, 2023
REQUEST FOR REVIEW
AND COMMENTS

IMPERIAL COUNTY
PLANNING & DEVELOPMENT SERVICES

The attached project and materials are being sent to you for your review and as an early notification that the following project is being requested and being processed by the County's Planning & Development Services Department. Please review the proposed project based on your agency/department area of interest, expertise, and/or jurisdiction.

- | To: County Agencies | State Agencies/Other | Cities/Other |
|---|--|--|
| <input checked="" type="checkbox"/> County Executive Office – Rosa Lopez/
Miguel Figueroa | <input checked="" type="checkbox"/> IC Sheriff's Office – Robert
Benavidez/Fred Miramontes/Ryan
Kelley | <input checked="" type="checkbox"/> IID – Donald Vargas |
| <input checked="" type="checkbox"/> Public Works – Guillermo Mendoza/John
Gay | <input checked="" type="checkbox"/> Board of Supervisors – John Hawk/
District #5 | <input checked="" type="checkbox"/> IC Fire/OES Office – Andrew Loper/
Sal Flores/Robert Malek |
| <input checked="" type="checkbox"/> City of Yuma Department of Community
Development- Alyssa Linville | <input checked="" type="checkbox"/> Ag. Commissioner – Rachel
Garewal/Margo Sanchez/Ana L
Gomez/Jolene Dessert/ Sandra
Mendivil | <input checked="" type="checkbox"/> EHS – Jeff Lamoure/Mario Salinas/
Alphonso Andrade/Jorge Perez/Vanessa
R Ramirez |
| <input checked="" type="checkbox"/> Winterhaven County Water District- Rick
Miller | <input checked="" type="checkbox"/> Campo Band Of Mission Indians -
Marcus Cuero/Jonathan Mesa | <input checked="" type="checkbox"/> CALTRANS, District 11- Roger
Sanchez |
| <input checked="" type="checkbox"/> Fort Yuma- Quechan Indian Tribe – Jordan
D. Joaquin/ H. Jill McCormick | <input checked="" type="checkbox"/> Bard Water District- Ronald Hill | <input checked="" type="checkbox"/> BLM- Tristian Triedell/ Carrie Sahagun |
| <input checked="" type="checkbox"/> APCD – Monica Soucier/Belen Leon/Jesus
Ramirez | <input checked="" type="checkbox"/> County Counsel – Eric Havens | <input checked="" type="checkbox"/> County Airport – Jenell Guerrero |
| <input checked="" type="checkbox"/> I.V. Emergency Communications Authority-
Mark Schmidt | <input checked="" type="checkbox"/> Bard Water District- Ron Derma | |

From: Evelia Jimenez, Planner II - (442) 265-1736 or ejjimenez@co.imperial.ca.us
 Project ID: CUP23-0010/V23-0004/IS23-0010
 Project Location: 673 Sidewinder Rd. Winterhaven, CA APN 056-470-002
 Project Description: Applicant is proposing a 170' foot monopole tower with a 10'-0" foot lighting rod for a total height of 180'-0" feet to be located within a 57'-0" x 45' square foot leased parcel.
 Applicants: CitySwitch
 Comments due by: June 15th 2023 at 5:00PM

COMMENTS: (attach a separate sheet if necessary) (If no comments, please state below and mail, fax, or e-mail this sheet to Case Planner)

No comments

Name: Ana Gomez Signature: [Signature] Title: Ag Bidgist
 Date: 6/9/23 Telephone No.: 442 265 1500 E-mail: analgomez@co.imperial.ca.us

E:\MRS.VIU\user\APM\... 0004\CUP23-0010_V23-0004_IS23-0010 Request for Comments 05 28 23.docx

PC ORIGINAL PKG



Imperial Valley Emergency Communications
Communications Authority
2514 La Brucherie Road, Imperial, CA 92251
Voice: 442-265-6029



Imperial County Planning & Development Services
801 Main Street
El Centro, California 92243
Attention: Evelia Jimenez
June 8, 2023

RECEIVED

JUN 12 2023

IMPERIAL COUNTY

PLANNING & DEVELOPMENT SERVICES

RE: Comments on Project ID CUP # 23-0010/V23-0004/IS23-0010

Dear Evelia Jimenez:

Thank you very much for the opportunity to review and comment on CUP # 23-0010/V23-0004/IS23-0010.

CitySwitch proposes the construction and development of a new communication facility and tower consisting of a 170-foot tall, monopole, co-locatable tower with a 10-foot tall lightning rod, various antennas, associated radio equipment, and other related infrastructure. The project location is 673 Sidewinder Road, Winterhaven, CA. APN 056-470-002.

The Imperial Valley Emergency Communications Authority (hereinafter, IVECA), is entrusted with the operation of the 800 MHz radio communication system which serves Imperial County Fire, Law Enforcement, and Emergency Medical Services.

Future IVECA or Imperial County communication needs could necessitate tower space on the proposed tower and other related on-site infrastructure. The project's location is quite desirable for communication system enhancements. We therefore are respectfully requesting a Local/Public Benefit Agreement with CUP # 23-0010/V23-0004/IS23-0010. We are hopeful for language favorable to IVECA for future communication system additions in perpetuity in said CUP. This would include, but not limited to, multiple antenna spaces, guaranteed antenna heights, and shelter space all at no cost to Imperial County or IVECA. It is obvious that the best interest of Imperial County first responders, and the public at large, are best served with the inclusion of a Local/Public Benefit Agreement.

Thank you in advance for your consideration of IVECA's request. Please contact me with any questions.

Sincerely,

Mark Schmidt
Imperial Valley Emergency Communications Authority (IVECA)
Emergency Communications Project Coordinator
markschmidt@co.imperial.ca.us
Cell: 442-283-1688

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June 8, 2023

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JUN 08 2023

Ms. Evelia Jimenez
Planner II
Planning & Development Services Department
County of Imperial
801 Main Street
El Centro, CA 92243

**IMPERIAL COUNTY
PLANNING & DEVELOPMENT SERVICES**

SUBJECT: City Swytch Telecom Tower Project at Sidwinder Road; CUP23-0010/V23-0004/IS23-0010

Dear Ms. Jimenez:

On May 26, 2023, the Imperial Irrigation District received from the Imperial County Planning & Development Services Department, a request for agency comments on the telecom tower project at Sidwinder Road; Conditional Use Permit No. 23-0010, Variance No. 23-0004, Initial Study No. 23-0010. The applicant, CitySwytch, proposes to install a 170 ft. monopole tower with a 10 ft. lightning rod on a 57 ft. x 45 ft. site located at 673 Sidwinder Road, Winterhaven, CA (APN 056-470-002-000).

The IID has reviewed the application and has the following comments:

1. For electrical service to the proposed communication tower, the applicant should be advised to contact Joel Lopez, IID project development service planner, at (760) 482-3444 or e-mail Mr. Lopez at jlopez@iid.com to initiate the customer service application process. In addition to submitting a formal application (available for download at the district website <http://www.iid.com/home/showdocument?id=12923>), the applicant will be required to submit a complete set of approved project plans by the County of Imperial (including AutoCAD files of the site plan and electrical plans), electrical panel size and panel location, operating voltage, electrical loads, project schedule, and the applicable fees, permits, easements and environmental compliance documentation pertaining to the provision of electrical service to the project. The applicant shall be responsible for all costs and mitigation measures related to providing electrical service to the project.
2. Electrical capacity is limited in the project area. A circuit study may be required. Any system improvements or mitigation identified in the circuit study to enable the provision of electrical service to the project shall be the financial responsibility of the applicant.
3. Applicant shall provide a surveyed legal description and an associated exhibit certified by a licensed surveyor for all rights of way deemed by IID as necessary to accommodate the project electrical infrastructure. Rights-of-Way and easements shall be in a form acceptable to and at no cost to IID for installation, operation, and maintenance of all electrical facilities.

4. Any construction or operation on IID property or within its existing and proposed right of way or easements including but not limited to: surface improvements such as proposed new streets, driveways, parking lots, landscape; and all water, sewer, storm water, or any other above ground or underground utilities; will require an encroachment permit, or encroachment agreement (depending on the circumstances). A copy of the IID encroachment permit application and instructions for its completion are available at <https://www.iid.com/about-iid/departments-directory/real-estate>. The IID Real Estate Section should be contacted at (760) 339-9239 for additional information regarding encroachment permits or agreements. No foundations or buildings will be allowed within IID's right of way.
5. Any new, relocated, modified or reconstructed IID facilities required for and by the project (which can include but is not limited to electrical utility substations, electrical transmission and distribution lines, water deliveries, canals, drains, etc.) need to be included as part of the project's California Environmental Quality Act (CEQA) and/or National Environmental Policy Act (NEPA) documentation, environmental impact analysis and mitigation. Failure to do so will result in postponement of any construction and/or modification of IID facilities until such time as the environmental documentation is amended and environmental impacts are fully analyzed. Any and all mitigation necessary as a result of the construction, relocation and/or upgrade of IID facilities is the responsibility of the project proponent.

Should you have any questions, please do not hesitate to contact me at 760-482-3609 or at dvargas@iid.com. Thank you for the opportunity to comment on this matter.

Respectfully,



Donald Vargas
Compliance Administrator II

Sergio Quiroz - Interim General Manager
Mike Pacheco - Manager, Water Dept.
Jamie Asbury - Manager, Energy Dept.
Matthew H Smelser - Deputy Mgr. Energy Dept.
Daryl Buckley - Mgr. of Distribution Svcs. & Maint. Opns., Energy Dept.
Geoffrey Holbrook - General Counsel
Michael P. Kemp - Superintendent General, Fleet Services and Reg. & Environ. Compliance
Laura Cervantes - Supervisor, Real Estate
Jessica Humes - Environmental Project Mgr. Sr., Water Dept.

Aimee Trujillo

From: Jill McCormick <historicpreservation@quechantribe.com>
Sent: Thursday, August 3, 2023 6:56 AM
To: Aimee Trujillo; Evelia Jimenez
Subject: RE: [EXTERNAL]:CUP23-0010 AB 52 Letter

CAUTION: This email originated outside our organization; please use caution.

This email is to inform you that we do not wish to comment on this project.

H. Jill McCormick M.A.
Ft. Yuma Quechan Indian Tribe
P.O. Box 1899
Yuma, AZ 85366-1899
Office: 760-572-2423
Cell: 928-261-0254

RECEIVED

AUG 03 2023

IMPERIAL COUNTY
PLANNING & DEVELOPMENT SERVICES



From: Aimee Trujillo <aimeetrujillo@co.imperial.ca.us>
Sent: Wednesday, August 02, 2023 11:51 AM
To: Jill McCormick <historicpreservation@quechantribe.com>; Gabby Emerson <tribalsecretary@quechantribe.com>
Cc: Jim Minnick <JimMinnick@co.imperial.ca.us>; Michael Abraham <MichaelAbraham@co.imperial.ca.us>; Diana Robinson <DianaRobinson@co.imperial.ca.us>; Evelia Jimenez <EJimenez@co.imperial.ca.us>; Aimee Trujillo <aimeetrujillo@co.imperial.ca.us>; John Robb <JohnRobb@co.imperial.ca.us>; Kamika Mitchell <kamikamitchell@co.imperial.ca.us>; Cassandra Castaneda <kassandrastaneda@co.imperial.ca.us>; Laryssa Alvarado <laryssaalvarado@co.imperial.ca.us>; Rosa Soto <RosaSoto@co.imperial.ca.us>
Subject: [EXTERNAL]:CUP23-0010 AB 52 Letter

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning,

Attached hereto please find the AB52 letter for **CUP23-0010** (APN 056-470-002)

PC ORIGINAL PKG



Sherman & Howard L.L.C.
675 Fifteenth Street, Suite 2300
Denver, Colorado 80202
Telephone: 303.297.2900
shermanhoward.com



Allison R. Burke
Direct Dial Number: 303.299.8045
E-mail: aburke@shermanhoward.com

January 9, 2024

VIA E-MAIL

Imperial County Planning & Development Services
Mr. Jim Minnick
Planning & Development Services Director
JimMinnick@co.imperial.ca.us

RECEIVED

By Imperial County Planning & Development Services at 3:55 pm, Jan 09, 2024

Re: Imperial County Planning & Development Services Project Reports and Staff Reports

CUP23-0009, Variance 23-0003 (APN 039-310-019)
CUP23-0010, Variance 23-0004 (APN 056-470-002)
CUP23-0011, Variance 23-0006 (APN 041-200-008)

Dear Mr. Minnick:

Sherman & Howard L.L.C. represents CitySwitch with respect to CitySwitch's pending applications for Conditional Use Permits and Variances (collectively, the "Applications") for three different proposed cellular tower sites in Imperial County, California identified above (collectively, the "Proposed Sites"). We are in receipt of the Imperial County Planning & Development Services Project Reports, Staff Reports, and other hearing materials (collectively the "Hearing Packages") for the January 10, 2024 Planning Commission hearing for the Proposed Sites. We request that you provide a copy of the letter to the Planning Commission in advance of the January 10 hearing. If you would like for CitySwitch to do so, please provide the information for us to submit the letter to the Planning Commission.

We write to address the Staff Reports findings, including (1) the "General Plan Findings" in the Project Reports; and (2) the "Land Use Analysis" for each of the Proposed Sites. These findings violate the Telecommunications Act of 1996 and related Federal Communications Commission ("FCC") Orders regarding wireless services and facilities. CitySwitch's position is set forth below. CitySwitch will also be prepared to present its position during the January 10 Planning Commission hearing.

I. The Applications

On April 12, 2023, CitySwitch submitted the Applications for the Proposed Sites, each demonstrating CitySwitch's compliance with all Imperial County Land Use Code (the "Code") requirements, and each supported by substantial documentation. Significantly, within each



Application, CitySwitch alerted the County to the existing towers owned by SBA. Specifically, CitySwitch identified the existing SBA towers when discussing the following Code requirements:

- Provisions for future co-location, as required under Section 92401.04(13).
- Alternative analysis, as required under Section 92401.06.
- Special privileges, as required under Section 90203.09(G).
- No alternative site or design is available that would allow for issuance of a conditional use permit before the planning director for the facility, as required under Section 92405.01(B)(2).

CitySwitch also provided three Sworn Statements of Spencer Gambrell in Support of New Tower Construction (the “AT&T Economic Burden Affidavits”) explaining why the existing SBA towers are no longer technically and economically feasible collocation options for AT&T. Specifically, Mr. Gambrell explained:

- The SBA towers have become high-cost antenna site structures for AT&T.
- It is economically burdensome for AT&T to continue using the SBA towers and continued use would not result in the same cost-effective operation as compared to what AT&T could achieve if it relocated to the proposed CitySwitch towers.
- SBA increases rent, assesses other costs, and poses logistical issues when AT&T installs additional wireless facilities, modifications, and upgrades on the SBA towers.
- The current rent charged by SBA to co-locate on the SBA towers is substantially more than what CitySwitch will charge AT&T. The annual rent increases on the SBA towers is also higher than rent increased charged by CitySwitch. Over the next 20 years, the cost for AT&T to co-locate on the existing SBA towers is more than \$13 million dollars.
- SBA has resisted economically sustainable cost structures and refused to offer more competitive terms even though the tower marketplace has changed substantially since the SBA leases were originally entered.
- Despite the substantial capital costs associated with relocating to the proposed CitySwitch towers, it will still be economically beneficial to re-locate away from the SBA towers.
- AT&T will be able to continuously upgrade its wireless facilities and services on the proposed CitySwitch towers, while SBA would impose application fees, a lengthy administrative process, and a lease amendment. The proposed CitySwitch towers offer better flexibility for AT&T to upgrade technologies and quickly respond to ever-changing coverage and capacity demands of its wireless network.

II. Imperial County’s Request for Additional Information Relating to the SBA Towers and CitySwitch’s October 6, 2023 Correspondence

On July 24, 2023, Imperial County requested additional information relating to existing, nearby towers owned by SBA Towers, including revised coverage lots for the Proposed Sites showing coverage from the SBA-owned towers. On October 6, 2023, CitySwitch provided the County updated coverage plots for the Proposed Sites and also provided the correspondence



attached to this letter as **Exhibit 1**. In the October 6, 2023 Letter, CitySwitch acknowledged the County's stated preference for collocation, including as specified in Land Use Code Section 92401.00, but again explained why the existing SBA sites are not feasible collocation options for CitySwitch's customer, AT&T – for both economic and technological reasons.

III. The Project Reports and Staff Reports Determinations Regarding Existing Towers Owned by SBA.

On December 29, 2023, The County provided access to the Project Reports and Staff Reports prepared in preparation for the January 10, 2024 Planning Commission hearing.

On the first page titled "Project Report" for each of the Proposed Sites, the County has taken the position that the Applications are "Inconsistent" with the County's General Plan.

Under the Land Use Analysis in the Staff Reports, the County acknowledges that the proposed projects are consistent with the applicable zoning district, but the County "determined that [each Application] is in conflict with Division 24, Section 92401.00 – Purpose, '... This Section standards are intended to protect, and promote public health, safety, community welfare and the unique visual character of Imperial County [by] minimizing the number of towers throughout the community...' as the proposed telecommunications tower would be situated approximately 1565 feet south [2008.33 feet south, and 1000 feet south] of an existing telecommunications tower owned by [SBA] operating under Conditional Use Permit #16-0033 [#19-0029, #16-0039]. Upon further research on submitted reports of the adjacent tower, it was found that tower space for future co-locators is still available."

IV. The County's Denial of the Applications Will Materially Inhibit CitySwitch's Provision of Wireless Services in Violation of the Federal Telecommunications Act.

Congress passed the Telecommunications Act in 1996 (TCA). "[I]ts primary purpose was to reduce regulation and encourage the rapid deployment of new telecommunications technologies." *Reno v. ACLU*, 521 U.S. 844, 857 (1997) (quotation marks omitted). Congress preserved local zoning authority over "the placement, construction, and modification of personal wireless service facilities," like cell towers. 47 U.S.C. § 332(c)(7)(A). But it specified that such regulation "shall not prohibit or have the effect of prohibiting the provision of personal wireless services." *Id.* § 332(c)(7)(B)(i)(II). Further, under Section 253 of the TCA, no local or state statute or regulation may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications services. 47 U.S.C. § 253(a). These provisions of the TCA "authorize the FCC to preempt any state or local requirements that 'prohibit or have the effect of prohibiting' any entity from providing telecommunications services." *City of Portland v. United States*, 969 F.3d 1020, 1032 (9th Cir. 2020) (quoting U.S.C. § 253(a), (d)).



The Communication Facilities' section of Imperial County's Code was adopted in 2000, with certain amendments adopted by Ordinance No. 1504 in December 2014. Since then, the FCC has issued three key regulatory orders affecting the enforceability of certain local zoning regulations applicable to wireless facilities.

Specifically, in its 2018 order, the FCC interpreted 47 U.S.C. §§ 253(a) and 332(c)(7) to prohibit local government action that “materially limits or inhibits the ability of any competitor or potential competitor to compete in a fair and balanced legal and regulatory environment.” *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Inv.*, 33 FCC Rcd. 9088, 9102 (2018) (“2018 FCC Order”). Prior to this guidance, most courts required the carrier to show a “significant gap” in coverage exists in an area and to consider whether alternatives to the carrier’s proposed solution to that gap existed. *See, e.g., American Tower Corp. v. City of San Diego*, 763 F.3d 1035, 1056 (9th Cir. 2014).

Under the 2018 guidance, a legal requirement can “materially inhibit” service even if it is not an “insurmountable barrier.” 2018 FCC Order ¶¶ 34–35, 41–42. The FCC Also made clear that a state or local legal requirement effectively prohibits the provision of wireless services if it inhibits or limits a provider “not only when filling a coverage gap but also when densifying a wireless network, introducing new services or otherwise improving service capabilities.” *Id.* ¶ 37. Under this standard, preventing an existing provider from delivering service to a new area, restricting the entry of a new provider in a given area, of materially inhibiting the introducing of new service or the improvement of existing services all create unlawful “effective prohibitions” of service. *Id.* Prior to this guidance, most courts required the carrier to show a “significant gap” in coverage exists in an area and to consider whether alternatives to the carrier’s proposed solution to that gap existed. *See, e.g., American Tower Corp. v. City of San Diego*, 763 F.3d 1035, 1056 (9th Cir. 2014).

If the County proceeds with denying the Applications as “inconsistent” with Imperial County’s General Plan due to the presence of existing tower sites owned and operated by SBA, it will be a material inhibition of CitySwitch’s ability to provide wireless services. The Imperial County General Plan’s *intent* to minimize the total number of wireless towers (which is not a *requirement* in the first instance¹) would be operating as a blanket restriction on the ability to

¹ While the County does have a stated *preference* for collocation and minimization of cellular towers, these appear to be *goals* rather than *requirements* for the Applications. For example, Section 92401.00 of the Code states that it is the County’s “intent” that its regulations serve to “[m]inimize the number of towers throughout the community[.]” Section 92401.05(B)(2) requires the Planning Commission to determine that “[n]o alternative site or design is available that would allow for issuance of a conditional use permit before the planning director for the facility.” Section 92401.06(A) requires an alternative analysis which must include (1) co-location at all existing facilities whether in the unincorporated area of the county, a city or an adjacent county.” And Section 92401.04(17) requires an inventory of existing towers as part of the application materials.

The County has *no restrictions* based on existing towers, such as minimum distance requirements(which is irrelevant, as the SBA towers are not feasible economic or technologic options for CitySwitch’s tenant, AT&T).



construct wireless towers where another company has incidentally entered the marketplace first. A blanket restriction like this is not permitted as a matter of law.

Furthermore, the County's Project Reports and Staff Reports do not refer to either the AT&T Economic Burden Affidavits or CitySwitch's October 6, 2023 Letter which again explained why the SBA tower sites are not feasible sites for AT&T to continue collocating. Instead, the County appears poised to deny the Applications simply due to proximity to the existing SBA towers without regard to whether the SBA towers are actually feasible collocation sites for AT&T. In practice, this will result in an effective monopoly on wireless towers in the County for SBA, simply because SBA applied for its Conditional Use Permits first. This runs counter to one of the stated purposes of the TCA, which is to promote competition. *See T-Mobile USA Inc. v. City of Anacortes*, 572 F.3d 987, 991 (9th Cir. 2009). If CitySwitch's Applications are denied, SBA will be free to charge AT&T and other tenants whatever rent it wants on whatever lease terms it desires, knowing that the County will not allow another competitor to enter the space. And in doing so, the County will materially inhibit the deployment of wireless services within Imperial County by: (1) forcing cellular providers to collocate on an existing SBA tower on higher-than-market rents and uncompetitive lease terms; (2) preventing cellular providers from freely and easily updating their equipment as technologies rapidly change; (3) diverting resources that could otherwise be used to invest in expanding wireless networks and conducting necessary network upgrades necessary to meet increased demand for wireless voice and broadband services; and (4) potentially *decreased* cellular services within Imperial County if the providers in these areas decide that SBA's high costs and unreasonable lease terms do not meet the cellular providers' business needs and requirements and leave the SBA towers altogether.. These outcomes are all at odds with the stated purposes of the TCA.²

V. Request for Deferral

If the Planning Commission appears likely to deny the Applications following the comment period during the January 10, 2024 Planning Commission hearing, CitySwitch intends to request a deferral of the Planning Commission's vote. Under Section 90104.10, "[a]ny scheduled hearing may be continued by the hearing body ... [to] a specific date and time," so long as a continuance would not "cause the project to be heard beyond a statutory time limit." The parties entered into a

Concluding that the Applications are consistent with the applicable zones, yet then refusing to issue permits based on nebulous "goals" and "intents" will materially inhibit the deployment of wireless services.

² The County also failed to comply with the Code's requirements to notify CitySwitch that its proposed towers are not consistent with the County's General Plan. Under Section 90203.02, "If in the determination of staff a proposed use is not consistent with the general plan, staff shall inform the applicant *prior to an application being deemed complete*. If the applicant withdraws the application at this point (prior to the hearing), the applicant shall be entitled to a full refund of all application fees paid to the department, less the actual cost to notice, advertise, and staff costs incurred up to the time a withdrawal request is made." (*Id.*) The Project Reports effectively determine that the Proposed Sites are not consistent with the general plan, yet the County failed to inform CitySwitch of this determination even though the SBA sites were identified at the time CitySwitch first submitted the Applications on April 12, 2023.

Imperial County, California
January 9, 2024
Page 6



Tolling Agreement to extent the time for the Applications to be heard, up to and including February 29, 2024. We intend to ask the County to postpone its decision until February 14, 2024.

* * *

We will be prepared to address these arguments at the Planning Commission hearing on January 10, 2024.

Sincerely,

A handwritten signature in blue ink that reads "Allison R. Burke".

Allison R. Burke

ARB/lmg

cc: Melissa Reagan, Esq.
Mr. Gerardo Quero
Ms. Evelia Jimenez
Mr. Luis Valenzuela



Sherman & Howard L.L.C.
675 Fifteenth Street, Suite 2300
Denver, Colorado 80202
Telephone: 303.297.2900
shermanhoward.com



Allison R. Burke
Direct Dial Number: 303.299.8045
E-mail: aburke@shermanhoward.com

October 6, 2023

EXHIBIT
1

VIA E-MAIL

Imperial County Planning & Development Services
Luis Valenzuela (luisvalenzuela@co.imperial.ca.us)
Evelia Jiminez (ejiminez@co.imperial.ca.us)
Gerardo Quero (gerardoquero@co.imperial.ca.us)

Re: Updated Coverage Plots
CUP23-0009 (APN 039-310-019)
CUP23-0010 (APN 056-470-002)
CUP23-0011 (APN 041-200-008)

Dear Valenzuela, Ms. Jiminez, and Mr. Quero:

Sherman & Howard L.L.C. represents CitySwitch with respect to CitySwitch’s pending applications for Conditional Use Permits and Variances for three different proposed cellular tower sites in Imperial County, California identified above (together, the “Proposed Sites”).

On July 24, 2023, Imperial County requested revised coverage plots for the Proposed Sites showing coverage from existing, nearby towers owned by SBA. Updated copies of the coverage plots for the three sites are being provided along with this letter.

While CitySwitch acknowledge that Imperial County has a stated preference for collocation on existing tower sites (*see, e.g.*, §§ 92401.00, 92401.05(B)(2)(a); 92401.06(A)), it reiterates that these existing SBA sites are not feasible collocation options for its customer, AT&T, for both economic and technologic reasons, as explained in this letter and more fully in the Sworn Statements of Spencer Gambrell in Support of New Tower Construction that were submitted with the Conditional Use Permit and Variance Applications referenced above (the “Sworn Statements”).¹ A jurisdiction’s preference for collocation cannot force an applicant to absorb excess costs associated with collocating on a particular existing site. *See, e.g., Tillman Infrastructure LLC v. Bd. of Supervisors of Culpepper County, Va.*, No. 3:21-cv-00040, 2022 WL 18026334, at *5–7 (W.D. Va. Dec. 30, 2022) (finding existing SBA sites were not potential collocation sites due to higher costs and fees).

¹ SBA is a publicly-traded company that owns wireless towers and leases on the space on those towers to wireless carriers like AT&T; it is a competitor of CitySwitch.



The existing SBA towers are not economically feasible because it will cost AT&T more than \$13 million in additional rent to remain on the SBA towers just at these Imperial County sites over the next 20 years. (*See Sworn Statements at ¶ 7.*) Furthermore, AT&T has leased space from SBA in Imperial County since March of 2005, but since then, the tower marketplace has become more competitive, which has led to more competitive economic terms in tower lease agreements. SBA, however, has resisted an economically sustainable cost structure with its existing AT&T collocation sites, such that many of these are now economically burdensome, including the Proposed Sites at issue here. (*See id.* at ¶ 8.)

In addition to the economic infeasibility, the SBA sites are no longer technologically or administratively feasible. First, the existing SBA towers do not include any “set aside” capacity reserved for AT&T’s future wireless facilities’ needs. Without additional available capacity, AT&T is unable to continue building out FirstNet, the country’s first nationwide integrated data network for providers of emergency services.² Without “set aside” capacity, AT&T is forced to apply to SBA for additional space and/or wireless facilities improvements, which triggers an application fee and a lengthy administrative review process involving a structural analysis of the tower and an amendment to the existing lease agreement. This process often takes several months, resulting in additional unnecessary delay and extra costs. (*See id.* ¶ 15.) By contrast, the CitySwitch master lease tower agreement provides AT&T with 30,000 square inches of space on each tower. This exclusive space provides greater flexibility to AT&T to upgrade technologies, expand the deployment of FirstNet, and respond to ever-changing coverage and capacity demands. (*See id.* ¶ 16.)

In short, while there are existing SBA towers located near the Proposed Sites, the SBA towers are not economically or technologically feasible sites for continued collocation for AT&T.

Please do not hesitate to contact me if you have questions or need additional information.

Sincerely,

Allison R. Burke

ARB/lmg

² FirstNet is a public-private partnership between AT&T and the United States Department of Commerce’s National Telecommunications and Information Administration (NTIA), which is overseeing the buildout, deployment, and operation of the nation’s first communications network dedicated to emergency responders and the public safety community. *See* <https://www.firstnet.gov/about>.

LAW OFFICE OF
ROBERT L. KENNY

501 WEST BROADWAY, SUITE 1370
SAN DIEGO, CALIFORNIA 92101

WRITER'S E-MAIL ADDRESS
rkenny@kennylaw.net

TELEPHONE: (619) 234-1616
FACSIMILE: (619) 233-1969

January 9, 2024

Via Email: laryssaalvarado@co.imperial.ca.us

Imperial County Planning Commission
940 Main Street
El Centro, CA 92243

RECEIVED

By Imperial County Planning & Development Services at 4:58 pm, Jan 09, 2024

Re: Objections of SBA Structures, LLC to (a) CitySwitch LLC Application for a Conditional Use Permit (#23-0009) and Variance (#23-0003); (b) CitySwitch LLC Application for a Conditional Use Permit (#23-0010) and Variance (#23-0004); and CitySwitch LLC Application for a Conditional Use Permit (#23-0011) and Variance (#23-0006)

Dear Commission Members:

This firm represents SBA Structures, LLC, a subsidiary of SBA Communications Corp. ("SBA"). SBA hereby submits its Objections to the following Applications of CitySwitch, LLC ("CitySwitch"), currently set for hearing by the Imperial County Planning Commission ("Planning Commission") on January 10, 2024:

(a) CitySwitch Application for a Conditional Use Permit ("CUP") #23-0009 and Variance #23-0003 to construct a 166-foot telecommunications tower at 5395 E. Highway 78, Brawley, CA ("E. Highway 78 Tower") (Agenda Item No. 7);

(b) CitySwitch Application for a CUP #23-0010 and Variance #23-0004 to construct a 180-foot telecommunications tower at 673 Sidewinder Road, Winterhaven, CA ("Sidewinder Road Tower") (Agenda Item No. 8); and

(c) CitySwitch Application for a CUP #23-0011 and Variance #23-0006 to construct a 210-foot telecommunications tower at 1505 East Keystone Road, ("East Keystone Road Tower") Brawley, CA (Agenda Item No. 9).

As correctly noted in the Staff Reports for each CitySwitch Application, SBA owns and operates telecommunication towers in close proximity to the towers CitySwitch proposes in its Applications. SBA owns a tower located approximately 1565 feet from CitySwitch's proposed E. Highway 78 Tower, which SBA operates under CUP #16-0033. SBA owns a tower located approximately 2008.33 feet from CitySwitch's proposed Sidewinder Road Tower, which

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CitySwitch operates under CUP #19-0029. SBA owns a tower located approximately 1,000 feet from CitySwitch's proposed East Keystone Road Tower, which SBA operates under CUP #16-0039. Enclosed with this letter is a map showing the close proximity of the tower locations.

AT&T is currently a tenant/co-locator on each of the SBA towers identified above. The primary basis for each CitySwitch Application is its claim that AT&T has "deemed" its lease agreements for the SBA towers to be "economically burdensome" and that AT&T desires to relocate to the proposed CitySwitch towers. CitySwitch proposes building new towers in close proximity to existing SBA towers in order to provide financial assistance to its *potential* tenant and to harm its competitor by taking away SBA's longtime tenant. The only evidence CitySwitch provides to support its Applications is a "form" sworn statement from AT&T representative Spencer Gambrell that was executed on February 28, 2023 ("Gambrell Statement").

Although CitySwitch claims in its Applications to have "commitments" from AT&T to transfer its facilities to the proposed towers, the Gambrell Statement refers only to "nationwide development and master lease agreements" that AT&T purportedly has in place with CitySwitch. (Gambrell Statement, ¶ 11.) The Gambrell Statement describes a common agreement between companies like CitySwitch and SBA who build cell towers at their own cost and lease the towers to cellular service providers like AT&T. CitySwitch provides no evidence of actual lease agreements it has in place with AT&T for the proposed towers should the Planning Commission approve the CitySwitch Applications.

Since the Gambrell Statements were signed in February 2023, AT&T and SBA entered into their own Master Lease Agreement ("MLA") establishing agreed upon rental rates and other terms for the more than 6,500 towers AT&T currently leases from SBA, including the three towers identified above, as well as new collocation leases. Enclosed are three letters from SBA's California Site Marketing Manager, Markella Markouizos, confirming the new MLA with AT&T.

Ms. Markouizos describes her surprise at the claims by AT&T that SBA has been unreasonable in negotiating lease rates. She reports that she has not been contacted by AT&T to discuss renegotiating the lease rates for the three towers at issue in the CitySwitch Applications. She also reports that AT&T has not contacted her to discuss any equipment upgrades they require and has not expressed any concerns regarding the current lease rate and terms.

Ms. Markouizos also addresses an issue raised in the Gambrell Statement—AT&T's requirement to upgrade its equipment to implement the FirstNet nationwide integrated emergency services network. As she reports in her letters, SBA recently contracted with AT&T to upgrade its equipment on the SBA towers to include FirstNet; the FirstNet Amendment was executed in December 2019; and it is operational today from the existing SBA towers. There is no merit to the claim in the Gambrell Statement that AT&T needs the new CitySwitch towers in

order to avoid the “application and administrative review process” to install FirstNet on the existing SBA towers.

As Ms. Markouizos states in her letters, SBA has offered to match the monthly rental rate currently offered to AT&T by CitySwitch, less \$10.00, upon AT&T providing a copy of bona fide documentation of the monthly rate offered by CitySwitch. SBA’s offer will alleviate the “undue economic hardship” alleged in the Gambrel Statement executed almost a year ago.

Enclosed with this letter are RF Analyses and corresponding RF propagation maps depicting AT&T’s coverage at each of the SBA towers in comparison with to the proposed CitySwitch towers. Due to their proximity to the existing SBA towers, the proposed CitySwitch towers would not appreciably expand the scope and strength of available coverage in the area. Instead, the CitySwitch towers would provide duplicative or overlapping coverage to that already provided by the SBA towers. Furthermore, the installation of additional antennas on the proposed CitySwitch towers would be considered an “overbuild” or impractical given the coverage overlap with the SBA towers.

As Ms. Markouizos states in her letters, SBA has a good relationship with AT&T. SBA welcomes the opportunity to work with AT&T to stay collated on the existing SBA towers, which would prevent the unnecessary and needless proliferation of additional telecommunication towers in the area. It is clear that the *only* purpose for the three towers proposed by CitySwitch is to harm its competitor by luring away the primary tenant on the existing SBA towers.

The Applications also do not include any evidence of actual commitments by Union Pacific Railroad (“UPR”) to lease any of the three proposed towers. SBA has agreements with UPR similar to the MLA it has with AT&T. Like CitySwitch, SBA’s MLA with UPR allows SBA to develop towers or provide co-location sites if they can be permitted.

The CitySwitch Applications do not contain any evidence establishing that UPR has a need for the proposed towers. CitySwitch does not present any evidence showing how the UPR network works and why three additional towers are necessary to meet UPR’s requirements when there are already SBA towers in close proximity. There is no evidence that UPR is not already using the existing SBA towers, or could nor do so under the MLA between UPR and SBA.

SBA urges the Planning Commission to deny all three CitySwitch Applications because they conflict with Division 24, Section 92401.00—Purpose. That County Ordinance provides that its “standards are intended to protect, and promote public health, safety, community welfare and the unique visual character of the Imperial County [by] minimizing the number of towers throughout the community....”

The proposed CitySwitch towers violate the intent of the County Ordinance because the towers would be located less than half a mile from the existing SBA towers. The three new

towers proposed by CitySwitch are duplicative and unnecessary and contrary to the goals established in the County Ordinance. CitySwitch has not met its burden of showing necessity and the absence of alternatives to justify overriding the stated public interest in minimizing the number of towers in any particular area. Allowing CitySwitch to build duplicative towers to help AT&T save money—and harm SBA—is not in the best interest of the public. The Planning Commission should deny the Applications to avoid the construction of unnecessary towers that adversely impact the aesthetics of the surrounding area.

If the Planning Commission is not prepared to deny the Application based on the insufficient record that exists, SBA requests it employ the procedures provided in Section 92406.01—Alternatives analysis. CitySwitch has offered to pay for an independent expert to review the alternatives and determine if there is actually a need for the three towers by AT&T, UPR or anyone else that overrides the duty to protect the public by minimizing the number of towers throughout the community. The Planning Commission should require that CitySwitch do so before approving the three Applications.

I will attend the hearing by Zoom along with Jason Laskey of SBA. We look forward to answering any questions the Commissioners may have regarding SBA's Objections.

Very truly yours,



Robert L. Kenny



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January 9, 2024

sbasite.com

Imperial County Planning Commission
940 Main Street
El Centro, CA 92243

RE: CitySwitch, LLC application for a Conditional Use Permit (#23-0009) and Variance (#23-0003) to construct a 166-foot telecommunications tower at 5395 E. Highway 78, Brawley, CA 92227.

Agenda Item #7

Dear Commission Members:

My name is Markella Markouizos, and I am the Site Marketing Manager for SBA Communications Corporation (“SBA”) in California. It is my job to interact with carriers, such as AT&T, who have located, or are interested in locating, onto an SBA cell tower. I maintain an open line of communication with the carriers to discuss tenant issues, including but not limited to collocation, new equipment, centerline placement of equipment onto SBA cell towers and other related matters. This would include the cell tower SBA has owned, operated, and maintained since December 2007 in Brawley, CA on property commonly known as 5384 E. Highway 78, Brawley, CA 92227 (“Existing Cell Tower”).

CitySwitch (“CitySwitch”) has submitted a Conditional Use Permit and Variance Application to the Imperial County Planning & Development Services Department requesting to construct a new 165’ tower on behalf of AT&T a mere 0.29 miles or 1,557 feet from the Existing Cell Tower. I was surprised by CitySwitch’s application which identifies AT&T as the primary intended tenant with antennas located at a height of 150’ AGL on the Proposed Tower, as I regularly communicate with AT&T.

As previously mentioned, SBA has owned and operated the Existing SBA Cell Tower for seventeen years. It was acquired in 2007 when the tower was purchased from NTCH-CA, Inc., the company that obtained zoning approval and constructed the 180-foot tower in 2002. AT&T has been a tenant under a lease agreement since April 20, 2005.

When SBA purchased the tower site, it assumed the antenna site agreement (colocation agreement) between Cingular Wireless (AT&T) and the original developer, NTC-CA Inc. To be clear, the business terms, initial rent and annual escalation were established prior to SBA owning the Existing Cell Tower. The terms of the long-term agreement were negotiated and agreed to by AT&T and have not changed.

Since SBA’s ownership, we have worked with AT&T to effectuate all requested network improvements at the Existing SBA Cell Tower, including eight lease amendments associated with site upgrades and equipment changes. Most recently, SBA contracted

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with AT&T to upgrade its equipment to include FirstNet, AT&T's public safety network for first responders. The FirstNet amendment was executed on November 22, 2019, installed in December 2019 and is operational today from the Existing Cell Tower.

On July 30, 2023, SBA and AT&T entered into a Master Lease Agreement (MLA) establishing agreed upon rental rates and other terms on the 6,500 SBA towers AT&T currently leases, including the Existing Cell Tower, as well as new collocation leases.

As with all other matters, AT&T has previously been directed to send any communication related to SBA's cell towers in California to my attention. To date AT&T has not contacted me directly indicating that they require any further equipment upgrades at the Existing SBA Cell Tower or have any concerns regarding the current lease terms and rent.

The conditional use application contains a Sworn Statement from Spencer Gamrell with AT&T dated February 28, 2023, in support of the CitySwitch application. We note that the date of the AT&T affidavit precedes the new MLA agreement. The affidavit states that AT&T will bear a significant capital cost in decommissioning its equipment from SBA's Tower and re-locating to the Proposed Tower and would prefer not to do so.

In a good faith effort to accommodate AT&T and to continue collocating on SBA's Tower, SBA offers to match the monthly rental rate currently offered to AT&T by CitySwitch, less \$10.00, upon AT&T providing a copy of bona fide documentation of the monthly rental rate offered by CitySwitch.

The closest existing cell towers to the Existing SBA Cell Tower in Glamis, situated in the center of the Imperial Dunes Recreational area, are located more than fourteen (14) miles east and west of the Existing SBA Cell Tower. AT&T will be better positioned by remaining on SBA's Tower and avoiding the cost of re-locating to the Proposed Tower. AT&T can instead use the relocation costs to benefit the public by developing new tower sites that expand coverage in areas that have little or no service. The proposed CitySwitch tower is duplicative and unnecessary, contrary to the goals established in the county tower ordinance.

Attached is a RF Analysis and corresponding RF propagation maps depicting AT&T's existing coverage in comparison with the proposed CitySwitch tower. Due to the proximity to SBA's Tower, 1,500 feet of tower separation, the Proposed Tower would not appreciably expand the scope or strength of available coverage in the area but would instead provide duplicative or overlapping coverage provided by SBA's Tower. Further, the installation of additional antennas on the Proposed Tower would be considered an "overbuild" or impractical given the coverage overlap with SBA's Tower.

AT&T is currently a tenant on over 6,690 SBA telecommunications towers nationwide.

Given our relationship with AT&T, we would welcome the opportunity to work with AT&T to stay collocated on the Existing Cell Tower, which would prevent the unnecessary and

needless proliferation of additional telecommunication towers. Again, no one from AT&T has contacted me regarding this or any other issue addressed by the CitySwitch application, but SBA can certainly address these issues.

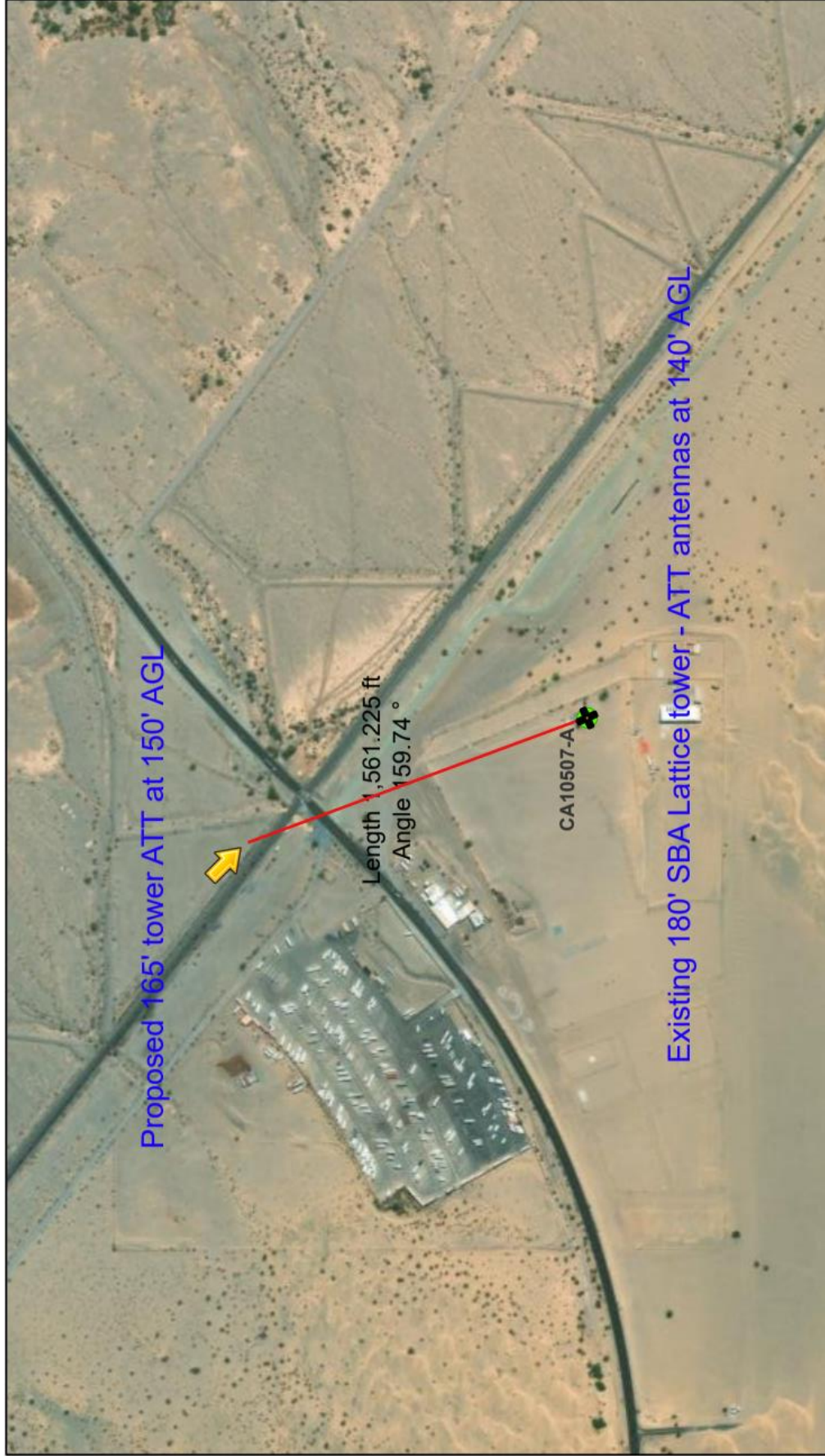
We look forward to continuing to work with AT&T and Imperial County to provide access to wireless networks via SBA's telecommunications infrastructure.

Very sincerely yours,

Markella Markouizos

Markella Markouizos
Site Marketing Manager, Site Leasing

Tower Separation Distance 1,561 feet



View near the Proposed Tower Looking Southeast Towards the Existing SBA Tower



MLA Agreement Between SBA and AT&T Announced

The screenshot shows the MarketScreener website interface. At the top, there is a navigation bar with the MarketScreener logo and a search bar labeled "Symbol or Keyword(s)". Below the navigation bar, there are several menu items: "Markets", "News", "Analysis", "Our Shows", "Stock Picks", "Portfolios", "Watchlists", and "Rankings". A promotional banner at the bottom of the navigation bar reads "Your New Year resolution for 2024!" with a "Subscribe now" button.

SBA Communications Corporation Enters into New Long-Term Master Lease Agreement with AT&T, Inc

July 31, 2023 at 04:01 pm EDT [Share](#)

SBA Communications Corporation announced that it has entered into a new long-term master lease agreement with AT&T Inc. (the MLA). The comprehensive MLA will streamline AT&T's deployment of 5G and other next generation technology across SBA's extensive US tower portfolio, mutually benefitting both companies through securing a committed operating relationship for years into the future.

[Share](#) © S&P Capital IQ - 2023

TO: SBA

Subject: RF Coverage Plot Analysis: Imperial County, CA

Date: December 27, 2023

1. **METHODOLOGY.** The attached plots depict broadcast radio frequency (RF) coverage from the existing site to Imperial County, CA and a proposed site approximately 1,557 feet to the Northwest. At each location, cellular industry typical LTE operating parameters were considered for omnidirectional antennas mounted at 150 feet above ground level at the existing site, and at 150 feet above ground level for the proposed site. Ground elevations are 336 and 336 feet above mean sea level, respectively.

The provided predictive coverage plots were created using established radiowave propagation models with terrain and clutter data, implemented by qualified engineers specializing in this discipline and having years of US Industry experience.

Plots for both locations were generated for 700, 850, 1900 and 2100 MHz operations. The signal levels depicted are associated with LTE service reliability where the strong coverage levels in green and blue occur near the towers and decrease with distance from the sites and intervening terrain obstructions. Signal levels greater than -70 dBm shown as blue are associated with feasible coverage within buildings. Marginal coverage is provided in the regions depicted in yellow between -90 dBm and -80 dBm and signal levels between -100 dBm and -90 dBm shown as red represent poor coverage associated with call failures.

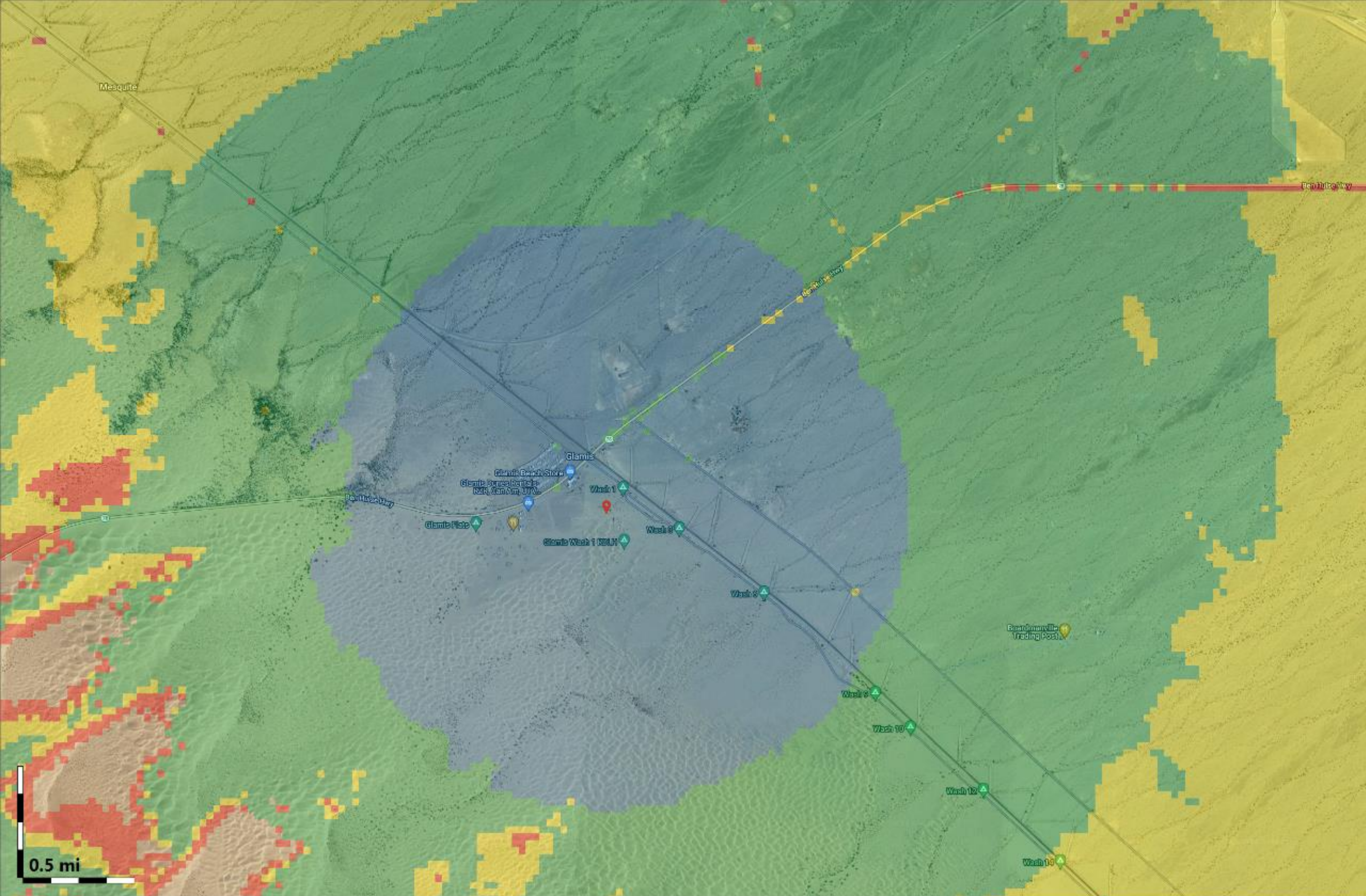
A comparison of coverage performance for each site is based on low band (700 and 850 MHz) and high band (1900 and 2100 MHz) prediction results. Radiowave propagation conditions between these bands differ because of terrain and ground clutter (e.g. vegetation) effects at different frequencies. Generally, low band operations provide greater area coverage. Therefore, high band operations provide additional customer traffic capacity closer to the cellular site.

2. **COMPARISON.** The sites considered in these coverage plots provide service to the depicted locations and roads leading to Imperial County, CA. For low band operations, the existing site provides strong coverage approximately 1.9 miles in all directions from the tower and to non-contiguous areas to 3.6 miles from the site. This includes 4.0 miles of Ben Hulse Hwy. The proposed site provides strong coverage approximately 1.9 miles in all directions from the tower and to non-contiguous areas to 3.6 miles from the site. This includes 4.0 miles of Ben Hulse Hwy.

For high band operations, both sites provide strong coverage to non-contiguous areas 2.2 miles in all directions from the tower locations.

3. **CONCLUSION.** Based on the coverage comparison presented above, the proposed site provides comparable coverage to Imperial County, CA due to its close proximity to the existing site. For wireless operators with antennas mounted on the existing site, the installation of additional antennas on the proposed site would be considered to be an "overbuild" or impractical given the coverage overlap.

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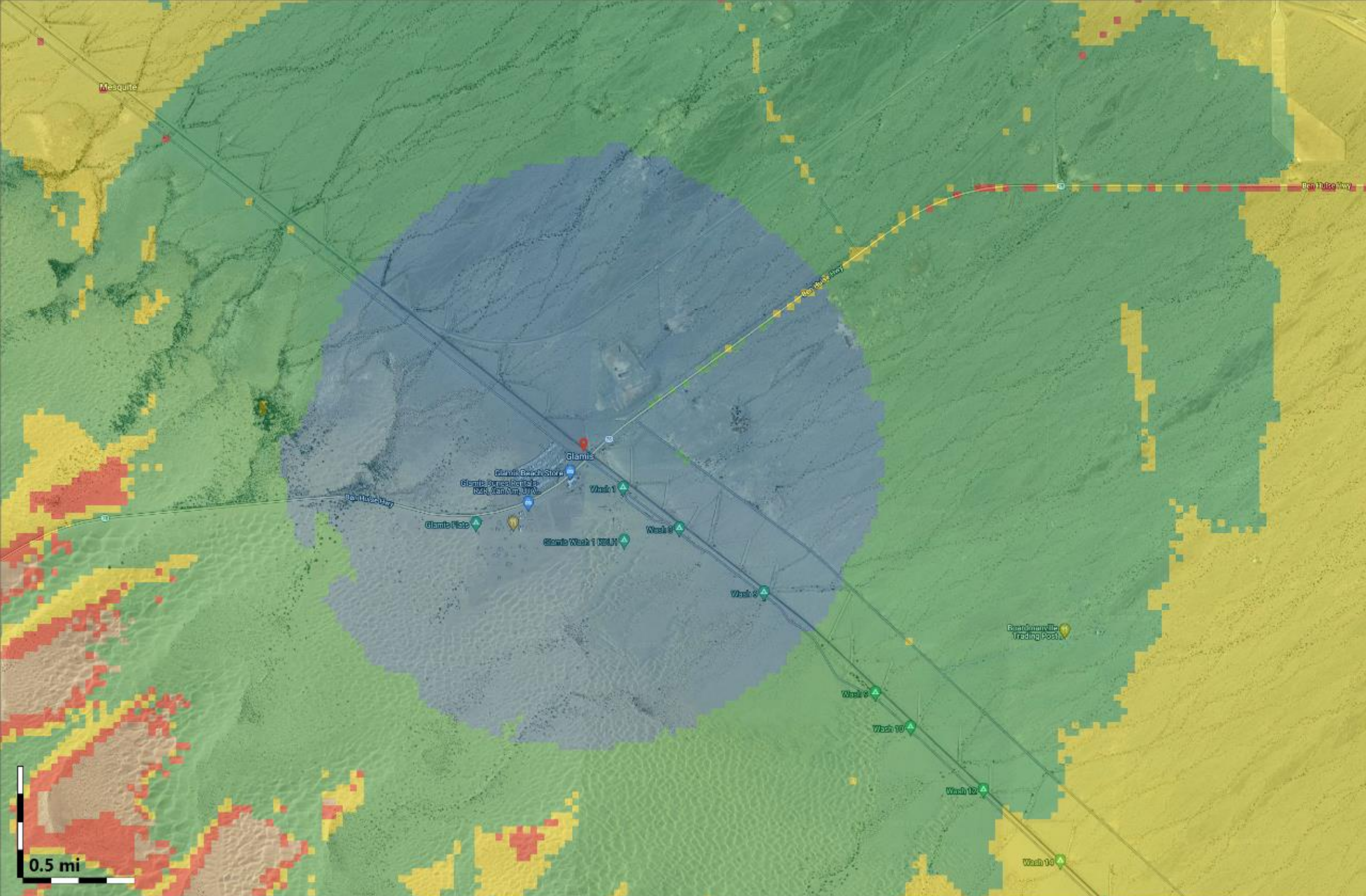
Existing Site
700 MHz Coverage

Site Name: CA10507-A Glamis
 Latitude: N32.994281
 Longitude: W115.069883

Antenna: 15.15 dBi Omni
 Alpha Rad Center (ft): 150
 Azimuth (Deg): 0
 ERP per RS (W): 2.0

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RSRP:				
< -100 dBm	>= -100 dBm	>= -90 dBm	>= -80 dBm	>= -70 dBm

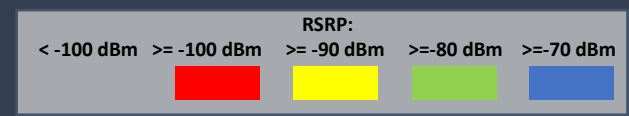


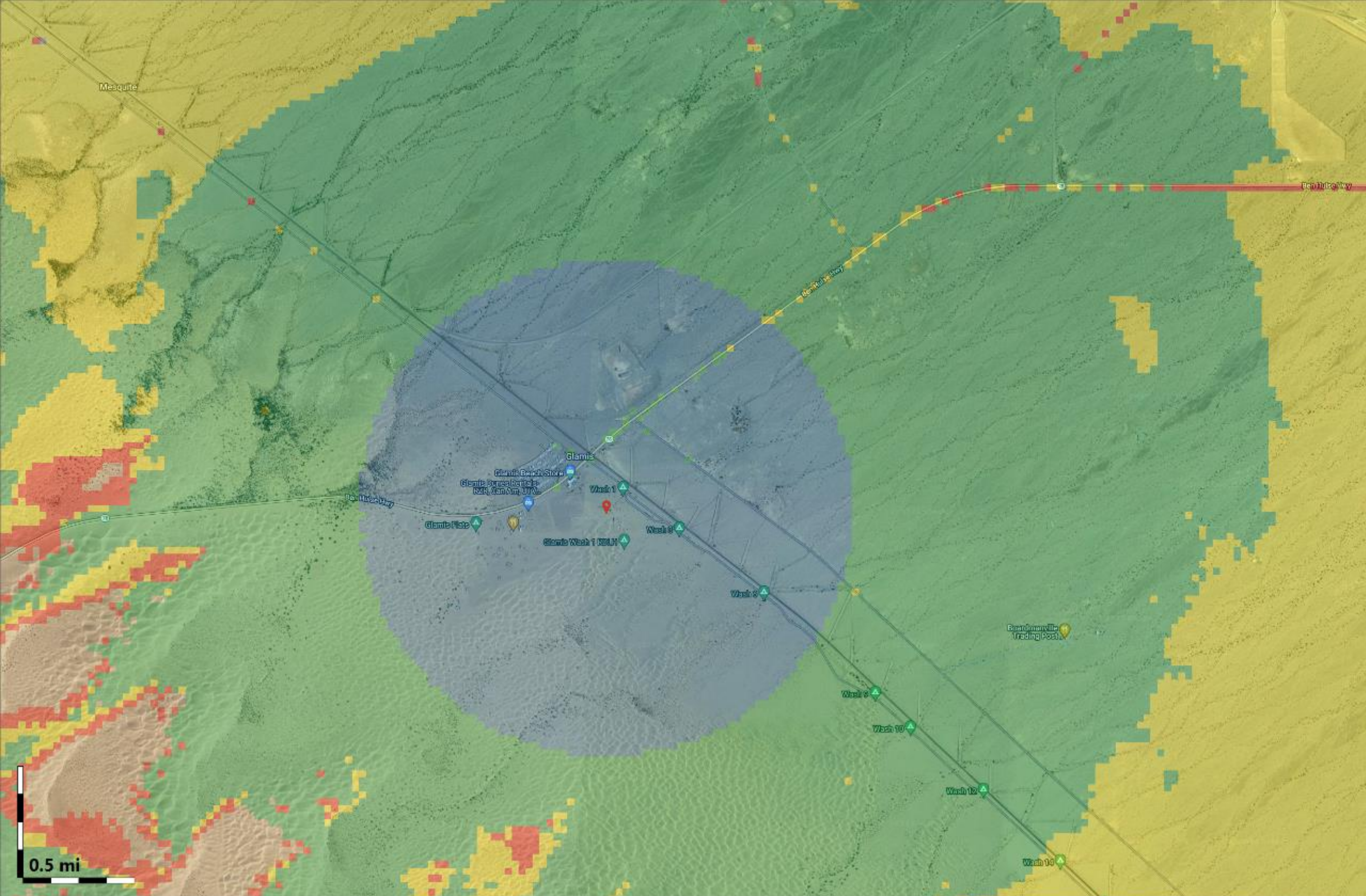
**Proposed Site
700 MHz Coverage**

Site Name: Proposed
 Latitude: N32.998311
 Longitude: W115.07166

Antenna: 15.15 dBi Omni
 Alpha Rad Center (ft): 150
 Azimuth (Deg): 0
 ERP per RS (W): 2.0

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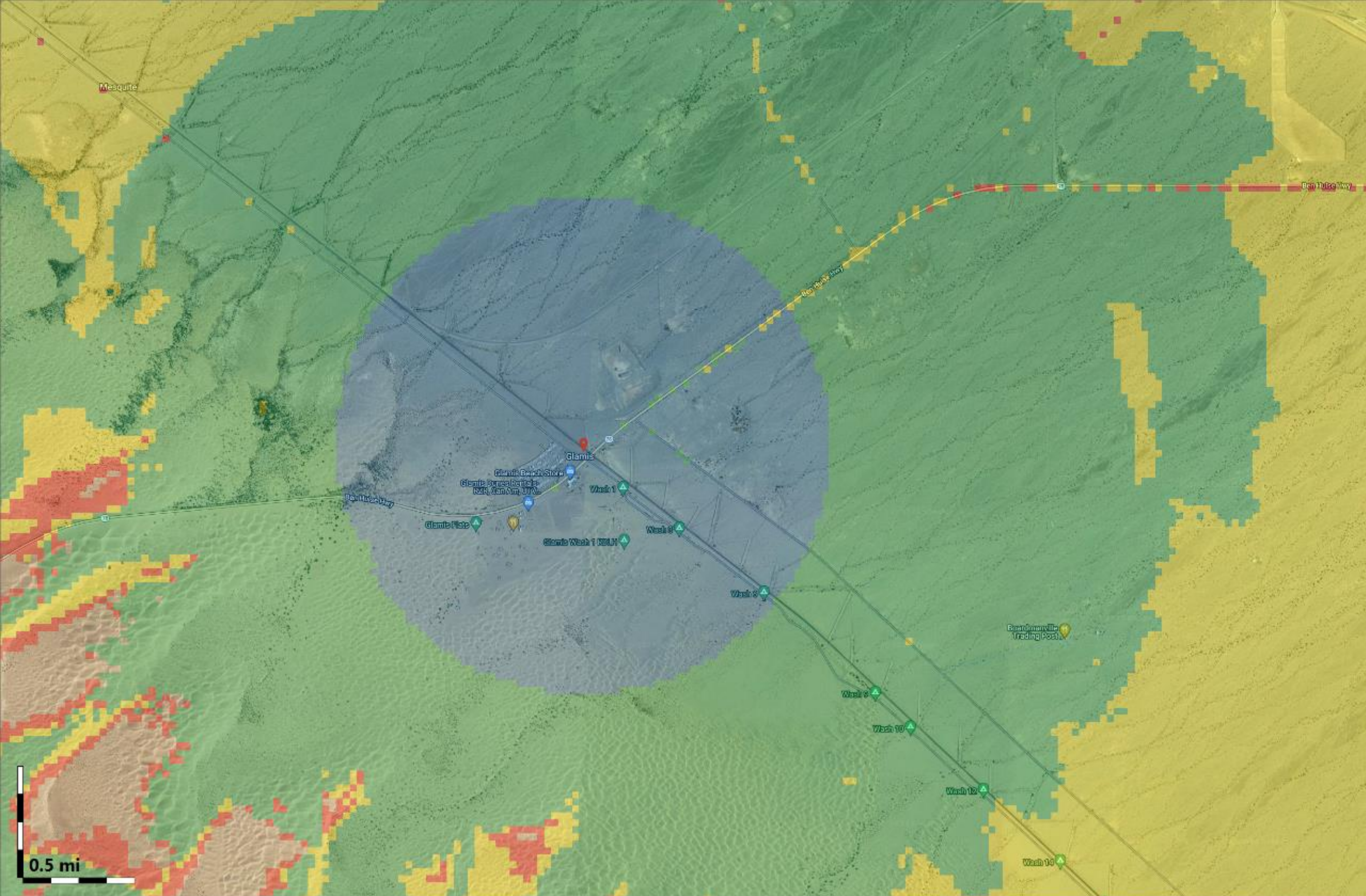
Existing Site
850 MHz Coverage

Site Name: CA10507-A Glamis
 Latitude: N32.994281
 Longitude: W115.069883

Antenna: 15.15 dBi Omni
 Alpha Rad Center (ft): 150
 Azimuth (Deg): 0
 ERP per RS (W): 2.0

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RSRP:				
< -100 dBm	>= -100 dBm	>= -90 dBm	>= -80 dBm	>= -70 dBm



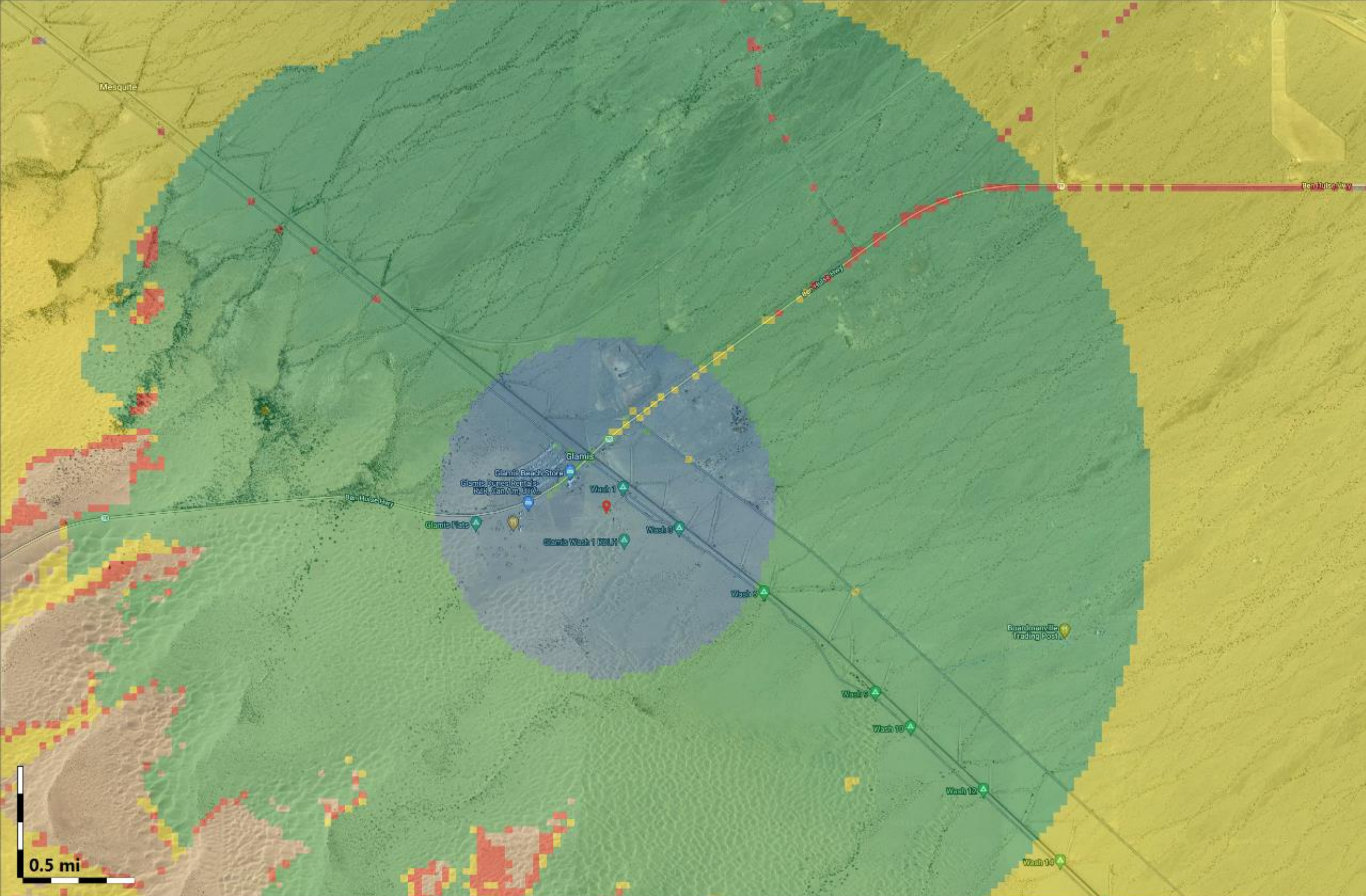
Proposed Site
850 MHz Coverage

Site Name: Proposed
 Latitude: N32.998311
 Longitude: W115.07166

Antenna: 15.15 dBi Omni
 Alpha Rad Center (ft): 150
 Azimuth (Deg): 0
 ERP per RS (W): 2.0

PC ORIGINAL PKG

RSRP:				
< -100 dBm	>= -100 dBm	>= -90 dBm	>= -80 dBm	>= -70 dBm



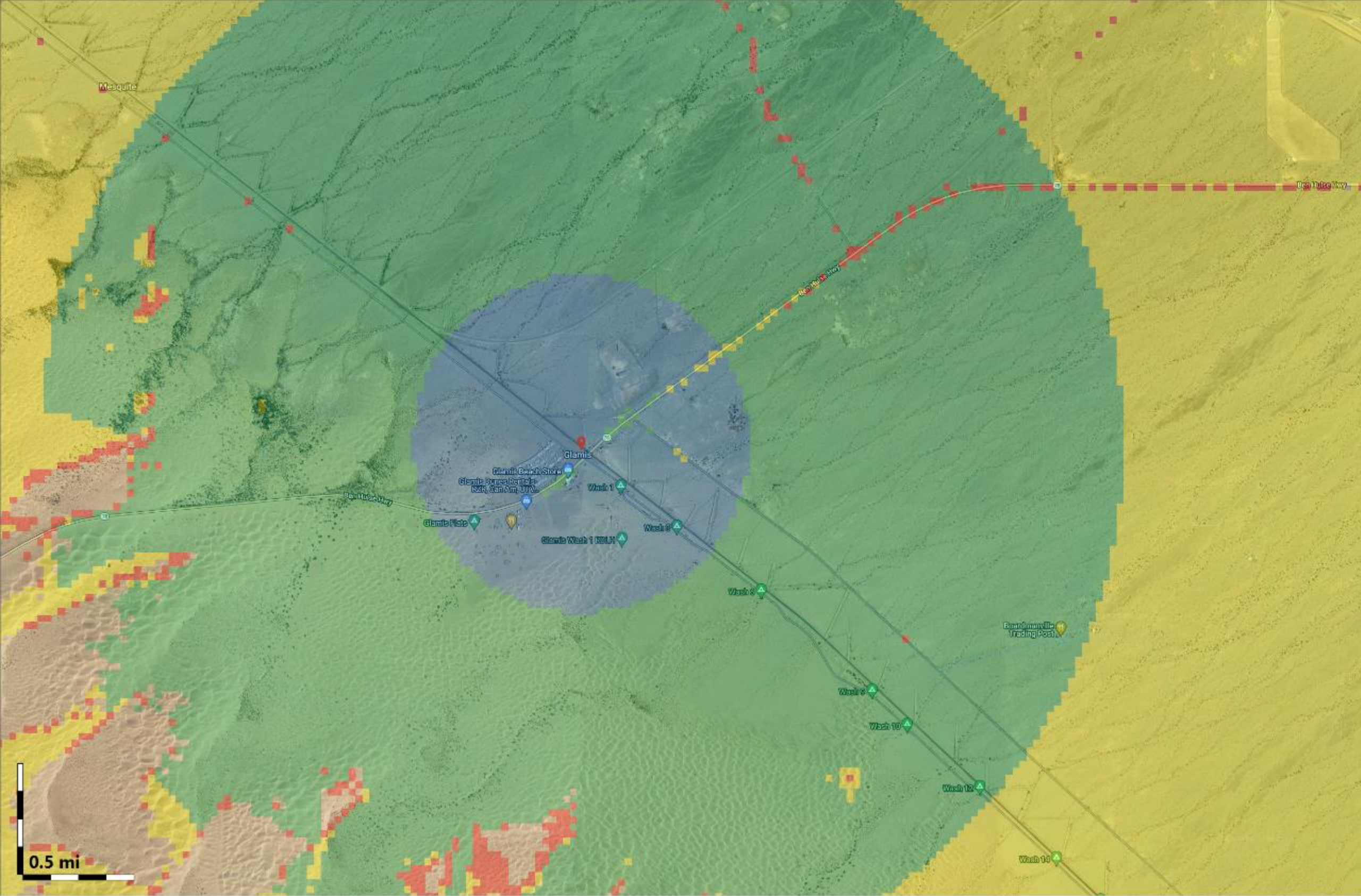
Existing Site
1900 MHz Coverage

Site Name: CA10507-A Glamis
 Latitude: N32.994281
 Longitude: W115.069883

Antenna: 17.15 dBi Omni
 Alpha Rad Center (ft): 150
 Azimuth (Deg): 0
 ERP per RS (W): 4.7

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RSRP:				
< -100 dBm	>= -100 dBm	>= -90 dBm	>= -80 dBm	>= -70 dBm



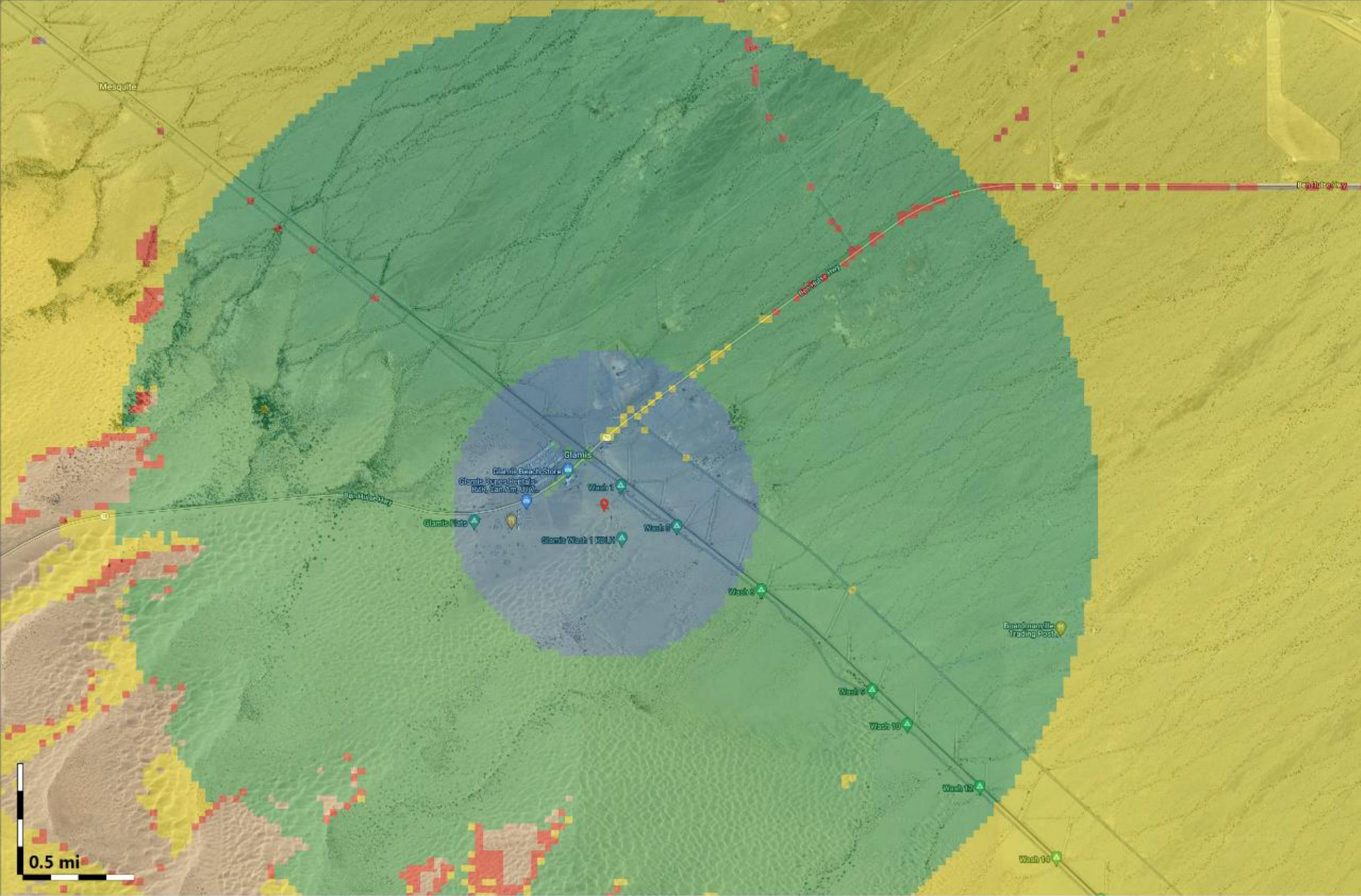
Proposed Site
1900 MHz Coverage

Site Name: Proposed
 Latitude: N32.998311
 Longitude: W115.07166

Antenna: 17.15 dBi Omni
 Alpha Rad Center (ft): 150
 Azimuth (Deg): 0
 ERP per RS (W): 4.7

PC ORIGINAL PKG

RSRP:				
< -100 dBm	>= -100 dBm	>= -90 dBm	>= -80 dBm	>= -70 dBm



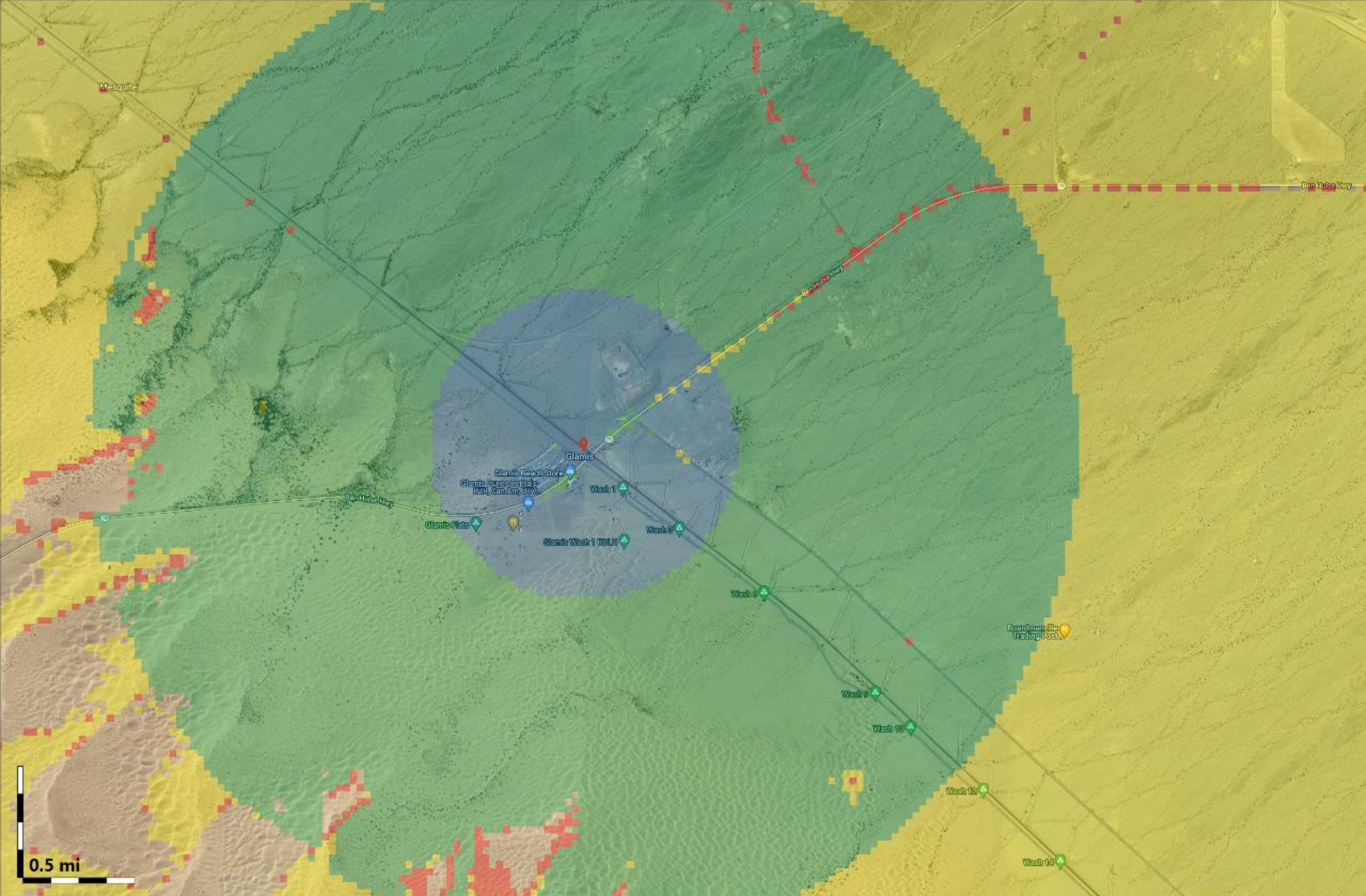
Existing Site
2100 MHz Coverage

Site Name: CA10507-A Glamis
 Latitude: N32.994281
 Longitude: W115.069883

Antenna: 17.15 dBi Omni
 Alpha Rad Center (ft): 150
 Azimuth (Deg): 0
 ERP per RS (W): 4.7

PC ORIGINAL PKG

RSRP:				
< -100 dBm	>= -100 dBm	>= -90 dBm	>= -80 dBm	>= -70 dBm



Proposed Site
2100 MHz Coverage

Site Name: Proposed
 Latitude: N32.998311
 Longitude: W115.07166

Antenna: 17.15 dBi Omni
 Alpha Rad Center (ft): 150
 Azimuth (Deg): 0
 ERP per RS (W): 4.7

PC ORIGINAL PKG

RSRP:				
< -100 dBm	>= -100 dBm	>= -90 dBm	>= -80 dBm	>= -70 dBm



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sbasite.com

January 9, 2024

Imperial County Planning Commission
940 Main Street
El Centro, CA 92243

RE: CitySwitch, LLC application for a Conditional Use Permit (#23-0010) and Variance (#23-0004) to construct a 180-foot telecommunications tower at 637-639 Sidewinder Rd N., Winterhaven, CA 92283.

Agenda #8

Dear Commission Members:

My name is Markella Markouizos, and I am the Site Marketing Manager for SBA Communications Corporation ("SBA") in California. It is my job to interact with carriers, such as AT&T, who have located, or are interested in locating, onto an SBA cell tower. I maintain an open line of communication with the carriers to discuss tenant issues, including but not limited to collocation, new equipment, centerline placement of equipment onto SBA cell towers and other related matters. This would include the cell tower SBA has owned, operated, and maintained since April 2006 in Winterhaven, CA on property commonly known as 612 Sidewinder Road, Winterhaven, CA 92283 ("Existing Cell Tower").

CitySwitch ("CitySwitch") has submitted a Conditional Use Permit and Variance Application to the Imperial County Planning & Development Services Department requesting to construct a new 180' tower on behalf of AT&T a mere 0.36 miles or 3,200 feet from the Existing Cell Tower. I was surprised by CitySwitch's application which identifies AT&T as the primary intended tenant with antennas located at a height of 165 feet on the Proposed Tower, as I regularly communicate with AT&T.

The Existing Cell Tower was constructed by AAT Communications in 2003. AAT Communications was granted zoning approval to construct the Existing 180' foot tall lattice tower pursuant to CUP #00-0017 on September 23, 2003. SBA has owned, maintained, and operated the Existing Cell Tower for eighteen years. SBA acquired the tower through a Bill of Sale when the tower was purchased on April 13, 2006. AT&T has been a tenant under a lease agreement since April 20, 200, prior to SBA's ownership. AT&T has antennas collocated at a height of 157 feet.

When SBA purchased the tower site, it assumed the antenna site agreement (colocation agreement) between Cingular Wireless (AT&T) and the original tower owner. The business terms, initial rent and annual escalation were established prior to SBA owning the Existing Cell Tower. The terms of the long-term agreement were negotiated and agreed to by AT&T and have not changed.

In my prior communications with AT&T, it has not mentioned concerns or issues with SBA's Tower, nor inquired whether SBA's Tower could accommodate additional equipment or be extended to an additional height. AT&T has not raised any other concerns to SBA about its occupancy on SBA's Tower. Further, I worked with AT&T as recently as May 2021 to amend their

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TO: SBA

Subject: RF Coverage Plot Analysis: Imperial County, CA

Date: December 27, 2023

1. **METHODOLOGY.** The attached plots depict broadcast radio frequency (RF) coverage from the existing site to Imperial County, CA and a proposed site approximately 3,220 feet to the Northwest. At each location, cellular industry typical LTE operating parameters were considered for omnidirectional antennas mounted at 157 feet above ground level at the existing site, and at 165 feet above ground level for the proposed site. Ground elevations are 290 and 285 feet above mean sea level, respectively.

The provided predictive coverage plots were created using established radiowave propagation models with terrain and clutter data, implemented by qualified engineers specializing in this discipline and having years of US Industry experience.

Plots for both locations were generated for 700, 850, 1900 and 2100 MHz operations. The signal levels depicted are associated with LTE service reliability where the strong coverage levels in green and blue occur near the towers and decrease with distance from the sites and intervening terrain obstructions. Signal levels greater than -70 dBm shown as blue are associated with feasible coverage within buildings. Marginal coverage is provided in the regions depicted in yellow between -90 dBm and -80 dBm and signal levels between -100 dBm and -90 dBm shown as red represent poor coverage associated with call failures.

A comparison of coverage performance for each site is based on low band (700 and 850 MHz) and high band (1900 and 2100 MHz) prediction results. Radiowave propagation conditions between these bands differ because of terrain and ground clutter (e.g. vegetation) effects at different frequencies. Generally, low band operations provide greater area coverage. Therefore, high band operations provide additional customer traffic capacity closer to the cellular site.

2. **COMPARISON.** The sites considered in these coverage plots provide service to the depicted locations and roads leading to Imperial County, CA. For low band operations, the existing site provides strong coverage approximately 1.0 miles in all directions from the tower and to non-contiguous areas to 4.4 miles from the site. This includes 2.0 miles of I-8. The proposed site provides strong coverage approximately 1.1 miles in all directions from the tower and to non-contiguous areas to 4.3 miles from the site. This includes 2.0 miles of I-8.

For high band operations, both sites provide strong coverage to non-contiguous areas 2.2 miles in all directions from the tower.

3. **CONCLUSION.** Based on the coverage comparison presented above, the proposed site provides comparable coverage to Imperial County, CA due to its close proximity to the existing site. For wireless operators with antennas mounted on the existing site, the installation of additional antennas on the proposed site would be considered to be an "overbuild" or impractical given the coverage overlap.

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lease at the Existing Cell Tower through March 24, 2028. The amendment also included antenna and equipment modifications that added AT&T's FirstNet services to the Existing Cell Tower which is now deployed and in service at the location.

The conditional use application contains a Sworn Statement from Spencer Gamrell with AT&T dated February 28, 2023, in support of the CitySwitch application. We note that the date of the AT&T affidavit precedes the new MLA agreement. The affidavit states that AT&T will bear a significant capital cost in decommissioning its equipment from SBA's Tower and re-locating to the Proposed Tower and would prefer not to do so.

On July 30, 2023, SBA and AT&T entered into a Master Lease Agreement (MLA) establishing agreed upon rental rates and other terms on the 6,500 SBA towers AT&T currently leases, including the Existing Cell Tower, as well as new collocation leases.

Attached is a RF Analysis and corresponding RF propagation maps depicting AT&T's existing coverage in comparison with the proposed CitySwitch tower. Due to the proximity to SBA's Tower, the Proposed Tower would not appreciably expand the scope or strength of available coverage in the area but would instead provide duplicative or overlapping coverage provided by SBA's Tower. Further, the installation of additional antennas on the Proposed Tower would be considered an "overbuild" or impractical given the coverage overlap with SBA's Tower.

Given our relationship with AT&T, we would welcome the opportunity to work with AT&T to stay collocated on the Existing Cell Tower, which would prevent the unnecessary and needless proliferation of additional telecommunication towers. Again, no one from AT&T has contacted me regarding this or any other issue addressed by the CitySwitch application, but SBA can certainly address these issues.

We look forward to continuing to work with AT&T and Imperial County to provide access to wireless networks via SBA's telecommunications infrastructure.

Very sincerely yours



Markella Markouizos
Site Marketing Manager, Site Leasing

Tower Separation Distance 0.36 miles or 3,220 feet



View looking towards the existing SBA near the proposed



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MLA Agreement Between SBA and AT&T Announced

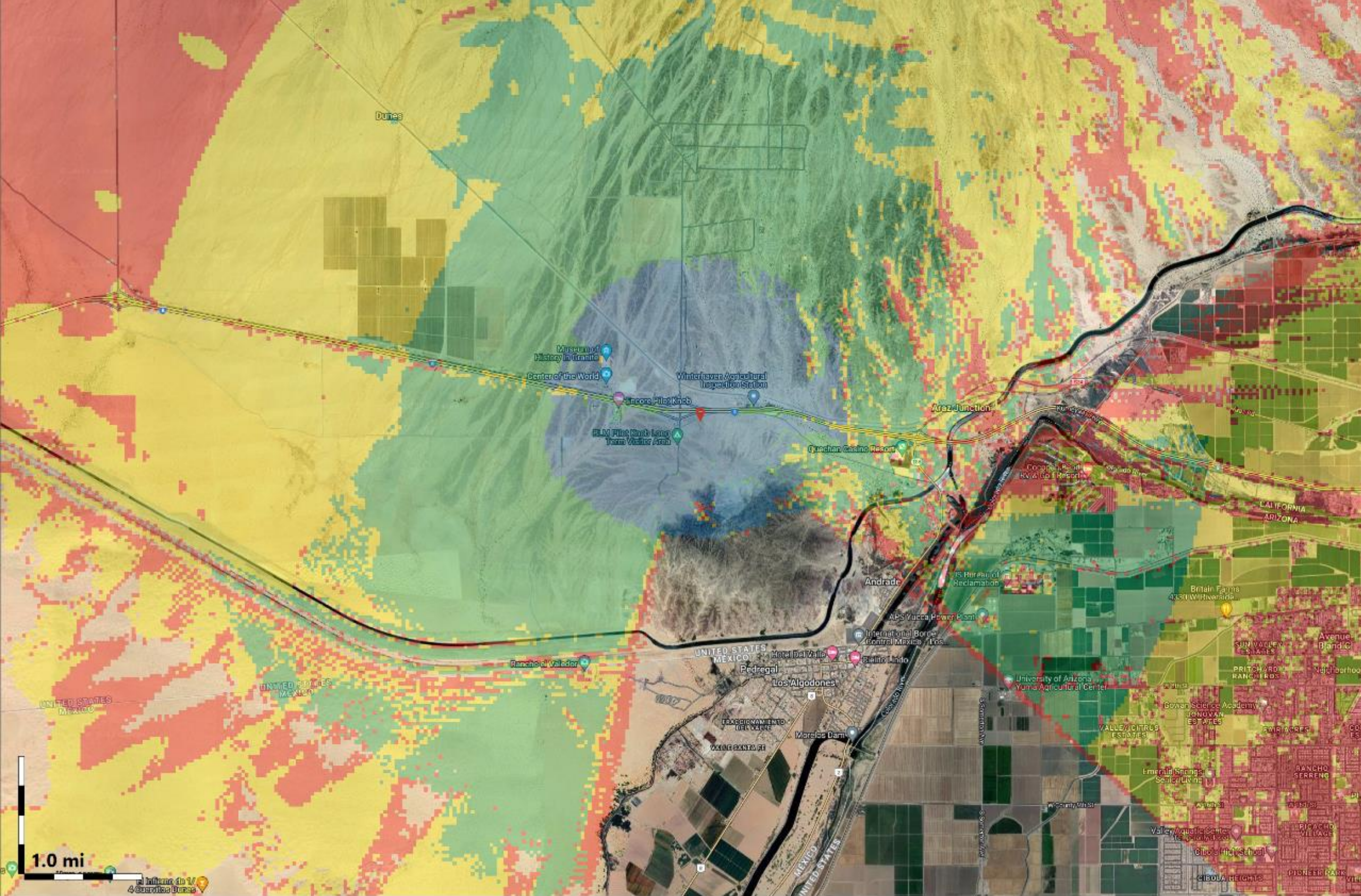
The screenshot shows a web browser displaying a news article on the MarketScreener website. The URL in the address bar is <https://www.marketscreener.com/quote/stock/SBA-COMMUNICATIONS-CORPOR-33339190/news/SBA-Cor>. The MarketScreener logo is in the top left, and a search bar with the placeholder text "Symbol or Keyword(s)" is in the top right. A navigation menu includes "Markets", "News", "Analysis", "Our Shows", "Stock Picks", "Portfolios", "Watchlists", and "Ranki". A promotional banner at the bottom of the navigation area says "Your New Year resolution for 2024!" and "Subscribe now".

SBA Communications Corporation Enters into New Long-Term Master Lease Agreement with AT&T, Inc

July 31, 2023 at 04:01 pm EDT [Share](#)

SBA Communications Corporation announced that it has entered into a new long-term master lease agreement with AT&T Inc. (the MLA). The comprehensive MLA will streamline AT&T's deployment of 5G and other next generation technology across SBA's extensive US tower portfolio, mutually benefitting both companies through securing a committed operating relationship for years into the future.

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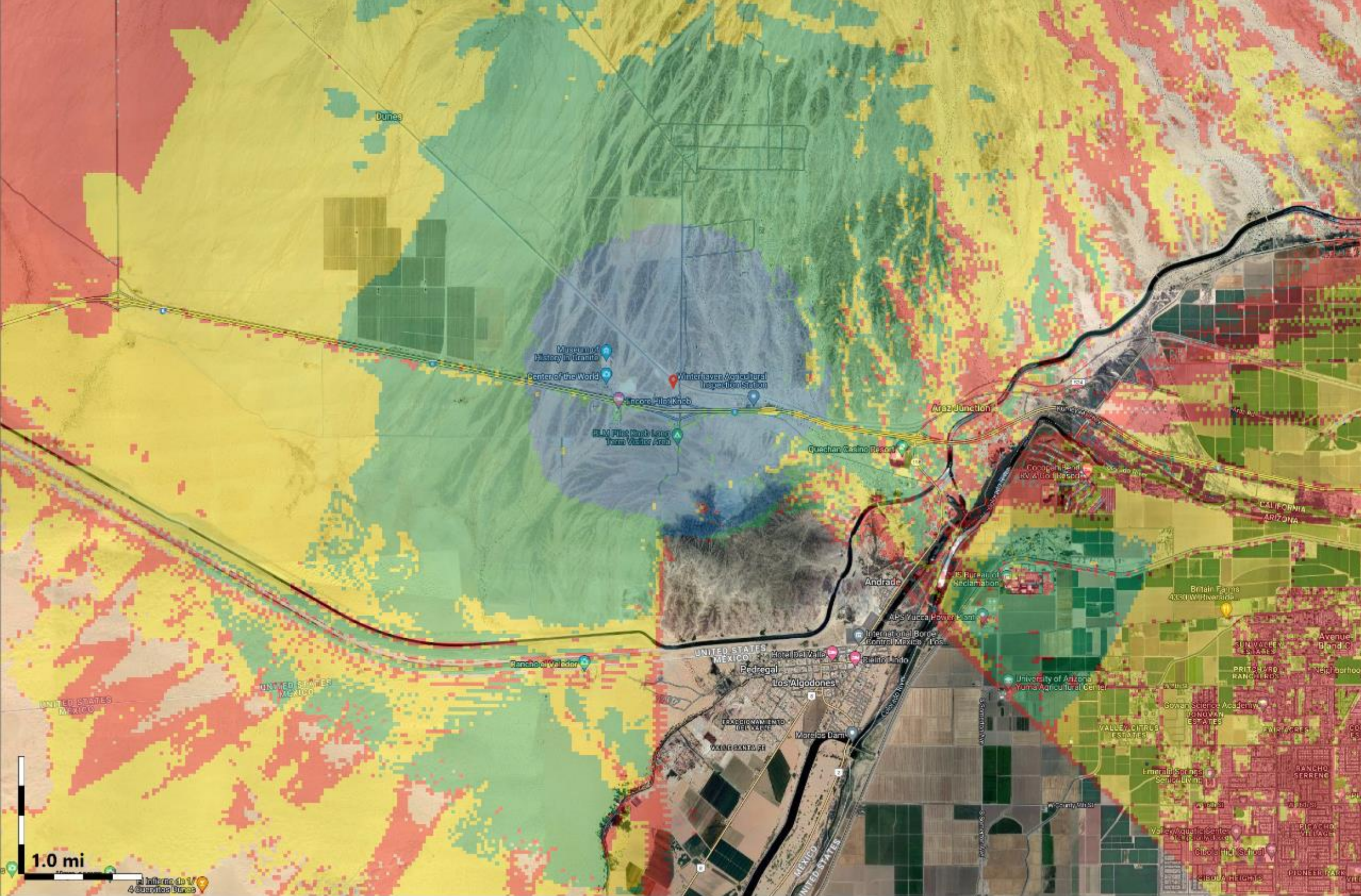
Existing Site
700 MHz Coverage

Site Name CA20545-A Araz Junction
 Latitude: N32.746361
 Longitude: W114.751833

Antenna: 15.15 dBi Omni
 Alpha Rad Center (ft): 290
 Azimuth (Deg): 0
 ERP per RS (W): 2.0

RSSR:				
< -100 dBm	>= -100 dBm	>= -90 dBm	>= -80 dBm	>= -70 dBm

PC ORIGINAL PKG



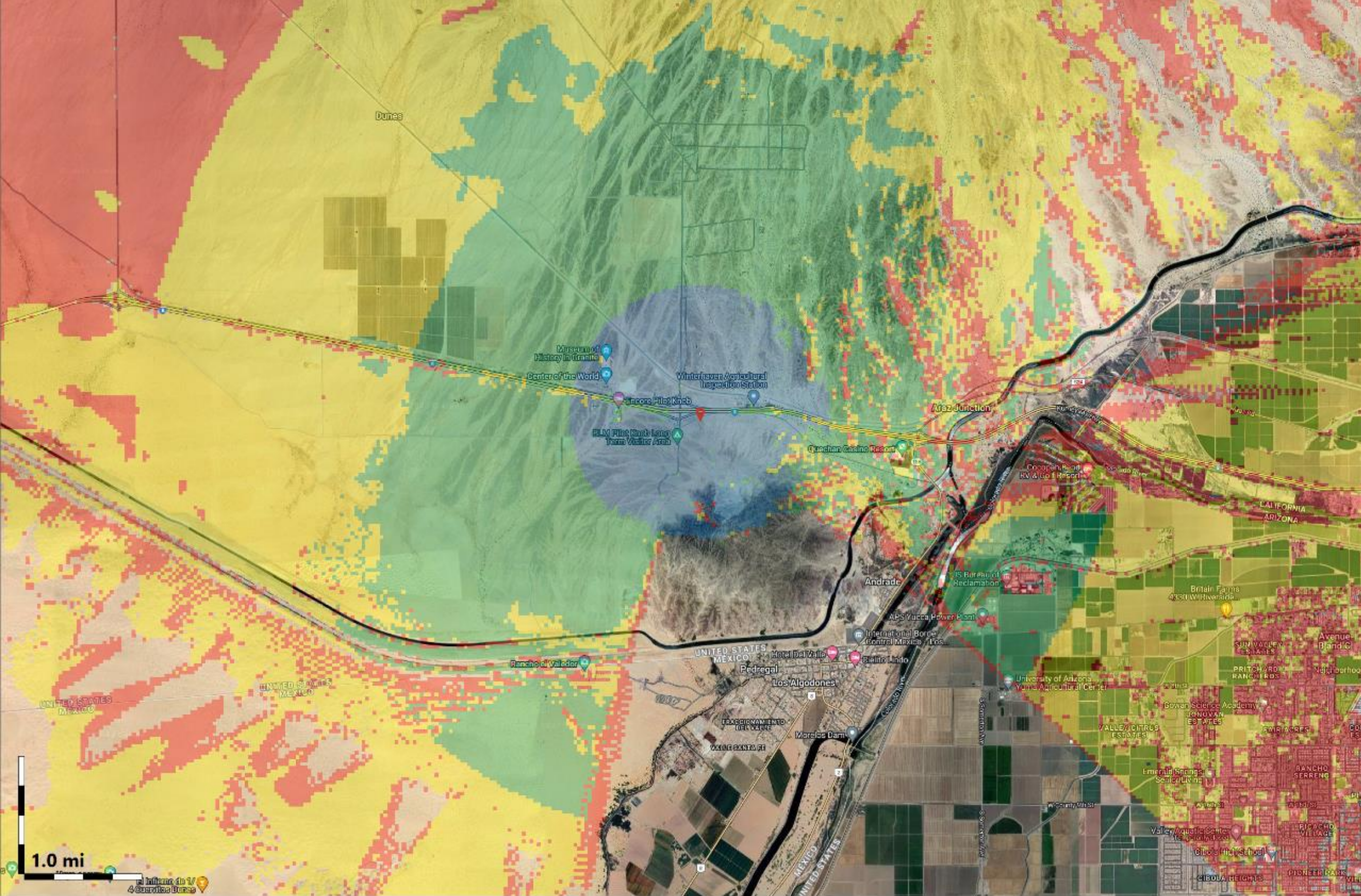
**Proposed Site
700 MHz Coverage**

Site Name: Proposed
 Latitude: N32.750403
 Longitude: W114.75578

Antenna: 15.15 dBi Omni
 Alpha Rad Center (ft): 285
 Azimuth (Deg): 0
 ERP per RS (W): 2.0

PC ORIGINAL PKG

RSRP:				
< -100 dBm	>= -100 dBm	>= -90 dBm	>= -80 dBm	>= -70 dBm



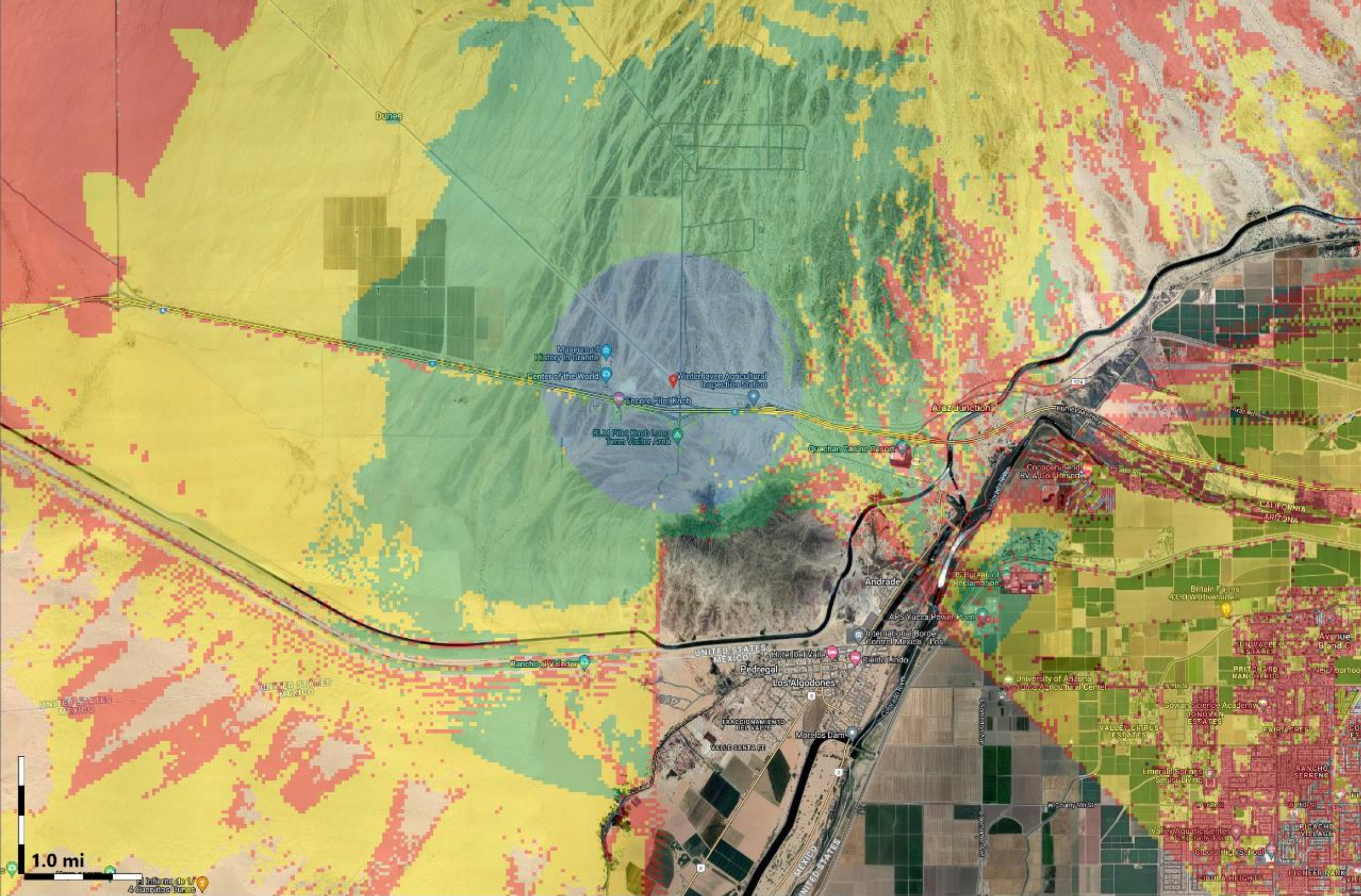
Existing Site
850 MHz Coverage

Site Name CA20545-A Araz Junction
Latitude: N32.746361
Longitude: W114.751833

Antenna: 15.15 dBi Omni
Alpha Rad Center (ft): 290
Azimuth (Deg): 0
ERP per RS (W): 2.0

PC ORIGINAL PKG

RSRP:				
$\lt -100\text{ dBm}$	$\ge -100\text{ dBm}$	$\ge -90\text{ dBm}$	$\ge -80\text{ dBm}$	$\ge -70\text{ dBm}$

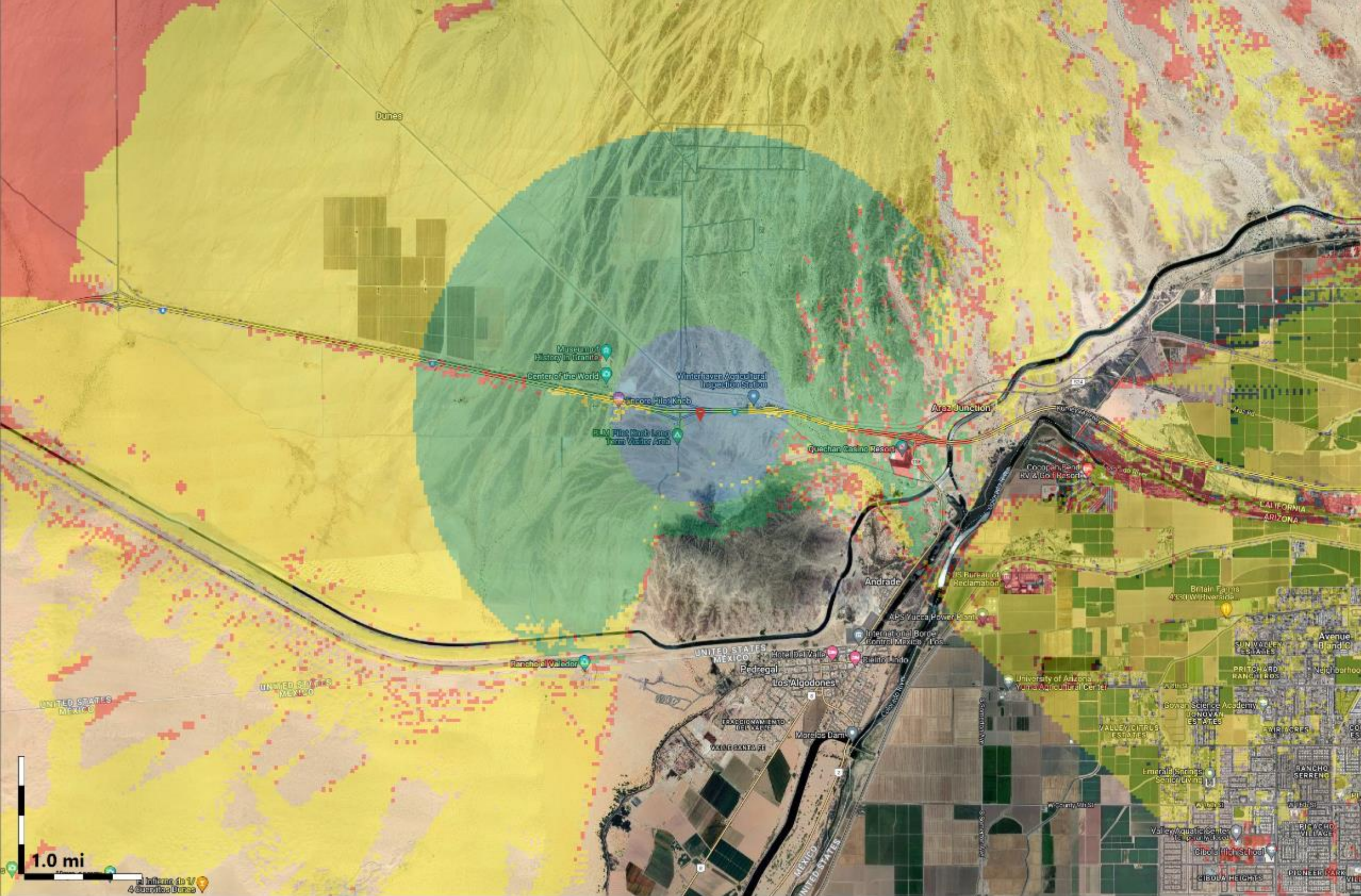


**Proposed Site
850 MHz Coverage**

Site Name:	Proposed	Antenna:	15.15 dBi Omni
Latitude:	N32.750403	Alpha Rad Center (ft):	285
Longitude:	W114.75578	Azimuth (Deg):	0
		ERP per RS (W):	2.0

PC ORIGINAL PKG

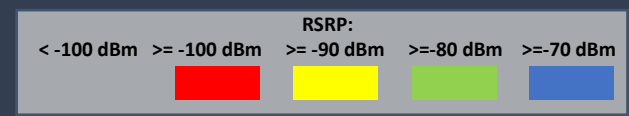
RSRP:				
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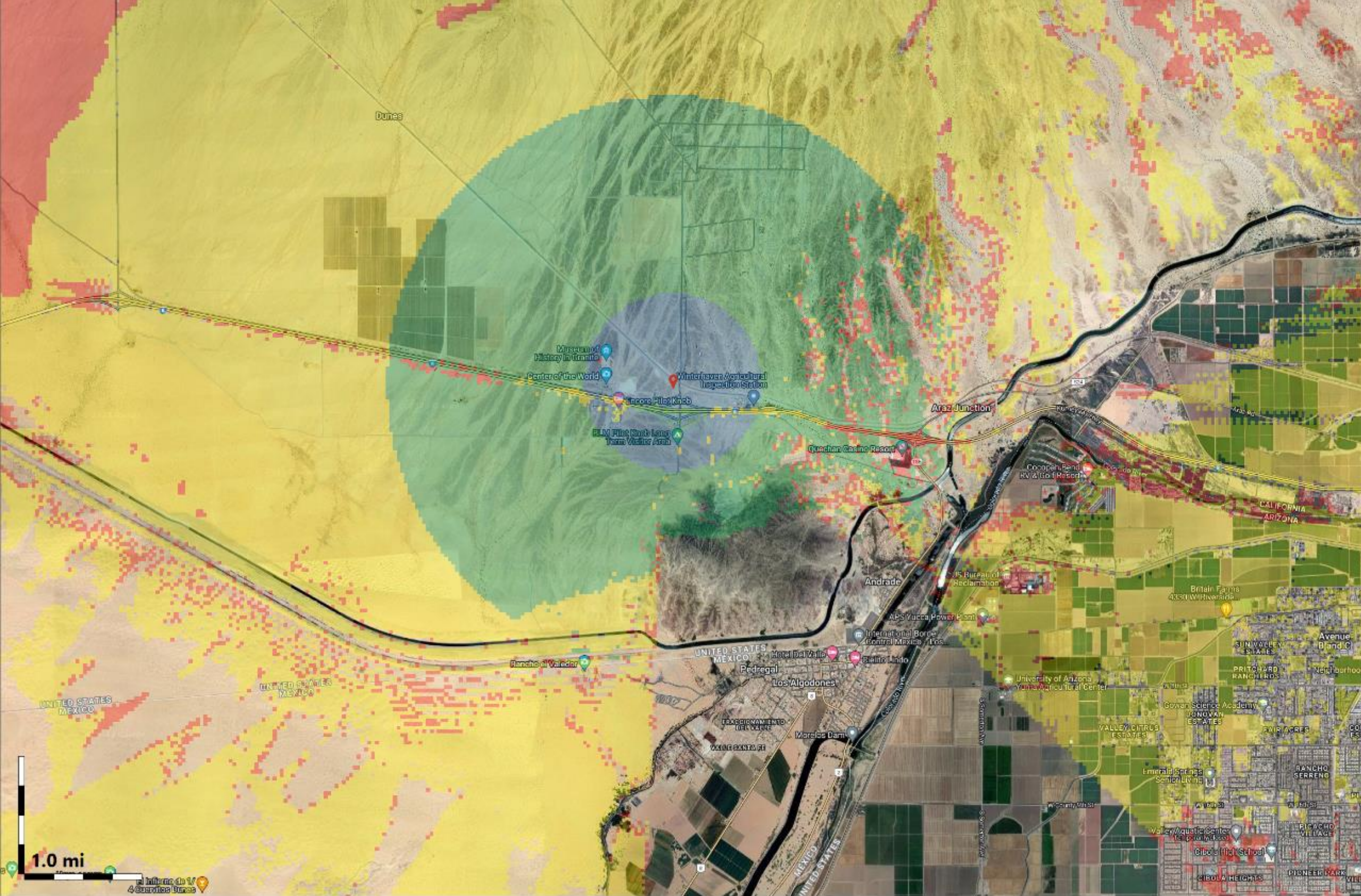
Existing Site
1900 MHz Coverage

Site Name CA20545-A Araz Junction
 Latitude: N32.746361
 Longitude: W114.751833

Antenna: 17.15 dBi Omni
 Alpha Rad Center (ft): 290
 Azimuth (Deg): 0
 ERP per RS (W): 4.7



PC ORIGINAL PKG



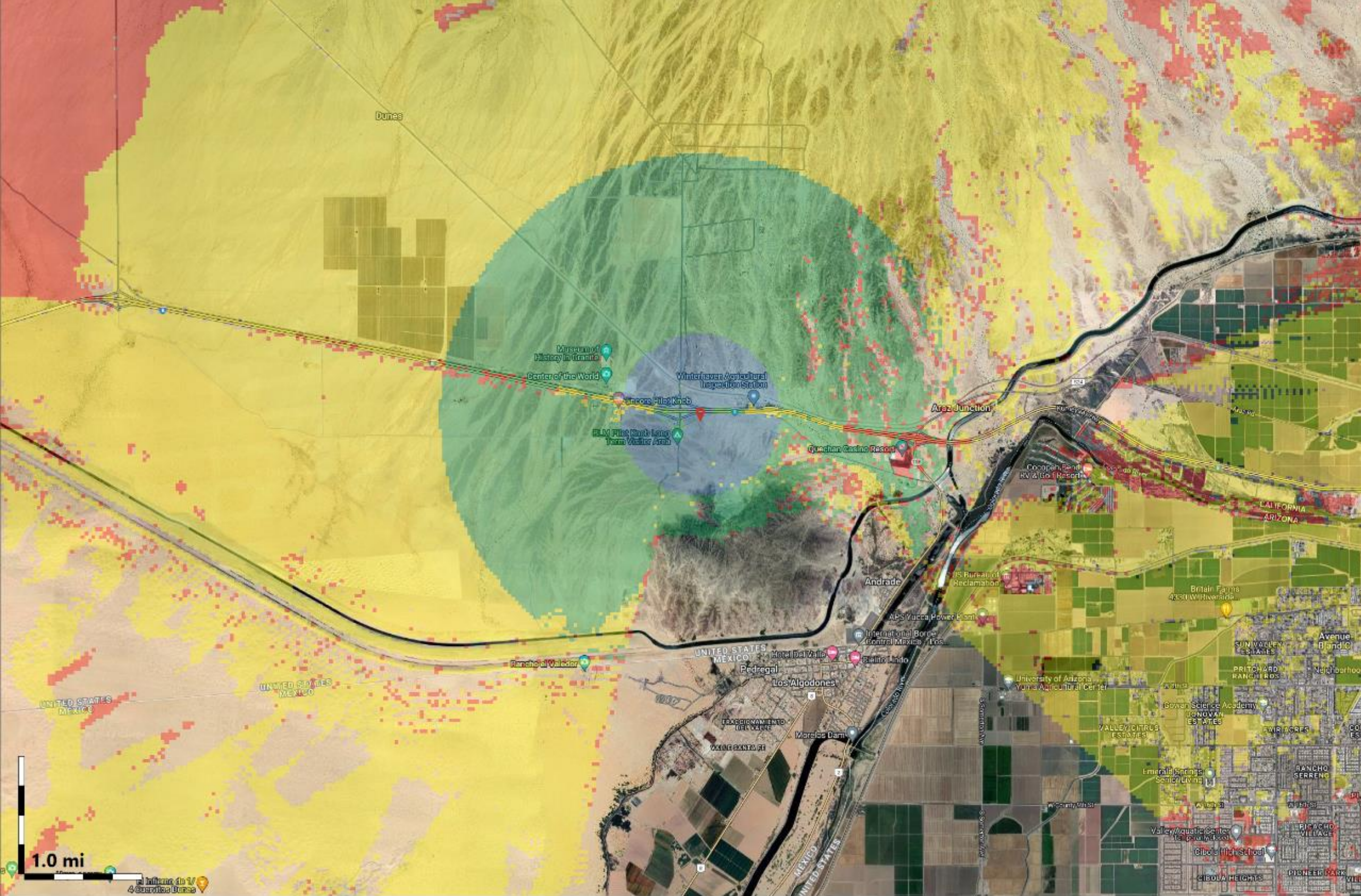
**Proposed Site
1900 MHz Coverage**

Site Name: Proposed
 Latitude: N32.750403
 Longitude: W114.75578

Antenna: 17.15 dBi Omni
 Alpha Rad Center (ft): 285
 Azimuth (Deg): 0
 ERP per RS (W): 4.7

PC ORIGINAL PKG

RSRP:				
< -100 dBm	>= -100 dBm	>= -90 dBm	>= -80 dBm	>= -70 dBm



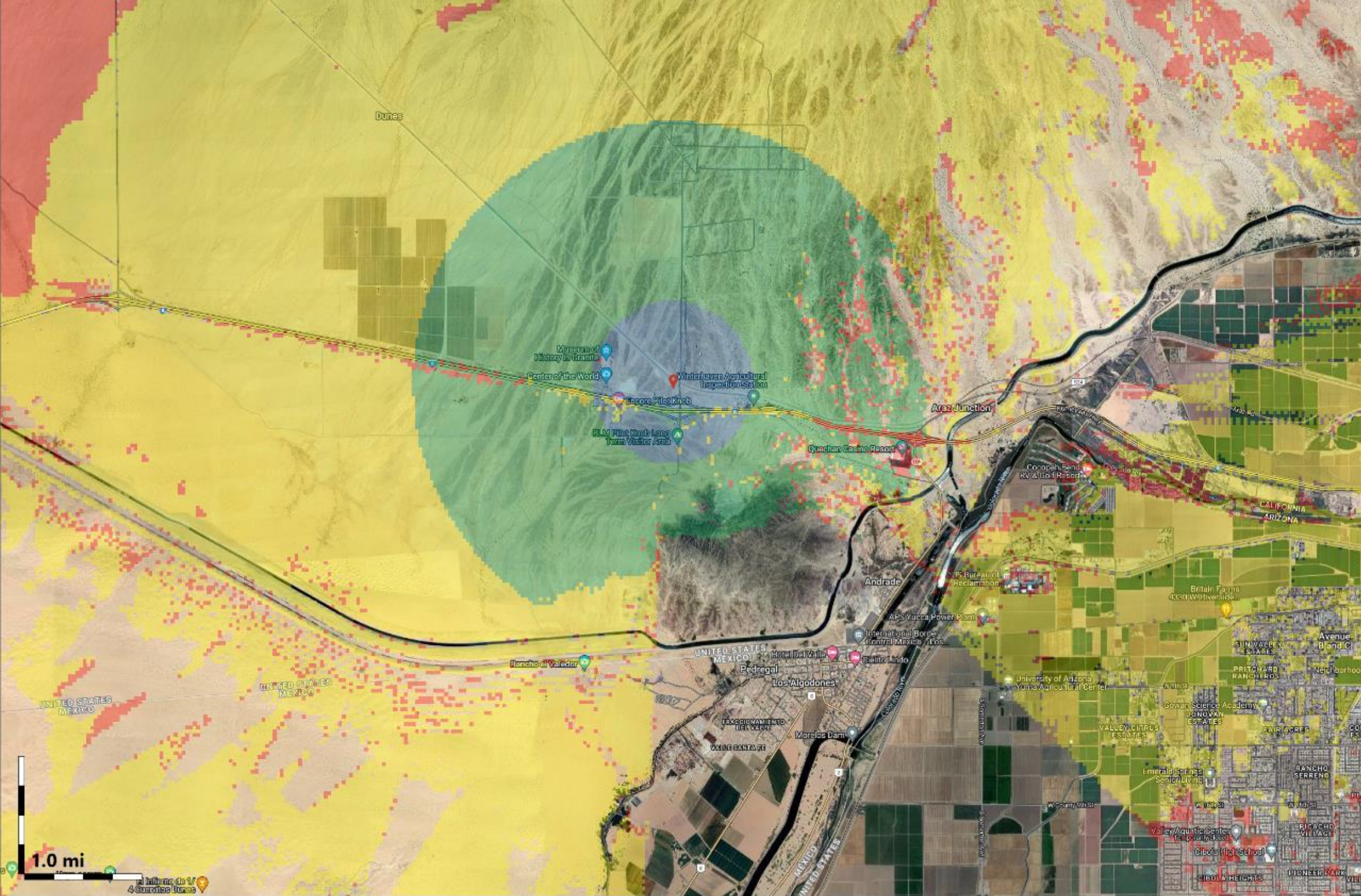
Existing Site
2100 MHz Coverage

Site Name CA20545-A Araz Junction
 Latitude: N32.746361
 Longitude: W114.751833

Antenna: 17.15 dBi Omni
 Alpha Rad Center (ft): 290
 Azimuth (Deg): 0
 ERP per RS (W): 4.7

PC ORIGINAL PKG

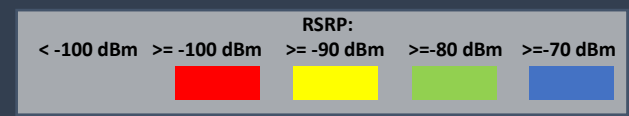
RSRP:				
< -100 dBm	>= -100 dBm	>= -90 dBm	>= -80 dBm	>= -70 dBm



**Proposed Site
2100 MHz Coverage**

Site Name:	Proposed	Antenna:	17.15 dBi Omni
Latitude:	N32.750403	Alpha Rad Center (ft):	285
Longitude:	W114.75578	Azimuth (Deg):	0
		ERP per RS (W):	4.7

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SBA Communications Corporation
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F + 561.995.7626

sbasite.com

January 9, 2024

Imperial County Planning Commission
940 Main Street
El Centro, CA 92243

RE: CitySwitch, LLC application for a Conditional Use Permit (#23-0010) and Variance (#23-0004) to construct a 180-foot telecommunications tower at 637-639 Sidewinder Rd N., Winterhaven, CA 92283.

Agenda #8

Dear Commission Members:

My name is Markella Markouizos, and I am the Site Marketing Manager for SBA Communications Corporation ("SBA") in California. It is my job to interact with carriers, such as AT&T, who have located, or are interested in locating, onto an SBA cell tower. I maintain an open line of communication with the carriers to discuss tenant issues, including but not limited to collocation, new equipment, centerline placement of equipment onto SBA cell towers and other related matters. This would include the cell tower SBA has owned, operated, and maintained since April 2006 in Winterhaven, CA on property commonly known as 612 Sidewinder Road, Winterhaven, CA 92283 ("Existing Cell Tower").

CitySwitch ("CitySwitch") has submitted a Conditional Use Permit and Variance Application to the Imperial County Planning & Development Services Department requesting to construct a new 180' tower on behalf of AT&T a mere 0.36 miles or 3,200 feet from the Existing Cell Tower. I was surprised by CitySwitch's application which identifies AT&T as the primary intended tenant with antennas located at a height of 165 feet on the Proposed Tower, as I regularly communicate with AT&T.

The Existing Cell Tower was constructed by AAT Communications in 2003. AAT Communications was granted zoning approval to construct the Existing 180' foot tall lattice tower pursuant to CUP #00-0017 on September 23, 2003. SBA has owned, maintained, and operated the Existing Cell Tower for eighteen years. SBA acquired the tower through a Bill of Sale when the tower was purchased on April 13, 2006. AT&T has been a tenant under a lease agreement since April 20, 200, prior to SBA's ownership. AT&T has antennas collocated at a height of 157 feet.

When SBA purchased the tower site, it assumed the antenna site agreement (colocation agreement) between Cingular Wireless (AT&T) and the original tower owner. The business terms, initial rent and annual escalation were established prior to SBA owning the Existing Cell Tower. The terms of the long-term agreement were negotiated and agreed to by AT&T and have not changed.

In my prior communications with AT&T, it has not mentioned concerns or issues with SBA's Tower, nor inquired whether SBA's Tower could accommodate additional equipment or be extended to an additional height. AT&T has not raised any other concerns to SBA about its occupancy on SBA's Tower. Further, I worked with AT&T as recently as May 2021 to amend their

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lease at the Existing Cell Tower through March 24, 2028. The amendment also included antenna and equipment modifications that added AT&T's FirstNet services to the Existing Cell Tower which is now deployed and in service at the location.

The conditional use application contains a Sworn Statement from Spencer Gamrell with AT&T dated February 28, 2023, in support of the CitySwitch application. We note that the date of the AT&T affidavit precedes the new MLA agreement. The affidavit states that AT&T will bear a significant capital cost in decommissioning its equipment from SBA's Tower and re-locating to the Proposed Tower and would prefer not to do so.

On July 30, 2023, SBA and AT&T entered into a Master Lease Agreement (MLA) establishing agreed upon rental rates and other terms on the 6,500 SBA towers AT&T currently leases, including the Existing Cell Tower, as well as new collocation leases.

Attached is a RF Analysis and corresponding RF propagation maps depicting AT&T's existing coverage in comparison with the proposed CitySwitch tower. Due to the proximity to SBA's Tower, the Proposed Tower would not appreciably expand the scope or strength of available coverage in the area but would instead provide duplicative or overlapping coverage provided by SBA's Tower. Further, the installation of additional antennas on the Proposed Tower would be considered an "overbuild" or impractical given the coverage overlap with SBA's Tower.

Given our relationship with AT&T, we would welcome the opportunity to work with AT&T to stay collocated on the Existing Cell Tower, which would prevent the unnecessary and needless proliferation of additional telecommunication towers. Again, no one from AT&T has contacted me regarding this or any other issue addressed by the CitySwitch application, but SBA can certainly address these issues.

We look forward to continuing to work with AT&T and Imperial County to provide access to wireless networks via SBA's telecommunications infrastructure.

Very sincerely yours



Markella Markouizos
Site Marketing Manager, Site Leasing

Tower Separation Distance 969 feet



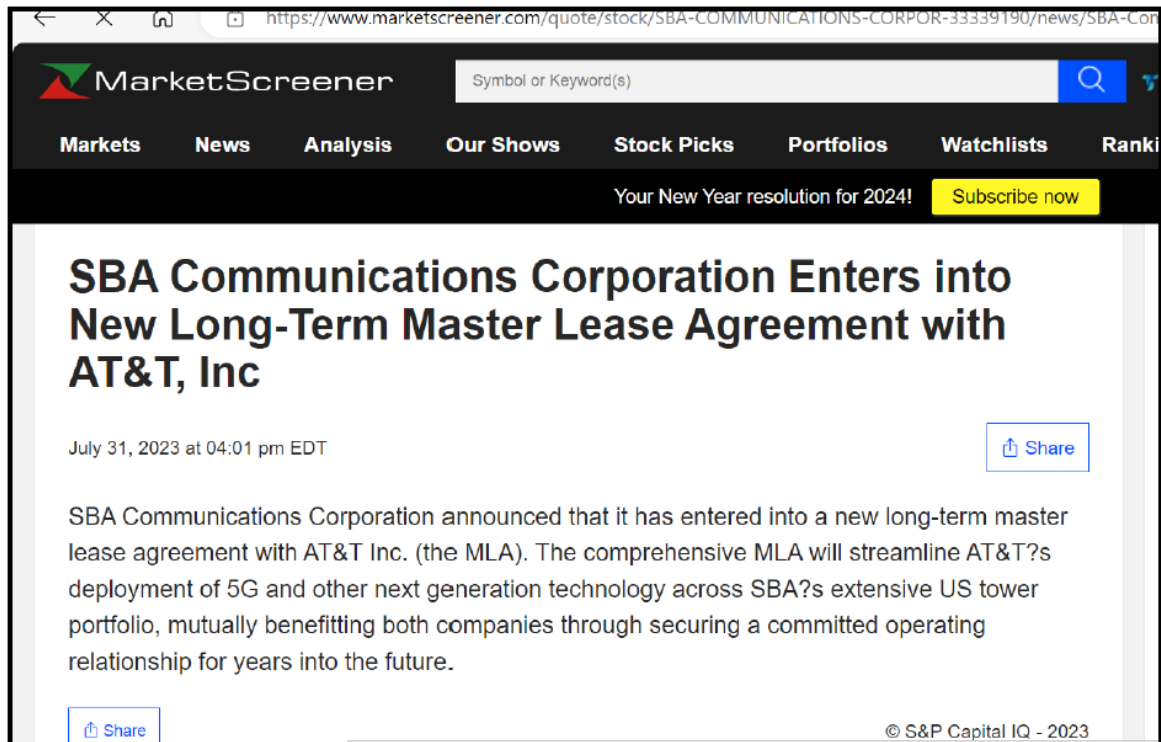
Looking south near the proposed tower location towards the existing 183' SBA tower

1502 Keystone Rd

Looking South from the proposed tower



MLA Agreement Between SBA and AT&T Announced



The image is a screenshot of a news article on the MarketScreener website. The browser's address bar shows the URL: https://www.marketscreener.com/quote/stock/SBA-COMMUNICATIONS-CORPOR-33339190/news/SBA-Cor. The MarketScreener logo is in the top left, and a search bar with the placeholder text "Symbol or Keyword(s)" is in the top right. A navigation menu below the logo includes "Markets", "News", "Analysis", "Our Shows", "Stock Picks", "Portfolios", "Watchlists", and "Ranki". A promotional banner at the bottom of the navigation area says "Your New Year resolution for 2024!" and "Subscribe now". The main article title is "SBA Communications Corporation Enters into New Long-Term Master Lease Agreement with AT&T, Inc". The date and time of the article is "July 31, 2023 at 04:01 pm EDT". The article text states: "SBA Communications Corporation announced that it has entered into a new long-term master lease agreement with AT&T Inc. (the MLA). The comprehensive MLA will streamline AT&T's deployment of 5G and other next generation technology across SBA's extensive US tower portfolio, mutually benefitting both companies through securing a committed operating relationship for years into the future." There are two "Share" buttons, one on the right side of the article and one at the bottom left. The copyright notice at the bottom right is "© S&P Capital IQ - 2023".

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SBA Communications Corporation Enters into New Long-Term Master Lease Agreement with AT&T, Inc

July 31, 2023 at 04:01 pm EDT [Share](#)

SBA Communications Corporation announced that it has entered into a new long-term master lease agreement with AT&T Inc. (the MLA). The comprehensive MLA will streamline AT&T's deployment of 5G and other next generation technology across SBA's extensive US tower portfolio, mutually benefitting both companies through securing a committed operating relationship for years into the future.

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TO: SBA

Subject: RF Coverage Plot Analysis: Imperial County, CA

Date: December 27, 2023

1. **METHODOLOGY.** The attached plots depict broadcast radio frequency (RF) coverage from the existing site to Imperial County, CA and a proposed site approximately 965 feet to the North. At each location, cellular industry typical LTE operating parameters were considered for omnidirectional antennas mounted at 180 feet above ground level at the existing site, and at 195 feet above ground level for the proposed site. Ground elevations are -87 and -88 feet above mean sea level, respectively.

The provided predictive coverage plots were created using established radiowave propagation models with terrain and clutter data, implemented by qualified engineers specializing in this discipline and having years of US Industry experience.

Plots for both locations were generated for 700, 850, 1900 and 2100 MHz operations. The signal levels depicted are associated with LTE service reliability where the strong coverage levels in green and blue occur near the towers and decrease with distance from the sites and intervening terrain obstructions. Signal levels greater than -70 dBm shown as blue are associated with feasible coverage within buildings. Marginal coverage is provided in the regions depicted in yellow between -90 dBm and -80 dBm and signal levels between -100 dBm and -90 dBm shown as red represent poor coverage associated with call failures.

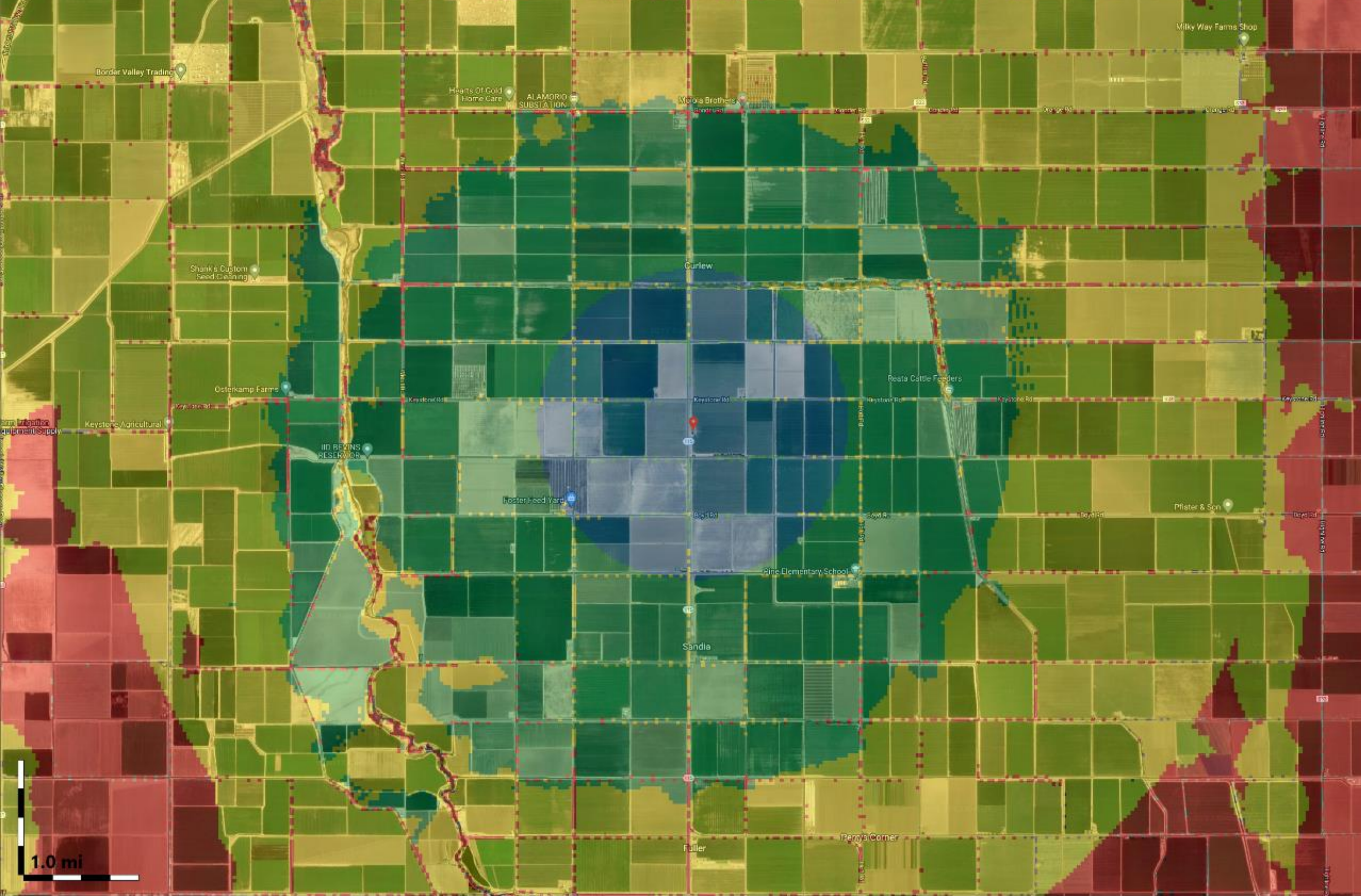
A comparison of coverage performance for each site is based on low band (700 and 850 MHz) and high band (1900 and 2100 MHz) prediction results. Radiowave propagation conditions between these bands differ because of terrain and ground clutter (e.g. vegetation) effects at different frequencies. Generally, low band operations provide greater area coverage. Therefore, high band operations provide additional customer traffic capacity closer to the cellular site.

2. **COMPARISON.** The sites considered in these coverage plots provide service to the depicted locations and roads leading to Imperial County, CA. For low band operations, the existing site provides strong coverage approximately 3.0 miles in all directions from the tower and to non-contiguous areas to 4.0 miles from the site. This includes 6.0 miles of CA-115. The proposed site provides strong coverage approximately 3.0 miles in all directions from the tower and to non-contiguous areas to 4.2 miles from the site. This includes 6.1 miles of CA-115.

For high band operations, both sites provide strong coverage to non-contiguous areas 2.2 miles in all directions from the tower.

3. **CONCLUSION.** Based on the coverage comparison presented above, the proposed site provides comparable coverage to Imperial County, CA due to its close proximity to the existing site. For wireless operators with antennas mounted on the existing site, the installation of additional antennas on the proposed site would be considered to be an "overbuild" or impractical given the coverage overlap.

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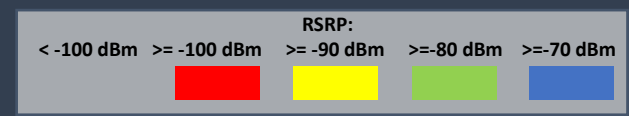


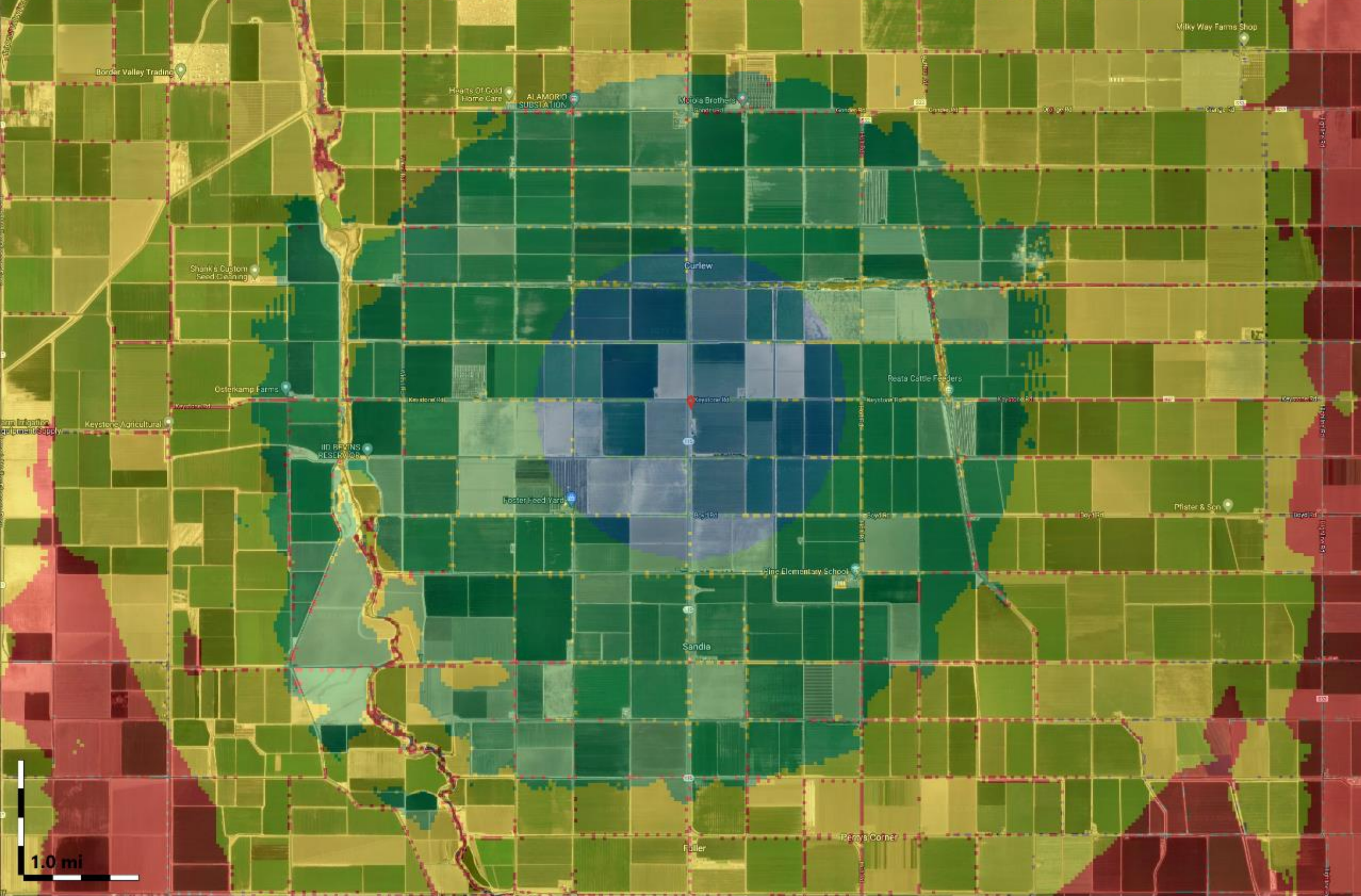
Existing Site
700 MHz Coverage

Site Name: CA10498-A Birger
 Latitude: N32.913592
 Longitude: W115.405578

Antenna: 15.15 dBi Omni
 Alpha Rad Center (ft): 180
 Azimuth (Deg): 0
 ERP per RS (W): 2.0

PC ORIGINAL PKG



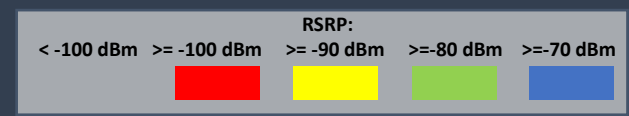


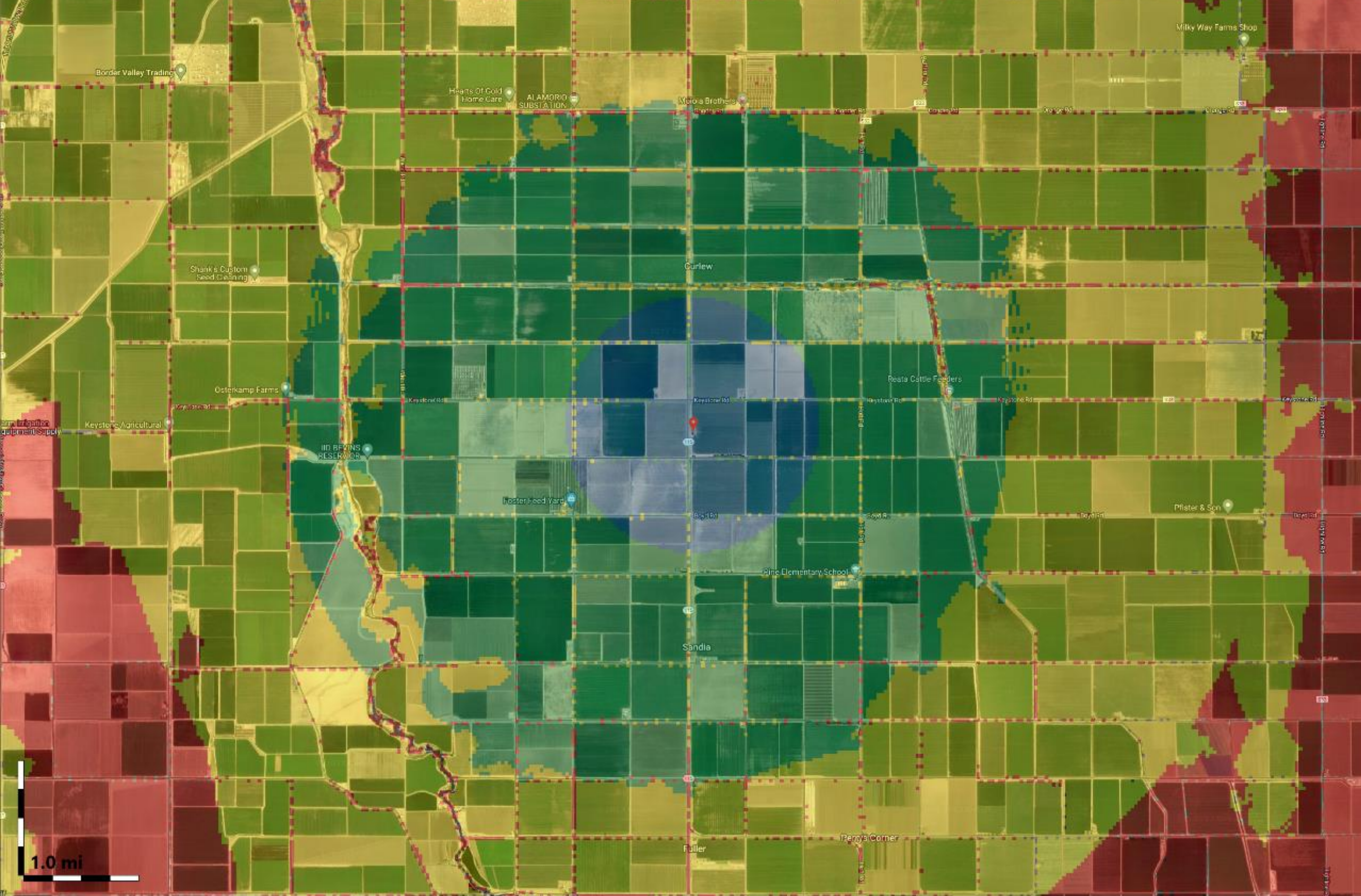
Proposed Site
700 MHz Coverage

Site Name: Proposed
 Latitude: N32.916217
 Longitude: W115.405894

Antenna: 15.15 dBi Omni
 Alpha Rad Center (ft): 195
 Azimuth (Deg): 0
 ERP per RS (W): 2.0

PC ORIGINAL PKG



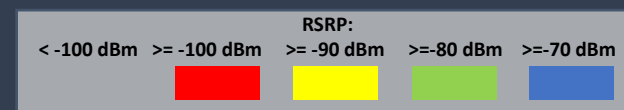


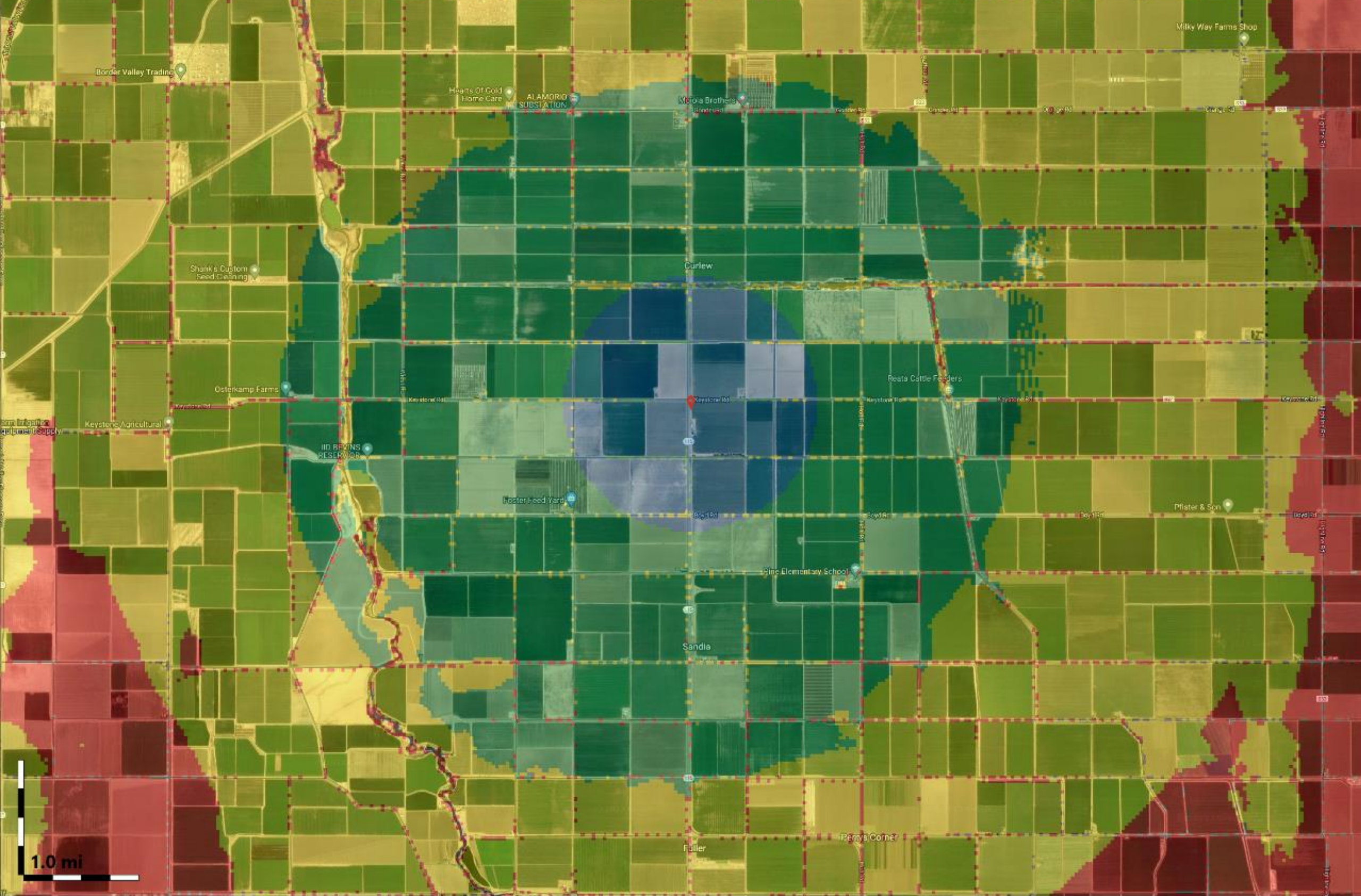
Existing Site
850 MHz Coverage

Site Name: CA10498-A Birger
 Latitude: N32.913592
 Longitude: W115.405578

Antenna: 15.15 dBi Omni
 Alpha Rad Center (ft): 180
 Azimuth (Deg): 0
 ERP per RS (W): 2.0

PC ORIGINAL PKG



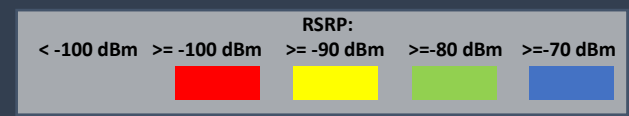


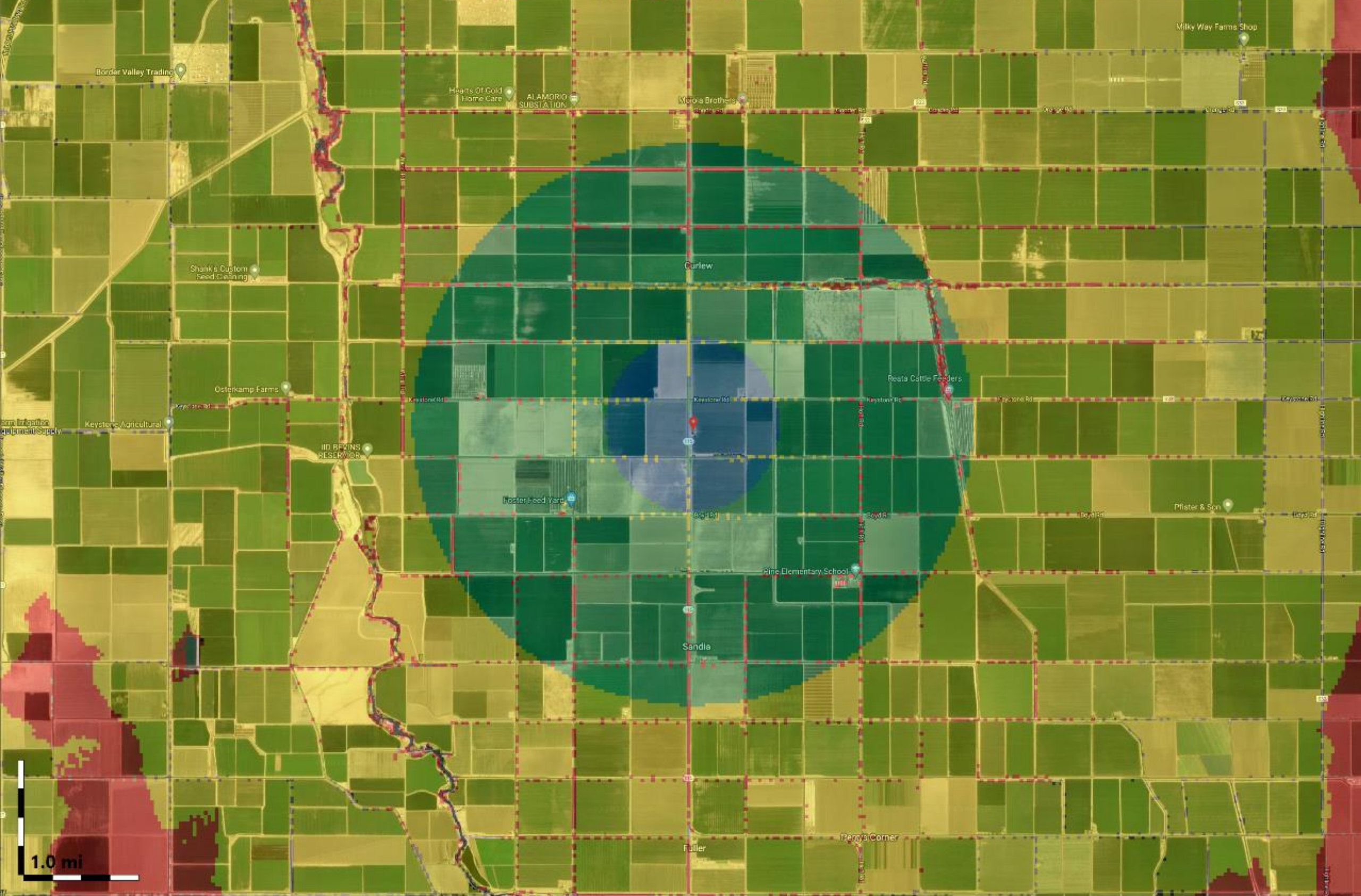
Proposed Site
850 MHz Coverage

Site Name: Proposed
 Latitude: N32.916217
 Longitude: W115.405894

Antenna: 15.15 dBi Omni
 Alpha Rad Center (ft): 195
 Azimuth (Deg): 0
 ERP per RS (W): 2.0

PC ORIGINAL PKG



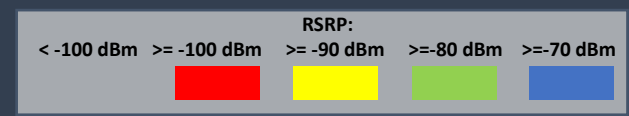


Existing Site
1900 MHz Coverage

Site Name: CA10498-A Birger
 Latitude: N32.913592
 Longitude: W115.405578

Antenna: 17.15 dBi Omni
 Alpha Rad Center (ft): 180
 Azimuth (Deg): 0
 ERP per RS (W): 4.7

PC ORIGINAL PKG





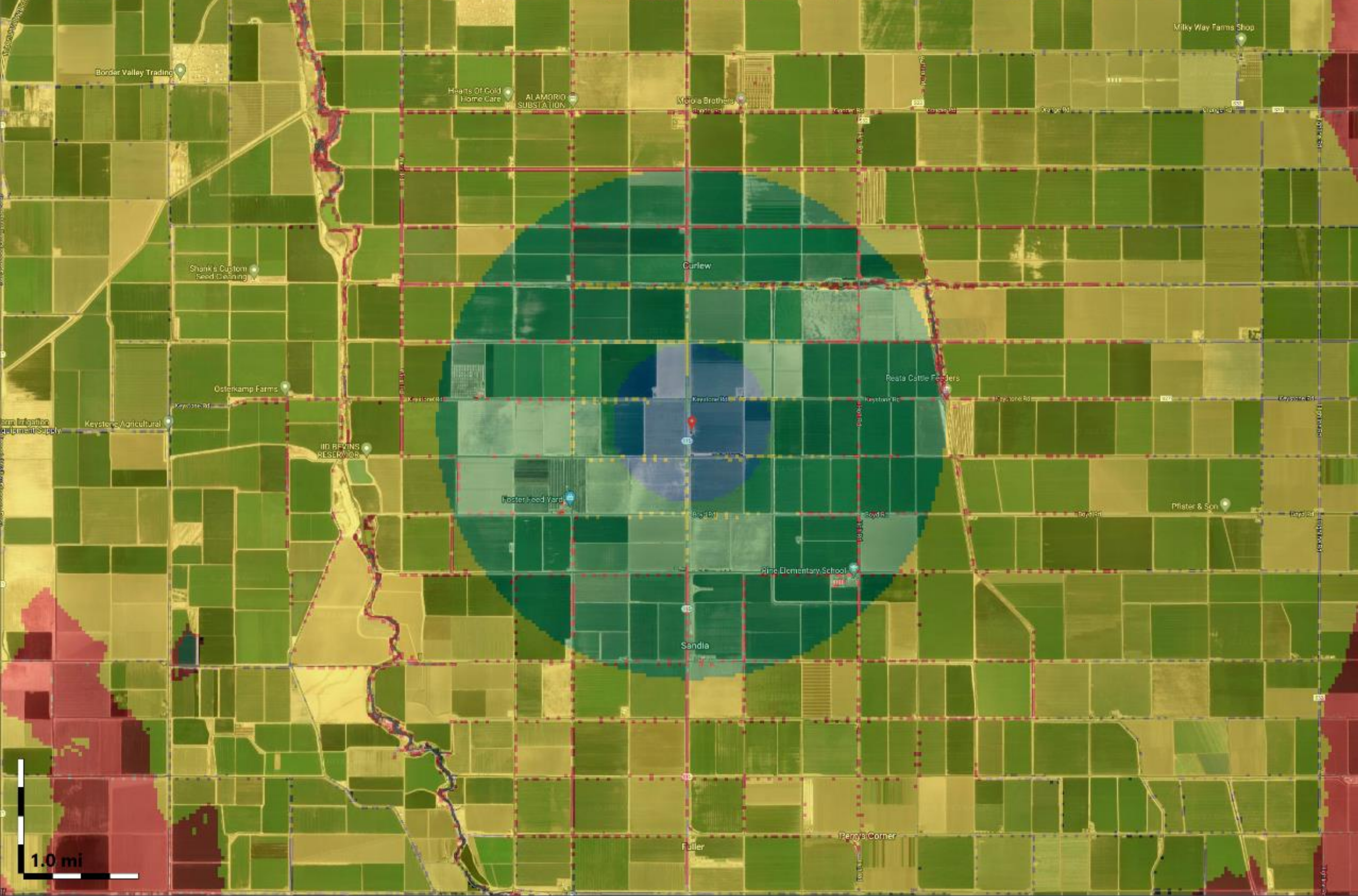
Proposed Site
1900 MHz Coverage

Site Name: Proposed
 Latitude: N32.916217
 Longitude: W115.405894

Antenna: 17.15 dBi Omni
 Alpha Rad Center (ft): 195
 Azimuth (Deg): 0
 ERP per RS (W): 4.7

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RSRP:				
< -100 dBm	>= -100 dBm	>= -90 dBm	>= -80 dBm	>= -70 dBm

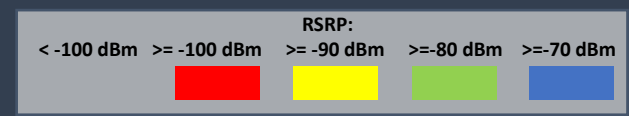


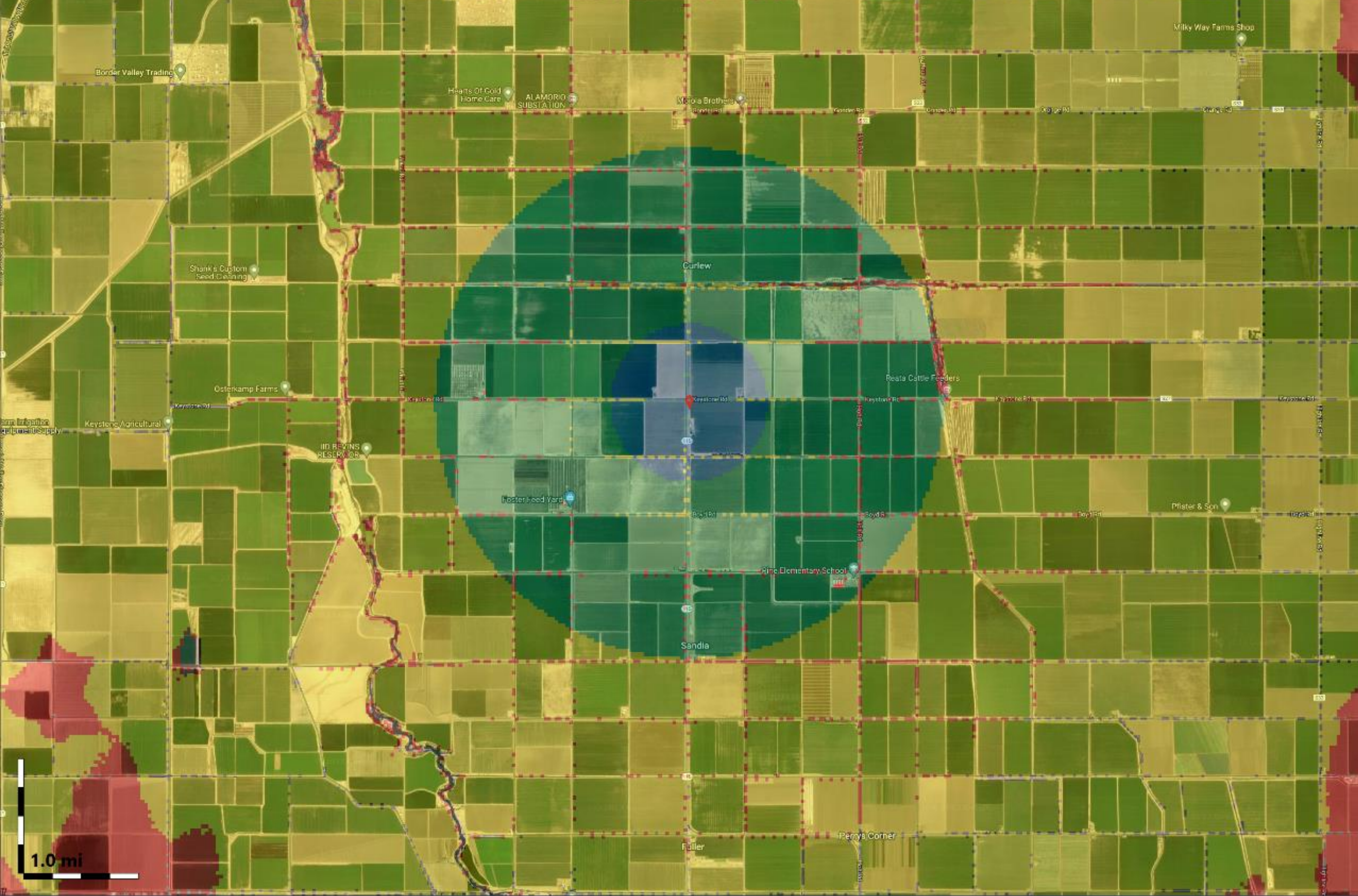
Existing Site
2100 MHz Coverage

Site Name: CA10498-A Birger
 Latitude: N32.913592
 Longitude: W115.405578

Antenna: 17.15 dBi Omni
 Alpha Rad Center (ft): 180
 Azimuth (Deg): 0
 ERP per RS (W): 4.7

PC ORIGINAL PKG





Proposed Site
2100 MHz Coverage

Site Name: Proposed
 Latitude: N32.916217
 Longitude: W115.405894

Antenna: 17.15 dBi Omni
 Alpha Rad Center (ft): 195
 Azimuth (Deg): 0
 ERP per RS (W): 4.7

PC ORIGINAL PKG

