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Decision 88 05 024 MAY 11 1988

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of CELLULAR ONE OF BAKERSFIELD for a Certificate of Public Convenience and Necessity under Section 1001 of the Public Utilities Code of the State of California for authority to construct and operate a domestic public cellular radio tele-communications service in the Bakersfield Metropolitan Statistical Area; and requests for interim operating authority. (U-3017-C)	Application 87-12-040 (Filed December 21, 1987)

FINAL OPINION

Applicant Cellular One of Bakersfield, a California corporation, seeks a certificate of public convenience and necessity (CPC&N) to construct and operate a new domestic public cellular radiotelephone service to the public within the Bakersfield Metropolitan Statistical Area (MSA) in Kern County. Applicant holds a Federal Communications Commission (FCC) construction permit to construct an "A" Block cellular system in the Bakersfield MSA.

Background

In 1982, the FCC determined that a need for cellular service had been established throughout the nation and that this service, using new cellular technology and offering superior transmission quality and privacy with far greater capacity than conventional mobile radiotelephone service in use, should be made available in accordance with the market structure it established (Memorandum Opinion and Order on Reconsideration, 47 Fed. Reg. 1018, 1003-34; 89 FCC 2d (1982)). Under this plan, applicant is one of the two utilities authorized to operate in the Bakersfield MSA.

Due to prior transfers of its FCC construction permit and to design changes, applicant was delayed in filing the subject application. The permit was originally issued by the FCC on September 26, 1986. Under FCC rules, construction of the system had to be substantially under way by March 26, 1988 (18 months after issuance of the permit). Exhibit J attached to the application is applicant's original proposed environmental assessment (PEA) filed to comply with the California Environmental Quality Act (CEQA). During the environmental review the U.S. Fish and Wildlife Service (Wildlife) requested applicant to survey four of applicant's five proposed cell sites to evaluate the possible impact of construction on the San Joaquin kit fox (fox), an endangered species. Applicant stated that since the time required for that additional survey made it impossible to immediately publish a mitigated negative declaration for the project as a whole, therefore, it could not meet the FCC deadline unless the Commission would prepare a Mitigated Negative Declaration for proposed Cell Site 1 and its mobile telephone switching office (MTSO), which were not subject to the survey request and grant interim authority to construct those facilities at applicant's risk. That request was honored. In Interim Decision (D.) 88-03-029 dated March 9, 1988, the Commission granted applicant a CPC&N limited to authorization to construct, at applicant's risk, the MTSO and Cell Site 1; adopted a Mitigated Negative Declaration for those two sites and directed our Executive Director to file a Notice of Determination approving a Mitigated Negative Declaration with the Office of Planning and Research; directed applicant not to operate the system in service to the public without further Commission authorization.

D.88-03-029 describes the organizational chart of the entities controlling applicant and the financing of the initial cellular system by Mobile Communications Corporation of America (MCCA), a Delaware corporation, and by BellSouth Corporation (BSC),

a Georgia corporation, the ultimate parent[1] corporations of applicant.

Prior to filing the subject application Bakersfield Cellular Telephone Company (BCTC), applicant's affiliate, filed A.87-09-024 seeking a CPC&N to operate as a reseller of cellular radio communications services within California. BSTC initially proposed to serve in the Bakersfield, Fresno, and Visalia MSAs in Fresno, Kern, and Tulare counties. D.88-01-017 granted that requested certificate.

Applicant noted that Contel Cellular (Contel), an affiliate of Continental Telephone Company, has been awarded authority to provide wireline "B" block cellular carrier service in the Bakersfield MSA and has already instituted service in that marketplace. Since applicant proposes to enter into the market as the "A" block cellular carrier in competition with an operational "B" block cellular system, it seeks to commence service as soon as possible. Therefore, it requested the Commission issue an interim order authorizing it to construct, at its own risk, its mobile telephone switching office (MTSO) and facilities at five proposed cell sites and to make the order effective immediately.

No protests relating to the requested certificate were received.

Summary of Decision

We will grant applicant a CPC&N to construct and operate a radio cellular system to provide service in the Bakersfield MSA at the rates proposed by applicant. Since this decision grants the requested CPC&N, applicant's initial request for interim authority to construct the entire system is moot.

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1 MCCA and BSC filed Application (A.) 88-03-061 for authority to transfer control of Mobilcom, Inc. and of applicant to BSC.

Applicant's affiliate, BCTC, will be required to phase out its resale service in the Bakersfield MSA within 90 days after applicant places its cellular system in service.

Signal coverage from applicant's facilities would include 37.5% of the land area and more than 90% of the population of Kern County within 39 dBu contours. Since the Bakersfield MSA is not one of the 90 largest MSAs, FCC may require applicant to serve either 75% of the population or 75% of the area of the MSA. However, in its letter to the Commission dated April 11, 1988 (Exhibit 7), applicant states:

> "I have spoken with Applicant's FCC counsel, and understand from them that while there may be room for argument, the better and more conservative view is that Applicant will be obligated to cover at least 75 percent of the cellular geographic service area within thirty-six months from the date its original authorization was granted. However, the CGSA itself need not necessarily encompass the entire Metropolitan Statistical Area. See 47 C.F.R. 22.903."

We may require construction of an additional cell(s) if it is required to provide adequate service between applicant's five cell sites.

This decision will approve the staff's Negative Declaration, including the conditions incorporated in the Negative Declaration to preclude the occurrence of any significant adverse effect on the environment. No comments were received during the review period for the Negative Declaration. Based on compliance with the conditions in the adopted Negative Declaration, there would not be any significant environmental impacts related to the project. Therefore, no environmental impact report is warranted.

Applicant will be ordered to file additional environmental information with the Commission's Evaluation and Compliance Division (CACD) for review prior to construction of any future antenna sites required.

Proposed System

The proposed system will be able to route signals between mobile phones and conventional or other mobile phones. The system will have four major groups of components: (1) the MTSO; (2) the cell sites (radio equipment); (3) the interconnecting facilities, some of which may be leased from Pacific Bell (Pacific) and microwave facilities on three of the cellular towers; and (4) mobile or portable subscriber units.

Applicant's proposed interconnect arrangement will most likely involve tariffed links between the permanent MTSO location in downtown Bakersfield and two end offices, i.e. that of Continental Telephone Company (Continental) serving Taft, California, and that of Pacific Bell serving Bakersfield. These links will be obtained on tariffed terms which will be supplemented by contract.

The MTSO is the central coordinating point for the system. It controls the cellular system and connects with the telephone network, microwave facilities located on three of the cellular radio towers, and the antenna located on top of the cell towers. As a subscriber's cellular unit moves from the area covered by one cell to the area covered by another cell while a call is in progress, electronic equipment in the MTSO transfers or "hands-off" the call from one cell site to another. This automatic transferring assures continuity and enhances the service quality throughout a conversation as subscriber equipment is transferred from cell to cell. Generally there is an overlap between cell coverages. In instances where there is an apparent gap between cell coverages, outlined by 39 dBu signal strength contours, applicant states there are few if any obstructions between those cell sites; therefore, based on experience with this type of equipment satisfactory signals will be received in those areas.

As demand for service increases, the capacity of the system can be increased by adding channels, implementing sophisticated propagation use techniques, and "cell-splitting".

To ensure that service between the separated 39 dBu contours is adequate, we will require applicant to consult with the Commission's Advisory and Compliance Division (CACD) staff to test the adequacy of communications between those contours. If necessary, CACD should request applicant to construct additional cells and advise the Commission of its request to applicant.

One of the five, cell sites proposed by applicant will provide a usable signal in a portion of the Visalia MSA. The Visalia "A" block carrier does not object to the overlap (see Exhibit 6). All of the sites are physically located within the Bakersfield MSA.

Environmental Review

The application contains a PEA prepared in accordance with CEQA and Rule 17.1, our Rules of Practice and Procedure (Rules). Applicant's amended PEA also complies with those requirements. Cell sites 2 through 5 were also the subject of a biological survey conducted pursuant to State and Federal guidelines for endangered species consultation. As the result of that review, Cell Site 3 was shifted approximately one-fourth mile from a location containing native grasses to a location within a plowed cotton field to avoid potential disturbances to fox(es), an endangered species. A survey of the new site revealed no sighting of sign of the target species.

The location of the original sites and the new Cell Site 3 were reviewed and cleared with certain conditions by the Federal Aviation Administration (FAA). The revised FAA clearance for new Cell Site 3 is substituted for the original FAA site clearances in Exhibit 5. FAA will require tower marking and lighting on cells 2, 3, and 4.

Rule 17.1 requires the proponent of a project for which this Commission is the lead agency to file sufficient information to enable the Commission to evaluate the project and to prepare a Negative Declaration or an environmental impact report. The Commission staff has reviewed the environmental aspects of the proposed 5-cell MTSO project and the associated mitigation measures and prepared a mitigated Negative Declaration dated March 2, 1988 for those sites. The staff's March 2 Negative Declaration contains conditions designed to prevent occurrence of significant adverse effects from the construction and operation of those four sites; incorporates the initial Negative Declaration by reference. No comments on the later Negative Declaration were received during the review period ending March 22, 1988.

The Negative Declaration concludes that the project will not have any substantial adverse effects on the environment based on the following findings:

"1. The proposed telephone system will not have a significant effect on the geology, soils, climate, hydrology, vegetation, or wildlife of the antenna or switching office sites. The site of Cell No. 3 has been relocated and conditions have been place[d] on the use of Cell Site #2 to avoid potential effect on the San Joaquin kit fox.

"2. The proposed telephone system will not have a significant effect on municipal or social services, utility services, or community structure.

"3. The proposed telephone system will not have a significant adverse effect on air or water quality, the existing circulation system, ambient noise levels, or public health.

"4. Because individual telephone systems operate at a low power level in frequency bands well separated from television and ordinary broadcasting frequencies, no significant interference with radio or television reception is anticipated.

"5. While the new towers will be visible from some surrounding areas, the visual impacts are minimized because of the distance between most viewers and the antenna sites, the specific locations of the antenna sites in rural settings, and their respective design. All the antenna sites have been selected so as to minimize their respective environmental impact, while still providing the precise radio coverage required by the PUC."

To assure that significant adverse effects do not occur as a result of this project, staff incorporated the following conditions into the Negative Declaration which will be adopted in this decision:

"1. The applicant will consult with the appropriate local public agencies on project details such as the design, color, and type of materials used in the antenna towers, the specific configuration of equipment on each facility site, and any other relevant community building codes, provided such conditions or requirements do not render the project site infeasible. While it is the PUC's intent that local concerns be incorporated into the design, construction, and operation of this system, no additional permits from local authorities are required as a condition of this certificate.

"2. The applicant will consult with Federal Aviation Administration, local county department of airports, or other appropriate aviation agencies concerning the need for tower lighting, height, or placement prior to construction of each cell antenna.

"3. For future expansion antenna sites which would allow the system to serve a larger area, the applicant shall submit environmental information to the PUC prior to construction of such antennas. The PUC will review this material and determine at that time whether any supplemental environmental documentation is required in accordance with the provisions of the California Environmental Quality Act.

"4. Construction at Cell Site No. 3 will take place entirely within the area currently in agricultural development and shall not encroach on the adjacent canal right-of-way.

"5. Construction and maintenance employees will be notified of the proximity to existing San Joaquin kit fox habitat at Site 3 and of the potential for kit fox use at Site 2 and informed of appropriate measures to avoid harming the kit fox.

"6. The applicant will only grade those areas of Site 2 necessary for construction of the access road, the modular equipment building and the antenna. The applicant will not subsequently develop or disturb the remainder of Site 2 during its lease period.

"7. Through this document and personal communication, the City of Delano has been notified of US Fish and Wildlife Service and CA Department of Fish and Game concerns relating to the use of Antenna Site No. 2 on the City's former landfill.[2]

"8. If construction begins after 60 days of the date of the original survey, Cell Sites 2 and 3 should be resurveyed for San Joaquin kit fox use and the results of the survey submitted to the U.S. Fish and Wildlife Service."

Appendix B attached to this decision is a Notice of Determination which will be sent by the Commission to the Secretary of Resources (Resources) on applicant's project to construct a cellular system. Appendix A attached to this decision is the Negative Declaration and related Notice of Publication for the five-cell MTSO system. The Negative Declaration for Cell Site 1 and the MTSO is incorporated within the attached Negative Declaration by reference. It is not necessary to append that

2 In respect to those concerns, Delano modified its request that applicant grade the entire site to the limited grading indicated in Condition 6.

referenced material to this decision since we transmitted a Notice of Determination and a mitigated Negative Declaration for those facilities to Resources Branch pursuant to D.88-03-029.

In the event that any facilities constructed pursuant to this decision do not conform with any applicable local codes, ordinances, etc. (other than those codes requiring local permits), applicant should inform the Commission in writing of such noncompliance prior to construction of the affected component.

Construction Funds and Working Cash

MCCA's retained earnings increased $3,469,268 from $31,984,160 on December 31, 1986 to $35,453,428 on June 30, 1987. BSC's retained year-end earnings increased from $3,167,700,000 to $3,902,200,000, an increase of $734,500,000 for 1986.

Applicant projects capital requirements are $5,099,300 in the first year of its operations and additional requirements of $332,000 and $375,000 in the second and third years of its operations. Its estimated after-tax losses for the first and second year of its operations are $1,575,600 and $726,000. MCCA and BSC have the capability to meet applicant's financial requirements.

Applicant's proposal to fund early construction with funds from MCCA and BSC requires no further authorization from the Commission. If applicant proposes to issue long-term debt financing or to issue stock in the future, it should seek Commission authority to issue securities in advance in a separate application. Based on applicant's projections shown in Tables 1 and 2 below, we find that its proposed operations are feasible.

TABLE 1

CELLULAR ONE OF BAKERSFIELD

Customer Estimates

	Year 1	2	3	4	5
Est. Total Growth of Market	2,000	3,000	2,000	2,000	2,000
Estimated Penetration	0.6%	0.9%	1.3%	1.6%	2.0%
Subscriber Estimates:					
Beginning Subscribers	0	1,002	1,699	2,635	3,390
New Subscribers	1,158	978	1,413	1,493	1,817
Canceled Subscribers	156	281	476	738	949
Total Subscribers (EDY)	1,002	1,699	2,635	3,390	4,258
Avg. No. Subscribers	501	1,351	2,167	3,013	3,824
Avg. No. Retail Subscribers	401	1,081	1,734	2,410	3,059
Avg. No. Wholesale Subscribers	100	270	433	603	765

TABLE 2

CELLULAR ONE OF BAKERSFIELD

Pro Forma Income Statements
(Dollars in Thousands)

	Year 1	2	3	4	5
Revenues:					
Airtime - Retail	$ 384.9	$ 983.1	$1,517.4	$2,045.8	$2,572.2
Airtime - Wholesale	77.0	196.6	303.5	409.2	514.4
Monthly Access - Retail	149.1	401.9	644.9	896.5	1,137.9
Monthly Access - Wholesale	28.9	77.8	124.8	173.5	220.2
Activations - Retail	27.3	23.5	33.9	35.8	43.6
Activations - Wholesale	4.5	3.9	5.7	6.0	7.3
Equipment Sales	672.3	577.9	835.1	882.4	1,074.3
Toll Revenue	41.6	106.2	163.9	221.0	277.8
Roamer Revenue	46.2	118.0	182.1	245.5	308.7
Custom Calling	4.6	11.8	18.2	24.6	30.9
Installation Revenue	126.1	102.1	167.4	179.4	228.0
Credits & Adjustments	(4.6)	(11.8)	(18.2)	(24.6)	(30.9)
Total Revenues	1,557.9	2,591.0	3,978.7	5,095.1	6,384.4
Cost of Sales:					
Cost of Goods Sold	(571.4)	(491.3)	(709.9)	(750.1)	(913.2)
Toll Expense	(40.7)	(104.0)	(160.6)	(216.5)	(272.2)
	(612.1)	(595.3)	(870.5)	(966.6)	(1,185.4)
Gross Margin	945.8	1,995.7	3,108.2	4,128.5	5,199.0
Expense Estimates:					
Operations:					
Payroll Costs	128.8	135.2	142.0	149.1	156.6
Interconnect Costs	96.6	246.7	380.8	513.4	645.5
Cell Site	28.8	28.8	28.8	28.8	28.8
Other	58.1	58.1	58.1	58.1	58.1

	Year 1	2	3	4	5
Sales & Marketing:					
Payroll Costs	$155.2	$138.9	$188.7	$199.1	$236.7
Agent Commissions	136.4	117.3	169.5	179.1	218.0
Advertising & Promo.	216.4	150.4	202.2	163.1	187.4
Other	43.8	43.8	43.8	46.8	50.8
Total Sales & Mrkting.	551.8	450.4	604.2	588.1	692.9
Gen. & Admin.:					
Payroll Costs	176.7	185.6	194.9	204.6	214.7
Billing	39.9	66.8	92.7	119.5	145.2
Bad Debts	18.6	49.2	78.6	109.1	138.3
Credit Checks	54.6	46.9	67.8	71.6	87.2
Building Rent	76.8	76.8	76.8	76.8	76.8
Other	183.3	188.4	193.3	198.4	203.2
Total Gen. & Adm.	549.9	613.7	704.1	780.0	865.4
Total Oper. Exp.	1,414.0	1,532.9	1,918.0	2,117.5	2,447.3
Operating Margin	(468.2)	462.8	1,190.2	2,011.0	2,751.7
Capital Expenses:					
Depreciation	620.8	636.8	655.2	669.6	687.7
Amortization	7.8	7.8	7.8	7.8	7.8
Interest	478.8	544.8	480.8	364.0	300.7
Total Capital Expenses	1,107.4	1,189.4	1,143.8	1,041.4	996.2
Pretax Net Income (Loss)	(1,575.6)	(726.6)	46.4	969.6	1,755.5
Provision for Income Taxes	0.0	0.0	0.0	0.0	(187.7)
Net Income (Loss) After Taxes	(1,575.6)	(726.6)	46.4	969.6	1,567.8
Cummulative Net Income	(1,575.6)	(2,302.2)	(2,255.8)	(1,286.2)	281.6
Retail Profitability	(1,207,710)	(388,600)	96,800	762,000	1,289,000

(Red Figure)

Proscribed Competition

In D.85-04-015, we stated "PacTel Mobile Services should not be authorized to function as a reseller of services which would compete with similar services offered, directly or indirectly, by its affiliate, PacTel Mobile Access". Since this is our stated policy, it should apply to applicant and its affiliates as well as to PacTel Mobile Services and its affiliates. Applicant's subsidiary, BCTC, will be required to cease operations as a reseller so that its retail service will not compete with the resale services of an affiliate. It would be reasonable to allow BCTC to phase out its Bakersfield MSA resale services in an orderly manner. This phaseout should be completed within 90 days after applicant places its cellular system in service.

Rates

Applicant's proposed rates and tariffs are set forth in detail in Exhibit I attached to the application. Its proposed rates are identical to those of Contel.[3]

Its basic rates for retail service and for bulk and wholesale service are contained in Tables 3 and 4.

3 Contel's service area includes service to the Visalia and Fresno MSAs as well as to the Bakersfield MSA.

TABLE 3

CELLULAR ONE OF BAKERSFIELD

Proposed Retail Rates

RATES - RETAIL*

A. Basic Service

(1) Service Establishment (not effective until the ninety-first day following commencement of service to the public on Utility's system)**

To process an order for activation of one to five access numbers (per number per order)	$30.00
To process an order for activation of one to five access numbers (per number per order)	$25.00

(2) Change**

To add or remove optional features or temporarily suspend service per a customer's request, or change an access number affected. Per order	$15.00

(3) Access Charge, per number

1 - 5 numbers	$31.00
6 or more numbers	$28.00

(4) Usage Rates

(a) Peak Period, per minute	$ .35
(b) Off-peak Period, per minute	$ .20

* These rates cover all landline services necessary to complete and conduct calls from cellular mobile terminals to any station in LATA 7.

** Changes not applicable to activations or changes done for the convenience of Utility.

TABLE 4

CELLULAR ONE OF BAKERSFIELD

Proposed Wholesale Rates

RATES - BULK & WHOLESALE

A. Basic Service

(1)	Number Activation (not effective until the ninety-first day following commencement of service to the public on Utility's system)*	
	To process an order for activation of an access number, per number, per order	$20.00
(2)	Change*	
	To add optional features or change an access number affected, per order	$10.00
(3)	Access Charge	Per Month
	For each access number (minimum initial order of 50, and subsequent orders in blocks of 10 numbers)	$24.00
(4)	Usage Rates**	Per Minute
	(a) Peak Period	$ .28
	(b) Off-peak Period	$ .16

* Not applicable to number changes or activations done for the convenience of the Utility.

** These rates cover all landline services necessary to complete and conduct calls from cellular mobile terminals to any station in LATA 7. Charges for the landline portion of mobile-originated calls to other destinations outside LATA 7 will be billed to the subscriber or reseller over and above the usage rates specified herein.

Findings of Fact

1. Applicant holds a construction permit from the FCC for a cellular radiotelephone system in the Bakersfield MSA.

2. Applicant proposes to construct an MTSO-5 cell system to serve the Bakersfield MSA. The signal from one of its cells will overlap into the Visalia MSA. The Visalia "A" block carrier does not object to the overlap.

3. Applicant has negotiated an interconnection agreement with Pacific to allow operations of the proposed system to connect to the wireline network. It may also interconnect with Continental's system.

4. Cell site equipment will be supplied by Ericssen, a company which has the demonstrated ability to install cellular radiotelephone systems in California.

5. The 39 dBu contours surrounding cells 2 and 4 are isolated from the other system contours. The terrain between cells 2 and 4 and in turn between the other cells of the system does not contain barriers to signal propagation.

6. Applicant proposes to fund construction and its initial operations with funds from advances from its ultimate corporate parents, MCCA and BSC. MCCA and BSC have the capability to provide that funding.

7. This decision has not determined that applicant's construction program is necessarily reasonable for rate-fixing purposes.

8. Applicant estimates it will serve 1,002 subscribers in the first year of its operations, growing to 4,258 subscribers in the fifth year of its operations.

9. Applicant has the ability, experience, and financial resources to perform the proposed services.

10. Public convenience and necessity require the service proposed by applicant.

11. Applicant plans to offer both wholesale and retail services in the Bakersfield MSA.

12. Applicant's affiliate, BCTC provides resale services in the Bakersfield, Visalia, and Fresno MSAs. We will require BCTC to phase out its resale service in the Bakersfield MSA within 90 days after applicant's cellular system is placed in service. 13. Under Rule 17.1.d. of our Rules of Practice and Procedure, applicant prepared a PEA for its entire system. It was required to undertake further environmental studies for cell sites 2 to 5 to evaluate the possible impact of construction on endangered species. Those studies are incorporated in applicant's supplemental PEA.

14. CACD prepared an initial Negative Declaration for the MTSO and Cell Site 1. That Negative Declaration, with minor corrections, was approved by the Commission and a Notice of Determination was filed with the Office of Planning and Research. CACD prepared another Mitigated Negative Declaration for sites 2 to 5, which incorporates the original Negative Declaration by reference.

15. The Commission is the lead agency under CEQA for determination of environmental effects of the project under consideration.

16. The proposed project will have no significant effect on the environment due to circumstances and mitigation measures peculiar to the project as set forth in the Negative Declaration.

17. As no comments to the Negative Declaration issued by the Commission have been received, and there were no protests to the application, a public hearing is not necessary.

18. The Commission has reviewed the Negative Declaration attached as Appendix A and the initial Negative Declaration contained in D.88-03-029.

19. Applicant's proposed rate schedules for the Bakersfield MSA are identical to those provided by Contel, the wireline "B" cellular provider except for the territory served. Contel is providing service in the Bakersfield, Visalia, and Fresno MSAs.

Conclusions of Law

1. The application should be granted as provided in the following order.

2. Applicant is subject to the user fee system set forth in PU Code Section 401, et seq. The surcharge for fiscal year 1987-1988 is 0.1%.

3. Applicant's proposed rates for wholesale and retail service and its other proposed tariffs should be authorized.

4. Applicant is a FCC cellular communications licensee and hence must use the Uniform System of Accounts established by D.86-01-043 in OIR 85-03-075.

5. The proposed funding of applicant by its ultimate parent corporations, MCCA and BSC, is reasonable. No further authority from the Commission is required for that funding.

6. The Commission should adopt the attached Negative Declaration attached as Appendix A including the mitigating measures identified therein.

7. Because of the public interest in effective competition this order should be made effective today.

8. Applicant should consult with CACD to demonstrate the adequacy of its signals between the 39 dBu contours surrounding cells 1 and 3 and between those contours and the contours surrounding cells 1 and 3. If necessary, CACD should advise applicant and the Commission of the need for an additional cell(s) to improve the signal between the 39 dBu contours.

9. Applicant may be required to construct additional cells to permit its signal to cover 75% of the Bakersfield CGSA within 36 months after issuance of the construction permit.

10. In the event that any facilities constructed pursuant to this decision do not conform with any applicable local codes, ordinances, etc. (other than those codes requiring local permits), applicant should inform the Commission in writing of such noncompliance prior to construction of the affected component.

11. It would not be reasonable for applicant to provide retail service in competition with its affiliate, BCTC.

Only the amount paid to the State for operative rights may be used in ratefixing. The State may grant any number of rights and may cancel or modify any monopoly feature of these rights at any time.

FINAL ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Cellular One of Bakersfield (applicant) to construct and operate a cellular mobile telecommunications system in the Bakersfield Metropolitan Statistical Area (MSA).

2. Within 30 days after this order is effective applicant shall file a written acceptance of the certificate of public convenience and necessity with the Commission's Evaluation and Compliance Division (CACD).

3. Applicant shall keep its books as directed by the Uniform System of Accounts for cellular communications licensees as prescribed by Decision (D.) 86-01-043.

4. The Negative Declaration as set forth in Appendix A to this decision is approved including the mitigation measures set forth therein; it includes by reference the Negative Declaration attached to D.88-03-029 previously transmitted by Notice of Determination to the Office of Planning and Research.

5. In constructing its system, applicant shall undertake the environmental mitigation measures identified in the Negative Declaration as lawfully required by local authority.

6. The applicant will consult with appropriate local public agencies on project details such as the design, color, and type of materials used in the antenna towers, the specific configuration of equipment on each facility site, and any other relevant community building codes, providing such conditions or requirements do not render the project infeasible. While it is the Commission's intent that local concerns be incorporated into the design, construction, and operation of this system, no additional permits from local authorities are required as a condition of this certificate. In the event that any certified facilities do not conform with any applicable local codes, ordinances, etc. (other than those codes requiring local permits), applicant shall inform the Commission in writing of such noncompliance prior to construction of the affected component.

7. For future expansion antenna sites to serve other portions of this market area, applicant shall submit environmental information to the Commission's CACD prior to construction of such antennas. The CACD will review this material and determine at that time whether any supplemental environmental documentation is required in accordance with the provisions of the California Environmental Quality Act.

8. The Executive Director, as required by Public Resources Code § 21108, shall file with the Office of Planning and Research a Notice of Determination as set forth in Appendix B to this decision.

9. Applicant shall notify CACD in writing of the day it starts operating.

10. The Executive Director shall mail a copy of this decision to Bakersfield Cellular Telephone Company (BCTC).

11. On or after the effective date of this order, applicant is authorized to file wholesale and retail tariff schedules in accordance with Exhibit I attached to its application. The filing shall comply with General Order Series 96 and shall be effective not earlier than 5 days after filing.

12. On or before 90 days after placing its cellular system in operation, we will require BCTC to surrender its reseller certificate for the Bakersfield MSA and to discontinue providing retail service in the Bakersfield MSA. This 90-day period will provide a transition period to transfer the BCTC customers in the Bakersfield MSA to applicant.

13. Applicant shall consult with the CACD on the adequacy of its signal between the 39 dBu contours surrounding cells 2 and 4 and between those cells and cells 1 and 3. If necessary, CACD shall advise applicant and the Commission of the need for an additional cell(s) to improve the signal between the 39 dBu contours.

12. This application is granted as set forth above.

The order is effective today.

Dated MAY 11 1988, at San Francisco, California.

STANLEY W. HULETT
President
DONALD VIAL
FREDERICK R. DUDA
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

I CERTIFY THAT THIS DECISION WAS APPROVED BY THE ABOVE COMMISSIONERS TODAY.

[illegible] Executive Director

NOTICE

PUBLICATION OF A NEGATIVE DECLARATION
CALIFORNIA PUBLIC UTILITIES COMMISSION

Description of Proposed Action: Cellular One of Bakersfield, a licensee of the Federal Communications Commission, has applied to the California Public Utilities Commission (PUC) for approval of a Certificate of Public Convenience and Necessity for the installation and operation of a mobile telephone system to serve the Bakersfield Standard Metropolitan Statistical Area (SMSA) in Kern County. A Negative Declaration (SCH# 88011806) was prepared and circulated for two of the six facilities within the proposed system and is hereby incorporated into this Negative Declaration. The remaining four facilities have been the subject of a biological survey conducted pursuant to State and federal guidelines for endangered species consultation. The PUC has prepared an Initial Study and Negative Declaration describing the proposed project, its environmental impacts, and the conditions that will be imposed to ensure the project will not cause any significant environmental impacts.

Where Document Can Be Reviewed: The subject Negative Declaration may be reviewed at the offices of the California Public Utilities Commission, 1107 - 9th Street, Suite 710, Sacramento, CA, or at 505 Van Ness, PUC Central File Room, San Francisco, CA. Copies can be obtained by calling the PUC at (415) 557-2400.

Review Period: The subject Negative Declaration is available for a 20-day public review period from March 2, 1988 to March 22, 1988. Comments must be received in writing by close of business on March 22, 1988. Written comments should be addressed to:

Ms. Elaine Russell
California Public Utilities Commission
1107 - 9th Street, Suite 710
Sacramento, CA 95814

NEGATIVE DECLARATION

PURSUANT TO DIVISION 13
CALIFORNIA PUBLIC RESOURCES CODE

Project Description: The California Public Utilities Commission (PUC) proposes to grant approval for a Certificate of Public Convenience and Necessity to Cellular One of Bakersfield for the installation and operation of a mobile telephone system to serve Kern County.

The proposed project consists of the installation of five new antennas and a Mobile Telephone Switching Office (MTSO) within Kern County. A Negative Declaration was previously prepared and circulated and a Notice of Determination filed for the MTSO and Antenna Site 1, both within the City of Bakersfield (SCH# 88011806). That document is hereby incorporated into this Negative Declaration. Antenna Sites 2 through 5 were the subject of biological surveys conducted pursuant to State and federal Endangered Species Act guidelines. As a result of the surveys, Antenna Site No. 3 was relocated and conditions placed on the use of Antenna Site No. 2 to avoid potential effects on the State- and federally-listed San Joaquin kit fox. The subject Negative Declaration has been prepared covering relocated Antenna Site No. 3 and Antenna Site Nos. 2, 4 and 5.

The applicant has been licensed by the FCC to serve the Bakersfield, California cellular market. The applicant currently seeks the approval of the California Public Utilities Commission to construct remaining Antenna Cells 2, 3, 4 and 5.

Findings: An Initial Environmental Study (attached) was prepared to assess the project's effects on the environment and the significance of those effects. Based upon a the initial study, the project will not have any substantial adverse effects on the environment. This conclusion is supported by the following findings:

1. The proposed telephone system will not have a significant effect on the geology, soils, climate, hydrology, vegetation, or wildlife of the antenna or switching office sites. The site of Cell No. 3 has been relocated and conditions have been place on the use of Cell Site #2 to avoid potential effect on the San Joaquin kit fox.

2. The proposed telephone system will not have a significant effect on municipal or social services, utility services, or community structure.

3. The proposed telephone system will not have a significant adverse effect on air or water quality, the existing circulation system, ambient noise levels, or public health.

4. Because individual telephone systems operate at a low power level in frequency bands well separated from television and ordinary broadcasting frequencies, no significant interference with radio or television reception is anticipated.

5. While the new towers will be visible from some surrounding areas, the visual impacts are minimized because of the distance between most viewers and the antenna sites, the specific locations of the antenna sites in rural settings, and their respective designs. All the antenna sites have been selected so as to minimize their respective environmental impact, while still providing the precise radio coverage required by the PUC.

To assure that significant adverse effects do not occur as a result of this project, the following conditions are incorporated into this Negative Declaration:

1. The applicant will consult with the appropriate local public agencies on project details such as the design, color, and type of materials used in the antenna towers, the specific configuration of equipment on each facility site, and any other relevant community building codes, provided such conditions or requirements do not render the project site infeasible. While it is the PUC's intent that local concerns be incorporated into the design, construction, and operation of this system, no additional permits from local authorities are required as a condition of this certificate.

2. The Applicant will consult with Federal Aviation Administration, local county department of airports, or other appropriate aviation agencies concerning the need for tower lighting, height, or placement prior to construction of each cell antenna.

3. For future expansion antenna sites which would allow the system to serve a larger area, the Applicant shall submit environmental information to the PUC prior to construction of such antennas. The PUC will review this material and determine at that time whether any supplemental environmental documentation is required in accordance with the provisions of the California Environmental Quality Act.

4. Construction at Cell Site No. 3 will take place entirely within the area currently in agricultural development and shall not encroach on the adjacent canal right-of-way.

5. Construction and maintenance employees will be notified of the proximity to existing San Joaquin kit fox habitat at Site 3 and of the potential for kit fox use at Site 2 and informed of appropriate measures to avoid harming the kit fox.

6. The applicant will only grade those areas of Site 2 necessary for construction of the access road, the modular equipment building and the antenna. The applicant will not subsequently develop or disturb the remainder of Site 2 during its lease period.

7. Through this document and personal communication, the City of Delano has been notified of US Fish and Wildlife Service and CA Department of Fish and Game concerns relating to the use of Antenna Site No. 2 on the City's former landfill.

8. If construction begins after 60 days of the date of the original survey, Cell Sites 2 and 3 should be resurveyed for San Joaquin kit fox use and the results of the survey submitted to the U.S. Fish and Wildlife Service.

Copies of this Negative Declaration and Initial Study may be obtained by addressing a request to the preparer:

California Public Utilities Commission
1107 - 9th Street, Suite 710
Sacramento, CA 95814

Attention: Elaine Russell
(916) 324-6195

Elaine Russell, Regulatory and Environmental Coordinator
California Public Utilities Commission

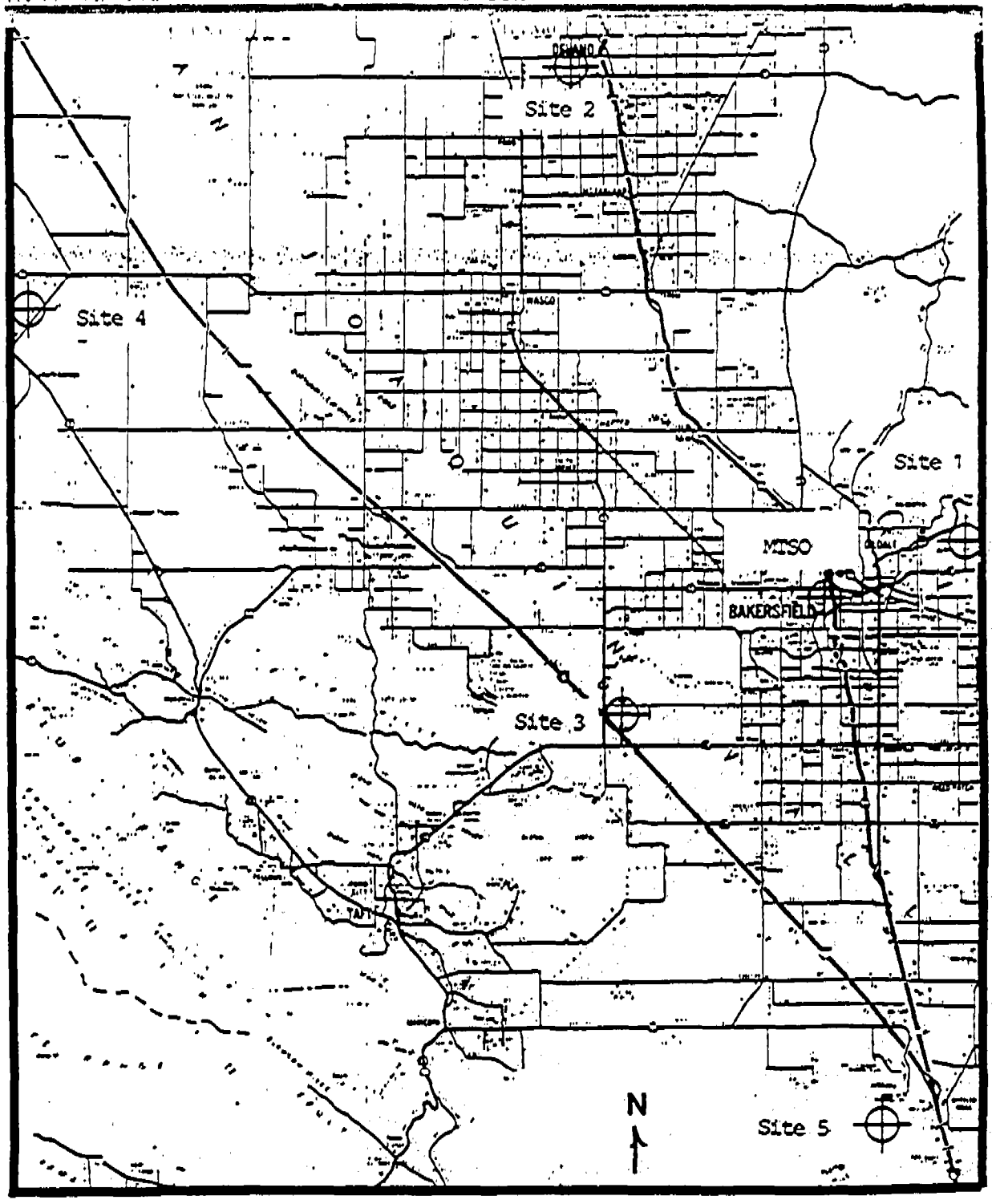

FIGURE 1

Regional Setting

Bakersfield Cellular 1
Mobile Telephone System

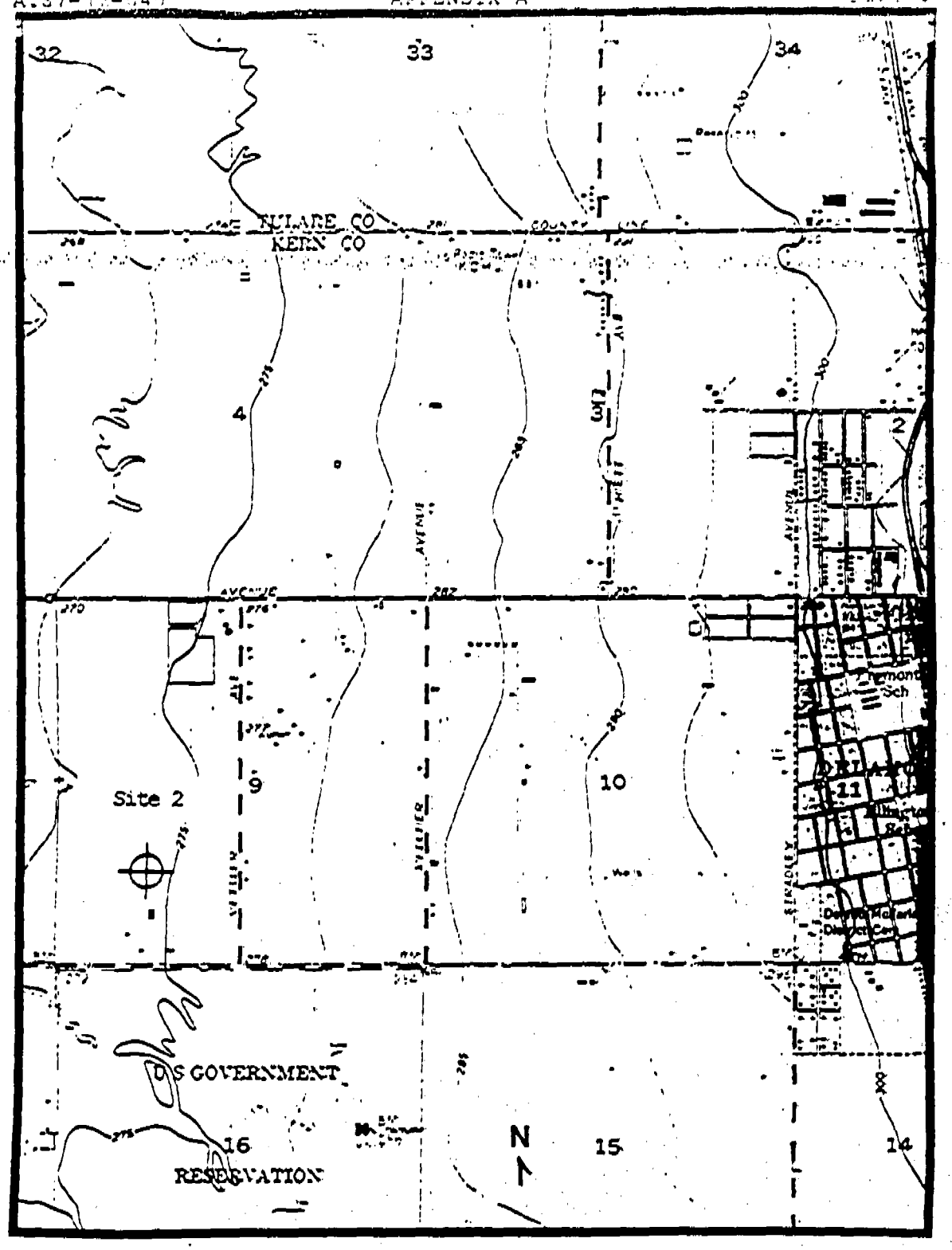

FIGURE 2

Antenna Site 2
(Delano)

USGS 7.5' Quad Sheet:
Delano West

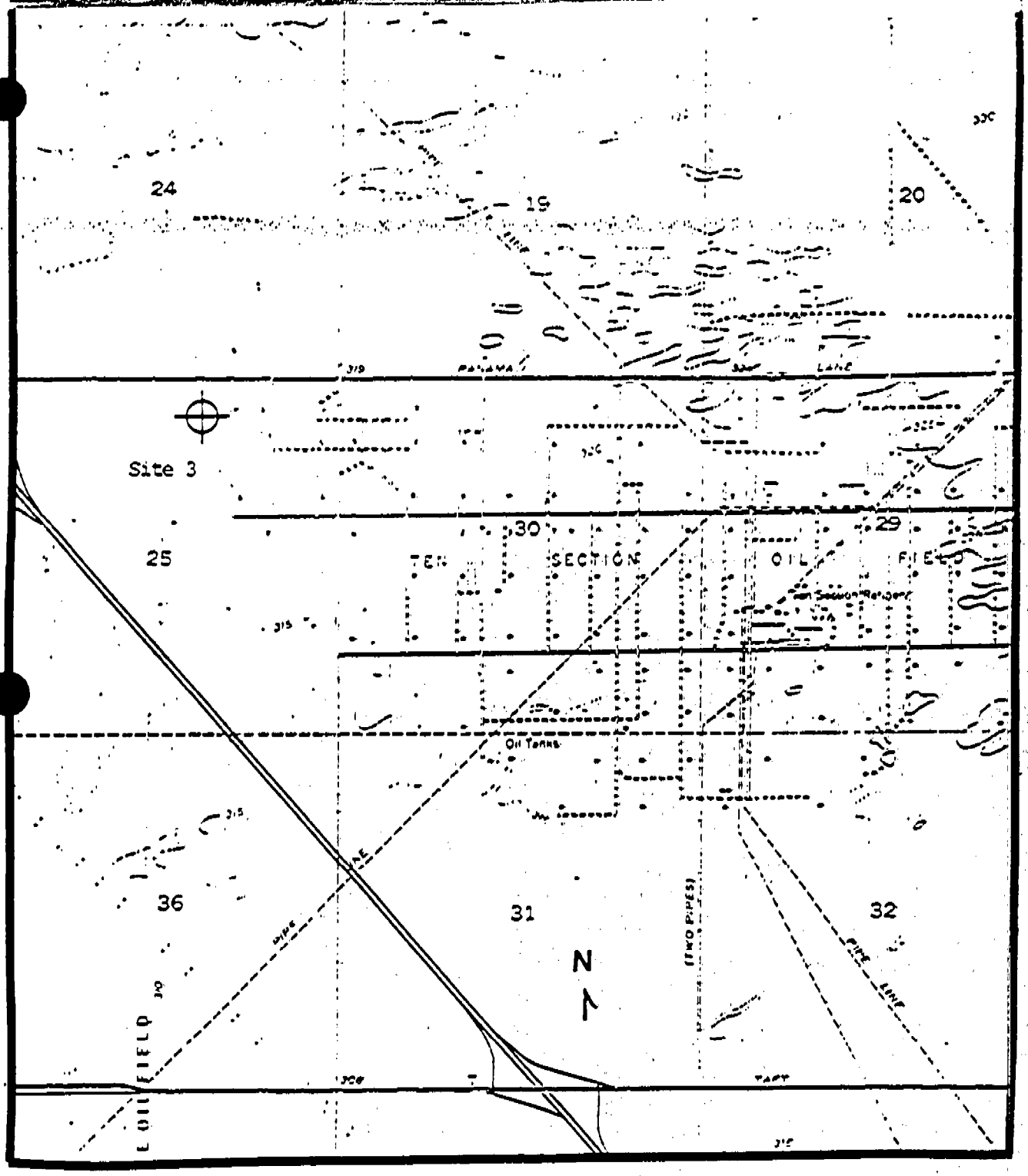

FIGURE 3

Antenna Site 3
(Panama Lane)

USGS 7.5'Quad Sheet:
Stevens

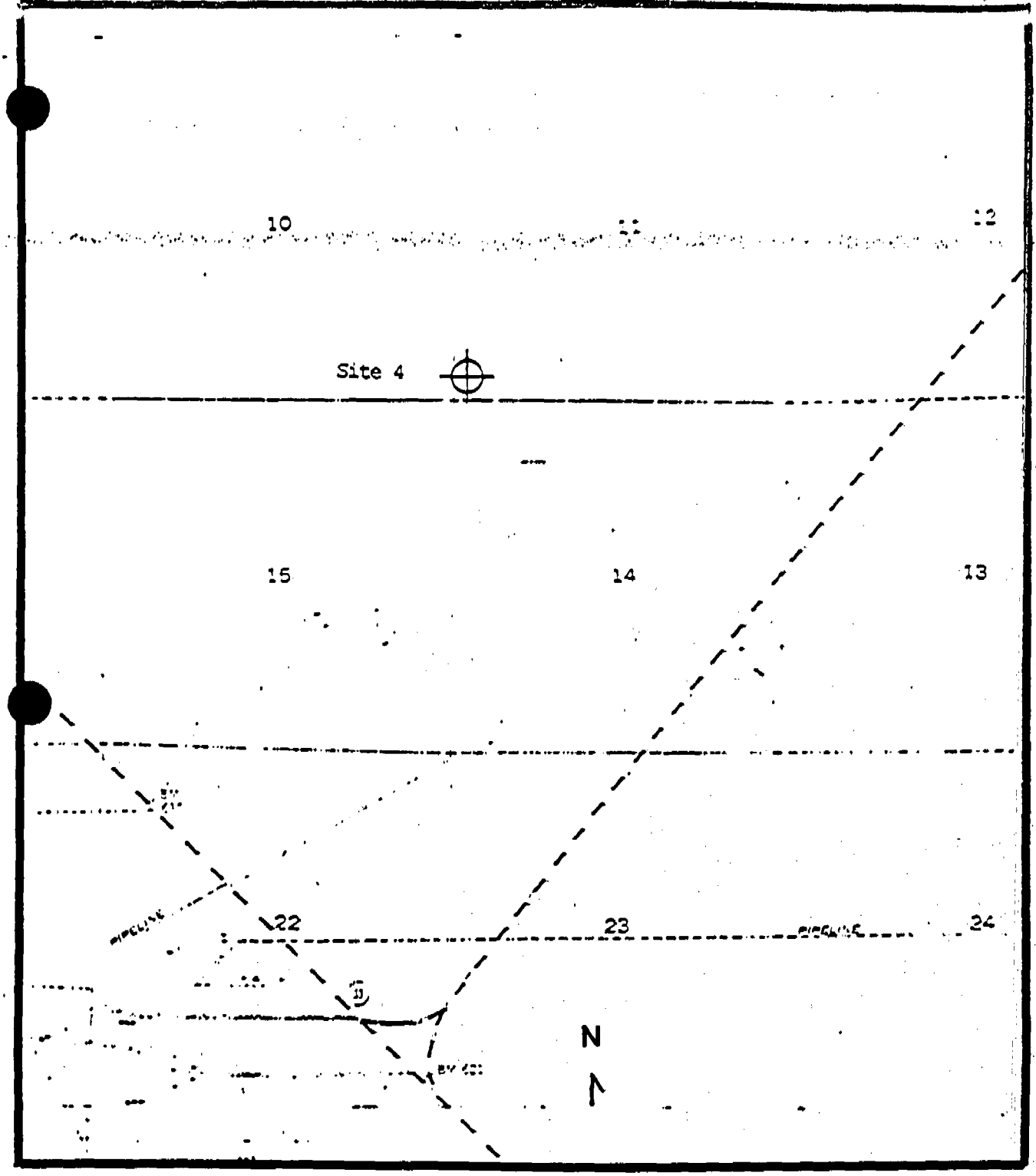

FIGURE 4

Antenna Site 4
(Lost Hills)

USGS 7.5' Quad Sheet:
Blackwells Corner

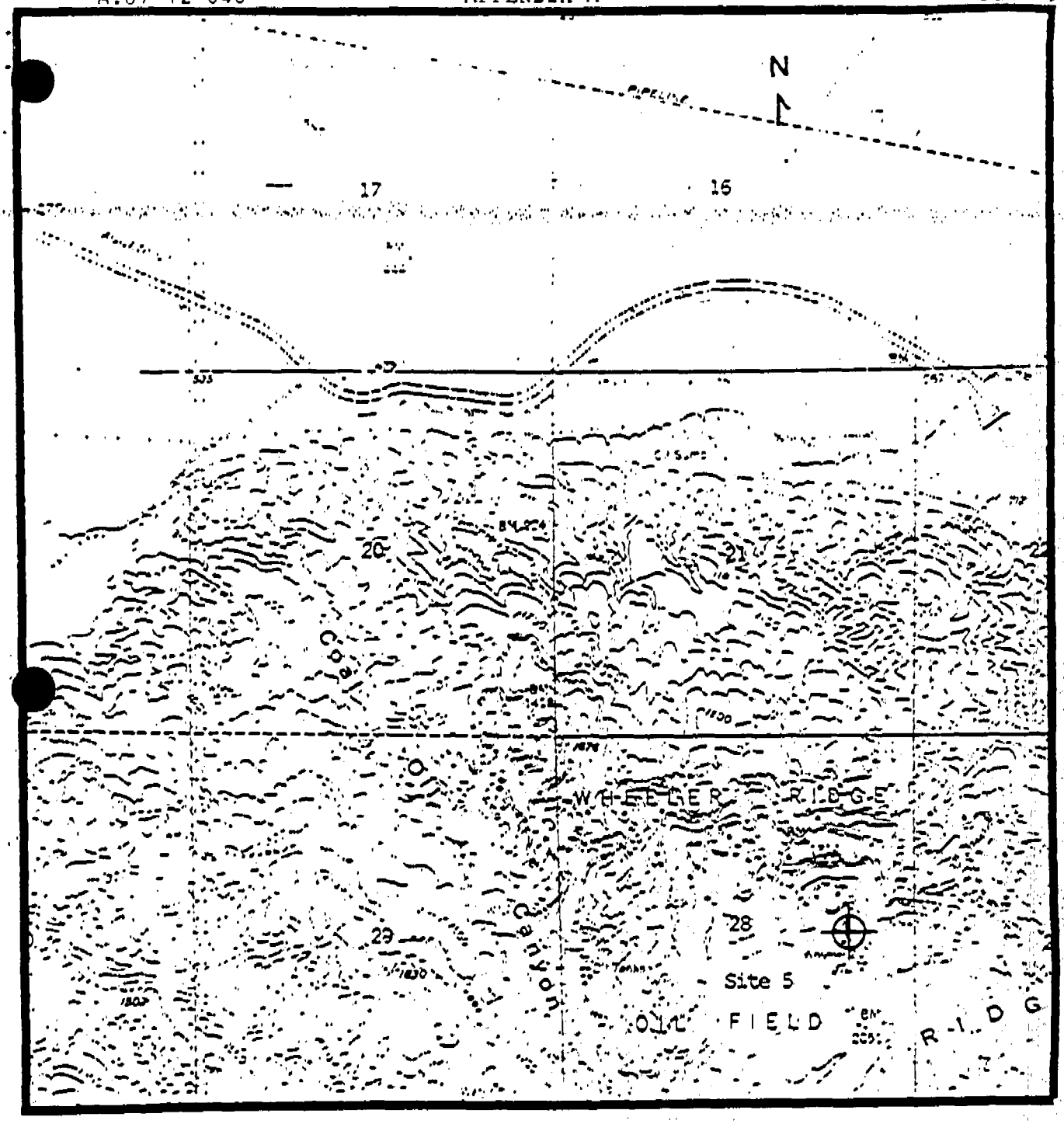

FIGURE 5

Antenna Site 5
(Wheeler Ridge)

USGS 7.5' Quad Sheet:
Coal Oil Canyon

CALIFORNIA PUBLIC UTILITIES COMMISSION

INITIAL ENVIRONMENTAL STUDY
CHECKLIST

Project Title: Cellular One of Bakersfield
Kern County

Study Date: January 19, 1988

I. BACKGROUND INFORMATION

A. Name of Project:

Cellular One of Bakersfield

B. Project Description:

Cellular One of Bakersfield, a licensee of the Federal Communications Commission, has applied to the California Public Utilities Commission (PUC) for approval of a Certificate of Public Convenience and Necessity for the installation and operation of a mobile telephone system to serve the Bakersfield Standard Metropolitan Statistical Area (SMSA) in Kern County. A Negative Declaration (SCH# 88011806) was prepared, circulated and certified for the system's Mobile Telephone Switching Office (MTSO) and Cell Site No. 1 and is hereby incorporated into this document. This Initial Study is in support of a Mitigated Negative Declaration on Cell Sites 2, 3, 4 and 5.

The cellular system will consist of a an MTSO and five cell sites or transmitting/receiving stations located in the cellular geographic service area (CGSA). The applicant is seeking approval of Antenna Sites 2, 3, 4 and 5. All cell sites are in the rural, unincorporated area of Kern County. (See Figure 1)

The proposed cellular system is intended to provide a wide variety of local and long distance communications between fixed (office/home) and mobile (motor vehicles/portable units) stations or between two mobile units. Cellular telephones can be used for regular business and personal telephone conversations, as well as for emergency services such as police, medical, and fire agencies. This system would function as an extension of the present telephone network in Kern County. There is only one other mobile telephone service company that is licensed to serve the project area.

Mobile telephone systems operate by using low power radio transmitter/receivers situated near the center of small (2.5 to 10 mile diameter) geographical units called cells. Each mobile phone communicates using radio signals to or from the cell's antenna. The cell antennas are connected to a central switching office by wire lines or microwave units. The central switching office automatically passes a telephone conversation from cell to cell as the mobile unit moves through the service area. "Roamer agreements" permit similarly continuous service when units move between service areas.

On April 9, 1981, the Federal Communications Commission (FCC) adopted rules for the installation and operation of cellular telephone systems. The provisions include:

1. There will be two cellular systems per market area. Each defined market area is based upon standard metropolitan statistical areas.

2. Twenty (20) MHz is held in reserve for all land mobile services.

3. There are no limits on the number of markets that can be served by a single cellular mobile radio service (CMRS) operator.

4. Licensees and affiliates of licensees are allowed to manufacture radio equipment.

5. Telephone companies will be required to establish a fully separate subsidiary to provide CMRS.

6. Wire line companies must provide equal interconnection to all cellular systems.

7. The FCC will preempt the State jurisdictions with regard to licensing but will not regulate rates.

8. The FCC has found that point-to-point microwave and other regular cellular telephone radio transmissions do not pose a human health hazard if properly designed and constructed.

The California Public Utilities Commission's Rule 17.1 of Practice and Procedure entitled, "Special Procedure for Implementation of the California Environmental Quality Act of 1970" and the California Environmental Quality Act (CEQA) require an environmental review of all developmental projects before the PUC can issue a Certificate of Public Convenience and Necessity for a project, such as the proposed Kern County mobile telephone system.

Depending upon demand, the Company may consider expanding this system to provide cellular telephone service to other portions of the project area in the future. The installation of antennas not covered in this document would require additional environmental review by the Commission.

C. Project Setting:

As noted above, the proposed cellular telephone system will consist of five radio towers and a centralized mobile telephone switching office (MTSO). Figure 1 displays the regional setting of the system. Figures 2 through 5 show Antenna Sites 2 through 5

in relation to surrounding terrain features. The following is a description of the four antenna sites that are the subject of this Initial Study and the equipment that will be installed at each:

1. Cell 2 (Delano)
1023 Mettler Avenue, Delano

The antenna in this cell will be on approximately 4.5 acres of vacant land along Mettler Avenue, approximately one-quarter mile north of Garces Highway. The antenna would be on a portion of the closed Delano landfill on property leased from the City of Delano. The landfill was closed approximately 10 years ago and the property has been unused since that time. The site has a rolling terrain as the pits and the fill dirt that were developed for the landfill were left ungraded when the landfill was closed. (See Figure 2)

On-site vegetation consists of introduced grasses.

Surrounding land uses include the City of Delano Waste Water Treatment Plant to the north, agricultural and rural residences to the east and west, and a retirement project 800 feet to the southeast. There are no residences within 300 feet and fewer than 6 within a mile of the site. The property is zoned "U", Unclassified. The Assessor's Parcel Number is 048-100-01.

Nearby land uses are predominantly agricultural. Voice of America towers are approximately one-quarter mile to the south of the project, south of Garces Highway.

The facility will have a 280-foot guyed steel tower and a one story 12 foot by 30 foot concrete pre-engineered structure that would house electronic equipment. Two microwave dishes and three 13-foot whip antennae will be mounted at the top of the tower. Three guy wires will extend out at 120 degree angles from the antenna at approximately 240 feet horizontal distance from the antenna base. The site will be accessed by public roads and by an existing roadway on the west side of the property.

Construction of the facility would necessitate grading a small portion of the old pit and fill area to provide access to the antenna from the existing road on the west side and to provide a flat base for the antenna and the concrete structure. A six-foot high chain link fence will surround the antenna and the concrete structure. All associated electronic equipment will be housed in the concrete structure at the base of the antenna.

2. Cell 3 (Panama Lane)
South side of Panama Lane, one-half mile east of the intersection of Panama Lane and Enos Lane.

The antenna in this cell will be on approximately 5 acres of agriculturally developed land in a rural area west of Bakersfield that is devoted primarily to agriculture and oil production. During the past year, the site has been in cotton production. Land adjacent to the site is also in cotton production. Immediately to the west of the site is a canal. Agriculture and oil production are the land uses in the vicinity of the site. The Assessor's Parcel Number is 160-130-04-00, PM #82-85. (See Figure 3)

Currently the site is bare; the property has been in cotton production within the past year.

The site will include an antenna and a 12 foot by 30 foot concrete pre-engineered structure. The antenna will consist of a guyed tower approximately 280 feet high. Four microwave dishes and three 13-foot high antennae will be mounted on the pole. Three guy wires will extend out at 120 degree angles from the antenna at approximately 240 feet horizontal distance from the antenna base. Construction of the tower will require some grading to provide a foundation and a driveway, and the installation of a six foot high chain link fence surrounding the tower and the concrete structure.

The site will be accessed by Panama Lane (a public road) and by private access granted by Tenneco Land Company.

3. Cell 4 (the Lost Hills)
Approximately 4 miles east and 2 miles south of Blackwells Corner on the Antelope Plain of west Kern County. (See Figure 4)

This approximately 4-acre site is on vacant agricultural land used for grazing. Surrounding land uses within sight distance of the parcel are all agricultural. The nearest residence is two miles from site. The subject property is zoned "A": - Agricultural. The Assessor's Parcel number is 068-250-22.

Vegetation on-site is weedy and sparse due partly to grazing.

The site will include an antenna and a 12 foot by 30 foot concrete pre-engineered structure. The antenna will consist of a guyed steel tower approximately 280 feet high. Four microwave dishes and three 13-foot high antennae will be mounted on the pole. Three guy wires will extend out a 120 degree angles from the antenna at approximately 240 feet horizontal distance from the antenna base. Construction of

the tower will require minimal grading to provide a foundation and a driveway, and the installation of a six foot high chain link fence surrounding the tower and the concrete structure.

The site will be accessed by existing public roads and private access granted by Paramount Farming Company.

4. Cell Site 5 (Wheeler Ridge)
Atop Wheeler Ridge east of Coal Oil Canyon in the Wheeler Ridge Oil Field, southern Kern County

This site is in an developed oilfield in the foothills of the Tehachapis, approximately 1,700 feet above the valley floor. The antenna and concrete structure would be placed on land that was previously the site of a large water tank. The metal bottom of the water tank would be removed prior to construction.

Land uses surrounding the site are predominantly oil production and cattle grazing. There is an existing radio tower approximately 450 feet to the south on the summit of the Wheeler Peak. The nearest residence is 15 miles distant.

The site will include an antenna and a 12 foot by 30 foot concrete pre-engineered structure. The antenna will consist of a guyed steel tower approximately 280 feet high. Two microwave dishes and three 13-foot high antennae will be mounted on the pole. Three guy wires will extend out at 120 degree angles from the antenna for approximately 240 feet horizontal from the antenna base. Construction of the tower will require removal of the tank bottom and grading to provide a foundation and a driveway, and the installation of a six-foot high chain link fence surrounding the tower and the concrete structure.

The site will be accessed by existing public roads and existing private access granted by Tenneco Land Company.

D. Lead Agency Contact Person:

Ms. Elaine Russell Energy Resources Branch
California Public Utilities Commission
1107 - 9th Street, Suite 710
Sacramento, CA 95814
(916) 322-7316

E. Lead Agency:

California Public Utilities Commission
505 Van Ness
San Francisco, CA 94102

G. Responsible Agencies:

Except for the California Public Utilities Commission, no other State or local agencies have discretionary approval over cellular telephone systems.

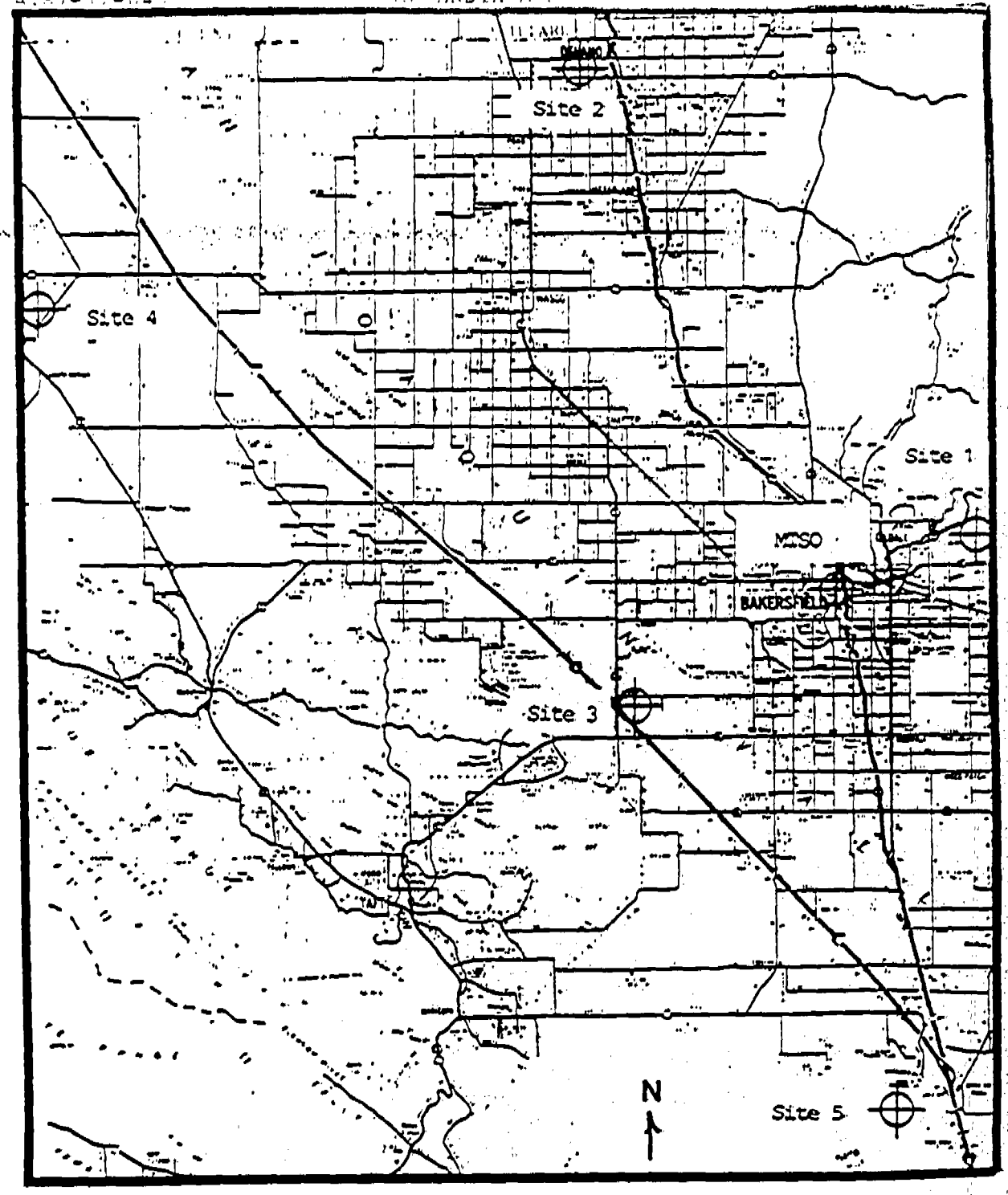

FIGURE 1

Regional Setting

Bakersfield Cellular 1
Mobile Telephone System

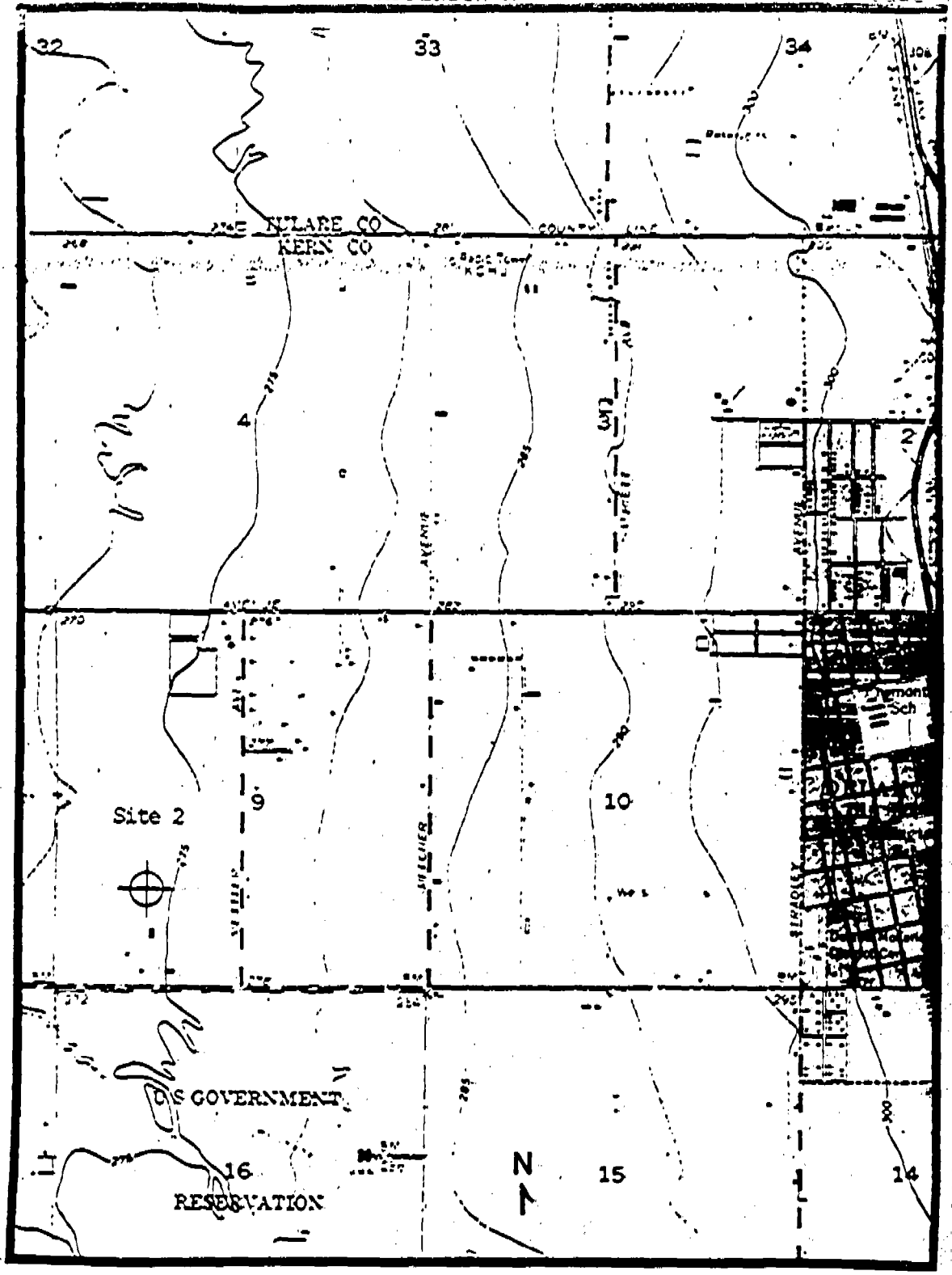

FIGURE 2

Antenna Site 2
(Delano)

USGS 7.5' Quad Sheet:
Delano West

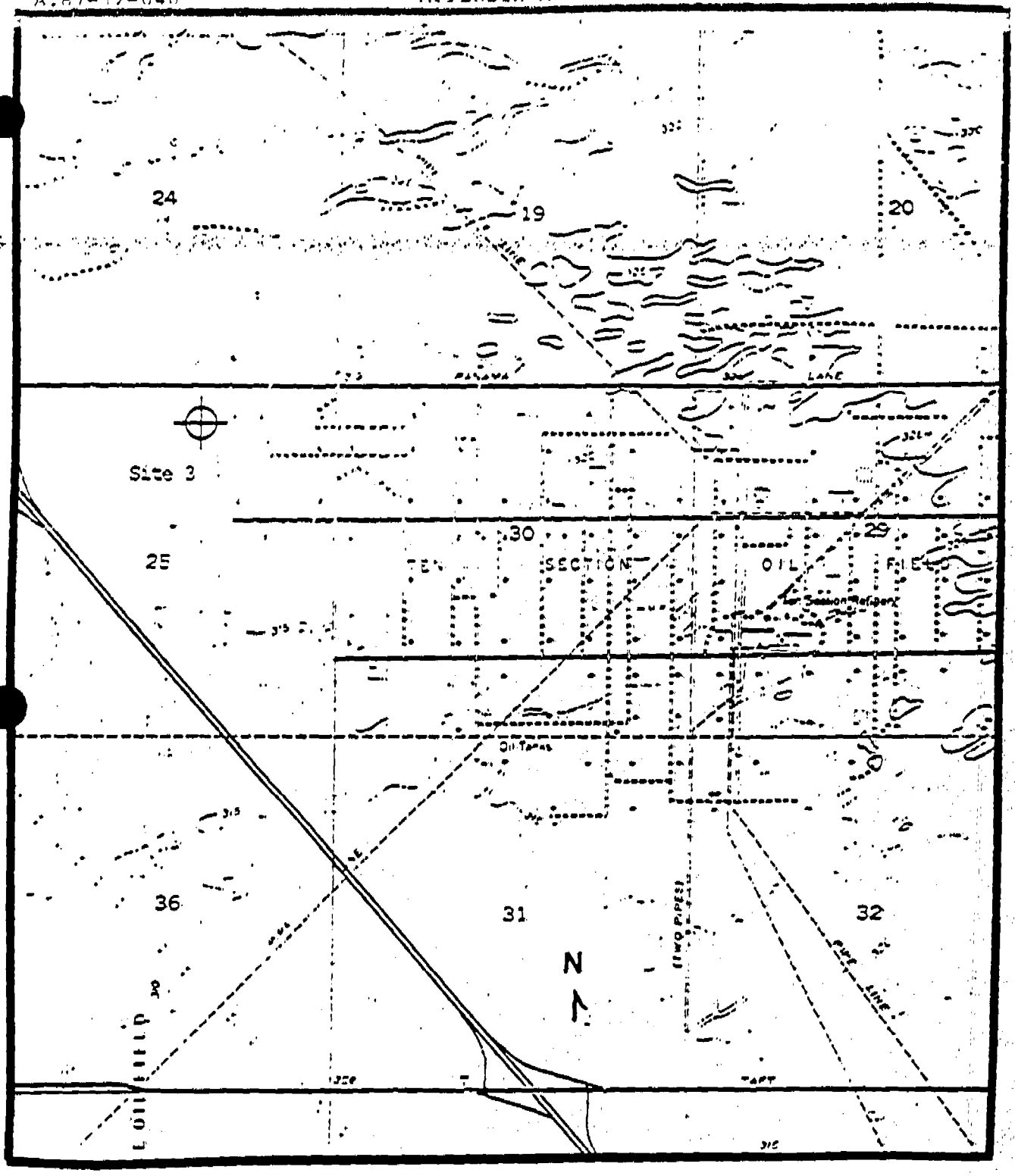

FIGURE 3

Antenna Site 3
(Panama Lane)

USGS 7.5'Quad Sheet:
Stevens

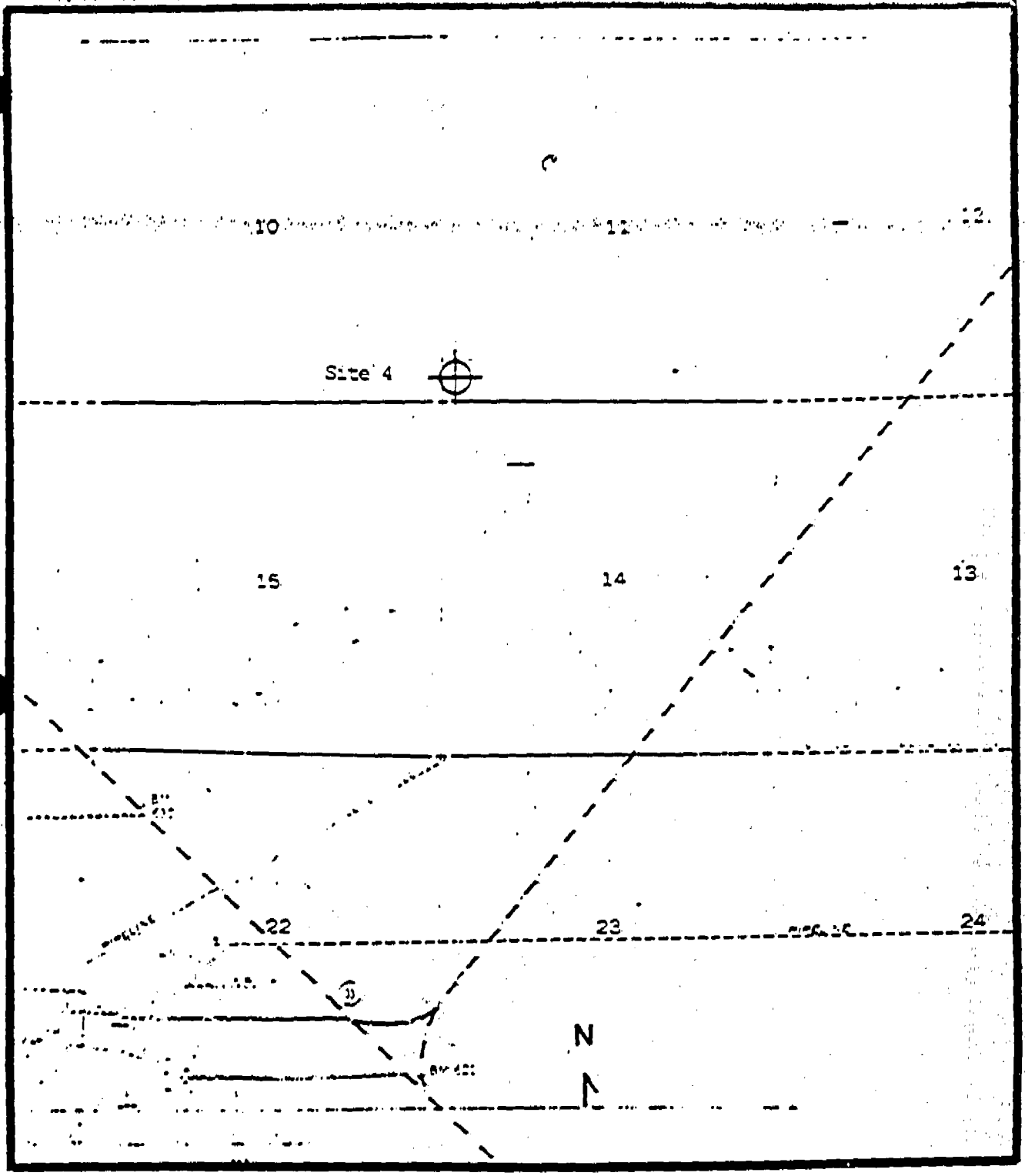

FIGURE 4

Antenna Site 4
(Lost Hills)

USGS 7.5' Quad Sheet:
Blackwells Corner

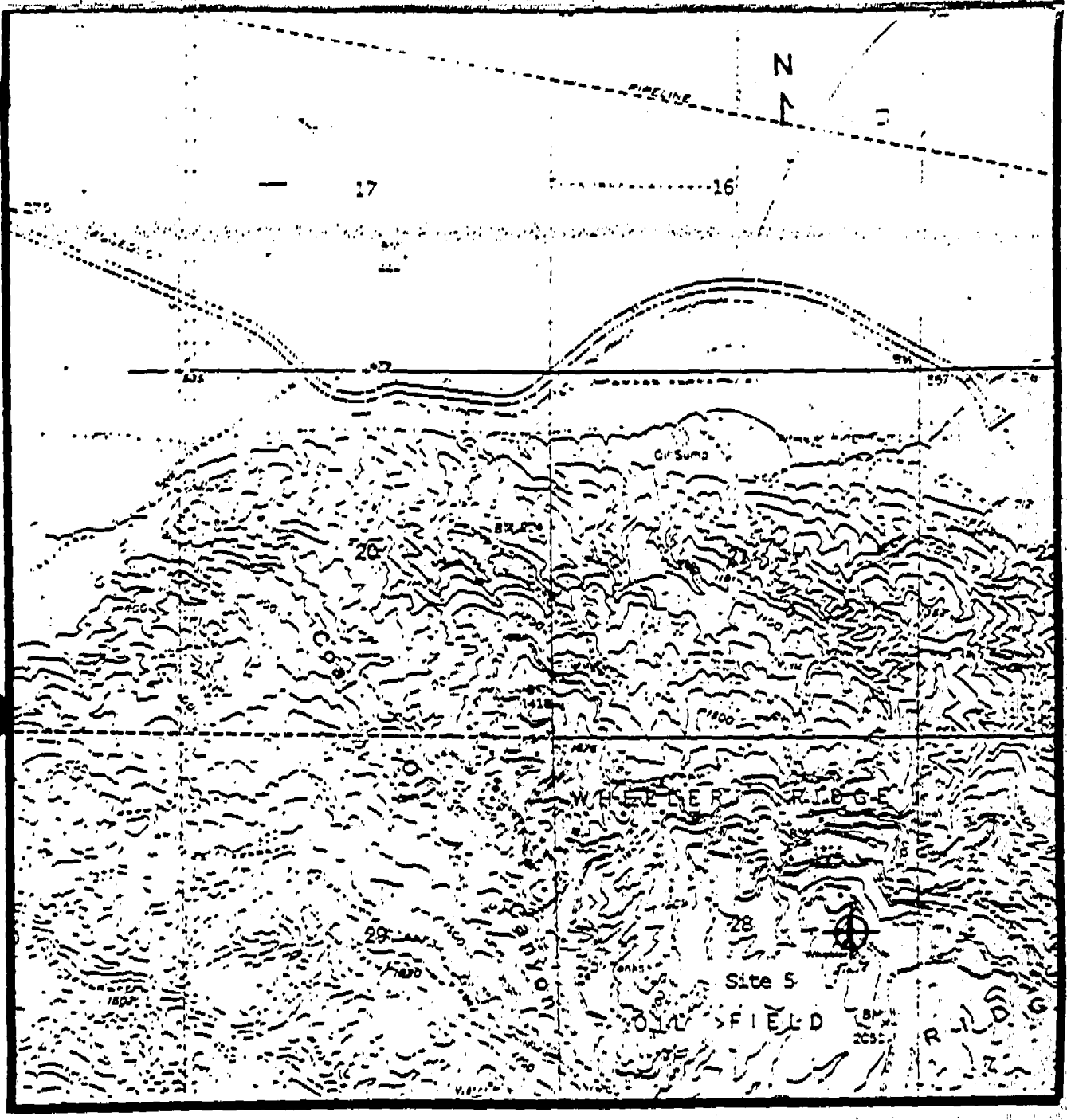

FIGURE 5

Antenna Site 5
(Wheeler Ridge)

USGS 7.5' Quad Sheet:
Coal Oil Canyon

II. ENVIRONMENTAL IMPACTS

	Yes	Maybe	No
A. Geology/Geomorphology. Will the proposal result in:			
1. Unstable earth conditions or changes in geologic substructures?	___	___	X
2. Changes in topography or any unique geologic or physical features of the site?	X	___	___

The foundations for some of the towers will require a minor amount of grading. This grading will result in a minor, insignificant modification of the existing topography of the project sites.

3. Exposure of people or property to major geologic hazards (earthquakes, slides, subsidence, liquefaction, volcanism)?	___	___	X
B. Soils. Will the proposal result in:			
1. Disruptions, displacements, compaction or overcovering of the soil?	___	___	X

At Cell Site No. 2, the project will require minor grading for site access and foundation. In addition, the site owner, the City of Delano, requires the entire site be graded.

2. Increased erosion from wind or water?	___	___	X
3. Changes in deposition or erosion of beach sands, or changes in siltation, deposition or erosion which may modify the channel of a river or stream or the bed of the ocean or any bay, inlet or lake?	___	___	X
C. Air Quality/Climate. Will the proposal result in:			
1. Substantial air emissions or deterioration of ambient air quality?	___	___	X
2. Creation of objectionable odors?	___	___	X

	Yes	Maybe	No
3. Alteration of air movement, moisture, temperature, or any change in climate, either locally or regionally?	___	___	X
D. Water. Will the proposal result in:			
1. Degradation of water quality?	___	___	X
2. Degradation or depletion of ground water resources, or interference with ground water recharge?	___	___	X
3. Depletion or contamination of public water supply?	___	___	X
4. Erosion, siltation, or flooding?	___	___	X
5. A change in the amount of surface water in any water body?	___	___	X
6. Alterations to the course or flow of flood waters?	___	___	X
E. Vegetation. Will the proposal result in:			
1. A change in the diversity of species, or numbers of any species of plants (including trees, shrubs, grass, crops, microflora and aquatic plants)?	___	___	X
2. A reduction of the numbers of any unique, rare or endangered species of plants?	___	___	X

According to the U.S. Fish and Wildlife Service, the following federally listed endangered or candidate plant species have the potential to occur on the following sites: (Reference 5)

Cell Site No. 2:	Status
California jewelflower, Caulanthus Californicus	Candidate (2)
Hoover's wooly-star, Eriastrum Hooveri	Candidate (2)
Congdon's wooly-threads, Lembertia congdonii	Candidate (2R)
Tulare pseudobahia, Pseudobahia peirsonii	Candidate (2)

Cell Site No. 3:	Status
Lost Hills saltbush, Atriplex vallicola	Candidate (2)
California jewelflower, Caulanthus Californicus	Candidate (2)
Hoover's wooly-star, Eriastrum hooveri	Candidate (2)
slough thistle, Cirsium crassicaule	Candidate (2)
hispid bird's-beak, Cordylanthus mollis subsp. hispidus	Candidate (2)
Congdon's wooly-threads, Lembertia congonii	Candidate (2R)

Cell Site No. 4:	
California Jewelflower, Caulanthus Californicus	Candidate (2)
Kern mallow, Eremalche kernensis	Candidate (2)
Hoover's wooly-star, Eriastrum hooveri	Candidate (2)
Condgon's wooly-threads, Lembertia congdonii	Candidate (2R)

Cell Site No. 5:	
Caliente clarkia, Clarkia temblorensis subsp. calientensis	Candidate (2)
Comanche layia, Layia leucopappa	Candidate (2)
Bakersfield cactus, Opuntia treleasei	Candidate (1)

NOTES:

Category (1): Taxa for which the Fish and Wildlife Service has sufficient biological information to support a proposal to list as endangered or threatened.

Category (2): Taxa for which existing information indicated may warrant listing, but for which substantial biological information to support a proposed rule is lacking.

Consultation with the California Department of Fish and Game revealed no State-listed threatened or endangered plant species in the area of Cell Sites 2 through 5. (Reference 6)

Pursuant to recommendations by the U.S. Fish and Wildlife Service and the California Department of Fish and Game, biological surveys were conducted at Sites 2 (Delano), 4 (Lost Hills) and 5 (Wheeler Ridge) during the month of January and at Site 3 (Panama Lane) in February 1988. (References 3 and 4, attached as Appendices 1 and 2, respectively)

The surveys were conducted to determine the extent of native vegetation available at each location. At Site 5 (Wheeler Ridge) and at relocated Site 3 (Panama Lane), no native vegetation would be disturbed. (Please refer to the discussion under "Wildlife" for an explanation of why Site 3 was relocated). The proposed location of the antenna and concrete structure on Wheeler Ridge is on an area currently covered by the metal bottom of an old tank. There is an existing road up to the

site. At relocated Site 3, the entire site, including access from Panama Lane, has been under cotton production within the last year. No disturbance of native vegetation would take place at either Site 3 or Site 5.

Vegetation at Site No. 4 (Lost Hills) was highly disturbed and ruderal ain nature and presented low potential for threatened or endangered plant species.

Vegetation at Site No. 2 (Delano) consisted of annual grasses introduced since the closure of the landfill, ten years ago. That site likewise presents low potential value for threatened or endangered plant species.

Construction at these sites would not significantly effect federal or state-listed threatened or endangered species.

	Yes	Maybe	No
3. The introduction of new species of plants into an area, or in a barrier to the normal replenishment of existing species?	___	___	X
4. A reduction in acreage of any agricultural crop?	___	___	X

F. Wildlife. Will the proposal result in:

1. A change in the diversity of species, or numbers of any species of animals (birds and animals, including reptiles, fish and shellfish, benthic organisms, insects or microfauna)?	___	___	X
2. A reduction of the numbers of any unique, rare or endangered species of animals?	___	___	X

Consultation with the U.S. Fish and Wildlife Service and the California Department of Fish and Game resulted in the following lists of threatened, endangered or candidate species (References 5 and 6):

Species	Status
Site 2 (Delano)	
San Joaquin kit fox, *Vulpes macrotis mutica*	USF&WS - Endangered CDF&G - Endangered
blunt-nosed leopard lizard, *Gambelia silus*	CDF&G - Endangered
Tipton kangaroo rat, *Dipodomys n. nitratroides*	CDF&G - Species of Special Concern

Species	Status
Site 3 (Panama Lane)	
San Joaquin kit fox, *Vulpes macrotis mutica*	USF&WS - Endangered CDF&G - Endangered
giant kangaroo rat, *Dipodomys ingens*	USF&WS - Endangered
blunt-nosed leopard lizard, *Gambelia silus*	USF&WS - Endangered CDF&G - Endangered
Tipton kangaroo rat, *Dipodomys n. nitratroides*	USF&WS - Proposed Listing CDF&G - Species of Special Concern
San Joaquin antelope squirrel, *Ammospermophilus nelsoni*	CDF&G - Threatened
Site 4 (Lost Hills)	
San Joaquin kit fox, *Vulpes macrotis mutica*	USF&WS - Endangered CDF&G - Endangered
giant kangaroo rat, *Dipodomys ingens*	USF&WS - Endangered CDF&G - Endangered
blunt-nosed leopard lizard, *Gambelia silus*	USF&WS - Endangered
San Joaquin antelope squirrel, *Ammospermophilus nelsoni*	USF&WS - Candidate (2) CDF&G - Threatened
short-nosed kangaroo rat, *Dipodomys n. brevinasus*	USF&WS - Candidate (2)
Cell Site 5 (Wheeler Ridge)	
San Joaquin kit fox, *Vulpes macrotis mutica*	USF&WS - Endangered CDF&G - Endangered
blunt-nosed leopard lizard, *Gambelia silus*	USF&WS - Endangered
short-nosed kangaroo rat, *Dipodomys n. breninasus*	USF&WS - Candidate (2)
San Joaquin antelope squirrel, *Ammospermophilus nelsoni*	USF&WS - Candidate (2) CDF&G - Threatened

NOTES:

USF&WS Category (1): Taxa for which the Fish and Wildlife Service has sufficient biological information to support a proposal to list as endangered or threatened.

USF&WS Category (2): Taxa for which existing information indicated may warrant listing, but for which substantial biological information to support a proposed rule is lacking.

Please also note that although a species may be both federal- and State-listed, the particular status of that species was not included in the site list unless the appropriate agency had

included it in the species list for that site. For example, for Site 2, the California Department of Fish and Game indicated potential for blunt-nosed leopard lizard habitat. This lizard is also a federally-listed endangered species. However, because the USF&WS did not include the lizard in its list of potential species for Site 2, the federal category is not included for the lizard at Site 2. The reverse is true at Sites 4 and 5.

All four cell sites were the subject of a biological survey. Initially, Cell Site 3 was on native grassland in a low density developed oil field. One of the survey biologists indicated that such grassland was typical San Joaquin kit fox habitat. Following that initial windshield survey, Cell Site 3 was relocated to a cotton field approximately 1500 ft. to the west. The survey results discussed in this section and in Appendix 2 are from the survey of the relocated site.

The results of the biological surveys indicate that there is no potential for affecting threatened or endangered species or habitat at Sites 4 and 5 and revised Site 3. Sites 5 (Wheeler Ridge and 3 (Panama Lane - revised) are disturbed with no native vegetation or habitat available for listed species. (References 3 and 4) Site 4 (Lost Hills) contains close-cropped weedy species and was the subject of on-site reconnaissance field surveys consisting of random transects, nocturnal spotlight surveys and scent stations to detect San Joaquin kit fox use. The survey did not find Site 4 was used by the kit fox. (Reference 3)

Site 2 (Delano) is used by California ground squirrels, black-tailed jack rabbits and Audubon's cottontail rabbits. The surveyor also found a single San Joaquin kit fox scat pile on the project site and surrounding landfill area. However, a nocturnal spotlight survey and scent station failed to show that the site was currently being used by kit fox.

The surveyors recommended no mitigation measures.

The surveys were distributed to the U.S. Fish and Wildlife Service, Endangered Species Office and the California Department of Fish and Game, Region IV and the Endangered Species Consultant. Further discussion with those offices resulted in the following recommended mitigation measures. The applicant has agreed to the measures, which are incorporated into the project.

a. Construction at Cell Site No. 3 will take place entirely within the area currently in agricultural development and shall not encroach on the adjacent canal right-of-way.

b. Construction and maintenance employees will be notified of the proximity to existing San Joaquin kit fox habitat at Site No. 3 and of the potential for kit fox use at Site No.2 and informed of appropriate measures to avoid harming the kit fox.

c. For Antenna Site No. 2, the City of Delano originally required in the Conditional Use Permit that the site would be fully graded. To prevent loss of kit fox habitat, the City of Delano has agreed

to limit grading to only that portion of the site needed to provide access and construction of the antenna and the concrete structure.

d. The project applicant agrees to not disturb or develop the remaining unused portion of Antenna Site No. 2.

e. The PUC has by this document and personal communication between PUC staff and the City of Delano notified the City of Delano of the concerns of the U.S. Fish and Wildlife Service and the California Department of Fish and Game.

f. If construction begins after 60 days of the date of the original survey, Cell Site Nos. 2 and 3 should be resurveyed for San Joaquin kit fox use and the results of the survey submitted to the U.S. Fish and Wildlife Service. (References 7 and 8)

With the above mitigation measures, the project will not have a significant effect on federal or State-listed threatened, candidate or endangered species.

	Yes	Maybe	No
3. Introduction of new species of animals into an area?	___	___	X
4. Deterioration to existing fish or wildlife habitat, or interference with the movement of resident or migratory fish or wildlife?	___	___	X
G. Land Use. Will the proposal result in:			
1. A substantial alteration of the present or planned land use in the area?	___	___	X

All four antenna sites are located in rural areas of Kern County or the City of Delano.

Site 2 (Delano) is zoned "U" Unclassified by the City of Delano. Adjacent and nearby land uses include antenna towers operated by the Voice of America, approximately one quarter mile south of the site; a retirement residence 800 feet to the southeast; a residence to the east; and the City of Delano's closed landfill and wastewater treatment plant to the north. Surrounding property owners were notified of a public hearing on a Conditional Use Permit for the project considered by the City of Delano. According to the City Planner, no objection was raised to the antenna. (Reference 9) The cell site would be consistent with these land uses.

Sites 3 (Panama Lane), 4 (Lost Hills) and 5 (Wheeler Ridge) are zoned "A" Agricultural by the County of Kern. At Site 3, the antenna is in an area of agriculture and oil production. There are no residences within

a mile of the site. The antenna would be at the roadside edge of an agricultural field to minimize interference with agricultural practices. The antenna would be consistent with the rural land uses.

Immediately adjacent land uses at Site 4 (Lost Hills) are predominantly grazing fields, with cotton production beyond the range land. The grazing fields provide a buffer that minimize interference with agricultural practices on cultivated soils. One residence is within five miles of the site. The antenna would be compatible with the existing land uses.

Cell Site 5 (Wheeler Ridge) is in a developed oil field, adjacent to an existing radio-frequency tower on a ridge above the valley. The nearest residence is 15 miles distant on the valley floor. The cell antenna would be a land use similar to those already in the area.

	Yes	Maybe	No
2. A conflict with Local, State or Federal land use plans or elements to those plans?	___	___	X

The project components are allowable uses, in some cases by conditional use permit (if such local permits were applicable to this cellular telephone system), at all the proposed sites.

H. Visual Quality. Will the proposal result in:

1. Obstruction of any scenic vista or view now observed from public areas?	___	___	X
2. Creation of an aesthetically offensive site open to public view?	___	X	___

Aesthetic considerations for the towers and equipment modules were evaluated for the four antenna sites. All are in rural locations and would not be visually obtrusive to a large number of viewers. Of all four sites, the Delano Cell (Site 2) would be seen by the greatest number of people. The antenna will be to the rear of the retirement residence and across the street from a farmhouse. As indicated in the discussion on land uses, surrounding property-owners were notified by the City of Delano of the proposed project and no objections were raised at a public hearing.

The four sites would not have a significant effect on visual quality.

3. New light or glare substantially impacting other properties?	___	___	X

	Yes	Maybe	No
I. Human Population. Will the proposal result in:			
1. Growth inducement or concentration of population?	___	___	X
2. Relocation of people (involving either housing or employment)?	___	___	X
J. Housing. Will the proposal affect existing housing, or create a demand for additional housing?	___	___	X
K. Transportation/Circulation. Will the proposal result in:			
1. An increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system?	___	___	X
2. Effects on existing parking facilities, or demand for new parking?	___	___	X
3. A substantial increase in transit demand which cannot be accommodated by current transit capacity?	___	___	X
4. An increase in traffic hazards to motor vehicles, bicyclists or pedestrians?	___	___	X
5. Alterations to present patterns of circulation or movement of people and/or goods?	___	___	X
6. Alterations to waterborne, rail or air traffic?	___	___	X

All sites will generate infrequent traffic. Approximately once each month a maintenance crew will visit the site to test the signal.

L. Noise. Will the proposal result in:			
1. An increase in ambient noise levels?	___	X	
2. An effect on noise sensitive receptors near or on project site?	___	___	X

The project will generate short-term noise increases during construction of the various project components. These increases are not expected to have a significant effect on adjacent residents.

		Yes	Maybe	No
M.	History/Archaeology. Will the proposal result in:			
	1. Alteration or destruction of a prehistoric or historic archaeological site?	—	—	X
	2. Adverse physical or aesthetic effects to a prehistoric or historic building, structure or object?	—	—	X
	3. A physical change which would affect unique ethnic cultural values?	—	—	X
	4. Restriction of existing religious or sacred uses within the potential impact area?	—	—	X
N.	Public Services. Will the proposal result in:			
	1. Increased demand for fire or police protection?	—	—	X
	2. Increased demand for schools, recreation or other public facilities?	—	—	X
	3. Increased maintenance of public facilities, including roads?	—	—	X
O.	Utilities. Will the proposal result in:			
	1. Expansion or alteration of water, sewer, power, storm water drainage or communication facilities?	—	—	X
	2. A breach of published national State or local standards relating to solid waste or litter control?	—	—	X
P.	Energy/Natural Resources. Will the proposal result in:			
	1. Use of substantial amounts of fuel or energy?	—	—	X
	2. Substantial increase in demand on existing sources of energy?	—	—	X
	3. Substantial depletion of any nonrenewable natural resource?	—	—	X

	Yes	Maybe	No
Q. Hazards. Will the proposal result in:			
1. Creation of a potential health hazard or exposure of people to potential health hazards?	___	___	X

The Federal Communications Commission has determined that the microwave and other radio transmissions associated with cellular telephone systems do not pose a significant risk to humans. The proposed cellular telephone system will be operated at a very low wattage (one-eighth watt) using appropriately designed and installed microwave equipment.

The PUC acknowledges that technicians working on microwave installations must use due caution on equipment that is operating at certain power levels. The Commission also acknowledges that improperly aimed microwave signals could pose a health threat in certain circumstances. However, the Commission believes that the Applicant's equipment will be properly designed, installed, and operated so that the public is not at risk from this system.

The towers that will be necessary for this system will be designed and constructed so that they are not subject to failure from anticipated natural forces such as high winds and rain.

2. Interference with emergency response plans or emergency evacuation plans?	___	___	X

The proposed cellular telephone system will improve the emergency communications system in the Bakersfield metropolitan area by providing individuals with mobile telephones the ability to contact police, fire, and emergency medical services from their vehicles or mobile units.

III. MANDATORY FINDINGS OF SIGNIFICANCE

	Yes	Maybe	No
A. Does the project have the potential to 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 existing levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of a major period of California history or prehistory?	___	___	X
B. Does the project have the potential to achieve short-term, to the disadvantage of long-term environmental goals?	___	___	X
C. Does the project have impacts which are individually limited, but cumulatively considerable?	___	___	X
D. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	___	___	X

IV. REFERENCES

1. Proponent's Environmental Assessment, Cellular One of Bakersfield, before the Public Utilities Commission of the State of California, Application #87-12-040 and supplemental information provided by the applicant.

2. Federal Communications Commission, FCC 87-63, Gen. Docket No. 79-144, February 12, 1987 and May 5, 1987.

3. Quad Consultants, "Bakersfield Cellular Telephone Company Microwave Relay Stations Endangered Species Assessment", January 1988. (attached as Appendix 1)

4. CWESA, "Sensitive Species Survey for Bakersfield Cellular Telephone, Cell Site No. 3, Kern County, California", February 8, 1988. (attached as Appendix 2)

5. U.S. Fish and Wildlife Service letter from Gail C. Kobetich to Christal Waters, Department of General Services, dated January 14, 1988.

6. Personal Communication between Rod Goss, California Department of Fish and Game, Region IV, and Christal Waters, California Department of General Services, January 13, 1988.

7. Personal Communication between Ted Rado, U.S. Fish and Wildlife Service, Endangered Species Office, and Christal Waters, Department of General Services, February 22, 1988.

8. Personal Communication between Ron Remple, California Department of Fish and Game, Region IV and Christal Waters, California Department of General Services, February 29, 1988.

9. Personal Communication between Ken Cott, City Planner of Delano and Christal Waters, California Department of General Services, January 11, 1988.

V. PERSONS AND/OR AGENCIES CONSULTED

1. Elaine Russell
California Public Utilities Commission
1107 - 9th Street, Suite 710
Sacramento, CA 95814

2. Tom Poor
Cellular One of Bakersfield
P. O. Box 10311
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3. Ken Cott
City of Delano Planning Director

4. Ted Rado
U.S. Fish and Wildlife Service
Endangered Species Office
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5. Jim Bartell
U.S. Fish and Wildlife Service
Endangered Species Office

6. Dr. Larry Eng, Coordinator
of California Endangered Species Act
CA Department of Fish and Game
1416 - 9th Street, Twelfth Floor
Sacramento, CA 95814

7. Ron Rempel
California Department of Fish and Game
Region IV
1234 East Shaw Avenue
Fresno, CA 93710

8. Rod Goss
California Department of Fish and Game
Region IV

VI. DETERMINATION (To be completed by the Lead Agency)

On the basis of this initial evaluation:

___ I find the proposed project COULD NOT have a significant effect on the environment. A NEGATIVE DECLARATION will be prepared.

_X_ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described in this Initial Study have been added to the project. A NEGATIVE DECLARATION will be prepared.

___ I find the proposed project MAY have significant effects on the environment and an ENVIRONMENTAL IMPACT REPORT is required.

Date 3-3-XX

Mike Burke
Regulatory & Environmental Coordinator

Appendix 1

Biological Surveys of Antenna Sites 2,4 and 5

Bakersfield Cellular 1

Mobile Telephone System Project

BAKERSFIELD CELLULAR TELEPHONE COMPANY MICROWAVE RELAY STATIONS ENDANGERED SPECIES ASSESSMENT

JANUARY 1988

QUAD CONSULTANTS
BAKERSFIELD - VISALIA - FRESNO - SACRAMENTO

B

PROPOSED PROJECT

Cellular One of Bakersfield proposes to construct and operate three microwave relay stations as part of the expansion of its service capabilities in the southern San Joaquin Valley. The purpose of this assessment is to evaluate the potential for significant impacts to State and Federal endangered species associated with the construction of each of the three facilities.

The three proposed project sites are located in Kern County, California. For the purposes of this assessment the sites are referred to as the Delano site (#1), the Lost Hills site (#2), and the Wheeler Ridge site (#3). Each site is described more completely in the following paragraphs and their locations illustrated by Figures 1-4.

DELANO (Site #1)

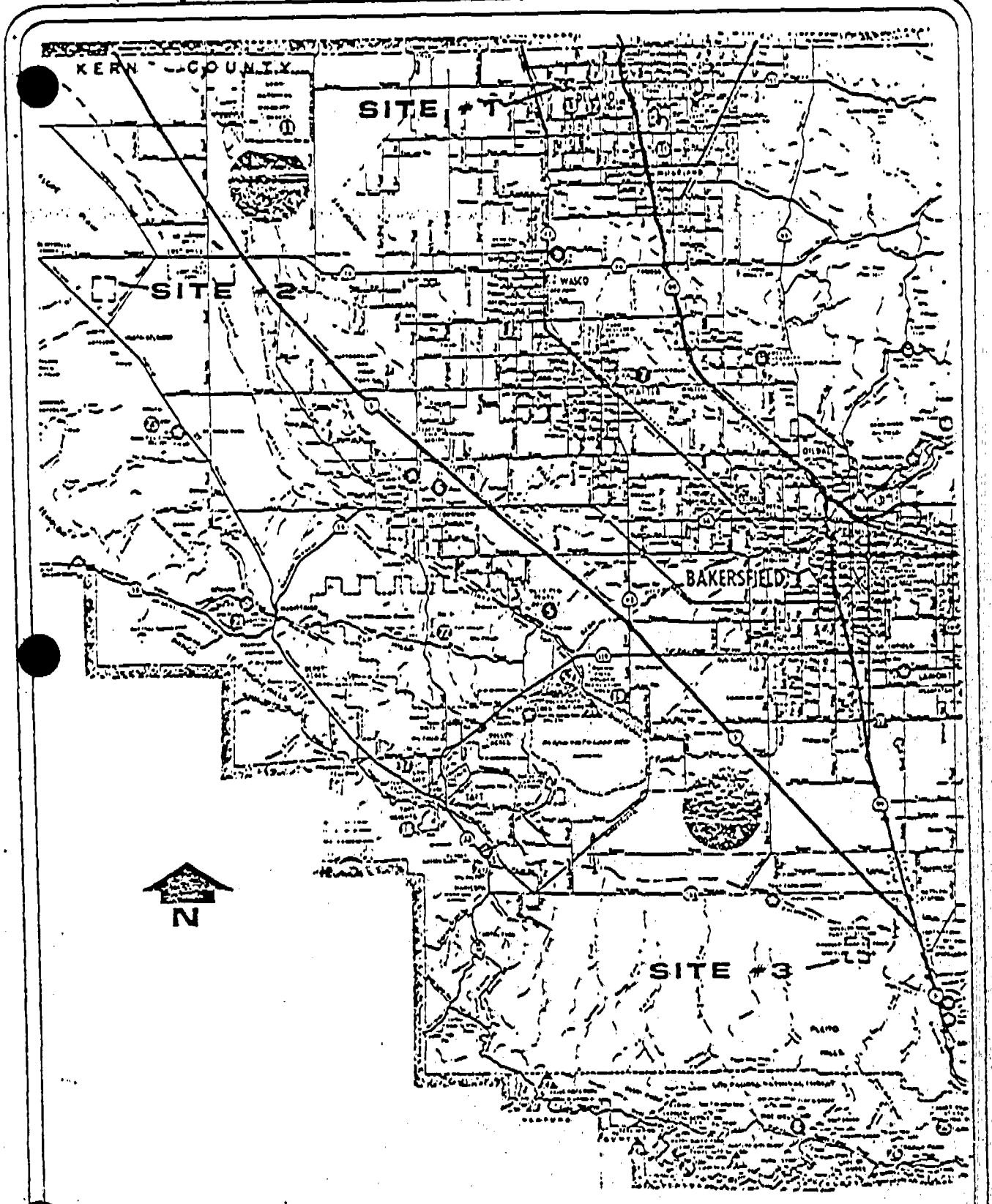
The South 450.74 feet of the Northeast Quarter of the Southwest Quarter of Section 9, Township 25 South, Range 25 East, Mount Diablo Base and Meridian, City of Delano, County of Kern, State of California. Containing 4.65 acres, more or less.

LOST HILLS (Site #2)

A parcel located in the unincorporated area of Kern County, more precisely described as follows: the Southwest Quarter of the Southwest Quarter of the Southwest Quarter except the East half of the East half of Section 11, Township 27 South, Range 20 East, Mount Diablo Base and Meridian. Containing 4.049 acres, more or less.

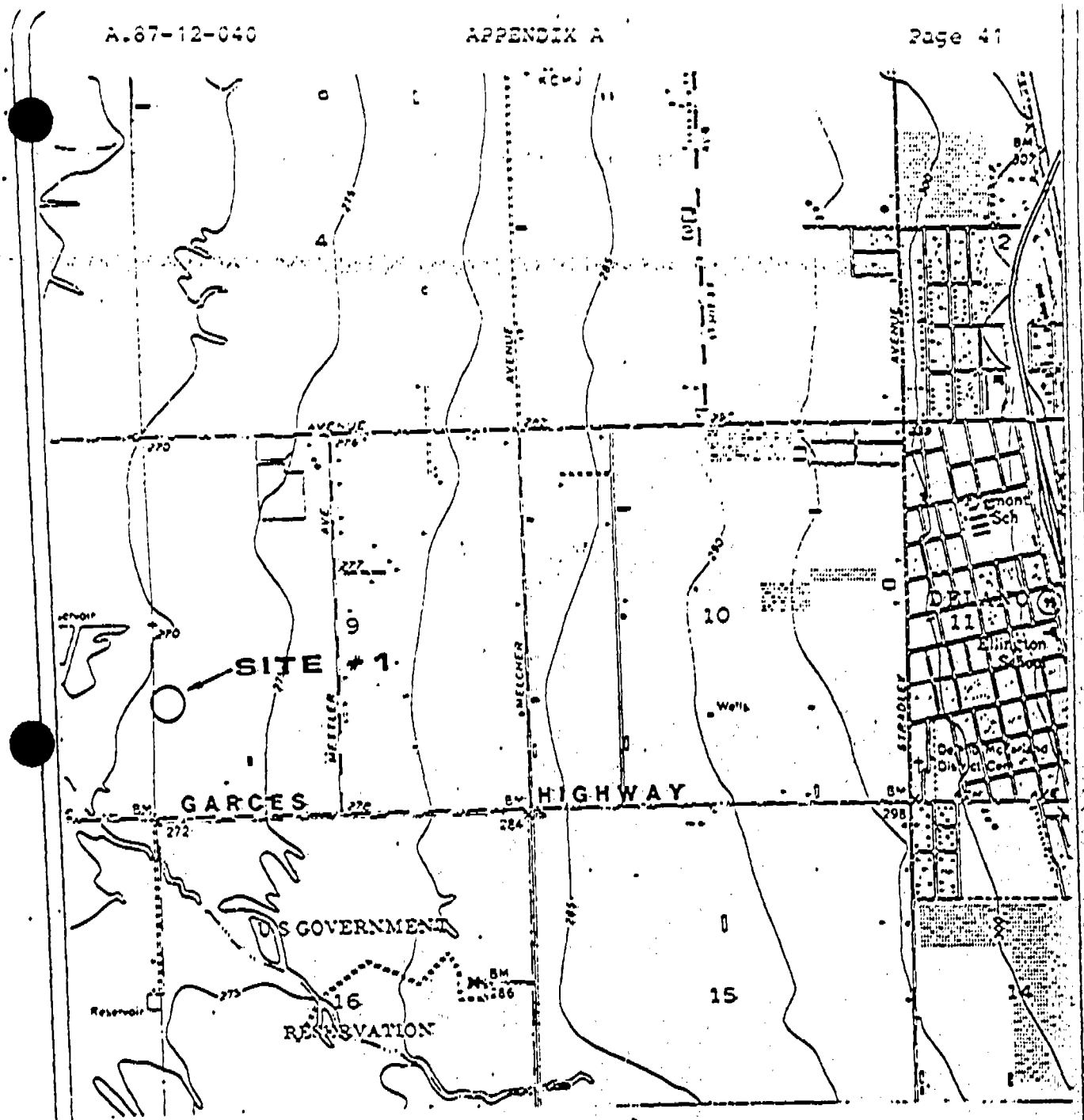
WHEELER RIDGE (Site #3)

All of that portion of the Southeast Quarter of Section 28, Township 11 North, Range 20 West, San Bernadino Base and Meridian, Kern County, California, being more particularly described as follows: Commencing at a point on the east line of said Southeast Quarter, from which point the Southeast corner thereof bears S00°03'13"E, 2330.47 feet; thence S89°56'47"W, 1072.32 feet to the true point of beginning; thence continuing S89°56'47"W, 100.00 feet; thence

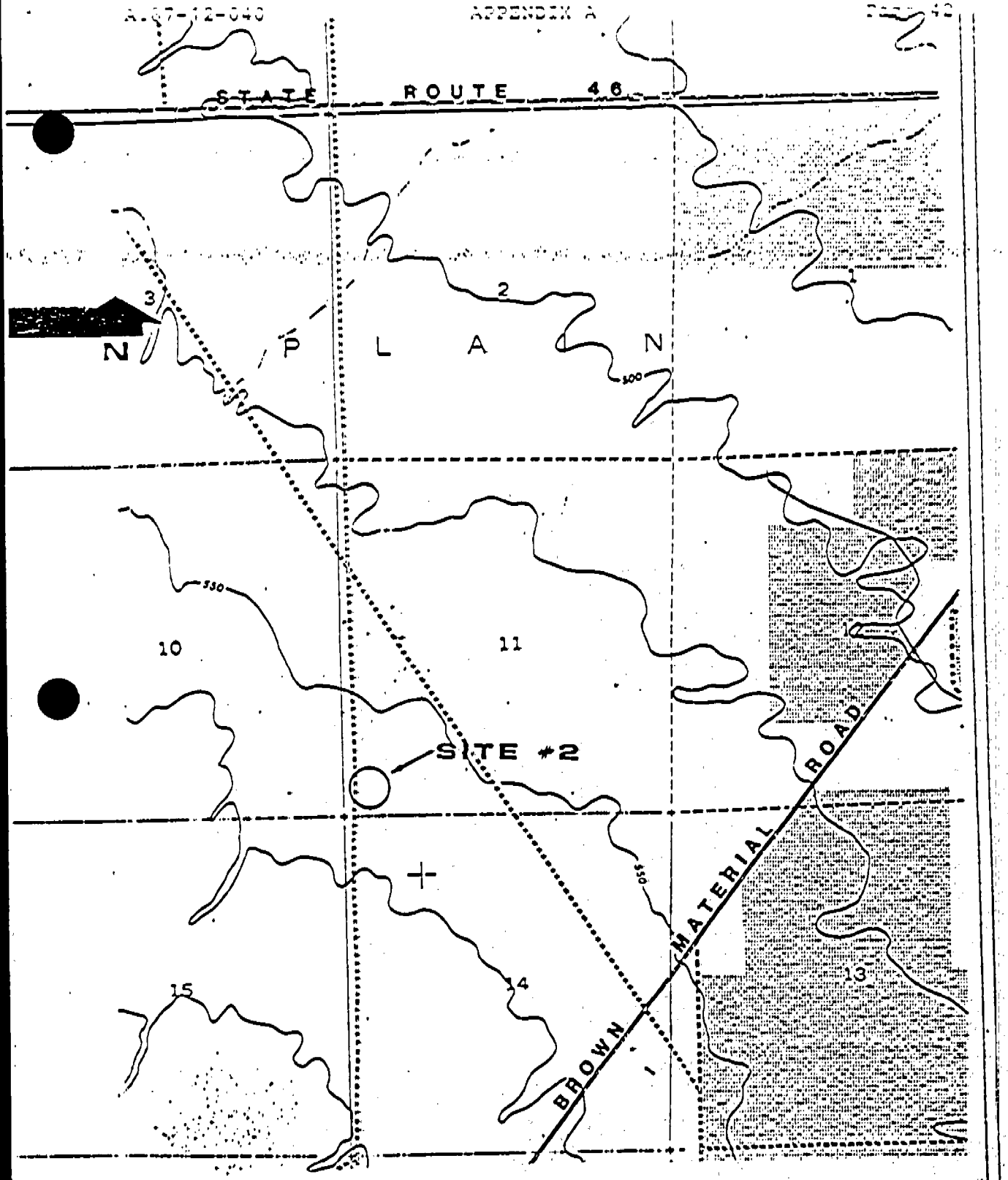


SOURCE: KERN COUNTY BOARD OF TRADE

	TITLE	FIGURE
SUA CONSULTANTS VISALIA BAKERSFIELD	REGIONAL LOCATION SITES 1, 2, &3	1



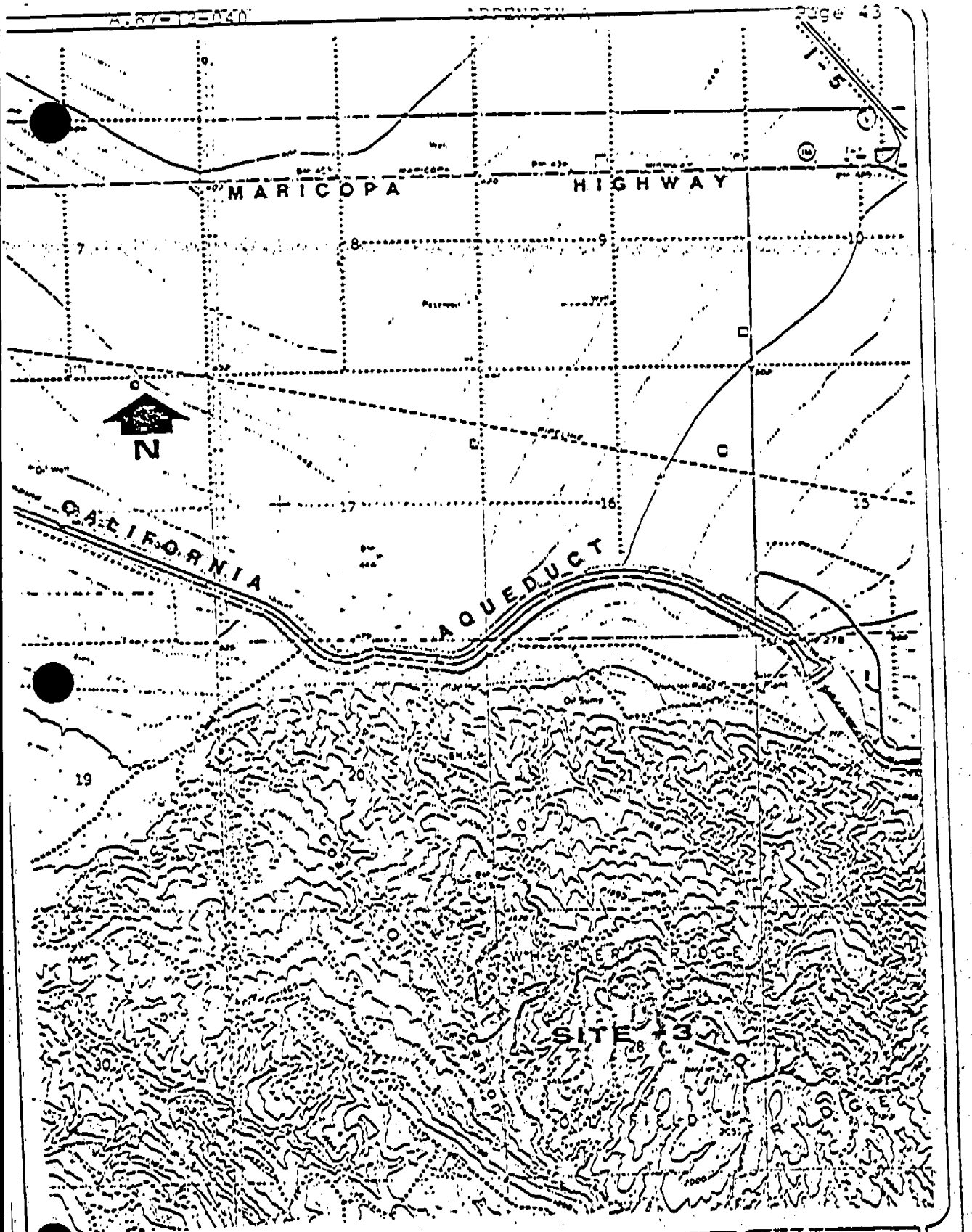
QUAD CONSULTANTS VISALIA PASADENA FLO	TITLE APPROXIMATE LOCATION SITE #1	FIGURE 2



QUAD CONSULTANTS
FRESNO BAKERSFIELD

TITLE APPROXIMATE LOCATION SITE #2

FIGURE 3



CUA CONSULTANTS VISALIA BAKERSFIELD

TITLE APPROXIMATE LOCATION SITE #3

FIGURE 4

S00°03'13"E. 100.00 feet; thence
N89°56'47"E. 100.00 feet; thence
N00°03'13"W. 100.00 feet to the True Point of Beginning.
Containing 10,000 square feet, more or less.

Each facility will be composed of essentially the same equipment and structures. Improvements will consist of a small enclosed structure to house the facility power source and electronics and a 110' tower to support microwave relay and transmission antennas. Each facility will be surrounded by a security fence and will be serviced by private access easements. The construction of these facilities and their access routes will require site grading and leveling.

BIOLOGICAL REVIEW

The San Joaquin Valley region of central and western Kern County is biologically rich and unique. The region is characterized by the relatively flat Valley floor which gently slopes up to the flanks of the Sierra Nevada Mountains, the San Emigdio Range and the Temblor Range. Elevations in the vicinity of the three proposed project sites range from approximately 775 feet above mean sea level at the Delano site to approximately 2000 at the Wheeler Ridge site.

Natural vegetation in the region belongs to two basic plant associations, the Saltbush Alkali Scrub and Lower Sonoran Grassland Associations as described by E. C. Twisselmann in A Flora of Kern County. Some phase changes occur in the Lower Sonoran Grassland Association as Atriplex polycarpa (Common Saltbush) varies in its local contribution to total cover. However, significant changes in the herb or shrub diversity does not occur.

The more mineralized soils of the Southern San Joaquin Valley support the Alkali Sink Association. Various phases of this association can be distinguished based on the extent of playa development, expression of microrelief, and dominance of certain floral species. The typical Alkali sink vegetation as described by Twisselmann is largely restricted to the floors of historic drainage basins and support such species as Allenrolfea occidentalis, Sporobolus airoides, Suaeda fruticosa, Delphinium recurvatum and Frankenia grandiflora var. campestris. On the flanks of these basins or in less mineralized areas, a scrub vegetation often develops which is dominated by various species of Atriplex (saltbush). The most indicative of

these species in terms of the scrub alliance with the valley floor sink phase, is Atriplex spinifera.

The Lower Sonoran Grassland occurs around the head of the lower San Joaquin Valley in the vicinity of the Buena Vista Lake and Tulare Lake drainages. This region is a true desert with annual rainfalls totaling less than six inches. The vegetation predominantly consists of winter annual herbs with some xerophytic shrubs.

Table 1 lists species considered typical of these associations.

The arid plains and foothills of the Tulare, Kern and Buena Vista Lake basins have evolved diverse wildlife communities with wildlife species and subspecies occurring here that are not found in the geographically more expansive arid habitats of the Mojave Desert or the more mesic valley habitats of central and northern California.

Conversion and development of these habitats for a variety of agricultural, petroleum, and urban land uses has resulted in substantial population declines for several plant and animal species. These population declines have resulted in the listing of several species as rare, threatened, or endangered by either the California State Department of Fish and Game or the U.S. Fish and Wildlife Service. In addition, several species are currently considered candidates for listing requiring further biological study to make the proper determination. Table 2 below provides a list of these "sensitive species":

Table 2
Sensitive Species of Western Kern County
San Joaquin Valley

Species	Status
Caulanthus californicus	FC2 / CE / CNPS List 3
Lembertia congdonii	/ / CNPS List 4
Eriastrum hooveri	/ / CNPS List 4
Eriogonum gossypinum	FC2 / / CNPS List 4
Ammospermophilus nelsoni (Nelson's Antelope Ground Squirrel)	FC2 / CT /
Athene cunnicularia (Burrowing Owl)	/ CSC /
Dipodomys ingens (Giant Kangaroo Rat)	FE / CE /
D. nitratoides nitratoides (Tipton Kangaroo Rat)	FP / CSC /

A Partial Checklist of Flora Typical of the
Lower Sonoran Grassland and Alkali Sink Association

Scientific Name

Allenrolfea occidentalis
Allium howellii
Allocarya acanthocarpa
Aster intricatus
Astragalus hornii
A. lentiginosus var. nigricalycis
A. oxyphysus
Atriplex argentea var. expansa
A. coronata
A. polycarpa
A. serenana
Avena barbata
Bassia hyssopifolia
Bromus rubens
Cressa truxillensis var. vallicola
Delphinium recurvatum
Distichlis spicata
Eatonella congdonii
Eremalche kernensis
E. Parryi
Eriogonum gossypinum
Festuca microstachys var. simulans
F. reflexa
Frankenia grandifolia var. campestris
Gilia tricolor ssp. diffusa
Heliotropium curassavicum var. oculatum
Hemizonia pallida
Hordeum glaucum
Kochia californica
Lasthenia chrysostoma
L. ferrisiae
L. minor
Lepidium dictyotum
Linanthus luniflorus ssp. pharnaceoides
Lupinus nanus var. Menkarne
Malacothrix californica
Nitrophila occidentalis
Opuntia treleasei
Prosopis juliflora var. torreyana
Salicornia subterminalis
Schismus arabicus
Scirpus paludosis
Sesuvium sessile
Sida hederacea
Sisymbrium irio

Sporobolus airoides
Suaeda fruticosa
S. torreyana
Tamarix pentandra
T. tetrandra
Trichostema ovatum
Wislizenia californica

D. nitratoides brevinasus (Short-nosed Kangaroo Rat)	FC2	/ CSC	/
Gambelia silus (Blunt-nosed Leopard Lizard)	FE	/ CE	/
Perognathus inornatus inornatus (San Joaquin pocket mouse)	FC2	/	/
Vulpes macrotis ssp. mutica (San Joaquin kit fox)	FE	/ CT	/

Status:

FE	Federally listed Endangered Species
FC2	Federal Candidate Species List 2
FP	Federal Proposed Endangered Species
CE	California listed Endangered Species
CT	California listed Threatened Species
CSC	California State Department of Fish and Game Species of Special Concern
CNPS List 3:	Plants where more information is needed
CNPS List 4:	Plants of limited distribution

Four sensitive plant taxa could potentially occur in the area of the proposed microwave relay stations: Caulanthus californicus (California caulanthus), Lembertia congdonii (Congdon's eatonella), Eriastrim hooveri (Hoover's eriastrum) and Eriogonum gossypinum (Cottony buckwheat).

Caulanthus californicus is a nearly glabrous annual which is erect, branching, 2-5 dm. high rising from basal leaves. The basal leaves typically range from oblanceolate, sinuately-lobed, to pinnatifid. The cauline leaves are typically oblong to ovate, dentate, amplexicaul or obtuse. Racemes are often lax to secund with pedicels pilose, 5-10 mm. long and often recurved with age. Sepals are 6-9 mm. long and commonly unequal, white membranous, purple-tipped and sacate at the base. Petals are narrow, whitish, slightly exceeding the sepals. Siliques are slightly ascending to deflexed, slightly compressed, 2-4 cm. long and 2-4 mm. wide.

C. californicus blooms for a short period in early spring, March to April. It is presently thought to be limited to the dry slopes and flats below 3000 feet above sea level in valley grassland habitats from Fresno, Tulare, Kern and eastern San Luis Obispo Counties.

Lembertia congdonii is an annual which at maturity may be from 5-30 cm. high with several decumbent, sometimes succulent branches originating from the base. Leaves and stems are typically loosely flocose to wooly. The leaves are commonly 1-3.5 cm. long, narrowly oblong with margins ranging from repand to sinuate-dentate, rarely entire.

Heads are clustered towards the ends of the branches and sessile or short peduncled. The involucures are hemispheric with 4-7 phillaries which are sometimes found with black tomentose tips. The ray flowers and their akenes are clearly distinguishable from those of the disk.

L. congdonii is listed by the California Native Plant Society as a plant of limited distribution in need of further monitoring (CNPS List 4). It is considered to range from Fresno County southward through Kern County in the San Joaquin Valley and it is reported from the Carrizo Plain in San Luis Obispo and Kern County. It is known to occur on sandy and clayey soils below 1200 feet above sea level in the valley grassland associations and alkali sink assocation. L. congdonii usually flowers from March to April.

Eriastrum hooveri is typically 10-20 cm. high with cirgate, glaberate branches. The leaves are entire, linear to three cleft with two linear lateral lobes. The heads are normally one to three flowered and somewhat lanate. The calyx is unequally split, 5-6 mm. long with tips connivent over the capsules. Corollas range in color from pale blue to white or cream yellow. The stamens are inserted in the throat of the corolla and not normally exerted. Capsules are oblong-ellipsoid, approximately 3 mm. long, and each locule is 2-4 seeded.

E. hooveri is listed on the California Native Plant Society List 4 as a taxon that warrants further monitoring. Presently, E. hooveri is known from a few collections in valley grassland habitats below 500 feet above sea level from Fresno County south to Kern County.

Eriogonum gossypinum is a diffusely branched annual ranging from 0.5-2 dm. in height. The basal leaves are broadly oblanceolate and typically 1.5-4 cm long. Cauline leaves are smaller and lanceolate. Peduncles which vary from 2-15 mm. terminate with turbinate, deeply lobed involucures. Involucures are approximately 3 mm. high and filled with a dense, white cottony tomentum. Flowers in each involucure are few and small, often concealed by the dense tomentum. Calyx lobes are similar, linear-oblong, and approximately 1.5 mm in length.

This taxon was apparently never common in its historic range and both listings call for information in order to properly evaluate its status. Current data demonstrates that E. gossypinum is typically found below 3000 feet above sea level on disturbed or sparsely vegetated sandy to gravelly sites around the head of the San Joaquin Valley. Geographically, E. gossypinum is restricted to Kings and Kern Counties. It is suspected that E. gossypinum is an

early colonizer after disturbances and unable to compete with other grassland species once the site is stabilized.

The following sensitive animal species are known to occur in the southern San Joaquin Valley in habitats similar to those of the project sites: Ammospermophilus nelsoni (Nelson's antelope ground squirrel), Athene cunicularia (Burrowing Owl), Dipodomys ingens (Giant kangaroo rat) D. nitratoides nitratoides (Tipton kangaroo rat), D. nitratoides brevinasus (short-nosed kangaroo rat), Gambelia silus (Blunt-nosed leopard lizard), Perognathus inornatus inornatus (San Joaquin pocket mouse), and Vulpes macrotis ssp mutica (San Joaquin kit fox).

Ammospermophilus nelsoni is a smallish yellow-brown to buff ground squirrel with two characteristic white stripes along the dorsal side beginning just at the base of the neck and extending the length of the body. Another distinguishing characteristic is that when running, A. nelsoni will hold its tail over the back, exposing the white undertail. In contrast to most other native southern San Joaquin mammals, A. nelsoni is active during daylight hours except during heavy fog or when temperatures fall below 50° F.

A. nelsoni burrows are typically found in well-drained loam to sandy loam soils on level to gently sloping terrain. The species is rarely found in alkaline soils or rocky upland terrain. Its present range is along the valley floor and its western perimeter with no known populations east or north of Bakersfield. A. nelsoni is only common near Elk Hills and along the lower western slopes of the Temblor Range near Maricopa, Taft, and McKittrick in Kern County.

Athene cunicularia (Burrowing Owl), is a small brownish owl commonly observed by day standing near burrows or on fence posts. It is easily recognized by its long legs, rounded head, and short stubby tail. Athene cunicularia nests in abandoned rodent burrows laying 5-9 white eggs. Its habitat is open grassland and other xeric valley floor habitats in Kern County.

Like many of the other Lower Sonoran Grassland species described herein, Athene cunicularia has experienced dramatic population declines as a result of the conversion of valley grassland habitats to intensive agricultural or urban uses. As a result of this historic reduction in population size and available habitat, Athene cunicularia is now recognized by the California State Department of Fish and Game as a species of special concern.

Dipodomys ingens is a nocturnal dusky kangaroo rat with a well developed stripe on a tail which is dusky-tipped. D.

ingens is the largest kangaroo rat historically found in the project area. Historically, D. ingens could be found throughout the western San Joaquin Valley along with populations in the Carrizo and Elkhorn Plains and Cuyama Valley. Currently, D. ingens is distributed in scattered locations throughout its historic range, however, historic densities are only found on as few as 12 square miles. The two largest populations are found at the Elk Hills Naval Petroleum Reserves in Kern County and on the Elkhorn Plain in San Luis Obispo County.

D. ingens prefers flat to gently sloping terrain on fine sandy-loam soils where temperatures range from a winter low of 50° F to a summer high of 104° F. Burrows are found in areas where cover consists of mostly annual grasses and herbs with little or no shrub cover. Precincts consist of one to four burrow openings with horizontal burrows ranging 60-120 mm wide by 50-125 mm high and vertical openings ranging from 45-75 mm in diameter.

D. nitratoides ssp. nitratoides (Tipton kangaroo rat), has been collected from near Tipton and Earlimart in Tulare County and eight miles northeast of Bakersfield, near Caliente Wash, and in the vicinity of the Buena Vista Recreation area in Kern County. Specimens examined by Grinnel show the following mean measurements; total length, 233 mm., tail vertebrae length, 139 mm, hind foot, 35 mm, length of skull, 33.9 mm, and breadth of skull, 21.9 mm. D. nitratoides ssp. nitratoides can be distinguished from its most similar relative, D. merriami ssp. merriami, by its coarser, less silky pelage which appears less brightly ochraceous and broader black tail stripes.

D. nitratoides ssp. nitratoides is found in isolated populations on the southeastern flank, the head, and the southwestern flank of the San Joaquin Valley. Records illustrate that typical habitat for D. nitratoides ssp. nitratoides falls within the Lower Sonoran Grassland Association. The general conversion of habitat to urban and agricultural uses throughout the southern San Joaquin Valley is responsible for the present resource management concern.

D. nitratoides brevinasus (Short-nosed kangaroo rat) is found on the west side of the San Joaquin Valley from Panoche Creek and Mendota in the north to the Antelope Plains and west of Lost Hills in the south. D. nitratoides brevinasus is also found in the Panoche and Cuyama Valleys and the Carrizo Plains. The present range of this species is mostly west of D. nitratoides nitratoides. The Short-nosed kangaroo rat prefers highly to marginally alkaline soils in flat to gently rolling hills, usually above the valley floor itself. They are associated with grassland and

desert shrubs on friable soils in areas of very low annual precipitation.

D. nitratoides brevinasus is nocturnal and occupies small burrows with openings similar to D. nitratoides nitratoides. Horizontal burrow openings usually measure 25-70 mm wide by 20-55 mm high and vertical openings are 25-40 mm wide by 25-40 mm high.

Gambelia silus (Blunt-nosed leopard lizard) is a large lizard that originally ranged throughout the San Joaquin Valley and surrounding foothills. Dorsal coloration varies from grayish to brownish with characteristic whitish cross bars on the back and tail. In addition to this basic coloration, darker blotches are spread across the dorsal side giving the appearance of a leopard like pattern. Breeding females have bright salmon-pink patches on the sides of their abdomens which clearly distinguish them from other lizards inhabiting the southern San Joaquin Valley.

G. silus are most active in the late spring and early summer months when air temperatures range between 30° C. to 35° C., and soil temperatures range between 30° C. to 50° C. These conditions are commonly associated with clear sunny days with light variable winds. This large predacious lizard prefers habitat where there is considerable bare ground so that it may run down a variety of insect prey. Typically it is observed in washes, arroyos, and gulleys although it may occur in areas of relatively flat ground if significant amounts of bare ground are available. Much of G. silus habitat that was once available in the Southern San Joaquin Valley has been converted to urban/suburban or agricultural uses.

Perognathus inornatus ssp. inornatus (San Joaquin Pocket Mouse), is a small nocturnal mouse that is endemic to the lowlands of central California. Considerable taxonomic confusion occurs among the two silky pocket mice that are reported to occur in the central valley of California. Structural differences between P. inornatus and P. longimembris are slight. There is a distinct difference in the number of chromosomes of two species with P. inornatus having 50 and P. longimembris having 56. Further confusion of the taxonomy is caused by the obscure nature of early collection field notes.

P. inornatus ssp. inornatus commonly burrows beneath small shrubs where soils are moderately friable and have developed on alluvial or wind-drifted sands. Typically the entrances to the burrows are plugged during the day to protect against unnecessary heat stress. Studies have suggested that population densities of P. inornatus ssp. inornatus were never very large in any given area.

Vulpes macrotis ssp. mutica is a nocturnal fox that is believed to have historically ranged through seventeen California counties that either lie in or border on the San Joaquin Valley. This small fox is light buff to gray above with rusty to yellow sides and buff to white undersides. Its long tail is buff to grayish and has a black tip. V. macrotis ssp. mutica dens are usually found in loose soils and often the species will use and/or enlarge dens or burrows of other species. Dens can be single or multiple entrance with entrances 6 to 10 inches in diameter. Natal and pupping dens average 6 entrances and can have as many as 18. Pups are born in late February or early March and will venture out of dens by late March. Although primarily nocturnal, diurnal activity may occur in the presence of pups. Natal dens often have numerous scats and prey remains near the entrances.

The historic range of V. macrotis ssp. mutica extended from as far north as Tracy, San Joaquin County, on the west side of the valley, and near La Grange, Stanislaus County, on the east side of the valley, south to the foothills at the head of the valley, Kern and San Luis Obispo Counties. This historic range has been estimated at 8667 square miles. Estimated historic population levels have been as high as 12,134 individuals. Population densities prior to the large scale losses of suitable habitat were estimated to be one fox per square mile on the west side of the valley. Presently, V. macrotis ssp. mutica has been eliminated from much of its historic range on the eastern side of the valley in Stanislaus, Merced, Madera, and northern Fresno Counties. However, foxes have been reported from portions of Monterey, Santa Barbara, and Santa Clara Counties all outside of their published historic range.

1975 population estimates by the California State Resources Agency placed the extant population at 6961 animals. This estimate represents a 20-43% decline in the population since the 1930's. The continued loss of habitat since that estimate was published logically leads one to conclude that the current population is significantly less.

SURVEY METHODS

The three proposed project sites were qualitatively surveyed on January 15 1988 to determine the extent of native vegetation available at each location. The Delano site and the Lost Hills site were judged to present some potential habitat for endangered species although the overall value was low. The Wheeler Ridge site is located entirely on an abandoned oilfield tank battery site and does not have substantive remaining natural habitat value.

The Delano and Lost Hills sites were scheduled for further onsite reconnaissance field surveys which consisted of random transects, nocturnal spotlight surveys and scent stations. All of the further survey work was directed toward a determination of endangered species habitat utilization. The further survey work was not intended to inventory project site flora and fauna.

RESULTS

The Delano site exhibits substantial habitat utilization by California ground squirrels, black-tailed jack rabbits and Audubon's cottontail rabbits. A single San Joaquin Kit Fox scat pile was observed on the project site and surrounding landfill area. The January 23, 1988 nocturnal spotlight survey and the scent station failed to demonstrate further San Joaquin kit fox habitat utilization. No evidence of other endangered species were observed on the site.

The Lost hills site vegetation was ruderal in nature. Black-tailed jackrabbits and Audubon's cottontails utilized the site somewhat. The nocturnal spotlight survey and the scent station failed to demonstrate San Joaquin kit fox habitat utilization. No evidence of other endangered species were observed on this site.

RECOMMENDATIONS

The three proposed microwave relay stations will not impact endangered species through their construction and operation. The only evidence of habitat utilization found at any of the three sites was a San Joaquin kit fox scat pile at the Delano site. A subsequent noctural spotlight survey and scent station failed to indicate the present use of the site by denning or foraging foxes. In view of the very limited habitat value presented by these three sites, no mitigation measures are recommended.

Appendix 2

Biological Survey of Antenna Site 3

Bakersfield Cellular 1

Mobile Telephone System Project

SENSITIVE SPECIES SURVEY FOR BAKERSFIELD CELLULAR TELEPHONE CELL SITE # 3, KERN COUNTY, CALIFORNIA

Submitted to:

Tom Poore
Bakersfield Cellular Telephone Co.
841 Mohawk, Suite 190
Bakersfield, CA. 93309

Submitted by:

CWESA
CONSULTANTS IN WILDLIFE AND ENVIRONMENTAL SERVICES AGENCY
150 CLOVIS AVE., SUITE 201 • CLOVIS, CALIFORNIA 93612

8 February, 1988

1.0 INTRODUCTION

Bakersfield Cellular Telephone Company (BCT) is constructing transmitting facilities and towers on 6.5-acre sites in the Bakersfield area, Kern County, California. Five of these sites passed the agency review process under a negative declaration (judged to have no impacts to sensitive plants and wildlife). CWESA was contracted by BCT to survey the remaining site, located approximately 5 mi. southwest of Bakersfield (T30S R25 E Sec 25), for its suitability to support populations of sensitive plant and wildlife species (Tables 1 and 2). This report documents our findings.

2.0 METHODS

Reconnaisance field surveys were conducted on the proposed site and a 30 m wide buffer zone on 3 February 1988. Surveys consisted of walking meandering transects spaced approximately 30 m apart over the entire area. Sightings and sign of all target species were recorded and photographs were taken to provide permanent documentation.

Table 1. Sensitive plants known from the project site vicinity.

SPECIES[a]	STATUS[b]	HABITAT[c]
Atriplex tularensis Couville Bakersfield saltbush	CNPS 1B, F C1	AS
Caulanthus californicus (Wats.) Payson California caulanthus	CNPS 3, F C2	VG
Cirsium crassicaule (Green) Jepson slough thistle	CNPS 1B, F C2	DWA
Cordylanthus mollis Gray ssp. *hispidus* (Penn.) Chuang & Heckard hipids bird's beak	CNPS 1B, F C2	AS, VG
Eatonella congdonii Gray Congdon's eatonella	CNPS 4	AS & VG
Eremalche kernensis Wolf. Kern mallow	CNPS 1B	SS
Eriastrum hooveri (Jepson) Mason Hoover's eriastrum	CNPS 4	AS
Eriogonum gossypinum Curran cottony buckwheat	CNPS 4, F C2	VG & R
Hemizonia palilda Keck Kern tarplant	CNPS 4	VG & SS
Opuntia basilaris Engelm. & Bigel var. *treleasei* (Coult) Toumey Bakersfield bevertail cactus	CNPS 2, F T	VG
Trichostema ovatum Curran San Joaquin bluecurls	CNPS 4	VG

a Scientific and common names follow CNPS (1984).

b CNPS status code: 1B = plants rare & Endangered in California and elsewhere; 2= plants rare & Endangered in California but more common elsewhere; 3 = plants about which more information is needed; 4 = plants of limited distribution (a watch list).

Federal status code: E = Endangered; T= threatened; C1 = Candidate with information warrenting listing; C2 = Candidate where more information is needed before listing is appropriate.

c Habitat codes: AS = Alkali Sink; VG = Valley Grassland; SS = Saltbush Scrub; R = roderal (disturbed).

Table 2. Sensitive Wildlife species known from the project site vicinity.

SPECIES[a]	STATUS[b]	HABITAT[c]
Gambelia silus blunt-nosed leopard lizard	F E, S E	VG & SS
Perognathus inornatus San Joaquin pocket mouse	F 2	VG & SS
Dipodomys nitratioides nitratioides Tipton kangaroo rat	F 2	VG & SS
Dipodomys ingens giant kangaroo rat	F 1, S E	VG & SS
Ammospermophilus nelsoni Nelsons antelope squirrel	F 2, S T	VG & SS
Vulpes macrotis mutica San Joaquin kit fox	F E, S T	VG & SS

a Scientific and common names follow Jennings (1983) for reptiles and Jones et al (1982) for mammals.

b Status: F E = Federally endangered, F T = Federally threatened, F 1 = Candidate with enough information to warrent listing as threatened or endangered, F 2 = Candidate with not enough information to warrent listing at this time, S E = State endangered, S T = State threatened.

c Habitat codes: VG = Valley Grassland, SS = Saltbush Scrub.

3.0 RESULTS

The entire site and buffer zone consists of a recently plowed cotton field (Fig 1, Photo 1) and no sightings or sign of any of the target species were observed nor are any expected. However, 2 active kit fox dens, several tracks, fox diggings, and kangaroo rat sign (not *D. ingens*) were found in the disturbed native habitat in the canal right-of-way (R-O-W) directly west of the project site (Photos 2 and 3). This R-O-W could also support blunt-nosed leopard lizards or some of the annual plant species listed in table 1. Other nearby native habitat which could support the target species include: 1) The Bakersfield Water District's wildlife preserve located in the Kern River drainage approximately 0.5 mi north of the project site; 2) Native Valley Grassland which is presently being grazed by sheep, located approximately 0.5 mi east and 0.5 mi west (across I-5) of the project site; and 3) Native Saltbush Scrub located approximately 0.5 mi south of the project site (Fig. 1). All remaining habitat in the vicinity is agricultural land.

4.0 RECOMMENDATIONS

The kit fox dens (and their occupants) located in the canal R-O-W would not be disturbed by the construction of the BCT facilities if traffic is confined to the proposed access road and construction activities are confined to the 5-acre site. Likewise, construction and operation of these facilities will not negatively impact any other of the nearby native habitats. Therefore, approval and issuance of the project use permit is recommended.

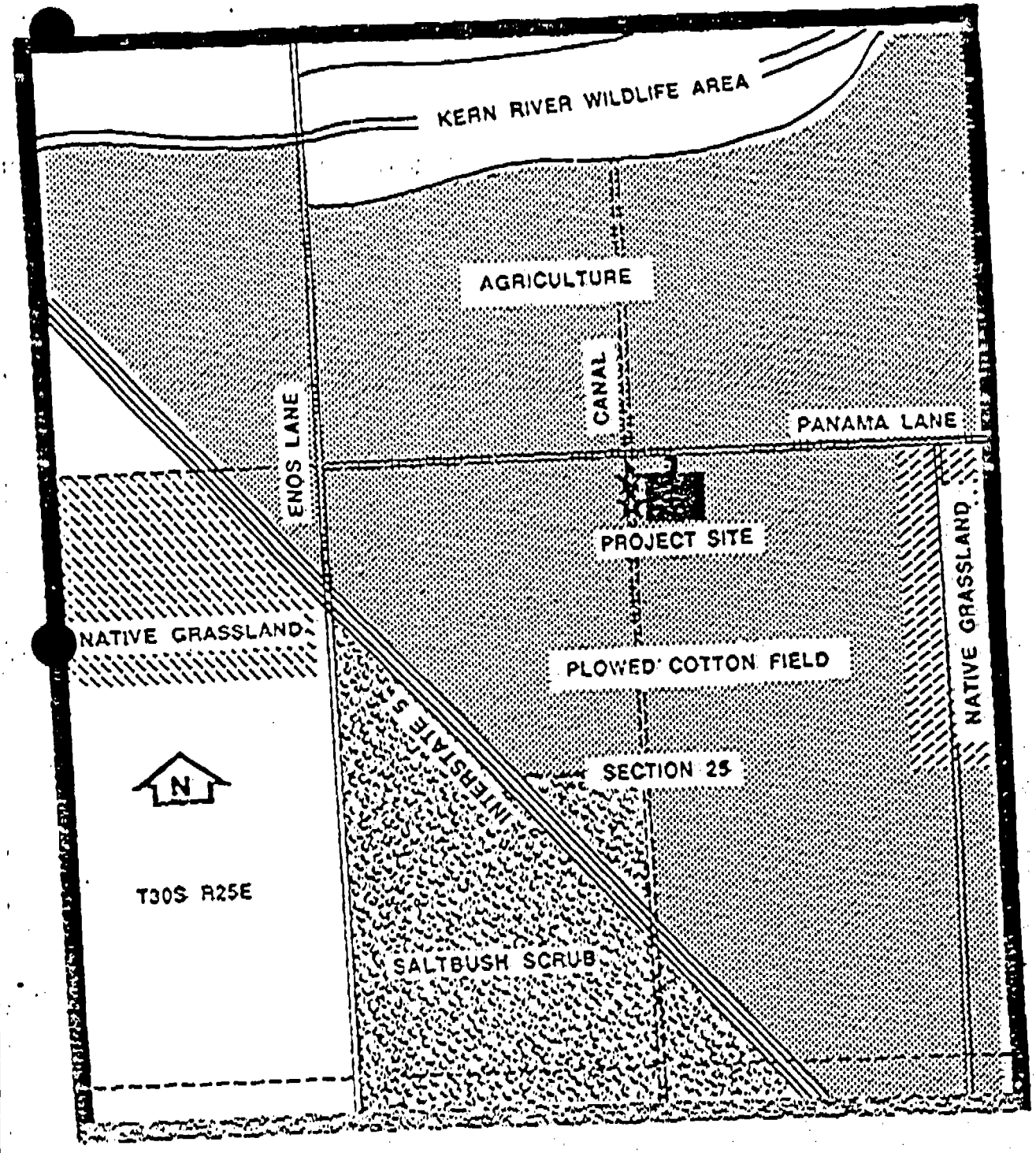


Figure 1. Map of the project area showing the project site, habitat types, and locations of kit fox dens along the canal R-O-W near the project site (shown with stars).

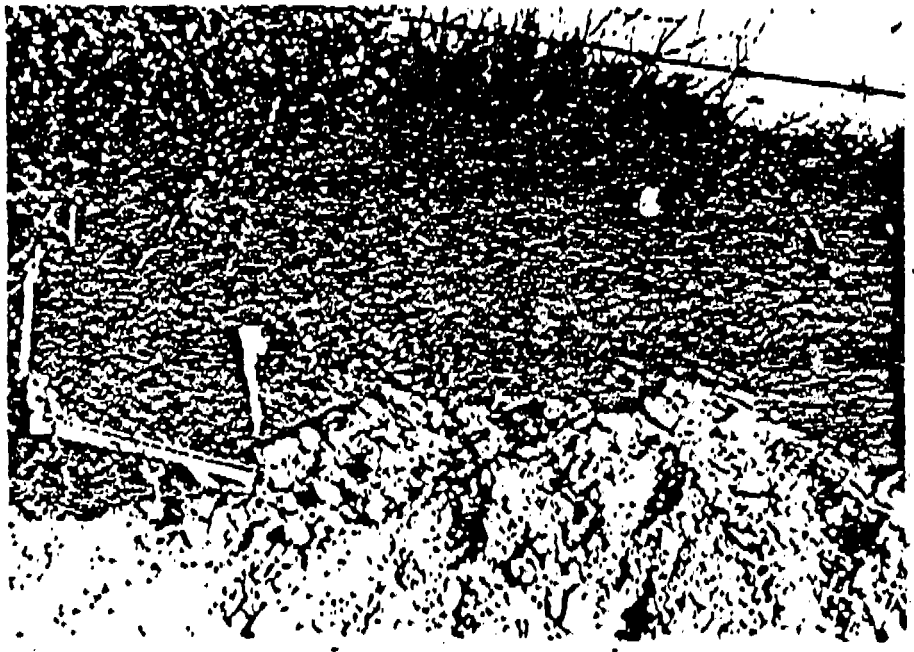


Photo 3. Photograph of kit fox den found in the canal R-O-W adjacent to the project site.

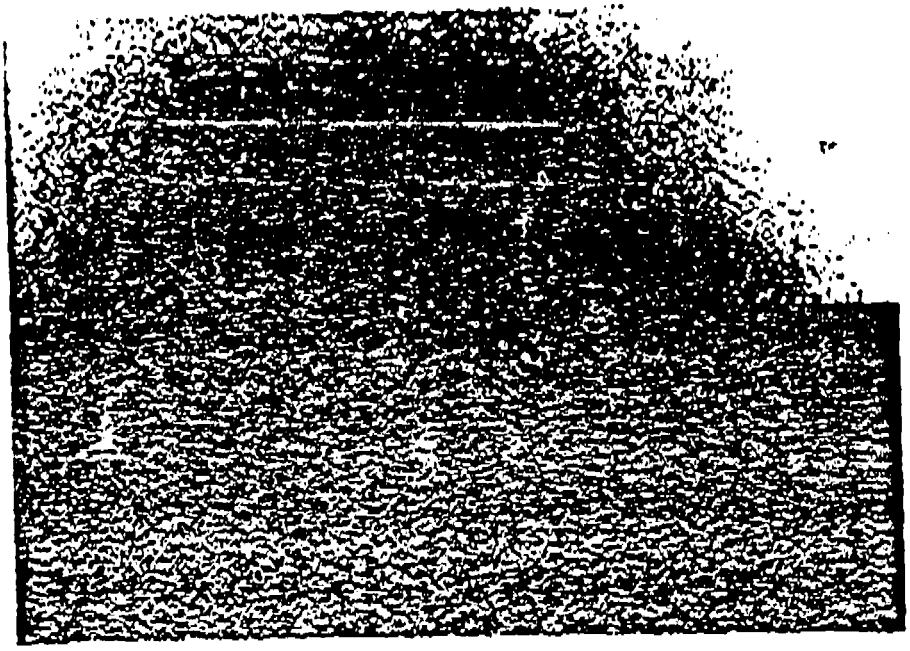


Photo 1. Habitat photo of the proposed project site. Photo is taken from the northwest corner of the site facing southeast.

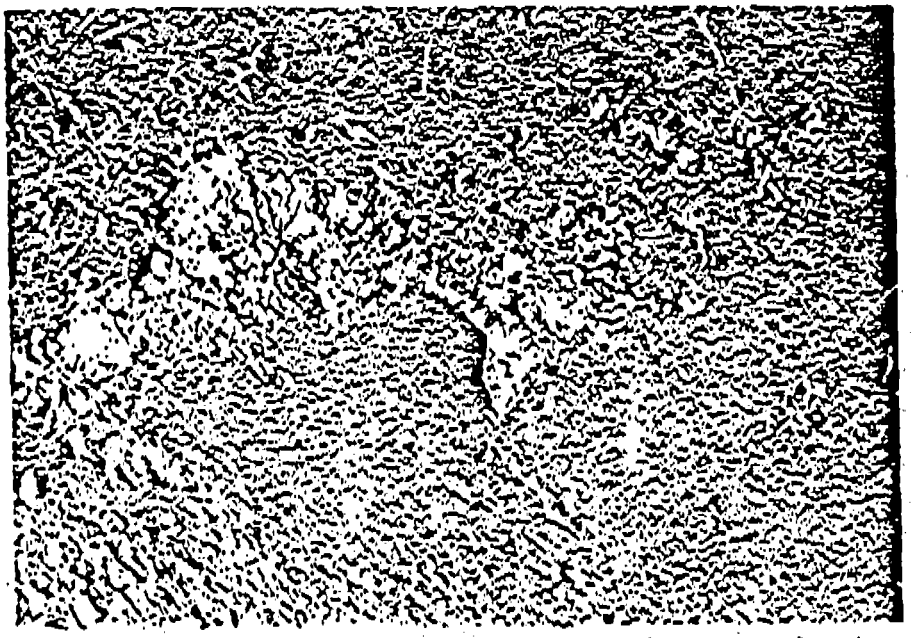


Photo 2. Photograph of kit fox den found in the canal R-O-W adjacent to the project site

(END OF APPENDIX A)

APPENDIX B

NOTICE OF DETERMINATION

TO: Office of Planning & Research
1400 10th St., Room 121
Sacramento, CA 95814

FROM: California Public Utilities Commission
505 Van Ness Street
San Francisco, CA 94102

SUBJECT: Filing of Notice of Determination in compliance with Section 21008 or 21152 of the Public Resources Code

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PROJECT TITLE: Cellular One of Bakersfield

STATE CLEARINGHOUSE NUMBER: 88011806

CONTACT PERSON: Elaine Russell (916)324-6195

PROJECT LOCATION: Three antenna sites are scattered throughout Kern County; one is in the City of Delano.

PROJECT DESCRIPTION: Cellular One of Bakersfield is seeking approval from the CPUC for four antenna sites in unincorporated Kern County and the City of Delano.

This is to advise that the California Public Utilities Commission, as Lead Agency, has approved the above-mentioned project and has made the following determinations regarding the above-mentioned project:

1. The project <u>will</u> <u>not</u> have a significant effect on the environment.

2. A Negative Declaration was prepared for this project pursuant to the provisions of CEQA. A copy of the Negative Declaration may be obtained at 1107 9th St., Suite 710, Sacramento, CA 95814.

3. Mitigation measures <u>were</u> made a condition of the approval of this project.

4. A Statement of Overriding Consideration <u>was</u> <u>not</u> adopted for this project.

DATE RECEIVED FOR FILING _____ PROPOSED FOR APPROVAL

_____
Victor Weisser
Executive Director

Date:_____

"4. Construction at Cell Site No. 3 will take place entirely within the area currently in agricultural development and shall not encroach on the adjacent canal right-of-way.

"5. Construction and maintenance employees will be notified of the proximity to existing San Joaquin kit fox habitat at Site 3 and of the potential for kit fox use at Site 2 and informed of appropriate measures to avoid harming the kit fox.

"6. The applicant will only grade those areas of Site 2 necessary for construction of the access road, the modular equipment building and the antenna. The applicant will not subsequently develop or disturb the remainder of Site 2 during its lease period.

"7. Through this document and personal communication, the City of Delano has been notified of US Fish and Wildlife Service and CA Department of Fish and Game concerns relating to the use of Antenna Site No. 2 on the City's former landfill."

"8. If construction begins after 60 days of the date of the original survey, Cell Sites 2 and 3 should be resurveyed for San Joaquin kit fox use and the results of the survey submitted to the U.S. Fish and Wildlife Service."

Appendix A attached to this decision is a Notice of Determination which will be sent by the Commission to the Secretary of Resources (Resources) on applicant's project to construct a cellular system. Appendix B attached to this decision is the Negative Declaration and related Notice of Publication for the five-cell MTSO system. The Negative Declaration for Cell Site 1 and the MTSO is incorporated within the attached Negative Declaration by reference. It is not necessary to append that

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2 In respect to those concerns, Delano modified its request that applicant grade the entire site to the limited grading indicated in Condition 6.

11. Applicant plans to offer both wholesale and retail services in the Bakersfield MSA.

12. Applicant's affiliate, BCTC provides resale services in the Bakersfield, Visalia, and Fresno MSAs. We will require BCTC to phase out its resale service in the Bakersfield MSA within 90 days after applicant's cellular system is placed in service.

13. Under Rule 17.1.d. of our Rules of Practice and Procedure, applicant prepared a PEA for its entire system. It was required to undertake further environmental studies for cell sites 2 to 5 to evaluate the possible impact of construction on endangered species. Those studies are incorporated in applicant's supplemental PEA.

14. CACD prepared an initial Negative Declaration for the MTSO and Cell Site 1. That Negative Declaration, with minor corrections, was approved by the Commission and a Notice of Determination was filed with the Office of Planning and Research. CACD prepared another Mitigated Negative Declaration for sites 2 to 5, which incorporates the original Negative Declaration by reference.

15. The Commission is the lead agency under CEQA for determination of environmental effects of the project under consideration.

16. The proposed project will have no significant effect on the environment due to circumstances and mitigation measures peculiar to the project as set forth in the Negative Declaration.

17. As no comments to the Negative Declaration issued by the Commission have been received, and there were no protests to the application, a public hearing is not necessary.

18. The Commission has reviewed the Negative Declaration attached as Appendix B and the initial Negative Declaration contained in D.88-03-029.

19. Applicant's proposed rate schedules for the Bakersfield MSA are identical to those provided by Contel, the wireline "B" cellular provider except for the territory served. Contel is providing service in the Bakersfield, Visalia, and Fresno MSAs.

Conclusions of Law

1. The application should be granted as provided in the following order.

2. Applicant is subject to the user fee system set forth in PU Code Section 401, et seq. The surcharge for fiscal year 1987-1988 is 0.1%.

3. Applicant's proposed rates for wholesale and retail service and its other proposed tariffs should be authorized.

4. Applicant is a FCC cellular communications licensee and hence must use the Uniform System of Accounts established by D.86-01-043 in OIR 85-03-075.

5. The proposed funding of applicant by its ultimate parent corporations, MCCA and BSC, is reasonable. No further authority from the Commission is required for that funding.

6. The Commission should adopt the attached Negative Declaration attached as Appendix B including the mitigating measures identified therein.

7. Because of the public interest in effective competition this order should be made effective today.

8. Applicant should consult with CACD to demonstrate the adequacy of its signals between the 39 dBu contours surrounding cells 1 and 3 and between those contours and the contours surrounding cells 1 and 3. If necessary, CACD should advise applicant and the Commission of the need for an additional cell(s) to improve the signal between the 39 dBu contours.

9. Applicant may be required to construct additional cells to permit its signal to cover 75% of the Bakersfield CGSA within 36 months after issuance of the construction permit.

10. In the event that any facilities constructed pursuant to this decision do not conform with any applicable local codes, ordinances, etc. (other than those codes requiring local permits), applicant should inform the Commission in writing of such noncompliance prior to construction of the affected component.

11. It would not be reasonable for applicant to provide retail service in competition with its affiliate, BCTC.

Only the amount paid to the State for operative rights may be used in ratefixing. The State may grant any number of rights and may cancel or modify any monopoly feature of these rights at any time.

FINAL ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Cellular One of Bakersfield (applicant) to construct and operate a cellular mobile telecommunications system in the Bakersfield Metropolitan Statistical Area (MSA).

2. Within 30 days after this order is effective applicant shall file a written acceptance of the certificate of public convenience and necessity with the Commission's Evaluation and Compliance Division (CACD).

3. Applicant shall keep its books as directed by the Uniform System of Accounts for cellular communications licensees as prescribed by Decision (D.) 86-01-043.

4. The Negative Declaration as set forth in Appendix B to this decision is approved including the mitigation measures set forth therein; it includes by reference the Negative Declaration attached to D.88-03-029 previously transmitted by Notice of Determination to the Office of Planning and Research.

5. In constructing its system, applicant shall undertake the environmental mitigation measures identified in the Negative Declaration as lawfully required by local authority.

6. The applicant will consult with appropriate local public agencies on project details such as the design, color, and type of materials used in the antenna towers, the specific configuration of equipment on each facility site, and any other relevant community building codes, providing such conditions or requirements do not render the project infeasible. While it is the Commission's intent that local concerns be incorporated into the design, construction, and operation of this system, no additional permits from local authorities are required as a condition of this certificate. In the event that any certified facilities do not conform with any applicable local codes, ordinances, etc. (other than those codes requiring local permits), applicant shall inform the Commission in writing of such noncompliance prior to construction of the affected component.

7. For future expansion antenna sites to serve other portions of this market area, applicant shall submit environmental information the Commission Advisory and Compliance Division (CACD) prior to construction of such antennas. The CACD will review this material and determine at that time whether any supplemental environmental documentation is required in accordance with the provisions of the California Environmental Quality Act.

8. The Executive Director, as required by Public Resources Code § 21108, shall file with the Office of Planning and Research a Notice of Determination as set forth in Appendix A to this decision.

9. Applicant shall notify CACD in writing of the day it starts operating.

10. The Executive Director shall mail a copy of this decision to Bakersfield Cellular Telephone Company (BCTC).