

JUL 25 1988

Decision 88 07 065 JUL 22 1988

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 Santa Cruz Cellular Telephone Company)
 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 telecommunications service in)
 the Santa Cruz Cellular Service Area;)
 and for authority under Sections 816)
 through 830 and 851 of the Public)
 Utilities Code to issue evidence of)
 indebtedness in a principal amount)
 of up to \$3,100,000 and to encumber)
 public utility property.)

ORIGINAL

Application 88-03-030
(Filed March 14, 1988)

INTERIM OPINION

Background

In 1982, the Federal Communications Commission (FCC) determined that a need for cellular service had been established throughout the nation and that this service, with new cellular technology, would offer superior transmission quality and privacy with far greater capacity than conventional mobile radiotelephone service in use. Therefore, the FCC established a market structure for cellular systems (Memorandum Opinion and Order on Reconsideration, 47 Fed. Reg. 1018, 1003-34; 89 FCC 2d (1982)).

The FCC market structure allocates two blocks of frequencies within each Cellular Geographical Service Area (CGSA) or Metropolitan Statistical Area (MSA): "A Block" frequencies and "B Block" frequencies. An FCC permit for the A Block frequencies within a CGSA is designated to a non-wireline entity or individual. An FCC permit for the B Block frequencies within a CGSA is designated to a wireline telephone company located within the CGSA.

Application

Santa Cruz Cellular Telephone Company (applicant), a California corporation, requests a certificate of public convenience and necessity (CPC&N) to construct and operate a new domestic public cellular radio telephone service to the public within the Santa Cruz MSA located in Santa Cruz County. Applicant, a non-wireline entity, proposes to operate its cellular service on the A Block frequencies.

Concurrent to the requisite CPC&N, applicant requests authority to issue long-term debt not to exceed \$3,100,000 and to encumber such debt with applicant's public utility property, pursuant to Public Utilities (PU) Code Sections 816 through 830 and 851.

Copies of the application have been served on the cities and counties within applicant's proposed service area and on other entities with which applicant's proposed service is likely to compete, Exhibit J to the application.

Notice of the application appeared in the Commission's Daily Calendar of March 21, 1988. Protests to the application have been received from Cellular Resellers Association, Inc. (CRA) and from GTE Mobilnet of San Francisco Limited Partnership (GTEM). Subsequently, GTEM withdrew its protests on all issues except one, applicant's proposal to waive activation fees. GTEM's partial withdraw of its protests is the result of subsequent discussions with applicant.

CRA protests applicant's financial qualifications. In addition, CRA asserts that applicant should:

- a. Not pay commissions to agents,
- b. Set up a wholesale and retail division,
- c. Provide viable resale opportunities to resellers,
- d. Offer bulk wholesale rates only to certified resellers, and
- e. Provide fair interconnection terms to resellers, which are cost justified.

Applicant and Natubhai Patel, applicant's majority shareholder, filed separate responses to the protests discussed above.

On June 22, 1988, applicant filed a supplement to its application (Supplement), a copy of which has been served on protestants. The purpose of this supplement is to provide additional information requested by the assigned Administrative Law Judge to clarify applicant's FCC permit, shareholders, and financial statements.

The FCC rules and regulations require a cellular system to be constructed and ready to initiate service within 18 months from the date a permit is issued. To comply with this requirement the proposed cellular system must be constructed by September 1988. Time is of the essence. Therefore, this decision will conclude whether a CPC&N can be issued limited to the construction of the cellular system. Applicant's FCC permit, proposed cellular system, environmental report, and financial status are addressed in this decision. A subsequent decision will address the reasonableness of applicant's proposed rates and the protests pertaining to applicant's rates and service.

FCC Permit

Applicant does not possess the requisite FCC permit to construct a cellular system on the A Block frequencies within the Santa Cruz MSA. The FCC permit was issued to Patel on March 18, 1987, Exhibit B to the application.

By the Supplement, applicant represents that Patel will "shortly" file an application with the FCC for authority to transfer the FCC permit from Patel to applicant, a copy of which will be forwarded to the Commission. According to the Supplement:

"As happened in nearly all third-tier cellular metropolitan statistical areas, there were many competing applicants for the Santa Cruz Block A Construction Permit. At the encouragement of the FCC, more than 250 Santa Cruz applicants entered into Alliance Agreements pursuant to

which the successful applicant would hold 50.01% of the shares of a corporation which was to be formed following the FCC's designation. Mr. Patel, being the FCC designee, will be entitled to no less than 50.01% of the shares of Applicant. The remaining applicants will be entitled to no more than 49.99% of Applicant's shares."

Applicant has demonstrated that the FCC's intent in issuing Patel a permit was of a custodial nature until a corporation, with Patel as a majority stockholder, could be formed. Although applicant is not the holder of the FCC permit, applicant has taken the necessary steps to obtain title to the permit.

Applicant can be granted a limited CPC&N to construct its cellular system. By Decision 88-03-029, the Commission granted such authority to Cellular One of Bakersfield. However, applicant should be required to demonstrate that it possess the necessary FCC permit before it receives authority to operate the system.

Proposed Cellular System

Initially, applicant will use three cell sites located at 125 Patrick Road, Ben Lomond; 1339 La Madrona, Santa Cruz; and the summit of Mt. Chula, Santa Clara.

Subject to final agreement with Bay Area Cellular Telephone Company (BACTC), applicant will direct traffic to and from its cell sites through BACTC's Mobile Telephone Switching Office (MTSO) located in Oakland. The cellular equipment will be purchased from Ericsson Radio Systems (Ericsson), which also built BACTC's cellular system. The proposed system will be a technically integrated A Block operation which permits subscribers to use either applicant or BACTC to travel across the boundaries between CGSA's without any interruption of communications capacities.

Applicant's proposed system is capable of providing coverage to 68.2% (percent) of Santa Cruz County CGSA's land area and to 84.1% of the CGSA's population. Because of terrain

features, applicant represents that actual coverage will be even greater.

The Ben Lomond and Santa Cruz cell sites will be controlled by "DS-1" links leased at tariffed rates from Pacific Bell. The Santa Clara cell site will be controlled by existing facilities installed by BACTC.

Environmental Review

Applicant filed a Proposed Environmental Assessment (PEA) with its application pursuant to Rule 17.1 of the Commission's Rules of Practice and Procedure, Exhibit I to the application. Applicant requests that the Commission assume a Lead Agency role, pursuant to the California Environmental Quality Act and that the Commission issue a Mitigated Negative Declaration at the end of a 20-day comment period.

The Commission staff has reviewed the environmental aspects of the proposed initial construction project for the MTSO and three cell sites and prepared a Negative Declaration. The Negative Declaration was issued on April 28, 1988. A Notice of Preparation was distributed to local property owners and public agencies on May 2, 1988 and was published for comment through May 22, 1988. This 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, geomorphology, soils, climate, hydrology, aesthetics, vegetation, or wildlife of the antenna sites.
- "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. The only new construction will be at Cell Site #2, which includes construction of a 50 ft. monopole and a one-story, cinder block building. The site is currently used for communications purposes and has an existing shed and monopole. Visual impacts are expected to be minimal because the site is surrounded by thick, mature vegetation which will obscure most of the new monopole from view. 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 Federal Communications Commission (FCC)."

To assure that significant effects do not occur as a result of this project, the Commission 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 CPUC'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 the 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 CPUC prior to construction of such antennas. The CPUC 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."

By letter of May 16, 1988, The Pasatiempo Board of Trustees (PBT) protests the Negative Declaration because the Pasatiempo roadways are private roads and permission to pass is revocable, and because the "Amended Basic Pasatiempo Restrictions" prohibits commercial activity. PBT asserts that applicant will need a commercial development permit in an area which PBT has zoned residential-agricultural and the General Plan zoned rural residential.

The Department of General Services' Office of Project Development and Management (OPDM) responded to PBT's protest in June 1988. OPDM clarified that applicant will not use Pasatiempo roads. Applicant will use public roads and a dirt road which crosses the property of Mr. Nunes, applicant's landlord.

In regards to zoning, the Kite Hill site is and has for many years been used for radio transmission purposes. Current users include AAA, Santa Cruz Ambulance Service, and Caravan (senior citizens' assistance organization). No additional structures are proposed for this site. Applicant will share the existing monopole, or will replace it with a sturdier one of no greater height or visual impact. Applicant will also replace an existing, cinder block building with one of no greater size.

Therefore, the proposed project will not add to the number or size of structures already on site, or impact the current zoning.

The Negative Declaration and the related Notice of Publication copied as Appendix B to this decision should be adopted. A Notice of Determination on applicant's project to construct a cellular system, which will be sent to the Secretary of Resources (Resources) from this Commission, is attached to this decision as Appendix A.

Initial Construction Funding

The application states that planning and legal activities presently being conducted on behalf of applicant are being funded by advances from applicant's principal shareholder. Applicant represents that in addition to money advanced from Patel, it will need an additional \$1,000,000 in equity contributions during the first five years. This additional equity requirement will be met by issuing additional shares in applicant. To date, applicant has expended approximately \$353,000, Exhibit A to the Supplement.

Applicant negotiated with Provident National Bank (Provident) for a long term \$3,100,000 revolving credit line, at an annual interest rate of 1.50% (percent) above the prime interest rate. Initially, applicant will borrow approximately \$2.1 million to purchase and to install cellular equipment from Ericsson. Additional funds will be borrowed to cover preoperating expenses and to cover operating losses which are expected to occur during the first two years of operation. As a condition to this long term revolving credit line, applicant will be required to provide Provident with a security agreement granting Provident a lien on all existing and future assets owned by applicant. The terms of this loan is attached to the application as Exhibit G.

Applicant requests authority to enter into this long-term debt obligation and to encumber applicant's public utility property, pursuant to PU Code Sections 816 through 830 and 851.

CRA asserts that applicant's financial qualifications should be addressed at an evidentiary hearing because applicant does not have any funds to construct or operate the proposed system. CRA offers three reasons for its assertion. The first reason is that applicant did not present a balance sheet to substantiate that Patel had committed advances in excess of \$250,000.

Although applicant did not present a balance sheet it did present an income statement for the 1986 and 1987 calendar years and the three-month period ended March 31, 1988, Exhibit A to the Supplement. This statement shows that applicant has already incurred approximately \$407,000 of start up cost. The lack of a balance sheet does not substantiate the need to obtain additional support that Patel has committed advances to applicant. CRA's allegation is without merit.

CRA's second reason is that Patel has only \$96,000 of liquid assets, as of August 15, 1986, an amount that is not sufficient to meet the future capital contribution requirement.

Although CRA correctly states the amount of Patel's liquid assets, Patel has a net worth of approximately \$3,000,000 and a net income of approximately \$75,000, Exhibit F to the application. Further, applicant projects the need for this additional capital requirement to be spread over a five-year period. We conclude that Patel's net worth is sufficient to provide the additional capital contribution.

The third reason is that applicant does not have a firm commitment from Provident for the \$3,100,000 revolving line of credit. CRA cites the last paragraph of Provident's commitment letter, Exhibit G to the application, which states that:

This letter is not an attempt to define all of the terms and conditions of the financing, but shall serve as a framework upon which the documentation for the transaction shall be structured and as a basis for further

discussion and negotiation of the terms as may be appropriate.

Although the letter does not provide applicant a "firm" commitment of funds, it does provide specific terms and conditions under which the loan will be made. Such letters are not routinely issued by banks unless the bank fully intends to provide the requisite funds. Applicant is financially qualified to construct the proposed facilities and should be granted authority to issue \$3,100,000 of long-term debt and to encumber applicant's public utility property.

Reseller Restriction

By Decision 87-10-032 Patel, doing business as Santa Cruz Cellular, was granted a CPC&N to operate as a reseller of cellular radio telecommunications services within California, including Santa Cruz County. However, as of May 27, 1988, Patel has not begun resale operation in Santa Cruz County. Should applicant resell the service of the wireline carrier presently in operation in the Santa Cruz area, and require its customers to accept a telephone number change when applicant begins its own facilities-based operations, the applicant will advise all its retail customers of this number change requirement in the original subscriber agreement. Applicant should be aware that the Commission has required other entities obtaining a domestic public cellular CPC&N to give up their resale authority within the domestic public cellular MSA. This matter should be addressed in the subsequent decision.

Conclusion

Applicant should be granted a CPC&N limited to construction and test operation of its proposed cellular system and to issue long-term debt not to exceed \$3,100,000. This debt may be encumbered with applicant's public utility property. Such limited authority will preclude applicant from offering services to the public pending further authorization from this Commission.

Findings of Fact

1. Applicant requests a CPC&N to construct and operate a new domestic public cellular radio telephone service within the Santa Cruz MSA.
2. Applicant requests authority to issue long-term debt and to encumber such debt with applicant's public utility property.
3. Notice of the application appeared in the Commission's Daily Calendar of March 21, 1988.
4. CRA and GTEM filed protests to the application.
5. Natubhai Patel is applicant's majority shareholder.
6. The FCC rules and regulations require a cellular system to be constructed and ready to initiate service within 18 months from the date a permit is issued.
7. Applicant does not possess the FCC permit.
8. The FCC permit was issued to Patel.
9. Patel will file an application with the FCC for authority to transfer the FCC permit from Patel to applicant.
10. Immediate Commission authorization to construct the cell sites is needed to enable applicant to meet the FCC deadline.
11. Patel established applicant as a new corporation on October 23, 1987.
12. The proposed operation is technically feasible.
13. The Commission is the lead agency under CEQA for determination of environmental effects of the project under consideration.
14. The Commission has prepared a properly noticed and reviewed Negative Declaration for the proposed MTSO and three cell sites. The Negative Declaration was issued on May 2, 1988. The environmental review period ended on May 22, 1988.
15. The Pastiempo Board of Trustees responded to the Negative Declaration.

16. The environmental impacts of the proposed action, as mitigated by the conditions listed in the Negative Declaration, are not significant.

17. Applicant negotiated with Provident for a long term revolving credit line.

18. A condition of the long term credit line requires applicant to grant Provident a lien on all existing and future assets owned by applicant.

19. Patel has committed advances in excess of \$250,000.

20. Patel has a net worth of approximately \$3,000,000, as of August 15, 1986.

21. Public convenience and necessity require the grant of a CPC&N limited to construction and test operation of applicant's proposed facilities.

Conclusions of Law

1. Applicant should be granted a CPC&N limited to authority to construct and to test operate public cellular radio telecommunications facilities with three cell sites, as identified in the application.

2. The Commission should approve the Negative Declaration attached as Appendix B, including the mitigating measures identified therein.

3. Applicant should be granted authority to issue long-term debt up to \$3,100,000 and to encumber public utility property.

4. The following order should be effective on the date the order is signed because public convenience and necessity requires prompt construction of applicant's three cell sites.

INTERIM ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Santa Cruz Cellular Telephone Company (applicant)

limited to the construction and test operation of three cell sites within the Santa Cruz MSA, at the following locations:

- a. 125 Patrick Road, Ben Lomond.
(Lat. 37° 06' 02" N, Long. 122° 08' 24" W)
- b. 1339 La Madrona, Santa Cruz.
(Lat. 37° 00' 32" N, Long. 122° 01' 40" W)
- c. Near the summit of Mt. Chula, Santa Clara.
(Lat. 37° 07' 09" N, Long. 121° 49' 58" W)

2. Applicant shall not offer cellular service to the public without further order from this Commission.

3. The Negative Declaration as set forth in Appendix B to this decision is approved including the mitigation measures set forth therein.

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

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

6. For future expansion antenna sites to serve other portions of this market 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.

7. 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.

8. Applicant may issue an indebtedness in principal not to exceed \$3,100,000 and to encumber its public utility property. The terms and conditions of the debt shall be substantially the same as Exhibit G to Application 88-03-030.

9. The Commission does not, by this order, determine that applicant's construction program is necessary or reasonable for ratemaking purposes. These issues are normally tested in general rate making proceedings.

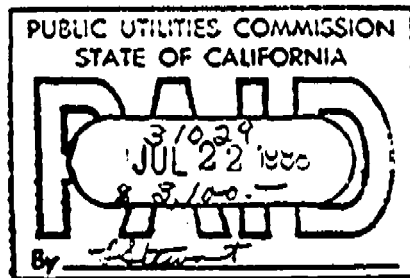
10. The corporate identification number assigned to Santa Cruz Cellular Telephone Company is U-3019-C which should be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

The authority granted by this order to issue an evidence of indebtedness will become effective when applicant pays \$3,100, the fee set by PU Code § 1904(b), to the Commission. In all other respects, this order is effective today.

Dated JUL 22 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.

Victor Weissor
Victor Weissor, Executive Director

AB

NOTICE OF DETERMINATION

TO: Office of Planning and Research FROM: Calif. Public Utility Commission
 1400 - 10th Street, Room 121 505 Van Ness Avenue, 5th Floor
 Sacramento, CA 95814 San Francisco, CA 94120

SUBJECT: Filing of Notice of Determination in Compliance with Section
 21108 or 21152 of the Public Resources Code.

Project Title		
Santa		
State Clearinghouse Number	Contact Person	Telephone Number
88050310	Cher Daniels	(916) 324-0207
Project Location - City		Project Location - County
Santa Cruz		Santa Clara

Project Description:

The California Public Utilities Commission proposes to grant a Certificate of Public Convenience and Necessity to Santa Cruz Cellular Telephone Company for the installation and operation of a mobile telephone system to serve the Santa Cruz Metropolitan Statistical Area. The proposed project consists of the replacement of one antenna with a supporting structure, and one story, 300 square foot equipment building, at 1339 La Madrona in Santa Cruz. The new equipment associated with the other two cell sites and the MSTO will be integrated into existing communications facilities. See Negative Declaration for location of cell sites.

This is to advise that the California Public Utilities Commission has approved the above described project and has made the following determinations regarding the above described project:

- The project will, X will not, have a significant effect on the environment.
- An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
X A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
 The EIR or Negative Declaration and record of project approval may be examined at:

- Mitigation measures were, X were not, made a condition of the approval of the project.
- A statement of Overriding Considerations was, was not, adopted for this project.

Date Received for Filing _____

Signature _____

Title _____

APPENDIX B

NEGATIVE DECLARATION

PURSUANT TO DIVISION 13
CALIFORNIA PUBLIC RESOURCES CODE

Project Description: The California Public Utilities Commission (CPUC) proposes to grant a Certificate of Public Convenience and Necessity to Santa Cruz Cellular Telephone Company for the installation and operation of a mobile telephone system to serve the Santa Cruz Metropolitan Statistical Area "MSA". The proposed project consists of the installation of one antenna with a supporting structure, and one-story, 300 square foot equipment building, at the site at 1339 La Madrona in Santa Cruz. The new equipment associated with the other two cell sites and the MSTO will be integrated into existing communications facilities.

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 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, geomorphology, soils, climate, hydrology, aesthetics, vegetation, or wildlife of the antenna sites.
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. The only new construction will be at Cell Site #2 which includes construction of a 50 ft. monopole and a one-story, cinder block building. The site is currently used for communications purposes and has an existing shed and monopole. Visual impacts are expected to be minimal because the site is surrounded by thick, mature vegetation which will obscure most of the new monopole from view. 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 Federal Communications Commission (FCC).

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

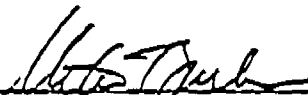
such conditions or requirements do not render the project site infeasible. While it is the CPUC's intent that local concerns be incorporated into the design, construction, and operation of this system, no additional permits from local authorities are required as a condition of this certificate.

2. The Applicant will consult with the 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 CPUC prior to construction of such antennas. The CPUC 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.

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



Mike Burke Regulatory and Environmental Coordinator
California Public Utilities Commission

APPENDIX B

CALIFORNIA PUBLIC UTILITIES COMMISSION
INITIAL ENVIRONMENTAL STUDY
CHECKLIST

Project Title: Santa Cruz Cellular Telephone Company System
Santa Cruz County
Study Date: April, 1988

I. BACKGROUND INFORMATION

A. Name of Project:

Santa Cruz Cellular Telephone Company System

B. Project Description:

The Santa Cruz Cellular Telephone Company has applied to the California Public Utilities Commission (CPUC) for a Certificate of Public Convenience and Necessity for the installation and operation of a mobile telephone system to serve the Santa Cruz Metropolitan Statistical Area (MSA) in Santa Cruz County. The proposed project consists of the installation of three cellular telephone antennas and associated radio equipment and a Centralized Mobile Telephone Switching Office or "MSO".

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 Santa Cruz 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 CPUC can issue a Certificate of Public Convenience and Necessity for a project, such as the proposed Santa Cruz County mobile telephone system.

Depending upon demand, the Company may also 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 CPUC.

C. Project Setting:

As noted above, the proposed cellular telephone system will initially consist of three cellular telephone antennas and associated radio equipment and a centralized mobile telephone switching office (MTSO). Of these, only one cell site will require additional construction. Figure 1 shows each site in relation to the surrounding CGSA. The following is a description of the three project sites and the equipment that will be installed at each:

1. Mobile Telephone Switching Office - 505 14th Street Oakland, California. This is an existing facility operated by the Bay Area Cellular Telephone Company (BACTC). It was the subject of BACTC's application leading to Decision 86-05-010, and was described herein as categorically exempt from CEQA. The project sponsor proposes no structural changes to that facility.
2. Cell Site #1 ("Empire Grade"). The site is located at 125 Patrick Road, Ben Lomond, California, 95005 at 37-06-02N and 122-08-24W on Assessor's Parcel No. 080-041-03. It is 2,400 feet above sea level and is presently used as a radiotelephone and cable television communications facility. Applicant anticipates making use of an existing building and 200 foot transmitter tower for which all necessary permits have been obtained by the owner.

Access is provided by State Route 9 to Empire Grade Road to private dirt roads. The project site is located in the Ben Lomond Mountains. Figure

2 is a 7.5 minute map showing relationship of the site to surrounding features, while Figure 3 reproduces photos of the site. Current zoning is rural/residential. The relevant agency is the County of Santa Cruz. Contact person is David Lee, Planning Department at 408-425-2701.

3. Cell Site #2. ("Kite Hill"). This site is located at 1339 La Madrona in Santa Cruz, California at 36-58-35N and 121-51-1W on Assessor's Parcel No. 67-221-12.. The site is at 680 feet above sea level, and may involve construction of a 50 ft. monopole and of a one-story, cinder block building of approximately 300 square feet in area. The site is already used for communications purposes and the project sponsor's initial operations may be conducted from an existing shed and monopole.

The site will be accessed by State Highway Route 17 to Sims Road to Pasaticampo Drive to The Kite Hill Development. On site land uses include the County of Santa Cruz Water Storage Tanks (two tanks) and other on site communications equipment, antennas and a small wooden equipment shed.

Surrounding land uses included the Kite Hill Private Development which has residences within 300 feet of the project site. The cell site can be partially visible to residents located along Kite Hill Road, but only from certain view points. Existing trees between the cell site and the homes, provide a natural existing screen for the site. The closest residential home is located about 100 feet south east of the cell site.

Topography in the area is rolling hills. The site is surrounded by thick, mature vegetation which will obscure most of the proposed monopole from view. Figure 4 shows the relationship of the building to surrounding features, while Figure 5 reproduces photos of the site. Current County zoning for the project area is residential/ agricultural. The relevant jurisdiction is the County of Santa Cruz. Contact person is David Lee, Planning Department at 408-425-2701.

4. Cell Site #3 (Mt. Chual). The third site is located near the summit of Mt. Chual in Santa Clara County at 37-07-09N and 121-49-54W on Assessor's Parcel No. 562-12-15. Mt. Chual is in an unincorporated, rural part of Santa Clara County at 3,562 feet in elevation. An existing transmitter tower and building will be utilized. All associated electronic equipment will be housed in a existing small modular building. All new antenna microwave dishes and cable will be attached to the existing towers at the site.

The site will be accessed by State Route 17 to Summit Road to Loma Prieta Avenue to private dirt roads. There are no residences within 4 miles of the project site. The topography in the area is mountains and rolling hills. On site structures include two module radio equipment storage buildings and several towers. There is an existing radio frequency tower and telecommunications facility about two miles south of the cell site called Loma Prieta.

All necessary permits have been obtained by BCTC as the present occupant. The County Zoning for the project site is agricultural/residential. The relevant jurisdiction is the County of Santa Clara. Contact person is John Maltdie, Acting Planning Director at 408-299-2454.

D. Lead Agency Contact Person:

Ms. Elaine Russell
Energy Resources Branch
California Public Utilities Commission
1107 - 9th Street, Suite 710
Sacramento, CA 95814
(916) 324-6195

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.

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 the buildings and monopoles at Kite Hill, Cell Site #2 will require a minor amount of grading. This grading will not result in any significant modification of the existing topography of the project site.

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, compacting or overcovering of the soil?	—	—	X

At Cell Sites #2 the project will involve a very minor amount of grading for foundations.

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
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

The natural vegetation of the three cell sites, have been disturbed by the presence of the existing communications facilities. None of the sites are reported by the California Natural Diversity Data Base to contain any threatened or endangered species, nor were any sensitive plant or animal species observed during on site visits of the study area. There are no wetlands, such as stream, bog, or spring environments, in or immediately adjacent to any of the cell sites.

- | | Yes | Maybe | No |
|--|-----|-------|----|
| 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 |

G. Land Use. Will the proposal result in:

- | | | | |
|---|---|---|---|
| 1. A substantial alteration of the present or planned land use in the area? | — | — | X |
|---|---|---|---|

The project components will be installed at existing communication facilities.

- | | | | |
|---|---|---|---|
| 2. A conflict with Local, State or Federal land use plans or elements to those plans? | — | — | X |
|---|---|---|---|

The project components are allowable uses.

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 | — |

The overall project involves four sites, of which three (the MTSO, the Empire Grade site, and the Mt. Chual site) have already been constructed pursuant to permits issued by relevant authorities. No additional construction whatsoever will be required at these locations. At Kite Hill, the existing shed will be replaced with a more structurally sound building. An existing tower will also be replaced with a monopole which may in fact be more aesthetically pleasing than what is presently on site.

The Kite Hill location is residential and the proposed 50 foot monopole might be visible from residents located at the top of Kite Hill Road. However, existing vegetation is mature eucalyptus and native shrubbery which should tend to obscure all but the top few feet of the monopole. This impact may be minimized by painting the monopole with natural colors, and avoiding solid "panel" antennas, and using instead open grid or whip designs.

	Yes	Maybe	No
3. New light or glare substantially impacting other properties?	—	—	X
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 three cell sites will generate very infrequent traffic. Approximately once a month maintenance crews will visit the site to test the signal.

The MTSO will generate a small amount of traffic. The facility will be staffed by 10 employees. Few visitors are anticipated as most of the customers will be signed up at off-site cellular telephone hardware businesses. Installation of phone hardware will also take place at these off-site businesses. There is provision for on-site sale and installation; however, the applicant anticipates most sales activity will take place off-site. The applicant is complying with City requirements for parking spaces.

The MTSO and the three Cell Sites will not result in a significant effect on circulation.

	Yes	Maybe	No
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.

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

	Yes	Maybe	No
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
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 CPUC acknowledges that technicians working on microwave installations must use due caution on equipment that is operating at certain power levels. The CPUC also acknowledges that improperly aimed microwave signals could pose a health threat in certain circumstances. However, the CPUC 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 monopole necessary for the Kite Hill site will be designed and constructed so that it is not subject to failure from anticipated natural forces such as high winds and rain.

Yes Maybe No

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

— — X

The proposed cellular telephone system will improve the emergency communications system in the Santa Cruz 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 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, Santa Cruz Cellular Telephone Company, before the Public Utilities Commission of the State of California, Application #88-03-030 and supplemental information provided by the applicant.
2. Federal Communications Commission, FCC File No. 36450-CL-P-175-A-86.

V. PERSONS AND/OR AGENCIES CONSULTED

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

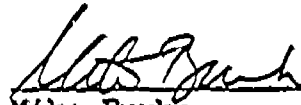
2. Daniel Whalen
Whalen & Co. Inc.
3620 Mt. Diablo Blvd., Suite 200
Lafayette, California 94549

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.
- 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 9-28-88



Mike Burke

Regulatory and Environmental
Coordinator

SANTA CRUZ MSA

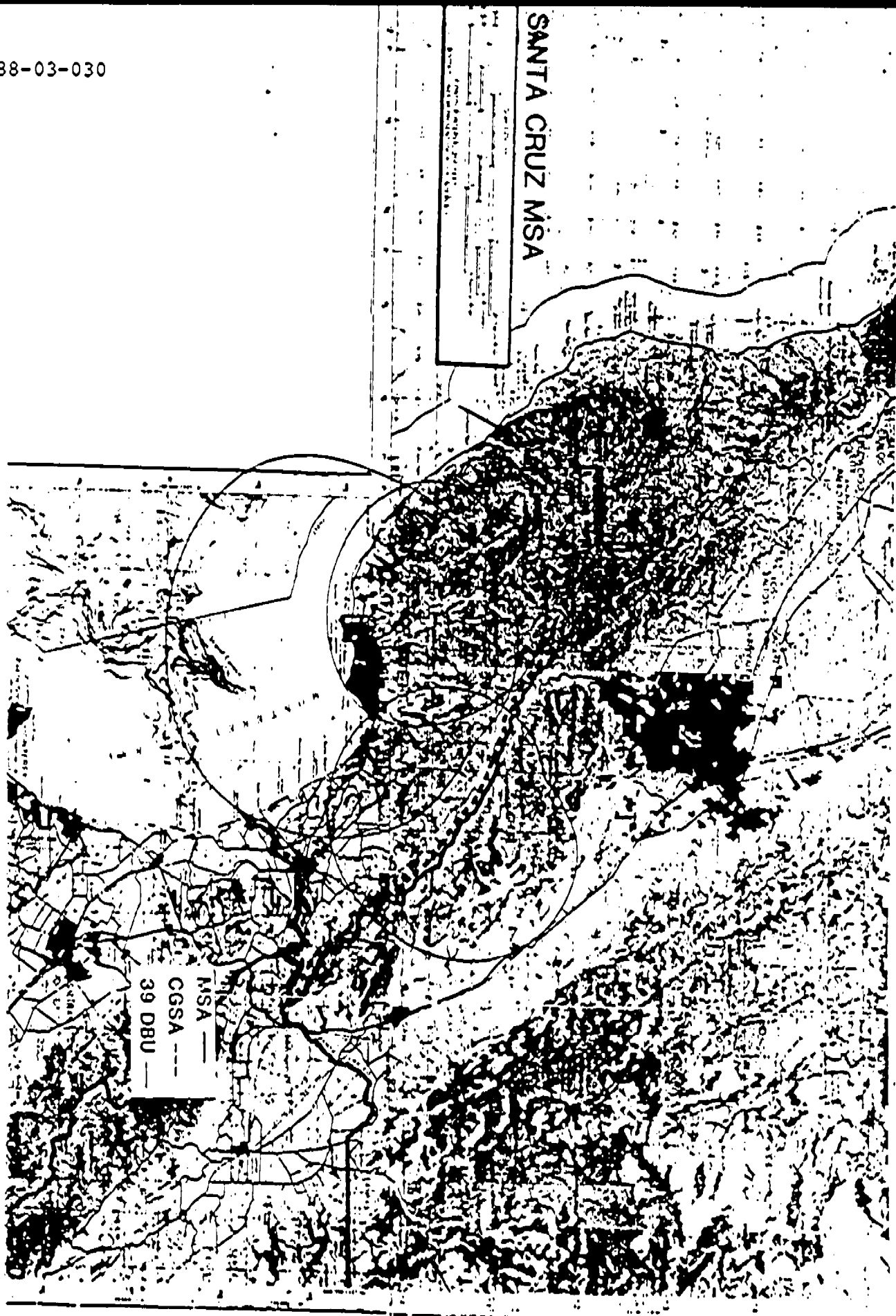


FIGURE 1: ALL SITES

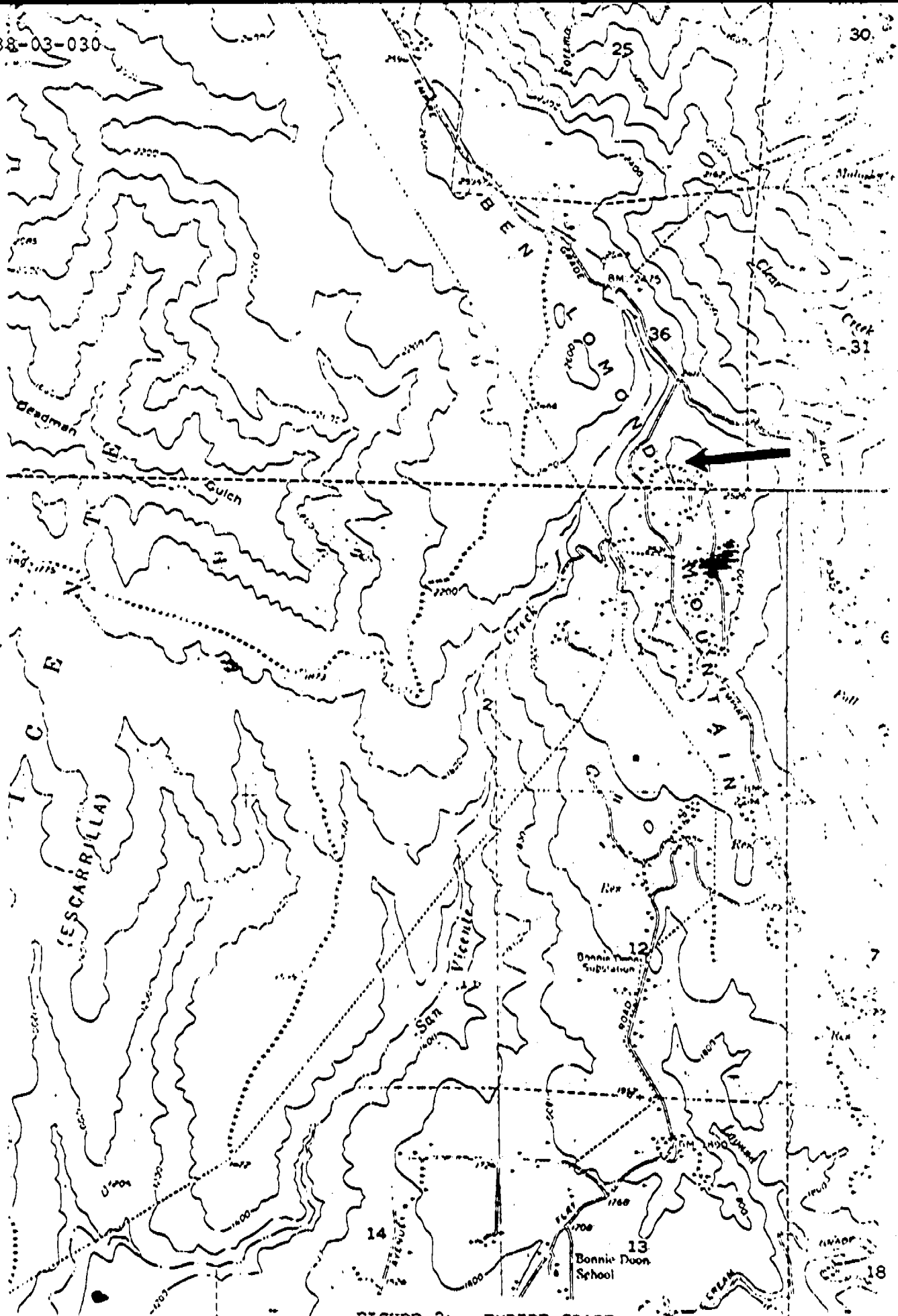


FIGURE 2: EMPIRE GRADE

THE NEXT

5

DOCUMENTS ARE

POOR ORIGINALS

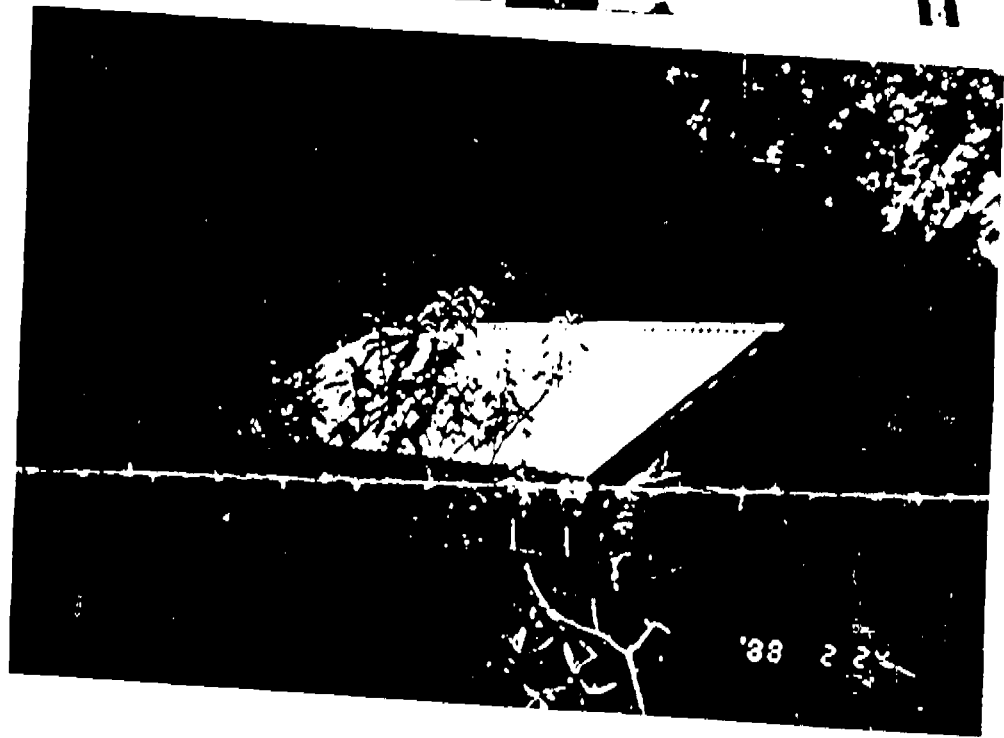
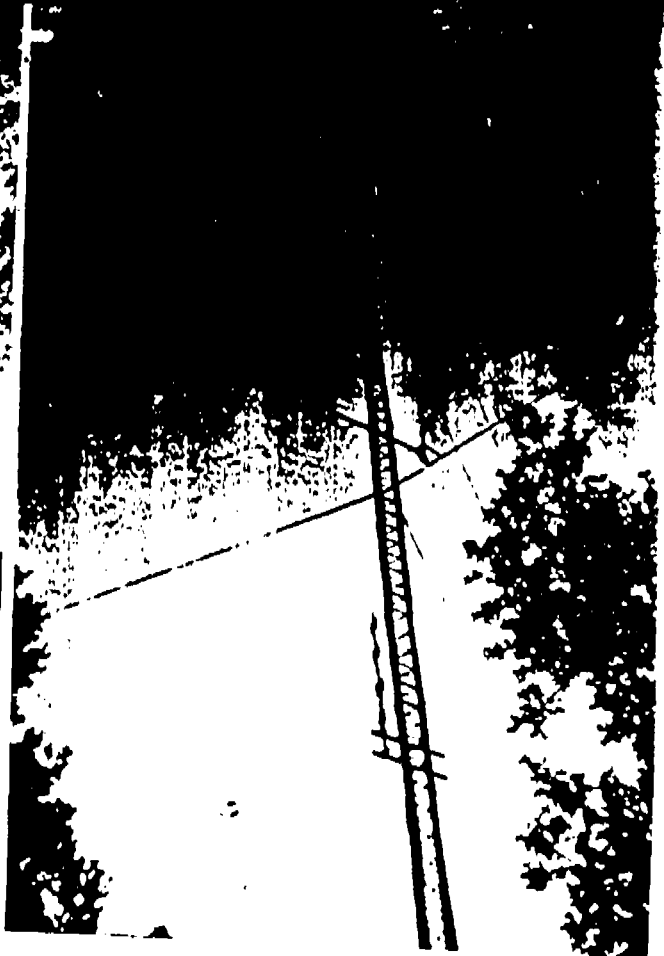
MICROFILMING SERVICES

*will not assume responsibility
for the image quality*

A.88-03-030

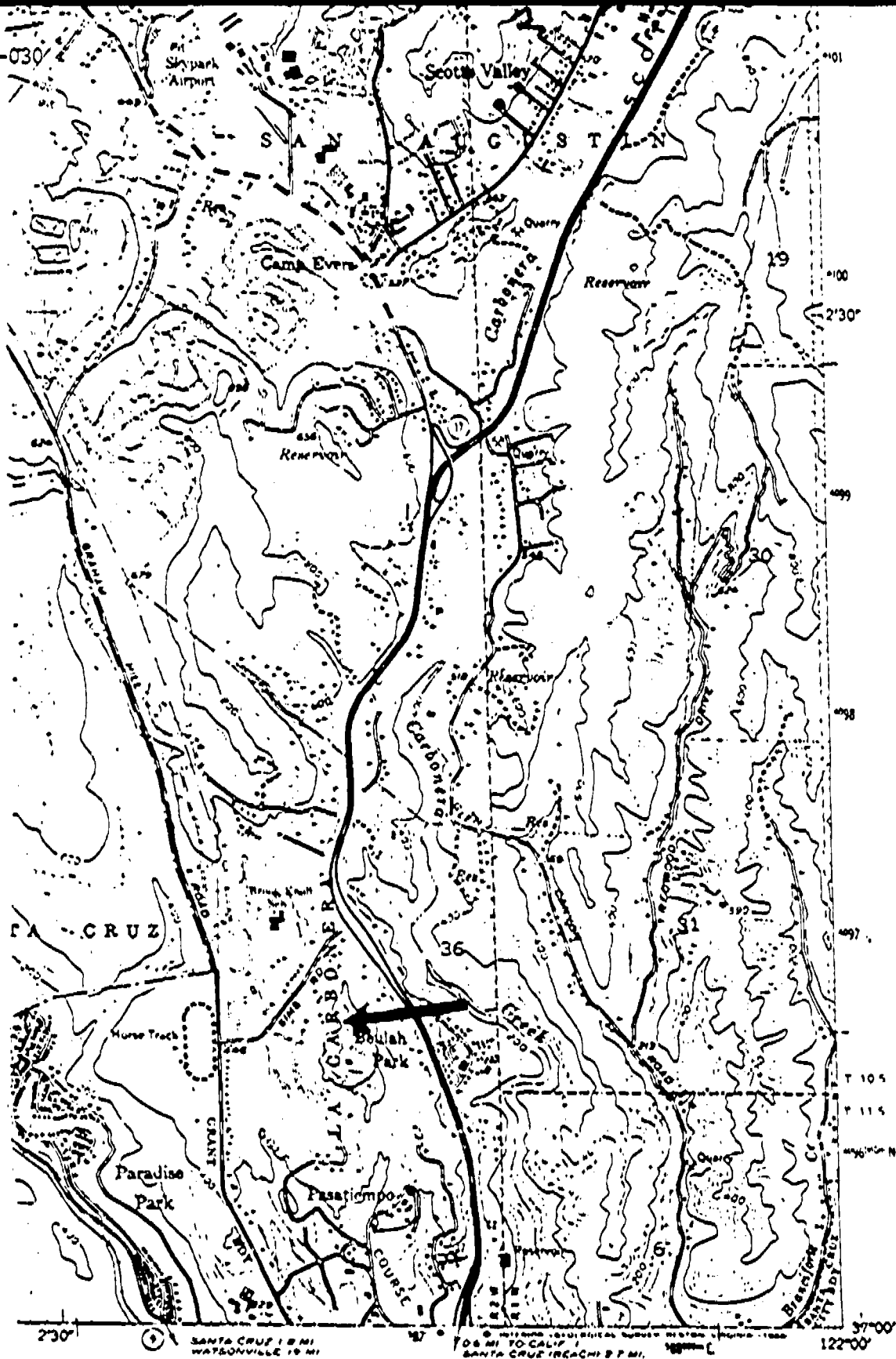


88 2 2



88 2 2

FIGURE 3 - EMPIRE GRADE



M.L.C.

SANTA CRUZ 18 MI
WATSONVILLE 19 MI

106 MI TO CALIF
SANTA CRUZ (REACHES 8 P.M.)

122°00'

ROAD CLASSIFICATION

- Heavy-duty —————
- Medium-duty - - - - -
- Light-duty - - - - -
- Unimproved dirt

○ State Route



FIGURE 4 - KITE HILL

FELTON, CALIF.

150000
1:50000

3-030

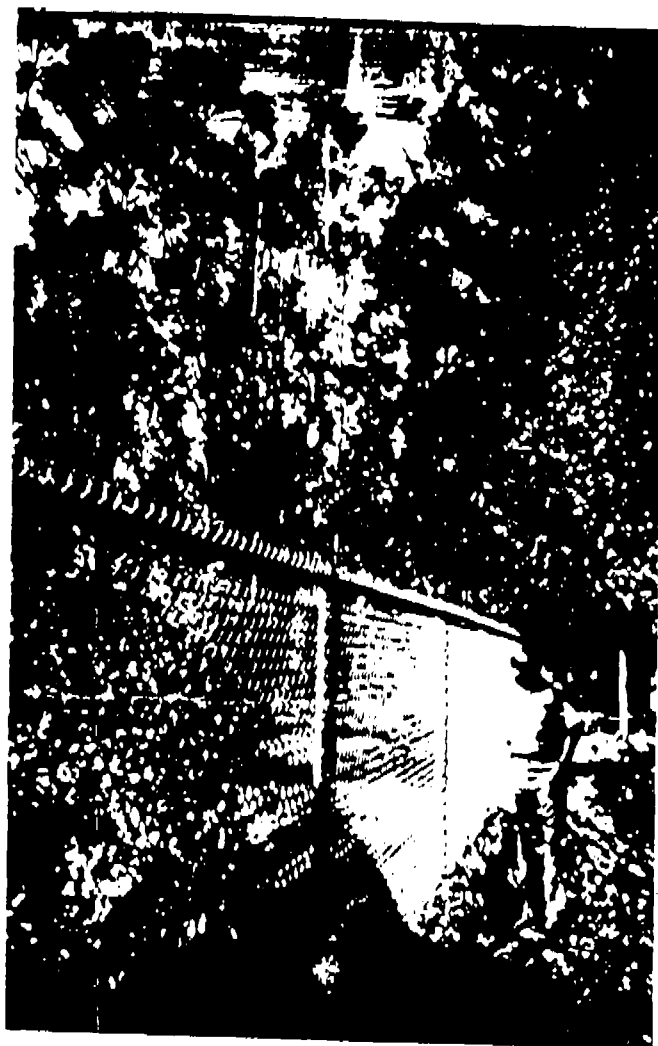
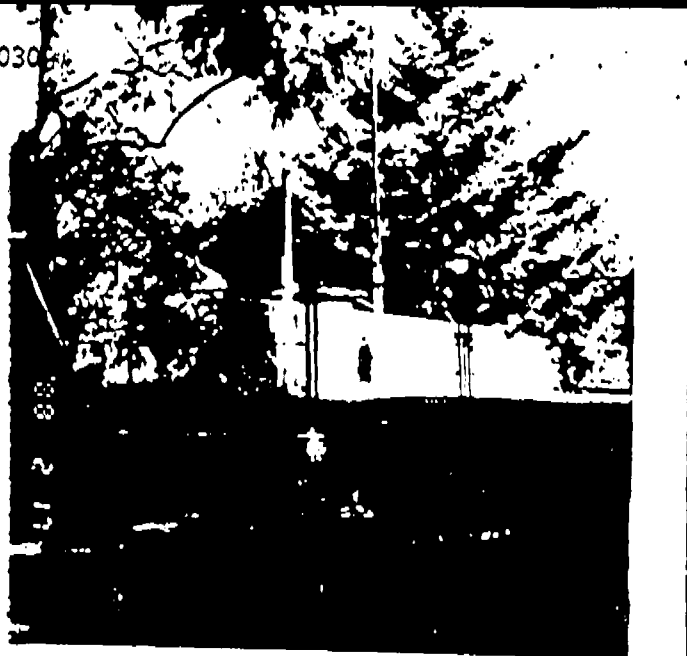
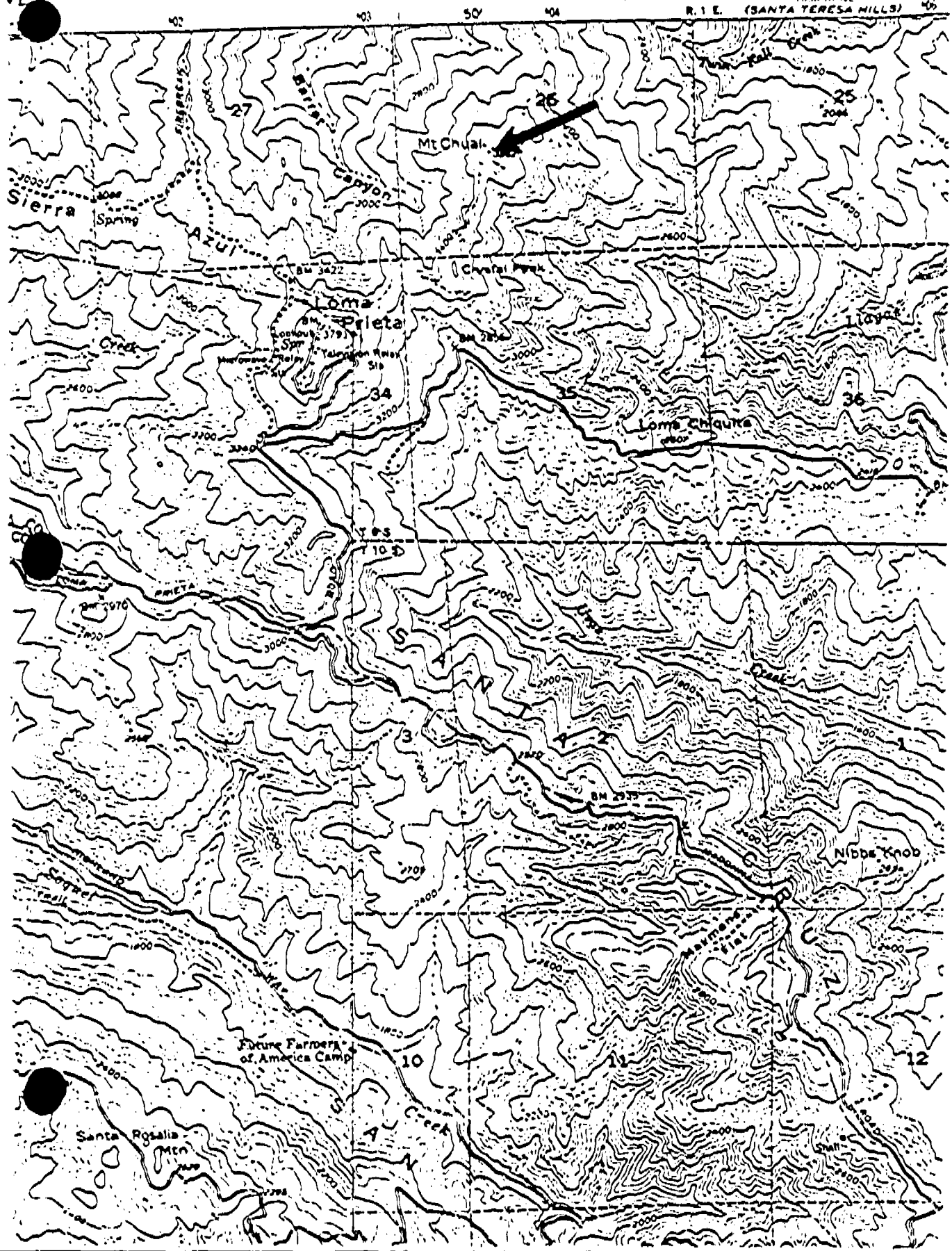


FIGURE 5 - KITE HILL



A.88-03-030

