

**RESOLUTION OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION**

WHEREAS, the White Mountain Apache Tribe owns and maintains numerous radio telecommunications towers for governmental and private use for radio and other telecommunications; and

WHEREAS, OP Corporation, doing business as Crown and Castle has contacted the Tribe to seek approval to utilize space on selected towers to offer wireless transmission service in the 1670–1675 megahertz bandwidth; and


WHEREAS, Crown and Castle holds an FCC license to utilize this band width to provide wireless transmission service; and

WHEREAS, the Tribe and Crown and Castle have completed a lease document detailing the terms and conditions authorizing the lease rights for Crown and Castle for a term of ten (10) years; and

WHEREAS, the Tribal Council has reviewed and discussed the lease agreement attached herein and finds that it serves the best interests of the White Mountain Apache Tribe.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby approves a lease agreement in substantially similar form to the copy attached herein between the White Mountain Apache Tribe and OP Corporation, d/b/a Crown and Castle, subject to final review and approval by the Tribe's attorney for a lease agreement between the Tribe and Crown and Castle for a term of ten (10) years subject to the terms and conditions as set forth within the lease document.

The foregoing resolution was on JUNE 3, 2004 duly adopted by a vote of SEVEN for and ZERO against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article IV, Section 1 (a), (h), (i), (s), (t), and (u) of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).


Chairman of the Tribal Council


Secretary of the Tribal Council

3/8 '04

LEASE NO.: _____

LEASE AGREEMENT

This Lease Agreement (this "Lease") is made and entered into as of this ____ day of _____, 2004 (the "Effective Date") between the White Mountain Apache Tribe, as Lessor ("Tribe"), and OP Corporation, a Delaware corporation ("Lessee")."

WITNESSETH:

WHEREAS, Tribe is the owner of property and Lessee desires to lease from Tribe and Tribe desires to lease to Lessee space at certain locations to provide wireless transmission service to areas including, but not limited to, portions of the Fort Apache Indian Reservation (the "Reservation") pursuant to the terms and conditions and for the purposes set forth herein.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

1. Purpose

Lessee shall use the Lease Premises (as such term is defined in Section 2(A) below) solely to provide wireless transmission service within the 1670 – 1675 MHz bandwidth in compliance with FCC rules and regulations in populated areas and elsewhere within and without the Reservation, including, but not limited to, the communities of Whiteriver and Cibecue.

2. Lease Premises

A. *Lessee's Leasehold Interest.* Pursuant to the terms and conditions herein provided, Tribe does hereby lease, let, and demise to Lessee and Lessee hereby does lease of and from Tribe certain real property at certain sites ("Sites") located on the Reservation for the purpose of installing, operating and maintaining certain wireless transmission equipment and other related equipment (collectively, "Lessee's Communication Equipment") for providing wireless transmission service. Such Sites shall be identified in EXHIBIT A to this Lease and shall be collectively referred to herein as the "Lease Premises". Each of the Sites includes a communications tower owned by the Tribe, related fixtures, buildings and land. Except for the space on the tower and the location on the ground occupied by Lessee's Communications Equipment (collectively, "Lessee's Space"), Lessee's leasehold interest in the Lease Premises is non-exclusive; other permittees, lessees, licensees, and entities of the Tribe may have access and use of the Lease Premises, as consistent with the terms and conditions of this Lease.

B. *Condition of Lease Premises.* Lessee has examined and is familiar with the Lease Premises and verifies that no representations as to the condition or suitability thereof for the purpose of this Lease have been made by Tribe or any agent of Tribe prior to or at any time during the execution of this Lease. Lessee warrants that it has not relied on any warranty or representation made by or for Tribe but has relied upon Lessee's independent investigation of the Lease Premises and in so doing has found the Lease Premises to be suitable for the purposes of this Lease.

C. Addition or Removal of Sites. Upon the mutual consent of the parties, and with prior approval of the Secretary (as defined in Section 11(A) below), and in compliance with Tribe's laws and regulations, including Tribe's Tribal Plan and Project Review ("TPPR") process or its successor regulatory process, the parties may upon mutual agreement amend EXHIBIT A, EXHIBIT B and/or EXHIBIT C from time to time during the term of this Lease.

D. Required Coverage. Notwithstanding Section 2(C), in the event that Lessee determines, in its sole discretion, that the collective transmissions from Lessee's Communication Equipment at the Sites do not provide coverage to at least seventy-five percent (75%) of the population of the Reservation (the "Required Coverage"), in order to achieve the Required Coverage, then, Lessee shall have the right, without payment of further compensation to Tribe, to install, operate and maintain additional wireless transmission equipment and other related equipment (collectively, "Additional Equipment"), and/or relocate to a suitable alternate location(s), operate and maintain any or all of Lessee's Communication Equipment, on any communications tower(s) located at any of the Sites and/or any other sites located on the Reservation ("Additional Sites"). Tribe will use its best efforts to help Lessee achieve the Required Coverage by making available to Lessee suitable space on a communications tower(s) at a Site(s) and/or Additional Site(s) for such installation of Additional Equipment and/or relocation of Lessee's Communication Equipment; provided, however, in the event that Tribe, despite its best efforts, is unable to make available to Lessee suitable space on a communications tower(s) at a Site(s) and/or Additional Site(s) for such installation of Additional Equipment and/or relocation of Lessee's Communication Equipment, Lessee shall have the right to construct a new communications tower(s) at an Additional Site(s) pursuant to terms and subject to conditions mutually agreed upon by the parties in good faith in writing. EXHIBIT A shall be amended to include any Additional Site(s) on which Additional Equipment may be installed, operated and maintained and/or Lessee's Communication Equipment may be relocated, operated and maintained pursuant to this Section 2(D). EXHIBIT B shall be amended to include any Additional Equipment which Lessee may install, operate and maintain pursuant to this Section 2(D). EXHIBIT C shall be amended to show the location(s) of Additional Equipment added and/or the change in location of Lessee's Communication Equipment relocated pursuant to this Section 2(D).

3. Term

The initial term of this Lease shall be a period of ten (10) years commencing on the Effective Date and ending on the day immediately prior to the tenth (10th) anniversary of the Effective Date (the "Initial Term"). The term of this Lease may be extended upon mutual agreement of the parties.

4. Rental Amount and Payment

Upon full execution of this Lease by Tribe and Lessee, Lessee shall pay to Tribe Two Hundred Fifty Thousand Dollars (\$250,000.00) as rent for the first five (5) years of the Initial Term. Subject to Section 18, Lessee shall pay to Tribe an additional Two Hundred Fifty Thousand Dollars (\$250,000.00) as rent for the last five (5) years of the Initial Term within thirty (30) days from commencement of wireless transmission by and completion of installation of

Lessee's Communication Equipment on the Lease Premises. For the purposes of this Lease, rent shall be deemed to be allocated at Four Thousand One Hundred Sixty-Six and 67/100 (\$4,166.67) per month.

5. Use of Lease Premises/Compliance with Law

The Lease Premises shall be used and occupied by Lessee for the sole purpose of providing wireless transmission service on the Reservation and in the White Mountain region. This Lease shall not be construed to permit the installation of equipment other than Lessee's Communication Equipment by Lessee on the Lease Premises. Lessee agrees that its activities at all times must comply with Tribal law and regulations and all applicable state and federal law, including FCC regulations. Lessee agrees that it will not use, or cause to be used, or permit any part of the Lease Premises to be used for any unlawful conduct or purpose, or for any purpose unrelated to its purpose as defined in Section 1 of this Lease, nor do or permit anything to be done in or about the Lease Premises which will in any way obstruct or interfere with Tribe's or another authorized user's use of the Lease Premises, except as otherwise provided in this Lease. Lessee further agrees that it will shall not cause, maintain or permit any nuisance in, on or about the Lease Premises or commit or suffer to be committed any waste in, on or about the Lease Premises.

6. Utilities

Tribe authorizes Lessee to install, or cause to be installed, on Lease Premises electric meters and telecommunication equipment, including, without limitation, telecommunication equipment required for Internet, fiber or telephone connections.

7. Lessee's Communication Equipment

Lessee has the right to install, operate and maintain Lessee's Communication Equipment, identified in EXHIBIT B, attached hereto and made a part hereof, at the locations identified in EXHIBIT C, attached hereto and made a part hereof. Lessee may, in its sole discretion, modify Lessee's Communication Equipment at any time prior to the commencement of full operation of Lessee's Communication Equipment, provided that such modification does not have any greater impact on the structural integrity of the tower(s) or significantly alter or extend Lessee's Space on the Lease Premises. Upon the termination or expiration of this Lease, or the termination or expiration of that portion of the Lease pertaining to a particular Site, Lessee shall within ninety (90) days thereafter remove Lessee's Communication Equipment and restore any damage caused by Lessee to the Lease Premises, reasonable wear and tear accepted. Any property of Lessee remaining on any portion of the Lease Premises more than ninety (90) days following the termination or expiration of the Lease, or that portion of the Lease pertaining to a particular Site, after ninety (90) days shall become the property of Tribe.

8. Site and Frequency Coordination

A. *Other Users of Lease Premises.* Subject to the covenants and agreements in this Lease, Tribe and its other lessees, licenses, and permittees may install and operate antennas and transmission lines and other equipment on the communications towers identified in Section 2,

subject to Section 8(D). Tribe will cooperate and help Lessee get copies of as-built plans and other documents indicating the exact locations on said towers of such other antennas, transmission lines and equipment, their transmission frequencies, and their transmitter output powers. Any copies of as-built plans or other documents contemplated by this Section shall be obtained at Tribe's sole expense.

B. *Lessee's Licensed Frequencies and Equipment Changes.* Lessee shall identify in writing to Tribe the licensed frequencies in use by Lessee at the Lease Premises. Upon request by Tribe, Lessee shall provide to Tribe copies of Lessee's FCC licenses and any associated reports. Lessee must receive prior written approval from Tribe for any equipment changes by Lessee which would result in additional load on or occupy additional space on any tower structure, subject to Section 7(A).

C. *Interference with a Pre-Existing Use.* Lessee's use of the Lease Premises and its operation of Lessee's Communication Equipment thereon (including any subsequent modification or alteration thereto) shall be conducted in a manner that does not interfere electrically, or in any other manner whatsoever with any pre-existing use by Tribe or other users of the Lease Premises prior to the Effective Date ("Pre-Existing Use"). In the event that any Pre-Existing Use experiences interference caused by Lessee's use of the Lease Premises, Lessee shall be notified in writing of such interference and Lessee shall power down its equipment and/or cease operations in order to correct and eliminate such interference within seventy-two (72) hours after Lessee's receipt of such notice. If Lessee does not cease all interfering operation within such seventy-two (72) hour period, Tribe shall have the right to disconnect Lessee's Communication Equipment until such time as Lessee can affect repairs to the interfering equipment. If Lessee is unable to eliminate the interference, or reduce it to a level acceptable to the affected user of the Pre-Existing Use, within a period of thirty (30) days following such initial notice (provided that during such thirty (30) day period, Lessee may operate its equipment intermittently during off-peak hours for testing purposes only), then Tribe may, in addition to any other rights it may have for Lessee's breach hereof, terminate this Lease to the extent that it pertains to the subject Site. In the event that Lessee is notified of any interference experienced by a Pre-Existing Use at the Lease Premises caused by Lessee's operations thereon, Lessee shall be obligated to perform whatever actions are necessary, at Lessee's sole cost and expense, to eliminate such interference.

D. *Interference by a Subsequent Use.* Tribe agrees that use of the Lease Premises by Tribe or any person or entity authorized by Tribe, including any installation or modification of equipment subsequent to Lessee's then-current operation of the Lessee's Communication Equipment thereon ("Subsequent Use") shall not interfere with Lessee's then-current permitted operations. In the event that Lessee experiences interference caused by any Subsequent Use, Lessee shall notify Tribe in writing of such interference and Tribe shall, or shall cause the operator of the interfering Subsequent Use, to power down its equipment and/or cease operations in order to correct and eliminate such interference within seventy-two (72) hours after Tribe's receipt of such notice. If such Subsequent Use is unable to operate without causing such

interference, or if such interference is not reduced to a level acceptable to Lessee, within a period of thirty (30) days (provided that during such thirty (30) day period the Subsequent Use may be operated intermittently during off-peak hours testing purposes only), Tribe will cause the Subsequent Use that is the cause of such interference to be removed from the subject Site. In the event that the Subsequent Use that is the cause of such interference is not removed from the subject Site in accordance herewith, Lessee may, in addition to any other rights it may have for Tribe's breach hereof, terminate this Lease, in which event Tribe shall refund to Lessee the proportionate amount of any rent prepaid by Lessee in accordance with Section 4 for the period from the date of such termination through the remainder of the Initial Term. In the event that Tribe is notified of any interference experienced by Lessee alleged to be caused by a Subsequent Use on the Tower Site, Tribe shall be obligated to perform (or cause to be performed) whatever actions are commercially reasonable and necessary, at no cost or expense to Lessee, to eliminate such interference.

9. Right of Inspection

Tribe shall have the right, at any time during the term of this Lease, with reasonable notice to Lessee, to inspect the Lease Premises and all equipment thereon.

10. Lessee's Right of Entry

Lessee, its authorized agents, employees, and contractors that are necessary to carry out the work permitted under this Lease, are, at all times during the term of this Lease, twenty-four (24) hours per day, seven (7) days per week, granted a right of entry to the Lease Premises, including, without limitation, all parking space and access roads necessary for ingress to and egress from the Lease Premises as shown in EXHIBIT A.

11. Federal Government Trust Relationship

A. *Secretarial Approval.* As used in this Lease, the term "Secretary" means the Secretary of the Interior or duly authorized representative of the Secretary of the Interior. This Lease is subject to the approval of the Secretary pursuant to the Act of August 9, 1955, 60 Stat. 539, as amended, 25 U.S.C.S. § 415. In the event that the Secretary does not approve this Lease, Tribe shall refund to Lessee any rent prepaid by Lessee in accordance with Section 4

B. *Termination of Federal Trust.* Nothing contained in this Lease shall operate to delay or prevent a termination of federal trust responsibilities with respect to the land by the issuance of a fee patent or otherwise during the term of this Lease; however, such termination shall not serve to abrogate the Lease.

C. *Obligations of Lessee.* While the Lease Premises are in trust or restricted status, all of Lessee's obligations under this Lease and the obligations of Lessee's sureties are to the United States of America as well as to Tribe.

D. *Interest of Member of Congress.* No member of, or delegate to Congress, or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise herefrom, but this provision shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

12. Holding Over

Holding over by Lessee after the termination or expiration of the Initial Term shall not constitute a renewal or extension thereof or give Lessee any rights hereunder to the Lease Premises. If Lessee should remain in possession of Lease Premises after the termination or expiration of the Initial Term or any extension thereof without the renewal or execution by Tribe and Lessee of a new Lease, then Lessee shall be deemed to be occupying the Lease Premises as tenant-at sufferance on a month-to-month basis, subject to all the covenants and obligations of this Lease. In this event, the monthly rental amount will increase to 175% of the monthly rental rate in effect at the time of the Lease termination or expiration for each of the locations comprising the Lease Premises at which Lessee is holding over until the ninety (90) day equipment removal period has elapsed and Lessee's Communication Equipment becomes the property of Tribe in accordance with Section 8(A).

13. Encumbrance

This Lease, or any right to or interest in this Lease or any of the improvements on the Lease Premises may not be encumbered by Lessee without the prior written consent of Tribe and the Secretary. Tribe's consent may be withheld for any reason. Any attempt to encumber the Lease Premises except by compliance with this Section shall be void and shall constitute cause for immediate termination of the Lease by Tribe.

14. No Partnership

Lessee and Tribe are not in partnership or joint venture, notwithstanding any other provision of this Lease.

15. Notice

Any notice required or allowed by this Lease shall be in writing and shall be delivered by hand or sent by United States Registered or Certified Mail, postage prepaid and addressed as follows:

TRIBE:

Tribal Treasurer

White Mountain Apache Tribe

P.O. Box 700

Whiteriver, AZ 85941

LESSEE:

Either Party hereto may change its address to which said notice shall be delivered or mailed by giving notice of such change as indicated above. Notice shall be deemed given when delivered (if delivered by hand) or when postmarked (if sent properly by mail).

16. Liens, Taxes, Assessments, Utility Charges

Lessee shall not permit to be enforced against the Lease Premises or any part thereof, any liens arising from any work performed, materials furnished, or obligations incurred by or for Lessee but Lessee shall discharge all such liens before any action is brought to enforce the same; further, Lessee shall pay directly to the applicable governmental entity before delinquent, all tax assessments, licenses, fees, and other like charges levied by such governmental entity against Lessee during the term of this Lease upon or against Lessee's leasehold interest in the Lease Premises. Lessee shall, upon Tribe's request furnish Tribe with written evidence duly certified that any and all taxes required to be paid by Lessee hereunder have been paid, satisfied, or otherwise discharged. The Tribe agrees not to impose any taxes upon Lessee to be payable to the Tribe.

17. Liability and Indemnity

Lessee agrees to use and occupy Lease Premises at Lessee's own risk, and agrees to release, indemnify and save Tribe harmless from any and all liability, claims, lawsuits, and costs, including reasonable attorney's fees, costs and expert witness' fees, arising from or in any way relating to Lessee's use of Lease Premises or Lessee's activities pursuant to this Lease to the fullest extent permitted by law, except to the extent caused by Tribe or its agents, employees or contractors. Tribe, in turn, agrees to indemnify and save Lessee harmless from all liability, claim, lawsuit, or costs, including reasonable attorney's fees, costs and expert witness' fees, arising from Tribe's use of Lease Premises, except to the extent caused by Lessee or its agents, employees or contractors.

18. Termination

A. *Lessee's Termination Rights.* Lessee shall have the right to terminate this Lease as follows:

- (i) At any time by providing fifteen (15) days prior written notice to Tribe if the approval of any agency, board, court or other governmental authority necessary for the construction and/or operation of Lessee's Communication Equipment cannot be obtained or is revoked, or if Lessee determines the costs of obtaining or retaining such approval is prohibitive based on a showing of economic hardship;
- (ii) At any time by providing fifteen (15) days prior written notice to Tribe if Lessee determines that any portion of the Lease Premises are not appropriate for locating Lessee's Communication Equipment for technological reasons, including, but not limited to, signal interference, provided that such determination is corroborated by an independent expert designated by Lessee and Tribe and retained at Lessee's expense; or
- (iii) At any time for any or no reason whatsoever by providing thirty (30) days prior written notice to Tribe.

In the event that Lessee terminates this Lease pursuant to this Section 18(A) and the installation of Lessee's Communication Equipment on the Lease Premises has been completed

and wireless transmission by Lessee's Communication Equipment on the Lease Premises has commenced, Lessee shall not be entitled to receive any refund or reimbursement of rent prepaid by Lessee pursuant to Section 4. Notwithstanding the foregoing or Section 4, in the event that Lessee terminates this Lease pursuant to this Section 18(A) at any time during the first five (5) years of the Initial Term and the installation of Lessee's Communication Equipment on the Lease Premises has not been completed or wireless transmission by Lessee's Communication Equipment on the Lease Premises has commenced, Lessee shall not be obligated to pay to Tribe, and Tribe shall not be entitled to receive, rent for the last five (5) years of the Initial Term.

B. *Lessee's Obligations Following Termination or Expiration.* Upon the expiration or termination for any reason of this Lease or any portion thereof with respect to a subject Site, Lessee will owe no further obligation under the terms of this Lease, except for the following:

- (i) Lessee's indemnity obligations contained in Section 17;
- (ii) Lessee's responsibility in compliance with this Lease, Tribal law, and other applicable laws to remove all of Lessee's Communication Equipment from the Lease Premises; and
- (iii) Lessee's obligation to repair damage caused by Lessee to the Lease Premises or subject Site, save and except normal wear and tear and acts beyond Lessee's control in compliance with Tribal and other applicable laws; and
- (iv) All rents accrued pursuant to this Lease but not paid by Lessee to Tribe.

19. Default and Remedies

1.

A. *Cure Period.* Except as may be otherwise expressly provided in this Lease, neither party shall be in default under this Lease until thirty (30) days after receipt of written notice of a default from the other party (the "Cure Period"); provided, however, in the event that any such default cannot reasonably be cured within the Cure Period, the party alleged to be in default shall not be deemed to be in default under the Lease if said party commences to cure such default within the Cure Period and thereafter diligently pursues such cure to completion, provided that in no event shall the Cure Period extend beyond sixty (60) days.

B. *Failure to Cure Default.* In the event of either party's failure to comply with any material provision of this Lease and such party is determined to be in default under Section 19(A), the other party may, at its option, cure the default of the other party at the expense of the defaulting party, without affecting its right to demand, sue for, and collect all of its damages arising out of the other party's default, or terminate this Lease without affecting its right to use for any other damages to which it may be entitled. The prevailing party in any dispute arising under or relating to this Lease shall be entitled to recover its reasonable attorney's fees, costs, and expert witness fees.

C. *Remedies, Waiver of Consequential Damages.* The rights and remedies stated in this Lease are not exclusive and the parties, in the event of a breach hereof or a dispute, are entitled to pursue any of the remedies provided herein, by law, or by equity; provided, however, in no event shall either party be liable to the other party for consequential, indirect, special,

punitive or exemplary damages for any cause of action whether in contract, tort or otherwise hereunder.

D. *No Waiver.* No course of dealing between the parties or any delay on the part of a party to exercise any right it may have under this Lease shall operate as a waiver of any of the rights hereunder or by law or equity provided, nor shall any waiver of any prior default operate as a waiver of any subsequent default, and no express waiver shall affect any term or condition other than the one specified in such waiver and that one only for the time and in the manner specifically stated.

E. *Force Majeure.* In the event either party shall be rendered unable in whole or in part by force majeure to carry out any covenant, agreement, obligation or undertaking to be kept or performed by such party under this Lease, such covenant, agreement, obligation or undertaking, insofar as the same shall be affected by such force majeure, shall be suspended during the continuance of any liability so caused, and thereafter such performance shall be fulfilled with all reasonable dispatch. The term "force majeure" as employed in this section shall include acts of God, strikes, lockouts, or other industrial disturbances, acts of a public enemy, war, blockades, riots, epidemic, earthquakes, explosions, accidents, or repairs to machinery or pipes, the delays of carriers, or inability by reason of governmental regulation to obtain materials, acts of public authorities, or other causes, whether or not of the same kind as specifically enumerated, not within the control of the party claiming suspension and which by the exercise of due diligence or the payment of money, such party is unable to overcome.

20. Insurance

Lessee shall, at its own expense, maintain in force during the term of this Lease, public liability insurance covering its use of the Lease Premises, naming the White Mountain Apache Tribe as an additional insured. At a minimum, Lessee shall maintain Comprehensive General Liability coverage, comprised of either primary insurance coverage or a combination of primary and excess insurance coverage, including personal injury and broad form property damage with limits not less than Two Million Dollars (\$2,000,000) per occurrence. Such policy shall be endorsed as primary insurance as to Tribe.

21. Assignment and Subletting

Lessee shall not sublease, assign or transfer, in whole or in part, any right to or interest in this Lease or any improvements on the Lease Premises without the prior written approval of Tribe and the Secretary. No such sublease, assignment or transfer shall be valid or binding without such approval, and any unauthorized sublease, assignment or transfer this Lease without Tribe's and the Secretary's consent shall be deemed a violation of this Section. Notwithstanding the foregoing, Lessee may, without Tribe's consent, transfer or assign Lessee's interest in this Lease to an affiliate or subsidiary of Lessee or to a buyer in conjunction with the sale by Lessee of its business or the sale or transfer by Lessee of all or substantially all of its assets. Lessee shall include a provision in its sales contract that the buyer shall acknowledge acceptance of this Lease and that buyer's use of the Lease Premises is subject to the terms and conditions of this

Lease.

22. Other Conditions

A. *Lessee's Obligation to Maintain Necessary Permits.* Tribe and Lessee shall cooperate fully in maintaining in full force and effect during the term of this Lease and any extension thereof all necessary licenses, permits and approvals, zoning approvals, variances, use permits and other governmental permits and approvals necessary to carry out the purposes of this Lease.

B. *Required Consents and Approvals.* Except as otherwise provided, whenever under the Lease the consent or approval of either party is required or a determination must be made by either party, no such consent or approval shall be unreasonably withheld or delayed.

C. *Quiet Enjoyment.* Tribe covenants that the Lessee shall, upon paying the rent and observing the other covenants and conditions herein upon its part to be observed, peaceably and quietly hold and enjoy Lease Premises during the term of this Lease or as it may be extended without hindrance, ejection or molestation by the Tribe, any person or persons claiming under the Tribe, or any other tenant of Tribe, subject to Tribe's right of access to Lease Premises for the purposes described herein.

D. *Authority to Execute Lease.* Each party warrants that it possesses full authority to enter into this Lease agreement and make and perform the covenants as provided herein.

E. *Material Terms.* The timely compliance with, and performance of, the representations, warranties, covenants and agreements contained in this Section 22 are deemed to be material terms of this Lease, the breach of which shall entitle the non-defaulting party to exercise all rights and remedies provided by this Lease, at law and in equity.

23. Eminent Domain

In the event that any government, public body or other entity with power of eminent domain shall take, or in the event Tribe shall transfer in lieu of such taking, all or such part of Lease Premises thereby making it physically or financially infeasible for the Lease Premises to be used in the manner that was intended pursuant to this Lease, Lessee shall have the right to terminate this Lease effective as of the date of the taking by the condemning party or the transfer in lieu thereof, the rent amount shall be pro-rated accordingly. If the Lease Premises are taken or transferred in lieu thereof, and if Lessee does not terminate this Lease pursuant to this Section, Tribe must use its best efforts to provide to Lessee an alternate site(s) mutually acceptable to Lessee, subject to Section 2(C), at which Lessee's Communication Equipment may be relocated.

24. Damage to Lease Premises

A. *Substantially Unusable Lease Premises.* If the Lease Premises are damaged so as to render all or any material part thereof substantially unusable for Lessee's intended use, as set out in this Lease, Tribe shall refund to Lessee the proportionate amount of any rent prepaid

by Lessee in accordance with Section 4 for the Site that is unusable while Tribe, at its expense, promptly restores the Lease Premises to its fully functioning condition as existed prior to such damage for the period from the date of such damage through and including the date that the Site is restored; provided, however, in the event Tribe fails to repair Lease Premises within thirty (30) days, (i) Lessee shall have the right to terminate this Lease in full or as it relates to the property so damaged without affecting its remedies permitted by law, equity, and/or this Lease, or (ii) in the event that Lessee does not exercise its right to terminate in accordance herewith, Tribe must use its best efforts to provide to Lessee an alternate site(s) mutually acceptable to Lessee, subject to Section 2(C), at which Lessee's Communication Equipment may be relocated.

B. *Substantially Usable Lease Premises.* If all or any part of Lease Premises is damaged and the damage does not render Lease Premises substantially unusable for Lessee's intended use, Lessee shall not be entitled to any refund or reimbursement of prepaid rent; provided, however, in the event Tribe fails to repair Lease Premises within ninety (90) days, (i) Lessee shall have the right to terminate this Lease in full or as it relates to the property so damaged without affecting its remedies permitted by law, equity, and/or this Lease, or (ii) in the event that Lessee does not exercise its right to terminate in accordance herewith, Tribe must use its best efforts to provide to Lessee an alternate site(s) mutually acceptable to Lessee, subject to Section 2(C), at which Lessee's Communication Equipment may be relocated.

25. Entire Agreement and Binding Effect

This Lease and exhibits constitute the entire agreement between Tribe and Lessee; no prior, contemporaneous or subsequent written or oral promises or representations shall be binding. This Lease shall not be amended or changed except by written instrument signed by both parties hereto. Section captions herein are for reference only and neither limit nor amplify the provisions of this Lease. The provisions of this Lease shall be binding upon and inure to the benefits of the heirs, executors, administrators, successors and assigns of the parties. The invalidity of any portion of this Lease shall not have any effect on the balance hereof.

26. Counterparts

This Lease may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one instrument. Each counterpart may consist of a number of copies each signed by less than all, but together signed by all the parties hereto.

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their respective seals the day and year first above written.

Lessor

WHITE MOUNTAIN APACHE TRIBE

By: _____
Print Name: _____
Title: _____

Execution Date: _____

Lessee

OP CORPORATION,
a Delaware Corporation

By: _____
Print Name: _____
Title: _____

Execution Date: _____

EXHIBIT A to Lease Agreement

SITES COMPRISING THE LEASE PREMISES

(insert list of Sites)

EXHIBIT B to Lease Agreement

LESSEE'S COMMUNICATION EQUIPMENT

(insert descriptions and specifications of Lessee's Communication Equipment)

EXHIBIT C to Lease Agreement

SITE PLAN; LOCATION OF
LESSEE'S COMMUNICATION EQUIPMENT

(insert Site Plan showing the Location of Lessee's Communication Equipment)

EXHIBIT A

Site Locations

A. Site Name: White River (7 Mile)

Coordinates: North 33 degrees 45 minutes 36.6 seconds
West 109 degrees 58 minutes 29.3 seconds

Description: Collocate antenna on the 180' Self Support Tower currently used by Cellular One and use of ground space to place small 10' x 10' equipment building above ground as specified on Exhibit C.

B. Site Name: McKay's Peak

Coordinates: North 33 degrees 58 minutes 37.7 seconds
West 109 degrees 47 minutes 51.2 seconds

Description: Collocate antenna on the 10' Self Support Tower at the location and use of designated area within existing Tribal building to place equipment as specified on Exhibit C.

C. Site Name: Cibeque

Coordinates: North 34 degrees 01 minutes 29.3 seconds
West 110 degrees 28 minutes 54.3 seconds

Description: Collocate antenna on the 100' monopole recently constructed by Cellular One and use of ground space within the fence to place 4'x6' cabin above ground as specified on Exhibit C.

EXHIBIT B

Equipment at Each Site

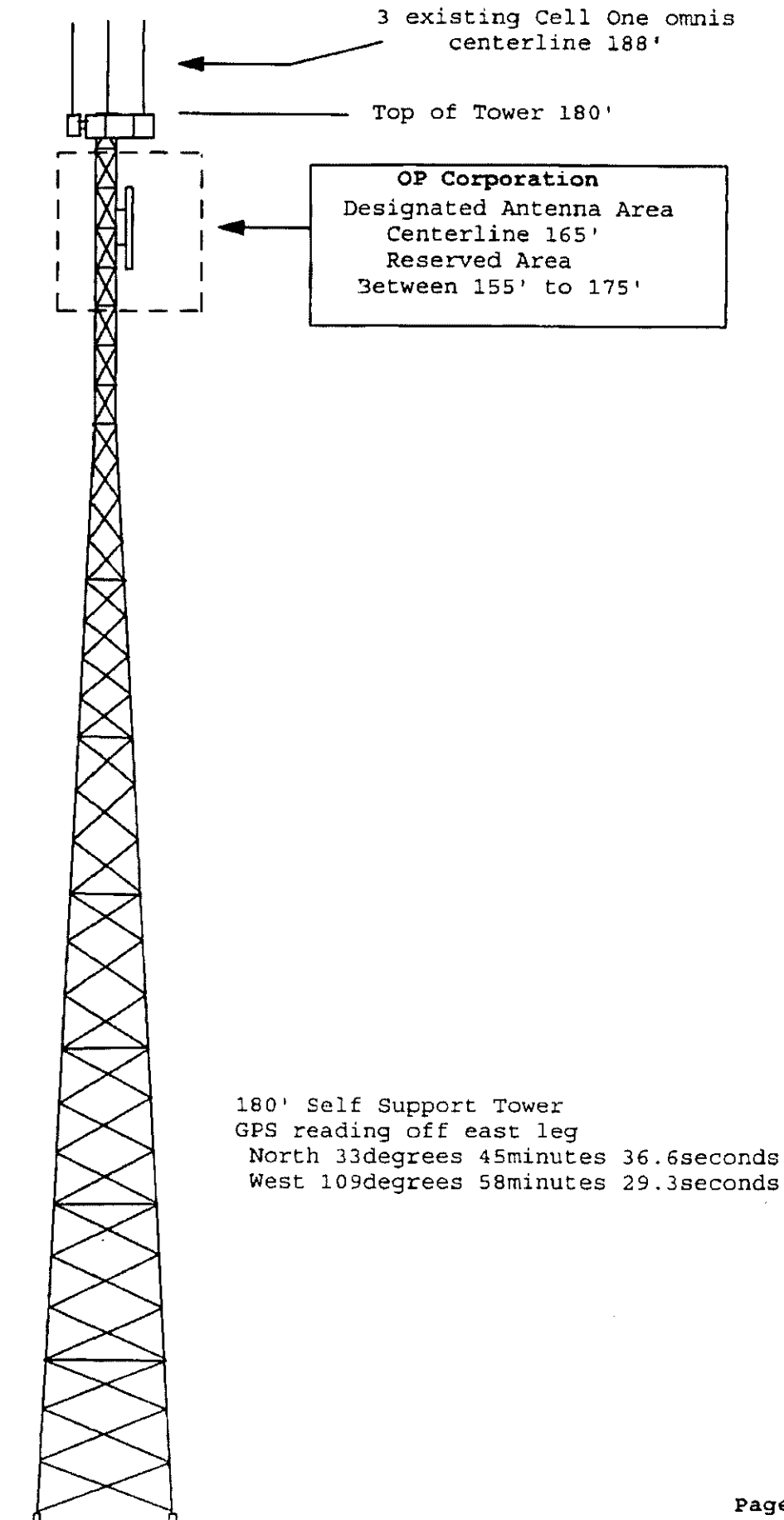
- 1) Omnidirectional Antennas and associated mounting brackets and feeder lines.
- 2) 1670 – 1675 MHz Broadcast Transmitters located in cabinets or in designated space within cabinets as specified in Exhibit C.
- 3) Satellite Receive Equipment

**White River
7 Mile**

Exhibit C

TDuffek 4/26/04

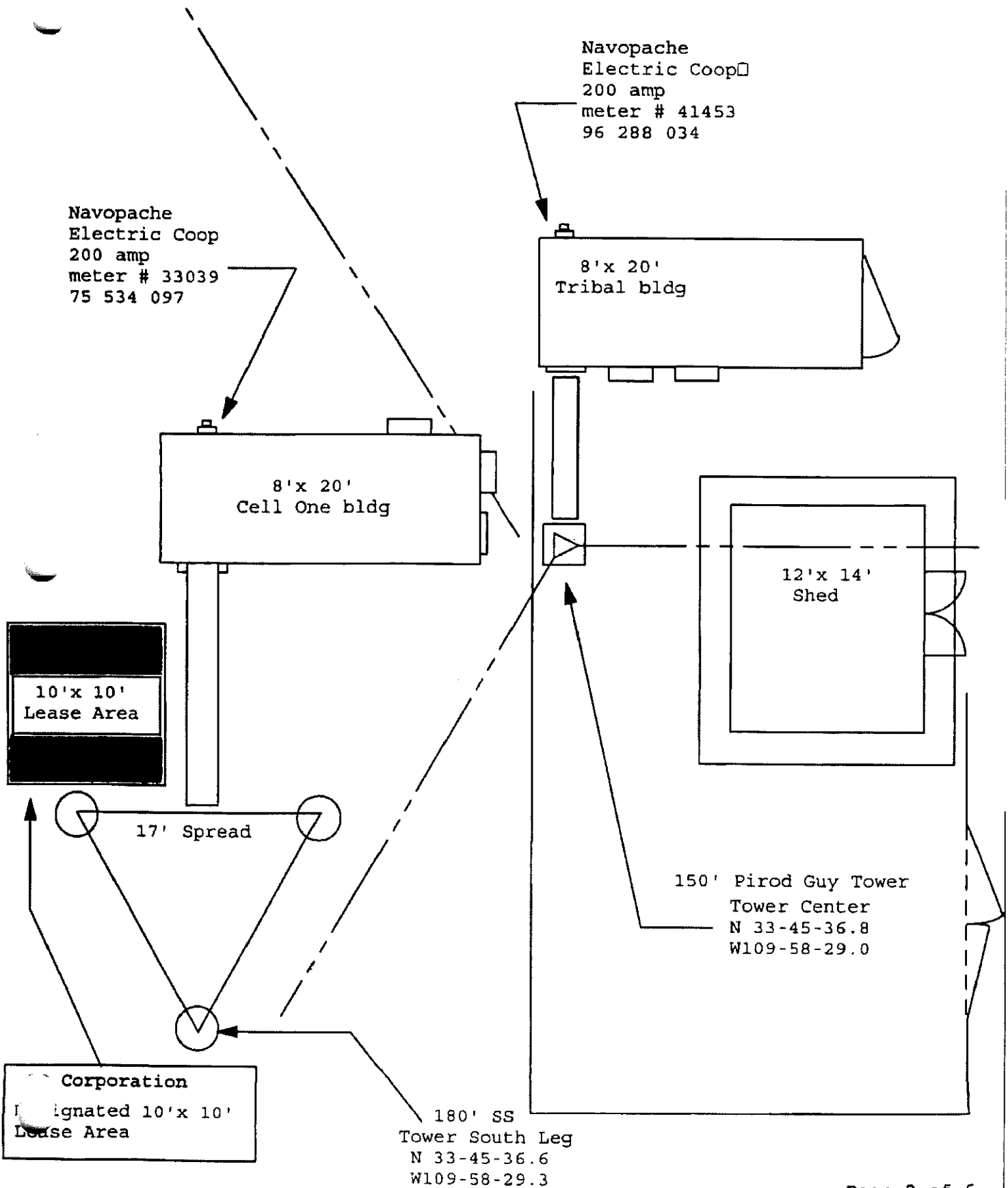
le
20'



White River 7 Mile

Exhibit C

TDuffek 4/26/04
Scale 1"=8'



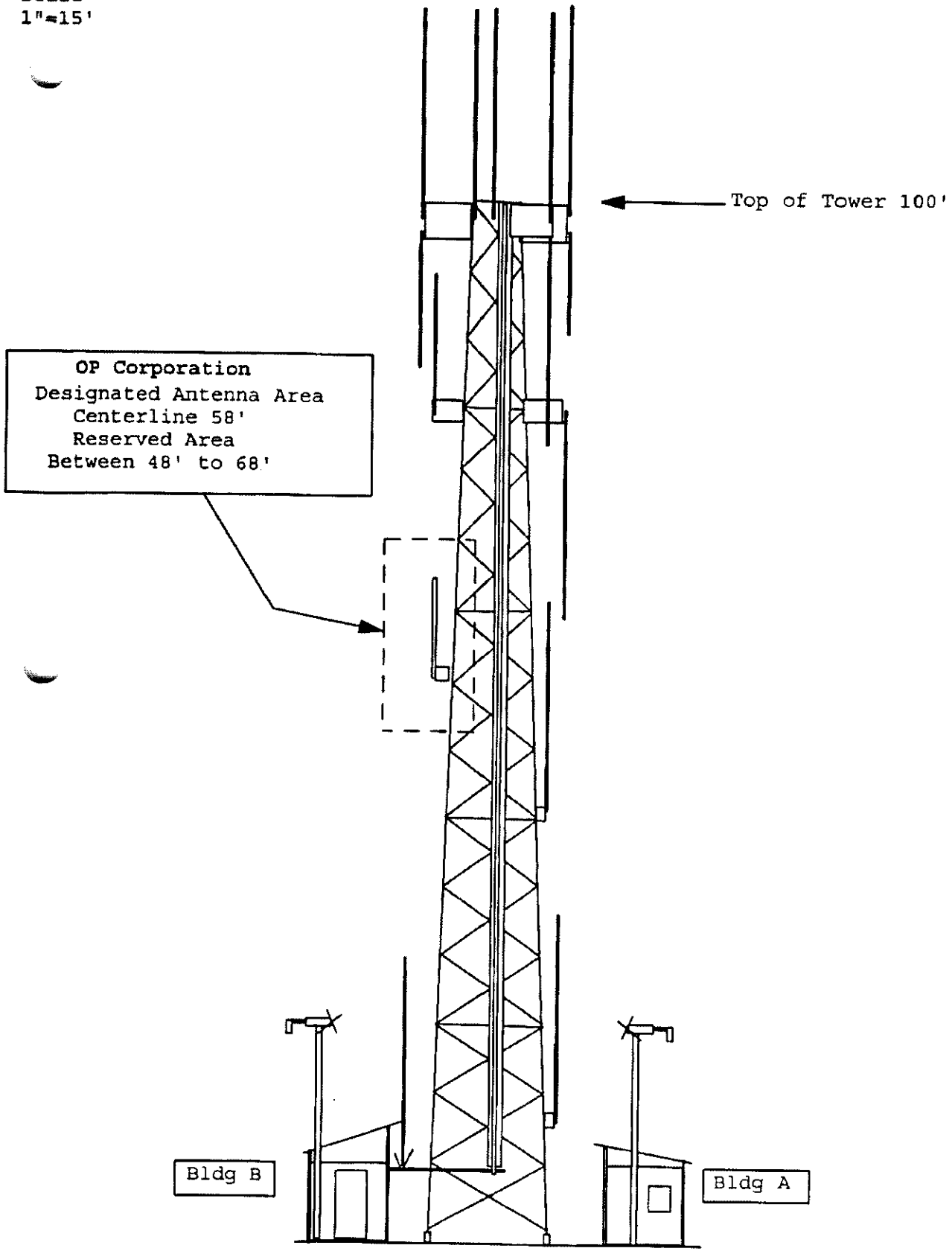
McKay's Peak

Exhibit C

TDuffek 4/26/04

Scale

1"=15'



10. Self Support Tower
GPS reading off south west leg
North 33degrees 58minutes 37.7seconds
West 109degrees 47minutes 51.2seconds

McKay's Peak

Exhibit C

TDuffek 4/26/04

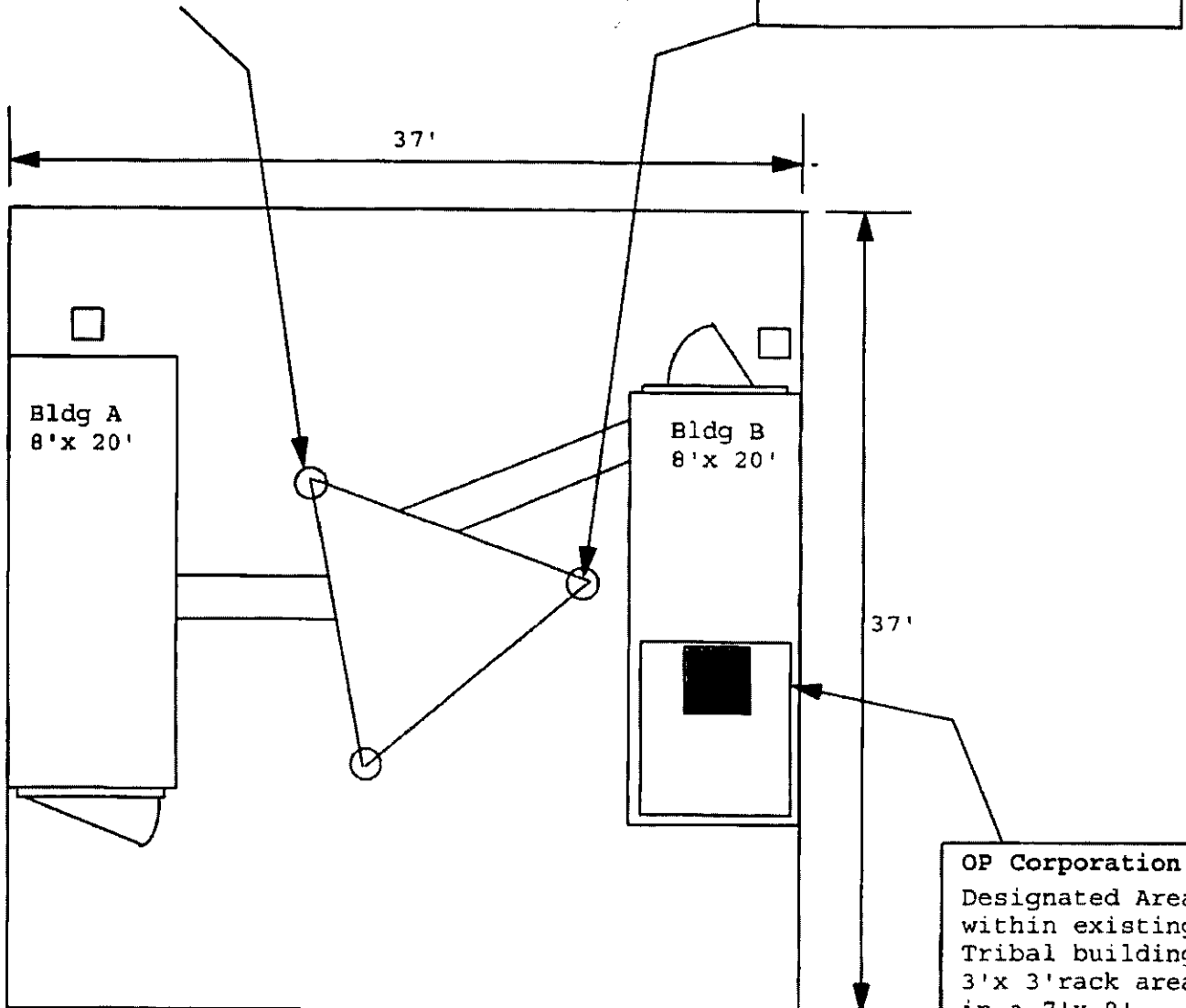
Scale 1"=8'



Mag North

100' SS Tower
South West Leg
N 33-58-37.7
W109-47-51.2

OP Corporation
Designated Antena Area
Centerline 58'
Reserved Area
Between 48' to 68'



OP Corporation
Designated Area
within existing
Tribal building
3'x 3'rack area
in a 7'x 8'
open area

Bldg A
US Fish & Wildlife
BIA Law Enforcement

Bldg B
Tribal Bldg multi users

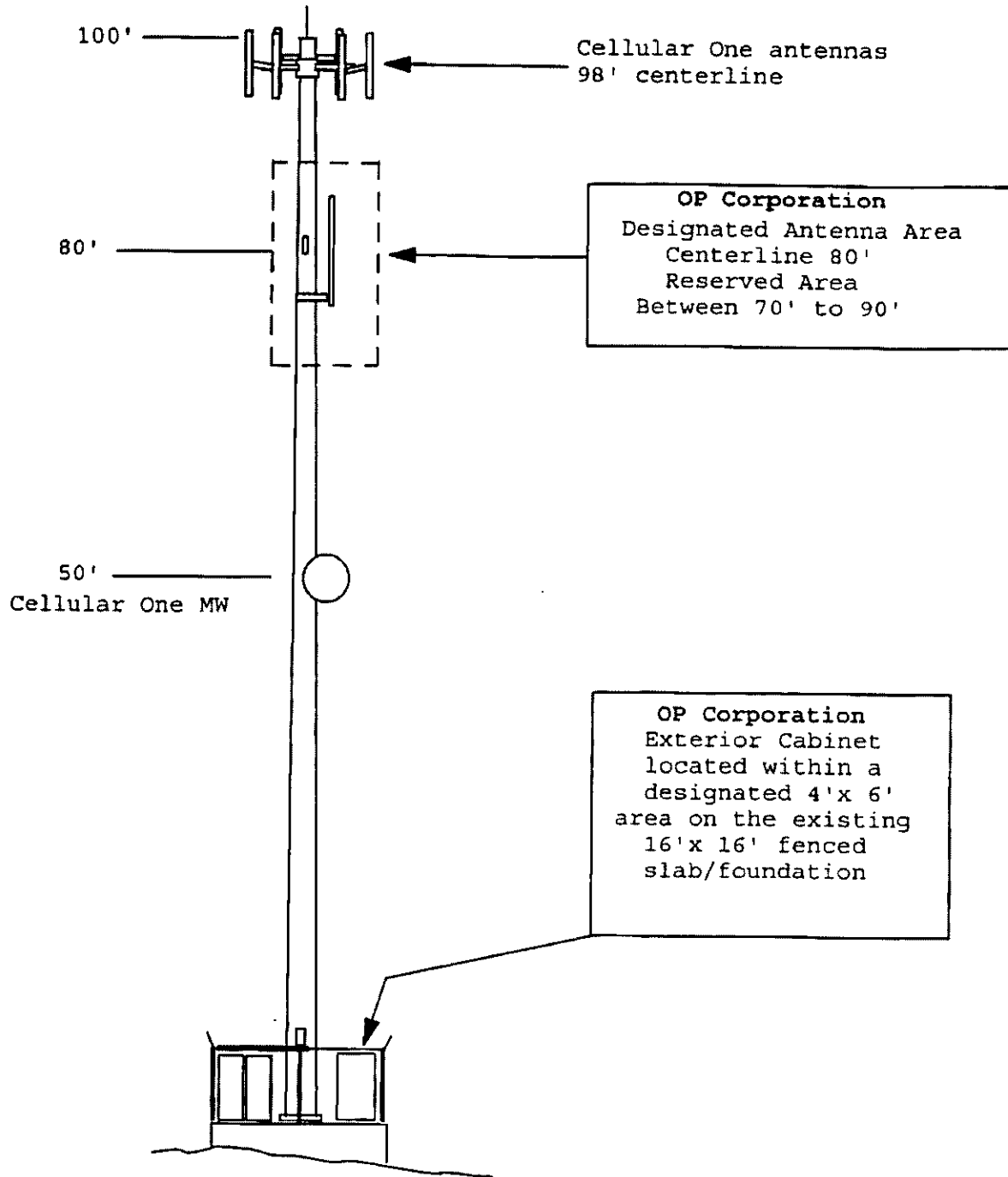
Cibecue

Exhibit C

TDuffek 4/26/04

Scale

1"=15'



1 Monopole

G reading facing south

North 34degrees 01minutes 29.3seconds

West 110degrees 28minutes 54.3seconds

Cibecue

TDuffek 4/26/04

Scale 1" = 3.5'

Exhibit C

