P89-1633
Lse 2114 #2

COMMUNICATIONS SITE AGREEMENT

THIS AGREEMENT is made and entered into by and between **WEYERHAEUSER COMPANY**, a Washington corporation, herein referred to as "Weyerhaeuser," and **LEWIS COUNTY COMMUNICATIONS**, 476 W. Main, Chehalis, Washington 98532, herein referred to as "User," for the purpose of providing facilities for User's communications equipment as described in Schedules A through D, attached, at Weyerhaeuser's communication facility known as Building A located at BAW FAW PEAK in Section 32, Township 12 North, Range 4 West, W.M., Lewis County, Washington, approximately as shown outlined in red on the attached Exhibit A.

1. **Term:** The term of this agreement shall be for a period of three (3) years, starting the 2nd day of September, 1989, and ending the 1st day of September, 1992.

2. **Annual Use Fee:** User shall pay to Weyerhaeuser upon execution hereof the sum of $1,450.00 for the period of September 2, 1989 to September 1, 1990; and thereafter, annually in advance, the sum of $1,450.00 on or before the 2nd day of September of each year during the term hereof.

User will pay a late payment penalty of 1.5% for each month or part thereof (or the maximum allowed by law, if less) on any payments in default under any provision of this agreement.

Acceptance of a late payment by Weyerhaeuser from the User after any default by User shall not constitute a waiver of any such default or any other default.

3. **Electrical Power:** During the term hereof, Weyerhaeuser shall provide User with commercial electrical power supplied by a utility company to operate its equipment installed hereunder. Weyerhaeuser shall also provide to User standby emergency power to the limit of Weyerhaeuser's on site capacity. User and Weyerhaeuser understand and agree that the furnishing of electrical power hereunder is solely a matter of convenience for User and that Weyerhaeuser shall not be liable in any way for any claim for damages or loss for failure of standby emergency power or for failure of commercial power supplied by a utility company.

4. **Technical Standards; Restrictions on Use:** Weyerhaeuser, or its designated representative, shall have the right throughout the term of this agreement to:

(a) Determine the location of all of User's equipment in Weyerhaeuser's buildings and on its tower;

(b) Approve the size, type and quality of the equipment, including any and all repairs and electrical connections thereto;

(c) Require User, at its own expense, to take all action necessary to eliminate objectionable interference which is caused by User's equipment. Weyerhaeuser reserves the right to disconnect power to any transmitters causing interference immediately if it affects emergency services or public safety;

(d) Require User to temporarily cease operation or reduce power as may be required to conduct tests, perform tower work or make emergency repairs. Such events, insofar as possible, shall be proceeded by notice and shall occur at times mutually agreeable to User and Weyerhaeuser;

(e) Require User to install and operate its equipment in compliance with all state and local fire and electrical codes;

(f) Require User to operate its equipment in compliance with the rules and regulations of the Federal Communications Commission and User's Instrument of Authorization;

(g) Require User to furnish Weyerhaeuser with a copy of its current license and subsequent renewals for Weyerhaeuser's file. A copy of said license shall be posted at all times on User's equipment;

(h) Require User to operate its equipment in compliance with the applicable standards for this site as established by the Western Washington Cooperative Interference Committee, a copy of which is attached as Exhibit C;

(i) Require User not to raise "effective radiated power" nor change equipment or operating parameters after execution of this agreement without the prior written consent of Weyerhaeuser.

5. **Access Fee:** User shall, upon execution of this agreement, pay Weyerhaeuser a one time access fee of $ (None) , for which Weyerhaeuser shall provide User the following:

(a) Space for User's antennae/dish on Tower/Pole No. A on the cross bar between Tower Leg No. __ and Tower Leg No. __ at the 90 foot level, measured from the base of the tower/pole, said tower/pole being located approximately as shown outlined in green on the attached Exhibit B;

(b) Space for User's equipment in Building A located approximately as shown outlined in red on the attached Exhibit B for operating a repeater on the following frequencies:

	Transmit	Receive
Repeater No. 1	155.625 MHz	156.030 MHz

In the event User desires to change frequencies or add units (transmitter/receiver), authorization must be obtained in writing from Weyerhaeuser. The Annual Use Fee will be adjusted accordingly for the addition or deletion of frequencies.

If unauthorized units (transmitter/receiver) are located on the premises, a penalty of triple the Annual Use Fees may be charged for each such unit from the date of this agreement. Unauthorized units are also subject to removal at the option of Weyerhaeuser.

6. **Condition of the Premises:** User shall:

(a) At all times maintain the premises and the adjacent lands free from any waste or debris created by User;

(b) Protect the premises from fire and report and suppress such fires as might occur.

7. **Inspection:** Weyerhaeuser shall have the right to inspect User's equipment at any time during the term of this agreement to ensure compliance with the terms and conditions herein.

8. **Lawful Conduct:** User represents and warrants during the term of this agreement that it has full power and authority from the Federal Communications Commission (or any other state or federal agency having jurisdiction) to install, operate and maintain its equipment in the manner described under this agreement. User agrees to use the facilities only for the purposes described herein and to comply with all applicable state, county and municipal laws and ordinances. User shall not carry on or permit any illegal or immoral practice or business on or in such facility.

9. **Assignment:** User's interest hereunder shall not be sold, conveyed, mortgaged, encumbered, assigned or otherwise transferred without the prior written consent of Weyerhaeuser. Weyerhaeuser may deny the approval of a proposed assignment based upon its opinion of the financial and management capability of the proposed assignee.

10. **Other Users:** User shall not allow any other party to use or occupy any portion of Weyerhaeuser's facility without the prior written approval of Weyerhaeuser.

11. **Loss of License:** In the event that User's license from the Federal Communications Commission is revoked, cancelled, or not renewed, User shall have the right to terminate this agreement by so notifying Weyerhaeuser in writing and by paying to Weyerhaeuser an additional one third (1/3) of the Annual Use Fee amount for the then current year within thirty (30) days of such notice of termination.

12. **Harmful Interference:** In the event User's system is rendered unusable in whole or substantial part due to harmful interference, User shall immediately give written notice of such to Weyerhaeuser. Weyerhaeuser shall undertake a good faith effort to correct or remedy such interference. If uncorrected after twenty (20) calendar days from the date of User's notice of interference, User shall have the right to notify Weyerhaeuser in writing that this agreement is terminated. The parties understand and agree that Weyerhaeuser shall not be liable in any way for claims for damages or loss for harmful interference beyond its obligation to undertake a good faith effort to correct or remedy such interference.

13. **Liens; Charges:** User shall not permit any lien or charge to be imposed upon the property of Weyerhaeuser as a result of work done by or on behalf of User and shall indemnify and hold Weyerhaeuser harmless against any and all expenses, including reasonable attorney's fees, in connection with any such lien or charge.

14. **Additional Space:** This agreement in no way implies that Weyerhaeuser will build, furnish or provide User with any additional building or tower space beyond what is agreed to herein.

15. **Access:** At all times during the term of this agreement, User shall have the right of access to its equipment installed hereunder.

Weyerhaeuser hereby grants to User, the right, license and permission to use the existing road located approximately as shown in green on the attached Exhibit A. With respect to the exercise by User of the foregoing rights, User shall:

(a) Strictly observe and faithfully comply with all regulations relating to the closing of gates promulgated by Weyerhaeuser;

(b) Not use the road for any other purpose or use any other road of Weyerhaeuser's without written permission of Weyerhaeuser;

(c) Take reasonable precaution to prevent unauthorized persons from using the road and entering Weyerhaeuser's other lands by means thereof.

16. **Insurance:** User shall obtain and, during the term of this agreement, maintain a policy of liability insurance insuring User against liability arising out of its operations, including use of vehicles, in limits of not less than $250,000.00 for injury to one person, $500,000.00 for any one occurrence, and $250,000.00 property damage for any one occurrence and deliver to Weyerhaeuser a certificate from the insurer certifying that coverage in not less than the above named amounts is in force and that in the event of cancellation or modification of such coverage, the insurer will give to Weyerhaeuser thirty (30) days' written notice prior to any cancellation or modification.

17. **Damages to Facilities:** In the event that Weyerhaeuser's tower or building are damaged or destroyed to such an extent as to render either tower or building unusable in whole or substantial part, Weyerhaeuser may terminate this agreement as of the date of such occurrence or rebuild or repair either tower or building. Weyerhaeuser shall give User written notice of its election within seven (7) days of the occurrence of the damage. If Weyerhaeuser elects to rebuild or repair, and does so without unnecessary delay, User shall be bound by this agreement, except that the Annual Use Fee shall be abated for the time necessary to rebuild or repair; provided, that if damage is due to the fault or neglect of User, there shall be no such abatement. If Weyerhaeuser fails to give any notice of election within seven (7) days of the occurrence of the damage, User shall have the right to declare this agreement terminated. User shall not be entitled to any compensation or damages from Weyerhaeuser for loss of the use of the whole or any part of the facilities herein, User's property, or any inconvenience occasioned by such damage, repair, reconstruction or restoration, unless such is caused by or due solely to the negligence of Weyerhaeuser.

18. **Breach or Default:** Each of the following events shall constitute a breach or default of the agreement by User:

(a) If User shall fail to pay any fee within twenty (20) days of receipt of a written notice from Weyerhaeuser that such fee was not paid when due;

(b) If User shall fail to perform or comply with any of the terms, covenants or conditions of this agreement;

(c) If User shall vacate or abandon the premises.

19. **Termination and Suspension:** Weyerhaeuser may suspend operations under this agreement immediately by written notice of any default. Suspension will continue until the default is remedied. Any time after 20 days from such a suspension notice, if User is still in default Weyerhaeuser may terminate User's rights under this agreement. Weyerhaeuser's rights to suspend and terminate User's rights under this section are in addition to all other available remedies, and will not be waived by any failure to exercise them.

20. **Notices:** All notices and other communications must be in writing, and may be served personally or by regular U. S. mail addressed to the party being served at these addresses:

Weyerhaeuser Company	Lewis County Communications
PO Box 1000	476 W. Main
Cosmopolis WA 98537	Chehalis WA 98532
Attn: Ron Higginbotham	Attn: _____
(206) 532-7110	(___) ___-____

with a copy to and payments to be made to:

Weyerhaeuser Company
Box C
Tacoma WA 98477
Attn: P. M. Redmon

21. **Surrender:** Upon termination or expiration hereof, User shall remove its equipment from Weyerhaeuser's facilities and surrender such facilities to Weyerhaeuser in as good a condition as the date hereof, normal wear and tear excepted. Any damage to Weyerhaeuser's facilities caused by removal shall be billed to and paid by User. Equipment not removed from Weyerhaeuser's facilities within twenty (20) days of termination or expiration hereof shall become the property of Weyerhaeuser.

22. **Representations; Assumption of Risk and Liability:**

(a) Weyerhaeuser has made no representation as to the present or future condition of the facilities or of its other lands or of its roads or the character of the traffic on its roads, and User assumes all risk of bodily injury to User, its employees, contractors and business invitees and of damage to its property and the property of its employees, contractors and business invitees;

(b) User shall pay for all damages to Weyerhaeuser's property resulting directly or indirectly from the negligent acts or omissions of User, its employees, contractors and business invitees;

(c) User shall indemnify and hold harmless Weyerhaeuser against all claims or liabilities asserted by third persons resulting directly or indirectly from the User's, its employees', contractors' and business invitees' acts or omissions hereunder whether negligent or otherwise.

23. **Attorney Fees:** If either party files an action to recover any use fee or payment under this agreement, for or on account of any breach of this agreement, to enforce or interpret any of the provisions of this agreement, or for the

recovery of possession to the premises, then the prevailing party shall recover its costs and reasonable attorneys' fees.

24. **Non-waiver of Breach:** The failure of Weyerhaeuser to insist upon strict performance of any of the covenants and conditions of this agreement, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such rights, or any other covenants or conditions, but the same shall be and remain in full force and effect.

25. **Recordation:** This agreement shall not be filed for record with any governmental subdivision or agency.

26. **Paragraphs:** The paragraph headings appearing in this agreement have been inserted for the purpose of convenience and ready reference. They do not purport and shall not be deemed to define, limit or extend the scope or intent of the clauses to which they appertain.

This agreement constitutes the entire agreement and understanding of the parties hereto. No alterations, modifications, or changes in this agreement shall be valid unless made in writing and agreed to by both parties. Nothing in the execution and performance of this agreement shall be deemed in any way to constitute the parties as joint venturers or partners with each other.

The parties hereto have executed this agreement as of this 21st day of September, 1990.

LEWIS COUNTY COMMUNICATIONS

By _____

Title DIR

WEYERHAEUSER COMPANY

By _____

Title Forest Land Use Manager

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STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this 24th day of September, 1989, before me personally appeared D. W. Wilbur, to me known to be the Forest Land Use Manager of **WEYERHAEUSER COMPANY**, the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

PAMELA M. REDMON
COMMISSION EXPIRES
NOTARY
PUBLIC
OCT. 1, 1993
STATE OF WASHINGTON

Pamela M. Redmon
Notary Public in and for the State of Washington.
My Appointment expires: October 1, 1993

STATE OF WASHINGTON)
) ss.
COUNTY OF LEWIS)

On this 1st day of Nov., ~~1989~~ 1990, before me personally appeared Randy S. Pennington to me known to be the Director of **LEWIS COUNTY COMMUNICATIONS**, the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Janelle Dunn
Notary Public in and for the State of Washington.
My Appointment expires: 11-2-93

CSA.DOC
(1/9/89)

SCHEDULE LIST

A. Copy of the engineering portion of User's application to the Federal Communications Commission for the system covered under this agreement;

B. System diagram consisting of duplexer, cavities, filters, isolators, etc.;

C. Completed Technical Data form;

D. Drawing detailing the antenna installation and all elevations and distances from ground and the supporting structures.

EXHIBIT LIST

A. Communications Building and Access Road

B. Building and Tower Site Plan

C. Engineering/Technical Standards