

DOCKET NO. 02-2270-01

- 13 -

**APPENDIX: STIPULATION**

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

In Regard to the Request of ALL WEST COMMUNICATIONS, INC. for Revision to Exchange Boundaries	Docket No. 02-2270-01 <b>SETTLEMENT STIPULATION</b>
---	--

All West Communications, Inc. ("All West"), Qwest Corporation ("Qwest") and the Utah Division of Public Utilities ("Division") (collectively "Parties"), pursuant to Utah Code Ann. § 54-7-1, stipulate as follows:

**INTRODUCTION**

1. On August 15, 2001, All West and its wholly-owned subsidiary All West/Utah, Inc. ("All West/Utah") entered into an agreement ("Agreement") with Promontory Development, L.L.C. ("Developer") to provide telecommunications services to a development known as the Promontory Ranch Club ("Promontory") located in Summit County, Utah.

2. The eastern portion of Promontory ("East Promontory") is located in the Jordanville Exchange in which All West is the incumbent local exchange carrier ("ILEC") certified by the Public Service Commission of Utah ("Commission") to provide telecommunications service. The western portion of Promontory ("West Promontory") is located in the Park City Exchange in which Qwest is the ILEC certified to provide telecommunications service.

DOCKET NO. 02-2270-01

- 14 -

3. All West/Utah is a competitive local exchange carrier ("CLEC") certified by the Commission to provide telecommunications service in exchanges served by Qwest in the state of Utah.
4. Pursuant to the Agreement, All West and All West/Utah have placed facilities in Promontory and have provided telecommunications service to customers that have requested service in Promontory.
5. The Developer elected not to comply with the terms and conditions of Qwest's LDA Tariff and Price List for Qwest to place facilities in Promontory to provide telecommunications service to potential customers in the development, so Qwest has not placed facilities in Promontory.
6. On February 1, 2002, All West filed a request for agency action, requesting that the Commission revise the exchange boundaries of its Jordanelle Exchange to include West Promontory. Qwest petitioned the Commission for intervention and opposed the request.
7. The Parties engaged in periodic discussions in an effort to settle their dispute, but were previously unsuccessful.
8. The Commission entered a scheduling order on July 11, 2006, scheduling the filing of written testimony and a hearing in this matter and providing for discovery.
9. Pursuant to the scheduling order, the Parties have filed testimony and conducted discovery.
10. Having now fully developed their positions, the Parties have determined that it is in the public interest to resolve this matter in the following manner:

DOCKET NO. 02-2270-01

- 15 -

**TERMS AND CONDITIONS**

11. The Parties agree that the written testimony, including exhibits, previously filed in this docket may be admitted into the record as the sworn testimony of the respective witnesses. The Parties agree to waive cross examination of the testimony.

12. The Parties agree that the boundary between the Jordanelle and Park City Exchanges may be adjusted as proposed in the Rebuttal Testimony of Paul M. Anderson for the Division dated October 20, 2006. All West shall prepare a legal description of the proposed new boundary line and shall circulate the legal description to Qwest and the Division for their review and approval. Upon approval by Qwest and the Division, All West shall submit the proposed new boundary line to the Commission, and the Parties request that the Commission enter an order approving the new boundary line.

13. All West may seek a study area waiver from the Federal Communications Commission changing its study area to include the new territory included in the Jordanelle Exchange. The Parties will not oppose the change in study area and request that the Commission support the change.

14. All West agrees that its wholly-owned subsidiary All West Utah will provide telecommunications service to the portion of Promontory remaining in the Park City Exchange in accordance with the terms of the Agreement without seeking state or federal high cost support to provide telecommunications service to the area. If Qwest or another provider, other than All West or a provider affiliated with All West, receives state or federal high cost support to provide telecommunications service to the portion of Promontory remaining in the Park City Exchange,

DOCKET NO. 02-2270-01

- 16 -

All West/Utah may seek high cost support, state or federal, on the same terms and conditions to provide telecommunications service to the portion of Promontory remaining in the Park City Exchange.

15. All West agrees that it will not seek a further boundary change between the Jordanelle and Park City Exchanges unless Qwest has agreed in advance to the change:

- a. for Promontory, or
- b. for any other development for a period of three years. All West and

Qwest agree that during that period and thereafter they will attempt in good faith to agree to any boundary changes when they arise that will make the boundary clear to customers and the service providers.

16. All West and Qwest shall attempt in good faith to develop a mutually acceptable proposal for extended area service between the Jordanelle and Park City Exchanges within 90 days of the date this Stipulation is approved by the Commission.

17. The Parties stipulate and agree that the settlement of this matter on the foregoing terms and conditions is just and reasonable in result and in the public interest and that the evidence contained in the record supports a finding that the settlement is just and reasonable in result and in the public interest.

**MISCELLANEOUS TERMS AND CONDITIONS**

18. All negotiations related to this Stipulation are privileged and confidential and no Party shall be bound by any position asserted in negotiations. Neither the execution of this Stipulation nor the order adopting this Stipulation shall be deemed to constitute an admission or

DOCKET NO. 02-2270-01

- 17 -

acknowledgment by any party of any liability, the validity or invalidity of any claim or defense, the validity or invalidity of any principle or practice, or the basis of an estoppel or waiver by any Party other than with respect to issues resolved by this Stipulation; nor shall they be introduced or used as evidence for any other purpose in a future proceeding by any Party to this Stipulation except a proceeding to enforce the approval or terms of this Stipulation.

19. If requested by the Commission or demanded by any person properly allowed by the Commission to do so, the Parties each agree to present testimony of one or more witnesses to explain and support this Stipulation and argument from counsel in support of this Stipulation. The witnesses of the Parties will be available for cross examination, and counsel for the Parties will appear at any hearing on approval of this Stipulation. No Party to this Stipulation may present testimony or argument in opposition to this Stipulation.

20. The Parties agree that if any person challenges the approval of this Stipulation, requests rehearing or reconsideration of any order of the Commission approving this Stipulation or seeks review in any court of any order of the Commission approving this Stipulation, each Party will use its best efforts to support the terms and conditions of the Stipulation in any such proceeding.

21. Except with regard to the obligations of the Parties under paragraphs 19, 20 and 21 of this Stipulation, this Stipulation shall not be final and binding on the Parties until it has been approved without material condition by the Commission in an order that is no longer subject to any further reconsideration or appellate review. In the event the Commission rejects any part or all of this Stipulation, or imposes any additional material condition on approval of

DOCKET NO. 02-2270-01

- 18 -

this Stipulation, or in the event the Commission's approval of this Stipulation is rejected or conditioned in whole or in part by a court, each Party reserves the right to withdraw from this Stipulation. If such an order is issued, the Parties agree to meet and discuss the applicable Commission or court order within five business days of its issuance and to attempt in good faith to reach a modified stipulation. No Party shall provide notice of withdrawal prior to complying with the foregoing sentence. In the event that no modified stipulation is reached, any Party may withdraw from this Stipulation by giving written notice of withdrawal to the Commission and the other Parties to this Stipulation. Any such notice shall be given within ten days after reaching impasse in any discussions regarding modifying the Stipulation. If any Party withdraws from this Stipulation pursuant to this paragraph, no Party shall be bound or prejudiced by any facts stipulated in or the terms and conditions of this Stipulation, and each Party shall be entitled to undertake any step or to assert any position it deems appropriate without regard to this Stipulation.

BASED ON THE FOREGOING, the Parties request that the Commission issue an order adopting and approving this Stipulation.

RESPECTFULLY SUBMITTED: November 8, 2006.

DOCKET NO. 02-2270-01

- 19 -

---

Stephen F. Mecham  
Callister, Nebeker & McCullough  
Gateway Tower East, Suite 900  
10 East South Temple  
Salt Lake City, UT 84133  
(801) 530-7316  
(801) 364-9127 (fax)  
[sfmecham@crnlaw.com](mailto:sfmecham@crnlaw.com)

*Attorneys for All West Communications,  
Inc.*

---

Gregory B. Monson  
Steel Rives LLP  
  
Melissa K. Thompson  
Qwest Services Corporation

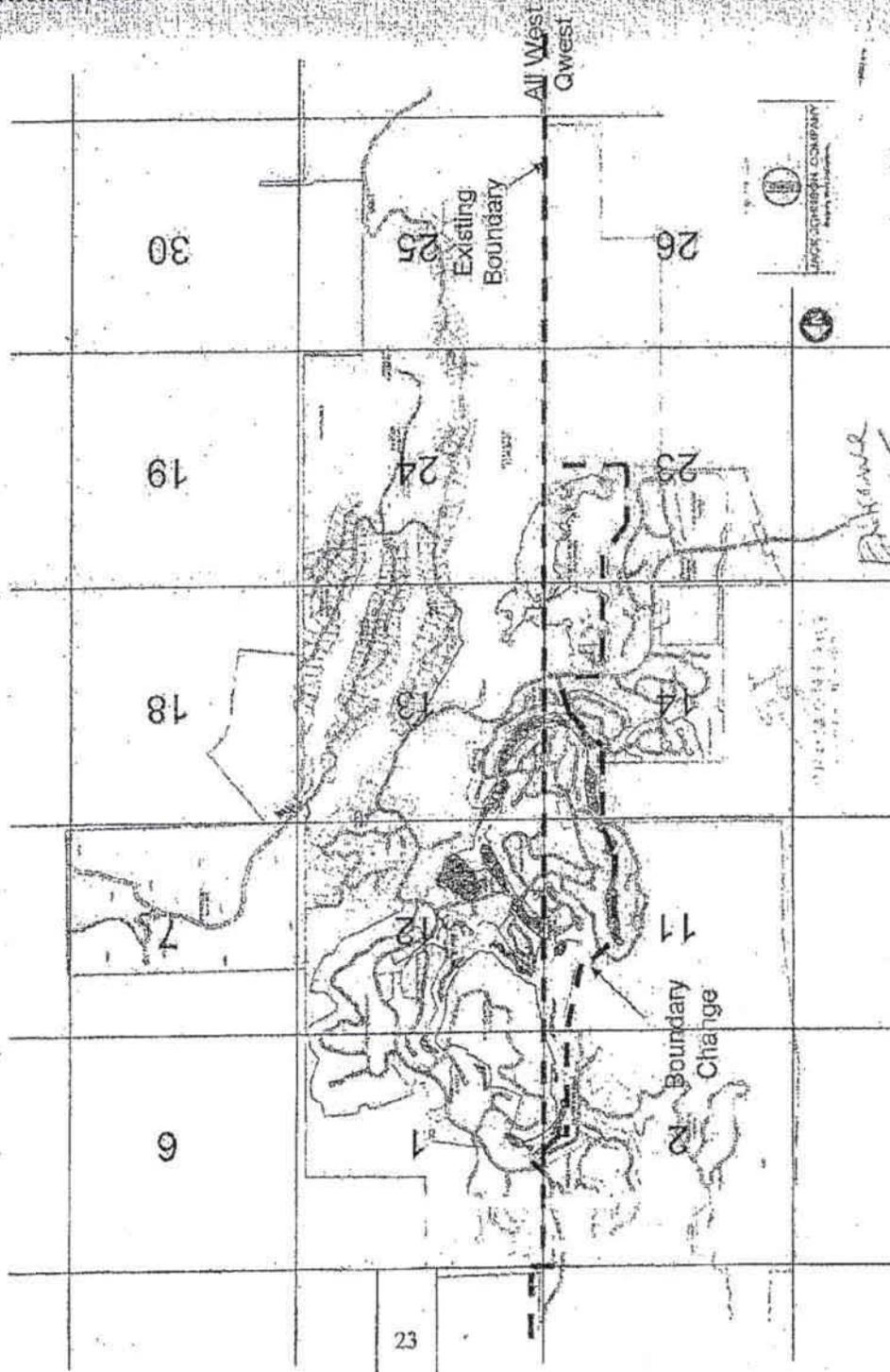
*Attorneys for Qwest Corporation*

---

Michael Ginsberg  
Assistant Attorney General  
Patricia B. Schmid  
Assistant Attorney General  
160 East 300 South, Suite 500  
Salt Lake City, UT 84114  
(801) 366-0330  
(801) 366-0352 (fax)  
[mginsberg@utah.gov](mailto:mginsberg@utah.gov)  
[pschmid@utah.gov](mailto:pschmid@utah.gov)

*Attorneys for Utah Division of Public  
Utilities*

New All West Exchange Boundary Change



**Exhibit 2**



DOCKET NO. 08-049-26

-2-

slight increase in the customer's costs for long distance calling based on the call patterns of the customers. The Division further found that All West's local rates are slightly higher than Qwest's, but the transfer of the service area will enable the customers to have advanced calling feature, DSL and video services. The Division further determined that there would be no immediate impact to the Universal Service Fund because the Transferred Area is not eligible for federal USF support as a former Qwest property. All new plant placed in the area would be added to All West's rate base for ratemaking and state USF eligibility determinations. There was no opposition to the Joint Petition.

Based on the Petition, the Division's recommendation and good cause appearing therefore, the Commission makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Qwest is a Regional Bell Operating Company and telephone corporation certificated to provide a wide range of telecommunications services in the State of Utah including, without limitation, the Transferred Area pursuant to a Certificate of Convenience and Necessity issued by the Commission. Qwest subscribers in the Transferred Area are served out of Qwest's Evanston, Wyoming Central Office.

2. All West is a telephone corporation certificated to provide a wide range of telecommunications services in the State of Utah including, without limitation, the Coalville, Utah exchange pursuant to a Certificate of Convenience and Necessity issued by the Commission.

DOCKET NO. 08-049-26

-3-

3. Contemporaneous with the filing of this Joint Petition, All West filed a Boundary Revision Petition with the Commission in which All West requested that the Commission revise the Coalville Exchange Boundary to include currently non-certificated territory within the Coalville Exchange. The Transferred Territory, which is the subject of this Joint Petition, is contiguous with, and adjacent to, the Coalville, Utah exchange currently served, or to be served, by All West.

4. Qwest currently serves approximately ten (10) access lines in the Transferred Area with eight (8) customers. Qwest currently serves those customers out of the Evanston, Wyoming Offices of Qwest on a toll cable which has been converted to subscriber cable. The only services provided by Qwest to the Transferred Area are basic dial tone services. All West currently has fiber located on the east side of the Wasatch Exchange. All West plans to use that fiber to connect to UDOT fiber to the Echo Port of Entry. All West plans to construct fiber facility from the Echo Port of Entry to the subscribers in the Transferred Area (the "Subscribers"), thereby providing the Subscribers with fiber to the premises. This will enable All West to provide dial tone, advanced calling features and DSL to the Transferred Area.

5. All West is ready, willing and able to meet the service demands of the Transferred Area. The customers in the Transferred Area are currently being served with technology that includes air-core distribution facilities. As such, these customers receive only basic voice service. Further, those customers do not have available to them technologically advanced services that could be provisioned by All West's facilities described above.

6. Qwest has no plans to upgrade the facilities in the Transferred Area. Qwest has no objection to transferring the Transferred Territory to All West.

DOCKET NO. 08-049-26

-4-

CONCLUSIONS OF LAW

1. All West's existing plant and that which it is currently constructing will facilitate and accommodate additional services in the residential and commercial markets in the Transferred Area. It is in the public interest to transfer the Transferred Area from Qwest to All West as additional services will be available and improved facilities will service be available to provide telecommunications services.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

The Joint Petition to Transfer Service Territory is granted. All West's Coalville Exchange Boundary is hereby revised to include the Transferred Area as described in Exhibit "A" attached hereto and by this reference made a part hereof. Qwest's Wasatch Exchange Boundary is hereby revised to exclude the Transferred Area described in Exhibit A attached hereto and by reference made a part hereof.

DATED at Salt Lake City, Utah, this 11<sup>th</sup> day of September, 2008.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary  
G838904

DOCKET NO. 08-049-26

-5-

EXHIBIT A

**QWEST Wasatch Exchange Territory Transferred to AllWest Coalville Exchange**

Sections 1, 11 & 12, Township 4 North, Range 6 East, SLBM Sections 5, 6 & 7, Township 4 North, Range 7 East, SLBM Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33 & 34, Township 5 North, Range 7 East, SLBM Sections 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 34, 35 & 36, Township 6 North, Range 7 East Sections 4, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, 21, 28, 29 & 30, Township 5 North, Range 8 East Sections 16, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32 & 33, Township 6 North, Range 8 East

**Exhibit 3**



BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING

IN THE MATTER OF THE JOINT )  
APPLICATION OF U S WEST )  
COMMUNICATIONS, INC. TO TRANSFER ) DOCKET NO. 70013-TA-98-14  
CERTAIN SERVICE IN THE SOUTHWEST ) DOCKET NO. 70000-TA-98-432  
CORNER OF Uinta COUNTY TO ALL WEST ) (RECORD NO. 4418 )  
COMMUNICATIONS, INC. )

**NOTICE AND ORDER**  
(Issued November 17, 1998)

This matter is before the Commission upon the joint application of U S WEST Communications, Inc., hereinafter referred to as U S WEST, and All West Communications, Inc., hereinafter referred to as All West, for authority for U S WEST to transfer its requisite certificate authority to provide service in a specified area of the southwest corner of Uinta County, Wyoming, to All West.

The Commission, having reviewed the application, its files regarding U S WEST and All West, applicable Wyoming telecommunications law and otherwise being fully advised in the premises, FINDS and CONCLUDES:

1. U S WEST and All West are telecommunications companies as defined by W.S. § 37-15-103(a)(xi) and, as such, subject to the Commission's jurisdiction pursuant to the provisions of W.S. § 37-15-401.

2. In the joint application, U S WEST and All West request that a section of U S WEST's certificated service territory, located in the southwest corner of Uinta County, Wyoming, be transferred to All West. U S WEST does not currently have facilities in this area. The affected territory is specifically described as follows:

Sections 2 and 3 T12 N R121 W in Uinta County, Wyoming; and  
Sections 26, 27, 34, and 35 T13 N R121 W in Uinta County, Wyoming.

3. U S WEST does not provide service to customers in the above-described area at this time. Amoco Production Company and Anschutz Corporation have requested service via an interconnection to All West's fiber optic cable which is routed past their respective facilities. Telecommunications services are currently being provided to these companies through a radio link into Evanston which is operated by Amoco Production Company.

4. U S WEST and All West concur that All West is better equipped to provide service to these companies in a timely manner, and that the proposed transfer is consistent with the desires of the customers.

5. The Commission finds and concludes that all parties in this matter are in agreement with regard to the proposed transfer, and that its approval is in the public interest.

6. The above-described application is on file with the Commission at its offices in Cheyenne, Wyoming, and may be inspected by any interested persons during regular business hours.

7. Anyone wishing to intervene, request a hearing, file a statement or protest this application must do so on or before December 21, 1998.

8. If you wish to intervene in this matter and/or request a public hearing which you will attend and you require reasonable accommodation for a disability, please contact the Wyoming Public Service Commission at (307) 777-7427 in Cheyenne during regular business hours or write to them at 2515 Warren Avenue, Suite 300, Cheyenne, Wyoming 82002, to make arrangements. Communications impaired persons may also contact the Commission by accessing Wyoming Relay at 1-800-877-9965. Please mention the docket numbers in your communications. Please contact us as soon as possible to help us serve you better.

9. The Commission directs that the public notice in this matter be in the following form:

#### PUBLIC NOTICE

U S WEST Communications, Inc. (U S WEST) and All West Communications, Inc. (All West) have applied jointly to the Wyoming Public Service Commission (PSC) for authority to transfer U S WEST's certificate authority to provide service to a certain portion of Uinta County, Wyoming, to All West. The affected territory is described as follows:

Sections 2 and 3 T12 N R121 W in Uinta County, Wyoming; and  
Sections 26, 27, 34, and 35 T13 N R121 W in Uinta County, Wyoming.

U S WEST does not provide service to customers in the above described area at this time. Amoco Production Company and Anschutz Corporation have requested service via an interconnection to All West's fiber optic cable which is routed past their respective facilities. Telecommunications services are currently being provided to these companies through a radio link into Evanston which is operated by Amoco Production Company.

You may review this application at the PSC in Cheyenne, Wyoming, during regular business hours.

To intervene, request a hearing, file a statement or protest this application, you must file with the PSC, mentioning Docket Nos. 70000-TA-98-432 and 70013-TA-98-14, on or before December 21, 1998.

If you wish to participate and require reasonable accommodation for a disability, call the PSC at (307) 777-7427 or write the PSC at 2515 Warren Avenue, Suite 300, Cheyenne, Wyoming 82002. Communications impaired persons may contact the PSC through Wyoming Relay at 1-800-877-9965.

Dated November 17, 1998.

IT IS THEREFORE ORDERED THAT:

1. Pursuant to open meeting action taken on September 30, 1998, the joint application of U S WEST Communications, Inc. and All West Communications, Inc. for authority to transfer U S WEST's certificate authority to provide service in a specified area of the southwest corner of Uinta County, Wyoming, to All West Communications, Inc., should be, and hereby is, approved, subject to notice, opportunity for hearing, protest or any further action the Commission may deem appropriate.

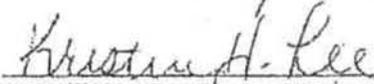
2. U S WEST Communications, Inc. and All West Communications, Inc. are hereby directed to amend their respective exchange boundary maps accordingly and file the revised maps with the Commission within 30 days of the issuance of this Notice and Order.

3. This Notice and Order is effective immediately.

MADE and ENTERED at Cheyenne, Wyoming this 17<sup>th</sup> day of November, 1998.

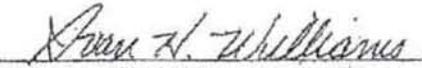
PUBLIC SERVICE COMMISSION OF WYOMING

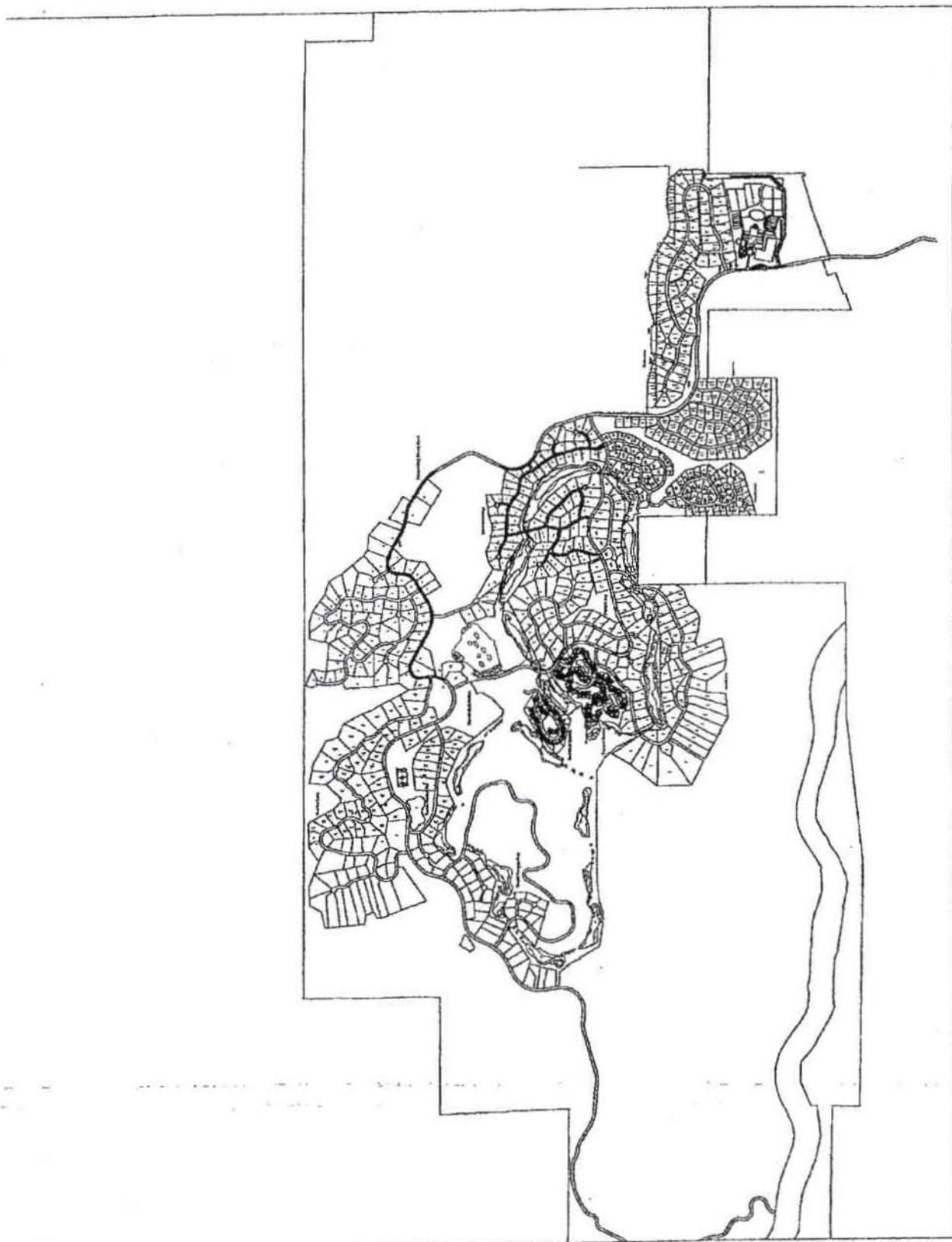
  
STEVE ELLENBECKER, Chairman

  
KRISTIN H. LEE, Deputy Chair

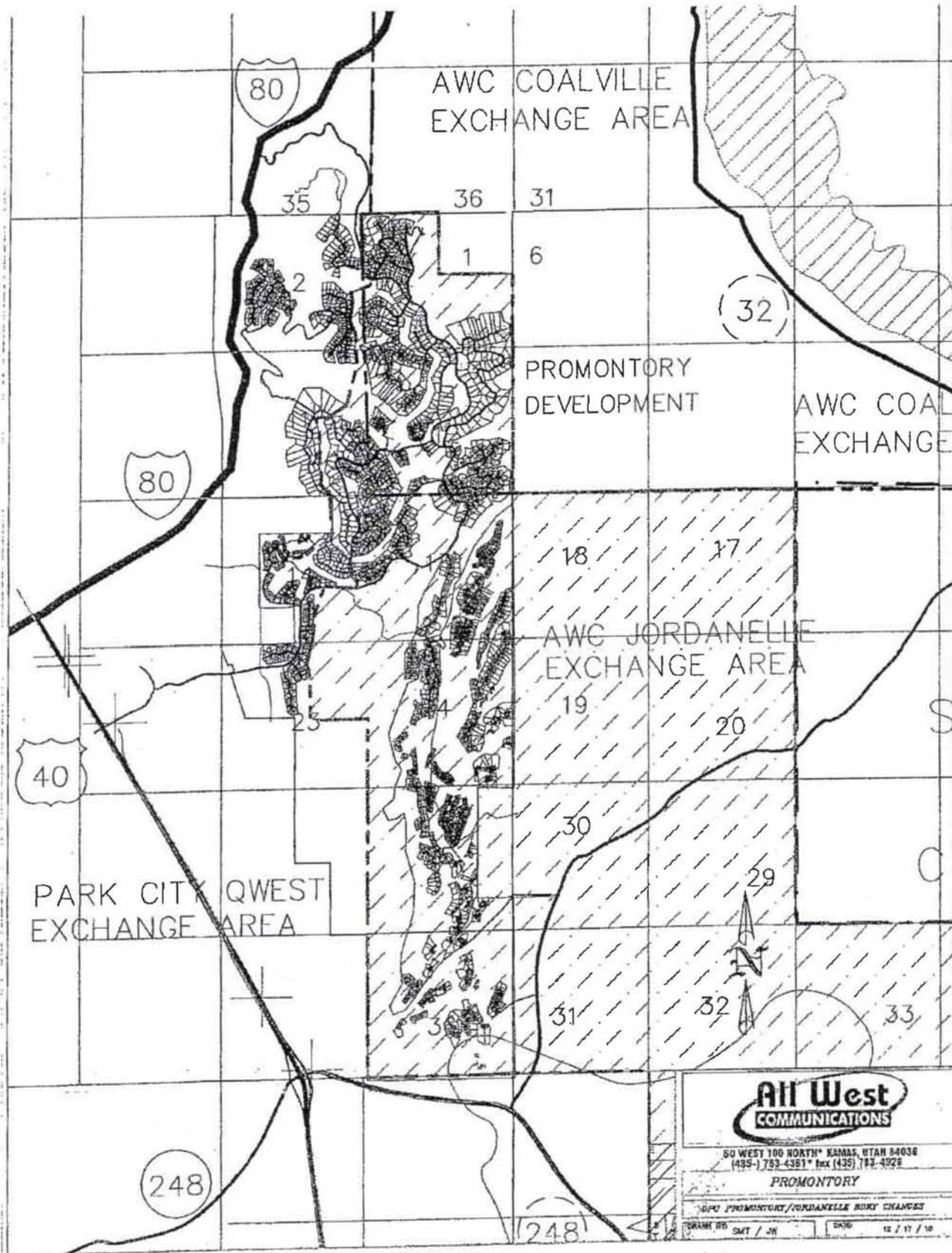


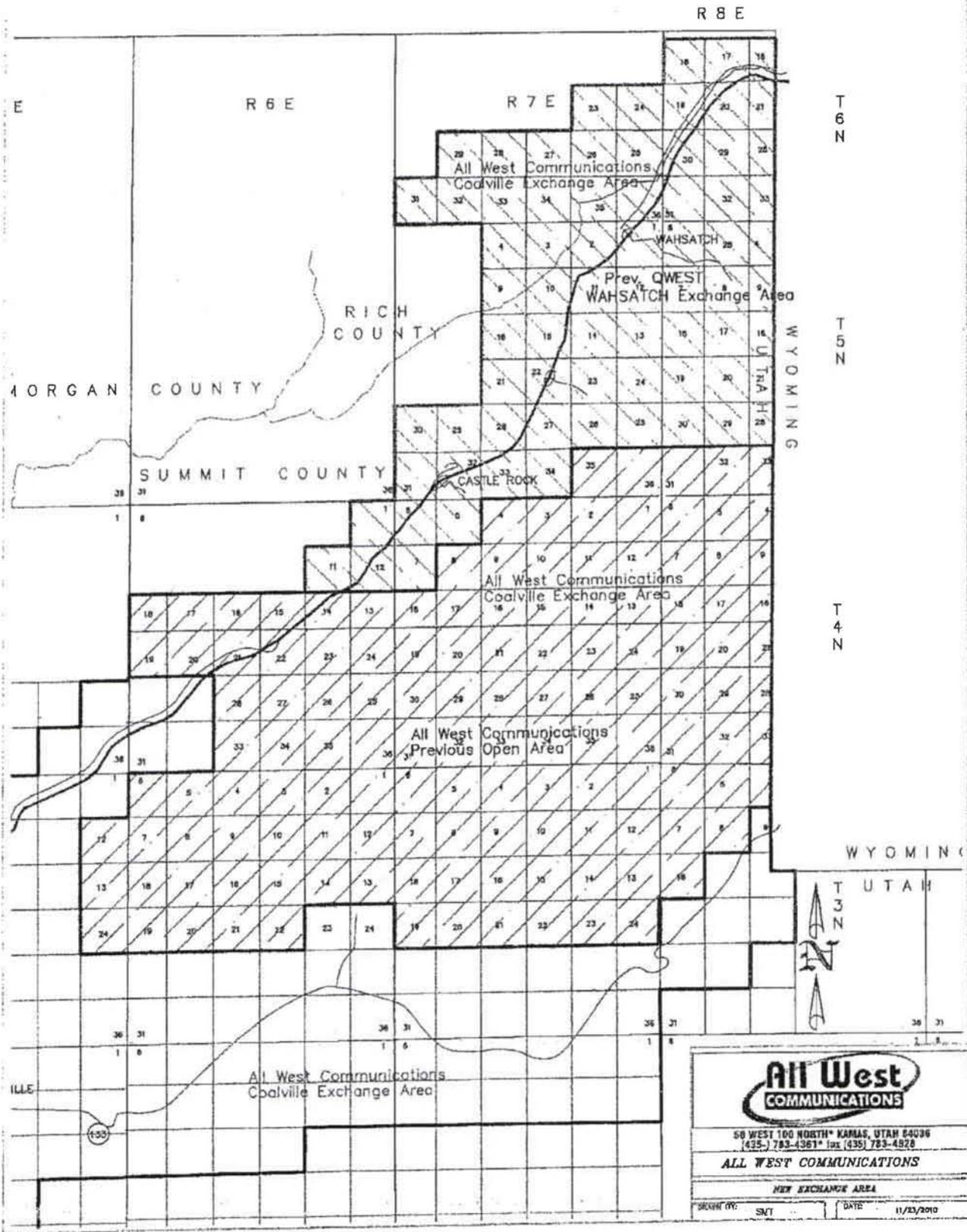
ATTEST:

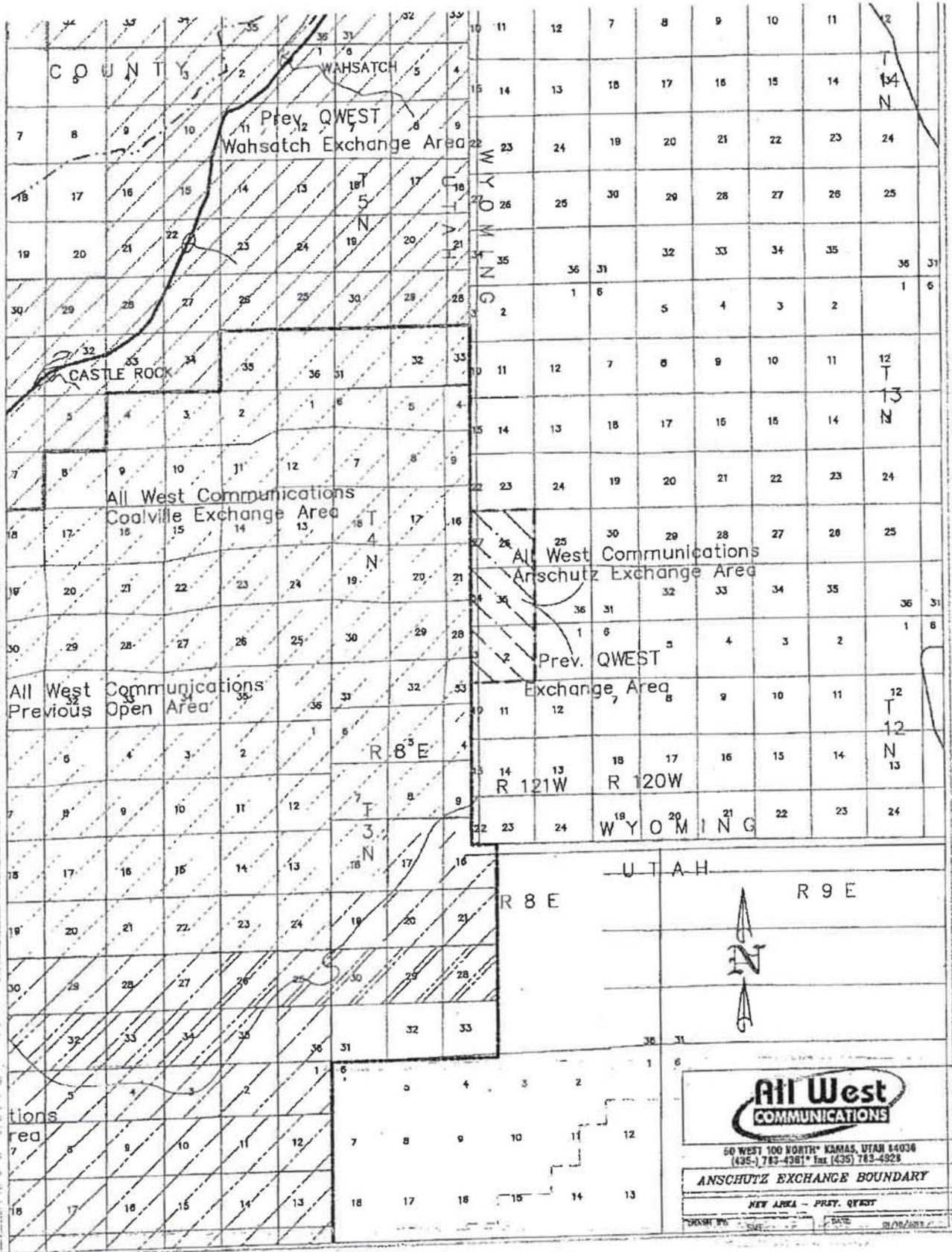
  
IVAN H. WILLIAMS, Assistant Secretary



**Exhibit 4**







50 WEST 100 NORTH, KAMAS, UTAH 84038  
 (435-) 783-4381 Fax (435) 783-4528

**ANSCHUTZ EXCHANGE BOUNDARY**

NEW AREA - PREV. QWEST

DATE 01/18/2001