

CERTIFIED
COPY

1 STATE OF CONNECTICUT

2 CONNECTICUT SITING COUNCIL

4 Docket No. 509

5 Application from Homeland Towers, LLC and New
6 Cingular Wireless PCS, LLC d/b/a AT&T for a Certificate
7 of Environmental Compatibility and Public Need for the
8 Construction, Maintenance, and Operation of a
9 Telecommunications Facility Located at 1837 Ponus Ridge
10 Road, New Canaan, Connecticut

12 Remote Council Meeting (Teleconference), on
13 Thursday, September 8, 2022, beginning at 1 p.m.

15 H e l d B e f o r e:

16 JOHN MORISSETTE, Member and Presiding Officer

17

18

19

20

21

22

23

24

25

1 **A p p e a r a n c e s :**

2 **Council Members:**

3 **JOHN MORISSETTE,**

4 **The Hearing Officer**

6 **BRIAN GOLEMBIEWSKI,**

7 **Deep Designee**

9 **QUAT NGUYEN,**

10 **PURA Designee**

12 **ROBERT SILVESTRI**

13 **MARK QUINLAN**

14 **LOUANNE COOLEY**

16 **Council Staff:**

17 **MELANIE BACHMAN, ESQ.,**

18 **Executive Director and Staff Attorney**

20 **ROBERT MERCIER,**

21 **Siting Analyst**

23 **LISA FONTAINE,**

24 **Fiscal Administrative Officer**

1 **A p p e a r a n c e s : (cont'd)**

2 **For Homeland Towers, LLC (Applicant):**

3 **CUDDY & FEDER, LLP**

4 **733 Summer Street**

5 **Stamford, Connecticut 06901**

6 **By: LUCIA CHIOCCHIO, ESQ.**

7 **LChiocchio@cuddyfeder.com**

8 **914.761.1300**

9

10 **For CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS:**

11 **ROBINSON & COLE, LLP**

12 **280 Trumbull Street**

13 **Hartford, Connecticut 06103**

14 **By: KENNETH C. BALDWIN, ESQ.**

15 **KBaldwin@rc.com**

16 **860.275.8345**

17

18 **For MARK AND JAMIE BUSCHMANN, TRUSTEES:**

19 **MORIARTY, PAETZOLD & SHERWOOD**

20 **2230 Main Street**

21 **Glastonbury, Connecticut 06033**

22 **By: DAVID F. SHERWOOD, ESQ.**

23 **DFSherwood@gmail.com**

24 **860.657.1010**

1 **A p p e a r a n c e s: (cont'd)**

2 **For NEW CANAAN NEIGHBORS:**

3 **JUSTIN NISHIOKA (pro se)**

4 **JANE RAVARET (pro se)**

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 (Begin: 1 p.m.)
2
3

4 THE HEARING OFFICER: Good afternoon, ladies and
5 gentlemen. Can everyone hear me okay?

6 Very good. Thank you.

7 This continued remote evidentiary hearing
8 session is called to order this Thursday,
9 September 8, 2022, at 1 p.m. My name is John
10 Morissette, member and Presiding Officer of the
Connecticut Siting Council.

11 If you haven't done so already, I ask that
12 everyone please mute their computer audio and
13 telephones now.

14 A copy of the prepared agenda is available on
15 the Council's Docket Number 509 webpage, along
16 with the record of this matter, the public hearing
17 notice, instructions for public access to this
18 remote public hearing, and the Council's Citizens
19 Guide to Siting Council's Procedures.

20 Other members of the Council are
21 Mr. Silvestri, Mrs. Cooley, Mr. Quinlan, Mr.
22 Nguyen, Executive Director Melanie Bachman, Siting
23 Analyst Robert Mercier, and Fiscal Administrative
24 Officer Lisa Fontaine.

25 This evidentiary session is a continuation of

1 the public hearing held on June 28, 2022; July 14,
2 2022; and August 16, 2022. It is held pursuant to
3 the provisions of Title 16 of the Connecticut
4 General Statutes and of the Uniform Administrative
5 Procedure Act upon an application from Homeland
6 Towers, LLC, and New Cingular Wireless PCS, LLC,
7 doing business as AT&T, for a certificate of
8 environmental compatibility and public need for
9 the construction, maintenance, and operation of a
10 telecommunications facility located at 1837 Ponus
11 Ridge Road, New Canaan, Connecticut.

12 A verbatim transcript will be made available
13 of this hearing and deposited with the New Canaan
14 Town Clerk's Office for the convenience of the
15 public.

16 The Council will take a 10 to 15-minute break
17 at a convenient juncture around 3 to 3:30,
18 somewhere in that area.

19 Moving on, we have a motion. On August 31,
20 2022, New Canaan Neighbors submitted a motion to
21 strike. Attorney Bachman may wish to comment.

22 Attorney Bachman?

23 MS. BACHMAN: Thank you, Mr. Morissette. NCN moves to
24 strike portions of the record that refer to the
25 Town's public safety equipment on the basis that

1 the Town is not a party, and is not jurisdictional
2 to the Council.

3 The Applicants object to NCN's motion on the
4 basis that the feasibility of co-location of the
5 Town's public safety equipment on the proposed
6 tower is consistent with the tower sharing policy.

7 Prior to granting a certificate for a
8 telecommunications facility, General Statutes
9 Section 16-50p, Subsection B, Subdivision 1,
10 requires the Council to examine whether the
11 facility may be shared with any public or private
12 entity that provides service to the public if the
13 shared use is technically, legally,
14 environmentally and economically feasible and
15 meets public safety concerns.

16 Under this same section the Council may deny
17 a certificate if it determines that the Applicant
18 would not cooperate relative to future shared use
19 of the proposed facility, or the facility would
20 substantially impact the scenic quality of its
21 location, and no public safety concerns require
22 that the facility be constructed in such a
23 location.

24 Under subdivision two the Council may impose
25 reasonable conditions as it deems necessary to

1 promote the immediate and future shared use of
2 telecommunications facilities and avoid the
3 necessary proliferation of such facilities.

4 The Council shall, prior to issuing a
5 certificate, provide notice of the proposed
6 facility to the municipality in which the facility
7 is proposed to be located.

8 The public safety need for reliable
9 telecommunication services in a particular area is
10 determined by the Council. This includes, but is
11 not limited to the provision of FirstNet and E911
12 services.

13 The public safety need for reliable emergency
14 communication services in any particular area is
15 determined by the municipality. The Council most
16 recently encountered these issues in Docket Number
17 506 and its associated feasibility proceeding.

18 By statute the Council must examine whether
19 the proposed facility may be shared by other
20 entities public or private, consistent with the
21 tower-sharing policy of the day. Therefore, staff
22 recommends the motion to strike be denied.

23 Thank you.

24 THE HEARING OFFICER: Thank you, Attorney Bachman.

25 Is there a motion?

1 (No response.)
2

3 THE HEARING OFFICER: Is there a motion?
4

5 MR. SILVESTRI: Mr. Morissette?
6

7 THE HEARING OFFICER: Yes, Mr. Silvestri?
8

9 MR. SILVESTRI: I'll move to deny the motion to strike.
10

11 THE HEARING OFFICER: Thank you, Mr. Silvestri.
12

13 Is there a second?
14

15 MR. QUINLAN: I'll second it.
16

17 THE HEARING OFFICER: Thank you, Mr. Quinlan.
18

19 We have a motion by Mr. Silvestri and a
20

21 second by Mr. Quinlan to deny the motion.
22

23 Is there any discussion?
24

25 Mr. Silvestri?
26

27 MR. SILVESTRI: No discussion, Mr. Morissette. I
28 believe Attorney Bachman summed up anything that I
29 might have said. Thank you.
30

31 THE HEARING OFFICER: Thank you, Mr. Silvestri.
32

33 Mrs. Cooley, any discussion?
34

35 (No response.)
36

37 THE HEARING OFFICER: I don't see Mrs. Cooley with us
38 as of yet.
39

40 Mr. Quinlan, any discussion?
41

1 MR. QUINLAN: No discussion. Thank you.

2 THE HEARING OFFICER: Thank you, Mr. Quinlan.

3 Mr. Nguyen, any discussion?

4 MR. NGUYEN: No discussion. Thank you.

5 THE HEARING OFFICER: Thank you.

6 Mr. Golembiewski, any discussion? I see
7 you've joined us. Good afternoon.

8 MR. GOLEMBIEWSKI: Yes, thank you. Good afternoon,

9 Mr. Morissette.

10 No discussion. Thank you.

11 THE HEARING OFFICER: Very good. And I have no
12 discussion. We'll now move to the vote.

13 Mr. Silvestri, how do you vote?

14 MR. SILVESTRI: I vote to approve the motion to deny
15 the motion to strike. Thank you.

16 THE HEARING OFFICER: Thank you.

17 Mr. Quinlan, how do you vote?

18 MR. QUINLAN: I vote to approve the motion to deny.

19 THE HEARING OFFICER: Thank you, Mr. Quinlan.

20 Mr. Nguyen, how do you vote?

21 MR. NGUYEN: Vote to approve. Thank you.

22 THE HEARING OFFICER: Thank you.

23 Mr. Golembiewski, how do you vote?

24 MR. GOLEMBIEWSKI: I vote to approve the motion.

25 Thank you.

1 THE HEARING OFFICER: Thank you. And I also approve
2 the motion to deny to strike.

3 We'll go back to Mrs. Cooley. Mrs. Cooley,
4 have you joined us?

5 Very good. So we have five in favor for the
6 motion to strike, to deny the motion to strike.

7 The motion is hereby denied. Thank you.

8 We will now continue with the appearance of
9 the Applicant. In accordance with the Council's
10 August 17, 2022, continued evidentiary hearing
11 memo we will commence with the appearance of the
12 Applicant, Homeland Towers, LLC, and AT&T, to
13 swear in their new Witness Rachelle Lewis, and
14 verify the new exhibits marked Roman numeral 2,
15 items b15 and '16 on the hearing program.

16 Attorney Bachman, can you please begin by
17 swearing in Ms. Lewis.

18 R A C H E L L E L E W I S ,

19 called as a witness, being first duly sworn
20 by the EXECUTIVE DIRECTOR, was examined and
21 testified under oath as follows:

23 THE HEARING OFFICER: Thank you, Attorney Bachman.

24 Attorney Chiocchio, please begin by
25 identifying the new exhibits you have filed in

1 this matter, and verifying the exhibits by the
2 appropriate sworn witnesses.

3 MS. CHIOCCHIO: Thank you, Mr. Morissette. The
4 Applicant's exhibit is listed under Roman numeral
5 2B, number 15, their supplemental submission dated
6 August 31, 2022; as well as the resume of Rachelle
7 Lewis who was just sworn in.

8 So I'll ask each of my witnesses a series of
9 questions and ask that you answer each question
10 individually.

11 So I ask my witnesses that are here with me
12 to move over?

13 R A Y M O N D V E R G A T I ,

14 R O B E R T B U R N S ,

15 D E A N G U S T A F S O N ,

16 B R I A N G A U D E T ,

17 M A R T I N L A V I N ,

18 recalled as witnesses, having been previously
19 duly sworn, were examined and testified
20 under oath as follows:

22 MS. CHIOCCHIO: Did you assist in the preparation or
23 prepare the exhibit as identified?

24 THE WITNESS (Vergati): Ray Vergati, Homeland Towers.
25 I did.

1 THE WITNESS (Burns): Robert Burns, APT. I did.

2 THE WITNESS (Lavin): Martin Lavin, yes.

3 THE WITNESS (Gaudet): Brian Gaudet, yes.

4 THE WITNESS (Gustafson): Dean Gustafson, yes.

5 MS. CHIOCCHIO: Do you have any corrections or
6 clarifications to the information contained
7 therein?

8 THE WITNESS (Vergati): Ray Vergati, no.

9 THE WITNESS (Burns): Robert Burns, no.

10 THE WITNESS (Lavin): Martin Lavin, no.

11 THE WITNESS (Gaudet): Brian Gaudet, no.

12 THE WITNESS (Gustafson): Dean Gustafson, no.

13 MS. CHIOCCHIO: Is the information contained therein
14 true and accurate to the best of your knowledge
15 and belief?

16 THE WITNESS (Vergati): Ray Vergati, yes.

17 THE WITNESS (Burns): Robert Burns, yes.

18 THE WITNESS (Lavin): Martin Lavin, yes.

19 THE WITNESS (Gaudet): Brian Gaudet, yes.

20 THE WITNESS (Gustafson): Dean Gustafson, yes.

21 MS. CHIOCCHIO: And do you adopt this information as
22 your testimony in this proceeding?

23 THE WITNESS (Vergati): Ray Vergati, yes.

24 THE WITNESS (Burns): Robert Burns, yes.

25 THE WITNESS (Lavin): Martin Lavin, yes.

1 THE WITNESS (Gaudet): Brian Gaudet, yes.

2 THE WITNESS (Gustafson): Dean Gustafson, yes.

3 MS. CHIOCCHIO: Thank you.

4 Mr. Morissette, we ask that the Council
5 accept the Applicant's supplemental submission.

6 THE HEARING OFFICER: Thank you, Attorney Chiocchio.

7 Does any party or intervener object to the
8 admission of the Applicant's new exhibits?

9 Attorney Baldwin?

10 MR. MERCIER: No objection, mr. Morissette.

11 THE HEARING OFFICER: Thank you, Attorney Baldwin.

12 Attorney Sherwood?

13 MR. SHERWOOD: No objection, Mr. Morissette.

14 THE HEARING OFFICER: Thank you, Attorney Sherwood.

15 Justin Nishioka?

16 JUSTIN NISHIOKA: No objections, Mr. Morissette.

17 THE HEARING OFFICER: Thank you. The exhibits are
18 hereby admitted.

19 We'll now continue with the cross-examination
20 of the Applicant by the New Canaan Neighbors
21 Justin Nishioka.

22 Mr. Nishioka, please continue.

23 MR. SHERWOOD: Mr. Morissette?

24 THE HEARING OFFICER: Yes, Mr. Sherwood --

25 JUSTIN NISHIOKA: Thank you, Mr. Morissette. New

1 Canaan Neighbors respectfully decline to conduct
2 further cross-examination of the Applicant's
3 witnesses because of the unwarranted restrictions
4 and limitations placed by the Siting Council on
5 the following issues which are critical to a fair
6 determination by the Council on this application
7 which were raised by the New Canaan Neighbors
8 during the last hearing and may be summarized as
9 follows.

10 The Applicants continually refer to public
11 safety as a justification for the siting of the
12 proposed tower, but in response to my questions
13 probing this issue I've been told that public
14 safety concerns are outside the Siting Council's
15 jurisdiction, and have been warned repeatedly to
16 move off the public safety issue.

17 That's in the transcript on pages 111, 113
18 through 114 of the August 16, 2022 hearing. I've
19 been repeatedly admonished to refrain from asking
20 about alternatives to the proposed tower and to
21 limit my questions to the site on hand. That's in
22 the transcript from August 16, 2022, on pages 56,
23 101, 106, 111 and 147.

24 The Applicants' Witnesses have testified that
25 they are unable to respond to my questions about

1 the Connecticut guidelines for soil erosion and
2 sediment control, and the Connecticut Stormwater
3 Quality Manual of 2004, both of which have been
4 administratively noticed by the Siting Council as
5 Administrative Notice Items Number 36 and 37,
6 while citing to their supposed adherence to those
7 two sources as justification for the proposed site
8 plan. That's on the continued evidentiary
9 transcript of August 16, 2022, pages 64, 94, 103.

10 There were questions regarding ownership of
11 the proposed tower site for purposes of
12 determining whether the owners constitute a water
13 company under Connecticut General statutes Section
14 25-32, and Wallingford versus the Department of
15 Public Health, have been deemed irrelevant by the
16 Siting Council, and I've been instructed to move
17 on. That's on the transcript from August 16,
18 2022, pages 117 through 119.

19 I've also been precluded from asking about
20 the Applicants' transfer of this facility to the
21 Town, and whether the Town will be able to abide
22 by the applicable watershed protection measure.
23 I'm precluded from inquiring about the Applicants'
24 consideration of the Town, of New Canaan's
25 preferences for waterless infrastructure. That

1 was on the transcript on pages 126 through 127,
2 and page 143 of the August 16th hearing.

3 The Council's obligation to hold a proceeding
4 which is fundamentally fair has been undermined by
5 these rulings. As documented in the August 16,
6 2022, hearing transcript it renders it impossible
7 for me to conduct further cross-examination of the
8 Applicants' Witnesses in any meaningful manner.

9 I would respectfully ask this Council that my
10 cross-examination of witnesses appearing on behalf
11 of the other parties not be similarly curtailed as
12 was done in the previous hearing.

13 With those objections stated for the record,
14 Mr. Morissette, we can move on to
15 cross-examination of the other interveners.

16 Thank you.

17 THE HEARING OFFICER: Well thank you, Mr. Nishioka.

18 Your objections are hereby noted in the record.

19 We cannot guarantee that those objections
20 will be sustained going forward, but they are
21 still therefore noted.

22 I will ask Attorney Bachman to provide some
23 guidance here, if she may? Attorney Bachman?

24 MS. BACHMAN: Thank you, Mr. Morissette.

25 Certainly we can't force Mr. Nishioka to

1 further participate on cross-examination. It was
2 his decision not to proceed. So as he agreed, we
3 shall proceed with further cross-examination of
4 the Applicants by Verizon Wireless on the
5 late-filed exhibit, and by the Buschmanns on the
6 late-filed exhibits.

7 I apologize, Attorney Sherwood. We
8 inadvertently left you out on the continuation
9 memo. So we shall move on to cross-examination by
10 Verizon. And certainly, if Mr. Nishioka changes
11 his mind he should let us know.

12 JUSTIN NISHIOKA: Just to be clear. Ms. Bachman, I'm
13 just declining to ask questions of the Applicants.
14 We do have some questions here for the other
15 parties. Thank you.

16 MS. BACHMAN: Excellent. So you're not withdrawing
17 your party status now. You're just limiting your
18 participation further in this proceeding to
19 cross-examination of the remaining parties and
20 interveners?

21 JUSTIN NISHIOKA: Yes, we are declining participation
22 as to the Applicants.

23 MS. BACHMAN: Okay.

24 THE HEARING OFFICER: Very good. Thank you, Attorney
25 Bachman, for that clarification.

1 And thank you, Mr. Nishioka.

2 Attorney Sherwood, you were going to say
3 something before we get started here.

4 Please go ahead.

5 MR. SHERWOOD: Thank you, Mr. Morissette. I was just
6 going to ask permission to cross-examine the
7 Applicants' witnesses with respect to the
8 supplemental submission of August 31st, and
9 Attorney Bachman addressed that.

10 So that addresses my concern. Thank you.

11 THE HEARING OFFICER: Very good.

12 Thank you, Attorney Sherwood.

13 We'll now continue with cross-examination of
14 the Applicant on the late-filed exhibits by
15 Verizon Wireless.

16 Attorney Baldwin?

17 MR. BALDWIN: Just a clarification, Mr. Morissette. I
18 think these are the late-filed exhibits submitted
19 by the Applicant, Homeland Towers and AT&T -- just
20 for clarification.

21 THE HEARING OFFICER: Yes, dated August 31st, I believe
22 it is.

23 MR. BALDWIN: Okay. I don't have any questions for the
24 Applicant on those late-file exhibits.

25 THE HEARING OFFICER: Very good. Thank you, Attorney

1 Baldwin.

2 We will now continue with cross-examination
3 of the Applicant on the late-filed exhibits by the
4 group party and CEPA intervenor, the Buschmanns.

5 Attorney Sherwood?

6 MR. SHERWOOD: Thank you, Mr. Morissette.

7 My first question is, what changes were made
8 to the plans that were submitted on August 31st
9 from the changes from the last set of plans that
10 you submitted?

11 THE WITNESS (Burns): Good afternoon. Robert Burns,
12 All Points technologies. The changes in the plans
13 were -- there was some question on the survey and
14 the trees -- what do we call this thing? Tree
15 table. So I made sure that the correct survey and
16 tree table were in here.

17 I've incorporated the new compound location
18 which was previously submitted as -- I think we
19 called it alternate one, which essentially was
20 moving the whole compound about 50 feet further
21 away from the Buschmann property and rotating it
22 90 degrees.

23 I have added -- or I'm sorry, we have added
24 the profile which was requested in the last
25 hearing, and we have supplied the environmental

1 notes which were not on the drawings before, but
2 were submitted previously.

3 And we have supplied the sequence of
4 construction, which I've then submitted
5 previously -- but it wasn't on the drawings.

6 And those are the changes.

7 MR. SHERWOOD: Thank you, Mr. Burns.

8 THE WITNESS (Burns): You're welcome.

9 MR. SHERWOOD: Is the new compound location -- what's
10 being proposed by the Applicant at this point, is
11 that the plan that we should focus on?

12 THE WITNESS (Burns): Yes, sir.

13 MR. SHERWOOD: So you're not offering that as an
14 alternative to the original plan. That's the plan
15 that the Applicants intend to proceed with if the
16 certificate is granted?

17 THE WITNESS (Burns): That's correct.

18 MR. SHERWOOD: You said that changes were made to the
19 survey which is EX-1, and to the tree-survey table
20 which is EX-2. Correct?

21 THE WITNESS (Burns): No, there was some question at
22 the last meeting about the current survey and the
23 current survey -- not survey table -- tree table.

24 So I made sure that what's in here is the
25 most current of both.

1 MR. SHERWOOD: Well, we have a site survey, EX-1. And
2 the tree survey table EX-2, that was part of the
3 original application. Correct?

4 THE WITNESS (Burns): Correct.

5 MR. SHERWOOD: And the August 31st submission of EX-1
6 and EX-2 differ from the EX-1 and EX-2 in the
7 original submission. Correct?

8 THE WITNESS (Burns): That's correct. The four-inch
9 trees were removed.

10 MR. SHERWOOD: Were any other changes made to either
11 EX-1 or EX-2?

12 THE WITNESS (Burns): The only other change which I
13 explained in the last one is they renumbered all
14 the trees, but other than that there's no other
15 changes.

16 MR. SHERWOOD: If you look at -- or rather, if you
17 compare EX-2 which is the tree-survey table which
18 was submitted on August 31st to EX-2 which was
19 submitted with the original application, it
20 appears that the trees that were described as
21 dead -- or most of them were removed from the
22 table. Is that correct?

23 THE WITNESS (Burns): No. The dead trees are on here.
24 As a matter of fact, I believe he noted them as
25 being dead.

1 MR. SHERWOOD: And who made the changes to EX-1 and
2 EX-2?

3 THE WITNESS (Burns): Our surveyor.

4 MR. SHERWOOD: Meaning, Mr. Newman?

5 THE WITNESS (Burns): Northeast -- what's the name?
6 Northeast Tower Survey Company.

7 MR. SHERWOOD: Well, EX-1 is signed by Earl Newman --

8 THE WITNESS (Burns): Yeah, the land surveyor. Yes.

9 MR. SHERWOOD: The land surveyor, is he available
10 today?

11 THE WITNESS (Burns): He's not.

12 MR. SHERWOOD: And the tree table you indicated was
13 prepared -- the tree survey table was prepared by
14 Michael Rozeski. Is he available today?

15 THE WITNESS (Burns): By who?

16 MR. SHERWOOD: Michael Rozeski, who apparently is an
17 employee of Northeast Tower Surveying?

18 THE WITNESS (Burns): I -- I don't know who that is.

19 The tower survey or the tree table was prepared by
20 Northeast Tower Surveys, and stamped and signed by
21 the gentleman who stamped and signed it.

22 So ultimately he's responsible.

23 MR. SHERWOOD: So you didn't remove the trees.

24 The Northeast Tower survey removed them?

25 THE WITNESS (Burns): That's correct.

1 MR. SHERWOOD: If you look at the revision dates on
2 EX-1 and EX-2, they reflect a final revision date
3 of 11/30/'21.

4 THE WITNESS (Burns): Okay.

5 MR. SHERWOOD: Were the four-inch trees removed for the
6 11/30/'21 revision?

7 THE WITNESS (Burns): I believe so, yes.

8 MR. SHERWOOD: Well, what confuses me, Mr. Burns, is
9 that we have an EX-1 and an EX-2, both with final
10 revision dates of 11/30/'21. And there is no way
11 to distinguish from the title of the two exhibits,
12 or the revision dates in the two exhibits between
13 the original submission and these exhibits.

14 In other words, there's no note indicating
15 that any changes were made. There's no additional
16 revision date added to indicate that revisions
17 were made subsequent to the original submission.

18 And also on EX-1 there was a certification,
19 an FAA-1A certification provided by Mr. Newman --
20 that's on EX-1 right above the graphic scale right
21 to the left of the legend, and that's been
22 removed.

23 So the exhibits look identical, but
24 apparently they're different.

25 THE WITNESS (Burns): Okay.

1 Is there a question in there?

2 MR. SHERWOOD: Is that standard practice? How are we
3 going to distinguish between the 8/31/'22 exhibits
4 and the exhibits in the original submission?

5 THE WITNESS (Burns): On behalf -- well, I'll be happy
6 to submit as -- the survey with the correct
7 revision block date incorporated.

8 MR. SHERWOOD: And was the certification signed by
9 Mr. Newman?

10 THE WITNESS (Burns): Yes, the proper certification.

11 MR. SHERWOOD: Did Mr. Newman correct the two
12 discrepancies between the survey -- EX-1, the site
13 survey EX-1, and the survey of record?

14 Do you know?

15 THE WITNESS (Burns): I -- I don't know what that
16 means.

17 MR. SHERWOOD: Well, in our prehearing interrogatories
18 to the Applicants, question Q3, we ask about the
19 discrepancy between the survey which is EX-1, and
20 the survey referenced in the general notes to that
21 survey which is note ten; a map showing a
22 subdivision of property owned by the Stamford
23 Water Company, New Canaan, Connecticut.

24 And there, there's two discrepancies. One is
25 in the extreme southern end. This survey shows

1 1881 as a length along the southern boundary, and
2 the survey of record shows 13 feet along the
3 southern boundary.

4 And then on the northerly boundary the ninth
5 course up from Ponus Ridge Road, the survey of
6 record shows 4175; 41 feet, 75 hundredths and the
7 survey has 47 feet, 75 hundredths.

8 Is that addressed in your revision?

9 THE WITNESS (Burns): No. Was it?

10 MS. CHIOCCHIO: Mr. Vergati may have some update on
11 that.

12 MR. SHERWOOD: What input would Mr. Vergati have?

13 Is he a surveyor?

14 THE WITNESS (Burns): No, he hired the surveyor.

15 I'm not a surveyor either.

16 MR. SHERWOOD: I know that.

17 THE WITNESS (Burns): Okay. Just checking.

18 THE WITNESS (Vergati): Ray Vergati, Homeland Towers.

19 Regarding the survey question, I know we
20 reached out to -- to Northeast Tower Surveying in
21 regard to the discrepancy on the boundary
22 delineation. The response from the surveyor is
23 that they -- they didn't make any changes to it.

24 They looked at it and basically the parcel
25 closed at 0.0. So there was no error. They --

1 they went back and fixed it.

2 MR. SHERWOOD: Mr. Morissette, I'd ask that

3 Mr. Vergati's answer be struck because it's
4 hearsay.

5 I've already objected to the introduction of
6 the survey because Mr. Newman is not available for
7 cross-examination. Obviously, I can't
8 cross-examine Mr. Newman through Mr. Vergati.

9 THE HEARING OFFICER: Thank you, Attorney Sherwood.

10 Attorney Chiocchio, you were going to say
11 something?

12 MS. CHIOCCHIO: Thank you, Mr. Morissette. Mr. Vergati
13 is reading from an e-mail from the surveyor.

14 There's not much more information we can provide.
15 And Mr. Burns agreed to providing the updated
16 certification block, and the date on the survey.

17 That should be sufficient for the purposes of
18 this proceeding.

19 THE HEARING OFFICER: Thank you, Attorney Chiocchio.

20 Attorney Bachman, do you wish to comment?

21 MS. BACHMAN: Thank you, Mr. Morissette.

22 I realize that the exhibit itself has been of
23 interest to Attorney Sherwood, and I agree that
24 there should be a revision date on it so it can be
25 distinguished from the other exhibit.

1 But other than that I don't feel as if we
2 should strike it. Certainly, we can let it in for
3 what it's worth and address the trees through
4 cross-examination.

5 THE HEARING OFFICER: Thank you, Attorney Bachman.

6 So we will let it in for what it's worth for
7 informational purposes. The Applicant -- I direct
8 the Applicant to submit a revised Exhibit 1 and
9 Exhibit 2 with revision dates and certification as
10 updated appropriately.

11 Therefore, let's continue.

12 Attorney Sherwood?

13 MR. SHERWOOD: Thank you, Mr. Morissette. My next set
14 of questions is with respect to sheet N2, the
15 environmental notes, and in particular note 9
16 which deals with acid rock drainage.

17 I take it that's Mr. Gustafson?

18 THE WITNESS (Gustafson): Yes, sir.

19 MR. SHERWOOD: Good afternoon, Mr. Gustafson.

20 THE WITNESS (Gustafson): Good afternoon, Attorney
21 Sherwood.

22 MR. SHERWOOD: In your note you indicate that acid rock
23 drainage is caused particularly when bedrock is
24 freshly exposed or crushed and subjected to
25 precipitation. Correct?

1 THE WITNESS (Gustafson): That's correct.

2 MR. SHERWOOD: So acid rock drainage is not always the
3 result of blasting. It's simply potentially
4 caused by exposing bedrock. Is that correct?

5 THE WITNESS (Gustafson): Yeah.

6 MR. SHERWOOD: It can be simply caused by exposing
7 bedrock. So blasting, chipping or just simply
8 uncovering bedrock presents a potential for acid
9 rock drainage. Would that be correct?

10 THE WITNESS (Gustafson): That's correct. There, you
11 know, with just exposing bedrock you're not
12 exposing the same surface area if you're chipping
13 or crushing.

14 So you know, with those activities it
15 increases the potential for acid rock drainage,
16 you know, beyond just exposing bedrock.

17 MR. SHERWOOD: And you make some recommendations in
18 note 9B and 9C. You indicate that the
19 recommendations follow the guidance provided in
20 DEEP's guidance document for evaluating impacts
21 associated with blasting and development
22 activities. Is that correct?

23 THE WITNESS (Gustafson): That is correct.

24 MR. SHERWOOD: You -- or rather, the Applicants did not
25 administratively notice this document, so I wanted

1 to ask some questions about it -- so I did. It's
2 our administrative notice item 39.

3 Do you have that available, Mr. Gustafson?

4 THE WITNESS (Gustafson): I -- I do, yes.

5 MR. SHERWOOD: Well, if we look at the document to
6 which you refer, it appears to me that the two
7 recommendations that you make; first, that a
8 geotechnical investigation be performed by a
9 competent or qualified environmental professional,
10 and then that based on the results the
11 professional would provide an opinion on the
12 potential for acid rock drainage impacting
13 groundwater and drinking water, and then make
14 recommendations to allow on-site use of removed
15 bedrock either incorporated into the fill. Or if
16 removal is warranted, then removal and off-site
17 disposal.

18 But the DEEP guidance document includes many
19 additional recommendations beyond that.

20 Isn't that correct?

21 THE WITNESS (Gustafson): That's correct. Yeah, what
22 was provided was just a generalized some --
23 summarization of that guidance document.

24 But by reference to that, you know, adherence
25 to that document all the recommendations and

1 guidance in the document will be followed.

2 MR. SHERWOOD: Because it appears that acid rock
3 drainage can impact drinking water wells as well
4 as the water in the reservoir, potentially impact
5 them. Is that correct?

6 THE WITNESS (Gustafson): That's correct. And that,
7 that would be correct for any residential
8 development located within the public water supply
9 watershed that feeds that reservoir.

10 MR. SHERWOOD: And the DEEP guidance document
11 recommends that there be a detailed quote -- I'm
12 quoting, detailed site plan developed by the
13 Applicant's environmental professional that
14 addresses best management practices for minimizing
15 ARD conditions by ensuring proper handling,
16 storage or disposal of the rock material on and
17 off site, and minimizing its contact with
18 infiltrating precipitation and surface water
19 runoff.

20 That's the first recommendation on page 1 of
21 the guidance document.

22 THE WITNESS (Gustafson): Yeah --

23 MR. SHERWOOD: That's not included in your
24 recommendations. Correct?

25 THE WITNESS (Gustafson): No, but as I had indicated

1 earlier we referenced this document. So by
2 reference the recommendations and the guidance in
3 that document will be followed.

4 And that analysis and subsequent report will
5 be provided during the development management plan
6 phase of the project, should the Council approve
7 this application.

8 MR. SHERWOOD: And in your opinion as a professional,
9 it wouldn't be necessary or prudent to
10 determine -- if you were asked to make a
11 determination with respect to whether or not the
12 proposed development of this site would have an
13 adverse environmental impact on either the
14 reservoir or drinking water wells?

15 You wouldn't consider it prudent to have
16 undertaken, or to have made a determination with
17 respect to acid rock drainage prior to the
18 Council's decision?

19 In other words, isn't that a component of
20 whether or not this proposal is going to have an
21 adverse environmental impact?

22 THE WITNESS (Gustafson): It -- it's possible, but by
23 adhering to this guidance document it will -- and
24 whatever recommendations come out of the actual
25 geotechnical investigation and analysis of acid

rock drainage, those -- by providing that analysis and following the recommendations in this guidance document we would be properly protecting the public water supply watershed resource.

MR. SHERWOOD: And the drinking water wells? Because recommendations two and three of the DEEP guidance document recommended that the water wells, either within 500 feet or a thousand feet of the site be tested.

There's a series of parameters, and then they recommend that follow-up well water sampling occur two months after the construction. That would also be something that would be done?

THE WITNESS (Gustafson): That would be analyzed based on the results of the geotechnical analysis.

MR. SHERWOOD: Okay. And I have one final question, and I think that would be for Mr. Burns.

Thank you, Mr. Gustafson.

THE WITNESS (Gustafson): You're welcome.

MR. SHERWOOD: This is on sheet SP-3, the access driveway profile?

THE WITNESS (Burns): Robert Burns, All Points
technologies.

MR. SHERWOOD: Do you have sheet SP-3 available?

THE WITNESS (Burns): I do.

1 MR. SHERWOOD: From the August 31st submission?

2 THE WITNESS (Burns): I do.

3 MR. SHERWOOD: My understanding of this is that the
4 access driveway profile shows the grade of the
5 12-foot wide paved access driveway to be
6 19.40 percent. Is that correct?

7 THE WITNESS (Burns): Yes, sir.

8 MR. SHERWOOD: And then the gravel, the 12 foot-wide
9 gravel access driveway which leads from the end of
10 the paved driveway to the site is 8.9 percent.
11 Is that correct?

12 THE WITNESS (Burns): Yes -- excuse me. Yes.

13 MR. SHERWOOD: Okay. Thank you. I don't have any
14 further questions, Mr. Morissette.

15 THE HEARING OFFICER: Thank you, Attorney Sherwood.

16 We will now continue with cross-examination
17 of the Applicant on the late-filed exhibits by the
18 Council starting with Mr. Mercier. Mr. Mercier?

19 MR. MERCIER: Thank you. I'll stay with the set of
20 site plans you were discussing, the latest
21 version.

22 First of all, Mr. Burns there was a
23 discussion with, I believe, you and Attorney
24 Sherwood regarding what changed on the site plans
25 and, you know, compared these original plans. I

1 just want to, you know, ask about the compound
2 location itself.

3 During the preceding earlier on we asked if
4 you could rotate this compound into more of an
5 east-west --

6 THE WITNESS (Burns): Yes.

7 MR. MERCIER: -- configuration.

8 So is that the current design? Or would that
9 be an alternate to the original filing where it
10 was oriented in a more south direction?

11 THE WITNESS (Burns): No, that was -- this, this new --
12 the design on here is from an alternate one which
13 was rotating the compound 90 degrees and sliding
14 it.

15 It's not as --

16 MR. MERCIER: Okay.

17 THE WITNESS (Burns): Oh, okay.

18 MR. MERCIER: Yeah, it's okay. So the Council could
19 choose either the original or this alternate?

20 THE WITNESS (Burns): No, the idea is I think we're
21 going with this one.

22 MR. MERCIER: Okay. I just wanted to confirm.

23 THE WITNESS (Burns): Yes.

24 MR. MERCIER: Thank you.

25 THE WITNESS (Burns): You're welcome.

1 MR. MERCIER: I was looking at the sheet EX-1. I
2 believe that's the tree survey we just spoke
3 about. Now during previous testimony there was
4 mention of a small swale somewhere along the
5 property line somewhat near -- let's see.

6 That would be kind of like on the northern
7 end of the property, I believe.

8 I'm just trying to determine where the small
9 swale is that's along the -- between Ponus Ridge
10 Road and the site property?

11 THE WITNESS (Burns): So Mr. Mercier, if you look at
12 the EX-1 sheet?

13 MR. MERCIER: Yes?

14 THE WITNESS (Burns): On the -- on the left side of the
15 page -- it doesn't show up well. There's -- the
16 existing culvert is labeled. It's right
17 near the --

18 MR. MERCIER: Okay.

19 THE WITNESS (Burns): It's in bounds for the
20 property --

21 MR. MERCIER: Yeah, I see it.

22 THE WITNESS (Burns): There's a small swale that runs
23 off of Ponus Ridge Road on our property. It's not
24 a huge distance, but there is a little bit of a
25 swale there that runs down into that culvert.

1 It doesn't even run to probably the edge of
2 the guide rail that's shown out there, but it --
3 it's pretty close. And that's where it kind of
4 starts and then runs to be culvert. It's nowhere
5 near --

6 MR. MERCIER: Okay. So -- right. So I'll just say
7 around tree number 20 or something, and it just
8 extends all the way to the wetland area?

9 THE WITNESS (Burns): Yes, I think that -- tree
10 number 20. And this is a small -- yes, I would
11 say that's pretty close. Yes.

12 MR. MERCIER: Okay. And then their must be -- okay. I
13 see the culvert. So that would -- the swale would
14 just drain water and also allow the intermittent
15 stream across -- under Ponus Ridge.

16 THE WITNESS (Burns): Right. Yes, sir.

17 MR. MERCIER: So on the other end of the property
18 towards the asphalt driveway that's existing,
19 what's the condition there? Does the ground just
20 kind of hit the pavement, and so --

21 THE WITNESS (Burns): Yeah, yeah.

22 MR. MERCIER: So runoff would either sheet, sheet flow
23 across? Or left to right?

24 THE WITNESS (Burns): Yes, there's no curb there. So
25 the water runs right down onto Ponus Ridge, and

1 either -- there's a high point in the road right
2 near -- right before our driveway, before our --

3 MR. MERCIER: Yes.

4 THE WITNESS (Burns): So it will hit that point and
5 probably run partially with the road either way,
6 but then it -- it will also probably go across
7 if -- if the rain is strong enough to -- to crest
8 the crown of the road, if you will.

9 MR. MERCIER: Okay. Thank you. I'm going to move on
10 to sheet SP-2, and -- let's see here.

11 THE WITNESS (Burns): Yes, sir?

12 MR. MERCIER: Oh. There was previous testimony or
13 discussion regarding the, you know, the stilling
14 basins you have shown here and the overall design
15 of the stormwater management, that it was for a
16 ten-year storm.

17 Is that still the case with this particular
18 revised plan?

19 THE WITNESS (Burns): The -- the plan has not changed.
20 The pipes are sized for a ten-year storm, but we
21 have done the comps for 2, 5, 10, 25, and a
22 hundred-year storm, and we're able to match pre
23 and post runoff.

24 MR. MERCIER: Oh, as it is. Okay. So I think there
25 was --

1 THE WITNESS (Burns): If I -- go ahead.

2 MR. MERCIER: Go ahead.

3 THE WITNESS (Burns): I'm sorry. The pipes will be
4 sized per the requirements of the Town, which
5 is -- if I'm not mistaken it's ten-year. It could
6 be 25-year, but the overall drainage system, it
7 can handle the hundred-year storm.

8 MR. MERCIER: Okay. Just to clarify, if the Town did
9 require a 25, you would install a 25-year storm.
10 And it would only affect the pipes, not any of the
11 basins or the swales themselves. Is that correct?

12 THE WITNESS (Burns): Correct, because they're sized
13 for a bigger storm. Yes.

14 MR. MERCIER: Thank you.

15 THE WITNESS (Burns): You're welcome.

16 MR. MERCIER: Going back to that culvert we just talked
17 about what that intermittent stream crosses over
18 towards the other side of the road, does the
19 culvert discharge onto the Aquarion Water Company
20 property? Do you know?

21 Or is there like a sewer system in the road?

22 THE WITNESS (Burns): I don't -- it does discharge
23 somewhere. I don't know if it's on the property
24 or right into the reservoir. Offhand, I do not
25 know that, but it does discharge on that side of

1 the road.

2 MR. MERCIER: Now during construction -- let's just say
3 there was, you know, you have your silt fence up
4 and things of that nature, and you're constructing
5 the site.

6 And there's a rainstorm maybe like we had
7 yesterday and there's a breach in the silt fence,
8 and sediment washes down onto the, you know, the
9 road or the culvert or, you know, down by the
10 drive.

11 What's the procedures that you would
12 undertake to remediate the issue?

13 THE WITNESS (Burns): Well, the first thing they would
14 do is repair whatever breach there was. And then
15 secondly, they would have to go in and clean up
16 any sediment that has come down the hill.

17 And doubtful it would make it to the -- to
18 the culvert, but if it did, they would have to
19 clean the culvert as well.

20 MR. MERCIER: So if, like, a large amount, like, kind
21 of shot across the road onto the adjacent
22 property, you have to contact Aquarion?

23 THE WITNESS (Burns): If it's on the adjacent property?
24 Sure, a courtesy call to Aquarion would be proper.
25 And then construction would stop until everything

1 was cleaned up properly and in accordance with
2 what Aquarion would require -- and the Town.

3 MR. MERCIER: Thank you.

4 THE WITNESS (Burns): You're welcome.

5 MR. MERCIER: We'll move on to sheet N2. I think we
6 were just talking about -- no, number nine, acid
7 rock drainage.

8 Mr. Gustafson, how would the -- if those
9 compounds were in the rock and you exposed them,
10 as you were talking about, for a resulting acid
11 rock drainage, if any, what concern is there in
12 regards to water quality?

13 I guess for the three compounds you have
14 there, what effects could happen and where, if
15 that makes sense?

16 THE WITNESS (Gustafson): Yeah. So if -- if the
17 geotechnical investigation identifies the
18 potential for an acid rock drainage issue, you
19 know, the recommendation would be to remove that
20 material from the site and properly dispose of it
21 outside of the public water supply watershed area
22 so that it doesn't create any issue for either
23 groundwater or surface water contamination.

24 MR. MERCIER: I guess I'm asking, what is the
25 contamination? What would happen for, like say,

1 iron and manganese, and sulfur?

2 What's the actual water quality issue that
3 could result if there was exposed bedrock and, you
4 know, water caused these materials to come out and
5 get into the water supply?

6 THE WITNESS (Gustafson): Yeah. So there's usually a
7 couple of different constituents that can create
8 impaired water quality. It -- it usually results
9 in excess iron or manganese being leached out of
10 the bedrock when it's exposed to -- to water, and
11 that will have a detrimental effect on the
12 potability of the drinking water.

13 MR. MERCIER: I mean, the water is not -- is it
14 hazardous? Or it just tastes bad, or something of
15 that nature?

16 THE WITNESS (Gustafson): Yeah. Well there, there are
17 some constituents that, you know, are -- if you
18 look at the -- the water quality guidelines from
19 the Connecticut Department of Public Health, you
20 know they do have some potential health effects
21 whether you know they're classified as hazardous
22 or not. And I -- I can't, you know, respond to
23 that inquiry.

24 But it's -- it's a potability issue. You
25 know, part of it is that, you know you will get

1 some sulfur odors. And so it's, you know, there's
2 an issue from, you know, palatability because of
3 the -- the sulfur odors and also the discoloration
4 of the water.

5 MR. MERCIER: Okay. Yeah. I didn't see any mention of
6 this issue in the Department of Public Health
7 comments of June 1st to the Council. So I was
8 wondering if this is a rather new issue that
9 results from construction? Or has this always
10 been an issue but not really brought up?

11 Do you have any comment regarding that?

12 THE WITNESS (Gustafson): Yeah. I'm not sure why that
13 wasn't raised by Aquarion or -- or DPH comments.
14 This is, you know, a fairly common concern.

15 Any time that you -- you have to, you know,
16 blast bedrock, it should always be an issue that's
17 looked at because it does have some potential
18 impacts for groundwater quality or surface water
19 quality.

20 So it's not -- it's not something that's new.
21 It's been an issue that I've been aware of in
22 Connecticut for the past 30 years, but it's --
23 it's not a widespread issue, but it is something
24 that needs -- that should be analyzed if -- if,
25 you know, a significant amount of bedrock needs to

1 be blasted or excavated from a site.

2 MR. MERCIER: Okay. Thank you. I do have a question
3 regarding sheet EX-1 again. That's, I think the
4 second sheet of this thing, the tree survey.

5 And on that survey it shows the wetland
6 along -- I'll just call it the left side of the
7 diagram here. And there's an intermittent stream.
8 It looks like it goes pretty much in a westerly
9 direction.

10 Does that intermittent stream begin offsite
11 further west?

12 THE WITNESS (Gustafson): Yeah, it does look like
13 there's a component of that wetland system that
14 extends further to the north and to the west off
15 the subject property.

16 MR. MERCIER: Do you know if that extends up to the
17 (unintelligible) cul-de-sac area. Is that where
18 this, this intermittent stream begins for mapping
19 purposes?

20 THE WITNESS (Gustafson): Yeah, I have -- I'm not
21 familiar enough with the -- that area of off the
22 property. You know, obviously it's -- it's
23 private property through there.

24 So there is a potential that there could be
25 some drainage originating from that location. I'm

1 just not familiar with it and we haven't -- we
2 obviously didn't investigate it during our wetland
3 investigation efforts.

4 MR. MERCIER: Okay. Given that your map shows it does
5 extend northwesterly off, off your parcel -- but
6 you're not sure where it begins. Could
7 up-gradient sources affect the water quality of
8 that stream and the wetland on the host property
9 such as, you know, someone is using pesticides or
10 herbicides? Or there's, you know, sand applied to
11 a driveway, if there's one next to the road?

12 Or you know, some things of that nature,
13 or --

14 THE WITNESS (Gustafson): Yeah --

15 MR. MERCIER: (Unintelligible) -- yeah, okay. Yeah?

16 THE WITNESS (Gustafson): Yeah, the -- so the
17 residential development that kind of feeds the
18 watershed of this wetland system and intermittent
19 watercourse system, you know, could potentially
20 have an effect on the water quality as it flows
21 through the site.

22 Based on those land uses and, you know,
23 whether it's over fertilization of lawns, failing
24 septic systems, et cetera, there is that
25 potential.

1 MR. MERCIER: Okay. Thank you. I think I have a
2 question for Mr. Vergati.

3 THE WITNESS (Vergati): Hello, Mr. Mercier.

4 MR. MERCIER: Thank you. The question is, is this
5 project or any portion of the project that's
6 proposed to be undertaken, is it proposed to be
7 undertaken by any state department institution, or
8 agency?

9 Or to be funded in whole or in part by the
10 State through any contract or grant?

11 THE WITNESS (Vergati): Not to my knowledge.

12 MR. MERCIER: Okay. So it's a total private
13 enterprise. Correct?

14 THE WITNESS (Vergati): I can -- I can speak for
15 Homeland Towers. It's the private enterprise that
16 Homeland is working on with -- for this project.

17 MR. MERCIER: Okay. Thank you.

18 I have no other questions. Thank you.

19 THE HEARING OFFICER: Thank you, Mr. Mercier.

20 We will now continue with cross-examination
21 of the Applicant on the late-filed exhibits by
22 Mr. Silvestri.

23 Mr. Silvestri, good afternoon.

24 MR. SILVESTRI: Good afternoon, Mr. Morissette and
25 thank you. And good afternoon, all.

1 I'll start off by saying that I don't believe
2 my area questioning has been totally explored.
3 And if it has I'll apologize in advance, but I
4 still need a refresher. And I think my line of
5 questioning would go towards Mr. Burns.

6 So what I'm looking at on that August 31st
7 filing is drawing SP-2, and to some extent CP-1.

8 So what I see, the proposed access road has
9 various elevation markers. There's a 365, a 370,
10 375, 380, et cetera. What I'd like to explore is
11 the possibility of changing that access road to
12 curve in the area, say, of the 370 or 375 marker,
13 to head right up to the southwest corner of the
14 reconfigured compound.

15 Now I do realize that, that such an entrance
16 to the compound will require a total
17 reconfiguration of equipment that's already on
18 CP-1, transformers, ice bridge, other equipment,
19 et cetera.

20 But I'm curious if that access road could be
21 sloped from around 370, 375 up to the rearranged
22 compound, to eliminate what we have already on the
23 western curve, eliminate a lot of the tree
24 clearing, the disturbance of the soils, et cetera.

25 So Mr. Burns, any comments on that?

1 THE WITNESS (Burns): So the driveway, the length of
2 the driveway is required for us to hit an
3 elevation at the compound, or an elevation that's
4 not a huge cut.

5 So if I have to -- if I don't have the length
6 then I'm going to have to drop the -- the
7 elevation at the compound lower, because I can't
8 get up high enough.

9 So yes, that may clear up some of the area
10 going around the corner, but it's going to be
11 significantly more of a cut at the compound, more
12 of an excavation -- because I don't have the
13 driveway length to make it up.

14 As it is now, this driveway is quite steep
15 and I really don't want to go any steeper with the
16 driveway.

17 MR. SILVESTRI: Any estimate on what my proposal might
18 be, say, for a slope versus what is already
19 proposed for that western site for a slope?

20 THE WITNESS (Burns): I'm not sure I understand, for a
21 slope. What do you mean by that?

22 MR. SILVESTRI: Well, if we're going from elevation,
23 you know, 375, say, up to -- around 390 I think
24 might be the corner of the southwestern part of
25 the compound. I don't know what that slope might

1 be. You know, two to one, three to one?

2 That would it be that difficult to do and
3 traverse, versus looping all the way around on the
4 western part?

5 **THE WITNESS (Burns):** The difficulty would be, it gets
6 to a point where you can't get vehicles up there,
7 and we're probably at the limit right now. I mean
8 possibly a little steeper, but we're right at the
9 limit.

10 So if I have to go two to one -- yeah,
11 that's -- what is that? A 50 percent slope? 45
12 percent slope? It's just not doable.

13 So -- but I don't know what the total
14 ramifications and what elevation I could get to,
15 just looking at this. I'd have to sit down and
16 look at it in Auto Cad, but I do know it would
17 significantly increase the amount of excavation
18 here.

19 And as it is now, we have a certain amount of
20 material we're trucking off site, but we're trying
21 to also use some of it to construct that roadway
22 coming up around the corner.

23 **MR. SILVESTRI:** So for clarification when you say
24 excavation, excavation to potentially lower the
25 slopes so vehicles could safely enter.

1 Correct?

2 THE WITNESS (Burns): Yes, driveway grade.

3 MR. SILVESTRI: I think I got you. Okay. Thank you,
4 Mr. Burns.

5 THE WITNESS (Burns): You're quite welcome.

6 MR. SILVESTRI: Then I had one followup from
7 Mr. Mercier's stormwaters questions. And I'm
8 curious -- did anyone from the Applicants' team
9 visit the site either during or after the
10 rainstorm that we had earlier this week?

11 THE WITNESS (Burns): I don't believe so.

12 MR. SILVESTRI: Okay. Thank you.

13 Mr. Morissette, that's all the questions I
14 have. Thank you.

15 THE HEARING OFFICER: Thank you, Mr. Silvestri.

16 We will continue with cross-examination by
17 Mr. Nguyen. Mr. Nguyen?

18 MR. NGUYEN: I have no questions, Mr. Morissette.

19 THE HEARING OFFICER: Thank you, Mr. Nguyen.

20 We'll I'll continue with cross examination by
21 Mr. Golembiewski. Mr. Golembiewski?

22 MR. GOLEMBIEWSKI: Mr. Morissette, I have no questions.

23 Thank you.

24 THE HEARING OFFICER: Thank you.

25 We'll continue with cross-examination by

1 Mr. Quinlan. Mr. Quinlan?

2 MR. QUINLAN: I have no further questions. Thank you.

3 THE HEARING OFFICER: Thank you. I have some follow-up
4 questions. I would like to turn to SP-3, the
5 drawing relating to the driveway profile.

6 THE WITNESS (Burns): Yes, sir.

7 MS. CHIOCCHIO: Now the beginning of the driveway, the
8 19.4 slope between the existing grade and the
9 grades that you were going to cut to; now the cut
10 material, is that going to be used on site to fill
11 in the a gap? Or the fill that's needed above it
12 at the 8.9 percent grade, depending on whether
13 it's quality enough?

14 THE WITNESS (Burns): Yes, if it meets the fill
15 specification, then it can be used. If not, it's
16 got to be removed.

17 THE HEARING OFFICER: Okay. Now that appears to me to
18 be quite a bit of cut that's --

19 THE WITNESS (Burns): It is.

20 THE HEARING OFFICER: -- that's required there, and at
21 this point we don't know whether that's bedrock or
22 not. Is that correct?

23 THE WITNESS (Burns): That's correct.

24 THE HEARING OFFICER: Okay. All right. So you --
25 basically you'll have excess fill, if my view of

1 this is correct.

2 Or will you have to bring fill in?

3 THE WITNESS (Burns): No. Even if we were able to use
4 everything we're excavating here, we're still
5 going to have to truck some -- some of that off
6 site, the remainder off site.

7 THE HEARING OFFICER: Okay. So you'll have excess?
8 Okay.

9 THE WITNESS (Burns): That's correct.

10 THE HEARING OFFICER: Thank you. Concerning the
11 culvert, has anybody taken a look at the culvert
12 to determine what kind of shape it's in?

13 THE WITNESS (Burns): I have not.

14 THE HEARING OFFICER: Has everybody on the team taken a
15 peek at it?

16 THE WITNESS (Burns): Ray, do you want to answer that?

17 THE WITNESS (Vergati): Yeah.

18 Good afternoon, Mr. Morissette. It's Ray
19 Vergati.

20 THE HEARING OFFICER: Good afternoon.

21 THE WITNESS (Vergati): I've been to the property a
22 number of times. I've walked over to this
23 culvert, both looking at it from Ponus Ridge
24 and -- and from the property.

25 It's not always running. It appears to be in

1 decent shape. I don't see any -- I've never seen
2 any debris or clutter in it. I see a lot of
3 riprap, I believe, right now where the culvert
4 goes underneath the road itself -- but it looks to
5 be in decent shape.

6 THE HEARING OFFICER: Very good. Thank you.

7 While I have you -- so this, the proposed
8 alternate site, it's been stated here today that
9 that now is Homeland's preferred structure of the
10 compound. Is that correct?

11 I just want to confirm.

12 THE WITNESS (Vergati): Yeah. From -- from my
13 perspective I think it creates some additional
14 separation from the Buschmann property. This
15 request came from the Council obviously.

16 I do have verbal approval from our landlord
17 that this rotation in shift is approved by them.
18 I would need to memorialize that. I would say in
19 an amendment with my landlord -- but yes, to
20 answer your question, we think this is -- is a
21 good design and -- and checks some additional
22 boxes for us.

23 THE HEARING OFFICER: Very good. Thank you.

24 Just one, one follow-up question to the
25 questions on the acid rock. Considering that now

1 we're going up front here, we knew that this was
2 right next to the reservoir, or in close proximity
3 to the reservoir.

4 Why didn't the Applicant take it upon
5 themselves to do some further analysis as to,
6 i.e., a geotech analysis as to whether this is
7 going to be a problem or a concern coming into the
8 application, rather than putting it off until
9 later?

10 Is there any thinking associated with that?

11 THE WITNESS (Vergati): From Homeland's perspective I
12 don't think the issue of the acid rock was -- I
13 think as Mr. Gustafson had stated earlier was --
14 was raised by Aquarion or -- or DPH.

15 We typically, obviously as the Council knows,
16 do geo-techs once a site has been approved. And
17 you can always make the argument, cart before the
18 horse, court -- you know, the horse before the
19 cart. It's just something that we have not
20 considered.

21 I'm not an expert on -- on the acid rain rock
22 and so forth. The only research I can look at is,
23 you know, this typically crops up in -- in large
24 mining, you know, developments and so forth -- but
25 it's something, as Mr. Gustafson said, that we'll

1 look at and -- and maybe for the future if there's
2 another application by Homeland, where there is
3 potential rock and ledge, maybe it's something
4 that we do up front.

5 THE HEARING OFFICER: Okay. Very good. Thank you.

6 That concludes my questions.

7 What we'll do now is we'll continue with the
8 appearance by Cellco Partnerships, d/b/a Verizon
9 Wireless. And at this point will the Intervener
10 present its witness panel for purposes of taking
11 the oath, and Attorney Bachman will administer the
12 oath?

13 MR. BALDWIN: Thank you, Mr. Morissette. For the
14 record, Ken Baldwin with Robinson and Cole on
15 behalf of the Intervener, Cellco Partnership,
16 doing business as Verizon Wireless.

17 There are four witnesses listed in the
18 hearing program but we've been juggling them
19 around a bit as the dates for the program have
20 changed. With us today are Tim Parks and Mark
21 Brauer as a part of our witness panel, and I would
22 offer them to be sworn at this time.

23 THE HEARING OFFICER: Attorney Bachman, please continue
24 with the swearing of the witnesses?

25 MS. BACHMAN: Thank you, Mr. Morissette.

1 T I M O T H Y P A R K S ,

2 M A R K B R A U E R ,

3 called as witnesses, being first duly sworn
4 by the EXECUTIVE DIRECTOR, were examined and
5 testified under oath as follows:

6

7 THE HEARING OFFICER: Thank you, Attorney Bachman.

8 Attorney Baldwin, please begin by verifying
9 all exhibits by the appropriate sworn witnesses?

10 MR. BALDWIN: Mr. Morissette, there are three exhibits
11 listed in the hearing program. I'll ask my
12 witnesses to verify the substantive exhibits which
13 are items two and three, and those are Verizon's
14 responses to council interrogatory set one dated
15 June 2, 2022; and set two, dated June 13, 2022.

16 For Mr. Brauer and Mr. Parks, did you prepare
17 or assist in the preparation, and are you familiar
18 with the information contained in those two
19 exhibits listed in the hearing program?

20 Mr. Brauer?

21 THE WITNESS (Brauer): Yes, I am.

22 MR. BALDWIN: Mr. Parks?

23 THE WITNESS (Parks): Yes, I am.

24 MR. BALDWIN: Do you have any corrections,
25 modifications or amendments to offer to any of the

1 information contained in those exhibits?

2 Mr. Brauer?

3 THE WITNESS (Brauer): Yes, I do have one correction
4 which was the response to the council
5 interrogatories dated June 2nd, which I believe is
6 set one.

7 If I could direct your attention to page 4,
8 question number eight; what design thresholds are
9 used in building (unintelligible) service? Our
10 response was neg 95, and neg 82. The neg 82 is
11 correct. That should read neg 85. So neg 95 for
12 in vehicle, and neg 85 for in building.

13 MR. BALDWIN: Thank you.

14 Mr. Parks, any amendments or corrections?

15 THE WITNESS (Parks): No, thank you.

16 MR. BALDWIN: And with those amendments and corrections
17 is the information contained in those exhibits
18 true and accurate to the best of your knowledge.

19 Mr. Brauer?

20 THE WITNESS (Brauer): Yes, it is.

21 MR. BALDWIN: Mr. Parks?

22 THE WITNESS (Parks): Yes, it is.

23 MR. BALDWIN: And do you adopt the information
24 contained in those exhibits as your testimony in
25 this proceeding? Mr. Brauer?

1 THE WITNESS (Brauer): Yes, I do.

2 MR. BALDWIN: And Mr. Parks?

3 THE WITNESS (Parks): Yes I do.

4 MR. BALDWIN: Mr. Morissette, I offer them as full
5 exhibits.

6 THE HEARING OFFICER: Thank you. Attorney Baldwin.

7 Does any party or intervenor object to the
8 admission of Verizon Wireless's exhibits?

9 Attorney Chiocchio?

10 MS. CHIOCCHIO: No objections, Mr. Morissette.

11 THE HEARING OFFICER: Thank you.

12 Attorney Sherwood?

13 MR. SHERWOOD: No objection.

14 THE HEARING OFFICER: Thank you.

15 Justin Nishioka?

16 JUSTIN NISHIOKA: No objections, Mr. Morissette.

17 THE HEARING OFFICER: Thank you.

18 The exhibits are hereby admitted. We'll now
19 begin with cross-examination of Verizon Wireless
20 by the Council, starting with Mr. Mercier.

21 Mr. Mercier?

22 MR. MERCIER: Thank you. I just have a quick question
23 regarding the coverage plot. It's an existing
24 in -- Verizon Wireless 700 MHz coverage plot.
25 This is behind attachment three.

1 And I'm looking a little bit to the east of
2 the proposed site. There's Route 124, and it
3 shows a little bit of green coverage along Route
4 124 in the straight section there, there, a water
5 body.

6 For coverage modeling how accurate would that
7 depiction be? Is it possible there would not be
8 in-vehicle service in that section? Or are these
9 coverage models a little more conservative?

10 THE WITNESS (Brauer): Well, as is the case with pretty
11 much any predictive model there, there is always a
12 possibility for error. However, Verizon goes out
13 of their way to try to ensure that our models are
14 as accurate as possible.

15 So whether the -- the possibility does exist,
16 but it is unlikely because our -- our models have
17 proven themselves to be quite accurate.

18 MR. MERCIER: Now in this area between Route 124 and
19 there's an adjacent route further east 123, you
20 know, there's obviously an area of no coverage at
21 all for in vehicle, or in building.

22 Does Verizon have a current site search in
23 that area? Or is that another funding item for a
24 future time?

25 THE WITNESS (Brauer): We currently do not have

1 anything in that specific area right now.

2 MR. MERCIER: Okay. Thank you. Assuming the site is
3 constructed and Verizon locates on it, would 5G
4 services be deployed right away? Or is that
5 something you would wait until there's other areas
6 sites that have the same capability before you
7 turn the network on?

8 THE WITNESS (Brauer): We are -- we would turn 5G on
9 right away as soon as possible.

10 MR. MERCIER: Okay. Thank you. I have no other
11 questions. Thank you.

12 THE HEARING OFFICER: Thank you, Mr. Mercier.

13 We'll now continue with cross examination by
14 Mr. Silvestri. Mr. Silvestri?

15 MR. SILVESTRI: Thank you, Mr. Morissette. I have no
16 questions for Verizon at this time. Thank you.

17 THE HEARING OFFICER: Thank you, Mr. Silvestri.

18 We will continue with cross-examination by
19 Mr. Nguyen. Mr. Nguyen?

20 MR. NGUYEN: I don't have any questions,
21 Mr. Morissette. Thank you.

22 THE HEARING OFFICER: Very good. Thank you,
23 Mr. Nguyen.

24 We'll continue with cross examination by
25 Mr. Golembiewski. Mr. Golembiewski?

1 MR. GOLEMBIEWSKI: Thank you, Mr. Morissette.

2 I have no questions.

3 THE HEARING OFFICER: Thank you, Mr. Golembiewski.

4 We will continue with cross examination by

5 Mr. Quinlan. Mr. Quinlan?

6 MR. QUINLAN: No questions. Thank you.

7 THE HEARING OFFICER: Thank you, Mr. Quinlan.

8 I have a quick question related to Exhibit 2
9 in the interrogatory responses dated June 2nd, and
10 it relates to any small cells that are in the
11 area. Could you kindly point them out for me?

12 MR. BALDWIN: Mr. Morissette, are you referring to
13 attachment two, to Exhibit 2?

14 THE HEARING OFFICER: Yes.

15 MR. BALDWIN: Okay. I just wanted to --

16 THE HEARING OFFICER: Hang on. Attachment two, yes.

17 MR. BALDWIN: Okay.

18 THE WITNESS (Brauer): If I could have just one moment
19 to go grab the surrounding site list, which I
20 believe was included in here?

21 MR. BALDWIN: So again, just for clarification
22 Mr. Morissette, you were asking if there are any
23 small cells included on the surrounding site list
24 and as shown on the plots. Is that correct?

25 THE HEARING OFFICER: Yes. I believe in AT&T's exhibit

1 showed some small cells. And when I was
2 cross-examining them they indicated that they were
3 not theirs.

4 So I assumed that they were possibly AT&T's,
5 and I just wanted to clarify where those small
6 cells may be, and whether there's a potential of
7 utilizing small cells for the coverage objective?

8 THE WITNESS (Brauer): So in our -- in our responses
9 there, there are no small cells.

10 These are all macro sites.

11 THE HEARING OFFICER: Okay.

12 THE WITNESS (Brauer): However, I would expand upon
13 that to say that in cases like this where you have
14 a need for large area coverage, small cells are
15 not technically a viable solution as they're --
16 they're more of a targeted -- a target -- a very
17 small -- well, hence, the name "small cell" area.

18 So when you're trying to cover a large area
19 they don't feasibly work.

20 THE HEARING OFFICER: Okay. Are they not shown because
21 this is to represent the macro sites, and not the
22 small cells? Or they are not existent in the
23 area, this area?

24 THE WITNESS (Brauer): For -- for right now many of
25 them are still in the planning stages and haven't

1 been finalized yet. So there's -- there's still
2 some variability that we -- that we couldn't --
3 because there, they're not set.

4 THE HEARING OFFICER: Okay. So the map -- or the
5 exhibit is accurate in that it doesn't reflect
6 small cells, because there are none?

7 THE WITNESS (Brauer): Correct.

8 THE HEARING OFFICER: Okay. Thank you.

9 And I noticed on the -- I think Mr. Mercier
10 kind of hit on this earlier, but I'll try it
11 again -- Exhibit 3.

12 Your attachment three doesn't seem to go
13 beyond Route 124. Now is that because of the
14 ridge there, or the equipment just doesn't go that
15 far?

16 THE WITNESS (Brauer): This, this portion of
17 Connecticut, New Canaan, is -- is full of hills
18 and valleys.

19 And because -- it's because the terrain rises
20 and falls that we don't cover in there.

21 THE HEARING OFFICER: Okay. So again, the
22 700 megahertz plot -- so right above New Canaan,
23 Northwest Connecticut you have a coverage gap.

24 Why is that a gap in that area? Do you recall?

25 THE WITNESS (Brauer): In looking at that, I'm assuming

1 you mean towards the east where it abuts up
2 against the road and then stops. Correct?

3 THE HEARING OFFICER: Yes.

4 THE WITNESS (Brauer): Yeah, so if we -- if we look at
5 that from a terrain perspective it is a low area.
6 So we're being blocked by the -- by the terrain
7 that the -- the road actually is on top of.

8 THE HEARING OFFICER: Okay. And that coverage gap to
9 the west of that area, north of the New Canaan NW
10 Connecticut label, what's causing that gap?

11 THE WITNESS (Brauer): It's the same thing. It's
12 terrain.

13 THE HEARING OFFICER: Okay. Let's see if there's
14 anything else I have here.

15 That pretty much covers my questions. So
16 thank you very much.

17 We will now continue with cross-examination
18 of Verizon by the Applicant. Attorney Chiocchio?

19 MS. CHIOCCHIO: No questions.

20 Thank you, Mr. Morissette.

21 THE HEARING OFFICER: Thank you.

22 We will continue with cross-examination of
23 Verizon Wireless by the grouped party CEPA
24 Intervener, the Buschmanns. Attorney Sherwood?

25 MR. SHERWOOD: No questions, Mr. Morissette.

1 THE HEARING OFFICER: Thank you, Attorney Sherwood.

2 We will now continue with cross-examination
3 of Verizon Wireless by the New Canaan Neighbors.

4 Mr. Nishioka?

5 JUSTIN NISHIOKA: Yes. Thank you, Mr. Morissette.

6 THE HEARING OFFICER: Good afternoon.

7 JUSTIN NISHIOKA: Good afternoon, Mr. Brauer and
8 Mr. Parks.

9 Mr. Parks, you are the real estate and
10 regulatory specialist for Verizon.

11 Isn't that correct?

12 THE WITNESS (Parks): That is correct.

13 JUSTIN NISHIOKA: I'm sorry. Mr. Parks, are you
14 available?

15 THE WITNESS (Parks): Oh, I'm sorry. I said, that is
16 correct.

17 JUSTIN NISHIOKA: Okay. Thank you.

18 So the NCN noticed Docket 502 which was an
19 application for a cell facility in Woodbridge --
20 and in that docket it was stated that the backup
21 power generators need to be tested approximately
22 once a week. Would that be true here?

23 I think that might be for Mr. Brauer.

24 THE WITNESS (Parks): Well, I can answer. That is
25 true. We run them usually late morning for about

1 15 minutes.

2 JUSTIN NISHIOKA: And also in Docket 502 it was stated
3 that a typical monopole install takes five to
4 seven months to construct.

5 Does a monopine construction typically take
6 longer than a monopole because of the added
7 features? Or is it approximately the same?

8 THE WITNESS (Parks): Well, I would assume it's a
9 little additional work. I would say it would
10 probably be slightly longer to construct a mono --
11 monopine than it would to install a monopole.

12 JUSTIN NISHIOKA: So based on your experience would
13 building this facility be rushed if the goal was
14 to build it in a few months?

15 MR. BALDWIN: Mr. Morissette, I'm going to object. I
16 don't know that Mr. Parks can answer questions
17 regarding the construction of this facility.
18 Those questions are more appropriately asked of
19 the Applicant, and Mr. Vergati in particular.

20 Verizon is not responsible for the
21 construction of this tower.

22 THE HEARING OFFICER: Yes, Verizon is a party in this
23 case, and is not building the tower.

24 If the Witness would like to just, sort of,
25 from his experience from a typical perspective to

1 answer the question quickly, and then we can move
2 on?

3 MR. BALDWIN: My only concern, Mr. Morissette, is that
4 was a specific question as to the construction of
5 this facility, and that the use of the term
6 "rushed" -- we don't even know what that means.

7 JUSTIN NISHIOKA: I'd be glad to generalize my
8 question --

9 THE HEARING OFFICER: Okay. Please generalize it and
10 we'll move on. Thank you.

11 JUSTIN NISHIOKA: -- that Mr. Park has engaged in.

12 MR. BALDWIN: Could you rephrase in a more general
13 sense then? That would be great. Thanks.

14 JUSTIN NISHIOKA: Certainly, Attorney Baldwin.

15 So generally would it be rushed in that a
16 site, say, that is steeply sloped and directly
17 across from a reservoir that requires a tremendous
18 amount of cut and the removal of trees, would it
19 be rushed to try to complete a project like that
20 in a few months?

21 THE WITNESS (Parks): No, we do not rush projects. We
22 build them as they should be built however long
23 it -- it takes us to build.

24 JUSTIN NISHIOKA: And just to piggyback off of some of
25 the questions asked by the Council, would you

1 agree with something that the New Canaan Neighbors
2 noticed in their third supplemental administrative
3 notice, item number four, which was a presentation
4 by AT&T that, quote, small cells are often used in
5 environments where capacity is an issue or in
6 places with particularly difficult geographical
7 challenges where coverage is an issue, unquote?

8 Would you agree with that, Mr. Parks?

9 MR. BALDWIN: I object again, Mr. Morissette.

10 Mr. Nishioka can't ask Verizon's Witness to verify
11 information that AT&T has already testified to.

12 If he wants to ask Verizon about its policy
13 with respect to small cells, I guess that's
14 okay -- but Mr. Brauer has already testified that
15 the use of small cells here would not be
16 appropriate.

17 But we're not here to verify what AT&T may
18 have previously testified to.

19 JUSTIN NISHIOKA: On that point, Mr. Morissette --

20 THE HEARING OFFICER: Excuse me. Excuse me?

21 JUSTIN NISHIOKA: -- it was previously testified --

22 THE HEARING OFFICER: Excuse me?

23 JUSTIN NISHIOKA: -- was that the geographical

24 condition --

25 THE HEARING OFFICER: You're over talking me. Thank

1 you. Please hold on here.

2 Attorney Baldwin is correct that Verizon
3 cannot respond to AT&T's information. If you want
4 to ask him about AT&T go right ahead, but leave
5 AT&T out of it.

6 Thank you.

7 Please continue.

8 JUSTIN NISHIOKA: The New Canaan Neighbors just would
9 object to that ruling, but we have no further
10 questions. Thank you, Mr. Morissette.

11 THE HEARING OFFICER: Thank you, Mr. Nishioka.

12 We'll now continue with the appearance of the
13 group party CEPA intervenor, Jamie Buschmann,
14 Trustee; Mark Buschmann, Trustee; and Mark
15 Buschmann.

16 Will the party present its witness panel for
17 the purposes of taking the oath?

18 Attorney Bachman will administer the oath.

19 MR. SHERWOOD: Thank you, Mr. Morissette.

20 Can you hear me okay?

21 THE HEARING OFFICER: Yes.

22 Thank you, Attorney Sherwood.

23 MR. SHERWOOD: Just a minute, please?

24 We have four witnesses today, David Ziaks,
25 Todd Hesketh, Michael Klemens, and Richard

1 Slovenko, and Mr. Berg was going to join us, but
2 apparently there is a power outage in Budapest,
3 and he is unable to do so.

4 So Mr. Slovenko will be testifying for 360
5 RF. Attorney Bachman, I offer the four witnesses
6 to be sworn.

7 THE HEARING OFFICER: Thank you, Attorney Sherwood.

8 We're getting a lot of echoing and feedback on
9 your end.

10 MR. SHERWOOD: (Unintelligible.)

11 THE HEARING OFFICER: That's much better. It seems to
12 have corrected the problem.

13 Attorney Bachman, could you administer the
14 oath please?

15 D R. M I C H A E L W. K L E M E N S,

16 R I C H A R D S L O V E N K O,

17 T O D D H E S K E T H,

18 D A V I D Z I A K S,

19 called as witnesses, being first duly sworn
20 by the EXECUTIVE DIRECTOR, were examined and
21 testified under oaths as follows:

23 THE HEARING OFFICER: Thank you, Attorney Bachman.

24 Attorney Sherwood, please begin by verifying
25 all exhibits by the appropriate sworn witnesses.

1 MR. SHERWOOD: Thank you, Mr. Morissette.

2 Our exhibits are listed in the hearing
3 program 4B, and they include the Buschmann
4 responses to the Council's interrogatories, the
5 prefilled testimony from the four witnesses and
6 Mr. Berg, which I just -- to whom I just referred,
7 and the Buschmann responses to the Applicants'
8 interrogatories.

9 So I would like to ask the four witnesses,
10 having been duly sworn, are these documents that
11 have submitted prepared by you or by your firm
12 true and accurate to the best of your knowledge
13 and belief?

14 And I'll ask each of you to respond
15 individually. Mr. Ziaks?

16 THE WITNESS (Ziaks): Yes.

17 MR. SHERWOOD: Mr. Hesketh?

18 THE WITNESS (Hesketh): Yes.

19 MR. SHERWOOD: Dr. Klemens?

20 THE WITNESS (Klemens): Yes.

21 MR. SHERWOOD: And Mr. Slovenko?

22 THE WITNESS (Slovenko): Yes.

23 MR. SHERWOOD: Did you prepare or assist in the
24 preparation of these documents?

25 Again, I'll ask you each to respond

1 individually. Mr. Ziaks?

2 THE WITNESS (Ziaks): Yes.

3 MR. SHERWOOD: Mr. Hesketh?

4 THE WITNESS (Hesketh): Yes.

5 MR. SHERWOOD: Dr. Klemens?

6 THE WITNESS (Klemens): Yes.

7 MR. SHERWOOD: And Mr. Slovenko?

8 THE WITNESS (Slovenko): Yes.

9 MR. SHERWOOD: And is the information contained in
10 these documents true and accurate to the best of
11 your knowledge and belief?

12 Mr. Ziaks?

13 THE WITNESS (Ziaks): Yes.

14 MR. SHERWOOD: Mr. Hesketh?

15 THE WITNESS (Hesketh): Yes.

16 MR. SHERWOOD: Dr. Klemens?

17 THE WITNESS (Klemens): Yes.

18 MR. SHERWOOD: And Mr. Slovenko?

19 THE WITNESS (Slovenko): Yes.

20 MR. SHERWOOD: And do you have any updates or
21 clarifications, or corrections to the information
22 contained in the documents identified? Mr. Ziaks?

23 THE WITNESS (Ziaks): No.

24 MR. SHERWOOD: Mr. Hesketh?

25 THE WITNESS (Hesketh): No.

1 MR. SHERWOOD: Dr. Klemens?

2 THE WITNESS (Klemens): Yes.

3 MR. SHERWOOD: Tell us what that is, please?

4 THE WITNESS (Klemens): Page 5, the second full
5 paragraph, the last line. The term "urban
6 wildlife" should be replaced with, wildland,
7 urban.

8 MR. SHERWOOD: This is page 5 of your prefilled
9 testimony?

10 THE WITNESS (Klemens): That is correct.

11 MR. SHERWOOD: Thank you. Anything else?

12 THE WITNESS (Klemens): No, that's -- everything else
13 is fine.

14 MR. SHERWOOD: Mr. Slovenko, any changes or
15 corrections?

16 THE WITNESS (Slovenko): No.

17 MR. SHERWOOD: And is the information contained in
18 these documents true and accurate to the best of
19 your knowledge? Mr. Ziaks?

20 THE WITNESS (Ziaks): Yes.

21 MR. SHERWOOD: Mr. Hesketh?

22 THE WITNESS (Hesketh): Yes.

23 MR. SHERWOOD: Dr. Klemens?

24 THE WITNESS (Klemens): Yes.

25 MR. SHERWOOD: As corrected.

1 And Mr. Slovenko?

2 THE WITNESS (Slovenko): Yes.

3 MR. SHERWOOD: And do you adopt this as your testimony
4 in this proceeding today?

5 Mr. Ziaks?

6 THE WITNESS (Ziaks): Yes.

7 MR. SHERWOOD: Mr. Hesketh?

8 THE WITNESS (Hesketh): Yes.

9 MR. SHERWOOD: Dr. Klemens?

10 THE WITNESS (Klemens): Yes.

11 MR. SHERWOOD: And Mr. Slovenko?

12 THE WITNESS (Slovenko): Yes.

13 MR. SHERWOOD: Thank you. We ask that the Council
14 except the JMB exhibits and prefilled testimony.

15 I'd also like to note that we have
16 administratively noticed 40 items which are on the
17 hearing program.

18 THE HEARING OFFICER: Thank you, Attorney Sherwood.

19 Does any party or intervener object to the
20 admissions of the Buschmanns' exhibits?

21 Attorney Chiocchio?

22 MS. CHIOCCHIO: No objection.

23 Thank you, Mr. Morissette.

24 THE HEARING OFFICER: Thank you.

25 Attorney Baldwin?

1 MR. BALDWIN: No objection. And I think -- are we just
2 talking about the exhibits first, Mr. Morissette?

3 THE HEARING OFFICER: We're talking about the exhibits
4 and the administrative notices.

5 MR. BALDWIN: Oh, okay. Yeah -- no objection.

6 Thank you.

7 THE HEARING OFFICER: Thank you.

8 Justin Nishioka?

9 JUSTIN NISHIOKA: No objection.

10 Thank you, Mr. Morissette.

11 THE HEARING OFFICER: Thank you.

12 The exhibits are hereby admitted.

13 We'll now begin with cross-examination of the
14 Buschmanns by the Council starting with
15 Mr. Mercier.

16 Mr. Mercier?

17 MR. MERCIER: Thank you. Mr. Ziaks, I have a couple of
18 questions on your prefiled testimony that's dated
19 June 13th.

20 Just by way of background, is your company
21 just a design company? Or is it involved in
22 construction also?

23 (No audible response.)

24 MR. BALDWIN: Can anyone hear Mr. Hesketh?

25 THE HEARING OFFICER: Mr. Ziaks?

1 MR. SHERWOOD: Mr. Morissette, we're having an issue
2 here with our sound. If we could have a minute
3 just to straighten it out, I'd appreciate it?

4 THE HEARING OFFICER: Certainly. Thank you.

5 MR. SHERWOOD: Okay. I think we're all set,
6 Mr. Morissette.

7 THE WITNESS (Hesketh): Sorry, Mr. Morissette, it seems
8 like we're having a little technical difficulty.
9 We'll share Mr. Sherwood's computer since it seems
10 like it's working fine.

11 THE HEARING OFFICER: Very good. Thank you.
12 Mr. Mercier, please continue.

13 THE WITNESS (Hesketh): I'm not sure -- I'm not sure I
14 answered his first question, but I remember it.
15 So I could answer it again?

16 THE HEARING OFFICER: Very good. Please continue.

17 THE WITNESS (Hesketh): Thank you. FA Hesketh
18 Associates is a civil traffic engineering firm, a
19 land planning firm with also an extensive survey
20 department. So we are experienced in any type of
21 site design.

22 As far as construction goes, we are
23 inspectors and construction advisors during
24 construction for our clients, and I believe we are
25 considered experts in erosion control.

1 MR. MERCIER: Okay. Thank you. Moving on to the
2 second page of your prefilled testimony there, the
3 second bullet, it talks about the 12-foot driveway
4 that has paved sections of an 18 percent slope.

5 And then it goes on to say that driveway
6 slopes greater than 12 to 15 percent are
7 considered excessive by generally accepted design
8 standards, or difficult and potentially dangerous
9 to navigate.

10 So what design standards are you referring
11 to?

12 THE WITNESS (Hesketh): It is the slope that is
13 proposed in this particular application. My
14 experience is that anything above the 12, like I
15 stated, the 12 to 15 percent is an extremely
16 difficult driveway to navigate.

17 Typically towns and the cities, their
18 regulations limit even residential driveways to 15
19 percent. So I was a little surprised to see that
20 the slope that is proposed -- or which has now
21 grown to 19 percent, and that was my point.

22 MR. MERCIER: Okay. So that, that's based on
23 residential development -- is what you're stating,
24 or accessing maybe a commercial property then --

25 THE WITNESS (Hesketh): Well, generally commercial

1 properties would have much less slope, but
2 generally towns and cities will allow slopes of 12
3 to 15 percent for residential driveways.

4 But typically for an industrial/commercial
5 facility type of a driveway, you know, something
6 in the order of 10 percent or less would be
7 appropriate.

8 MR. MERCIER: Correct. So like say, a building for,
9 like, a trailer truck, or something of that
10 nature?

11 THE WITNESS (Hesketh): Yes. Yes.

12 MR. MERCIER: Have you, your company ever designed a
13 driveway with a slope greater than 15 percent?

14 THE WITNESS (Hesketh): You know, I thought about that.
15 I -- I doubt it. I don't think so. I can't
16 remember, but I -- I seriously doubt it.

17 MR. MERCIER: Do you have any experience in monitoring
18 construction projects with slopes greater than 15
19 percent -- driveways that is?

20 THE WITNESS (Hesketh): Again, no, I doubt it. I can't
21 remember, but I -- I seriously doubt it.

22 Is there any other quest -- I'm sorry. Is
23 there another question there that I missed?

24 MR. MERCIER: No, I was just looking through my list.
25 Thank you.

1 THE WITNESS (Hesketh): Oh, okay.

2 MR. MERCIER: Have you designed a site that required
3 blasting?

4 THE WITNESS (Hesketh): Oh, yes. We've done that.

5 MR. MERCIER: And what protocols do you use, or follow,
6 or design?

7 THE WITNESS (Hesketh): Pardon? I'm sorry. There was
8 a break up there.

9 MR. MERCIER: What protocols did you design into the
10 site plan for the blasting?

11 THE WITNESS (Hesketh): Well, typically for blasting
12 there would be an extensive geotechnical study
13 done to determine the extent of the blasting and
14 type of blasting that would be necessary.

15 And then there is a requirement for a
16 pre-blast survey that's usually supervised by the
17 local fire department. And then once that's
18 completed then you know the blasting operation
19 would proceed and then the associated excavation,
20 the material handling, things of that nature.

21 MR. MERCIER: Okay. For the pre-blast survey, do you
22 know what distance from the blast location out to,
23 say, an adjacent property where you would do a
24 survey? Such as, it is 300 feet distant? Or 250
25 feet, or 200 feet?

1 THE WITNESS (Hesketh): Yes, I -- I believe it's 500
2 feet, but I'm not exactly a hundred percent sure
3 on that -- but I believe it's 500 feet.

4 MR. MERCIER: Have you ever encountered local variation
5 such as one town is 200 feet, and one town is 500
6 feet? Or is it just across the board a certain
7 distance statewide?

8 THE WITNESS (Hesketh): Yeah, it's more of, you know,
9 property relationship to property relationship,
10 regardless of boundaries.

11 So if you were -- if you were blasting along,
12 say, the westerly boundary of New Canaan, it
13 wouldn't prevent you from having to go over to the
14 abutting town.

15 MR. MERCIER: No, I understand that. I was just
16 wondering if each town had their own blasting
17 requirements for surveys, such as the town --

18 THE WITNESS (Hesketh): Yeah, it could, because again
19 it's under the -- generally under the jurisdiction
20 of the fire marshals, or the fire departments.

21 That's just the way it's done.

22 And if there's a sensitivity issue or
23 something, I know we did an extensive -- for
24 instance, in the town of West Hartford and
25 Farmington we did blasting for a West Farms Mall

1 expansion. It's now 20 years ago, but that was --
2 that was a rather difficult one.

3 We extended the pre-blast surveys much
4 further away than those distances to address
5 residents' concerns.

6 MR. MERCIER: Okay. Thank you.

7 Have you ever designed a site that had acid
8 rock drainage concerns?

9 THE WITNESS (Hesketh): Well, pretty much all, at any
10 major excavation site, particularly if it involves
11 blasting it involves those issues, yes.

12 MR. MERCIER: What mitigation measures did you follow
13 for these sites? Or what are the typical
14 mitigation measures that you would undertake?

15 THE WITNESS (Hesketh): Well, typically, you would
16 evaluate the site and determine where potential
17 drainage would go during excavations, you know, if
18 it involved blasting.

19 And then you would usually construct
20 temporary stilling basins to collect that drainage
21 and deal with it in that fashion. So that if
22 there is, you know, unwanted sentiments in there,
23 if there's a testing necessity you can contain
24 that runoff and then, you know, perform those
25 operations.

1 MR. MERCIER: So if the test came back and there was a
2 concern, how would that mitigate it? Such as the
3 drainage coming off a certain area, what measures
4 were employed to mitigate, reduce the acid?

5 THE WITNESS (Hesketh): Well, I -- I have not run into
6 the situation where we've had extensive acid
7 situations. We've had -- it usually revolves
8 around sediment control and -- and there's various
9 techniques for doing that, you know, filtration
10 techniques and things of that nature during
11 construction.

12 But I have not been really involved in areas
13 where we've had that acid pollution problem.

14 MR. MERCIER: Well, for those, you know, the sites you
15 designed have you done any sites in, say, this
16 area of New Canaan, or adjacent areas that might
17 have geology that would cause acid rock drainage?

18 THE WITNESS (Hesketh): No, we have not. We have not.

19 MR. MERCIER: I have a question regarding the RF
20 report, and I think that's Mr. Slovenko.

21 Is that correct?

22 THE WITNESS (Slovenko): That is correct.

23 MR. SHERWOOD: Yes, that's correct.

24 THE WITNESS (Slovenko): That is correct -- and he gets
25 an A for pronunciation.

1 MR. MERCIER: In section four of the report there were
2 three sites that were presented as, you know,
3 potential alternatives to the proposed site on
4 Ponus Ridge Road. I was wondering if your
5 company, or anyone -- maybe even from the panel
6 itself.

7 Did anybody approach the land owners of these
8 three properties to see if they're actually
9 available for a lease for a telecommunications
10 use?

11 THE WITNESS (Slovenko): We did not directly approach
12 them, but there's history to all of them. For
13 example, at 982 Oenoke Ridge that is the existing
14 emergency presence. So they may, as they have a
15 presence there now they may be amenable, and it's
16 a very high ridge up there.

17 So it's conducive to the function, so that's
18 why it was included. At 40 River Wind drive --
19 River Wind Road, the reason we had looked at that
20 is because there had been commentary from the
21 owner of that property saying that he wouldn't
22 mind a presence. He didn't find them a problem.
23 So while he wasn't approached specifically to host
24 it, he did express a favorable disposition.

25 The 40 Dans Highway was found in an optimal

1 site search. The site next door, 104 Dans Highway
2 was actually approached by Homeland, and they did
3 not get a response. The actual 40 Dans Highway
4 immediately next door is actually 30 feet
5 higher -- is from what we understand passively
6 owned and not a primary residence, or to that
7 effect.

8 So it seems to be a very likely possibility
9 that map -- mapping shows, coverage mapping shows
10 it would be highly suitable despite the assertion
11 once of Homeland that it's not the coverage we
12 wanted.

13 If the site next door was approached for it,
14 this site actually models a little better. And
15 being that the ownership structure seems to be
16 conducive something like this, that was why it was
17 also included. That's why those were, if that
18 answers your question.

19 MR. MERCIER: Yes. Thank you.

20 I have no other questions. Thank you.

21 THE HEARING OFFICER: Thank you, Mr. Mercier.

22 We'll now continue with cross-examination of
23 the Buschmanns by the Council with Mr. Silvestri.

24 Mr. Silvestri?

25 MR. SILVESTRI: Thank you, Mr. Morissette.

1 Mr. Slovenko, I wanted to stay on
2 Mr. Mercier's line of questioning for you. You
3 mentioned when you were talking about 40 Dans
4 Highway, you said a site next door.

5 Could you be more specific on what you mean
6 by a site next door?

7 THE WITNESS (Slovenko): I -- i will apologize for poor
8 enunciation from my southern, my family's southern
9 roots and my New York past speech -- but I did say
10 104 Dans Highway, which is immediately next door,
11 which is the site next door.

12 And that was on the list of those approached.
13 It was rejected for not having a response, but
14 that was what I was referring to.

15 MR. SILVESTRI: Very good. Thank you for that
16 clarification.

17 And again, you've seen the response from the
18 Applicant that was dated July 7, 2022, where they
19 had stated that as shown in the attached maps none
20 of these locations provide service north of the
21 proposed site on Ponus Ridge Road, and they
22 basically say that because terrain blocks any
23 signal.

24 So the first question I have for you, when
25 360 did their analysis was terrain taken into

1 account?

2 THE WITNESS (Slovenko): It's fundamental. The
3 terrain, the foliage, not only the ground height
4 there, but also what would be a reasonable tower
5 height that you would extend it upon. It's --
6 it's all part and parcel to the mapping that was
7 done.

8 And it -- and you're raising interesting
9 point, because they're saying the map -- for
10 example, at Dans Highway is indicating it's
11 rejected for coverage, but yet they approached the
12 neighbor next door.

13 I have trust in that the modeling that they
14 were looking at of their own was saying that that
15 coverage offered advantages, and it does,
16 significant advantages; some of them dovetail with
17 the concerns that both Mr. Mercier spoke to and
18 Mr. Morissette spoke to, which is the West Road
19 area around 124, and then as you go on to 123,
20 where apparently there is no site development
21 in -- in consideration.

22 But yet these are areas of high-density
23 population, lots of throughfare on vehicle --
24 vehicular, and areas where you'd want emergency
25 response as well as coverage, more so than the

1 nine homes in the very corner of the northwest, or
2 the twelve homes going above Proprietors Crossing
3 along the -- the state border, et cetera.

4 These are very low density areas with little
5 traffic, and when they state something as blase --
6 not the right word, but it's something that's
7 nonspecific, it's not the coverage we want or it's
8 not north enough. It doesn't really speak to what
9 the needs of the system are.

10 If you look at what they're showing you as
11 their coverage gaps and then what they're going to
12 be covering with Ponus Ridge -- in fact, a point
13 Mr. Mercier said a few meetings ago is, why is the
14 preponderance, or a great deal of preponderance of
15 propagation of signal over a lake of which there's
16 nobody transmitting? There's nobody with a phone.

17 And yet, there's areas, for example, over by
18 West Street which past St. George's Lane all the
19 way over -- in Lost District starting at
20 St. George's lane all the way over to 124 with no
21 coverage of where there's 114 homes -- and that's
22 major. That's a state highway that's going
23 through, and that doesn't even start to talk about
24 the huge gaps at 123.

25 So when they're saying, it's not the coverage

1 we want, 360 would say the coverage that they want
2 doesn't seem consistent with the coverage that is
3 needed for the community and for the -- the safety
4 of residents and so forth.

5 And that's kind of what we were trying to
6 address with the alternate sites; better
7 solutions, less obtrusive, easily serviced, not
8 crazy roads up in -- and not water runoff issues,
9 things like that.

10 MR. SILVESTRI: No. Thank you for your comments.

11 A related question I have -- when you look at
12 the report, there's some colored plots that are
13 there that are all geared towards 800 megahertz.

14 Was any modeling done at different megahertz?

15 THE WITNESS (Slovenko): The reason it was done at 800
16 was specific -- and yes, it was. It -- when
17 you're in 50 megahertz higher or lower of 800 the
18 changes are very small.

19 So -- and being that some of the AT&T -- some
20 of the maps that were done -- I think it was
21 CenterPoint, Center Reach, Center -- pardon me.
22 An independent survey done for the City by -- and
23 they did do it. Centerline, excuse me.

24 Centerline, they were working at 850. So we
25 wanted to find something in between where we can

1 show the -- the correlation to all these accepted
2 coverage maps.

3 And further we went on -- on a site survey to
4 the area. And we, for example, were in front of
5 the Main Street location monitoring the frequency
6 usage, and we found that 739 megahertz and 885
7 megahertz were seeing a lot of traffic.

8 So being that 800 is what kind of centered to
9 it -- that's why we modeled it, because they would
10 be -- they were shown to be high util --
11 utilization by the AT&T system now.

12 MR. SILVESTRI: Very good. Thank you for --

13 THE WITNESS (Slovenko): But that a good point. It's a
14 good point for a non-RF engineer, though.

15 MR. SILVESTRI: Thank you for your response on that
16 one.

17 Then I have a general question for, I guess,
18 anyone from the group parties and CEPA intervenor.
19 Did any of those individuals visit the site during
20 and/or after the rainstorm that we had earlier
21 this week?

22 THE WITNESS (Ziaks): Again, that's Dave Ziaks. I did
23 not visit the site during the recent rainstorm,
24 but I have been to the site on the two locations
25 in the past to conduct my own observations.

1 MR. SILVESTRI: Thank you. Did anyone else want to
2 comment on that from the group parties and CEPA
3 intervener?

4
5 (No response.)
6

7 MR. SILVESTRI: Very good. Mr. Morissette, I believe
8 I'm all set with my line of questioning.

9 Thank you.

10 THE HEARING OFFICER: Thank you, Mr. Silvestri.

11 We'll now continue with cross-examination by
12 the Buschmanns continuing with Mr. Nguyen.

13 Mr. Nguyen?

14 MR. NGUYEN: I don't have any questions,

15 Mr. Morissette. Thank you.

16 THE HEARING OFFICER: Thank you, Mr. Nguyen.

17 We'll continue with cross-examination with
18 Mr. Golembiewski. Mr. Golembiewski?

19 MR. GOLEMBIEWSKI: Mr. Morissette, my questions have
20 been asked. Thank you.

21 THE HEARING OFFICER: Thank you.

22 We'll continue with Mr. Quinlan.

23 Mr. Quinlan?

24 MR. QUINLAN: No further questions. Thank you.

25 THE HEARING OFFICER: Thank you.

1 Let's see. I have a few questions. Let's
2 start off with -- I believe it was Mr. Ziaks.

3 On page 2 of the document dated June 13,
4 2022, on the top of the page, the second line; it
5 says, it would seem there are better design
6 alternatives to investigate.

7 Could you elaborate on that for us please?

8 THE WITNESS (Hesketh): Yes. That was relating really
9 specifically towards some of the things that have
10 been already proposed, which is a shifting
11 location of the actual tower facility, as is shown
12 pretty much on the new revised plans that we
13 received.

14 And then as it relates to the driveway my
15 feeling is that, you know, if a proper
16 geotechnical report was -- was completed there
17 might be an opportunity for, you know, a straight
18 rock cut on -- on the slope that's proposed.

19 Right now its graded as though it's pretty
20 much going to be an earth slope which is causing a
21 lot of clearing necessary, you know, and other
22 soil disturbances.

23 With a geotechnical report you might be able
24 to decide whether a retaining wall was more
25 appropriate, or a true, like, seven-to-one rock

1 face cut that you might see along the state
2 highways, and therefore greatly reduce the amount
3 of site disturbance that is currently shown on the
4 drawings.

5 THE HEARING OFFICER: Very good. Thank you.

6 I would like to go to the July 6, 2022,
7 responses to the interrogatories by New Cingular
8 Wireless, I believe it is.

9 Question number three identifies the permits
10 needed for 359 Dans Highway, including the
11 renovations, in-ground pool and cabana. Now I
12 would assume that installing the pool would
13 require digging.

14 And my question is, was there rock
15 encountered? And if so, what was done to remove
16 the rock?

17 MR. SHERWOOD: Well, Mr. Morissette, none of our
18 experts were involved in that. And frankly, we
19 did not anticipate the question because that
20 wasn't within the scope of the interrogatory.

21 So I'm afraid we can't answer that.

22 THE HEARING OFFICER: Very good. Fair enough.

23 Okay. Let's go to Mr. Slovenko. I just
24 wanted to go to Exhibit 2 that is referred to on
25 page 4.

1 On page 4 it states that significant coverage
2 gaps remain even with the addition of the proposed
3 tower at 1837 Ponus Ridge Road, which are similar
4 to the gaps discussed above and illustrated in
5 Exhibit 2. Could you help out there on Exhibit 2
6 on what gaps you're referring to?

7 THE WITNESS (Slovenko): Okay. So if go to -- there's
8 actually an even better map that shows those gaps,
9 if I can refer you to it? It will be, I think,
10 easier for you to visualize and it's -- it's, I
11 think, going to be more useful in getting a better
12 understanding.

13 So on attachment four of the CT-1458 existing
14 700 megahertz LTE coverage with proposed site, the
15 AT&T network -- is that something you could find?

16 THE HEARING OFFICER: I'm sorry.

17 Could you reference the document again?

18 THE WITNESS (Slovenko): Sure. It's attachment --
19 attachment four of CT-1458. It's existing
20 700 megahertz LTE coverage with the proposed site
21 for the AT&T network.

22 It's part of the interrogatory.

23 THE HEARING OFFICER: The interrogatories that were
24 submitted by --

25 THE WITNESS (Slovenko): Right.

1 THE HEARING OFFICER: I'm still not following you.

2 I'm sorry.

3 THE WITNESS (Slovenko): (Unintelligible) -- refer you
4 better to that. Because it's on page -- it's
5 actually page -- page number -- what is this on
6 here? Page number 4 -- page number 14 of -- it's
7 titled the PFI -- I have a CSC, hyphen,
8 application, hyphen, attachment, hyphen, one, PDF,
9 page number 14 of 15.

10 THE HEARING OFFICER: So it's part of the application
11 you're referring to?

12 THE WITNESS (Slovenko): I guess it is. I'm sorry.

13 You are correct. Yeah, I was referring -- I
14 was looking at something else when I made that
15 incorrect notation of an interrogatory.

16 So when you have that available, then we'll
17 kind of walk through, because this is a very clear
18 illustration of what the -- that verbiage was
19 speaking to that you just referenced.

20 So let me know when that's convenient.

21 THE HEARING OFFICER: Okay. Well, we're going to have
22 to -- I'm not finding it.

23 THE WITNESS (Slovenko): All right. So let me -- let
24 me go back then to -- to the one that you did
25 have. I'll work with you.

1 THE HEARING OFFICER: Okay. Very good.

2 THE WITNESS (Slovenko): So now we'll go -- so let's go
3 to the Exhibit Number 2, which we find on page
4 number 14 of that same document.

5 THE HEARING OFFICER: Great. Thank you.

6 THE WITNESS (Slovenko): All right. This one is
7 somewhat more flattering to AT&T because this
8 shows coverage that they no longer claim to have,
9 but if you see the area, for example, around --
10 I'm not sure, Mr. Morissette.

11 Are you a local and you know the area well?

12 THE HEARING OFFICER: No, I am not.

13 THE WITNESS (Slovenko): Okay. So there's this Lost
14 District Road that kind of comes above the -- the
15 CT-1458 star.

16 THE HEARING OFFICER: Yeah?

17 THE WITNESS (Slovenko): And as you follow it along, as
18 soon as you see that little -- as you're going
19 east you see that little -- I'm going to call it,
20 it looks almost like a little river tributary
21 there, but that's actually a road. And the road's
22 name is St. George.

23 THE HEARING OFFICER: Okay.

24 THE WITNESS (Slovenko): St. George Lane. That area
25 there, all the way through the -- the continuation

1 all the way to 123 and beyond is no coverage for
2 the proposed site. And even above that Lost
3 District Road -- so as you go through West Road,
4 then to Oenoke Ridge, 124, continuing on all the
5 way on to 123; these are major population areas,
6 major areas where emergency services would be
7 expected where they have claimed they're not going
8 to have additional development at this time -- the
9 coverage doesn't address.

10 So that's what we were speaking to. And
11 there's another -- and there's another spot, if
12 we're -- if that's clear. I'm going to first
13 start with that, and then we'll go to the other
14 spot.

15 THE HEARING OFFICER: Okay. Please continue?

16 THE WITNESS (Slovenko): Okay. So now when we go on
17 the west, along kind of the city border, city
18 boundary going somewhat south there's -- there's a
19 body of water called calling wood -- Collins Pond.

20 So if you see the reservoir. You go down a
21 little bit, there's kind of a snakelike body of
22 water about, you know, a little bit -- a little
23 bit south of that. You follow it and that there's
24 something next to it.

25 THE HEARING OFFICER: Uh-huh? Yeah?

1 THE WITNESS (Slovenko): All in that area, that white
2 is actually quite dense population.

3 As a matter of fact, it's on the -- excuse
4 me, on the order of 70 homes of which all are in
5 white areas that include as you look over by
6 Wellesley Drive you see a little bit --

7 THE HEARING OFFICER: Uh-huh?

8 THE WITNESS (Slovenko): -- out going a little bit
9 east, and a little bit further lower. There's a
10 whole big white area in there.

11 THE HEARING OFFICER: Yes?

12 THE WITNESS (Slovenko): That, that whole area is
13 under -- is not serviced as well. These, this is
14 more than 70 homes, a lot of roads. They're not
15 covered by this proposed development and -- and
16 will remain unserviced based on the current
17 situation.

18 And the areas they are covering in the very
19 far north, northern corner do not have that level
20 of -- of utilization density or anything else.
21 It's a very odd choice, let alone considering
22 the -- the trouble you have to go through to get a
23 site to fit in there and the risks you take.

24 THE HEARING OFFICER: Very good. Thank you for that
25 clarification.

1 Anything else that you wanted to add?

2 THE WITNESS (Slovenko): Myself?

3 THE HEARING OFFICER: Yes.

4 THE WITNESS (Slovenko): From -- from a standpoint of
5 topography and RF propagation, there's -- I
6 believe the exhibit -- the next one, the next
7 page, if you look, page 15, the next page on that
8 PDF?

9 And you see New Canaan, and you see a bunch
10 of different colors and -- and elevations?

11 THE HEARING OFFICER: Uh-huh, yes.

12 THE WITNESS (Slovenko): Okay. What's it's showing you
13 is there's kind of this ridge structure. That's
14 kind of why I get -- well, I guess they call it
15 Oenoke Ridge, which is very high.

16 And when you low -- when you put your tower,
17 in this case, 1837 Ponus over on the corner, on
18 the other side of that ridge where it is, even
19 with a very high tower you're -- you're battling a
20 lot of -- a lot of geographic disadvantage.

21 Not to mention, you see further down there's
22 another feature to the left by the border boundary
23 area where it's 403 feet. That's why that lower
24 area we were just talking about like -- by
25 calling -- by Collins Pond and below that doesn't

1 get serviced as well.

2 It's basically as the -- the wave of RF
3 energy is trying to get down there it's bouncing
4 off of these topographical -- topographical --
5 topography features. And that's why, again
6 it's -- it's not an ideal location just from an RF
7 standpoint, let alone the other challenges.

8 THE HEARING OFFICER: Very good. Thank you. That's
9 very helpful.

10 My next question is for Dr. Klemens.

11 Good afternoon, Dr. Klemens.

12 THE WITNESS (Klemens): Good afternoon, Mr. Morissette.
13 Nice to see you.

14 THE HEARING OFFICER: Nice to see you. My question is
15 relating to page 3 of your prefilled testimony.
16 The top of the page you were talking about the
17 forest clearing.

18 In the paragraph on top of the page it says,
19 the forests on both of these properties will be
20 affected by the proposed clearing.

21 Can you explain or further elaborate on what
22 you mean by that?

23 THE WITNESS (Klemens): Sure. Right now you have what
24 is called perforated forests. You've got a fairly
25 continuous forest canopy there with some

1 perforation. Once you begin -- there is generally
2 when you clear there's a 300-foot zone of
3 intrusion on the edge of clearing. That is the
4 reference. I gave you one of the references,
5 Glannon and Kratzer.

6 So as you proceed to clear you are going to
7 be creating a large edge which will penetrate; the
8 impacts will penetrate 300 feet roughly into the
9 existing perforated forest. So you now are
10 turning perforated forest into an edge forest.

11 Edge forest is susceptible to desiccation.
12 If you drive along a new highway cut you'll notice
13 the edge is often -- there's treefall and other
14 things happening there.

15 There's something very unique that happens
16 when you cut into a forest, and that ties to the
17 concept of there's been a lot of discussion about
18 the development footprint, but the ecological
19 footprint extends much further than the clearing.

20 THE HEARING OFFICER: Very good. So it's relating to
21 the conversion of two edge forests that you're
22 referring to here. Okay. Very good. Thank you.

23 I guess this is questions for the panel. Is
24 there a preference of which of the site layouts is
25 preferred? Is the alternate site a better

1 alternative than the original proposed site?

2 MR. SHERWOOD: Mr. Morissette, I'd ask Mr. Ziaks to
3 comment on that. I take it you're referring to
4 the 831 plans versus the original submission?

5 THE HEARING OFFICER: That's correct, yes. Thank you.

6 MR. SHERWOOD: Yeah, I'd ask Mr. Ziaks to start, and
7 maybe Dr. Klemens to address that after Mr. Ziaks
8 finishes.

9 THE HEARING OFFICER: Very good. Thank you.

10 THE WITNESS (Ziaks): Well, as far as the -- the new
11 plan goes, it does add a little bit more buffer to
12 the abutter.

13 But quite frankly, I don't think that's going
14 to make much of a difference as far as impacts to
15 the neighbors. And it unfortunately doesn't do
16 anything to improve upon the access driveway, the
17 design-ability of the access driveway which is my
18 major concern.

19 So is it a little better -- better? Maybe,
20 but from an impact perspective of the neighbors I
21 would say it really doesn't improve upon it very
22 much.

23 THE HEARING OFFICER: Thank you. Dr. Klemens?

24 THE WITNESS (Klemens): It has the prospect of
25 ecological problems, both of them do, both with

1 the design of the driveway and the other
2 environmental impacts.

3 THE HEARING OFFICER: Very good. Thank you.

4 At this point that concludes my
5 cross-examination. What I'd like to do is we'll
6 take a quick break, and then we'll continue with
7 cross-examination by Attorney Chiocchio.

8 So let's go to 3:20. I will return back with
9 cross-examination. Thank you, everyone.

10
11 (Pause: 3:07 p.m. to 3:20 p.m.)

12
13 THE HEARING OFFICER: Thank you, everyone.

14 Welcome back.

15 Is the Court Reporter with us?

16 THE REPORTER: I am here. We are on the record.

17 THE HEARING OFFICER: Very good. Thank you. Okay. We
18 will now continue with cross-examination of the
19 Buschmanns by the Applicant. Attorney Chiocchio?

20 MS. CHIOCCHIO: Thank you, Mr. Morissette. I have a
21 few questions for Mr. Ziaks. I'll start with you.

22 When you design stormwater measures in
23 compliance with the DEEP guidelines for erosion
24 and sediment control, isn't it your experience
25 that these measures effectively control erosion

1 and sediment?

2 THE WITNESS (Ziaks): Yeah. If they're properly
3 designed and properly installed and maintained
4 during the course of the construction, yes.

5 MS. CHIOCCHIO: And does a stormwater system designed
6 in compliance with these guidelines effectively
7 reduce the rate of runoff that may result from a
8 project?

9 THE WITNESS (Ziaks): Yes, that's the -- that's the
10 point of the guidelines.

11 MS. CHIOCCHIO: Thank you. I'm not sure if this is for
12 you or someone else on the panel.

13 What is the square footage of the paved
14 driveway that pitches downward onto Dans Highway
15 that's approximately a hundred feet from the
16 Laurel Reservoir property, at 359 Dans Highway?

17 THE WITNESS (Ziaks): That would have to be someone
18 else on the panel.

19 MR. SHERWOOD: Attorney Chiocchio, you're asking about
20 the pitch of the Buschmanns' driveway?

21 MS. CHIOCCHIO: Correct.

22 MR. SHERWOOD: Nobody on the panel has looked at that.

23 MS. CHIOCCHIO: Okay. Thank you. Does anyone on the
24 panel know what kind of chemical treatment is used
25 for snow and ice removal on the Buschmann

1 property?

2 MR. SHERWOOD: No, Attorney Chiocchio. Apart from the
3 fact that the question is irrelevant, no one on
4 the panel has done any investigation of the
5 property at 359 Dans Highway, because it's not the
6 subject of the application.

7 MS. CHIOCCHIO: And does anyone know the fuel source
8 for the pool heater that was part of that upgrade
9 for the property?

10 MR. SHERWOOD: I was told by Mr. Buschmann that it's
11 propane.

12 MS. CHIOCCHIO: Thank you.

13 Mr. Ziaks, earlier you stated that you had
14 visited the property.

15 Do you recall what date that was?

16 THE WITNESS (Ziaks): I don't. I'd have to check my --
17 my record.

18 MS. CHIOCCHIO: Okay.

19 THE WITNESS (Ziaks): It was -- it was in the spring.
20 It was definitely in the spring.

21 MS. CHIOCCHIO: Okay. And when you say you visited,
22 did you observe it from the road?

23 Were you actually on the property?

24 THE WITNESS (Ziaks): I observed it from the road and
25 from the Buschmanns' property. I was not given

1 permission to go onto the site itself.

2 MS. CHIOCCHIO: Thank you. A few questions for

3 Dr. Klemens. Good afternoon, Dr. Klemens.

4 THE WITNESS (Klemens): Yeah, I'm here.

5 Good afternoon, Attorney Chiocchio.

6 MS. CHIOCCHIO: What were the approximate dates of your
7 service as a member of the Siting Council.

8 THE WITNESS (Klemens): I know that the -- the end of
9 my service was in May of 2019.

10 I served for over seven years.

11 MS. CHIOCCHIO: Thank you. And when you were a member
12 of the Siting Council, did you evaluate facilities
13 for wireless towers? And did you have any failure
14 of issuing certificates for tower facilities
15 during that time?

16 THE WITNESS (Klemens): Yes, I evaluated dockets and
17 have voted for certificates when there was
18 environmental compatibility.

19 MS. CHIOCCHIO: Thank you. Do you recall that
20 decisions and orders for certificated facilities
21 included a condition requiring a D and M plan to
22 be submitted, and that the D and M plan include
23 final plans with specifications as well as
24 construction plans with stormwater and erosion
25 control design details?

1 THE WITNESS (Klemens): I'm sorry. Which docket are
2 you referring to?

3 MS. CHIOCCHIO: Any docket in which a certificate
4 was issued. Do you recall a condition in the
5 decision and order requiring a D and M plan?

6 THE WITNESS (Klemens): They all have D and M plans,
7 but the -- this particular one there are so many
8 unanswered questions as to the environmental
9 compatibility and the ability to construct without
10 impact. And this would probably be one that I
11 would have voted against.

12 The Council was also differently constituted
13 at that time, and there were more members that
14 asked environmental questions.

15 MS. CHIOCCHIO: Thank you. Do you recall if any
16 interrogatories were issued on D and M plan
17 submissions?

18 In other words, an applicant had submitted a
19 D and M plan to the Council, and the Council had
20 asked questions regarding the details contained
21 therein?

22 THE WITNESS (Klemens): If there was ever questions
23 asked about the D and M plan by the -- could you
24 clarify that question, please, Attorney?

25 MS. CHIOCCHIO: Yes, I'm happy to. I'm sorry for the

1 confusion.

2 Do you recall any time -- if an applicant had
3 submitted a D and M plan where there times when
4 the Council would ask questions on that D and M
5 plan before approving, asking for clarification or
6 more details?

7 THE WITNESS (Klemens): In my experience many of the
8 questions concerning stormwater or other matters
9 were resolved in the evidentiary hearing, and were
10 not reserved for the D and M plan.

11 MS. CHIOCCHIO: Thank you.

12 THE WITNESS (Klemens): I recall many applications
13 where these issues were discussed at great length
14 during the evidentiary; Towantic powerplant being
15 one, the proposed Waterford solar facility.

16 These things were generally sorted out, asked
17 and satisfactorily answered during the evidentiary
18 session. This particular application, this is not
19 the case.

20 MS. CHIOCCHIO: Thank you. I do have some questions
21 regarding the three studies in your prefilled
22 testimony dated June 21, 2022. They're Exhibits
23 A, B and C, and they are the Manville bird study,
24 the lost well Marist study and the Long Acre bird
25 study.

1 So starting with Exhibit A, the Manville bird
2 study, does that study recommend that impacts of
3 tall structures be assessed through analysis under
4 the National Environmental Policy Act, or NEPA?

5 THE WITNESS (Klemens): I'm sorry. I'm really not --
6 I'm not gathering which -- which -- whose exhibits
7 are they?

8 MS. CHIOCCHIO: Let me back up.

9 So in your prefilled testimony --

10 THE WITNESS (Klemens): Yes? Tell me where, please?

11 MS. CHIOCCHIO: There are three studies that are
12 referenced. One is the Manville bird study.

13 THE WITNESS (Klemens): I don't believe you're correct.

14 MS. CHIOCCHIO: Oh, I apologize. I believe that was
15 the response to interrogatories.

16 I apologize. It was the response to the
17 Siting Council interrogatories, set one, dated
18 June 21, 2022, response number two with respect to
19 impacts to avian populations.

20 THE WITNESS (Klemens): Who authored the response?

21 MS. CHIOCCHIO: The response indicates, please see the
22 prefilled testimony of Michael Klemens, PhD, and
23 the following exhibits. And the exhibits are the
24 Manville study, the lost well Marist study and the
25 longhorn study.

1 THE WITNESS (Klemens): I did not prepare that
2 response.

3 MS. CHIOCCHIO: Okay. Thank you.

4 MR. SHERWOOD: Mr. Chairman, the interrogatory asked
5 the JMB parties to identify the specific
6 state-listed species that would be significantly
7 impacted by the proposed facility, and Dr. Klemens
8 does that in his response.

9 In addition, there are three articles which
10 are referred to and appended, which are not
11 Dr. Klemens' work.

12 THE HEARING OFFICER: Yes.

13 Thank you for that clarification.

14 MR. SHERWOOD: Dr. Klemens can address the state
15 endangered species that are implicate -- or
16 state-listed species that are implicated in
17 connection with the project, but he is not
18 responsible for those articles.

19 THE HEARING OFFICER: Thank you, Attorney Sherwood.

20 Please continue, Attorney Chiocchio.

21 MS. CHIOCCHIO: Thank you. My next set of questions
22 are for Mr. Slovenko. Good afternoon.

23 THE WITNESS (Slovenko): Good afternoon.

24 MS. CHIOCCHIO: In the response to the Applicant's
25 interrogatory number five it stated that the

1 propagation software that was used for the report
2 is Radio Mobile Online.

3 Do you know if any commercial wireless
4 carriers use this software to design their
5 networks?

6 THE WITNESS (Slovenko): I am not part of a commercial
7 wireless carrier, but I know it's ubiquitous in
8 the RF industry which I'm very involved.

9 It's based on one of the longest standing
10 most-respected models called the Longley-Rice,
11 which is an irregular terrain.

12 The Radio Mobile Online further has been
13 validated -- I included some of that as well where
14 they tested models against the actual installed
15 results, and it's highly predictive.

16 Regardless, the point of our use of that is
17 to give like-for-like, apples-to-apples
18 comparisons of alternatives as well as to look at
19 the shortcomings of the Ponus Ridge site. And
20 when we did that we saw relative comparability
21 between what AT&T or Homeland Towers was proposing
22 as the predictive coverage, as well as what the
23 Longley-Rice model based on Radio Mobile Online
24 was covering.

25 And further, we did state that we expect that

1 the actual precision to be somewhat higher of
2 AT&T's, or -- or Verizon's specific models which
3 they, their careers and -- and business is all
4 about, and we don't challenge that.

5 And their models themselves are showing
6 these, these deficiencies and that's really what
7 we're speaking of.

8 And if I could for just one minute? I'll --
9 I'll point to Mr. Morissette, because I noticed it
10 there. If you look on that same document, page
11 13, at the top there's red arrows that shows those
12 gaps I identified.

13 I've made it unnecessarily difficult -- but
14 I'm sorry to -- to kind of distract for a moment,
15 but continue on with your question. I'm sorry.

16 MS. CHIOCCHIO: All right. So do you have any
17 experience designing commercial wireless systems
18 or networks?

19 THE WITNESS (Slovenko): I'm not a designer, you know,
20 but I -- our company frequently analyzes them,
21 yes, and we do it on site. We do it on paper.

22 I have for the last 30 years worked with --
23 particularly with VHF and UHF, of which the
24 spectrum involved here is, in the case of the
25 emergency response, VHF; and in the case of the 5G

1 cover -- not so much -- well, the 5 -- the
2 700 megahertz coverage being in the UHF.

3 For example, the Consumer Electronics
4 association uses pretty good models. That's still
5 posted at AntennaWeb.org, where you put in your
6 address. It shows you a model of what they expect
7 the coverage to be, and that's based on my work 30
8 years ago.

9 MS. CHIOCCHIO: Thank you. And where did you obtain
10 the antenna configurations for the 18 sites for
11 your modeling?

12 THE WITNESS (Slovenko): I didn't -- repeat your
13 question, please?

14 MS. CHIOCCHIO: Where did you obtain the antenna
15 configurations for the AT&T sites for the modeling
16 that you presented?

17 THE WITNESS (Slovenko): We -- that was disclosed in
18 the literature, and I'm -- don't ask me to point
19 out real quick. We have a lot of paper around
20 here.

21 But the -- the antennas that were to be used
22 were disclosed, and they were used based on those
23 antennas using traditional line losses, distance
24 of feed, basic setups that our guys deal with
25 every day.

1 For example, one of our folks here was the
2 chief designer for Nokia Networks and their --
3 their network systems, and this is not new
4 technology or process, and that's what we used as
5 our foundation.

6 MS. CHIOCCHIO: Okay. So some general industry
7 knowledge based on the antenna models provided?

8 THE WITNESS (Slovenko): We used specific -- the
9 specific hardware that was being used plus best
10 practices for line losses and so forth for the --
11 the feeds and so forth, and the cabling that would
12 be expected on such a presence.

13 MS. CHIOCCHIO: Thank you.

14 And have you had any experience designing
15 small cell or gap systems for commercial wireless
16 services?

17 THE WITNESS (Slovenko): To repeat, I'm not a designer.
18 We don't hold ourselves out as system -- networks
19 designers. We're on the other end of it.

20 We're looking at for the fire departments
21 and -- and for example, the -- the county, Oakland
22 County in the Detroit area, we've helped them
23 design, worked with the design of their networks
24 for emergency responders over numbers of projects.
25 That's more our role.

1 We don't -- they don't say -- just typically
2 we want to do a design of X, Y, or, Z, although
3 we've done some of that where they -- there's
4 right-of-way issues, for example, where the -- the
5 water companies in Texas, has a right-of-way, and
6 we used their existing utility structures.

7 Canadian railroads, the same thing where we
8 help them create the networks for those.

9 But as a general rule, we're -- AT&T has
10 their shop. They don't come to us for it.

11 MS. CHIOCCHIO: Thank you.

12 I'd like to turn to your Exhibit 13E, and it
13 shows coverage.

14 THE WITNESS (Slovenko): Yes.

15 MS. CHIOCCHIO: Now I just want to clarify, is that
16 showing coverage from the utility pole at 288 Elm
17 Street at a height of about 40 feet?

18 THE WITNESS (Slovenko): No. 13B, you said? Or D?

19 MS. CHIOCCHIO: 13E, "E" as an elephant.

20 THE WITNESS (Slovenko): Oh, okay. Let me -- I'm on D.
21 E as in -- okay. Go ahead.

22 What was your question again?

23 MS. CHIOCCHIO: Is that showing coverage from the
24 utility pole at 288 Elm Street?

25 THE WITNESS (Slovenko): Yes, there's a 310-foot ground

1 level there of which we had 40-foot. So it's
2 being modeled at 350-foot. Basically 40-foot is
3 also the -- the approximate height of the -- the
4 Main Street example that -- I mean, the Main
5 Street site that they have currently in existence.

6 So it's a typical height. It's -- it's a
7 utility pole, of which we identified numbers of
8 them that would be highly serviceable, very useful
9 in the needed coverages, and would require a
10 minimum of disruption to the community and -- and
11 the aesthetics, and so forth.

12 That acme location you're speaking of there
13 is something that is one of those analyses of
14 which there's -- that's either A, B, C, D, and so
15 forth. For example, one of them is actually
16 Ponus, at 958 Ponus. I believe that was B, the
17 one I was just looking at.

18 And 958 Ponus, for example, doesn't have
19 those, those big gap issues that we were
20 discussing with Mr. Morissette even at that
21 height. And 958 Ponus is at an elevation of
22 374 feet. Just at the ground you add the
23 40-foot to that on the pole, you're at 414-foot.
24 And there's other poles left and right of that
25 similarly.

1 So for example, if Verizon wanted a pole and
2 AT&T wanted a pole, that's easily done -- but
3 that's what the modeling was based on.

4 MS. CHIOCCHIO: And do you happen to know if those
5 poles that you were looking, if the utility
6 company would allow attachments to those poles?

7 THE WITNESS (Slovenko): If you -- I -- I don't know
8 the legalese of what any specific utility will or
9 won't allow in Connecticut or otherwise. That's
10 not my domain.

11 But if you go up and down, for example, the
12 New Jersey Turnpike you see every kind of utility
13 structure with some kind of macro site on it.
14 That's primarily where the coverage is coming from
15 as you go up and down right through the
16 Pennsylvania Turnpike.

17 So agreements are struck all the time to put
18 a macro site on some form of existing utility
19 structure. The deal that makes that happen, how
20 it happens, that's above my paygrade.

21 MS. CHIOCCHIO: So -- yeah. So what I was getting at
22 is just some poles are not allowed for use by the
23 electric company based on their equipment on the
24 pole. I just was wondering if you analyzed any of
25 the poles for that --

1 MR. SHERWOOD: Mr. Morissette, Attorney Chiocchio can't
2 testify. She can ask questions.

3 THE HEARING OFFICER: Yes. Attorney Chiocchio, please
4 refrain from testifying going forward.

5 MS. CHIOCCHIO: I'll move on.

6 Looking at your June 15th report, page 5 --
7 and we talked a little bit about this earlier,
8 about how the terrain blocks the signal strength?

9 THE WITNESS (Slovenko): Yes.

10 MS. CHIOCCHIO: Right. So if you look at Exhibit 4 on
11 page 16 -- and that's your plot of 982 Oenoke
12 Ridge?

13 THE WITNESS (Slovenko): Page 16, hold on. I'm not
14 there just yet.

15 MS. CHIOCCHIO: Sure.

16 THE WITNESS (Slovenko): Yes, go ahead.

17 MS. CHIOCCHIO: So it appears that there would be quite
18 a bit of terrain to the west. So are you showing
19 coverage before that, that terrain area, that high
20 terrain or that cliff area, or beyond it?

21 THE WITNESS (Slovenko): Bear in mind, 982 Oenoke is
22 very high. That's the reason they chose it for
23 the emergency responder system. This is on a
24 ridge. We were -- we were showing -- I was
25 discussing with Mr. Morissette earlier about

1 the -- the basic topography of the ridge is found
2 within the New Canaan boundaries.

3 And that, if you go back to that reference
4 which was on the immediate prior page -- which is
5 page 15, you can see I actually show 982 Oenoke at
6 564 feet of elevation. That's -- that's about as
7 high as you get in the whole area of -- of New
8 Canaan.

9 So that's why when you look at that
10 propagation model there's pervasive coverage. So
11 it doesn't have the geographic limitation that the
12 Ponus Ridge Road would have. It's higher, it's
13 more central. It's shooting down at things.

14 If something is deep in a pocket and you can
15 see there's a teeny little pocket here and there,
16 that's because it -- it's a low-lying area and
17 this thing will go over the top of it, but it has
18 no issues generally with bouncing into hillsides,
19 that the -- not -- the Ponus Ridge site will have.

20 MS. CHIOCCHIO: Thank you. And just to clarify, you
21 testified earlier that the model does take terrain
22 into account?

23 THE WITNESS (Slovenko): Absolutely.

24 MS. CHIOCCHIO: How about tree cover?

25 THE WITNESS (Slovenko): Absolutely.

1 MS. CHIOCCHIO: Thank you.

2 Those are all my questions.

3 Thank you, Mr. Morissette.

4 THE HEARING OFFICER: Thank you, Attorney Chiocchio.

5 We will now continue with cross-examination
6 of the Buschmanns by Verizon Wireless.

7 Attorney Baldwin?

8 MR. BALDWIN: Thank you, Mr. Morissette.

9 Just a couple quick questions I want to
10 follow up with Mr. Slovenko, if I could?

11 So just to generalize, Mr. Slovenko, you're
12 not testifying that there isn't a need for
13 wireless, new wireless service up in Northern New
14 Canaan.

15 That's correct. Right?

16 THE WITNESS (Slovenko): If -- if I take on face value
17 the gaps shown in the existing -- I'm going to
18 use, no offense to Verizon, AT&T's coverage gaps,
19 it would -- it would appear there are numbers of
20 areas that are reasonable to address with
21 additional --

22 MR. BALDWIN: No. No. No. Just answer the question.

23 The question is, are there areas where no
24 service exists today based on the plots that have
25 been submitted by the two carriers involved in the

1 proceeding?

2 THE WITNESS (Slovenko): Yeah, they've been talked
3 about. For example, 124, State Highway 123,
4 there's big holes there you have.

5 There's many places, yes.

6 MR. BALDWIN: Okay. I'll take that as a yes.

7 THE WITNESS (Slovenko): Yes.

8 MR. BALDWIN: And so the basis, the basis of your
9 report is not that there isn't a need for
10 additional service, but you think there's a better
11 way to skin the cat? There are better locations
12 than the proposed location that is currently
13 before the Council.

14 Is that a fair summary of your testimony?

15 THE WITNESS (Slovenko): I would state it this way.

16 Taking as the coverage is being -- based on the
17 representations of current coverage, what would be
18 solutions that would address those; that's what we
19 address.

20 Whether they really have, in a drive study,
21 where these are really holes and -- and bad
22 service, we cannot attest.

23 But we're saying if there -- if there is as
24 purported in these plots, that those holes, these
25 are solutions for them. They have one that AT&T

1 or Homeland has proposed, and alternates that 360
2 RF has proposed, which we feel --

3 MR. BALDWIN: So you're not testifying that the
4 solution that is currently before the Council does
5 not provide some service to those areas, but there
6 are other solutions that might have the same
7 effect?

8 THE WITNESS (Slovenko): There are better solutions,
9 and they -- and they address more of the purported
10 problem which we're not able to confirm, because
11 it would require a level of investigation that was
12 beyond our scope.

13 MR. BALDWIN: Okay. And speaking of your scope and
14 your experience -- and I understand you're not an
15 RF design engineer, but you did not
16 investigate/reach out to property owners at these
17 other locations that you've identified as better
18 locations for a tower site?

19 THE WITNESS (Slovenko): The utility pole owners, for
20 example? No, I think we just addressed that.

21 In the case of Oenoke Lane, 30 Oenoke Lane
22 it's a very interesting one, because it's
23 excellent propagation. It serves --

24 MR. BALDWIN: Mr. Slovenko, I (unintelligible) --

25 THE WITNESS (Slovenko): (Unintelligible) --

1 MR. BALDWIN: Did you contact any of these property
2 owners to see if they were interested in leasing
3 space on their land for a tower site? That's all.

4 THE WITNESS (Slovenko): I'm answering that question.
5 I'm just answering it with the proper perspective.
6 The landowner apparently of 1837 Ponus Ridge Road
7 has two other sites. So apparently he's amenable.
8 And those --

9 MR. BALDWIN: Mr. Slovenko, don't speculate.

10 Did you contact the property owners?

11 THE WITNESS (Slovenko): I did not.

12 MR. BALDWIN: Thank you.

13 THE WITNESS (Slovenko): I did not.

14 MR. BALDWIN: That's all.

15 When I look at AT&T's plots and Verizon's
16 plots, the areas of coverage seemed fairly well
17 defined. The lines are straight.

18 As I look at your plots in your report
19 there's a lot of -- I'll use the term "washout"
20 along the edges. What type of terrain model bin
21 size do you use for your plots?

22 THE WITNESS (Slovenko): I don't have that model
23 description in front of you, but I did describe to
24 you in sufficient detail -- but I would also say
25 that the question that you're posing is

1 somedwhat --

2 MR. BALDWIN: Well, let me -- don't rephrase my
3 question. I'm just asking if you knew what the
4 terrain model size, bins size was for your plots?

5 THE WITNESS (Slovenko): The gentleman who could answer
6 that question is somewhere in Budapest. So I'm --
7 I'm going to say I don't have that in front of
8 you. But yes, we do have that and it is --

9 MR. BALDWIN: Would you --

10 THE WITNESS (Slovenko): -- (unintelligible).

11 MR. BALDWIN: Would you agree that given the way the
12 edges of the plot seem to wash out and blend
13 together, that it's likely it's a fairly large bin
14 size for terrain data?

15 And that because it's fairly large sized bin
16 data you lose a lot of definition, and these plots
17 might well result in over prediction of what you
18 could get from individual cell sites that you've
19 modeled?

20 THE WITNESS (Slovenko): Whenever we're talking
21 about --

22 MR. SHERWOOD: Mr. Morissette, that's three questions.
23 Could we take them one at a time, please?

24 THE HEARING OFFICER: Certainly, Attorney Sherwood.
25 Attorney Baldwin, could you take them one

1 step at a time, please?

2 MR. BALDWIN: Sure. Well, is it fair to assume given
3 that the level of "washout," a term I'll copyright
4 I think next week -- and that given the level of
5 washout and the lack of definition around the
6 edges of coverage plots, is it fair to assume that
7 the terrain data bin model is fairly large, maybe
8 a hundred meters? Maybe more?

9 THE WITNESS (Slovenko): I -- I don't want to say --

10 MR. BALDWIN: If you don't know, you don't know?

11 THE WITNESS (Slovenko): I don't want -- I was just
12 going to say, I don't want to speculate on how the
13 model is constructed.

14 The expert that could answer that is, like I
15 said, in a washout right away, a real washout in
16 Budapest. So I can't give you -- I can't give you
17 that specific information, but I -- if you mind,
18 or if you will --

19 MR. BALDWIN: Let me just go to the second question, if
20 I could?

21 Let's assume for a second my assumption is
22 correct, which is that this is -- the terrain data
23 used for these plots uses a fairly large terrain
24 bin size.

25 Wouldn't the resulting plots over predict

1 coverage from the sites that your modeling?

2 THE WITNESS (Slovenko): If -- let me answer it this
3 way. Do I believe these are representative of --

4 MR. BALDWIN: That's not the question. That's not the
5 question. The question is, if the model uses a
6 large bin size, for example, approximately a
7 hundred meters in size would these plots that
8 you're showing us result in the over prediction
9 from the individual locations?

10 THE WITNESS (Slovenko): It would be speculation for me
11 to answer your question as you're asking.

12 MR. BALDWIN: I don't know, is a proper response.

13 THE WITNESS (Slovenko): That's -- that's not the
14 answer. You're making several assumptions.
15 You're making the assumption that the bin size is
16 creating what you're calling washout, which I
17 would call actually the under -- under color of
18 the maps of which they're overlaid. So it makes
19 it look fuzzier than it is.

20 And that these models which are -- you're
21 trying to insinuate may be over predicting. It
22 may be. We've disclosed that the AT&T models
23 would likely be more precise, however they are
24 indicative of general coverage, and they do give
25 you basic propagation over that topography.

1 And what it shows is, assuming that they were
2 being wildly over predictive, it's still
3 representing very high quality alternatives -- and
4 still clearly, to my estimation, superior sites.

5 MR. BALDWIN: What's the distinction between the pink
6 and the yellow? I didn't see anything in the key.
7 Did I miss something?

8 THE WITNESS (Slovenko): The -- we had noticed it.

9 It's -- it's actually in the -- and we reference
10 it in the -- it's in the memo.

11 Rather than speculate I'll give you the exact
12 word -- wording because there is -- so if you go
13 to page -- this is page 3. We show that the -- I
14 don't know if you want me to read it into the
15 record or what, but the bottom paragraph responds
16 to what the color coding is and what it
17 represents.

18 So basically, the AT&T -- green is -- is that
19 red, and the AT&T orange is that yellow. And it's
20 roughly the same on DB -- technically speaking on
21 a dBm basis.

22 MR. BALDWIN: Okay. And that the plots that you
23 provided don't include coverage from any existing
24 AT&T or Verizon Wireless surrounding sites.

25 Correct?

1 THE WITNESS (Slovenko): That is correct. We did --

2 MR. BALDWIN: Okay.

3 Thank you, Mr. Morissette. I'm all set.

4 THE HEARING OFFICER: Thank you, Attorney Baldwin.

5 We will now continue with cross-examination
6 of the Buschmanns by the New Canaan Neighbors,
7 Justin Nishioka. Justin -- or Mr. Nishioka.

8 JUSTIN NISHIOKA: Thank you, mr. Morissette. And
9 you're pronouncing it terrifically in this
10 hearing, I'd like to say for the record.

11 THE HEARING OFFICER: Thank you.

12 JUSTIN NISHIOKA: So my first questions are I think
13 best presented to Mr. Ziaks.

14 Does the Siting Council have the information
15 it needs to determine whether the proposed access
16 road and tower platform can be built without the
17 likelihood of erosion and sedimentation of the
18 adjacent wetlands and watercourse, and of the
19 Laurel Reservoir?

20 THE WITNESS (Ziaks): It's -- it's my opinion that, you
21 know, without the submission of -- or conduct of a
22 geotechnical study and the presentation of very
23 detailed drainage computations, the -- the Council
24 does not have enough information to really
25 determine whether or not the proposed design, you

1 know, will function and -- and the construction
2 practices will be successful.

3 There should be a detailed construction
4 phasing plan. We have -- we have a relatively
5 small site here, but a very complicated little
6 site that presents the designers with many
7 challenges, and I believe those studies should be
8 in the record and be used as part of the design.

9 JUSTIN NISHIOKA: Do you think that based on the
10 information that is available, that the
11 Applicant's proposed drainage design is the best
12 alternative?

13 THE WITNESS (Ziaks): Well, I believe the record is
14 that they're presenting that the design will
15 achieve zero increase in volume of runoff from the
16 property in addition to matching peak flows from
17 the property.

18 And really the only way to do -- the only way
19 to achieve zero increase in the volume off the
20 property is to have a successful infiltration
21 program incorporated into the design.

22 And with the information we have now, which
23 is basically, we know that the site is, you know,
24 covered in Charlton and Chatfield soils, exposed
25 ledge, shallow bedrock conditions. And we're

1 going to be excavating down through the minimal
2 overburden that exists on the site, and down into
3 probably rock formations.

4 I -- I see no evidence in the record that
5 infiltration will be successful on the -- on the
6 site. And therefore, I don't know what other
7 techniques there would be to match volume, volume
8 for volume existing to proposed.

9 JUSTIN NISHIOKA: Okay. And so if there's no
10 infiltration, everything ultimately goes directly
11 into the reservoir. Isn't that right?

12 THE WITNESS (Ziaks): Yes. I mean, if you're
13 successful in meeting peak flows, you -- you can
14 meter it off the site.

15 But ultimately everything will end up in the
16 watershed, or directly into the reservoir itself.

17 JUSTIN NISHIOKA: In your experience and based upon the
18 information that is available, what challenges
19 exist to the construction of the proposed access
20 road and tower platform?

21 THE WITNESS (Ziaks): Well, again as I stated, this is
22 a difficult little site to deal with. You have
23 inland wetlands and intermittent watercourse along
24 the northwesterly boundary, which you have to
25 consider.

1 The site is, by definition, steep slopes, two
2 to one, and in some cases steeper than that. You
3 have highly erodable soils. As I mentioned, the
4 Charlton and Chatfield soils. You have exposed
5 ledge.

6 And as we've noted, that we're somewhere in
7 the vicinity of 70 to a hundred feet as the crow
8 flies directly to the reservoir, but I think you
9 could argue that there's a direct connection to
10 the reservoir, and that's through drainage.

11 The site will drain to the road. The road
12 drains to the reservoir.

13 JUSTIN NISHIOKA: What information and analysis would
14 be necessary in order to design a drainage system
15 for this site?

16 THE WITNESS (Ziaks): Well, if your -- if your goal is
17 to meet no increase in volume, then you -- you --
18 there's -- other than to just use assumptions,
19 you'd need a geotechnical report.

20 JUSTIN NISHIOKA: Do you think that is --

21 THE WITNESS (Ziaks): (Unintelligible.)

22 JUSTIN NISHIOKA: I'm sorry.

23 Were you saying something?

24 THE WITNESS (Ziaks): No.

25 JUSTIN NISHIOKA: Do you think that a zero increase in

1 runoff volume can be achieved at this site?

2 THE WITNESS (Ziaks): I'm skeptical of it only because
3 we know that we have very limited soil on top of
4 rock formations to accomplish the infiltration.

5 JUSTIN NISHIOKA: Will the access road with its
6 proposed 19 percent slope be accessible to propane
7 and delivery trucks during winter conditions
8 without the use of, say, a de-icer like salt.

9 THE WITNESS (Ziaks): Well, you know, irregardless of
10 the slope, unless it was dead flat you're going to
11 have to treat the -- the pavement with something
12 in the order of salt, sand, calcium chloride,
13 something like that during the winter months,
14 December through March. The excessive slope just
15 makes it that much more challenging.

16 I -- I have gone through the literature
17 myself beyond just my own professional knowledge
18 to try to figure out if there's some, you know,
19 safe slope for propane, large propane trucks and
20 emergency vehicles.

21 And you know, again, the literature is, you
22 know, anything above -- for commercial purposes,
23 anything above 10 percent you're pushing it. But
24 typically the design of a driveway in the 12 to 15
25 percent range is, you know, again, a big -- quite

1 a challenge.

2 I mean, you've got to again think about what
3 we're dealing with here in December, January or
4 February. Obviously, if it's not an emergency
5 condition or a maintenance issue with -- with the
6 equipment, you might -- you might, you know, plan
7 your day that you go there for deliveries and
8 things.

9 But there will be -- there will be times when
10 this facility needs access by emergency vehicles
11 or by maintenance vehicles where the weather is
12 the weather, and I think a 19 percent driveway is
13 beyond the bounds.

14 JUSTIN NISHIOKA: So how would you design the site if
15 you were be Applicants' engineer?

16 THE WITNESS (Ziaks): Well, setting aside that I
17 probably wouldn't want to get involved in this,
18 the challenge is going to be the only way to
19 accomplish a driveway here that has a better slope
20 and, you know, a more reasonable slope is to do
21 more excavation and lower the tower site, because
22 the road is the road. There's nothing you can do
23 about that.

24 So if you wanted to get to, say, a reasonable
25 10 or 12 percent driveway to get up into this

1 facility, you're going to have to lower the
2 platform or the pad where the tower is located.

3 JUSTIN NISHIOKA: Thank you, Mr. Ziaks.

4 My next questions are for Mr. Slovenko. So
5 we have an application for a site at 1837 Ponus
6 Ridge Road. I think what I've heard you say in
7 your testimony with the other interveners'
8 questions is that -- is there a viable site
9 provided in the materials and provided on the
10 docket that you see other than this site here on
11 Ponus?

12 THE WITNESS (Slovenko): They're more than viable.

13 They're superior sites. And rather than --

14 MS. CHIOCCHIO: Mr. Morissette, I have to object to the
15 use of the word "viable." The testimony has been
16 that these alternative sites, no one has
17 approached the land owners, so they're not viable
18 from our perspective.

19 JUSTIN NISHIOKA: Ms. Chiocchio -- sorry. Go ahead.

20 THE HEARING OFFICER: I would say -- excuse me. Let me
21 speak first. Thank you. I would say the use of
22 viable is out of bounds.

23 If you could be more generic in your
24 question, Mr. Nishioka?

25 JUSTIN NISHIOKA: Are there alternative locations for

1 the proposed tower -- I'm sorry.

2 Do you believe that there are alternative
3 locations that we could have a facility here?

4 THE WITNESS (Slovenko): There are alternative
5 locations from an RF perspective that are much
6 more appropriate for the purported needs based on
7 the coverage gaps.

8 And important to preface on -- on when I'm
9 speaking to our modeling, which was just
10 discussed, is there was the suggestion that
11 somehow the models would not be predictable or
12 should be relied upon.

13 And if you look at Exhibit Number 7 of our
14 memo of the 15th, it's showing the 1837 Ponus
15 Ridge site. If you look at any of AT&T's
16 documentation such as Exhibit 1, the top on page
17 13, that is showing you the AT&T model.

18 So then we go back down to page -- page
19 number is this -- page 19 at Exhibit 7, and you
20 say, wow. That looks quite a lot like the model
21 that AT&T is purporting, and perhaps it is a
22 little bit more generous, too -- but the same
23 point. It's showing you basically the contours of
24 the same coverage.

25 So with that in mind, being that you can

1 always find -- our engineers would -- would like
2 to pick, you know, pick at other models, too. I
3 mean, it's -- it's an RF engineer's, kind of,
4 pastime -- but the reality of it is, is that these
5 are tools in which to compare and look at various
6 options that -- that may be appropriate for the
7 needed coverage, needed coverage from the point of
8 emergency services as well as offering folks in
9 their homes and in their cars regular and reliable
10 service.

11 So -- and to specifically your question of,
12 are there alternate sites? Yes, we've talked
13 about some of them, but let's talk about them in
14 specific.

15 So the pole sites that -- that we had shown
16 Exhibits 13A through 13E, which we were discussing
17 a little bit with Lawyer Chiocchio -- I'm not sure
18 I'm pronouncing it right -- but that's my -- my
19 best effort -- is showing you these are very high
20 ground.

21 There's numbers of places where there's
22 utility poles on very high ground, on ridges and
23 so forth in the areas where there's shown coverage
24 gaps. And one of such is an example in Exhibit
25 13A.

1 In Exhibit 13A, that is the 388 West Road, an
2 area that, for example, would not be covered by
3 the Ponus Ridge Road based on the AT&T proffered
4 map. That is something -- West Road in general is
5 not covered anytime you get over -- let me use a
6 magnifying glass. I'm sorry -- over Apple Tree
7 road. Anything to the north of Apple Tree Road
8 is -- and West Road is basically not covered until
9 it gets to 124.

10 And in that case, if you look at the
11 alternative utility pole at 388 West Road or 403,
12 the next pole over -- but they all model basically
13 the same. You see that that area is completely
14 washed in usable coverage. Maybe it's a little
15 over aggressive, but being that it's right almost
16 next to it, I won't doubt that it does indeed
17 provide very fine coverage right on through all of
18 124. That's Oenoke Ridge and in many parts of
19 123, which are major holes in the proposed Ponus
20 Ridge.

21 Further, if we look at the coverage of
22 densities in addition to these major roadways, the
23 West Road pole adds about 150 homes, actually in
24 excess of 150 homes in addition to the roadways
25 that are not covered according to AT&T maps by the

1 Ponus Ridge Road, but are covered by the West Road
2 because A, they're right by there, plus the fact
3 it's so high.

4 The signal is just rolling downhill towards
5 the reservoir. It's -- it's not whether there's
6 going to be coverage -- that there will be
7 coverage there.

8 And so for example, on the Route 124 West,
9 holes that would be covered that are from the
10 Ponus Ridge one would be Logan Road and along Mill
11 River, Lockwood Pond -- Lockwood Pond area, east
12 of Lost District Road, following West Road until
13 Oenoke at 124.

14 And then also another gap that Mr. Morissette
15 asked -- I -- I spoke with, spoke about when I was
16 asked about, a question about coverage of the
17 proposed Ponus Ridge site, and that's around the
18 Collins Pond area.

19 You might recall I spoke a little bit about
20 the Wellesley Drive, Wellesley Drive to Stonehenge
21 Drive area west of Greenlee Road, intersection at
22 Ponus area west of the Clearview Lane at the Ponus
23 area.

24 These are all significant areas addressed by,
25 not only the West Road pole, but in the ones I

1 just raid you -- read you, for example, the pole
2 at 958 covers them as well as does the -- the two
3 lots owned by the same owner apparently as one --
4 1837 Ponus, at 30 Oenoke Lane. They also have
5 significant coverage in these areas.

6 So to kind of step back through it, there's
7 poles, for example, at 958 Ponus, 388 West Road,
8 403 West Road. And these all represent highly
9 accessible in any weather locations.

10 And if there was a major outage for a long
11 period of time, then what would happen is that the
12 batteries drain down and somebody drives up, as
13 networks are known to do -- with a trailer on the
14 back -- a generator on the back of a trailer and
15 throws jumpers onto it.

16 And that can power it if it needs to be for
17 days on end, and they can be gasoline or propane
18 power right off of the roadway. There's typically
19 a shoulder in which they can park these.

20 And the -- in the case of emergency services
21 and so forth these offer tremendous coverage to
22 gaps that are currently in the system or are
23 suggested in the system by the letters of the --
24 the various captains and commanders for the
25 emergency services.

1 But most importantly, it's -- it's not
2 relying only on the FirstNet service of AT&T,
3 which generally doesn't get very good reviews
4 and -- and most first responders would not want to
5 rely on a service of a basic cellphone and all its
6 frailty, including its bandwidth that doesn't
7 propagate very well in a life-and-death situation
8 where there may be rubble. There may be low-lying
9 lands. There may be dense foliage.

10 You want VHF 155 megahertz, like they use now
11 with radios you could drop in the water; you can
12 roll down the hill, you can step on. Nothing
13 happens. It could be bitterly cold or sweltering
14 hot. They work and it propagates.

15 That's why they've been around for so long.
16 That's why they use it to consult to police
17 departments, EMS, counties, and such all the time.
18 It's the service that you have to rely on. It's
19 nice that you have a cellular backup, but that's
20 not the reliability that's built into emergency
21 radio services.

22 And if you put a VHF antenna on top of one of
23 those poles in -- and that we've discussed about,
24 you will have very little issue anywhere in the
25 northwest, in the west, even much to the east and

1 the northeast with the -- these provisions.

2 So yes, there's lots of alternate,
3 seemingly -- I don't want to get in -- to use --
4 get in trouble -- alternate options, which to the
5 casual observer should be investigated thoroughly
6 and haven't been. Because there they offer, you
7 know -- I'll kind of go backwards -- more coverage
8 of the population in the roadways. They're
9 important to the emergency response reliability.
10 They're easily accessible. If there's a problem
11 they can get in there.

12 The road -- these, these poles typically have
13 all the trees cut away and so forth. There's
14 little chance of storm downage. These are meant
15 for these kind of absolute reliability
16 applications. So the access and serviceability is
17 all there.

18 So yes, there's the long answer. There's --
19 there's very attractive options and -- and in
20 addition to building on over where you already are
21 at 982 Oenoke Lane, it's a wonderful sight.

22 The 40 Dans Highway that looks to be
23 potentially some things -- the -- that -- that
24 certainly should at least be contacted because
25 it's right next door to a site that was contacted.

1 It actually models out a little bit better; seems
2 to be a passive owner.

3 These are all things that are, I think, are
4 real options, not pie-in-the-sky.

5 JUSTIN NISHIOKA: Is there any need for propagation
6 over the Laurel Reservoir?

7 THE WITNESS (Slovenko): I'm sure somebody's going to
8 get -- I don't think -- I don't think the boats
9 are even allowed on the reservoir. I'm not even
10 sure. So I can't imagine why that would be
11 useful.

12 And to have a preponderance, or at least a
13 significant amount of the propagation from the
14 Ponus Ridge site heading over that water defies,
15 you know, some level of logic because it's just --
16 it's not a heavy use area.

17 And even in and around there it's not one of
18 your more dense or commercialized, or high
19 throughput areas where you'd want to make sure
20 emergency services need to be.

21 On the state highways 124, 123, I'd want to
22 make absolute certain that -- that I have those
23 contact points to coordinate emergency responses
24 and everything else. And that's where that Ponus
25 Ridge site is poor, and these alternates are

1 actually stellar.

2 JUSTIN NISHIOKA: What about the Lockwood Pond area?

3 THE WITNESS (Ziaks): The Lockwood Pond area I kind of
4 touched on a little bit, that that's kind of a
5 dead zone for -- in the AT&T's map. So it's over
6 by Logan Road. And that whole area is -- is a
7 coverage hole.

8 So homes around there, which there's plenty
9 and so forth, that they would not be expected to
10 get service according to AT&T's map or our map,
11 coverage maps.

12 JUSTIN NISHIOKA: Okay. So I think what I'm -- and
13 thank you for that thorough response.

14 Would the utility pole-mounted antennas at
15 the locations you've identified provide comparable
16 coverage to the proposed tower at 1837 Ponus
17 Ridge?

18 MS. CHIOCCHIO: Mr. Morissette, I think we've heard
19 testimony regarding the proposed alternates. I
20 know Mr. Slovenko is very passionate about his
21 work, but I think we've heard it all at this
22 point.

23 THE HEARING OFFICER: Thank you, Attorney Chiocchio --
24 but I will let him answer this one question.

25 But let's wrap this up on this line of

1 questioning -- but please continue,
2
3 Mr. Slovecchio.

4 THE WITNESS (Slovenko): Slovenko -- but you got it the
5 first time. You get -- you get extra credit.
6 You're still good.

7 So the thing I was also going to say is
8 the -- the poles also provide for if you want to
9 do some redundancy, which is always good, using
10 two of those polls, for example, the act when we
11 talked about with Lawyer Chiocchio and some of the
12 ones we've just talked about, for example, over at
Ponus.

13 Then here you have a tremendous amount of --
14 of coverage redundancy. It gives you that
15 emergency bulletproof kind of comfort that you're
16 not going to get from a single site, you know,
17 especially one that may be in today's world with
18 crazy weather very inaccessible and subject to --
19 God knows what. It seems to change every day.

20 I keep hearing about this storm earlier in
21 the week. We had this similar one here. I know
22 what you're talking about. Not good.

23 JUSTIN NISHIOKA: Thank you, Mr. Slovenko.

24 I'd like to ask Dr. Klemens some questions.
25 Dr. Klemens, do you believe that the

1 necessary investigations have been conducted to
2 allow the Council to make a determination as to
3 the environmental impact of the proposed tower?

4 THE WITNESS (Klemens): Thank you.

5 The short answer is, no. So much hinges on
6 information that has not been provided to the
7 Council, the parties or the public, but is being
8 deferred to the D and M plan. How can the Council
9 reach an informed conclusion of environmental
10 compatibility or lack thereof without those data?

11 This is especially relevant in the case of
12 Docket 509 where so much of the actual design
13 depends upon studies that have not yet been
14 completed.

15 These D and M studies may well demonstrate
16 that the construction of the proposed tower will
17 have the reasonable likelihood of unreasonable
18 harm to the lower reservoir, a mere 70 feet
19 downstream from the site.

20 In fact, these very concerns have been raised
21 by the Applicants' consultants APT, as well as
22 Aquarion's Natural Resource Manager Joseph Welsh,
23 as well as the Council on Environmental Quality.

24 Yet, under the proposal of Homeland Towers
25 the Council should have complete faith that the

1 Applicants' engineers can and will solve any
2 environmental impact contingency that arises and
3 issue a certificate of environmental compatibility
4 based, not on science, but on blind faith.

5 Attorney Chiocchio questioned me about my
6 voting for cell tower dockets while I was a CSC
7 member -- with D and M conditions. These were D
8 and M conditions when all the major environmental
9 compliance issues had been addressed in the
10 evidentiary process. This is clearly not the case
11 with Docket 509.

12 Much has been discussed in the hearings about
13 compliance with local regulatory standards, and
14 other testimony has made it clear that the Council
15 supersedes local land use authority. I have
16 served for more than a decade as a local land use
17 decision maker, a planning and zoning commission
18 chairman, and have served as a consultant on
19 environmental matters in many other Connecticut
20 jurisdictions.

21 I know that at least one member of the
22 Council, who unfortunately does not appear to be
23 here today, Ms. Cooley is intimately aware of how
24 the local land use process works. Towns do not
25 approve developments, lacking so little

1 information on potential environmental impacts and
2 whether or not they can be successfully mitigated.

3 In my recently coauthored book that has been
4 administratively noticed, Klemens, et al, 2021,
5 published by the DEEP, on page 254 it quite
6 clearly states the Town should avoid
7 after-the-fact approval conditions.

8 My question to the Council is really quite
9 simple. You have been granted tremendous power to
10 supersede local regulations. And in my opinion,
11 with that power comes an equally tremendous
12 responsibility to protect the environment in a
13 manner that the local jurisdiction would.

14 This balkanized approach to granting a
15 certificate of environmental compatibility that is
16 being proposed with only part of the data in hand
17 is scientifically indefensible, and in my opinion
18 an abrogation of the public trust and has no
19 parallel in local land use decision making.

20 JUSTIN NISHIOKA: Dr. Klemens, why do you consider
21 biological and ecological field studies to be an
22 important component of environmental review?

23 MS. CHIOCCHIO: Mr. Morissette, before Dr. Klemens
24 answers can we avoid some direct testimony here?

25 You know Mr. Klemens has clearly given his

1 prefiled testimony. We'd like to limit it to an
2 answer to the question.

3 THE HEARING OFFICER: Yes, we do have Dr. Klemens'
4 prefiled testimony on the record. So if we could
5 ask questions beyond his prefilled testimony, that
6 would be helpful. Thank you.

7 THE WITNESS (Klemens): Questions beyond the prefilled
8 testimony.

9 So the question is, it's not just my opinion
10 about biological investigations, but it's the
11 opinion of local, state and federal agencies and
12 it's also clearly stated in the NDDB record which
13 is -- NDDB letter, which is in the record.

14 What has been submitted to the Council is an
15 application lacking detailed ecological site
16 studies. Desktop analyses have been substituted
17 for de novo on-site field investigations. This is
18 an example of what is termed, check-the-box
19 conservation; produce a lot of paper that says
20 little if anything about the ecological conditions
21 on the site.

22 The entire issue of check-the-box
23 conservation is discussed again in the previously
24 referenced work on page 254.

25 In the manner before you the lack of do novo

1 site-specific ecological data stands in stark
2 contrast -- and I mean this, and pay clear
3 attention to this -- in stark contest -- contrast
4 to the detailed site-specific studies conducted to
5 justify the public need and the tower
6 construction.

7 Much has been discussed about how many trees
8 are to be felled, yet as had been mentioned,
9 before the identification of the on-site trees is
10 not even to species.

11 As Mr. Morissette had asked me earlier,
12 Mr. Gustafson testified the site is edge forest.
13 Certainly, if the tower is developed as proposed,
14 there will be the creation of a great deal of edge
15 forest.

16 The forest as it now exists is perforated
17 forest, not edge forest. And a review of the
18 wildlands urban interface map -- that's figure 75
19 on the 248 of Klemens, et al. So it's the entire
20 area that we have been discussing and the
21 surrounding areas of Northwest New Canaan and
22 Orange, which is considered an area of the state
23 that still has great ecological integrity, and
24 development should proceed in a manner that
25 respects that integrity.

1 This is especially relevant with sets of
2 parcels and other protected open space such as
3 Laurel Reservoir and the Aquarion lands that
4 surround it, as well as the Centennial State
5 Forest.

6 Mr. Gustafson also downplayed the serious
7 environmental impact caused by the catastrophic
8 stormwater failure at the Sprague solar site,
9 which resulted in impacts to vernal pools and
10 their obligate and facultative species. See again
11 page 31 in Klemens, et al.

12 JUSTIN NISHIOKA: I just have two more questions.

13 Dr. Klemens, can the Siting Council make an
14 informed decision on this application without
15 visiting the sites of the proposed tower?

16 THE WITNESS (Klemens): Thank you. When I served on
17 the Siting Council we conducted site visits on
18 every docket and certain petitions.

19 In the case of such an ecologically
20 constrained site as that proposed by Docket 509,
21 physically experiencing the topographical
22 challenges, shallow to bedrock soils, forest
23 canopy and proximity of the Laurel Reservoir may
24 have been helpful to the Councilmembers.

25 As an example, in February 2009 -- 2019,

1 excuse me, I exercised my prerogative as a
2 Councilmember to call for a site visit and
3 evidentiary session in the town of Killingworth
4 for what appeared to be on paper a benign 30-acre
5 solar installation.

6 When members of the Council examined the
7 site, they saw that it was -- what I was concerned
8 about. It was laced with wetlands and vernal
9 pools. Suffice to say, that site visit was a game
10 changer. Members of the Council thanked me for
11 calling this site visit.

12 I believe that this particular site is one of
13 a handful of sites that has been denied with
14 prejudice by the Council. So yes, I do believe
15 site visits can greatly affect the outcome of
16 certain council proceedings, especially those with
17 challenging environmental constraints such as
18 demonstrated by this particular application.

19 JUSTIN NISHIOKA: I have one final question,
20 Dr. Klemens. Can't the environmental concerns
21 raised by you and Mr. Ziaks be addressed during
22 the D and M phase if the proposed tower is
23 approved?

24 THE WITNESS (Klemens): No. In my opinion they may be
25 irresolvable given the ecological and engineering

1 constraints of the site, and the proximity for a
2 drinking water source for 120,000 households in
3 Stamford and New Canaan.

4 Moreover, the third-party review and
5 oversight that is repeatedly referenced in the
6 application and supporting documents is
7 misleading. The environmental notes on sheet N1
8 delegate much of the conservation and site
9 protection monitoring measures to APT and an
10 unnamed contractor. Neither of these entities are
11 independent third-party monitors. They are
12 employees of the Applicant Homeland Towers.

13 This is just yet another way in which the
14 practices of the Connecticut Citing Council differ
15 from accepted local land use practices where an
16 independent third party is hired by the town
17 permit granting agency to monitor and report back
18 to that agency the compliance of the outcome.

19 JUSTIN NISHIOKA: Thank you, Dr. Klemens.

20 Mr. Morissette, I have no further questions.
21 Thank you.

22 THE HEARING OFFICER: Thank you, Mr. Nishioka.

23 We will now continue with the appearance by
24 New Canaan Neighbors.

25 Mr. Nishioka and Ms. Ravaret?

1 JUSTIN NISHIOKA: Yes?

2 THE HEARING OFFICER: You have offered the exhibits
3 listed under hearing program Roman numeral 5B, one
4 through four for identification purposes.

5 Is there any objection to marking these
6 exhibits, for identification purposes only at this
7 time?

8 Mr. Nishioka?

9 JUSTIN NISHIOKA: No objection.

10 THE HEARING OFFICER: Ms. Ravaret, would you --

11 JANE RAVARET: No objection -- oh, sorry.

12 THE HEARING OFFICER: That's okay.

13 Mr. Nishioka and Ms. Ravaret, did you prepare
14 or assist in the preparation of Exhibits Roman
15 numeral 5B, one through four?

16 JUSTIN NISHIOKA: Those are the photos that you're
17 referring to. Isn't that correct, Mr. Morissette?

18 THE HEARING OFFICER: In the hearing program under
19 Roman numeral 5B, one through four.

20 JUSTIN NISHIOKA: My apologies, Mr. Morissette. I'm
21 just going to pull that up right now.

22 THE HEARING OFFICER: Okay. There's a request for
23 intervener status, responses for council
24 interrogatories dated -- oh, excuse me. I'm
25 jumping the gun, but those are for identification

1 purposes.

2 We do have to swear you in -- and I
3 apologize.

4 JUSTIN NISHIOKA: Yes, of course.

5 THE HEARING OFFICER: So at this point I will ask
6 Attorney Bachman to swear you both in.

7 Attorney Bachman?

8 J U S T I N N I S H I O K A ,

9 J A N E R A V A R E T ,

10 called as witnesses, being first duly sworn
11 by the EXECUTIVE DIRECTOR, were examined and
12 testified under oath as follows:

13

14 THE HEARING OFFICER: Very good. Thank you, Attorney
15 Bachman.

16 Okay. Let's try this again. Mr. Nishioka
17 and Ms. Ravaret, you have offered the exhibits
18 listed under hearing program Roman numeral 5B, one
19 through four, for identification purposes.

20 Is there any objection to marking these
21 exhibits for identification purposes only at this
22 time?

23 THE WITNESS (Nishioka): No objection.

24 THE WITNESS (Ravaret): No.

25 THE HEARING OFFICER: Very good. Mr. Nishioka and

1 Ms. Ravaret, did you prepare or assist in the
2 preparation of exhibits, Roman Numeral 5B, one
3 through four?

4 THE WITNESS (Nishioka): If we understand the document
5 correctly, yes, we -- we both did. And --

6 THE HEARING OFFICER: Very good. There are four
7 documents. One is a request for intervenor
8 status, one is --

9 THE WITNESS (Nishioka): Yes, we -- yes, we prepared
10 those.

11 THE HEARING OFFICER: Okay. The response for council
12 interrogatories dated June 20th --

13 THE WITNESS (Nishioka): Yes, that we prepared that.

14 THE HEARING OFFICER: And there's two more, the
15 interrogatories dated June 23rd?

16 THE WITNESS (Nishioka): Yes.

17 THE HEARING OFFICER: And the last one is July 8, 2022.

18 THE WITNESS (Nishioka): Yes. Okay. We -- I'm sorry.
19 We had to pull that up -- and yes.

20 THE HEARING OFFICER: Okay.

21 THE WITNESS (Nishioka): Once again we -- we prepared
22 those.

23 THE HEARING OFFICER: Very good. No problem.

24 Do you have any additions, clarifications,
25 deletions or modifications to those documents?

1 THE WITNESS (Nishioka): The -- the one thing I would
2 say is that I just wanted to state for the record
3 that the property owners at 59 Squires Lane have
4 sold their property.

5 THE HEARING OFFICER: Very good. Thank you for that
6 clarification.

7 Are these exhibits true and accurate to the
8 best of your knowledge?

9 THE WITNESS (Nishioka): Yes.

10 THE HEARING OFFICER: Ms. Ravaret?

11 THE WITNESS (Ravaret): Yes. Sorry. I said it, maybe
12 not loud enough.

13 THE WITNESS (Nishioka): We were -- we said it exactly
14 at the same time.

15 THE HEARING OFFICER: Okay. Thank you.

16 THE WITNESS (Nishioka): (Unintelligible) -- voice.

17 THE HEARING OFFICER: And do you offer these exhibits
18 as your testimony here today?

19 THE WITNESS (Nishioka): Yes.

20 THE WITNESS (Ravaret): Yes.

21 THE HEARING OFFICER: And do you offer these as full
22 exhibits?

23 THE WITNESS (Nishioka): Yes.

24 THE WITNESS (Ravaret): Yes.

25 THE HEARING OFFICER: Thank you.

1 Does any party or intervenor object to the
2 admissions of the New Canaan Neighbors' exhibits?
3 Attorney Chiocchio?

4 MS. CHIOCCHIO: Thank you, Mr. Morissette.

5 I do object to Exhibit 2, responses to siting
6 council interrogatories.

7 Response number one refers to hydrologist and
8 civil engineer Chuck Dut-ill, or Duh-tul
9 [phonetic]. He's not available as a witness to
10 cross examine, so I would object to that
11 information being part of the record as an
12 exhibit.

13 THE WITNESS (Nishioka): Mr. Morissette, if I --

14 THE HEARING OFFICER: Thank you, Attorney Chiocchio.

15 Go ahead, Mr. Nishioka.

16 THE WITNESS (Nishioka): The question presented by the
17 Council in my interrogatory was to provide
18 information as to what was the basis for why we
19 believed that the Applicant did not properly
20 evaluate the wetlands on the host parcel. That
21 was the basis for that information.

22 We are not presenting them as a witness. It
23 just provides information in terms of why we, at
24 least in responding to the Council's
25 interrogatory, what information we had as to why

1 the Applicant did not property -- properly
2 evaluate those wetlands.

3 THE HEARING OFFICER: Thank you, Mr. Nishioka.

4 Attorney Bachman, do you have any comments on
5 this matter?

6 MS. BACHMAN: Thank you, Mr. Morissette.

7 Certainly Mr. Dutill is not here or available
8 for cross-examination, but we do have the response
9 from NCN.

10 And so I would just recommend that we allow
11 the response in for what it is worth, and allow
12 Attorney Chiocchio and the other parties and
13 intervenors to inquire further about Mr. Dutill's
14 participation and consultation.

15 THE HEARING OFFICER: Very good. Thank you, Attorney
16 Bachman.

17 So therefore, we will allow the information
18 in for what it's worth. Please continue.

19 Okay. So --

20 MR. BALDWIN: Mr. Morissette?

21 THE HEARING OFFICER: Yes, Attorney Baldwin?

22 MR. BALDWIN: You didn't get to the others of us. So
23 just for the record I will share -- I share
24 Attorney Chiocchio's objection.

25 Regardless of the statement by Mr. Nishioka,

1 the fact that he is referencing specifically
2 findings in Mr. Dutill's report makes this hearsay
3 at best, and I think it should be excluded.

4 But I understand the Council's ruling.

5 THE HEARING OFFICER: Thank you, Attorney Baldwin.

6 Attorney Sherwood?

7 MR. SHERWOOD: Thank you, Mr. Morissette.

8 I must admit that in light of the fact that
9 the Applicants didn't produce their surveyor, the
10 person who conducted the tree survey; the person
11 that flagged the wetlands, Matt Gustafson; the
12 person that handled the listed species inquiries,
13 Mrs. Gustafson; that I find it remarkable that the
14 Applicants would object to what they're terming
15 hearsay evidence in the form of Mr. Dutill's
16 testimony. I certainly have no objection to it.

17 Thank you.

18 THE HEARING OFFICER: Thank you, Attorney Sherwood.

19 The evidence is hereby admitted for what it's
20 worth. The exhibits are all admitted. Thank you.

21 We'll now begin with cross-examination of the
22 New Canaan Neighbors by the Council, starting with
23 Mr. Mercier.

24 Mr. Mercier?

25 MR. MERCIER: Thank you. In NCN's supplemental

1 response to the Council Interrogatory 7 -- that's
2 the June 23rd filing. Those are the photographs
3 of the balloon fly from the properties of 59
4 Squires Lane and 331 Dans Highway.

5 I didn't see any photos from 60 Squires lane.
6 I believe that's your property, Mr. Nishioka. So
7 were you able to observe the balloon from your
8 property on that day?

9 THE WITNESS (Nishioka): So I do recall seeing --
10 thinking that my neighbor's kids, they have --
11 they have four kids. I do recall seeing a balloon
12 in the air, and I thought what had happened was
13 they had a party -- which they tend to do since
14 they have four kids -- and one of them got stuck
15 in the trees.

16 And I knew nothing whatsoever about a cell
17 tower application, about any interest in having a
18 cell tower anywhere near our property. And so I
19 really didn't have any thoughts about it other
20 than that.

21 I did not think it was necessary to take any
22 photographs of it, again because I typically don't
23 take photographs of my neighbors' parties, or if
24 balloons get stuck in the trees, or if I see
25 soccer balls around -- or anything to that effect.

1 So I just didn't think anything of it. So I
2 did not take any photographs.

3 MR. MERCIER: Okay. Just to clarify you saw a balloon
4 stuck in some trees at your neighbor's property.

5 Is that correct?

6 THE WITNESS (Nishioka): I thought -- what I thought
7 was a balloon stuck in trees. I -- I now -- and I
8 can't say this for certain. I now in retrospect
9 think that it was most likely a balloon float test
10 that was conducted.

11 And of course, throughout these proceedings
12 I've learned that possibly there was another
13 balloon float. I'm not quite sure which one it
14 was. I just have a vague recollection of
15 remember -- of seeing a balloon and thinking that
16 it was just a balloon stuck in the trees.

17 MR. MERCIER: Now when you observed the balloon stuck
18 in the trees, was that from your driveway area
19 near the cul-de-sac? Or is it from elsewhere on
20 your property? Just identify where it was on your
21 property, please?

22 THE WITNESS (Nishioka): And my apologies, Mr. Mercier.
23 I -- I, again, wasn't taking mental notes. My
24 recollection is somewhat vague. I just remember
25 seeing it.

1 I'm going to -- I'm going to go out on a limb
2 and say that I was on my driveway, but I'm --
3 again, I don't have a tremendous amount of
4 confidence. My memory of it was that I was on my
5 driveway.

6 If I were to guess, it was most likely that I
7 was walking down to my mailbox on that morning
8 to -- to pick up my mail.

9 MR. MERCIER: Okay. And your property, that's pretty
10 much heavily wooded for the most part.

11 Is that correct?

12 THE WITNESS (Nishioka): Yes.

13 MR. MERCIER: Okay. Thank you. Now in the response to
14 the council interrogatories -- this is response
15 one. This has to do with Mr. Dutill's
16 information. This was on page 2, the third
17 paragraph.

18 Basically it eventually says, Mr. Dutill
19 referenced multiple case studies that are
20 analogous to the proposed cell -- the construction
21 for the facility, all of which resulted in
22 contaminated watershed despite mitigation efforts.

23 What are the case studies that he referenced?

24 THE WITNESS (Nishioka): I -- I don't recall. I'm
25 sorry, Mr. Mercier. I don't remember the specific

1 studies.

2 MR. MERCIER: Now did Mr. Dutill state that proper
3 erosion and sedimentation controls at the proposed
4 tower site could mitigate, you know, issues such
5 as excessive runoff and sedimentation?

6 THE WITNESS (Nishioka): Again, I wish -- I really wish
7 Mr. Dutill could have testified here, because I --
8 he could speak very clearly to that.

9 My memory of the meetings, we had -- we had a
10 few of them. The meetings that I had with him was
11 that, no, that his analysis was quite consistent
12 with Aquarion's, which was that mitigation
13 measures were either incredibly likely to harm the
14 watershed or will harm the watershed, but I don't
15 quite remember the verbiage that he used.

16 MR. MERCIER: Okay. In that response it said it
17 resulted in a contaminated watershed. Did he
18 define the word "contamination" or "contaminated?"
19 Or what did he mean by that?

20 THE WITNESS (Nishioka): I don't think I inquired.

21 MR. MERCIER: Okay. Thank you.

22 I think that's all the questions I have right
23 now. Thank you.

24 THE HEARING OFFICER: Thank you, Mr. Mercier.

25 We'll now continue with cross-examination of

1 New Canaan Neighbors by Mr. Silvestri followed by
2 Mrs Cooley. Mr. Silvestri?

3 MR. SILVESTRI: Thank you, Mr. Morissette.

4 Just one question for the witnesses. Did
5 either of you visit the site during and/or after
6 the rainstorm that we had earlier this week?

7 THE WITNESS (Ravaret): I visited the site prior to the
8 rainstorm. Is that --

9 MR. SILVESTRI: But not during the rainstorm or after
10 the rainstorm?

11 THE WITNESS (Ravaret): No.

12 THE WITNESS (Nishioka): I will say this, I have -- so
13 I drive down that street.

14 MR. SILVESTRI: No, I know you drive -- but I'd like an
15 answer to my question.

16 THE WITNESS (Nishioka): Yes, of course. No, I -- I
17 did not for this most recent rainstorm.

18 MR. SILVESTRI: Thank you very much.

19 That's all I have, Mr. Morissette.

20 Thank you.

21 THE HEARING OFFICER: Thank you, Mr. Silvestri.

22 We'll now continue with cross-examination by
23 Mrs. Cooley. Mrs. Cooley?

24 MS. COOLEY: Thank you, Mr. Morissette. Sorry about
25 that. It looks like my video is not working for a

1 bit -- there it is.

2 THE HEARING OFFICER: There you go.

3 MS. COOLEY: Yeah, sorry about that.

4 First of all, I'd like to apologize to
5 everyone for my late arrival. I did arrive at the
6 meeting today just around four o'clock. I had an
7 unexpected emergency earlier in the day, and I
8 apologize for that, but I will be reviewing the
9 transcripts following the hearing.

10 And at the moment I have no questions for
11 Mr. Nishioka or Ms. Ravaret -- but I will continue
12 to be present at the hearing and look forward to
13 reading the transcripts about the things that I
14 missed. Thank you.

15 THE HEARING OFFICER: Thank you, Mrs. Cooley.

16 We will now continue with cross-examination
17 by Mr. Nguyen. Mr. Nguyen?

18 MR. NGUYEN: I don't have any question, Mr. Morissette.

19 Thank you.

20 THE HEARING OFFICER: Thank you, Mr. Nguyen.

21 We will continue with cross-examination by
22 Mr. Golembiewski. Mr. Golembiewski?

23 MR. GOLEMBIEWSKI: Mr. Morissette, I have no questions.

24 Thank you.

25 THE HEARING OFFICER: Thank you.

1 We'll continue with cross examination by
2 Mr. Quinlan. Mr. Quinlan?

3 MR. QUINLAN: Yeah. So I just have one question. It
4 says that the New Canaan Neighbors' organization
5 represents 500 residents. Is that correct?

6 THE WITNESS (Nishioka): No, I think it specifically
7 says we represent the interests of 500 residents.
8 So what happened prior to us moving here -- or
9 prior -- sorry, prior to me moving here there was
10 a petition that went around.

11 And I guess there -- and Ms. Ravaret actually
12 could probably speak to this much better than me.

13 THE WITNESS (Ravaret): Yes.

14 THE WITNESS (Nishioka): But there --

15 THE WITNESS (Ravaret): A petition was walked around
16 for the most part, but then also disseminated
17 other ways. And many, many, hundreds of people
18 signed it and said that they did not want a cell
19 tower in this location.

20 At that time they were talking about it
21 across the street where, I guess, the Town and the
22 maybe water company has a shared interest in the
23 property. I don't really know the details of
24 that, but there was a large complaint given by
25 hundreds and hundreds of people. At that point my

1 understanding was that it was at least 500.

2 THE WITNESS (Nishioka): And I just -- and also just to
3 further on that, I think that there were
4 additional petitions for this more -- more recent
5 application. In fact, I -- I don't think. I know
6 that there were.

7 And I don't know what the count is on that
8 offhand today, but I think that again it was close
9 to that number.

10 MR. QUINLAN: Okay. So they have petitions and then
11 you organize. And you do -- do the members vote?
12 Or do they review the testimony, or the responses
13 in any way to the interrogatories?

14 THE WITNESS (Nishioka): So again, they're not members
15 for our group. They're just similarly interested
16 persons who don't want a tower, who think -- and
17 where -- these are not necessarily nimby
18 neighbors.

19 So for instance, this is not a situation
20 where -- that's true for us, too, where it's
21 not -- we don't want a cell tower -- we don't want
22 cell service, we want just infrastructure that
23 aligns with our community and the aesthetics, the
24 aesthetic values of our community that are done so
25 in a way that's safe, that's done so in a way

1 that's long, has a long vision for our community,
2 has a long vision for the health of our -- of our
3 neighbors in Stamford.

4 So that's really the interests that we're
5 trying to support, but these are not actual
6 members. They're just people --

7 THE WITNESS (Ravaret): It was our understanding after
8 the petition was submitted that the -- the cell
9 tower was not going to be placed in this area.

10 As everybody has described and as we knew
11 when we purchased our property, this is an area of
12 great beauty and nature. And we've worked very
13 hard to continue to keep it that way.

14 I have devoted myself to removing invasive
15 plants from our property. I'm trying to reinstall
16 natural landscape and natural native plants to my
17 area.

18 We have birds. We have two eagles that nest
19 right across from where --

20 THE WITNESS (Nishioka): Bald eagles.

21 THE WITNESS (Ravaret): Bald eagles right across from
22 where the tower will be. They've been there for
23 as long as I have known about it. It's -- I've
24 had a box turtle try to climb into my pool, and my
25 veterinarian daughter has fished him out and

1 checked him out.

2 THE WITNESS (Nishioka): The turtle is okay.

3 THE WITNESS (Ravaret): So we believe that this was
4 finished.

5 And then for my husband and myself, all of
6 the sudden we heard that there was going to be a
7 cell tower and that there was going to be a
8 balloon flown and a meeting at the Town.

9 And the next thing we knew we were at the
10 town meeting, and someone from -- from Verizon was
11 saying that people on Dans Highway could not see
12 the tower. And we had seen the balloon, and I'm
13 the one who took the pictures -- and we knew that
14 that wasn't true. And we knew that we hadn't been
15 contacted at all, and this obviously directly
16 affects us.

17 So we felt that we were not represented as
18 part of our community, or our government.

19 MR. QUINLAN: Okay. I'm just trying to understand the
20 nature of this organization. So do you have
21 meetings? Do you have a newsletter? Were you
22 selected by this group to represent them?

23 THE WITNESS (Nishioka): No. So I -- if you're talking
24 about me? Yes. Our -- so our neighbors got
25 together. We've been talking about this tower,

1 and between the actual members of the New Canaan
2 Neighbors, those include our household, our
3 family, Ms. Ravaret, her household and her family,
4 and then formally the -- the residents over at 59
5 Squires Lane.

6 That was the -- so again, they've recently
7 moved. So the Smiths have recently moved. So
8 they're no longer living right there, but those
9 are the members of the New Canaan Neighbors.

10 And there was no formal voting. There was
11 no, nothing to that effect -- but yes, we did
12 elect ultimately for me to be the representative.

13 Of course --

14 MR. QUINLAN: That's about -- what? Four families or
15 something. It's not -- you're saying you
16 represent the interests of 500 people, but they're
17 not part of your organization.

18 THE WITNESS (Nishioka): No, no, no. So the only -- so
19 the actual members of the New Canaan Neighbors as
20 opposed to people whose interests we believe we're
21 serving are just three households.

22 MR. QUINLAN: Okay.

23 THE WITNESS (Nishioka): And again -- and I say that
24 with the caveat that one of the households have
25 moved recently.

1 MR. QUINLAN: Okay. All right. Thank you.

2 That's all my questions.

3 THE HEARING OFFICER: Thank you, Mr. Quinlan.

4 At this point I have no questions, so we will
5 move on. We will continue with cross-examination
6 of New Canaan Neighbors by the Applicant.

7 Attorney Chiocchio, please continue?

8 MS. CHIOCCHIO: Thank you, Mr. Morissette. I just have
9 one question.

10 So you just indicated that the owners of 59
11 Squires Lane have moved. So they're no longer a
12 part of NCN. Is that correct?

13 THE WITNESS (Nishioka): So I still communicate with
14 them about this issue. I know that they still
15 have interests. They didn't want a tower right
16 next to their house, and so they sold their house
17 and they moved.

18 I don't know if there's a rule that requires
19 that since they've moved that they no longer be a
20 member, or a member of our grouped party -- but
21 I'm sure that if they -- they still have interests
22 in -- in this issue.

23 MS. CHIOCCHIO: Thank you.

24 THE HEARING OFFICER: Anything else, Attorney
25 Chiocchio?

1 MS. CHIOCCHIO: Those are all my questions.

2 Thank you, Mr. Morissette.

3 THE HEARING OFFICER: Great. Thank you. We'll
4 continue with cross-examination of New Canaan
5 Neighbors by Verizon. Attorney Baldwin?

6 MR. BALDWIN: Just one question. Do any of the 500
7 residents whose interests you believe you
8 represent live in any of the areas around the
9 alternative locations that have been presented by
10 you and the Buschmanns?

11 THE WITNESS (Ravaret): I think -- I think they live
12 all over New Canaan.

13 THE WITNESS (Nishioka): And I don't know if we've
14 presented any alternative locations. We don't
15 have an RF engineer. We don't have anyone who
16 could testify to actual alternative --
17 alternative --

18 MR. BALDWIN: Okay. Well, the alternatives that have
19 been presented in this docket?

20 THE WITNESS (Nishioka): And I think that that would
21 have been a good question for perhaps 360 RF,
22 but --

23 MR. BALDWIN: Again, if --

24 THE WITNESS (Nishioka): But we can't -- we can't
25 testify as to those locations, but I -- I think as

1 Mr. Ravaret said, there are people all throughout
2 town who -- who align with our interests.

3 MR. BALDWIN: So wouldn't their interests be the same
4 for a tower perhaps closer to their home?

5 THE WITNESS (Ravaret): I don't think we could
6 speculate on that.

7 MR. BALDWIN: Okay.

8 THE WITNESS (Nishioka): I do know that there are -- I
9 don't know. I can't speak for, again, all 500
10 people. I do know that there are a large portion
11 of us, again who -- who do live in areas that
12 would be, you know, certainly in areas where I
13 think that the alternative locations would be
14 closer to. I just don't know what the proximity
15 would be for those locations.

16 MR. BALDWIN: Okay. Thank you.

17 Thank you, Mr. Morissette.

18 THE HEARING OFFICER: Thank you, Attorney Baldwin.

19 We'll continue with cross-examination of New
20 Canaan Neighbors by grouped party CEPA intervenor,
21 the Buschmanns.

22 Attorney Sherwood?

23 MR. SHERWOOD: Thank you, Mr. Morissette. At the risk
24 of disappointing the Council, I don't have any
25 questions. Thank you.

1 THE HEARING OFFICER: Thank you, Attorney Sherwood.

2 Well, that concludes our hearing for today.

3 The Council announces that the evidentiary record
4 of this matter will remain open for the
5 Applicants' submission of the revised and
6 certified sheets, Exhibit dash one -- sheet EX-1
7 and EX-2 of the August 31, 2022, late-filed
8 exhibit requested by the Council during the
9 hearing session this afternoon.

10 A copy of the revised and certified sheets
11 EX-1 and EX-2 of the August 31, 2022, late-file
12 exhibit will be available on the Council's Docket
13 Number 509 webpage.

14 Please note that anyone who has not become a
15 party or intervenor but who desires to make his or
16 her views known to the Council may file written
17 statements with the Council until the public
18 comment record closes.

19 Copies of the transcript of this hearing will
20 be filed in the New Canaan Town Clerk's office.

21 I hereby declare this hearing adjourned, and
22 I thank you -- thank everyone for their
23 participation.

24 Have a very good evening, and thanks again.

25 (End: 4:51 p.m.)

1 CERTIFICATE

2

3 I hereby certify that the foregoing 173 pages

4 are a complete and accurate computer-aided

5 transcription of my original verbatim notes taken

6 of the remote teleconference meeting in Re:

7 DOCKET NO. 509, APPLICATION FROM HOMELAND TOWERS,

8 LLC AND NEW CINGULAR WIRELESS PCS, LLC d/b/a AT&T

9 FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY

10 AND PUBLIC NEED FOR THE CONSTRUCTION, MAINTENANCE,

11 AND OPERATION OF A TELECOMMUNICATIONS FACILITY

12 LOCATED AT 1837 PONUS RIDGE ROAD, NEW CANAAN,

13 CONNECTICUT, which was held before JOHN

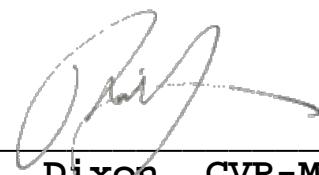
14 MORISSETTE, Member and Presiding Officer, on

15 September 8, 2022.

16

17

18



19 Robert G. Dixon, CVR-M 857
20 Notary Public
21 My Commission Expires: 6/30/2025

22

23

24

25

1 INDEX

2 WITNESSES		PAGE
3 Rachelle Lewis		11
4 Robert Burns		
5 Brian Gaudet		
6 Dean Gustafson		
7 Brian Gaudet		
8 Martin Lavin		12

9 EXAMINERS		
10 By Ms. Chiocchio		12
11 By Mr. Sherwood		20
12 By Mr. Mercier		34
13 By Mr. Silvestri		46
14 Hearing Officer (Morissette)		51

15 WITNESSES		PAGE
16 Timothy Parks		
17 Mark Brauer		56

18 EXAMINERS		
19 By Mr. Baldwin		56
20 By Mr. Mercier		58
21 Hearing Officer (Morissette)		61
22 By J. Nishioka		65

23 WITNESSES		PAGE
24 Dr. Michael Klemens		
25 Richard Slovenko		
26 Todd Hesketh		
27 David Ziaks		70

28 EXAMINERS		
29 By Mr. Sherwood		71
30 By Mr. Mercier		75
31 By Mr. Silvestri		84
32 Hearing Officer (Morissette)		91
33 By Ms. Chiocchio		102
34 By Mr. Baldwin		119
35 By J. Nishioka		127

1 INDEX (cont'd)

2	WITNESSES	PAGE
3	Justin Nishioka	
3	Jane Ravaret	153
4	EXAMINERS	
5	By Mr. Mercier	158
5	By Mr. Silvestri	163
6	By Mr. Quinlan	165
6	By Ms. Chiocchio	170
7	By Mr. Baldwin	171