

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

IN RE:

ARX WIRELESS INFRASTRUCTURE LLC
APPLICATION FOR A CERTIFICATE OF
ENVIRONMENTAL COMPATIBILITY AND
PUBLIC NEED FOR THE CONSTRUCTION,
MAINTENANCE, AND OPERATION OF A
TELECOMMUNICATIONS FACILITY LOCATED
AT 1061-1063 BOSTON POST ROAD IN THE
CITY OF MILFORD, CONNECTICUT

DOCKET NO. 500

Date: JUNE 8, 2021

PRE-FILED TESTIMONY OF MICHAEL LIBERTINE, LEP AND BRIAN GAUDET

Q1: Mr. Libertine, please state your name and position.

A1: My name is Michael Libertine, LEP, and I am Director of Siting and Permitting with All-Points Technology Corporation ("APT"), which has offices at 567 Vauxhall Street Extension, Suite 311 in Waterford, Connecticut. APT was engaged by ARX Wireless Infrastructure, LLC ("ARX") to provide due diligence services in connection with the proposed telecommunications facility at 1061-1063 Boston Post Road in Milford, Connecticut (the "Property" or "Site"), including: Phase1 and 2 Environmental Site Assessments, a wetland inspection, visual assessment, migratory bird analysis and NEPA compliance.

Q2: Mr. Libertine, please state your qualifications.

A2: I have a Bachelor of Science degree from the University of Connecticut with a concentration in Natural Resources Management and Bachelor of Arts degree from Stonehill College in Business. My background includes over 38 years of professional experience, including 30 years of environmental engineering

consulting. I have been Project Manager for more than 2,500 environmental site assessments and field investigations for property transfers in Connecticut, Rhode Island, New Hampshire, Massachusetts, New Jersey, New York, Florida and Canada. In addition, I have assisted in the permitting of more than 500 wireless telecommunication facilities in New England during the past 23 years. My responsibilities have included: coordination and oversight of site screenings and environmental assessments to fulfill NEPA requirements, environmental site assessments, wetland delineations and assessments, vegetative/biological surveys, noise analyses, visual impacts analyses and regulatory permitting support.

Q3: Mr. Gaudet, please state your name and position.

A3: My name is Brian Gaudet and I am Project Manager with APT.

Q4: Mr. Gaudet, please state your qualifications.

A4: My background includes over 15 years of professional experience in the wireless telecommunications field, including program, construction, and permitting management. I have provided siting, land planning, and permitting services on behalf of various telecommunications and wireless service providers and tower developers through the Northeast and Mid-Atlantic states. I have testified on behalf of clients regarding environmental and aesthetic considerations in front of local municipalities and the Connecticut Siting Council. My responsibilities have included: due diligence and land use evaluations, preliminary site screenings,

preparation of environmental compliance documentation, environmental assessments to fulfill NEPA requirements, and the coordination of wetlands and vernal pool assessments; vegetative and biological surveys; noise analyses; visibility analyses; graphics support; regulatory, zoning and building permits; and environmental monitoring during and post-construction.

Q5: Please describe APT's involvement in this matter.

A5: One of APT's project responsibilities was the preparation of a Visual Assessment report for the proposed Site (found in the Application at Exhibit H). The purpose of this Visual Assessment report was to evaluate the potential visibility of the proposed telecommunications facility ("Facility") from the areas surrounding the Site.

APT was also responsible for securing compliance of the Facility in accordance with the FCC's regulations implementing the National Environmental Policy Act of 1969 ("NEPA") (found in the Application at Exhibit I). We also completed, among other things, an Avian Resources Evaluation (found in the Application at Exhibit K) and a Wetlands Inspection (found in the Application at Exhibit L).

Q6: Please describe the process for conducting the Visual Assessment report.

A6: At the request of ARX, APT conducted the Visual Assessment and Photo Simulations (found at Exhibit H of the Application) to evaluate the potential visibility of the Facility from within a 2-mile radius (the "Study Area"). APT used a

combination of a predictive computer model, in-field analysis, and a review of various data sources to evaluate the visibility associated with the Facility on both a quantitative and qualitative basis. The predictive model provides a measurable assessment of visibility throughout the entire area, including private properties and other areas inaccessible for direct observations.

The in-field analyses consisted of a crane test completed on December 9, 2020 and field reconnaissance of the area to: record existing conditions, verify results of the predictive model, inventory seasonal and year-round view locations, and provide photographic documentation from publicly accessible areas. The crane test consisted of positioning a crane at the proposed Facility location and extending the crane boom with a brightly-colored flag to the top height of the monopole (115' AGL). APT conducted a Study Area reconnaissance by driving along local and State roads and traveling along other publicly accessible locations to document and inventory where the flag could be seen above and through the tree canopy and other visual obstructions. Visual observations from the reconnaissance were also used to evaluate results of the preliminary visibility mapping and to identify any discrepancies in the initial modeling.

Q7: Please describe the results of your Visual Assessment process.

A7: As presented in the viewshed maps attached to the Visibility Analysis, the visibility of the Facility would be limited primarily to the areas immediately surrounding the Site within ± 0.5 miles or less. The nearest year-round views of the Facility would be north and west along Home Acres Avenue and west and northwest along

Boston Post Road. Seasonally, when the leaves are off the deciduous trees in the area, additional areas of visibility are predicted in the area surrounding the Facility and extending up to about 0.68 mile from the Site. Both year-round and seasonal visibility is primarily surrounding the Facility up to about 0.54 mile with additional intermittent points of visibility extending to ± 1.03 miles from the Facility. Predicted year-round visibility of the Facility is estimated to include about 74 acres. Predicted seasonal visibility is estimated to include an additional ± 90 acres. Thus, the total acreage of visibility represents just $\pm 2\%$ of the Study Area.

Q8: Please describe the visibility of the Facility to the nearest schools and commercial day care centers.

A8: No schools or commercial day care centers are located within 250 feet of the Facility. Orange Avenue Elementary School is located about 0.59 mile northwest of the Facility at 260 Orange Avenue in Milford. No visibility is predicted from the school grounds. The nearest commercial childcare center is Sedona Daycare & Learning Center about 0.82 mile to the southwest of the Facility at 21 Plymouth Place in Milford. No visibility is predicted from or in the vicinity of the daycare center.

Q9: Please describe the results of APT's NEPA Compliance Review.

A9: APT prepared a NEPA Compliance Review which is attached to the Application as Exhibit I. As detailed in the NEPA Report, we reached the following conclusions:

- The proposed Facility will not be located in an area designated as a wilderness area or a wildlife preserve. The Facility would not affect federally listed threatened or endangered species or designated critical habitats. In addition, ARX will implement protection strategies and protocols (documented in the letter from CT DEEP dated August 6, 2020 contained in the NEPA Report) during construction activities to protect State Special Concern species eastern box turtle and wood turtle.
- The proposed Facility would not impact migratory bird species since the height would be below 200 feet, would not include guy wires, and would not require lighting. The Site is not proximate to an Important Bird Area and the site design complies with the USFWS Guidelines for minimizing impacts on birds. A study done by APT concluded that the proposed development would not impact migratory bird species (APT's Avian Resources Evaluation is attached to the Application as Exhibit K).
- There are no National Parks, National Forests, National Parkways or Scenic Rivers, State Forests, State Designated Scenic Rivers, or State Gamelands located in the vicinity of the Site.
- APT consulted with the United States Fish and Wildlife Service ("USFW") and reviewed the CT DEEP Wildlife Division Natural Diversity Data Base ("NDDB") to determine if rare, threatened, or endangered species or designated critical habitat may be present in the project area. One federally-listed threatened species is documented in the vicinity of the Facility: *Myotis septentrionalis* (northern long-eared bat or "NLEB"), whose range encompasses the entire State

of Connecticut. As a result of this preliminary finding, APT evaluated whether the project would be likely to result in an adverse effect to NLEB. The proposed Facility would be located within an existing gravel overflow parking and storage area that does not require tree clearing. The Facility also is not within 150 feet of a known occupied NLEB maternity roost tree and is not within 0.25 miles of a known NLEB hibernaculum. The nearest known NLEB habitat resource to the proposed Facility is located ±16.11 miles to the northeast in Branford. In addition, ARX has stated that it will consider additional USFWS voluntary conservation measures, where appropriate and as the project schedule allows, to reduce any potential impacts of activities to NLEB. These activities are more particularly described in the NEPA report attached to the Application as Exhibit I. In addition, by letter dated June 19, 2020, USFW concluded that any “take” (defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or to attempt to engage in any such conduct) of the NLEB that may occur as a result of the project is not prohibited under 50 CFR § 17.40(o).

- According to the site survey, field investigations, Natural Resources Conservation Service (NRCS) Soil Survey, and USFWS National Wetland Inventory, the Facility will not result in significant changes in surface features such as wetland fill, water diversion, or deforestation. Specifically, the proposed development will not result in either temporary or permanent direct impacts to wetland resource areas, as there are no wetlands or watercourses located within or near the Property. If the Application is approved, ARX has stated that it will design, install, and maintain sedimentation and soil erosion controls during

construction activities in accordance with the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control.

- The Facility would not be located within a floodplain.
- The Property is not within an area designated by Conn. Gen. Stat. § 22a-94 as being a coastal resource and therefore the proposed Facility will not result in adverse impacts to coastal resources as defined within the Coastal Management Act.
- APT prepared the Wetland Inspection (found in the Application at Exhibit L, and as Exhibit J in the NEPA report). As set forth in the Wetland Inspection, there are no wetlands or watercourses on the Property, with the nearest wetland or watercourse being $\pm 1,320$ feet to the south. As a result of the significant distance from the proposed Facility to the nearest wetland or watercourse, we've concluded that the proposed Facility would not adversely impact any wetland or watercourse resources.
- Accordingly, no temporary impacts to nearby wetland resources are anticipated.
- APT consulted with nine Native American Indian tribes – the Bad River Band of Lake Superior Tribe of Chippewa Indians, the Delaware Tribe of Indians of Oklahoma, the Keweenaw Bay Indian Community, the Lac du Flambeau Band of Lake Superior Chippewa Indians, the Lac Vieux Desert Band of Lake Superior Chippewa Indians, the Mashantucket Pequot Tribe, the Mohegan Indian Tribe, the Narragansett Indian Tribe, and the Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin – because they might have interests impacted by the construction, operation, and maintenance of the Facility. APT received no reply

from the Bad River Band of Lake Superior Tribe of Chippewa Indians, the Keweenaw Bay Indian Community, the Lac du Flambeau Band of Lake Superior Chippewa Indians, the Lac Vieux Desert Band of Lake Superior Chippewa Indians, the Mashantucket Pequot Tribe, the Narragansett Indian Tribe, and the Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin. The Mohegan Indian Tribe replied and indicated that they did not believe that they have any interests that would be impacted by the Facility. The Delaware Tribe of Indians of Oklahoma sent a notice of interest through the FCC Tribal Construction Notification System, in response to which APT sent them a cover letter and a copy of the SHPO Report on August 3, 2020. The Delaware Tribe of Indians of Oklahoma have provided no further comments to APT. A copy of the Tribal Consult is contained in the NEPA report attached to the Application as Exhibit I.

Q10: Based on APT's NEPA Compliance Review, did you draw any other conclusions?

A10: Based on our NEPA Compliance Review, the Facility is categorically excluded from any requirement for further environmental review by the FCC in accordance with NEPA, and no permit is required by the FCC prior to construction of the proposed Facility. See 47 C.F.R. §§ 1.1306(b) and 1.1307(a).

Q11: Does this conclude your testimony?

A11: Yes.

The above testimony is are true and complete to the best of my knowledge.

June 7, 2021
Date

Michael Libertine
Michael Libertine

Subscribed and sworn before me this 7th day of June, 2021.

Hollis M. Redding
Notary Public
Commission expires: 9/30/22



The above testimony is are true and complete to the best of my knowledge.

JUNE 7, 2021
Date

Brian Gaudet
Brian Gaudet

Subscribed and sworn before me this 7th day of June, 2021.

Hollis M. Redding
Notary Public
Commission expires:

