

1 STATE OF CONNECTICUT
2 CONNECTICUT SITING COUNCIL
3
4

5 Docket No. 509

6 Homeland Towers, LLC and New Cingular Wireless
7 PCS, LLC d/b/a AT&T application for a Certificate
8 of Environmental Compatibility and Public Need for
9 the construction, maintenance, and operation of a
10 telecommunications facility located at
11 1837 Ponus Ridge Road, New Canaan, Connecticut.
12

13 VIA ZOOM AND TELECONFERENCE
14

15 Public Hearing held on Tuesday, June 28, 2022,
16 beginning at 2 p.m., via remote access.
17

18
19 H e l d B e f o r e :

20 JOHN MORISSETTE, Presiding Officer
21
22
23
24

25 Reporter: Lisa L. Warner, CSR #061

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

2
3 **Council Members:**

4 **KENNETH COLLETTE, Designee for Commissioner**
5 **Katie Dykes, Department of Energy and**
6 **Environmental Protection**

7 **QUAT NGUYEN, Designee for Chairman Marissa**
8 **Paslick Gillett, Public Utilities Regulatory**
9 **Authority**

10 **ROBERT SILVESTRI**
11 **LOUANNE COOLEY**
12 **MARK QUINLAN**

13 **Council Staff:**

14 **MELANIE BACHMAN, ESQ.**
15 **Executive Director and Staff Attorney**

16 **ROBERT MERCIER**
17 **Siting Analyst**

18 **LISA FONTAINE**
19 **Fiscal Administrative Officer**

20 **For Applicant, Homeland Towers, LLC and New**
21 **Cingular Wireless PCS, LLC (AT&T):**

22 **CUDDY & FEDER LLP**
23 **445 Hamilton Avenue, 14th Floor**
24 **White Plains, New York 10601**
25 **BY: KRISTEN MOTEL, ESQ.**

26 **For Intervenor, Cellco Partnership d/b/a**
27 **Verizon Wireless:**

28 **ROBINSON & COLE LLP**
29 **280 Trumbull Street**
30 **Hartford, Connecticut 06103-3597**
31 **BY: KENNETH C. BALDWIN, ESQ.**

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

2
3 **For Grouped Parties and CEPA Intervenor,**
4 **Jamie Buschmann, Trustee, Mark Buschmann,**
 Trustee and Mark Buschmann:

5 **MORIARTY, PAETZOLD & SHERWOOD**
6 **2230 Main Street, P.O. Box 1420**
 Glastonbury, Connecticut 06033-6620
7 **BY: DAVID F. SHERWOOD, ESQ.**

8 **Party and CEPA Intervenor, New Canaan**
9 **Neighbors:**

10 **JUSTIN NISHIOKA**
 60 Squires Lane
11 **New Canaan, Connecticut 06840**

12
13 **Zoom co-host: Aaron Demarest**

14
15 ****All participants were present via remote access.**

16 ***** (Inaudible) - denotes breaks in speech due to**
17 **interruptions in audio or echo.**

1 MR. MORISSETTE: This remote public
2 hearing is called to order this Tuesday, June 28,
3 2022, at 2 p.m. My name is John Morissette,
4 member and presiding officer of the Connecticut
5 Siting Council. Other members of the Council are
6 Kenneth Collette, designee for Commissioner Katie
7 Dykes of the Department of Energy and
8 Environmental Protection. Quat Nguyen, designee
9 for Chairman Marissa Paslick Gillett of the Public
10 Utilities Regulatory Authority. Robert Silvestri,
11 Louanne Cooley and Mark Quinlan. Members of the
12 staff are Melanie Bachman, executive director and
13 staff attorney. Robert Mercier, siting analyst.
14 And Lisa Fontaine, fiscal administrative officer.

15 If you haven't done so already, I ask
16 that everyone please mute their computer audio
17 and/or telephones now.

18 This hearing is held pursuant to the
19 provisions of Title 16 of the Connecticut General
20 Statutes and of the Uniform Administrative
21 Procedure Act upon an application from Homeland
22 Towers, LLC and New Cingular Wireless PCS, LLC
23 doing business as AT&T for a Certificate of
24 Environmental Compatibility and Public Need for
25 the construction, maintenance, and operation of a

1 telecommunications facility located at 1837 Ponus
2 Ridge Road, New Canaan, Connecticut. This
3 application was received by the Council on April
4 13, 2022.

5 The Council's legal notice of the date
6 and time of this remote public hearing was
7 published in The New Canaan Advertiser on May 19,
8 2022. Upon this Council's request, the applicants
9 erected a sign along Ponus Ridge Road by the
10 existing driveway entrance to the proposed site as
11 to inform the public of the name of the
12 applicants, the type of facility, the remote
13 public hearing date, and contact information for
14 the Council, including the website and phone
15 number.

16 As a reminder to all, off-the-record
17 communication with a member of the Council or a
18 member of the Council staff upon the merits of
19 this application is prohibited by law.

20 The parties and intervenors to the
21 proceeding are as follows: Applicants, Homeland
22 Towers, LLC and New Cingular Wireless PCS, LLC,
23 also known as AT&T, represented by Kristen Motel,
24 Esq. and Lucia Chiocchio, Esq. of Cuddy & Feder
25 LLP.

1 The intervenors, Cellco Partnership
2 doing business as Verizon Wireless, represented by
3 Kenneth C. Baldwin, Esq. of Robinson & Cole LLP.

4 We have a grouped party and CEPA
5 intervenor, JMB, or the Buschmanns, Jamie
6 Buschmann, Trustee, Mark Buschmann, Trustee, and
7 Mark Buschmann. They are represented by David F.
8 Sherwood, Esq. of Moriarty, Paetzold & Sherwood.

9 The next party and CEPA intervenor is
10 the New Canaan Neighbors represented by Justin
11 Nishioka.

12 We will proceed in accordance with the
13 prepared agenda, a copy of which is available on
14 the Council's Docket No. 509 webpage, along with
15 the record of this matter, the public hearing
16 notice, instructions for public access to this
17 remote public hearing, and the Council's Citizens
18 Guide to Siting Council Procedures. Interested
19 persons may join any session of this public
20 hearing to listen, but no public comments will be
21 received during the 2 p.m. evidentiary session.
22 At the end of the evidentiary session, we will
23 recess until 6:30 p.m. for the public comment
24 session. Please be advised that any person may be
25 removed from the remote evidentiary session or

1 public comment session at the discretion of the
2 Council.

3 The 6:30 p.m. public comment session is
4 reserved for the public to make brief statements
5 into the record. I wish to note that the
6 applicants, parties and intervenors, including
7 their representatives, witnesses and members, are
8 not allowed to participate in the public comment
9 session. I also wish to note for those who are
10 listening and for the benefit of your friends and
11 neighbors who are unable to join us for the remote
12 public comment session that you or they may send
13 written statements to the Council within 30 days
14 of the date hereof, either by mail or by email,
15 and such written statements will be given the same
16 weight as if spoken during the remote public
17 comment session.

18 A verbatim transcript of this remote
19 public hearing will be posted on the Council's
20 Docket No. 509 webpage and deposited with the Town
21 Clerk's Office in New Canaan and the City Clerk's
22 Office in Stamford for the convenience of the
23 public.

24 The Council will take a 10 to 15 minute
25 break at a convenient juncture around 3:30 p.m.

1 Before we get started with the hearing,
2 we have four motions to consider. The first
3 motion, on June 14, 2022, Mark Buschmann, Trustee
4 and Mark Buschmann submitted a motion for site
5 inspection. Attorney Bachman may wish to comment.

6 Attorney Bachman.

7 MS. BACHMAN: Thank you, Mr.
8 Morissette. The application was submitted on
9 April 13th. The Buschmanns requested party status
10 and CEPA intervenor status on May 6th. The
11 Council deemed the application complete, approved
12 the schedule and granted status to the Buschmanns
13 on May 12th.

14 The public hearing notice was published
15 in The New Canaan Advertiser on May 19th. The
16 public hearing notice did not include a field
17 review. Contrary to the claims in the motion, a
18 gathering of a quorum of the Council members is a
19 meeting under the Freedom of Information Act and
20 does require public notice.

21 The Buschmanns submitted a motion for a
22 site inspection on June 14th. The Buschmanns also
23 submitted a request to the property owner to
24 conduct invasive testing at the site on June 14th.
25 There's no statutory requirement under the Uniform

1 Administrative Procedure Act or the Public Utility
2 Environmental Standards Act that requires a field
3 review. Under the Public Utility Environmental
4 Standards Act, the Council has no authority to
5 access private property without consent and has no
6 authority to grant third-party access to private
7 property. The Court in the Grimes case properly
8 characterizes a field review as an investigative
9 tool.

10 On June 2nd, in response to a request
11 from the Council in Interrogatory No. 32, the
12 applicant submitted a remote field review that
13 depicts vegetation and topography of the proposed
14 site and its relationship to adjacent properties.
15 In the motion the Buschmanns do admit that field
16 reviews are not an integral part of the hearing
17 process. Unfortunately, the motion is untimely
18 and staff recommends it be denied. Thank you.

19 MR. MORISSETTE: Thank you, Attorney
20 Bachman. Is there a motion?

21 MR. SILVESTRI: Mr. Morissette, I'll
22 move to deny the motion.

23 MR. MORISSETTE: Thank you, Mr.
24 Silvestri. Is there a second?

25 MRS. COOLEY: Mr. Morissette, I will

1 second the motion. Mrs. Cooley.

2 MR. MORISSETTE: Thank you, Mrs.
3 Cooley. We have a motion to deny by Mr. Silvestri
4 and a second by Mrs. Cooley. Is there any
5 discussion?

6 Mr. Silvestri.

7 MR. SILVESTRI: I have no discussion,
8 Mr. Morissette. Thank you.

9 MR. MORISSETTE: Thank you, Mr.
10 Silvestri.

11 Mr. Nguyen, any discussion?

12 MR. NGUYEN: No discussion. Thank you.

13 MR. MORISSETTE: Thank you. Mrs.
14 Cooley, any discussion?

15 MRS. COOLEY: I have no discussion.
16 Thank you.

17 MR. MORISSETTE: Thank you. Mr.
18 Quinlan, any discussion?

19 MR. QUINLAN: No discussion. Thank
20 you.

21 MR. MORISSETTE: Thank you. Mr.
22 Collette, any discussion?

23 MR. COLLETTE: No discussion.

24 MR. MORISSETTE: Thank you. And I have
25 no discussion. We'll now move to the vote.

1 Mr. Silvestri, how do you vote?

2 MR. SILVESTRI: I vote to approve the
3 motion to deny. Thank you.

4 MR. MORISSETTE: Thank you, Mr.
5 Silvestri.

6 Mr. Nguyen, how do you vote?

7 MR. NGUYEN: I vote to approve the
8 motion to deny.

9 MR. MORISSETTE: Thank you. Mrs.
10 Cooley, how do you vote?

11 MRS. COOLEY: I vote to approve the
12 motion to deny. Thank you.

13 MR. MORISSETTE: Thank you, Mrs.
14 Cooley.

15 Mr. Quinlan, how do you vote?

16 MR. QUINLAN: I vote to approve the
17 motion to deny.

18 MR. MORISSETTE: Thank you, Mr.
19 Quinlan.

20 Mr. Collette, how do you vote?

21 MR. COLLETTE: Vote to approve the
22 motion to deny.

23 MR. MORISSETTE: Thank you. And I also
24 approve the motion to deny. The motion to deny is
25 unanimous. The motion passes. Thank you.

1 Moving on to Motion No. 2. On June 23,
2 2022, New Canaan Neighbors submitted a motion to
3 compel applicant responses to interrogatories for
4 NCN Interrogatories 14 and 20. Attorney Bachman
5 may wish to comment.

6 Attorney Bachman.

7 MS. BACHMAN: Thank you, Mr.
8 Morissette. NCN requested the Council order the
9 applicants to respond to their Interrogatory Nos.
10 14 and 20. No. 14 requests an itemized cost
11 breakdown of small cell installations. The
12 Council's Interrogatory No. 18 also asked about
13 the installation of small cells to serve the area
14 and the associated costs. NCN No. 20 requests the
15 names of the renters who live at 1837 Ponus Ridge
16 Road. This information is irrelevant to the
17 Council's evaluation of the proposed facility;
18 therefore, staff recommends the motion be granted
19 in part as it relates to Question No. 14 and to be
20 denied in part as it relates to Question No. 20.
21 Thank you.

22 MR. MORISSETTE: Thank you, Attorney
23 Bachman. Is there a motion?

24 MR. NGUYEN: I move the motion to grant
25 in part and deny in part.

1 MR. MORISSETTE: Thank you, Mr. Nguyen.
2 Is there a second?

3 MR. COLLETTE: This is Ken Collette.
4 I'll second.

5 MR. MORISSETTE: Thank you, Mr.
6 Collette. We have a motion by Mr. Nguyen to
7 approve the motion in part and deny in part.

8 Attorney Bachman, could you repeat the
9 proposed recommendation, please?

10 MS. BACHMAN: Mr. Morissette, the
11 recommendation is to grant, in part, No. 14 which
12 would relate to the cost breakdown of small cell
13 installations and to deny a request for a response
14 to No. 20 regarding the names of the renters at
15 the host property at the site which is irrelevant
16 to our evaluation.

17 MR. MORISSETTE: Very good. Thank you.
18 Mr. Nguyen, just for clarity, your
19 motion is to, in part, approve the motion for data
20 on 14 and deny on Question 20; is that correct?

21 MR. NGUYEN: Yes.

22 MR. MORISSETTE: Mr. Collette, and your
23 second is for the same?

24 MR. COLLETTE: That's correct.

25 MR. MORISSETTE: Thank you. Very good.

1 Thank you. We'll now move to discussion.

2 Mr. Silvestri, any discussion?

3 MR. SILVESTRI: No discussion, Mr.
4 Morissette. Thank you.

5 MR. MORISSETTE: Thank you. Mr.
6 Nguyen, any discussion?

7 MR. NGUYEN: I have no discussion.
8 Thank you.

9 MR. MORISSETTE: Thank you. Mrs.
10 Cooley, any discussion?

11 MRS. COOLEY: I have no discussion.
12 Thank you.

13 MR. MORISSETTE: Thank you. Mr.
14 Quinlan, any discussion?

15 MR. QUINLAN: No discussion. Thank
16 you.

17 MR. MORISSETTE: Thank you. Mr.
18 Collette, any discussion?

19 MR. COLLETTE: No discussion.

20 MR. MORISSETTE: Thank you. I concur
21 that the costs associated with the small cell
22 should be compelled. I believe the 80K for the
23 other costs associated beyond the pole-mounted
24 equipment is very vague and I would like some
25 clarity on that as well. Very good. We'll now

1 move to vote.

2 Mr. Silvestri, how do you vote?

3 MR. SILVESTRI: I vote to approve the
4 motion relating to obtaining the data for No. 14
5 and denying Number 20. Thank you.

6 MR. MORISSETTE: Thank you, Mr.
7 Silvestri.

8 Mr. Nguyen, how do you vote?

9 MR. NGUYEN: I vote to approve No. 14
10 request and deny No. 20 request.

11 MR. MORISSETTE: Thank you, Mr. Nguyen.

12 Mrs. Cooley, how do you vote?

13 MRS. COOLEY: I vote to approve the
14 motion to request the information for No. 14 and
15 deny the request for Interrogatory No. 20. Thank
16 you.

17 MR. MORISSETTE: Thank you, Mrs.
18 Cooley.

19 Mr. Quinlan, how do you vote?

20 MR. QUINLAN: I vote to approve the
21 request for 14 and deny 20. Thank you.

22 MR. MORISSETTE: Thank you, Mr.
23 Quinlan.

24 Mr. Collette, how do you vote?

25 MR. COLLETTE: Vote to approve the

1 motion as recommended.

2 MR. MORISSETTE: Thank you, Mr.
3 Collette. And I also approve the motion as
4 recommended. The motion passes unanimously.
5 Thank you.

6 Moving on to Motion No. 3. On June 27,
7 2022, Mark Buschmann, Trustee submitted a motion
8 to compel applicants' responses to interrogatories
9 for Mark Buschmann, Trustee, Interrogatories 1, 2
10 and 25. Attorney Bachman may wish to comment.

11 Attorney Bachman.

12 MS. BACHMAN: Thank you, Mr.
13 Morissette. The Buschmanns request the Council to
14 order the applicants to respond to Buschmann
15 Interrogatories No. 1, 2 and 25. Interrogatory
16 No. 1 requests the names and addresses of the
17 members of 1837 LLC, the owner of the host parcel.
18 The applicants did respond to No. 1 and correctly
19 note the information is irrelevant to the
20 Council's evaluation of the proposed facility
21 pursuant to the Public Utility Environmental
22 Standards Act and the court decision in Corcoran
23 vs. Connecticut Siting Council.

24 Interrogatory No. 2 requests a copy of
25 the deed by which 1837 LLC acquired title to the

1 host parcel. This information is irrelevant to
2 the Council's evaluation of the proposed facility
3 pursuant to the Public Utility Environmental
4 Standards Act, and the subject deed appears to be
5 included as No. 27 on the Buschmann administrative
6 notice list.

7 Interrogatory No. 25 requests the
8 resumes of Michael Libertine and Deborah
9 Gustafson. Mr. Libertine is listed as a witness
10 for the applicants. Mrs. Gustafson is not. Staff
11 recommends the motion be granted, in part, as it
12 relates specifically to Mr. Libertine's resume in
13 No. 14 and to be denied, in part, as it relates to
14 Interrogatory Nos. 1 and 2. Thank you.

15 MR. MORISSETTE: Thank you, Attorney
16 Bachman. Is there a motion?

17 MR. SILVESTRI: Mr. Morissette, I'll
18 move to deny the request in Interrogatories Nos. 1
19 and 2 and to approve, in part, the requested No.
20 25 for Mr. Libertine's resume.

21 MR. MORISSETTE: Thank you, Mr.
22 Silvestri. Is there a second?

23 MR. COLLETTE: I'll second the motion
24 as described by Mr. Silvestri.

25 MR. MORISSETTE: Thank you, Mr.

1 Collette. We have a motion by Mr. Silvestri to
2 deny the motion to compel for Interrogatories 1
3 and 2 and, in part, to provide Mr. Libertine's
4 resume as part of Interrogatory No. 5, and we have
5 a second by Mr. Collette.

6 Is there any discussion? Mr.
7 Silvestri.

8 MR. SILVESTRI: No, Mr. Morissette, but
9 it's No. 25, I believe, rather than No. 5.

10 MR. MORISSETTE: 25, yes.

11 MR. SILVESTRI: Thank you.

12 MR. MORISSETTE: Thank you, Mr.
13 Silvestri.

14 Mr. Nguyen, any discussion?

15 MR. NGUYEN: Just a quick
16 clarification. Other than Mr. Michael Libertine,
17 is there a request for Deborah Gustafson's as well
18 resume to be included?

19 MR. MORISSETTE: There is, but the
20 motion is, in part, to include only Mr.
21 Libertine's resume given that Mrs. Gustafson is
22 not a witness.

23 MR. NGUYEN: I see.

24 MR. MORISSETTE: Anything else, Mr.
25 Nguyen?

1 MR. NGUYEN: No, thank you.

2 MR. MORISSETTE: Thank you. Mrs.
3 Cooley, any discussion?

4 MRS. COOLEY: No, I have no discussion.
5 Thank you.

6 MR. MORISSETTE: Thank you. Mr.
7 Quinlan, any discussion?

8 MR. QUINLAN: I have no discussion.
9 Thank you.

10 MR. MORISSETTE: Thank you. Mr.
11 Collette, any discussion?

12 MR. COLLETTE: No discussion. Thank
13 you.

14 MR. MORISSETTE: Thank you. And I have
15 no discussion. We'll now move to the vote.

16 Mr. Silvestri, how do you vote?

17 MR. SILVESTRI: I vote to approve the
18 motion as stated. Thank you.

19 MR. MORISSETTE: Thank you, Mr.
20 Silvestri.

21 Mr. Nguyen, how do you vote?

22 MR. NGUYEN: I vote to approve the
23 motion as stated. Thank you.

24 MR. MORISSETTE: Thank you. Mrs.
25 Cooley, how do you vote?

1 MRS. COOLEY: I vote to approve. Thank
2 you.

3 MR. MORISSETTE: Thank you. Mr.
4 Quinlan, how do you vote?

5 MR. QUINLAN: I vote to approve.

6 MR. MORISSETTE: Thank you. Mr.
7 Collette?

8 MR. COLLETTE: I vote to approve.

9 MR. MORISSETTE: Thank you. And I also
10 vote to approve the motion as stated. We have a
11 unanimous decision.

12 Moving on to Motion No. 4. On June 27,
13 2022, Mark Buschmann, Trustee, Jamie Buschmann,
14 Trustee and Mark Buschmann submitted a motion in
15 limine. Attorney Bachman may wish to comment.

16 MS. BACHMAN: Thank you, Mr.
17 Morissette. The Buschmanns seek to preclude
18 certain applicant exhibits based on the absence of
19 persons from the witness list. These exhibits
20 include application attachment 4, Sheet EX-2, tree
21 survey table. Second, it includes application
22 attachment 4, sheet EX-1, site survey. Third,
23 application attachment 6, wetlands inspection.
24 Fourth, the application, attachment 9, United
25 States Fish and Wildlife Service and DEEP Natural

1 Diversity Data Base Compliance Report.

2 The application was submitted on April
3 13th. The applicants' exhibits will shortly be
4 verified by the appropriate sworn witness who
5 prepared, supervised or assisted in the
6 preparation of the exhibits, each of whom shall be
7 subject to cross-examination on the exhibits by
8 the Council and the parties and intervenors;
9 therefore, staff recommends the motion in limine
10 be denied. Thank you.

11 MR. MORISSETTE: Thank you, Attorney
12 Bachman. Is there a motion?

13 MR. QUINLAN: I'll make a motion to
14 deny the request.

15 MR. MORISSETTE: Thank you, Mr.
16 Quinlan. Is there a second?

17 MR. NGUYEN: This is Quat Nguyen.
18 Second the motion.

19 MR. MORISSETTE: Thank you, Mr. Nguyen.
20 We have a motion by Mr. Quinlan to deny the motion
21 in limine, and we have a second by Mr. Nguyen.
22 We'll now proceed to discussion.

23 Mr. Silvestri, any discussion?

24 MR. SILVESTRI: Just my statement that
25 there's going to be plenty of time to

1 cross-examine witnesses for these particular
2 exhibits. Thank you, Mr. Morissette.

3 MR. MORISSETTE: Thank you, Mr.
4 Silvestri.

5 Mr. Nguyen, any discussion?

6 MR. NGUYEN: Just a brief statement
7 similar to what Mr. Silvestri just mentioned.
8 It's what this hearing is designed for, an
9 opportunity to cross-examine on those exhibits.
10 So thank you.

11 MR. MORISSETTE: Thank you, Mr. Nguyen.
12 Mrs. Cooley, any discussion?

13 MRS. COOLEY: I have no further
14 discussion. Thank you.

15 MR. MORISSETTE: Thank you. Mr.
16 Quinlan, any discussion?

17 MR. QUINLAN: No discussion. Thank
18 you.

19 MR. MORISSETTE: Thank you. Mr.
20 Collette, any discussion?

21 MR. COLLETTE: No discussion. Thank
22 you.

23 MR. MORISSETTE: Thank you. And I have
24 no discussion. We'll now move to vote.

25 Mr. Silvestri, how do you vote?

1 MR. SILVESTRI: I vote to approve the
2 motion. Thank you.

3 MR. MORISSETTE: Thank you. Mr.
4 Nguyen?

5 MR. NGUYEN: I vote to approve the
6 motion.

7 MR. MORISSETTE: Thank you.
8 Mrs. Cooley, how do you vote?

9 MRS. COOLEY: I vote to approve. Thank
10 you.

11 MR. MORISSETTE: Thank you. Mr.
12 Quinlan, how do you vote?

13 MR. QUINLAN: Vote to approve. Thank
14 you.

15 MR. MORISSETTE: Thank you. Mr.
16 Collette?

17 MR. COLLETTE: Vote to approve.

18 MR. MORISSETTE: Thank you. And I also
19 vote to approve. We have an unanimous decision.
20 The motion passes. The request is denied. Thank
21 you.

22 We'll move on to administrative notice
23 taken by the Council. I wish to call your
24 attention to those items shown on the hearing
25 program marked as Roman Numeral I-C, Items 1

1 through 82 that the Council has administratively
2 noticed. Does any party or intervenor have any
3 objection to the items that the Council has
4 administratively noticed?

5 Attorney Motel.

6 MS. MOTEL: No objection, Mr.
7 Morissette. Thank you.

8 MR. MORISSETTE: Thank you, Attorney
9 Motel.

10 Attorney Baldwin?

11 MR. BALDWIN: No objection, Mr.
12 Morissette. Thank you.

13 MR. MORISSETTE: Thank you. Attorney
14 Sherwood?

15 MR. SHERWOOD: No objection, Mr.
16 Chairman. Thank you.

17 MR. MORISSETTE: Thank you, Attorney
18 Sherwood.

19 Justin Nishioka. Excuse me for that.

20 MR. NISHIOKA: That's okay.

21 MR. MORISSETTE: Any objection?

22 MR. NISHIOKA: No objection.

23 MR. MORISSETTE: Thank you.

24 Accordingly, the Council hereby administratively
25 notices these items.

1 (Council's Administrative Notice Items
2 I-C-1 through I-C-82: Received in evidence.)

3 MR. MORISSETTE: We'll now continue
4 with the appearance by the applicants. Will the
5 applicants present their witness panel for the
6 purposes of taking the oath? Attorney Bachman
7 will administer the oath.

8 Attorney Motel.

9 MS. MOTEL: Thank you, Mr. Morissette.
10 The applicants' witnesses are as follows: Ray
11 Vergati, regional manager of Homeland Towers.
12 Harry Carey, director of external affairs for
13 AT&T. Robert Burns, professional engineer,
14 project manager for All Points Technology. Mike
15 Libertine, LEP, director of siting and permitting
16 for All Points Technology. Dean Gustafson,
17 professional soil scientist and senior wetland
18 scientist for All Points Technology Corp. Brian
19 Gaudet, project manager for All Points Technology.
20 Martin Lavin, radio frequency engineer, C Squared
21 Systems, on behalf of AT&T. And Eric Fine,
22 implementation engineer for the Town of New
23 Canaan, wireless consultant, Norcom. We offer
24 those witnesses to be sworn in. Thank you.

25 MR. MORISSETTE: Thank you, Attorney

1 Motel.

2 Attorney Bachman, please begin by
3 administering the oath.

4 MS. BACHMAN: Thank you, Mr.
5 Morissette. Could the witnesses please raise
6 their right hand.

7 R A Y M O N D V E R G A T I,
8 H A R R Y C A R E Y,
9 R O B E R T B U R N S,
10 M I C H A E L L I B E R T I N E,
11 D E A N G U S T A F S O N,
12 B R I A N G A U D E T,
13 M A R T I N L A V I N,
14 E R I C F I N E,

15 called as witnesses, being first duly sworn
16 (remotely) by Ms. Bachman, testified on their
17 oaths as follows:

18 MS. BACHMAN: Thank you.

19 MR. MORISSETTE: Thank you, Attorney
20 Bachman.

21 Attorney Motel, please begin by
22 verifying all the exhibits by the appropriate
23 sworn witnesses.

24 DIRECT EXAMINATION

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

1 The applicants' exhibits are identified as Items
2 II-B, 1 through 10 in the Council's prehearing
3 information. I'm going to ask my witnesses a
4 series of questions, with the exception of
5 Mr. Fine who I will ask in a moment, to verify the
6 exhibits.

7 One, did you prepare or assist in the
8 preparation of the exhibits identified?

9 THE WITNESS (Lavin): Martin Lavin.
10 Yes.

11 THE WITNESS (Vergati): Ray Vergati.
12 Yes.

13 THE WITNESS (Burns): Robert Burns.
14 Yes.

15 THE WITNESS (Carey): Harry Carey.
16 Yes.

17 THE WITNESS (Gaudet): Brian Gaudet.
18 Yes.

19 THE WITNESS (Gustafson): Dean
20 Gustafson. Yes.

21 MS. MOTEL: Do you have any updates or
22 corrections to the identified exhibits?

23 THE WITNESS (Lavin): Martin Lavin.
24 Yes, two corrections. In the MPE report, page 3,
25 the highest percent of MPE to occur in a

1 horizontal distance should be 470 feet. It's a
2 typo. It says "4709."

3 And the RF report, page 4, AT&T is
4 proposing to install a wireless facility at
5 Soundview Lane is a typo. It should be Ponus
6 Ridge. Apologies for both of those.

7 MS. MOTEL: Thank you, Mr. Lavin.

8 THE WITNESS (Vergati): Ray Vergati. I
9 have one correction on attachment 2, the site
10 search summary or sites investigated by Homeland
11 Towers. Site No. 3 listed is Aquarion. It should
12 be noted that in addition to the attacher trying
13 to lease the property for a tower on Aquarion, we
14 did also entertain a potential right-of-way for
15 the equipment within the town's right-on-way on
16 Ponus Ridge but the tower physically being leased
17 on Aquarion's property. I just wanted to clarify
18 that on the record.

19 MS. MOTEL: Thank you, Mr. Vergati.

20 Bob Burns, do you have any updates or
21 corrections to the identified exhibits?

22 THE WITNESS (Burns): No updates or
23 corrections.

24 MS. MOTEL: Harry Carey?

25 THE WITNESS (Carey): Harry Carey. I

1 do not.

2 MS. MOTEL: Brian Gaudet?

3 THE WITNESS (Gaudet): Brian Gaudet, no
4 corrections.

5 MS. MOTEL: And Dean Gustafson.

6 THE WITNESS (Gustafson): No
7 corrections.

8 MS. MOTEL: Thank you. Is the
9 information contained in the identified exhibits
10 true and accurate to the best of your belief?

11 THE WITNESS (Lavin): Martin Lavin.
12 Yes.

13 THE WITNESS (Vergati): Ray Vergati.
14 Yes.

15 THE WITNESS (Burns): Robert Burns.
16 Yes.

17 THE WITNESS (Carey): Harry Carey.
18 Yes.

19 THE WITNESS (Gaudet): Brian Gaudet.
20 Yes.

21 THE WITNESS (Gustafson): Dean
22 Gustafson. Yes.

23 MS. MOTEL: And do you adopt these
24 exhibits as your testimony?

25 THE WITNESS (Lavin): Martin Lavin.

1 Yes.

2 THE WITNESS (Vergati): Ray Vergati. I
3 do.

4 THE WITNESS (Burns): Robert Burns.

5 Yes.

6 THE WITNESS (Carey): Harry Carey.

7 Yes.

8 THE WITNESS (Gaudet): Brian Gaudet.

9 Yes.

10 THE WITNESS (Gustafson): Dean
11 Gustafson. Yes.

12 MS. MOTEL: Thank you. I'm going to
13 ask Eric Fine separately to verify the following:
14 Applicants' Exhibit 1, the application, the
15 narrative pages 2 and 3, attachment 3 of the
16 application and Applicants' Exhibit 10, the
17 updated drawings and Sheet CP-1.

18 Mr. Fine, did you prepare or assist in
19 the preparation of the exhibits identified?

20 THE WITNESS (Fine): Yes.

21 MS. MOTEL: And do you have any updates
22 or corrections to the identified exhibits?

23 THE WITNESS (Fine): No.

24 MS. MOTEL: Is the information
25 contained in the exhibits true and accurate to the

1 best of your belief?

2 THE WITNESS (Fine): It is.

3 MS. MOTEL: And do you adopt these
4 exhibits as your testimony today?

5 THE WITNESS (Fine): I do.

6 MS. MOTEL: Thank you. We offer these
7 materials into evidence. Thank you, Mr.
8 Morissette.

9 MR. MORISSETTE: Thank you, Attorney
10 Motel. Does any party or intervenor object to the
11 admission of the applicants' exhibits?

12 Attorney Baldwin.

13 MR. BALDWIN: No objection, Mr.
14 Morissette.

15 MR. MORISSETTE: Thank you, Attorney
16 Baldwin.

17 Attorney Sherwood?

18 MR. SHERWOOD: Mr. Morissette, we
19 object to the exhibits with respect to which the
20 individuals that prepared the exhibits are not
21 available for cross-examination. Those are listed
22 or were listed in our motion in limine which the
23 Council has denied. And we would also object to
24 any exhibit which is not -- the author of which is
25 not identified because we can't cross-examine an

1 unknown individual. Thank you.

2 MR. MORISSETTE: Thank you, Attorney
3 Sherwood.

4 MS. MOTEL: Mr. Morissette, if I may
5 comment on that?

6 MR. MORISSETTE: Yes, Attorney Motel,
7 please do.

8 MS. MOTEL: The individuals that have
9 been sworn in as witnesses, the work was done
10 under their supervision and at their direction, so
11 they can testify to the materials that have been
12 admitted into evidence here today.

13 MR. MORISSETTE: Thank you, Attorney
14 Motel. I will ask Attorney Bachman to also
15 comment, if she would.

16 Attorney Bachman.

17 MS. BACHMAN: Thank you, Mr.
18 Morissette. Before I do that, perhaps we should
19 ask Mr. Nishioka if he has any comments on the
20 objection.

21 MR. MORISSETTE: Thank you. Mr.
22 Nishioka, do you have any comments?

23 MR. NISHIOKA: Just to reiterate the
24 comments and objections of Attorney Sherwood.

25 MR. MORISSETTE: Thank you,

1 Mr. Nishioka.

2 Attorney Bachman, please continue.

3 MS. BACHMAN: Thank you, Mr.

4 Morissette. As we indicated earlier, we have a
5 set of exhibits and a witness panel that is
6 prepared for cross-examination on the exhibits.
7 To the extent that there are questions that the
8 witnesses can't answer, we will be having a
9 continuation hearing, and certainly any party or
10 intervenor, including the applicant, may add
11 witnesses to their panel. But as it stands today,
12 they are prepared and ready for cross-examination.
13 Thank you.

14 MR. MORISSETTE: Thank you, Attorney
15 Bachman. Attorney Sherwood, your motion is
16 denied. Thank you. The exhibits are hereby
17 admitted.

18 (Applicants' Exhibits II-B-1 through
19 II-B-10: Received in evidence - described in
20 index.)

21 MR. MORISSETTE: We'll now begin with
22 cross-examination of the applicant by the Council
23 starting with Mr. Mercier.

24 Mr. Mercier.
25

1 CROSS-EXAMINATION

2 MR. MERCIER: Thank you. I'm going to
3 begin with some questions regarding the new
4 exhibit that was submitted on June 24th. It's the
5 site plans. That's hearing program Exhibit 10.
6 I'm primarily looking at the site plan SP-1 and
7 SP-2. Now, looking at the revision, it states
8 there's going to be a reduction in site
9 disturbance by approximately 3,000 square feet.
10 And if someone could direct me to, as to where
11 primarily this reduction in disturbance is on the
12 revised site plan, that would be appreciated.

13 THE WITNESS (Burns): For the record,
14 Robert Burns from All Points Technology, licensed
15 civil engineer in the State of Connecticut.
16 Predominantly a lot of the LOD that was lost is up
17 in and around the compound. The site was regraded
18 to -- we were significantly unbalanced before from
19 an excavation standpoint, so we're able to lift
20 that compound up and thereby reducing quite a bit
21 of limit of disturbance in and around that area.

22 MR. MERCIER: Thank you. In comparing
23 the initial site plan that was provided, I believe
24 it's application attachment 4, to this one, and
25 I'm looking at site plan SP-1 for both of them,

1 and the revised site plan shows the limit of
2 disturbance coming much close to the wetland than
3 it was before. I believe the initial information
4 for the application site plan showed it about 130
5 feet away to the wetland. That's to the north,
6 northwest, it looks like. And just by eyeballing
7 it today, it appears that it's about 90 feet now,
8 the limit of disturbance, that is. Does anybody
9 have a revised figure of what the distance
10 actually is to the wetland boundary from the limit
11 of disturbance from the revised site plan?

12 THE WITNESS (Burns): Bob, I don't have
13 that offhand. That is something I could get. I
14 don't happen to have the scale with me, but I
15 think your numbers are pretty close.

16 MR. MERCIER: Okay. Is there any
17 reason why you have to do more grading on that
18 side towards the wetlands?

19 THE WITNESS (Burns): So, in order to
20 make the site more of a balanced site, the first
21 submission that was made we were excavating about
22 5,000 cubic yards and filling less than 100 cubic
23 yards, so we were hauling quite a bit of material
24 off site. In the regrading redesign we were able
25 to reduce the amount of excavation to about 3,500

1 square feet, and the amount of fill we were able
2 to increase to about 1,500 square feet in order to
3 make the site more balanced. It's not going to be
4 a balanced site, but we're only hauling off 2,000
5 square -- cubic yards. I'm sorry, I'm saying
6 square feet. I should be saying cubic yards. So
7 predominantly that area of fill, which we'll be
8 using material from the site, is in that
9 particular area on that side slope in order to
10 meet grade.

11 MR. MERCIER: So is the only reason to
12 redesign the site here in Exhibit 10 was to cut
13 down the amount of material being shipped off
14 site?

15 THE WITNESS (Burns): No, I think that
16 was by all means a large reason, but it was not
17 the only one. We had received comments about
18 trying to limit the amount of disturbance and
19 lessen the amount of tree removal as well. So the
20 hope was by regrading it, bringing everything
21 closer to the surface, yes, we increased the fill,
22 but we were able to cut back on our limit of
23 disturbance by almost a tenth of an acre. And
24 we're down at 94 trees being removed now as
25 opposed to we were up over 100 before.

1 MR. MERCIER: Okay. In the side box on
2 SP-2 it shows some percentages in the compound
3 area slopes, as existing 6 to 15, and it says
4 proposed 3 to 5, I believe. This is also the same
5 as the initial site plan. Do those figures have
6 to be revised? Are you keeping the existing
7 grades for the most part or are you going to grade
8 it down to more gentle slopes?

9 THE WITNESS (Burns): So when we talk
10 about the existing grades in that box, they're
11 predominantly in the area of the compound itself.
12 So the compound itself is, it's not as steep as
13 other parts of the site but it is fairly steep.
14 And we are grading that to a 3 percent slope now,
15 so it will be significantly less of a slope in
16 the compound than what's up there today.

17 MR. MERCIER: Okay. So I think what
18 you're saying is you're cutting less at the top of
19 the hill probably towards the northwest.

20 THE WITNESS (Burns): You're absolutely
21 correct, yes.

22 MR. MERCIER: Now, looking at the site
23 plan in SP-2, and we'll just stick with the
24 revised here, I can see the property line to the,
25 I'll just call it the west really -- excuse me,

1 the east. That's Mr. Buschmann's property at 359
2 Dans Highway?

3 THE WITNESS (Burns): Yes.

4 MR. MERCIER: Was there any thought of
5 actually orienting this site more in a, looking at
6 this plan, a vertical arrangement rather than
7 horizontal so it's more like northeast to
8 southwest rather than the current plan?

9 THE WITNESS (Burns): Um --

10 MR. MERCIER: Just turning it so you're
11 basically providing a greater buffer to that
12 neighbor.

13 THE WITNESS (Burns): I understand what
14 you're saying. We did not look at that. That
15 could be looked at. I mean, I'm not saying it
16 won't work. We'll get into some other grades up
17 around the -- oh, God, where's north -- northeast
18 of the site it kind of goes up a little higher.
19 But no, we did not look at that. We kept it in
20 the same, sort of the same spatial alignment as
21 the driveway pulling in.

22 MR. MERCIER: Given the amount of
23 construction at this site as proposed, I mean,
24 just turning it there won't be any
25 constructability issues for that, if that was

1 rotated, would there?

2 THE WITNESS (Burns): No.

3 MR. MERCIER: Okay. Since it's close
4 to the wetland, a little bit closer to the wetland
5 on the property right now, as redesigned, will
6 there be any type of wetland protection plan; and
7 if so, what type of typical protective measures
8 will be undertaken to ensure that resources are
9 protected during construction?

10 THE WITNESS (Burns): So all the side
11 slopes on this project will have an erosion
12 control blanket put on them, and side slopes that
13 are significant will have a series of filter socks
14 running along, transverse along the slope itself
15 at an appropriate spacing. I'm not sure what we
16 have these on here, but I want to say they're
17 about 20 feet apart. And then at the toe of slope
18 there will also be either filter socks or silt
19 fence.

20 THE WITNESS (Gustafson): Dean
21 Gustafson. I'll just add to Bob's statement. And
22 that would be in our revised plans that were
23 submitted, Applicant Exhibit 10, the last sheet in
24 our revised plan, sheet number N-1, environmental
25 notes. In there we have additional wetland

1 protection measures as part of a resource, overall
2 resource protection plan, and that will include
3 attendance of a preconstruction meeting with the
4 site civil contractor going over the sensitive
5 nature of the project, proximity to wetlands. In
6 addition to that, we also have proximity to Laurel
7 Reservoir, the site's location with the public
8 water supply watershed, as well as rare species.
9 So we'll review all of those measures with the
10 contractor.

11 Specific to the wetlands, we would
12 perform a third-party inspection of the erosion
13 control measures after installation and before
14 mobilization and earthwork to the site, and also
15 provide periodic monitoring during construction to
16 ensure those erosion control measures are being
17 properly maintained to ensure no incidental
18 release of those sediments beyond the limit of
19 disturbance of the project site.

20 MR. MERCIER: Thank you. That whole
21 Sheet N-1 is new. That wasn't included in the
22 initial submittal. So yes, thank you, there's a
23 lot material on there.

24 THE WITNESS (Gustafson): That's
25 correct.

1 MR. MERCIER: I'll stick with this site
2 plan SP-2. You talked a little bit about
3 construction and some of the features you might
4 use, erosion blankets, things of that nature. So
5 I guess, you know, I understand there will be a
6 D&M plan if this tower is approved and you might
7 have some more detail. But Mr. Burns, can you
8 walk us through how the site might actually be
9 built starting with raw land, you know, day one
10 it's approved, you're going to go out there and do
11 construction, how do you think this site would be
12 built starting at the access road going up to the
13 compound?

14 THE WITNESS (Burns): I think the
15 contractor is initially going to have to cut in a,
16 I'm going to call it a temporary driveway to get
17 to the top. Then he'll come back later and grade
18 to the elevations that are on the plan. And then
19 he can start at the top and work his way down and
20 then ultimately come down and meet the driveway,
21 install the drainage, et cetera.

22 MR. MERCIER: Okay. So he'll go in and
23 install a temporary driveway that's probably just
24 a rough track to get up to the site?

25 THE WITNESS (Burns): Let me be clear

1 first. The means and methods of the construction
2 itself will be up to him. I'm just giving you
3 what I feel is what he may do, but he may decide
4 that he can build it differently and more
5 effectively and better contain the site. But my
6 thought is that he'll come in, put a temporary
7 driveway to the top, and then sort of start at the
8 top and work his way back down.

9 MR. MERCIER: Okay. Has Homeland built
10 tower sites on terrain such as this? It appears
11 from some of the pictures in the field review
12 notice and some notes elsewhere in the document
13 that the site is very ledgy, rocky, thin soil. So
14 I was wondering is there typical sites that
15 Homeland has used such as this; and if so, how was
16 it accomplished?

17 THE WITNESS (Vergati): Ray Vergati,
18 Homeland Towers. We have, case in point, talk
19 about ledges, one of our sites is actually Aspen
20 Ledges Road in Ridgefield, Connecticut. And I
21 believe Mr. Burns was the A&E on that particular
22 project. And we were tasked with developing a, I
23 think it was roughly a 2-acre raw land site
24 literally on the side of a hill that had steep
25 slopes. In that case we were going down to a

1 site. In this case we're going up to a site. But
2 Mr. Burns can speak in a little more detail on
3 that.

4 THE WITNESS (Burns): They were very
5 similar. And it's not the only one. I'm thinking
6 of a couple more that have been done. But, you
7 know, being that sites are harder to find these
8 days, you've got to build where the terrain --
9 you've got to build what is there and what the
10 terrain is. So Aspen Ledges Road is a pretty good
11 example of something similar to this site.

12 MR. MERCIER: Okay. You know, I'm
13 looking at the grading going up the road along the
14 hillside there, and it goes up to about elevation
15 395 or so, you know, at the top of the grade,
16 limit of grading there. Why do you need that
17 extensive grading up to that elevation?

18 THE WITNESS (Burns): I'm not sure I
19 understand the question, Bob.

20 MR. MERCIER: Basically when you go up
21 the driveway, the paved driveway, then there's an
22 area of extensive grading on the hillside to the
23 northeast across from the stilling basins.

24 THE WITNESS (Burns): Okay.

25 MR. MERCIER: The grading goes all the

1 way to 395, the limit of disturbance. So I'm
2 trying to figure out why you have to go that high.

3 THE WITNESS (Burns): First of all, the
4 terrain there is tough. But second of all is,
5 we're putting in a 2-foot drainage swale along the
6 side of the driveway, and then at that point we're
7 going up to 2 to 1 until we meet existing grade.
8 Believe me, if we didn't have to go that high, we
9 wouldn't.

10 MR. MERCIER: Okay. Hold on for a
11 second.

12 THE WITNESS (Burns): Sure.

13 MR. MERCIER: For the constructability
14 of the site, you know, I read in one of the
15 interrogatories that you don't anticipate blasting
16 at this site. So the ledge removal will just be
17 predominantly chipping or just will be chipping,
18 is that correct, just chipping only?

19 THE WITNESS (Burns): Well, I think
20 that, if I'm thinking of the right interrogatory,
21 it's not that we won't anticipate. We don't
22 prefer that. Until we do a geotech we won't know.
23 There is quite a bit of rock out here, and it also
24 depends on what kind of rock it is. If they find
25 out it's chippable, I don't even know if that's a

1 word, but chippable, they'll do it by that means.
2 But blasting is a last resort. But until that
3 geotech is done and a contractor is on site and
4 actually uncovers some of the rock, we won't know
5 in entirety whether he'll be able to take it out
6 by mechanical means or not.

7 MR. MERCIER: Okay. Once the ledge is
8 removed by either chipping or maybe blasting,
9 you'll have piles of material laying around. Is
10 the intent to use that on the site?

11 THE WITNESS (Burns): Yeah. So
12 everything that's excavated, if it meets spec, and
13 the specs are outlined when we submit the D&M
14 plans, it's proposed to be used on site. And then
15 the remainder, the excess will be trucked off
16 site.

17 MR. MERCIER: Would the material that
18 is on site, large material, are you going to have
19 a crusher out there to make it smaller for usable
20 fill, a rock crusher?

21 THE WITNESS (Burns): Yeah. I don't
22 know. My guess is they'll probably bring on new,
23 but with construction prices the way they are
24 these days, that's a tough call for me. They
25 could bring in a crusher, if they find it

1 convenient, but at this point until we know what's
2 out there I'm just not certain.

3 MR. MERCIER: Given there is quite a
4 bit of grading on the hillside we were just
5 talking about and also over towards the wetland,
6 the curve that goes up to the compound, if there's
7 exposed ledge and rock, I mean, how would that
8 area be stabilized, if it's necessary, are you
9 going to cover it up with soil or are you just
10 going to leave it as exposed rock? I guess what
11 I'm getting at, if it's exposed rock, are you
12 going to accelerate runoff?

13 THE WITNESS (Burns): So two things.
14 First of all, if there is exposed rock and we are
15 able to go -- and it's stable rock, we're able to
16 go steeper than what we're showing, we can further
17 decrease the limit of disturbance, but we don't
18 know that until they get out there and start
19 uncovering it.

20 In terms of the area that we're
21 filling, the ground will be made suitable to
22 accept the fill, it will be compacted
23 appropriately, and then turf will be established
24 with blanket and erosion control measures.

25 MR. MERCIER: Okay. Just so I

1 understand, the curve will have soils most likely
2 in the exposed face -- not the exposed face, but
3 it might be rock, it might be a mix of soil and
4 rock; is that correct?

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

6 MR. MERCIER: Okay. I see the trenches
7 there. If that's all solid rock, you're just
8 going to have to, what, just drill it and chip it
9 to make a swale?

10 THE WITNESS (Burns): That's correct,
11 yes.

12 MR. MERCIER: But there would be no
13 soil or anything, it would just be filled with
14 riprap, what would be the fill?

15 THE WITNESS (Burns): Those swales now
16 are designed as riprap swales, so they're rock
17 with a smaller stone check dam so they're not
18 grass swales now.

19 MR. MERCIER: Right. Okay. I see the
20 limit of paving goes up almost to the curve.
21 What's the reason for that pavement there?

22 THE WITNESS (Burns): So the beginning
23 part of that driveway is quite steep. It's over
24 19 percent. I typically, and as a rule of thumb,
25 we don't like to put gravel driveways on anything

1 more than like 12 percent. So it's more from a
2 stability standpoint that first piece of driveway
3 that we're going to pave.

4 MR. MERCIER: So the remainder of the
5 driveway, the gravel portion, that's about 12
6 percent or less?

7 THE WITNESS (Burns): Yeah, I think
8 it's less than 9 percent.

9 MR. MERCIER: I can't see well on this
10 diagram. So on the southwest side -- not the
11 southwest -- the downhill side, I'll call it,
12 where the stilling basins are, is that a trench or
13 is that a fill, is that a raised embankment or is
14 that like the road is --

15 THE WITNESS (Burns): We're carving
16 those in. Those are stilling basins that we're
17 carving into the side of the -- there might be
18 some fill on the extreme downhill side of it, but
19 predominantly most of it is an excavation.

20 MR. MERCIER: Okay. So where the telco
21 line is, is that just an embankment or is that a
22 trench also, meaning a water collection trench?

23 THE WITNESS (Burns): No, that's just
24 an embankment. As a matter of fact, that telco
25 line may have to get shifted directly under the

1 driveway.

2 MR. MERCIER: And is the pavement
3 pitched to the downhill side, the down gradient
4 side --

5 THE WITNESS (Burns): No.

6 MR. MERCIER: -- so water will sheet
7 off, sheet flow?

8 THE WITNESS (Burns): It's pitched to
9 the swale side.

10 MR. MERCIER: Okay.

11 THE WITNESS (Burns): The water would
12 flow from the driveway into the swale to the
13 basins, to the stilling basins.

14 MR. MERCIER: Okay. So the check dams
15 would slow down the velocity of the water --

16 THE WITNESS (Burns): Correct.

17 MR. MERCIER: -- and direct it into, it
18 looks like two stilling basins and some other
19 smaller feature?

20 THE WITNESS (Burns): Correct.

21 MR. MERCIER: Are the stilling basins
22 designed to retain water or are they designed to
23 slow velocities and discharge?

24 THE WITNESS (Burns): A little bit of
25 both. I mean, they're only 2 feet deep, so the

1 idea being that it will slow the water down and
2 allow it to either, A, infiltrate, if it's
3 suitable for infiltration, or to gently overtop
4 the side and go down the hill and do what the
5 drainage does today and run down the hill.

6 MR. MERCIER: Okay. If there's, you
7 know, a thunderstorm or high intensity rain storm,
8 you know, an inch an hour or something of that
9 nature, what type of design was used to ensure
10 there's not going to be a type of channelized flow
11 out of these, do you do a 2-year storm or a 5-year
12 storm, or what methodology was used to design
13 these basins?

14 THE WITNESS (Burns): We met early on
15 with, we had a conference call with town staff to
16 talk about the drainage in particular. And while
17 they have not reviewed these yet indepth, this is
18 more or less what we kind of talked about, and
19 they were in favor of it on the phone. So we will
20 use whatever the town requires in terms of what
21 year storm to size the pipes and do what needs to
22 be done out here. Offhand, I want to say a
23 10-year storm. I don't have the comps with me
24 right now though.

25 MR. MERCIER: My apologies, you said it

1 might be a 10-year storm?

2 THE WITNESS (Burns): Yeah, but again,
3 I'm doing that from memory.

4 MR. MERCIER: Okay. Thank you.

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

6 MR. MERCIER: Now, if there was an
7 intense storm, what's the possibility of these basins
8 getting overwhelmed and discharging, you know, a
9 large amount of water and causing channelization,
10 is that a concern at this site or do you think
11 these are overbuilt?

12 THE WITNESS (Burns): First of all, the
13 drainage areas themselves are kind of small. The
14 top of the drainage area is almost where the
15 compound is, so it's not that big of an area it's
16 taking. The idea being that it flows to a 2-foot
17 deep swale with check dams into a catch basin that
18 has a sump into a pipe and then into a stilling
19 basin that by those means it would catch the
20 majority of the water. And that's sort of the way
21 the design was made. It's difficult for us to put
22 any kind of retention pond or anything similar to
23 that out here, so this design is kind of pieced
24 together to do that. I don't know if that makes
25 sense, but there's different -- as the water is

1 flowing, it runs to the swale, to the check dam,
2 to a basin with a sump, to a pipe, to a stilling
3 basin.

4 MR. MERCIER: You mentioned some
5 discussions with the town initially regarding this
6 proposed drainage system and they would take a
7 look at it, I believe you said?

8 THE WITNESS (Burns): Yes.

9 MR. MERCIER: Was there any other type
10 of proposal such as a grate across the pavement or
11 something to connect, to catch water, or is this
12 just going to be the pitch would be sufficient,
13 you wouldn't need like a grate at the bottom or
14 every so often to collect water and discharge it?

15 THE WITNESS (Burns): One of the things
16 we looked at initially was some kind of grate, but
17 the thought was that those trench drains are
18 extremely tough to maintain. So the thought being
19 a full-blown basin off the side in a swale, water
20 from the driveway flows into that swale into the
21 basins would be far more, would work much better
22 than a trench drain across the driveway. And
23 furthermore, those trench drains are pretty
24 shallow, so it wouldn't be able to accept that
25 much water.

1 MR. MERCIER: Okay. You just talked
2 about maintenance.

3 THE WITNESS (Burns): Yes.

4 MR. MERCIER: And so assuming the site
5 was built and it was in a forested area, you know,
6 there's going to be leaf fall, how often does
7 Homeland go out and ensure that these check dams
8 and the piping to the swales are not clogged with
9 leaves and therefore leading to other problems,
10 what's the maintenance interval on a site like
11 this?

12 THE WITNESS (Burns): If I'm not
13 mistaken, and Ray is here next to me, every site
14 is driven by Homeland at least once a year. It
15 could be more than that for sort of general
16 maintenance. And then as far as frequency of
17 cleaning out the basins, I think, you know, those
18 could be done every other year. And we can put
19 together a maintenance plan as part of the D&M
20 set -- or maintenance schedule as part of the D&M
21 set.

22 MR. MERCIER: I'm going back to the
23 grading on the site, the hillside I was talking
24 about before across from the stilling basins. You
25 know, you're going to be going on a hillside, and

1 there's some larger trees up above the edge of
2 grading. So when you're doing grading, would
3 there be a lot of root damage for the remaining
4 trees, and how are you going to ensure that those
5 trees are not going to become a hazard, either die
6 off or blow over in some kind of storm due to
7 reduced root structure?

8 THE WITNESS (Burns): The two closest
9 trees to that slope are called for protection, so
10 they'll be protected during construction and the
11 roots will be protected as much as possible. As
12 far as the other trees, the thought being we're
13 far enough away to not damage the roots. But
14 yeah, I think that's as far as, you know, ensuring
15 anything in the future in terms of, you know, the
16 trees that aren't part of this construction.

17 MR. MERCIER: For the trees marked as
18 root protection, how do you protect from
19 excavation, you know, the roots, just out of
20 curiosity, how would you --

21 THE WITNESS (Burns): The contractor is
22 going to have to be extremely careful in and
23 around the tree. We fence them off at the drip
24 line. And once it's done, then at that point the
25 tree is left and has been protected, and the idea

1 being that that's how we protect it during
2 construction.

3 MR. MERCIER: I was reading through
4 some of the notes -- excuse me, interrogatory
5 responses here and there, and there was some
6 mention of a potential rain garden or
7 biofiltration swale. I'm just curious how these
8 features could improve site drainage, if at all.
9 Is it something that Homeland would consider in
10 the D&M phase if it was approved?

11 THE WITNESS (Burns): So there's a
12 couple spots on the site where a rain garden could
13 possibly be used as opposed to the stilling
14 basins, used in the same way. But my concern
15 right now is until we have somebody go out there
16 and do geotech, I'm not certain that the soils are
17 suitable for the plantings that will have to
18 happen in a rain garden which are all wetland type
19 plantings. So right now I'm just calling them out
20 as riprap stilling basins. But once we go to D&M
21 and geotech is done, I think Homeland is amenable
22 to entertaining some rain gardens on site.

23 MR. MERCIER: Is the purpose of the
24 rain garden to promote infiltration or it's just,
25 it's not like a basin where the water comes and

1 slows down velocity and leaves, it's more of an
2 infiltration, is that --

3 THE WITNESS (Burns): Yeah, I think
4 that's accurate. I mean, I think they can be used
5 to slow down velocity, but the predominant feature
6 is for them to promote infiltration, yes.

7 MR. MERCIER: In reviewing the lease
8 agreement that was submitted, I believe it was
9 Exhibit 3, I don't have it in front of me right
10 now, but it just showed a serpentine road layout.
11 I was just curious why that was modified to this
12 current layout where you have really one curve.
13 Do you know what I'm talking about? It was coming
14 off, instead of the driveway, it was coming off
15 near the northern end, I guess, of the property.
16 It's the site plan lease exhibit.

17 THE WITNESS (Vergati): Ray Vergati,
18 Homeland Towers. The initial design that we had,
19 you are correct, Bob, we had a serpentine access
20 drive coming in off of Ponus Ridge Road. That was
21 our initial design. After sitting down with Maria
22 Coplit, who is the town engineer, and Tiger Mann,
23 who is director of public works, I sat down with
24 them back in October --

25 MR. SHERWOOD: Mr. Chairman.

1 MR. MORISSETTE: Yes, Attorney
2 Sherwood.

3 MR. SHERWOOD: I would object to any
4 response on the part of the witness that refers to
5 what he was told by third parties with respect to
6 these technical details. That's hearsay.

7 MR. MORISSETTE: Thank you, Attorney
8 Sherwood. I instruct the witness to try to stay
9 away from hearsay information and be more general
10 in their responses. Thank you.

11 THE WITNESS (Vergati): That's fine.
12 So as I was saying, we looked at the road and
13 redesigned it for a few reasons: One, the way we
14 had originally, the road designed, it was coming
15 out of the site, it would have been a right-turn
16 only, going north on Ponus Ridge Road, meaning you
17 could not turn left. It was a right turn only.
18 And vice-versa, coming into the site it was a left
19 turn only into the driveway. You could not access
20 it with the turn radius.

21 Secondly, there was a ridge, almost a
22 hump, on Ponus Ridge Road, and we felt that from a
23 sight line perspective it was not the most optimum
24 location for a driveway where somebody pulling out
25 onto Ponus Ridge would not have a clear sight

1 line. So we then in turn spoke with our landlord
2 and they were gracious enough to allow us to use
3 the existing driveway which allows vehicular
4 traffic to take a left or right turn entering the
5 site or exiting the site, and the sight lines are
6 much, much better using the existing driveway. So
7 that was the reason for the driveway change.

8 MR. MERCIER: Thank you. Previously,
9 we discussed the paved access portion of the
10 roadway which was going to be about 19 percent
11 grade. Now, is that grade, do you have any
12 information as to whether, you know, we'll just
13 say propane trucks and fire apparatus can get up
14 that type of grade?

15 THE WITNESS (Burns): Yes, they should.
16 I mean, it's allowable from a residential
17 standpoint on a residential house, so yes, they
18 should be able to make that.

19 MR. MERCIER: I'm going to stay with
20 the site plan SP-2 here. Now, looking at the
21 terrain, was there any consideration as to whether
22 a tower could actually be located where the first
23 stilling basin is adjacent to the stone wall, you
24 know, so you go in the driveway, you go right to
25 the stone wall, and you have more of a, I'll call

1 it a little more moderate compared to other grades
2 in that area? It looks about elevation 360 or so.
3 Was there any thought of putting a tower down that
4 far?

5 THE WITNESS (Burns): So it's more or
6 less an answer for Ray, but number one is the
7 elevation is at a point where the tower would need
8 to be much taller to meet the criteria. And
9 second of all, it's right on the road so it would
10 be much more visible than it is now.

11 MR. MERCIER: Are those the only two
12 reasons?

13 THE WITNESS (Burns): I think the main
14 thing was the elevation.

15 MR. MERCIER: Right. So basically
16 you'll have to have a taller tower to reach the
17 same level above mean sea level?

18 THE WITNESS (Burns): Correct.

19 MR. MERCIER: However, is there any
20 issue, it would be about 35 feet taller or so
21 according to elevation data, is there any other
22 reason why you couldn't do that besides just
23 whether it's just more steel, or is it
24 constructible if it was in that location?

25 THE WITNESS (Burns): Certainly it's

1 constructible. I mean, we may need some retaining
2 walls due to the fact of, you know, what little
3 room we have, but it could be constructible, yes.
4 And the difference in elevation, I think, is about
5 50 feet.

6 MR. MERCIER: If you went up the hill
7 even a little bit farther, we'll say near the --
8 just past the second stilling basin, there's
9 another area. It looks about 370 feet. Is that
10 another location where maybe a tower could be put
11 rather than at the top of the hill?

12 THE WITNESS (Burns): Bob, the only
13 place we really looked at was the top of the hill
14 or the highest spot on the property, or at least
15 getting as close to the highest spot on the
16 property. These other areas have potential. I
17 mean, it's tough for me to make that statement
18 without, you know, sitting down and looking at the
19 design. But there's potential there, but the
20 objective was to get to as close to the top of the
21 hill as possible.

22 MR. MERCIER: Right. I see you're
23 putting the tower about elevation 395, correct?

24 THE WITNESS (Burns): 400, yes.

25 MR. MERCIER: All right. So I was

1 wondering if you could do it at 360 or 365,
2 something of that nature. I guess, you know,
3 visibility of the tower, maybe someone else could
4 speak about that, but wouldn't the hillside
5 actually block it from the two abutting residents,
6 one at 359 Dans Highway and the other at 59
7 Squires Lane? I mean, the topography there would
8 be set below the hillside, the hilltop, wouldn't
9 that be correct?

10 THE WITNESS (Gaudet): Give me just one
11 second, Mr. Mercier. I'm just looking at a couple
12 photos here just so I can get a better feel for
13 that hillside topography there. While I'm looking
14 for that, you know, certainly the height of the
15 tower would be increased. I think that generally
16 the visibility would remain the same with an
17 increase in tower height but a reduction in mean
18 sea level height. It does look like there might
19 be some shielding certainly to the, I'll call it
20 the backyard of the Buschmann's property. It's
21 tough to tell if that would open up potentially
22 any visibility over the residents on the host
23 parcel from the residents of the Buschmann
24 property.

25 I think Squires Lane, the homes on

1 Squires Lane would benefit probably the most in a
2 reduction of visibility by shifting down to that
3 lower location. You know, certainly it would be,
4 I would assume, far less tree clearing by moving
5 it to that location. So there would be a benefit
6 there certainly in leaf-on situations to have a
7 little bit more screening to those residences, but
8 I think overall as you look at sort of percentage
9 of visibility throughout what we call the study
10 area, I don't see a significant change.

11 MR. MERCIER: Yeah. Well, I was just
12 saying, you know, if you bring it down the hill,
13 as you were stating, there will be more trees
14 intervening in between the two neighbors now and
15 they won't be able to probably see the compound at
16 all or even the lower portion of the tower. They
17 would probably just see the upper portion of the
18 tree tower, so just the branches.

19 THE WITNESS (Gaudet): Yeah, I would
20 agree with you on that.

21 MR. MERCIER: Thank you. Staying with
22 the tree tower, you have a particular tree vendor.
23 I know for the Docket 487 tree tower, 183
24 Soundview Lane, that site has been -- has that
25 site been constructed, first of all; and if so, do

1 you plan on using the same tree vendor for this
2 particular location?

3 THE WITNESS (Vergati): Ray Vergati,
4 Homeland Towers. That particular docket you're
5 referring to is 183 Soundview Lane. That
6 particular product was a tree. It was an 85-foot
7 monopine with a 5-foot faux top, conical shaped in
8 nature. We used Valmont to manufacturer that pole
9 for us. It was the cadillac of poles. It was
10 three branches per vertical foot. We brought the
11 branches down to 20 feet above ground level. I
12 think the branches went from 14 feet and tapered
13 up to roughly 6 to 8 feet on top.

14 To answer your question, we would
15 certainly consider using that same product. It's
16 much more expensive but we think it's worth it.

17 MR. MERCIER: Thank you. For this
18 particular tower I know that the town may install
19 dish antennas up near the top. Would those be
20 also within the branch pattern, like concealed
21 within?

22 THE WITNESS (Vergati): I believe the
23 town would be installing two whips, each 12 feet
24 in length, and two microwave dishes, both 2 feet
25 in diameter. I believe the dishes would be

1 concealed within the top faux branches of the
2 tower. The upper whip antenna would be mounted, I
3 believe, 113 or so and would extend to 125. So
4 that particular whip, again, it's a diameter of
5 maybe 2, 3 inches, would extend above the branches
6 of the tower, but everything else would be
7 concealed within as well as the carrier antennas.
8 We plan on, if this is approved, having all the
9 carrier antennas concealed within the branches,
10 painted to match the tree, as well as camouflage
11 socks, just like we did on Soundview Lane.

12 MR. MERCIER: Thank you. If there's a
13 collocator that comes in after the tower is built,
14 how would they locate the equipment on the tree
15 tower, do they have to remove branches or are they
16 going to cut the branches, or who's responsible
17 for branch maintenance when they collocate?

18 THE WITNESS (Vergati): So as the
19 developer and owner of the tower, we take a lot of
20 pride in these sites, especially when they're
21 stealth in nature. Before we give what's called
22 an NTP, notice to proceed, to a carrier, they
23 understand Homeland's rules and guidelines on
24 touching our sites. There are branches that are
25 removed at times to fit in a particular mount or

1 antenna, but from my understanding branches can be
2 added with different branch patterns to still
3 conceal the antennas, obviously.

4 I think what would be nice, so we can
5 send a photo to the Council of the Soundview site
6 where AT&T is currently installed. Their panel
7 antennas and radio heads are up there, and they're
8 concealed very well within the branches.

9 MR. MERCIER: Would the new mounting
10 collar that's put on, I'm not sure if that's --
11 it's not preengineered or anything, right, so
12 someone would have to put a collar on the
13 antennas. Would those have any type of receptacle
14 for a branch or is there going to be like an
15 opening, not necessarily an opening, but an area
16 where branches will no longer be, and then you'd
17 have to turn other branches to conceal the
18 antennas. I'm just not sure how they put the
19 antennas on if you open up the branches.

20 THE WITNESS (Burns): The collars
21 themselves will be painted. Yes, some branches
22 may need to be removed and they are -- or even
23 moved in order to get the collar on to get the
24 antennas on, but they don't typically mount the
25 branches right to the collar of the antenna mount.

1 MR. MERCIER: If branches are damaged
2 or destroyed, is there like a central location
3 where you would have a storage container or do you
4 have to order new ones?

5 THE WITNESS (Vergati): Ray Vergati,
6 Homeland Towers. I believe when these towers are
7 shipped and ordered by us or any other developer
8 show up with the branches, there's usually extra
9 branches that come with the package of the tower
10 being delivered. Those are typically stored on
11 site, meaning extra branches that are left over
12 are put in the corner of the compound, layed down
13 and used for any future use, if needed.

14 MR. MERCIER: I'm going to move on to
15 the Natural Diversity Data Base letter, dated
16 January 7th, that was in application attachment 9.
17 You know, as the letter stated, there were two
18 potential bats and potentially a box turtle that
19 could inhibit the site. And then they offered
20 towards the end of the letter several protection
21 measures, including tree clearing restrictions.

22 And so in reading the letter, I just
23 want to confirm. So, to minimize the impacts to
24 all of these species that includes the bat and the
25 turtle, and they recommend no clearing between May

1 1st to August 31st, or does that only pertain to
2 bats or some other -- or the turtle? It's not
3 clear to me do they mean all three or not. Can
4 anybody provide insight?

5 THE WITNESS (Gustafson): Dean
6 Gustafson from All Points. So I agree with your
7 assessment of the letter. It's not entirely clear
8 what their intention was in making note of the
9 tree clearing restriction. But based on my work
10 over the past 30-plus years with the Natural
11 Diversity Data Base folks and dealing with these
12 three particular species, what I've seen before
13 consistent with those clearing restrictions is
14 specific to the eastern box turtle. And there are
15 no references to tree clearing restrictions for
16 little brown bat or red bat.

17 However, noting the recommendations in
18 the NDDB, the January 7, 2022 NDDB letter, we have
19 proposed a tree clearing restriction that would
20 encompass both little brown bat and red bat, and
21 we are proposing a seasonal restriction for tree
22 clearing to only occur between November 1st and
23 March 30th. That would be more than sufficient
24 for protection of the box turtle as indicated in
25 the NDDB letter. And so those protection measures

1 are also enumerated on Applicant Exhibit 10, the
2 revised site plans, sheet number N-1, there are
3 details to that effect.

4 And these protective measures and, in
5 particular, the tree clearing restriction for the
6 two listed bats, are very similar to another
7 project that was approved by the Council in August
8 of 2021 for a Homeland Towers proposal in Sherman,
9 Docket No. 499, where we had the exact same three
10 species occurring on that project and we provided
11 the same tree clearing restriction.

12 I'll just make further note that that
13 tree clearing restriction that would encompass
14 those three species with a particular focus on the
15 two listed bat species, would be equally
16 protective of the federally listed northern
17 long-eared bat.

18 MR. MERCIER: Thank you. Would that
19 restriction also have any benefit to any type of
20 birds, you know, nesting or anything of that
21 nature? Can you elaborate on that?

22 THE WITNESS (Gustafson): That's a
23 great question. Again, Dean Gustafson, All
24 Points. So for neotropical birds or resident bird
25 species that may be utilizing some of the forested

1 habitat, upland habitat on this project, tree
2 clearing during November 1st to March 30th would
3 be during a dormant period for the great majority
4 of those species, so that would also address any
5 possible concerns to avian nesting that may be
6 occurring on the site.

7 MR. MERCIER: Thank you. I'm going to
8 move on to some visibility questions. And I think
9 I'm going to be looking at hearing program Exhibit
10 4. That's responses to the Council
11 interrogatories. Okay. The response to Question
12 26, it said there were three properties that might
13 have year-round views and seasonal views within a
14 half mile of the site. Do you have the addresses
15 of those properties?

16 THE WITNESS (Gaudet): I can get you at
17 least two of them right now and then maybe during
18 the break I can get the third address for you.
19 Two of those three are 359 Dans Highway, and
20 that's the property to the northeast there, the
21 abutting property. The second one would be 59
22 Squires, which is the property to the north, the
23 other abutting property. I will double check and
24 see if I can get that information on where that
25 third residence is.

1 MR. MERCIER: Okay. I think that's
2 what I was looking for. You know, I read the
3 responses to 27 and 28. It's basically a general
4 response. Do you have for each property a little
5 more information as to what exactly they're going
6 to see, are they going to see the upper 20 feet,
7 upper 80 feet, or any type of information to --

8 THE WITNESS (Gaudet): It's tough to
9 tell. I'll speak first to Squires Lane. Squires
10 Lane, we did not have access to at the time of our
11 balloon float so we were relying on data from one
12 individual observation out on the cul-de-sac by 59
13 Squires Lane as well as the viewshed mapping. If
14 you look at the viewshed mapping, it shows it
15 primarily as seasonal. There is more intervening
16 trees between the Squires Lane property and the
17 tower than you would have with 359 Dans Highway.
18 But I think that once some of that tree clearing
19 around the compound occurs that there are likely
20 places on the property that you might have a
21 year-round view, albeit obstructed, of the
22 facility. Again, you know, we don't evaluate what
23 the view might be like from a second-story window,
24 let's say, so there is a possibility that as you
25 increase height in a structure that you might be

1 able to see the top of it a little bit more
2 clearly.

3 359 Dans Highway, they allowed us on
4 the property at the time of our balloon float. So
5 they will have year-round views certainly from the
6 backyard, from their pool area, from, I don't
7 recall what rooms they might have facing towards
8 the proposed facility, but certainly they would
9 have some year-round views primarily in the
10 backyard. Again, being static in nature, there's
11 certainly areas on that property where they will
12 have seasonal views only, and there will be areas,
13 for instance, going up the driveway where you're
14 down gradient from the residence that the facility
15 would be obstructed.

16 MR. MERCIER: Based on your
17 reconnaissance of that property, do you believe
18 they're going to be able to see the compound from
19 portions of their property?

20 THE WITNESS (Gaudet): It's tough to --
21 you're asking, I guess, specifically for, you
22 know, the equipment pads and fencing and things --

23 MR. MERCIER: I guess the landscaping.
24 Obviously, there's some landscaping. So will they
25 see that, the lower portion of the tower as it

1 exits the landscaped fenced area, would they be
2 able to see pretty much the entire facility from
3 portions of their property?

4 THE WITNESS (Gaudet): Yeah, certainly,
5 depending on where you are on the property, I
6 think it's likely that they could see where the
7 tower extends beyond the landscaping.

8 MR. MERCIER: Thank you.

9 THE WITNESS (Gaudet): And I'll get
10 that third residence address for you, if I can, at
11 the break.

12 MR. MERCIER: Okay. Quickly for
13 Interrogatory 29 this is more of just a general
14 question. When you do your visibility map, you
15 use a certain dataset; is that correct?

16 THE WITNESS (Gaudet): Correct.

17 MR. MERCIER: You know, it shows like
18 state properties. Why wasn't this particular
19 state forest shown on that dataset, is it an old
20 dataset or a different dataset? I did see the
21 Centennial Watershed State Forest as a data layer
22 on the avian resource map, but it wasn't on the
23 visibility map, so I wasn't sure if there was
24 different datasets you're using.

25 THE WITNESS (Gaudet): That is a good

1 question, one that I would need to get an answer
2 for on. I'm not sure why it was omitted in the
3 initial viewshed map.

4 MR. MERCIER: Now, in the applicants'
5 response to New Canaan Neighbor's Interrogatories,
6 that's hearing program Exhibit 8, there was
7 response 15. There was a large amount of
8 photographs that were taken during the visual
9 reconnaissance for the visibility analysis.

10 THE WITNESS (Gaudet): Yes.

11 MR. MERCIER: I didn't see any captions
12 or a map of anything showing where these were
13 taken. Do you have that information as to where
14 these photos were taken?

15 THE WITNESS (Gaudet): Yeah. So all
16 those photos should have the geodata in them. The
17 map was not, you know, a photolog as you'd see in
18 the attachment with the full visibility analysis
19 was not completed with this. The reason being
20 that every site that we evaluate, when we go out
21 and do a balloon float or crane tests, we take
22 sometimes hundreds of photos. You know, you're
23 talking evaluating a 2-mile radius study area,
24 hundreds of streets. Primarily a lot of those
25 locations are nonvisible, but we still

1 photodocument those locations. Sometimes we're
2 bracketing visibility so we could have a seasonal
3 shot, a year-round shot, a seasonal shot within a
4 span of, you know, a couple hundred yards on one
5 roadway. So those photos sometimes what we look
6 to do are find the best representative shots for
7 those locations and therefore don't provide, you
8 know, a photolog of the other, I think in this
9 case probably 70 something photos that we had
10 taken. Is that --

11 MR. MERCIER: I'm looking at the paper
12 version and I don't see any, you know, an actual
13 paper copy of this, I don't see any information.
14 So how would I get the information, through the
15 website or is this data that you just don't have
16 submitted to us?

17 THE WITNESS (Gaudet): I would have to
18 defer to Attorney Motel as Cuddy & Feder is the
19 one that submitted the files. So I'm not sure if
20 they submitted a J type file or if it was just a
21 PDF version, but we can certainly work to get you
22 that data.

23 MS. MOTEL: The files were PDF, so
24 we'll get that data and supplement the record.

25 MR. MERCIER: Okay. Thank you.

1 THE WITNESS (Gaudet): Mr. Mercier,
2 would it be helpful if we, rather than provide the
3 photos with the geodata data, just provide you
4 with a photolog referencing those locations?

5 MR. MERCIER: I think it would just be
6 beneficial so someone will know where they were
7 taken. I don't know in what form you would do
8 that, but whatever form so people can
9 cross-reference.

10 THE WITNESS (Gaudet): Will do.

11 MR. MERCIER: Thank you. I have a
12 couple questions on the site search.

13 MR. MORISSETTE: Mr. Mercier, if I may
14 interrupt. Do you have many more questions?
15 Given that it's about the time for a break, we can
16 let you finish or we can break now and come back
17 and complete your cross-examination at that point.

18 MR. MERCIER: There is a lot of
19 material, so yes, I think a break would be good
20 right now. Thank you.

21 MR. MORISSETTE: Very good. Okay. We
22 will return at 3:45 from our break and we will
23 continue with cross-examination by Mr. Mercier.
24 Thank you, everyone. We'll see you at 3:45.
25 Thank you.

1 (Whereupon, a recess was taken from
2 3:28 p.m. until 3:45 p.m.)

3 MR. MORISSETTE: Okay. We will
4 continue with cross-examination by Mr. Mercier.
5 Thank you, Mr. Mercier. Please continue.

6 MR. MERCIER: Thank you. Regarding
7 attachment 2, this was the site search, the
8 application attachment 2, that is, just looking at
9 the properties that were searched, 21 or so on the
10 map. Why wasn't a search conducted farther to the
11 east between, say, West Road and Route 124 there,
12 is that area of higher terrain, would it also,
13 being higher, would it also provide coverage
14 along, you know, some of that roadway, West Road
15 and also towards Ponus Ridge Road if the tower was
16 located up in that area?

17 THE WITNESS (Vergati): This is Ray
18 Vergati, Homeland Towers. I can speak to the site
19 search, and from a terrain coverage perspective
20 Martin Lavin can speak as well. There were sites,
21 25 basically looked at all together, really almost
22 in a circumference. There were sites looked at to
23 the east of the candidate site, that 1837. In my
24 discussions with the town, purely from a public
25 safety perspective the town originally had looked

1 to site a tower on Reservoir Lane to the west of
2 our site, actually, on the Stamford town line.

3 A number of years ago they tried to
4 site, I think it was an 80 or 100 foot pole for
5 public safety, and that was basically turned down
6 or they didn't pursue it for a number of reasons.
7 And speaking with public safety folks, they were
8 concentrating their efforts as well for a site in
9 this particular area of New Canaan northwest,
10 hence the site selection process that you see
11 before you on the sites that were looked at.
12 There were sites, I think, 4, 5, 21, 6, 24 on the
13 left that are to the east of the site that were
14 looked at, roughly a quarter of the sites overall.
15 So I tried to do a circumference in looking at
16 sites.

17 It's a tough area, very expensive homes
18 on private lanes. I think we picked a good site
19 in the sense having a reservoir across the street
20 with a limited number of residential homes in
21 close proximity. I wish I had a perfect site
22 every time I came before the Siting Council. We
23 try to work as best we can with what we have as
24 far as interested landlords and looking at the
25 terrain and so forth.

1 MR. MERCIER: Just so I heard
2 correctly, the reason you selected sites towards,
3 around the reservoir, that is, is basically
4 because of the town's initial needs; is that
5 correct?

6 THE WITNESS (Vergati): The town had a
7 study done back in, I think, 2012 or 2014 looking
8 at a wireless study. We knew where the existing
9 sites were, the one immediately to the north up in
10 Scott's Corner, Pound Ridge, New York and what
11 that did for coverage. We also know that the
12 town's preference -- and let me just back up
13 slightly. You know, the town chose Homeland
14 Towers through an RFP process in 2016 to partner
15 with and solve these coverage gaps. The
16 understanding that we've had with the town is that
17 we would do our best to keep facilities 110 feet
18 and below, and we tried to do that. So, is there
19 a silver bullet where, you know, this is the only
20 tower in the northwest? There could be more. I
21 can't sit here and say that definitively today.
22 But this was an area that was focused on by us for
23 public safety and also knowing that the carriers
24 had a deficiency and coverage gaps. That's why
25 Verizon is here, obviously, as an intervenor and

1 AT&T is here as the anchor.

2 MR. MERCIER: Thank you. Earlier today
3 during the identification of the exhibits you
4 mentioned something about Site 3, and you
5 clarified it with more information regarding, I
6 think, access sites. I didn't understand the
7 correction you made. If you can just repeat.

8 THE WITNESS (Vergati): Sure, by all
9 means.

10 MR. MERCIER: Thank you.

11 THE WITNESS (Vergati): So it was Site
12 No. 3, which is an Aquarion parcel in my site
13 search summary. So we had -- you know, we were
14 looking at creative ways to solve this coverage
15 gap. And one of those creative ways, knowing we
16 had a very difficult time finding a private
17 landlord given the nature of the area and so
18 forth, we had designed on paper a site where the
19 town has, let's say, a 50-foot right-of-way on
20 Ponus Ridge Road. We had attempted to think
21 outside the box if we could design a site
22 literally right on Ponus Ridge Road where the
23 equipment would be trained and would be within the
24 town's right-of-way at that point was roughly, I
25 think, 12 feet. We could not put a tower in that

1 width because of foundation and so forth.

2 So on my site search summary I list
3 Aquarion and their property, obviously, as a no
4 for interest from a landlord. I just want to
5 clarify the record that it was a combination on
6 that particular location that it could have been,
7 if they had said yes, a tower physically located
8 on Aquarion's property, however, the actual
9 equipment cabinets and walk-in closets and meter
10 boards would be contained within the right-of-way.
11 So, in essence, you know, I'm adding the town as a
12 potential candidate that was considered to be a
13 right-of-way. I mean, it was a long shot, but we
14 did look at that.

15 MR. MERCIER: Okay. Thank you. For
16 location 24, I think that was Lost District Drive,
17 you know, it states that AT&T, they rejected it,
18 it didn't meet their coverage objectives. Was
19 this property available for lease?

20 THE WITNESS (Vergati): I don't know if
21 it was actually available for lease. I had some
22 email correspondence where they were considering
23 it to help out the public safety aspect for the
24 town, but they did not want -- and I recall the
25 email -- quote/unquote, an 11-story facility on

1 the property. It was not pursued very indepth
2 given that it was very further north, much closer
3 to the New York border and closer toward the Pound
4 Ridge site, Scott's Corner, the ambulance
5 facility, as I mentioned earlier. But from a
6 coverage perspective, Martin Lavin, the RF
7 engineer for AT&T, could expand on that.

8 MR. MERCIER: I did see the plot and I
9 guess my question from that is, why was 110 feet
10 chosen, was there any type of analysis whether a
11 taller tower would work, but that might be moot if
12 the landlord is not even agreeable.

13 THE WITNESS (Vergati): Yeah, I think
14 it would be moot if -- I think they were only
15 interested in trying to help out from a public
16 safety standpoint of having a much shorter
17 facility and not interested in a taller tower
18 that's needed, obviously. And 110 though seems
19 like it's a tall facility. It's relatively short
20 in the tower world. It's probably a moot point.

21 MR. MERCIER: I have a question for Mr.
22 Lavin. I was looking at the coverage plots, the
23 coverage plot for the interrogatory response that
24 had to do with, let's see, what number was that?
25 Interrogatory response 7, you know, it asked about

1 can you give a plot for the Lost District Drive
2 parcel, and you had 110 chosen -- excuse me
3 modeled, and you submitted that. I was looking at
4 the model and I was looking at the site to the
5 east of the Lost Acre site and I saw it was
6 CT2282.

7 THE WITNESS (Lavin): Yes.

8 MR. MERCIER: And in the area of Route
9 124, Apple Tree Lane, it just seems there's a
10 little more coverage there than was initially
11 shown in the application coverage models. So I
12 wasn't sure if there was updated data you used.
13 It just shows that the existing coverage in the
14 application was a little more deficient than it is
15 on this particular plot. I'm just trying to
16 figure out why.

17 THE WITNESS (Lavin): That is, I
18 believe, distant coverage from the Lost District.
19 There are so many hilltops here that any site
20 that's on a reasonably high area may catch the
21 hilltop, and no other site has gone before with
22 just that hilltop.

23 MR. MERCIER: Okay, I got you. I think
24 I understand now. Okay. Thank you. For this
25 particular site at Ponus Ridge Road, what is

1 driving the height of the tower, is it the town or
2 is it AT&T's network needs?

3 THE WITNESS (Lavin): It's a
4 combination of both. Certainly the town, I know
5 Mr. Fine can speak of that in more detail, but
6 they need the height, I believe, for their
7 operations. And for us to allow for all, as many
8 collocations as possible, which keeps us above
9 the, the final collocator of the four potentials
10 would be at 76 feet, which keeps the last
11 collocator above the tree canopy which is about
12 65, 70 feet, I believe.

13 MR. MERCIER: Okay. So essentially in
14 this area you have no reliable service at all; is
15 that correct?

16 THE WITNESS (Lavin): As the existing
17 coverage plots show, yeah.

18 MR. MERCIER: Okay. I was looking at
19 the proposed coverage plot and it did show, you
20 know, over -- I just talked about it with
21 Mr. Vergati -- over by Highway 124 and at the
22 north end of West Road, you know, there's a larger
23 hole over there, a coverage gap. I mean, so would
24 another site be needed in that area eventually, or
25 how does AT&T tackle an area like this, is this

1 proposed site going to be like your base site and
2 then you would design other sites around it?

3 THE WITNESS (Lavin): As always, yeah,
4 you start with whatever you have and you move onto
5 the next one. I know there are certainly a
6 significant number of gaps remaining. The terrain
7 is very challenging in this area. So there is
8 certainly more work to be done, but we would move
9 forward from here into the next priority gap.

10 MR. MERCIER: I was reading through the
11 interrogatory responses and there was a response,
12 I think, to the New Canaan Neighbors that
13 basically said, you know, a crane test or a
14 continuous wave test was not conducted at the
15 proposed site. Why is this type of testing not
16 needed for this particular site?

17 THE WITNESS (Lavin): Our models are
18 very good in this area. We know this tower is
19 needed for the town. We get a very high degree of
20 accuracy with our propagation models. And I don't
21 know what the current access status is offhand
22 even of the site in terms of getting a crane. I
23 don't think -- if you can't get into this area
24 with a crane, you'd be testing an area -- in a
25 rugged terrain like this, the further you are from

1 exactly the right location, the more the validity
2 of such a test falls into question. We couldn't
3 get very close with a crane to the location we're
4 proposing at the moment. Nothing is cleared,
5 nothing is built, so access --

6 MR. MERCIER: That's a good point.
7 Thank you. Regarding the FirstNet services, is
8 the intent to cover the entire State of
9 Connecticut with FirstNet, or is FirstNet, you
10 know, a certain geographic area where coverage may
11 be deficient, or what's the intent with the
12 FirstNet capability geographically?

13 THE WITNESS (Lavin): Geographically
14 it's the services available anywhere AT&T has
15 service, and it's to obviously through the public
16 safety aspect it would be eventually to have
17 coverage everywhere, and each site is a step along
18 that road.

19 MR. MERCIER: For this particular area
20 do you have any subscribers to FirstNet, is it by
21 a town basis or is it, you know, like a regional
22 emergency response network, or do you have to go
23 by town for emergency responders, that is?

24 THE WITNESS (Carey): This is Harry
25 Carey for AT&T. Towns opt into the FirstNet

1 service, whether police, fire or emergency
2 management, as well as the state, yes.

3 MR. MERCIER: Thank you. Is 700
4 megahertz frequency used for FirstNet?

5 THE WITNESS (Lavin): Yes, it is. It's
6 band 14. That is the one that's equipped to give
7 priority to public service, public safety users,
8 and we can set that whole carrier aside for public
9 safety, if needed. That's 700 megahertz.

10 MR. MERCIER: Thank you. For the
11 responses to Council interrogatories, this was
12 Exhibit 4 in the program, Interrogatory 18 dealt
13 with small cells. You know, in there it stated
14 that the higher frequency such as the 1,900 band,
15 you know, typically, small cells are typically
16 used for those. Can you expand on why the 700
17 frequencies cannot be effectively deployed for
18 small cell applications?

19 THE WITNESS (Lavin): They are
20 sometimes deployed, but the antennas and the other
21 equipment is much larger and heavier and that's
22 often an issue if we're trying to locate on
23 current utility poles especially. The size of the
24 antennas becomes a problem. We don't really know
25 where we're going to be allowed to go on the

1 antenna -- on the pole. Every space going up the
2 pole has a certain owner, so to speak, of it.
3 There's usually a neutral running over the top,
4 the powerlines on the top, and then we get
5 somewhere down there, sometimes as low as 20 or 25
6 feet. And to try to put a meaningful 700
7 megahertz antenna in that space is very difficult.
8 And also structurally a lot of old poles are not
9 capable of supporting the larger 700 megahertz
10 equipment and antennas.

11 MR. MERCIER: Okay. So it's the
12 physical aspect of the antennas themselves is a
13 limiting factor?

14 THE WITNESS (Lavin): Yes.

15 MR. MERCIER: Okay.

16 THE WITNESS (Lavin): And equipment.

17 MR. MERCIER: Do they require larger
18 cabinets or anything that adhere to the poles too
19 or are the cabinets just the same type of
20 technology whether it's 1,900 or 700?

21 THE WITNESS (Lavin): I believe it's
22 one or the other. That's the other thing with
23 these. We can get a lot more capacity. We can
24 get more channels if we use the upper band. If
25 the 700 is in there, it's to the exclusion of

1 everything else. We also, there are two 700
2 megahertz bands we deploy, and we can only deploy
3 one in any small cell installation. So it's one
4 or the other. Band 14 in this case would allow us
5 to give the priority to public safety, but then we
6 couldn't install the other 700 megahertz carrier,
7 so our capacity would suffer.

8 MR. MERCIER: And what's the limiting
9 factor for small cells in regards to emergency
10 backup power, the battery pack is too big?

11 THE WITNESS (Lavin): Yeah, the battery
12 packs to get any meaningful long-term backup would
13 have to be quite substantial. Some have battery
14 backups, most don't, just to get over the bumps in
15 the power. Of course, we can't run power to these
16 things. Power over Ethernet only works for a few
17 hundred feet and we can't really establish a
18 backup power system to get any lengthy backup. In
19 times of emergency when there's a storm and things
20 are down, these would be, if we didn't have
21 battery backup, if it were able to be installed,
22 it would run for some time, but not very long, and
23 then all this coverage would go away.

24 MR. MERCIER: Okay. Thank you. I just
25 have a couple questions for Mr. Fine for the Town

1 of Fairfield's equipment.

2 THE WITNESS (Gaudet): Mr. Mercier,
3 while the witnesses shift over there, I was able
4 to get the third address for the third residence
5 with year-round visibility, and it is the host
6 parcel residence at 1837 Ponus Ridge.

7 MR. MERCIER: Great. Thank you.

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

9 MS. MOTEL: Mr. Mercier, we have Eric
10 Fine here.

11 MR. MERCIER: Okay. I guess I'll start
12 out with, where's the town emergency communication
13 antennas located right now?

14 THE WITNESS (Fine): So let me just
15 clarify one thing. Eric Fine. I'm with Norcom.
16 We are the town's technical representative and
17 we're the servicer, installer and servicer of the
18 radio equipment. So presently the existing system
19 architecture is, let's get the current map up so I
20 don't misspeak. There are facilities at the
21 Waveny water tank in Waveny Park. There's
22 facilities at New Canaan Police headquarters on
23 South Street. We have a facility at West School
24 on the building. There's facilities at Silver
25 Hill Hospital, New Canaan Country Club, St. Luke's

1 School up in the north end, and we have a site at
2 982 Oenoke which is at a private residence.

3 MR. MERCIER: Okay. Given all those
4 sites, why would the proposed site here be
5 necessary for the town communication network?

6 THE WITNESS (Fine): So the town did a
7 major upgrade about three years ago, and at the
8 time there was a deficiency identified up in this
9 north end area of the town. And one of the sites,
10 this 982 Oenoke site, being that it's at a private
11 residence, this was something that the town had a
12 connection with the previous homeowner, a
13 gentleman by the name of Robert McNamara and his
14 wife. They were approached as potentially
15 using -- he had a barn out in the back of the
16 property -- potentially using that site for a town
17 site. They entered, the town entered into an
18 agreement with him. I believe there is actually a
19 lease agreement, maybe a zero dollar or one dollar
20 a year lease agreement, but the McNamaras were
21 gracious enough to allow equipment to be put at
22 their home.

23 And the town entered this with the
24 feeling that this was going to be a temporary
25 installation until another site presented itself

1 that was a more robust site from an elevation
2 perspective to enhance coverage or give comparable
3 coverage, would be more of a hardened site with,
4 you know, better backup power, a better facility,
5 easier serviceability for the site, and that the
6 town wouldn't be reliant on, you know, a
7 resident's property for the town's needs.

8 The property did change hands
9 approximately a year ago or within the last year,
10 and the new owner, to my knowledge, is, you know,
11 allowing the equipment to stay there, but I do
12 really understand that it's the town's desire to
13 relocate off of this site and get into a more
14 commercial, hardened site that's, you know, more
15 beneficial to public safety.

16 MR. MERCIER: Okay. So would this
17 proposed site also be replacing whatever coverage
18 that is offered by the McNamara property? I'll
19 call it the McNamara property.

20 THE WITNESS (Fine): It's comparable
21 coverage, yes.

22 MR. MERCIER: I mean, so that site will
23 go away and be replaced by this site, is that the
24 intent?

25 THE WITNESS (Fine): Correct, yes.

1 There's already been discussion about dismantling
2 the site, restoring it back to its original
3 configuration should this site become available.

4 Let me point out a couple other reasons
5 that it would be beneficial for the town to get
6 off of this, the McNamara site and move over to
7 this site. Presently at the site, the current
8 residential site, all of the power that the town
9 utilizes there comes from a residential property,
10 and they're reliant on -- there is a generator on
11 site, but they're reliant on the residential
12 property's generator for backup should there be a
13 long-term power failure there. And there have
14 been -- to date there has been a prolonged power
15 outage at the facility because of the failure of
16 the generator. So the plan is for the town to
17 have their own, you know, purchased, installed and
18 town maintained generator should the site move to
19 the new cell site.

20 The other issue that we've had issues
21 with over the last three years is the only method
22 for getting backhaul communications to this site
23 for the IP transport into the radio site to make
24 it function was actually through a cable modem to
25 get IP transport in. And there was no utility

1 brought to the town's equipment directly from the
2 street. So at the homeowner's request, so the
3 cable line that services the town equipment
4 actually transitions through the basement of the
5 residential property there. And during the
6 transition of ownership the cable got disrupted
7 and we actually had to get access into the
8 basement of the house to get the cable
9 reestablished to get the site back online.

10 It's the town's intention that they
11 would be doing one of two things should the
12 equipment relocate to this new cell site. I think
13 initially it probably will be fired up and
14 operational on a fiber connection into the cell
15 site, but ideally they would like to move it to a
16 wireless 4.9 megahertz microwave connectivity back
17 to the Waveny water tank which we've already cited
18 as being viable at the elevations that have been
19 identified. And that would remove any reliance on
20 a carrier type connection, meaning a leased
21 connection, IP backhaul connection for the network
22 equipment at the site back to the system at the
23 police department.

24 MR. MERCIER: Okay. Since you just
25 mentioned the equipment, you know, the potential

1 dishes in the future, I just want to look at the
2 tower profile that was in the application, if you
3 just tell me what the town's equipment is going to
4 be. So right now I'm seeing at the top of the
5 tower there's a 12-foot long omni antenna. Is
6 that for emergency communications only or does
7 that carry all types of services?

8 THE WITNESS (Fine): No, that's for the
9 town.

10 MR. MERCIER: Exactly. But is it for
11 emergency use or is it for a town garage, what's
12 the --

13 THE WITNESS (Fine): Let me clarify.
14 So the facility that is at the Oenoke residence
15 supports the police department, supports the fire
16 department, supports the emergency medical
17 services, supports the public works and supports
18 the CERT, which is the Civilian Emergency Response
19 Team. So there is five channels of communications
20 capabilities there.

21 MR. MERCIER: Okay. And then just
22 below that is the two future dish antennas. Is
23 that the backhaul you were talking about or is
24 that some other purpose?

25 THE WITNESS (Fine): No, that's the IP

1 backhaul.

2 MR. MERCIER: Okay. Then down lower
3 there is about 80 feet on this diagram it shows
4 another, it looks like a whip antenna?

5 THE WITNESS (Fine): Yes.

6 MR. MERCIER: What's that one for?

7 THE WITNESS (Fine): So to work with
8 Homeland Towers in coming up with an antenna
9 design that worked with them for this purpose, the
10 antenna that's currently in operation over at the
11 private residence is what we call a dual-feed
12 antenna, it's 22 feet long. And to try to keep
13 the height, the overall height of the tower down,
14 what we're doing is we're actually splitting the
15 antennas here. And the transmit antenna will be
16 at the top of the tower and the receive antenna
17 will be at a lower elevation.

18 MR. MERCIER: Did the town chose 110
19 feet for this tower, is that necessary, or could
20 you go lower?

21 THE WITNESS (Fine): Well, we looked at
22 it, and I'm the guy who does the microwave
23 point-to-point path surveys. When I did the
24 survey -- and the documentation I believe you have
25 right, Ray? I think we provided that. So when we

1 did the path surveys, we were right at minimum
2 elevation, right around 110 feet, 112 feet.

3 MR. MERCIER: Thank you. Did the town
4 ever consider using any type of small cell
5 deployments for their communication needs,
6 multiple poles, utility poles?

7 THE WITNESS (Fine): I can tell you
8 that within the public safety networks that I'm
9 familiar with and I've been working in since 1978,
10 there is no LMR small cell equipment available for
11 any type of deployment to meet their current
12 needs.

13 MR. MERCIER: Thank you. I have no
14 other questions, Mr. Chairman. Thank you.

15 MR. MORISSETTE: Thank you, Mr.
16 Mercier. We will now continue with
17 cross-examination by Mr. Silvestri followed by Mr.
18 Nguyen, if we have time.

19 Mr. Silvestri.

20 MR. SILVESTRI: Thank you, Mr.
21 Morissette. And good afternoon to everyone.

22 Mr. Vergati, I was going to start out
23 with having you explain your comments before to
24 property No. 3, but you took care of that already
25 with Mr. Mercier, so I'll thank you again.

1 Mr. Burns, in your discussion with Mr.
2 Mercier you brought up the word "balanced." How
3 do you define balanced?

4 THE WITNESS (Burns): Once again, for
5 the record, Robert Burns, All Points Technologies.
6 Mr. Silvestri, a balanced site is, well, it's when
7 the amount of excavation is the same as the amount
8 of fill so that no, in theory, no material needs
9 to be brought onto the site or taken off the site.
10 Everything is self-contained on the site as far as
11 earthwork goes.

12 MR. SILVESTRI: Very good. Thank you,
13 Mr. Burns for your clarification.

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

15 MR. SILVESTRI: Now, I'm going to start
16 with the application part of it. And my first
17 question might be a rehash of what Mr. Mercier had
18 asked earlier, but I'm going to bring it up again
19 for my clarification. If you look at attachment 3
20 and 4 under Tab No. 1, and this is the radio
21 frequency analysis report. What I'm seeing is the
22 proposed coverage toward the east, I believe it's
23 east, towards Apple Tree Lane is quite extensive
24 compared to proposed coverage toward Aspen Lane,
25 say, in the south direction yet the terrain

1 towards Aspen Lane seems to be lower in overall
2 elevation. So my question is, could you explain
3 the proposed difference in coverage between those
4 two areas?

5 THE WITNESS (Lavin): So we're
6 looking --

7 MR. SILVESTRI: Under Tab 1, attachment
8 3 and 4.

9 THE WITNESS (Lavin): And we're looking
10 at coverage. So we're looking in terms of
11 coverage from the proposed site in the direction
12 of?

13 MR. SILVESTRI: Aspen -- I'm sorry,
14 Apple Tree Lane seems to have quite extensive
15 coverage compared to, say, Aspen Lane, yet I'm
16 looking at the terrain part of it and Aspen Lane
17 seems to be lower in overall elevation. So I'm
18 curious why there's a difference that's there.

19 THE WITNESS (Lavin): In terms of Apple
20 Tree, the terrain goes down and then comes back up
21 again. For Apple Tree it comes back up, so that
22 gives us more visibility into there. To the south
23 in looking at I think it's probably just distance
24 through the trees where the elevation there isn't
25 all that different, but we're traveling a long

1 distance through the trees about a mile and a
2 half. I think we encounter a lot of foliage along
3 the way there over a great distance. There's some
4 coverage that comes up, it says Cricket Lane along
5 High Ridge Road, that in particular have -- those
6 in the green have more elevation. It's about 400
7 feet high. We're so low I think down in that
8 valley going toward Aspen that it seems to run out
9 about a quarter mile south of the reservoir. I'm
10 guessing between foliage and shadowing on the back
11 side of terrain features that we're losing that
12 coverage there, and then it picks up again, as I
13 say, around Cricket Lane, in that area.

14 MR. SILVESTRI: So if I understood you
15 correctly, it's not necessarily a ground elevation
16 issue but a tree and other foliage issue that
17 would impede coverage?

18 THE WITNESS (Lavin): There's a foliage
19 factor and I think also some of those areas are on
20 the downslope facing away from the site so there
21 would be shadowing even if they're not -- they're
22 the same elevation as areas on the other, on the
23 near side of the small terrain features in there.
24 On the back side of those you'll get shadowing not
25 necessarily exclusively from foliage but also from

1 just being on the wrong side of that hill.

2 MR. SILVESTRI: Okay. Thank you for
3 your response. I'd like to turn now to the site
4 search summary which is under Tab No. 2. And when
5 I look at this, a number of property owners, I
6 believe I counted 14, did not respond to a
7 proposal sent to them via certified mail. So my
8 question is, were there any follow-up attempts to
9 contact the owners?

10 THE WITNESS (Vergati): Ray Vergati,
11 Homeland Towers. Out of the 24 properties, they
12 were sent a certified proposal via green cards.
13 When we received the green cards back signed, I
14 don't believe there was a follow-up certified
15 mailing that went out to them.

16 MR. SILVESTRI: Thank you for your
17 response, Mr. Vergati. If I could now turn under
18 Tab 4 to the site survey which is labeled as EX-1.
19 When I look at the elevations here, EX-1 has the
20 proposed center of the tower at what seems to be
21 an elevation of 212 feet. When I look
22 approximately 50 feet in the southwest direction
23 of that proposed location, there's a rise that I
24 believe is about 256 feet in elevation. My
25 question, would a shift in the proposed tower

1 location to that rise result in, one, an overall
2 shorter tower; two, a shorter access drive and
3 ultimately overall reduced costs?

4 THE WITNESS (Burns): Robert Burns, All
5 Points. First of all, the tower elevation there
6 is about 399.5.

7 MR. SILVESTRI: I'm going by just
8 ground elevation. I understand what you're
9 looking at above mean sea level.

10 THE WITNESS (Burns): Okay. Item 2,
11 the 212 you're reading there is the tree number.
12 That area of the tower and the existing ground is
13 about 399.5. There were so many trees, he
14 actually numbered them all.

15 MR. SILVESTRI: I was looking at that
16 as elevation, Mr. Burns, so I stand corrected.
17 Thank you. I'll take that question off the table.

18 THE WITNESS (Burns): There's one.

19 MR. SILVESTRI: All right. Mr. Gaudet,
20 Tab 8 has the visual assessments and photo
21 simulations. And I'm looking at Photo 31 that if
22 I move closer to the mailbox at the left of that
23 photo would I see the monopine or is that what
24 Photo No. 32 actually accomplishes?

25 THE WITNESS (Gaudet): Yes. So Photo

1 32 is, yeah, Photo 32 is taken just in front of
2 that mailbox on the left side of the picture in
3 Photo 31. So it's not just moving left at this
4 vantage point but left and forward because where
5 it opens up.

6 MR. SILVESTRI: Understood. Thank you.
7 Now I'd like turn to Set One of the interrogatory
8 responses. And a general question when I look at
9 the proposed coverage plots, if you will. Why
10 does the proposed coverage for 700 megahertz
11 extend to a much broader area in general than
12 higher frequencies? And I think you're on mute.

13 THE WITNESS (Lavin): One more time.

14 MR. SILVESTRI: There you go.

15 THE WITNESS (Lavin): The longer
16 wavelengths propagate much better. It works down
17 to even 450 or 150 for public safety which is why
18 they propagate even better than 700. Shorter
19 waves are stopped by foliage to a much greater
20 extent. It's basically, yeah, the longer
21 wavelengths just are able to move over obstacles
22 better than shorter ones.

23 MR. SILVESTRI: So when you say longer
24 wavelength, it's not necessarily higher
25 frequencies with the longer wavelength; is that

1 correct?

2 THE WITNESS (Lavin): Higher
3 frequencies have shorter wavelengths.

4 MR. SILVESTRI: Got you. Thank you.
5 Now, the proposal also has 5G for this; is that
6 correct?

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

9 MR. SILVESTRI: And if I understand
10 right, 5G tends to have shorter coverage than the
11 other megahertz; would that be right?

12 THE WITNESS (Lavin): It depends on
13 where it's deployed. We are, I believe, deploying
14 it at 850 megahertz. I'm not entirely sure about
15 that, but that's the 5G low band. It's just a
16 change in the modulation scheme. At the same
17 frequency the path losses are the same as they
18 would be for 850 or 700 under 4G.

19 MR. SILVESTRI: So a related question,
20 how do you get 5G to cover more of an area, if you
21 will?

22 THE WITNESS (Lavin): You would have
23 to, at the same frequently it will cover the same
24 area as 4G more or less. The ones with a very
25 limited coverage is the 5G Plus for AT&T which is

1 millimeter wave, that's 24 to 39 gigahertz, 24,000
2 to 39,000 megahertz. Those are the ones that are
3 deployed in city centers. That has a very limited
4 coverage. Almost anything that gets in the way
5 can knock that signal down. We're putting 5G
6 in -- within the lower band there's 700 and 850
7 megahertz which 5G deployment there's really no
8 difference to speak of in coverage between 4G and
9 5G. We're also deploying it 1,900, 2,100 and
10 2,300 in various sites. Those don't have nearly
11 as much coverage as 700 and 850, but much more
12 than the millimeter wave. Millimeter wave is 5G
13 Plus. The others are referred to as 5G.

14 MR. SILVESTRI: Forgive me on this
15 follow-up question then. If you mention that 5G
16 and 4G are relatively the same, why are we moving
17 to 5G?

18 THE WITNESS (Lavin): Because 5G
19 supports higher data rates.

20 MR. SILVESTRI: Higher data what?

21 THE WITNESS (Lavin): Rates.

22 MR. SILVESTRI: Rates. Thank you.

23 THE WITNESS (Lavin): Yes.

24 MR. SILVESTRI: Okay. Now I'd like to
25 turn attention to Sheet CP-1. And I guess

1 originally it seemed that the town and Verizon
2 were proposing to install 500-gallon propane tanks
3 for the emergency generators while AT&T was
4 looking at the 92 usable gallon fuel tank with
5 diesel fuel. But if I have it correctly, that's
6 all changed to incorporate propane tanks for all
7 carriers; is that correct?

8 THE WITNESS (Burns): That's correct,
9 carriers and the town.

10 MR. SILVESTRI: Okay, carriers and the
11 town will all have propane. Where would the town
12 propane tank be located? I don't see that on any
13 drawing.

14 THE WITNESS (Burns): So the area
15 that's on CP-1 now, the idea is to put in a large
16 concrete pad with room for four 500-gallon propane
17 tanks. And as each entity comes out here and
18 builds, there would be room for them to put their
19 propane tank on that pad and then pipe it to their
20 individual area.

21 MR. SILVESTRI: I see that, but I don't
22 see where the town's would go.

23 THE WITNESS (Burns): So right now the
24 CP-1 is just showing AT&T's equipment. There's a
25 space labeled for the town and a space labeled for

1 Verizon, but we don't show their particular
2 equipment. If you're looking at CP-1, AT&T is
3 sort of in the, what is that, northwest corner.
4 Right below them is the future Verizon space, and
5 then below them is the future municipal equipment
6 area.

7 MR. SILVESTRI: I think I got that.
8 Thank you, Mr. Burns.

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

11 MR. SILVESTRI: Okay. Moving on, I'm
12 now looking at the responses of Homeland Towers
13 and New Cingular Wireless to Party Buschmann,
14 Trustee prehearing interrogatories and, in
15 particular, responses 20 and 21. They commented
16 why 982 Oenoke, if I pronounced that correctly,
17 Ridge Road and 40 Dans Highway were not analyzed.
18 And in the June 15, 2022 correspondence from Alan
19 Burg to David Sherwood they also mentioned 40
20 River Wind Road was listed as an alternative site
21 in addition to the two I just mentioned. Question
22 to you, was 40 River Wind Road ever considered as
23 a potential location?

24 THE WITNESS (Vergati): This is Ray
25 Vergati, Homeland Towers. To answer your

1 question, I don't believe 40 River Wind Road was
2 considered. I would double check my files, but I
3 speak to many people, obviously, in my business,
4 but as far as to the best of my knowledge there is
5 no correspondence via emails, phone calls or
6 proposals sent to that particular address.

7 MR. SILVESTRI: Based on the location
8 of 40 River Wind Road, could that theoretically
9 provide coverage that you're looking for?

10 THE WITNESS (Lavin): Martin Lavin for
11 AT&T. I have looked -- I don't have plots on the
12 record or to present today. I looked at each of
13 the locations that Mr. Burg put forth as
14 alternates, and none of them gave the coverage we
15 need.

16 MR. SILVESTRI: Okay. Stay there, Mr.
17 Lavin, because I'm looking also at page 6 of 31 of
18 that correspondence. It states, in part, that
19 comparing these map coverage exhibits, it is
20 readily apparent that the 982 Oenoke Ridge Road
21 and 40 Dans Highway sites offer superior or
22 substantially similar coverage at the same or
23 lower tower height to 1837 Ponus Ridge Road.

24 Do you have any comments on what is
25 being presented with Mr. Burg to what you just

1 mentioned?

2 THE WITNESS (Lavin): I analyzed 982
3 Oenoke and 40 Dans Highway at 110 feet, which is
4 the proposed height of the proposed site, and
5 neither one of them gives the coverage we need.

6 MR. SILVESTRI: So there is a, how
7 would you say, a difference of opinion or a
8 difference in model, if you will, between what you
9 had run and what was contained within Mr. Burg's
10 analysis; would that be a true statement?

11 THE WITNESS (Lavin): That would be a
12 fairly accurate statement, yes.

13 MR. SILVESTRI: Okay. Now, also while
14 I have you, and this may be a similar response to
15 what you were discussing with Mr. Mercier about
16 poles in general, but on page 7 of 31 in that
17 report it examined potential utility pole
18 locations and use. Specifically it says,
19 importantly, one of the existing utility pole
20 locations adjacent to either 388 West Road or 403
21 West Road would provide substantially similar or
22 better coverage than 1837 Ponus Ridge Road. And
23 then it also examined a two-site utility pole use
24 at 28 -- I'm sorry, 288 Elm Street and 1 Barnegat
25 Road. Can you comment on any of those potential

1 pole sites as being possibilities?

2 THE WITNESS (Lavin): I don't remember
3 the second site offhand, but the first two I did
4 look at, and neither of them would provide the
5 coverage we need even at 110 feet.

6 MR. SILVESTRI: The sense I have is
7 that this would not be a small cell type
8 installation on a pole but a full-blown kind of
9 antenna, hence my question to you.

10 THE WITNESS (Lavin): Uh-huh.

11 MR. SILVESTRI: But if I understood you
12 correctly, also, you didn't look at the dual
13 utility pole at 288 Elm and 1 Barnegat, would that
14 be correct?

15 THE WITNESS (Lavin): Offhand, I don't
16 recall if I did. I tried to do all of the ones
17 that Mr. Burg cited, but I'm not a hundred percent
18 sure I looked at those. I believe they are very
19 distant from the coverage area we need.

20 MR. SILVESTRI: Understood. For
21 completeness, seeing that we would be continuing
22 at another date, is it possible that you could
23 look at that in the meantime and give me a more
24 definitive answer?

25 THE WITNESS (Lavin): Yes. As is the

1 case with the others as well.

2 MR. SILVESTRI: Yes, provided Mr.
3 Morissette agrees with that too.

4 MR. MORISSETTE: Yes, that would be
5 fine. Thank you.

6 MR. SILVESTRI: All right. Thank you.
7 Okay. My next set of questions focuses on the
8 State of Connecticut Department of Public Health
9 June 1, 2022 letter. And I have a few questions
10 on this one. In their letter they mention, it's
11 recommended that the number of trees removed be
12 minimized and other vegetation planted wherever
13 possible. I know that the number of trees is now
14 down to 94 that would propose to be removed. Is
15 there any possibility of reducing that number, and
16 similarly, is there any type of response to other
17 vegetation that could be planted as they mentioned
18 in their letter? I don't know who has that one,
19 but everybody seems to be on mute.

20 THE WITNESS (Burns): I'm sorry, Mr.
21 Silvestri. Once again, Robert Burns from All
22 Points. As far as proposed plantings, that's
23 something that certainly can be looked at, but as
24 far as further reducing the amount of trees to be
25 removed, we've already looked at it once and I'm

1 not sure it can be reduced by any more significant
2 number without some serious retaining walls or
3 something along those lines.

4 MR. SILVESTRI: Thank you for your
5 response, Mr. Burns.

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

7 MR. SILVESTRI: You talked about fill
8 earlier with Mr. Mercier. And this goes back to
9 the June 21st supplemental submissions that you
10 had. I'm curious as to, you mentioned
11 specifications that would make the fill suitable
12 to be used, but it doesn't really specify what
13 that means. So I'm curious if you can give me an
14 answer as to what specifications would you be
15 looking for that makes fill suitable to use.

16 THE WITNESS (Burns): Okay. So when we
17 submit the D&M, we usually submit a full-blown
18 page on specifications. Those specs for fill are
19 compaction and what the bearing capacity could be.
20 A sieve analysis is what the local fill -- local
21 fill -- what fill on site could pass the sieve
22 analysis, and just looking to see that it's free
23 from organics and some of the other things that
24 could reject the fill. Just on a cursory look, I
25 think the excavation here will easily be used for

1 fill on site as well. But it's not, any fill they
2 bring on site would have to meet those same specs.

3 MR. SILVESTRI: That was my follow-up
4 question that if it didn't meet specifications
5 what procedure would you use to verify that, how
6 shall we say, no legacy contamination will be
7 contained in the incoming fill.

8 THE WITNESS (Burns): The contractor
9 has to use fill within the guidelines that are set
10 forth on the D&M and ultimately the construction
11 documents which will be specified material
12 specifications.

13 MR. SILVESTRI: That would also be not
14 only from a structural standpoint but from, say,
15 an invasive species or types of soil
16 contamination?

17 THE WITNESS (Burns): Absolutely
18 correct, yes.

19 MR. SILVESTRI: Then the follow-up
20 question, regardless what type of fill would be
21 used, good fill obviously, how do you stabilize
22 the fill against erosion once it's placed?

23 THE WITNESS (Burns): So the fill is
24 placed in lifts -- I'm trying to remember offhand
25 if they're 8-inch or 12-inch lifts -- and

1 compacted to usually around 95 percent until you
2 get to a finished grade. Then the erosion blanket
3 is put over it and stapled in place and it's
4 seeded as well as in cases where there are very
5 long side slopes a series of filter socks put on
6 there to make sure that the turf has a chance to
7 establish and gain a foothold.

8 MR. SILVESTRI: Is there a period of
9 time that you would need to wait before you would
10 be in the area where you have the erosion control
11 blankets and seed and that type of thing?

12 THE WITNESS (Burns): Be in the area in
13 terms of walking, having equipment?

14 MR. SILVESTRI: Having equipment or
15 nearby disturbances.

16 THE WITNESS (Burns): Yeah. So once
17 the erosion blanket is down and it's seeded, and
18 if we need the filter socks we'll put them in,
19 that area should have no equipment on it until the
20 turf is established and stable, not only
21 established but stable. The idea being that's
22 more or less a finished course, if you will.

23 MR. SILVESTRI: Understood. Thank you.
24 Then I believe you had talked with Mr. Mercier
25 earlier about the rain garden part.

1 THE WITNESS (Burns): Yes.

2 MR. SILVESTRI: Off the top of your
3 head, do you know of any specific location or
4 locations where a rain garden might be located?

5 THE WITNESS (Burns): Yeah. So my
6 initial thoughts are that there's a riprap
7 stilling basin at the very end of the proposed
8 driveway that has potential to be a rain garden
9 and possibly stilling basins depending on what
10 soils look like up there. So there is a
11 possibility of, I'm looking at three, maybe four
12 distinct locations. I'm not saying that all four
13 could be rain gardens but some combination could
14 be rain gardens.

15 MR. SILVESTRI: Understood. For my
16 knowledge, how big would a typical rain garden be?

17 THE WITNESS (Burns): They're really
18 not huge. Probably they're almost, I would say
19 slightly bigger than the stilling basins we're
20 showing here, but they could be the same size.
21 They really aren't meant to take large volumes of
22 runoff. But in these areas these pipes are taking
23 small areas of runoff, so it could work as an
24 outlet device. So they're not huge. They're not
25 the size of a detention basin, but they're almost,

1 I would say, similar in size to what we're showing
2 here for a stilling basin.

3 MR. SILVESTRI: And one more
4 clarification for me. Do they actually function
5 more to take runoff or just take precipitation
6 from the air, if you will, or both?

7 THE WITNESS (Burns): I would say both.
8 Both because they are a rain garden and ultimately
9 they need to stay wet, if you will, for the plants
10 to take so that there does need to be some kind of
11 runoff, yeah, a combination of the two. Apologize
12 for stumbling there.

13 MR. SILVESTRI: So they'd have to be
14 sized based on, say, local precipitation or
15 whatever you would calculate for runoff too?

16 THE WITNESS (Burns): Yes, they would
17 be sized according to what the town's requirements
18 are.

19 MR. SILVESTRI: Okay. Very good.
20 Thank you. Then my last set of questions focuses
21 on, again, staying with the letter that we
22 received from the State of Connecticut but also
23 with Sheet N-1 which was relatively new in the
24 supplemental that we had. First question that I
25 have, and I think you answered this with Sheet

1 N-1, any issues or concerns with Aquarion Water
2 Company personnel periodically coming onto the
3 property to inspect or whatever should the project
4 be approved?

5 THE WITNESS (Vergati): Ray Vergati,
6 Homeland Towers. I have reached out and
7 corresponded with Aquarion personnel. That's a
8 question that I will also pose to our landlord.
9 Certainly when we have the public or third parties
10 coming onto a private parcel, there are certain
11 liabilities that come into play, but I'll be able
12 to answer that question more indepth at a future
13 date in regards to our landlord allowing Aquarion
14 to come onto the property. From our perspective
15 as a tenant, as a developer, we would have no
16 issue in allowing Aquarion to come look at our pre
17 and post-construction activities to ensure that
18 we're complying with their requirements, per se,
19 on development near reservoirs.

20 MR. SILVESTRI: Understood on that one.
21 And it sounds like, you know, a phone call or
22 something like that ahead of time to let you know
23 that people would be coming could help in the long
24 run to have that come to fruition.

25 THE WITNESS (Vergati): Correct. I

1 mean, I don't know what the protocol is. You
2 know, obviously homes are being developed all the
3 time along reservoirs. And I drove by the site
4 today and I saw development going on with the
5 neighboring property. It looked like a large
6 cabana being built. I don't know if the same
7 courtesy is extended to private homeowners when a
8 development or new driveway is going in. But I
9 will ask the question to our landlords, and I have
10 an open dialogue with Aquarion on this.

11 MR. SILVESTRI: And potentially you'll
12 be able to get back to us when we reconvene?

13 THE WITNESS (Vergati): Absolutely.

14 MR. SILVESTRI: Very good. Thank you.
15 And a related question. Again, should the project
16 be approved, are there any issues or concerns with
17 incorporating an environmental monitor onto the
18 project for oversight, if you will, for
19 suggestions looking at controls, et cetera?

20 THE WITNESS (Vergati): Ray Vergati,
21 Homeland Towers. No, absolutely not. We've done
22 that before on previous sites. The most recent I
23 think that the Siting Council approved was
24 Sherman. We have no problem having third-party
25 inspections for monitoring the site

1 post-construction to make sure that it is built
2 per our specs and all the controls and measures
3 put in are doing what they need to be doing.

4 MR. SILVESTRI: Very good. Thank you,
5 Mr. Vergati.

6 Mr. Morissette, I believe that's all
7 the questions that I have at this time. And I
8 thank you.

9 MR. MORISSETTE: Very good. Thank you,
10 Mr. Silvestri. We'll now continue with
11 cross-examination by Mr. Nguyen.

12 Mr. Nguyen.

13 MR. NGUYEN: Thank you, Mr. Morissette.
14 And good afternoon. Just a couple of follow-ups.

15 With respect to maintenance that was
16 provided to Mr. Mercier's questions, regarding the
17 maintenance, and I thought I heard there's going
18 to be a once-a-year visit to the site. And I
19 don't know what's entailed in that maintenance,
20 but is it once a year?

21 THE WITNESS (Vergati): So these are --
22 Ray Vergati, Homeland Towers. These are obviously
23 unmanned facilities. We visit the sites on a
24 quarterly basis. There's nothing, a set date that
25 goes in, obviously. We take a look, making sure

1 that everything is intact. And to give you a case
2 in point, last week I swung by Soundview Lane and
3 noticed a portion of the fence that had separated.
4 I immediately called the contractor and the fence
5 company to get the situation rectified. So we do
6 stop at our sites periodically. I would not say
7 it's just once a year, it's more than that. In
8 addition, carriers are going there once every two
9 to three months for their own maintenance,
10 obviously. They are the ones that have equipment
11 on site to take care of.

12 MR. NGUYEN: I have another follow-up
13 regarding the certified mail that was sent to some
14 addresses but the company received no responses.
15 I mean, given that some of the mail inadvertently
16 was not opened or discarded or people were not
17 home during the time frame, why was there no
18 follow-ups on those site search when the company
19 received no response?

20 THE WITNESS (Vergati): So I can tell
21 you we received all green cards back from the
22 sites that were sent certified proposal letters
23 where the owner of the property received a letter,
24 signed for it, and the green card was returned
25 back to Homeland Towers. I believe there were two

1 sites where it was delivered back to us, meaning
2 the green card was undeliverable, and we sent
3 follow-up with the regular mail. And it actually
4 works at times, the regular mail. In this
5 particular case, one of the sites that we sent a
6 certified letter to returned back to us. We
7 followed up with the regular mail, and that
8 particular individual had emailed with their
9 noninterest.

10 MR. NGUYEN: Within your search radius
11 has the company considered any available rooftop
12 or any other non-tower facilities other than small
13 cell?

14 THE WITNESS (Vergati): So as my
15 position as a regional manager and the one that's
16 out there looking at sites, I always look for
17 existing structures, be they rooftop, water tank,
18 utility pole, any structure that's going to give
19 adequate height. This is an area that is
20 challenged with topography and terrain. There are
21 no, to my knowledge, any existing structures in
22 the area that would afford anything above the
23 treeline for a site to work to go on an existing
24 structure.

25 MR. NGUYEN: And for the record, I'm

1 moving on to backup generators. Is there a
2 natural gas pipeline available at the site or near
3 the site?

4 THE WITNESS (Vergati): I'm not aware.
5 That's a question that I can reach out to the town
6 engineer and inquire if there's a gas line out on
7 Ponus Ridge Road. Right now we're proposing
8 propane, obviously.

9 MR. NGUYEN: And speaking about propane
10 generators, is it going to be propane generators?

11 THE WITNESS (Vergati): Yes. Currently
12 on the application between AT&T, Verizon and the
13 Town of New Canaan all three would be using
14 propane.

15 MR. NGUYEN: Okay.

16 THE WITNESS (Vergati): And I can tell
17 you the size of each, if you'd like. AT&T is
18 proposing a 15 kW Polar propane generator.
19 Verizon is proposing a 50 kW Kohler propane. And
20 the Town of New Canaan is proposing a 25 kW Kohler
21 propane. Each of those would have their own
22 dedicated 500-gallon propane tank as the plans
23 depict.

24 MR. NGUYEN: When I looked at the DPH
25 letters, it referenced a diesel generator. And I

1 was just curious as to is that a misread or is
2 there a diesel generator?

3 THE WITNESS (Vergati): It was an
4 oversight. These plans are put together and
5 there's things that we tend to miss. That was
6 one. In all honesty, it should have been propane
7 from the get-go. That is in our lease with AT&T.
8 Diesel made it onto the plans. We had actually
9 caught that prior and were revising it prior to
10 that mail coming out from Connecticut DPH, but
11 yes, it was just a glitch on our part.

12 MR. NGUYEN: Now, the backup generators
13 you mentioned, AT&T, Verizon, so those will be
14 owned by AT&T and Verizon respectively?

15 THE WITNESS (Vergati): That is
16 correct.

17 MR. NGUYEN: Would there be any
18 equipment that is owned by Homeland Towers?

19 THE WITNESS (Vergati): No. As a
20 developer, Homeland does not get involved with the
21 carriers' network from a liability standpoint.
22 All we're providing is the infrastructure, the
23 pole, the fence, pads, the utilities to the site,
24 but all the electronics, the backup generation,
25 that is the responsibility and the liability of

1 each individual carrier and also the Town of New
2 Canaan.

3 MR. NGUYEN: When I look at the
4 reference to Interrogatory No. 19, the answer to
5 that interrogatory indicated that the town is
6 proposing a 25-kilowatt generator.

7 THE WITNESS (Vergati): That is
8 correct.

9 MR. NGUYEN: And the town here is
10 Homeland Tower, right?

11 THE WITNESS (Vergati): No. For
12 clarification, the town would be the Town of New
13 Canaan, their public safety network. As Mr. Fine
14 testified earlier, fire, police, EMS and the CERT
15 folks and public works.

16 MR. NGUYEN: Now, in terms of, in case
17 in the event of a commercial power failure, how
18 would those backup generators kick in, is it
19 manually or is it remotely, automatically?

20 THE WITNESS (Vergati): I believe, and
21 if I don't answer this correctly -- but I believe
22 that the generators automatically switch over when
23 there's a disruption in the power supply.

24 MR. NGUYEN: At the moment, the
25 proposed tower can accommodate three additional

1 carriers. This is in addition to AT&T and the
2 town's equipment?

3 THE WITNESS (Vergati): Yes, I believe
4 our current plans show AT&T and then three sets of
5 antennas below which would be Verizon would be
6 directly below AT&T. Obviously T-Mobile is in the
7 market. They have not committed to the site. And
8 we show a fourth future carrier. And yes, this
9 would also accommodate the town's public safety at
10 a lower elevation, I believe, of 60 feet and then
11 antennas off the top of the tower.

12 MR. NGUYEN: And given that I think
13 it's fair to assume that Verizon would intervene,
14 would jump on board with the facility, so
15 essentially there would be two vacancies?

16 THE WITNESS (Vergati): So yes,
17 correct, Verizon has on this particular docket
18 intervened already so there would be two vacancies
19 directly below Verizon.

20 MR. NGUYEN: Speaking about the
21 facility, is the company proposing a monopine, is
22 that right?

23 THE WITNESS (Vergati): We are
24 proposing a stealth monopine tree, just like we
25 did over on Soundview Lane in the northeast

1 section of New Canaan. It's what the town has
2 asked for, they feel it's appropriate, and quite
3 honestly, we feel it's appropriate here as well.

4 MR. NGUYEN: So the factor that led to
5 a monopine was influenced by the town?

6 THE WITNESS (Vergati): Yes, as their
7 development partners, they awarded the RFP to
8 Homeland Towers, our understanding with the town
9 is sites that we build would be stealth in nature.
10 We found the monopines, because you're able to get
11 your array on a horizontal level, keeps the tower
12 shorter as opposed to going to a unipole,
13 obviously, which could be stealth, it would drive
14 the height up. So we feel that a tree pole at 110
15 in this vicinity and the way the sims pose or come
16 out that it's very appropriate for this location.

17 MR. NGUYEN: Other than the town, has
18 the company received any feedback from the
19 neighbors concerning, regarding a monopine?

20 THE WITNESS (Vergati): Yeah, I've met
21 with the neighbors, I've met with Mr. Buschmann,
22 I've met with the Flanagans, I've met with the
23 Smiths, although I believe the Smiths on 59
24 Squires, I believe that home just changed hands a
25 few days ago. I have not met the new owners. But

1 I've kept an open dialogue with the residents,
2 with the abutters. I'm sensitive to it, and I
3 understand their perspective. I told them from
4 the get-go that I don't control the ultimate
5 decision. That comes from the Siting Council.
6 The ultimate height comes from the Siting Council.
7 The design comes from the Siting Council. But
8 they've understood from the get-go that this would
9 be a proposed monopine. And I'm happy to take
10 anybody over to the site on Soundview Lane that
11 was constructed. It went up a few months ago and
12 I think it came out beautiful.

13 MR. NGUYEN: Do you have a target date
14 for this tower to be up and running, do you have a
15 commencement and completion date?

16 THE WITNESS (Vergati): We don't. We
17 understand there's a process here that's public,
18 and, you know, there's a hearing process that
19 would be most likely continued. Then there's the
20 D&M process to go through. There's some tree
21 restrictions, as mentioned earlier, unable to
22 clear trees at certain times of the year. It's
23 hard to put a date on a calendar right now. We'll
24 see where the process goes. And ultimately if
25 there is an approval, if we're in the window of

1 constructing, it's our intent to file a BP with
2 the town and start construction immediately. If
3 we need to wait because of restrictions on tree
4 clearing or any other restrictions, we'll simply
5 have to wait.

6 MR. NGUYEN: In terms of construction
7 hours, what's a typical Homeland --

8 THE WITNESS (Vergati): Sure. It's a
9 good question. Every site is different based on
10 the amount of construction activities. This will
11 be a few months, there's no doubt about it, I
12 would guesstimate, and I'm not a construction
13 manager but I've been doing this long enough, that
14 we're probably looking at 50 to 70 days of
15 construction time frame. It could be a little
16 shorter. It could be a little longer.

17 MR. NGUYEN: I'm sorry. In terms of
18 hours, is it from 8 to 5 Monday through Friday?

19 THE WITNESS (Vergati): Sorry, I
20 misunderstood. The hours. I thought you were
21 asking for the time frame of days.

22 MR. NGUYEN: I appreciate the other
23 information as well.

24 THE WITNESS (Vergati): Sure. Yes, we
25 typically would, you know, given the fact that

1 we're sensitive, you know, it is a residential
2 area, we understand that, we would limit our
3 construction activities to the best we could from
4 a Monday through Friday 9 to 5 construction hours.

5 MR. NGUYEN: Now, the antenna, it's my
6 understanding that it supports 5G but not 5G Plus
7 at this time; is that correct?

8 THE WITNESS (Vergati): I will defer
9 that question to Martin Lavin, the RF engineer.

10 MR. NGUYEN: Thank you.

11 THE WITNESS (Lavin): Martin Lavin on
12 behalf of AT&T. Yes, that's correct, the antennas
13 do support 5G, but not 5G Plus at the millimeter
14 wave frequencies.

15 MR. NGUYEN: In the future if there's a
16 demand for 5G Plus, a couple of questions around
17 that. First of all, can it accommodate 5G Plus;
18 and if so, what would you need to do, modify the
19 structure or change the equipment?

20 THE WITNESS (Lavin): In terms of
21 what's visible on the tower, it would be a matter
22 of changing out antennas.

23 MR. NGUYEN: But the structure, there
24 would be no structural changes on the tower
25 itself?

1 THE WITNESS (Lavin): No, no structural
2 changes at all.

3 MR. NGUYEN: Referencing the response
4 to Question No. 23, it talks about AT&T and the
5 State of Connecticut regarding the FirstNet
6 deployment. For the record, could you identify
7 which state agency of Connecticut, is that the
8 Division of Emergency Management of Homeland
9 Security or --

10 THE WITNESS (Carey): Harry Carey for
11 AT&T. Yes, DEMHS, Department of Emergency
12 Management Services.

13 MR. NGUYEN: And I guess one last
14 question regarding the state agency comments. We
15 saw DPH, we saw Council on Environment. And I was
16 just curious, asking the company what your
17 thoughts are on those recommendations and whether
18 or not any recommendations cannot be accommodated
19 that you can foresee.

20 MS. MOTEL: Dean Gustafson, do you want
21 to address the CEQ comments?

22 THE WITNESS (Gustafson): Sure. As far
23 as what, you know, Homeland could accommodate, I
24 think overall between the state agency comments
25 from DPH and CEQ, the proposed facility, we can

1 accommodate the majority of those recommendations
2 and provide a facility that would avoid any
3 significant resource impacts either during or
4 after construction and provide safeguards
5 particularly during construction to avoid any
6 direct or indirect impacts to those sensitive
7 resources.

8 THE WITNESS (Vergati): Ray Vergati,
9 Homeland Towers. I'll echo what Dean just said,
10 obviously. We'll take any recommendations from
11 the various memos that we have received, you know,
12 most specifically mentioned, you know, because of
13 the proximity of the reservoir, you know, a change
14 from diesel to propane, I think we've already
15 established that, obviously. There was another, I
16 think, question from the memo of can you minimize
17 the tree removal, and as Mr. Burns testified, we
18 reduced that from over 100 trees down to 94. So
19 we'll certainly look at all the comments and
20 recommendations, and it's doubtful it will be the
21 first or the last set. So we'll take it all into
22 consideration.

23 MR. NGUYEN: Give me one second to make
24 sure that all my questions were asked. Okay.
25 Thank you, gentlemen.

1 And that's all I have, Mr. Morissette.

2 MR. MORISSETTE: Thank you, Mr. Nguyen.
3 That will conclude our hearing for today. But
4 before we recess until the public comment session
5 this evening, I want to just make sure that we've
6 got our list of homework assignments correct.

7 Mr. Mercier, I've got here that you are
8 looking for confirmation of the distance between
9 the limit of disturbance and the wetland.

10 Confirmation that the analysis for
11 stormwater was done on a 10-year storm.

12 We're looking for a photo of the
13 Soundview site.

14 An answer to the question as to
15 Interrogatory No. 29, why wasn't Centennial
16 Watershed State Forest data layer included in the
17 analysis.

18 Concerning the photologs asked by the
19 New Canaan Neighbors, provide an actual photolog
20 as to where the photos were taken.

21 For Mr. Silvestri, Mr. Vergati is going
22 to check his records to see if 40 Wind Road was
23 investigated and provide any resulting
24 information.

25 Mr. Lavin is going to provide an

1 analysis on Mr. Burg's identified locations.

2 And also, determine if Aquarion would
3 allow someone on site. Mr. Vergati is going to
4 check with the landowner.

5 And then for Mr. Nguyen, is natural gas
6 available on the street.

7 Mr. Mercier, Mr. Silvestri, Mr. Nguyen,
8 did I miss anything?

9 MR. NGUYEN: Not on my part. Thank
10 you.

11 MR. QUINLAN: I had a question, Mr.
12 Morissette.

13 MR. MORISSETTE: Yes, Mr. Quinlan.

14 MR. QUINLAN: Since we're going to have
15 another hearing on this, I'd like to ask for a
16 couple of Late-Files too. And one would be to
17 specifically address each of the recommendations
18 by the Department of Health and CEQ whether the
19 company is willing to do those recommendations.

20 MR. MORISSETTE: Very good. We'll add
21 that to the list. Anything else?

22 MR. QUINLAN: Yes, one other. I'd like
23 the company to follow up with any of the
24 landowners that did not respond initially if they
25 meet their coverage objectives and try to follow

1 up one more time on that.

2 MR. MORISSETTE: Only if the site meets
3 the coverage objectives, correct?

4 MR. QUINLAN: Right.

5 MR. MORISSETTE: Okay. Attorney Motel,
6 any concerns with those two questions?

7 MS. MOTEL: No, Mr. Morissette. We
8 will provide them as Late-Files. Thank you.

9 MR. MORISSETTE: Thank you. There is
10 one more item that we did discuss this afternoon
11 but we did not pursue it any further, and it was
12 along Mr. Mercier's line of questioning having to
13 do with whether the actual site itself could be
14 located from north to a south arrangement or if
15 there was another location on the property along
16 the road or below the current, south of the
17 current proposed site, whether that could actually
18 be proposed as well.

19 Mr. Mercier, did you want to ask for
20 analysis for either of those two at this point?

21 MR. MERCIER: Thank you, Mr.
22 Morissette. Yes, I think rotating the site to see
23 if that's feasible, that would be beneficial.

24 Then the other item would be, yes, I
25 think, you know, is it feasible to develop a site

1 farther down, you know, near the entrance driveway
2 on Ponus Hill Road would also be beneficial for
3 this particular site.

4 MR. MORISSETTE: Thank you, Mr.
5 Mercier. I agree, I think both analyses should be
6 performed to see if either would be beneficial for
7 this site.

8 So very good. So the Council will
9 recess until 6:30 p.m., at which time we will
10 commence with the public comment session of this
11 remote public hearing. Thank you, everyone, for
12 your cooperation. Have a good evening. And we'll
13 see you at 6:30. Thank you.

14 MS. MOTEL: Thank you.

15 (Whereupon, the hearing adjourned at
16 5:07 p.m.)

1 CERTIFICATE FOR REMOTE HEARING

2
3
4 I hereby certify that the foregoing 134 pages
5 are a complete and accurate computer-aided
6 transcription of my original stenotype notes taken
7 before the CONNECTICUT SITING COUNCIL of the
8 REMOTE PUBLIC HEARING IN RE: DOCKET NO. 509,
9 HOMELAND TOWERS, LLC AND NEW CINGULAR WIRELESS
10 PCS, LLC d/b/a AT&T APPLICATION FOR A CERTIFICATE
11 OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED FOR
12 THE CONSTRUCTION, MAINTENANCE, AND OPERATION OF A
13 TELECOMMUNICATIONS FACILITY LOCATED AT 1837 PONUS
14 RIDGE ROAD, NEW CANAAN, CONNECTICUT, which was
15 held before JOHN MORISSETTE, PRESIDING OFFICER, on
16 June 28, 2022.

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Lisa L. Warner, CSR 061
Court Reporter
Notary Public
My commission expires:
May 31, 2023

1 I N D E X

2 (Council's Administrative Notice Items I-C-1
3 through I-C-82: Received in evidence on page 25.)

4 WITNESSES: (Sworn on page 26)

5 RAYMOND VERGATI
6 HARRY CAREY
7 ROBERT BURNS
8 MICHAEL LIBERTINE
9 DEAN GUSTAFSON
10 BRIAN GAUDET
11 MARTIN LAVIN
12 ERIC FINE

EXAMINERS:	PAGE
Ms. Motel (Direct)	26
Mr. Mercier (Start of cross)	34
Mr. Silvestri	96
Mr. Nguyen	118

13 APPLICANTS' EXHIBITS
14 (Received in evidence)

EXHIBIT	DESCRIPTION	PAGE
15 II-B-1	16 Application for a Certificate of 17 Environmental Compatibility and Public 18 Need filed by Homeland Towers, LLC and 19 New Cingular Wireless PCS, LLC d/b/a 20 AT&T, received April 13, 2022, and 21 attachments and bulk file exhibits 22 including: 23 Bulk file exhibits: 24 a. New Canaan 2014 Plan of 25 Conservation b. Town of New Canaan zoning regulations c. Town of New Canaan zoning map d. Town of New Canaan Inland Wetlands and Water Courses regulations e. Technical report f. Wireless market study of the Town of New Canaan g. New Canaan cell phone survey results through Oct. 25, 2012	33

1 I n d e x: (Cont'd)

2	EXHIBIT	DESCRIPTION	PAGE
3			
4	II-B-2	Applicants' affidavit of publication, dated May 5, 2022	33
5	II-B-3	Applicants' signed protective order related to unredacted lease agreement, dated May 26, 2022	33
6			
7	II-B-4	Applicants' responses to Council interrogatories, Set One, dated June 2, 2022	33
8			
9	II-B-5	Applicants' sign posting affidavit, dated June 13, 2022	33
10			
11	II-B-6	Applicants' supplemental submission, dated June 21, 2022	33
12			
13	II-B-7	Applicants' responses to Buschmann interrogatories, dated June 21, 2022	33
14			
15	II-B-8	Applicants' responses to New Canaan Neighbors' interrogatories, dated June 21, 2022	33
16			
17	II-B-9	Resume of Eric Fine, received June 21, 2022	33
18			
19			
20			
21			
22			
23			
24			
25	II-B-10	Revised site plans, submitted June 24, 2022	33