STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

In re Application of New Cingular Wireless PCS, LLC (AT&T) Application for a Certificate of Environmental Compatibility and Public Need for the Construction, Maintenance and Operation of a telecommunications tower facility in Roxbury, Connecticut	:	Docket No. 428 October 15, 2012

REQUEST TO FILE ADDED EXHIBITS

Pursuant to Regulations of Connecticut State Agencies ("R.C.S.A.") Section 16-50j-27(a) , the Bronson Mountain Farm Homeowners Association ("Association") hereby requests permission to file portions of the record of Roxbury Inland Wetland Commission ("IWC") Application No. 04-10 #1 ("the Wetland Record"). The Wetland Record pertains to the application for and approval of certain regulated activities associated with the proposed construction of a roadway on real property owned by C.N. Builders, which property has been identified in this Docket as Candidate A. The basis for this request is set forth below.

In its Application, AT&T asserts that "[a]ccess to the [Candidate A] facility would be provided initially over a planned subdivision access driveway for a distance of approximately 1,300 feet. From there, AT&T proposes a new 12' wide gravel access drive will [sic] extend

approximately 210' to the site." Application, Attachment 3, page 3 (emphasis supplied). In addition, while the Application also provides that AT&T will need to remove a total of 122 trees for its purposes; Application, Attachment 3, Tab A, Letter of CHA; the plans depict considerably more trees that must be removed for the construction of the road itself. Application, Attachment 3, Plans prepared by CHA, Sheets CO2A and CO2B.

Because of the vagueness with which the status of the proposed road was described in the Application, the Association's Pre-Hearing Questions requested certain, specific information related to the Candidate A access road. Pre-Hearing Questions of Association, Questions 3, 5, 6, 9, and 10. AT&T's Responses to the Association's Pre-Hearing Questions ("Responses") provide, in part, as follows:

- The stream crossing and road "are not yet part of an approved subdivision;" Response to Question 5;
- the "local approval/review was obtained by the property owners independent of AT&T;" Response to Question 6;
- "AT&T's development proposal is limited to the compound and access connecting to the main drive which will serve the parcel." Id.
- As a result, AT&T's "project engineers do not have the data or information [regarding the roadway construction] requested." Id.

In the second paragraph of its response to Question 6, however, AT&T acknowledges that the "property owners apparently made reference to the prospect of this access being for a 'cell tower site' in their appearances to obtain local approvals . . . ." Response to Question 6.

The Wetland Record demonstrates that the property owner did not merely make a passing reference to the prospect of a facility. Indeed, the fact that the stream crossing and wetland impacts for the proposed road was for the purpose of a "possible cell tower" is a consistent theme throughout the Wetland Record:

- As noted in the Association's Pre-Hearing Interrogatories, the wetland approval itself specifically provides that the purpose of the wetland permit is for regulated activities "to access a possible cell tower site . . . ." The approval does not indicate any other purpose for the permit other than to create an access to a cell tower. Wetland Approval, dated September 2, 2010, attached as Exhibit 1 (and included in the AT&T Application at Attachment 5) (emphasis supplied).
- The IWC minutes of the opening session of the public hearing to consider the wetland application provide that a member of the IWC, Mr. Dirienzo, opened the hearing by describing that the purpose of the application "is for a wetlands crossing to access a potential cell tower site. Mr. Dirienzo reported that an application has not yet been submitted to the Siting Council." IWC Minutes, June 29, 2010, attached as Exhibit 2.

- The minutes of the two succeeding sessions of the public hearing also specifically reference that the purpose of the wetland application is a "Stream crossing to access possible cell tower site." IWC Minutes, July 27, 2010, attached as Exhibit 3, and IWC Minutes, August 24, 2010, attached as Exhibit 4.
- The Application, as submitted to the IWC, does not indicate that the purpose of the proposed stream crossing was for a subdivision, contrary to the assertion of AT&T. Application to Town of Roxbury Inland Wetlands and Watercourses Commission, dated April 15, 2010, attached as Exhibit 5.
- The first page of a report by Fuller Engineering & Land Surveying, LLC ("Fuller Report") furnished to the Commission on behalf of the property owner provides that "Property owner [sic] proposes to construct a new 18' wide gravel surfaced access roadway . . . for the purpose of constructing and maintaining a cell phone tower." Several paragraphs later, the same report states "[w]hile no further development is proposed at this time, it is proposed to construct the stream crossing sufficient to support a public road fully compliant with the standards of the Town of Roxbury." Fuller Report, dated August 20, 2010, attached as Exhibit 6 (emphasis supplied).
- A soils investigation report, drafted more than twelve years before the wetland application was submitted, references a possible subdivision. On-Site Soils Investigation

of Niewenhous Subdivision in Roxbury, Connecticut, dated March 9, 1998, attached as Exhibit 7. A 2010 follow-up to that 1998 soils investigation report, however, contains no reference to a proposed subdivision. On-Site Review of Soils & Flagging of Wetland Crossings of Property for C. N. Builders in Roxbury, Connecticut, date June 21, 2010, also attached within Exhibit 7.

- The agendas and legal notice memos for each session of the public hearing provide that the proposed stream crossing is "for a driveway to access the upland portion of the site for possible cell tower location." Agendas, June 29, July 27, and August 24, 2010, and Public Notices, dated June 11, and July 5, attached as Exhibit 8.
- A letter from the applicant's attorney to the IWC Chairman provides that the property owners "have no plans to convey or transfer any interest in the property except to lease a portion to the cell tower operator for the location of a cell tower." Correspondence of Robert H. Rubin, Esq., August 10, 2010, attached as Exhibit 9 (emphasis supplied).
- The site plans as submitted by the applicant and approved by the IWC depict a "POSSIBLE CELL TOWER LOCATION." Page 3 of portions of site plans entitled

"Alternate 'D', Driveway Plan and Level Spreader", prepared by Land Engineering & Surveying, attached as Exhibit 10.[1]

- A memo to the local newspaper detailing the content of the legal notice of the approval provides that the permit was approved for a "Stream crossing to access possible cell tower site approved with conditions." Memo, dated August 30, 2010, attached as Exhibit 11.

Reading the referenced documents as a whole can only lead to the conclusion that the sole purpose of the proposed road, stream crossing, and wetland crossing is to access the Candidate A site for the purpose of constructing and maintaining a facility. While a subdivision may have been contemplated in 1998, the wetland application submitted in 2010 sought approval for a single access road, only along the southerly portion of the Candidate A site. The wetland application, as submitted and approved, is entirely inconsistent with a subdivision, which would have a network of streets or cul de sacs, and a series of residential structures and septic systems, each with a potential wetland impact. Further, the minutes of the public hearing do not contain any objection by any representative of the property owner to the description of the project as a proposed driveway to a cell tower.

[1] Due to the lack of the required type of large-format copier at the Roxbury Town Hall, only portions of the plans could be copied by the town land use staff.

It is imperative that the Council add the Wetland Record as an exhibit in this docket so that it can determine for itself (1) whether the environmental impacts arising from its construction, including the removal of a substantial number of trees beyond the 122 that AT&T has already acknowledged, are relevant to its decision in this Docket, (2) assuming the road's environmental impacts are relevant, whether to approve Candidate A or Candidate B or neither, and (3) ultimately, whether the mere contention by a licensed carrier that it is not responsible for the construction of a road that is necessary to access to a facility deprives the Council of jurisdiction over the environmental impacts of that road, particularly where a record exists that demonstrates that the sole or primary purpose of the road is to access a licensed facility. These questions are particularly pertinent in light of R.C.S.A. Section 16-50j-2a (22) (definition of "Site") and references thereto throughout R.C.S.A. Section 16-50j et seq.

Therefore, for the above stated reasons, the Association respectfully requests that the Council add the Wetland Record, as attached hereto, as an exhibit.

Respectfully submitted,

Bronson Mountain Farm
Homeowners Association

By: _____

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Certification

This is to certify that a copy of the foregoing has been mailed this date to:

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EXHIBIT 1

Roxbury Inland Wetlands & Watercourses Commission
Town of Roxbury
29 North Street
Roxbury, CT 06783

September 2, 2010

Charles Neiwenhous
C.N. Builders, Inc.
3 Alexander Lane
Weston, CT 06883

Dear Mr. Neiwenhous:

REF: Application No. 04-10 #1 – Southbury Road Map 32/Lot 8

The Roxbury Wetlands Commission granted your request for a permit for the above referenced property at its August 24, 2010 Regular Meeting.

The permit was approved as a regulated activity for a stream crossing on Southbury Road (Map 32/Lot 8) to access a possible cell tower site and was granted with the following conditions:

Conditions of the Permit

- A $20,000 construction bond is to be posted prior to the start of the project. The bond shall be a pledge of a savings account. Please contact the Wetlands Enforcement Officer to finalize the bond and bond agreement.
- The Land Use Office is to be notified 10 business days prior to the start of work and the Enforcement Officer is to be present on the first day of work.
- Wetland markers are to be placed every 300 feet. Markers should be a post and sign marked "Wetland Boundary".
- Two sets of the final plans (Alternate D- Plan 3C) should be on record. All previous plans are to be eliminated from the file.
- Herbicide, pesticide and fertilizers should not be used on the site without the written consent of the IWC. (The requirements for initial stabilization are understood.)

- The mitigation plan is to be implemented as presented, which includes the removal of sediment and debris upstream of the crossing and the addition of additional plantings in that area.

- The maintenance plan is to include an annual check of the roadway. Repairs are to be made as needed. The IWC is to be notified of the inspections.

- The box culvert is to be installed in accordance with DEP Stream Crossing Guidelines.

- An annual maintenance inspection is required as a condition of approval of this permit. The Wetlands Enforcement Officer must be notified annually 30 days prior to the inspection date.

If you have any questions regarding this permit, please do not hesitate to contact me at the Roxbury Wetlands Office on Tuesday or Thursday from 9 am to 1 pm at (860) 354-9612.

Sincerely,

Mary Barton
Wetlands Enforcement Officer

Cc: Barbara Henry, Russell Dirienzo, Kim Baron

EXHIBIT 2

The Roxbury Inland Wetlands Commission
Roxbury, Connecticut

MINUTES
Public Hearing
June 29, 2010

Members Present: Mr. Dirienzo, Mr. Horrigan, Ms. Napier, Ms. Fitch and Ms. O'Conner
Alternates Present: Mr. Smoliga, Mr. Quaranta, and Ms. Steers
Others Present: Ms. Henry, Mr. Kellerman, Mr. Keillor, Mr. King, Ms. Passariello, Mr. & Mrs. Holroyd, Mr. & Mrs. Adler, Mr. Van Saun, and Mr. Plourde

Mr. Dirienzo called the Public Hearing to order at 7:01 P.M.

SEATING OF MEMBERS
Chairman Dirienzo seated members O'Conner, Napier, Fitch and Dirienzo. Ms. Steers was seated for Mr. Horrigan.

Neiwenhous – Land Engineering/Southbury Road (Map 32/Lot 8) – Stream crossing to access possible cell tower site
Mr. Dirienzo explained the purpose of this public hearing and noted that the Notices for this hearing were published in the Voices on 6/16/10 and 6/23/10. This application is for a wetlands crossing to access a potential cell tower site. Mr. Dirienzo reported that an application has not yet been submitted to the Siting Council. The Public Hearing must be kept to wetland issues. Jay Keillor, Engineer, submitted the certified mail receipts from the neighboring properties.

Jay Keillor reviewed plans dated 6/25/10. He described that the proposed driveway would be located directly across from an existing driveway on the opposite side of the street. He explained that the driveway location was determined with regard to site distance and where the watercourse is most narrow. The proposed driveway cut would be no more than 6 feet and a 12% grade.

Mr. Keillor explained that they originally proposed two 48-inch pipes for the first crossing; however, upon the recommendations of the Commission and DEP this has been revised to a box culvert. Additionally, the second crossing has been revised from one 15-inch pipe to two pipes in an effort to cut velocity. He noted that these revisions are indicated on the plan entitled Alternate A.

Rob Horrigan arrived at 7:06 p.m. Julie Steers stepped down and Mr. Horrigan was seated.

Mr. Keillor reported that drainage has been incorporated into the plan to prevent erosion from the 13 acres of watershed. He noted that the use of a bridge for the first crossing was evaluated; however, they found that this option would be very expensive.

Mr. Keillor explained that an alternate plan, which would avoid the second crossing, was developed. This plan, entitled Alternate Plan B, results in a significant cut of 18-19 feet possibly into ledge. 13,000 yards of material would be excavated and an adjacent drain would cut off water flow to wetlands. It is his opinion that Alternate Plan A is the best plan.

Mr. Keillor reviewed the erosion control plan with the group.

Mr. Dirienzo asked for questions from the Commission.

Mr. Keillor confirmed for Mr. Horrigan that there are not any planned crossings for the drainage swale; however, the existing stone wall may have developed a natural crossing. He believes the plan would handle a 25-year event. He agreed to look into this further and report actual calculations.

Joe Quaranta questioned whether there was a plan for sedimentation with regard to the swale. Mr. Keillor advised that the steepness would make the swale self cleaning and confirmed that the sediment would run into the stream. He agreed to consider a small settling area to be included in the plan.

Patricia O'Conner questioned whether the wetland delineations from 1997 would be out of date. Mr. Keillor confirmed that Soil Scientist Henry Moeller rechecked all the soils associated with the proposed construction. He reported that the soils were tested where the skunk cabbage was found during the inspection and confirmed that this is not a wetland soil.

Mr. Keillor agreed to submit the required DEP form. Russell Dirienzo suggested the review of the storm water calculations. He explained that due to the glacial till a conservative run-off factor should be considered. Mr. Dirienzo questioned why the road connecting to the cell tower was not included on the map. Mr. Keillor explained that it was not included because they do not have a deal with the cell tower company yet; however, he can add the road to prevent having to return to the Commission. Mr. Dirienzo explained that a proposed subdivision on this property would require an upgrade of the access road.

John Smoliga reminded Mr. Keillor of the scour area at stakes 11 and 12 noticed on the site walk. Mr. Keillor referenced the scour area noted on Sheet 4 of the plan. He agreed to further review the area located up from the point located on the map.

Mr. Dirienzo looked for questions from the public.

Georgianna Passariello of 36 Bronson Road voiced her concerns with the drainage for this project noting the affects of the recent climate change. She explained that the drainage for this proposal could directly impact her property. Mr. Dirienzo assured Ms. Passariello that drainage is a serious concern of the Commission as well. Ms. Passariello thanked the Town for being proactive with regard to this proposal.

Jerry Adler of 25 High Meadow Lane questioned whether this proposal expanded over two properties. Mr. Keillor confirmed that the proposal was entirely on one property.

Joan Adler of 25 High Meadow Lane noted that it is obvious that this proposal is for a cell tower. Mr. Dirienzo explained that the Siting Council has full jurisdiction with regard to cell towers; however, an application has not yet been filed with the Siting Council.

Shelly Holroyd of 32 High Meadow Lane questioned how close the proposed road would be to her property. She also questioned whether the 13 acres would be draining down into the spring. Mr. Keillor explained that the Health Department does not want people drinking from the spring; however, the proposal is to the south and east of the spring and the proposed activity will not affect it. Ms. Holroyd noted that her road and riding ring was developed for a 100-year storm. She questioned why a 25-year capacity would be okay for this 1700-foot driveway. Mr. Keillor agreed to do the calculations for a 50-year and 100 year storm based upon glacial till.

Kyle Van Saun of 2123 South Britain Road, Southbury explained that he owns riparian rights to Bronson Brook and his property has been turned into a sandy beach over the years. He questioned what has been built into this plan to prevent water from flowing into the brook. Mr. Keillor explained that a storm water management plan has not been built into the plan; however, he agreed to return with calculations for a 100-year storm event.

David Plourde of 402 Southbury Road questioned whether the entire brook is on this property. He noted that it did not make sense to disturb the property without a plan for its use. Mr. Keillor confirmed that the entire brook is on the property and explained that an access way is required before the cell tower company will move forward with plans. He noted that the site will be used either for the cell tower or a subdivision.

Tom Holroyd noted that the Town is does not want the spring used now due to animal feces and voiced his concerns with the condition of the spring if area is disturbed. He also commented that High Meadow Lane is constantly being washed out, which is something that will most likely occur with this road. Mr. Dirienzo clarified that it is the Health Department that has concerns with e coli in the spring. The Commission has no control over animal waste. Mr. Dirienzo acknowledged that the issue with the drainage on High Meadow Lane is a good point.

Shelly Holroyd commented that the bridge crossing may be a better option. Mr. Keillor agreed to return with an evaluation.

MOTION: To extend the Public Hearing of Neiwenhous – Land Engineering/Southbury Road (Map 32/Lot 8) – Stream crossing to access possible cell tower site to 7:00 p.m. on July 27, 2010. By Mr. Dirienzo, seconded by Ms. Napier and passed 5-0.

The Public Hearing adjourned at 8:20 p.m.

By: K. Eddy for Tai Kern
Tai Kern, Secretary

cc: B. Henry, R. Lowe, R. Dirienzo, P. Hurlbut, J. Conway, M. Barton, R. Munson, G. McTaggart and G. Steinman.

Minutes are filed subject to approval by the Roxbury Inland Wetlands Commission.

EXHIBIT 3

The Roxbury Inland Wetlands Commission
Roxbury, Connecticut

MINUTES
Public Hearing
July 27, 2010

Members Present: Mr. Dirienzo, Mr. Horrigan, Ms. Napier, Ms. Fitch and Ms. O'Conner
Alternates Present: Mr. Quaranta
Others Present: Mr. Kellerman, Mr. Keillor, Mr. King, Ms. Passariello, Tammy McVey-Camilleri of Voices and other interested members of the public.

Mr. Dirienzo called the Public Hearing to order at 7:03 P.M.

SEATING OF MEMBERS
Chairman Dirienzo seated members O'Conner, Napier, Horrigan and Dirienzo.

Neiwenhous – Land Engineering/Southbury Road (Map 32/Lot 8) – Stream crossing to access the upland portion of the site for possible cell tower location.
Mr. Dirienzo explained that this is the continuation of the public hearing for this application and noted that the Notices for this hearing were published in the Voices on 7/14/10 and 7/21/10. This application is for a wetlands crossing to access a potential cell tower site. Mr. Dirienzo reported that an application has not yet been submitted to the Siting Council. The Public Hearing must be kept to wetland issues.

Sue Fitch was seated at 7:09 p.m.

Jay Keillor, Engineer, presented an overview of the plans for the stream crossings. He explained that a 6X6 box culvert would be used for the first crossing. He located the scour area on the map and where the proposed pipe would be located. He noted that the maximum center line cut would be 5 feet. The alternate plan was reviewed which would avoid the second crossing; however, it would create an 18 foot cut.

Mr. Keillor submitted the statewide reporting forms.

Mr. Keillor reported that the watershed analysis was done. The proposed stone lined swale for the driveway drainage has been enlarged to 3 feet wide, which would accommodate a 10-year storm. Mr. Dirienzo questioned why this was not engineered for a 50-year storm. Mr. Keillor reported that the major crossing was designed for a 50-year storm. Mr. Dirienzo questioned why a 25 or 50-year storm design was not done for the entire road. The Commission usually requires a 50-year storm design due to their many years of experience with the glacial till in the area.

Mr. Keillor apologized for the misunderstanding. He agreed to increase the swale to accommodate a 50-year storm. Mr. Dirienzo questioned why a piping system is not being used. He noted that a piped drainage method might require less maintenance. Mr. Dirienzo reminded

the applicant that the design requirements might need to be changed if site is to be used for a subdivision. Mr. Keillor agreed to prepare a 50-year storm design for the entire driveway drainage system.

Ms. O'Conner voiced her concerns with the increase in velocity or flow of the water as it passes downhill. Mr. Keillor reported that he did not find existing channels in the area of the stonewalls to cut the flow; however, he could create a channel and cut the flow by half. Mr. Keillor described the proposed sump area at the end of the swale designed to fill and pipe water to a riprap area.

Mr. Keillor reported that approximately 4000 square feet of wetlands would be disturbed. He confirmed for Mr. Horrigan that a remediation plan has not been developed. Mr. Horrigan expressed his concern with the affect of the increased runoff on the stream banks. Mr. Keillor advised that he could consider splitting the flow if necessary.

Mr. Quaranta inquired regarding a maintenance plan. Mr. Keillor advised that if the area were kept in its wooded condition the maintenance would be minimal. The silt should be cleaned out after construction and every one to two years thereafter. The need for winter sanding and salting was discussed and whether the access would endure year round use.

Mr. Keillor reported that the estimated velocity is 13 feet per second. Mr. Horrigan questioned whether this would overshoot the sump. Mr. Keillor agreed to look into this question.

Mr. Dirienzo opened the floor to questions from the public.

Georgianna Passariello of 36 Bronson Road questioned the requirement of a 100-year storm design. Mr. Dirienzo advised that the Commission usually requires a 50-year storm design. Ms. Passariello inquired regarding the public's recourse if the proposal is approved and the design fails; thereby, causing property damage. Mr. Dirienzo explained that a complaint could be filed with the Wetlands Commission. Otherwise, issues after implementation would be a civil matter. Mr. Dirienzo explained that Mr. Keillor is a qualified engineer and the Commission will approve the best possible plan.

Mr. Dirienzo looked for further questions or comments from the public.

Ms. Napier noted that Mr. Keillor has many answers to provide regarding this proposal. Mr. Keillor requested an extension of the public hearing.

Mr. Dirienzo summarized the following information requested for the next meeting:

1. 50 year storm design for the entire project
2. design for a 0% increase in runoff
3. consideration of a mitigation plan
4. maintenance plan (bond proposal)
5. 50-year storm calculations
6. review of velocity issues
7. temporary limits of disturbance on the map
8. consideration of permanent wetland markers

Mr. Dirienzo stated for the record that he does not have an issue with the concept of this plan; however, would like a good plan to be approved to assure that there will not be any future issues.

MOTION: To extend the Public Hearing of Neiwenhous – Land Engineering/Southbury Road (Map 32/Lot 8) – Stream crossing to access possible cell tower site to 7:00 p.m. on August 24, 2010. By Mr. Dirienzo, seconded by Ms. Napier and passed 5-0.

The Public Hearing adjourned at 8:10 p.m.

By: Karen Eddy for Tai Kern
Tai Kern, Secretary

cc: B. Henry, R. Lowe, R. Dirienzo, P. Hurlbut, J. Conway, M. Barton, R. Munson, G. McTaggart and G. Steinman

Minutes are filed subject to approval by the Roxbury Inland Wetlands Commission.

EXHIBIT 4

The Roxbury Inland Wetlands Commission
Roxbury, Connecticut

MINUTES
Public Hearing
August 24, 2010

Members Present: Mr. Dirienzo, Ms. Fitch and Ms. O'Conner
Alternates Present: Mr. Quaranta, Ms. Steers, and Mr. Smoliga
Others Present: First Selectman Barbara Henry, Mr. Kellerman, Mr. Keillor, Mr. Holroyd, Ms. Passariello, Mr. Pidluski, Ms. Raymond, Tammy McVey-Camilleri of Voices and other interested members of the public.

Mr. Dirienzo called the Public Hearing to order at 7:00 P.M.

SEATING OF MEMBERS
Chairman Dirienzo seated members O'Conner, Fitch and Dirienzo. Julie Steers was seated for Rob Horrigan and Joe Quaranta was seated for Jan Napier.

Neiwenhous – Land Engineering/Southbury Road (Map 32/Lot 8) – Stream crossing for a driveway to access the upland portion of the site for possible cell tower location.
Mr. Dirienzo explained that this is the third extension of the public hearing for this application. He reviewed the history of the public hearings.

Jay Keillor, Engineer, came forward and reported that he incorrectly stated at the last meeting that the calculations were based upon a 50-year storm. He clarified that the design is for a 100-year storm. He noted that Greg Pidluski ran the hydrological calculations and is present to review them tonight.

Mr. Keillor reviewed the revised plans noting that the question regarding the increased flow due to the swale has been addressed. The water is to be piped under the driveway to go to a level spreader at three points. Alternate Plan D – Plan 3C spreads the water even wider with extended level spreaders. It is his opinion that this is the best plan.

Mr. Keillor submitted a bond estimate of $8,798 and suggested that wetland markers could be placed within 100 feet of the wetlands.

Mr. Dirienzo reviewed information requested at the last meeting:
1. 50 year storm design for the entire project
2. design for a 0% increase in runoff
3. consideration of a mitigation plan
4. maintenance plan (bond proposal)
5. 50 year storm calculations
6. review of velocity issues
7. temporary limits of disturbance on the map
8. consideration of permanent wetland markers

Mr. Dirienzo noted that all the administrative requirements had been fulfilled.

Greg Pidluski, Licensed Engineer, came forward and distributed his qualifications. He submitted a map dated 8/20/10 entitled Hydrology Study Sub-Areas. He recommended the development of a crossing for a fully acceptable public road to prevent further disturbance in the future. Additionally, he recommended a box culvert, which would create less of a disturbance than a bridge.

Mr. Pidluski reviewed the calculations for a 100-year storm. He noted that the mitigation for increased runoff is a detention basin to percolate the water back into the ground. The net result is zero. He noted that the amount of water coming on the site was developed with the assumption of developed 2-acre lots and found the maximum increase to be 1.5% at the entrance.

Mr. Pidluski explained that this plan does not require any scheduled maintenance. An annual examination of the site is recommended for roadway rutting and to assure that swales are clean. Repairs should be done as needed. Additionally, he recommended that herbicides should not be applied without authorization.

Megan Raymond, Ecologist, proposed a mitigation plan to compensate for the disturbance of the wetlands. She suggested that the crossings be enhanced with native plantings that consist mostly of the same species that already exist on the site. Additionally, she proposed that road sand and litter be removed from that area. She recommended planting an upland meadow mix in the area of the proposed cell tower that would be limited to one mow per year. She distributed copies of the plan and her report dated 8/24/10.

Ms. O'Conner questioned how many trees would be lost in the development of the site and if any effort would be made to replace these trees. Ms. Raymond explained that the proposal is to plant 192 species of trees and shrubs on the site. Ms. Steers questioned who would be responsible for the success of these plantings. Ms. Raymond explained that initially the landscaper is responsible for the plants' success and then ultimately the property owner is responsible.

Mr. Dirienzo opened the floor to questions from the public.

Tom Holroyd of 32 High Meadow Lane questioned whether the wetlands behind the site had been taken into consideration. Jay Keillor advised that no activity is proposed beyond the hill, everything will remain unchanged in that area.

Mr. Holroyd stated that he did not receive the proper notice of these hearings required by law. Mr. Keillor produced a copy of a certified mailing receipt confirming that notice had been mailed to the Holroyds.

Mr. Holroyd questioned whether the wetlands map had been updated from 1997. Mr. Keillor confirmed that a soil scientist verified the wetlands by taking soil samples. The wetlands were survey located and flagged.

Georgianna Passariello of 36 Bronson Road questioned whether a bridge crossing is being proposed. It was confirmed that the experts are not recommending a bridge and that a box culvert is being proposed to minimize disturbance.

Mr. Dirienzo looked for further questions or comments from the public.

MOTION: To close the Public Hearing of Neiwenhous – Land Engineering/Southbury Road (Map 32/Lot 8) – Stream crossing to access possible cell tower site. By Ms. Fitch, seconded by Ms. Steers and passed 5-0.

The Public Hearing adjourned at 8:05 p.m.

By: Karen Eddy for Tai Kern
Tai Kern, Secretary

cc: B. Henry, R. Lowe, R. Dirienzo, P. Hurlbut, J. Conway, M. Barton, R. Munson, G. McTaggart and G. Steinman.

Minutes are filed subject to approval by the Roxbury Inland Wetlands Commission.

EXHIBIT 5

public hearing 6/29/10

TOWN OF ROXBURY
INLAND WETLANDS AND WATERCOURSE COMMISSION

For Commission Use Only

Application No. 04-10 #1

Date Filed 4/15/10

Dated Accepted 4/19/10

Date Amended 3/27/12 *

Non-regulated Activity

Regulated Activity $ 150. Fee Paid

2 checks (MONEY ORDE
$90.00
$30.00
30.00 ca
$150.00

Approved

Approved with Conditions

Denied

Chairman's signature

8.24.10 Date signed

* CORRECTION TO DRIVEWAY GRADE

Continued - 7/27/10 + with Applicant OK 8/24/10

APPLICATION

Under Section 7.4 of the Inland Wetlands and Watercourses Regulations for the Town of Roxbury

A. Applicant (or Agent for the Owner)

C.N. Builders Inc.
Charles Neiwenhous
Name

(203) 227-3373
Telephone Number

3 Alexander Lane
Address

Weston | CT | 06883
Town | State | Zip Code

B. Owner (if different from Applicant)

Name

Telephone Number

Address

Town | State | Zip Code

C. Applicant's Interest in Land:

✓ Owner ____ Agent ____ Other (specify)

D. Property Location: Southbury Road (Highway address) Assessor's Map 32 Lot 008

a. **Proposed Activity** Stream Crossing to gain Access to upland portion of site

b. **Wetlands Alteration Proposed?** No (Yes)

Square Feet Effected 2800 Soil Type(s) Rn Ridgebury, Whitman, Leicester

c. **Watercourse Alternation Proposed?** No (Yes) Lineal Feet 56

REV 10.99

☑ Computer ☑ DEP ☑ Book

E. Description of Activity or Use (include within the description a measurement of the distance to each wetland area and watercourse, the proposed protection of the wetland and watercourse, and a chronological schedule for the activity):

Project Description: Construct driveway and stream crossing for driveway access to upland portion of property.

Measured Distance to Wetlands and Watercourses (within 200 feet of proposed activity):

Project Schedule: 2010

This Application includes (where applicable) the following documents:

- ☐ Site/Subdivision Plan (See Section I)
- ☑ Engineering/Construction Plan
- ☑ Soil Scientist Report
- ☑ Hydrographic Study
- ☐ Other (specify) _____

F. Description of alternatives to the proposed activity considered by applicant: None

G. Describe the method and destination of material to be disposed of if excavation is required: Excess material will be used as backfill for the culvert/driveway construction.

H. The Applicant shall certify whether any of the following circumstances apply:

1. Any portion of the property on which the regulated activity is proposed is located within 500 feet of the boundary of an adjoining municipality; Yes (No)

2. Traffic attributable to the completed project on the site will use streets within an adjoining municipality to enter or exit the site; Yes (No)

3. Sewer or water drainage from the project site will flow through and impact the sewerage or drainage system within an adjoining municipality; Yes (No)

4. Water run-off from the improved site will impact streets or other municipal or private property within an adjoining municipality; Yes (No)

5. The proposed activity upon the Applicant's property may affect a watercourse lying within, partly within, or flowing through or adjacent to the Applicant's property. (Yes) No

If yes, the Applicant shall submit information relative to the present character and the projected impact of the proposed activity: _____

I. Site plan, if required by the Inland Wetlands and Watercourses Commission, prepared by a Land Surveyor, Professional Engineer or Landscape Architect registered in Connecticut with the minimum information and requirements listed below. The site plan includes:

1. A scale of at least 1" = 40' or such other scale as the Commission may deem appropriate for the size of the site.

2. Existing land contours at two-foot (2') intervals (or other contour intervals if approved by the Inland Wetlands and Watercourses Commission).

3. Wetlands delineation flag locations (numbered) defining the boundaries of the regulated soil types shall be located on the plan by a Land Surveyor or Engineer licensed in Connecticut and the Soil Scientist doing the flagging shall certify the soil types depicted on the plan.

4. Proposed contours at two-foot intervals (or other contour intervals if approved by the Inland Wetlands and Watercourse Commission).

5. Existing and proposed drainage.

6. Original signature and seal of Land Surveyor, Professional Engineer or Landscape Architect, as appropriate.

7. Relationship (measurement) of work to the property line.

1. Other information normally provided including but not limited to North arrow, scale, legend, vicinity map and adjoiners.

2. Proposed construction including but not limited to septic system, wells, buildings, driveways, roads, parking areas, ponds, and cut and fill areas.

3. Provisions for sedimentation and erosion control.

4. Watercourses within 100 feet, wetlands within 100 feet, the Shepaug River if within 200 feet of the proposed work.

5. The map elevation shall be based on "U.S.G.S. datum," (or assumed datum, if approved by the Inland Wetlands and Watercourses Commission).

6. Flood hazard zones.

7. Soil types within regulated areas.

8. Such additional information deemed relevant by the Applicant or the Commission.

J. Indicate other state or local regulatory approvals required to proceed with the proposed activity.
CT DoT Access Permit

K. Any other information deemed necessary to the understanding of the application:

L. The engineering design of the project is prepared by:
Land Engineering + Surveying, LLC

The operations are to be supervised by:
Liam King of Jay Keillor

The work on the site is to be performed by:
Liam King

Owner's signature on this Application indicates that Owner is familiar with all information provided in the Application and is aware of the penalties for obtaining a permit through deception or through inaccurate or misleading information.

Owner authorized the Roxbury Inland Wetlands and Watercourses Commission or its agents to enter on, inspect and investigate the property, at reasonable times, both before and after a final decision has been issued.

Casey Mclean Love for CN Builders — 3/16/10
Applicant's Signature — Date

Charles Mclaughlin — 3/16/10
Owner's Signature — Date

CONDITIONS ESTABLISHED BY THE COMMISSION

This Permit is granted subject to the following conditions:

Culvert installed in accordance with DEP guidelin
$20,000 construction Bond posted prior to
notified 10 Business
Wetland - 300' feet markers
2 - final DRAWINGS
- No Herbicides or pesticide allowed

CONDITION OF ALL APPROVED INLAND WETLAND PERMITS

1. This permit is valid for 2 years unless otherwise specified by the Commission. Subdivision approvals are valid for 5 years. The applicant may request an extension of a permit at least 65 days prior to the expiration date of the permit.

2. Once work has commenced, the project must be completed within one year of the start date, unless otherwise approved by the Commission.

3. Timely implementation and maintenance of sediment and erosion control measures are a condition of all approved permits. All sediment and erosion control measures must be maintained until all disturbed areas are stabilized.

4. Erosion control measures are required for all projects when necessary to protect inland wetlands and watercourses. These measures are a strict condition of this permit and are required even if the Commission did not stipulate specific erosion control measures and best management practices.

5. No equipment or materials, without limitation, fill, construction materials, or debris, shall be deposited, placed, or stored in any wetland, watercourse, or 100 foot setback area, on or off site, unless specifically authorized by the Commission in writing.

6. All work and all regulated activities conducted pursuant to this approval shall be consistent with the terms and conditions of the wetland permit. Any violation of the terms of the permit can result in its modification, suspension, or revocation. The Commission reserves the right to levy fines of $1,000 per day per violation.

7. The applicant, by accepting the terms of the permit, hereby grants the Commission the authority to enter his/her property to inspect the compliance with the permit in accordance with Inland Wetlands and Watercourses Regulations for the Town of Roxbury.

Rev. 1/19/99

maintance plan - annual check + inspection
- Mitigation plan - perform plan as presented + include offer to remove silt + garbage

EXHIBIT 6

FULLER ENGINEERING & LAND SURVEYING, LLC

525 John Street – Second Floor – Bridgeport, CT 06604

one: (203) 333-9465 Fax: (203) 336-1769

OVERVIEW
OF STORM WATER HYDROLOGY
(50 YEAR STORM EVENT)
FOR A PORTION OF
PROPERTY LOCATED AT:
Ct ROUTE 67
(SOUTHBURY ROAD)
ROXBURY, CT.
PREPARED FOR:
C.N. BUILDERS
20 AUGUST 2010

Property owner proposes to construct a new 18' wide gravel surfaced access roadway (roadway to be faced with clean 3" minus stone, rolled with a road roller) for the purpose of constructing and maintaining a l phone tower. The access roadway is to be constructed with a 6" super elevation to direct all roadway runoff the proposed swale (lined with modified rip-rap) along the northerly edge of the access roadway.

The proposed development represents a minimal activity on the overall 96.4 Acre parcel.

There is an existing, unnamed brook which more or less parallels the westerly taking line of Southbury ad. Any development of the property requires the crossing of that brook. The point of crossing was selected it occurs where the width of the wetland soils is minimal, the bed of the brook is at its most stabile, and the gnment of Southbury Road allows the greatest sight lines.

While no further development is proposed at this time, it is proposed to construct the stream crossing fficient to support a public road fully compliant with the standards of the Town of Roxbury. By installing the ssing to a standard greater than required for the present application it will minimize impacts upon the tercourse and wetland soils should a future development be proposed to the Town of Roxbury.

It is recommended that reinforced concrete box culverts be used for the crossing as they will be able to placed with minimal disturbance (both quantitatively and duration) to the watercourse and wetland soils.

In analyzing the hydrology of the brook, we chose to select several "Design Points" starting at the stream entrance of the proposed box culvert and at downstream points at 100' intervals. (Analysis was veloped using "HydroCad" software based upon the S.C.S. TR-20 methodology.)

For the purpose of the analysis, the upstream component of the flow was calculated for the 329.2 Ac. ed upon published maps (USGS) and soils surveys (USDA). The characteristics of the up-gradient areas are ed upon 2 acre lots. (As the same characteristics are used for both the existing and proposed conditions, any nor deviations, applying equally, will have no net difference in the analysis of the impacts of the velopment.)

EXHIBIT 7

SOILS CONSULTING SERVICE

HENRY T. MOELLER

PEDOLOGIST (SOIL SCIENTIST) AND CONSULTANT

159 HULLS HILL ROAD
SOUTHBURY, CONNECTICUT 06488
PHONE: (203) 264-6977

March 9, 1998

ON-SITE SOILS INVESTIGATION OF NIEWENHOUS SUBDIVISION IN ROXBURY, CONNECTICUT

I have conducted an on-site soils investigation of the property located on Route 67 in Roxbury, Connecticut. The principal purpose of this soils investigation was to locate and flag in the field all poorly drained and very poorly drained soils or "wetlands" as defined under the state inlands wetlands regulations. The flags were located by survey and plotted onto the site plan. In this soils investigation and report, the classifications of the soils, soil textures, descriptive terms, and drainage classifications follow the guidelines and criteria of the National Cooperative Soil Survey.

FINDINGS----

The property lies on the top and northeast side slopes of a large drumlin. The soils are developed in stony glacial till. The predominant soils are well drained and consist of the Paxton fine sandy loam on slopes ranging from gently sloping to steep. There are inclusions of moderately well drained soils near some of the flagged wetlands and watercourses. They are very limited in area and tend to be narrow.

There are two main types of wetlands on the property. The first wetland type consists primarily of a perennial stream with a narrow area of very stony soils subject to flooding or adjacent seepage areas. The wetland soils along the brook consist primarily of the **(Rn) Ridgebury, Whitman, and Leicester extremely stony fine sandy loams, 0 to 5 percent slopes** but also include minor areas of loamy and sandy alluvial soils. This wetland is located along the most of the property between Route 67 and the hillside.

This portion of the wetland receives all surface runoff and subsurface seepage from surrounding uplands. It also receives runoff from Route 67. At the west end of the property there is a piped spring. This wetland also receives most of the water from the property itself. It functions primarily as a watercourse and water discharge area. Due to the topography and slopes, there is no significant water storage or detention capacity on the property. There is some erosion and sedimentation along the brook which occurs during periods of storms and very heavy runoff. The brook itself cuts into the banks in some areas. It also receives sediment from Route 67 and from the other wetlands on the property.

The second wetland type consists of a complex of intermittent watercourses, drainageways, seepage areas, and gullies that begin upslope and continue downslope to other wetlands downslope. The predominant soil in these

areas consists of the **(Rn) Ridgebury, Whitman, and Leicester extremely stony fine sandy loams, 0 to 5 percent slopes.** There are four such areas on the property. Three of these areas go down the same northeast slope to the brook along Route 67. The fourth wetland area is located at the northern end of the property and flows downslope to the southwest off the property. It is in a different watershed.

These wetlands function primarily as water discharge areas for surface runoff and subsurface seepage. They have been subject to gully erosion and have formed deep gullies in places. Most likely these gullies began forming when the land was used for agriculture. It is now in forest vegetation. However, due to trees falling over on the banks and trees blocking the path of water, the erosion has gotten worse in recent years. The soils and the bottom of the gullies are generally very stony. These wetlands occur on sloping to steep slopes, ie., 10 to more than 20 percent.

The first two wetlands are located in lots 2, 3, 18, and 19. They are connected by poorly drained soils and seepage areas in lot 19. They form a braided stream pattern in places on the way downslope. The sediment flows downstream into the brook along Route 67.

The third wetland begins in lot 17 and flows through most of lot 18. This wetland also is eroding in places and deposits sediment in the brook along Route 67. There is also a slight depression where there are poorly drained soils that form a wide branch. A small amount of water from this depression flows into the intermittent watercourse or gully. However, excess water will simply flow over moderately well and well drained soils downslope during periods of heavy rainfall or even during the spring thaw. During normal times the water seeps out at the base of the slope and infiltrates back into the soils downslope.

The fourth wetland is located in a different watershed area of the property. It begins in a depression at the top of the hill in lot 12, goes through a small corner of lot 8, continues downslope through lot 9, and off the property to the southwest. The depression at the top of the hill has a very limited watershed area. It traps water and has a restricted outlet. There is also a small area that is a seepage area half way down the slope that forms a slightly wider area. Most of the length of this wetland is a watercourse in an eroding gully that continues off the property. For more detailed information on the soil types, see the last section of this report.

PROPOSED SUBDIVISION AND IMPACT----

It is proposed to develop the property into 19 lots. The lots range from 3 to 5 acres in area and there is also an area of open space designated along Route 67. The open space includes a large area of the very steep soils and the existing spring. Due to the large lots and the open space, the property will retain much of the character as a forested area.

Due to the slopes, topography, and location and curves on Route 67, the best access to the property is the proposed location of the road. It is simply not possible to avoid the wetlands. The first road crossing is over the perennial brook from Route 67. This crossing is also at the junction of two

watercourses from the first two wetlands described above. Under existing conditions these two watercourses come down a very steep slope before reaching the brook. There is substantial erosion occurring at this point. The road crossing will provide a barrier that will slow the water and provide a rip rapped swale to drop the water into the main brook. This will also eliminate an area subject to erosion. The brook itself will go through a culvert with rip rap at both the inlet and the outlet. While the brook is flowing through a pipe for that distance the erosion potential is reduced.

The road goes up the slope and crosses the two wetlands at the narrowest areas. There are actually three intermittent watercourses that are eroding. At this crossing the water from lots 2 and 3 will be completely intercepted by the storm drainage system in the road. This will reduce the amount of water flowing through the gullies in lot 19. There will still be some runoff and seepage flowing through this area during wet seasons. However, the erosion hazard will be substantially reduced. While the soils will remain poorly drained and will be wet in winter and after periods of prolonged rainfall, they will be drier and more stable with ground vegetation. This will reduce the amount of silt reaching the brook along Route 67. While the development of lot 19 does not require direct encroachment for a home site on the lot, the flagged wetlands would greatly benefit from some cutting of trees, landscaping, and other conservation practices.

The last road crossing is at the top of the hill in the area of lots 8, 9, 11, and 12. This is a simple crossing of a narrow intermittent watercourse. As described above, the watershed area supporting this wetland is very limited. The topography is such that the road itself does not add much runoff to the area. The development of the 4 lots also will not significantly increase the runoff into this wetland. The topography is such that the proposed home sites in only lots 8 and 12 discharge water toward the wetland and watercourse. Only a very limited area in lots 9 and 11 will direct water to this wetland.

The proposed road will also discharge water into the third wetland beginning in lot 17 and going through lot 18. There has been every attempt to spread the runoff as much as possible or to safely discharge it at the main brook along Route 67. However, due to the topography this is the best area for the discharge of the road drainage system. This wetland has already been defined as a watercourse over the years. The outlet will be heavily rip rapped to avoid erosion. It is simply not feasible to discharge this water onto well drained soils in this portion of the property. The slopes are too steep and a new gully would form. The existing wetland and gully are very stony. The water will be contained within the channel as it flows downslope.

Due to the large lot sizes, the amount of increased runoff due to impervious surfaces will be low. The large lots range from 3 to 5 acres in size and the open space further reduces the overall density. The four wetlands described as swales and seepage areas on the property function primarily as water discharge areas. There is no direct necessary encroachment into wetlands in any lot for the development of a home site.

However because of the nature of these wetlands, they would benefit from any conservation practices, forestry to thin the trees and open the area, and possible landscaping. The development will not change these functions and the

total area of direct encroachment is very low. The value to these four wetlands is also rather low because they formed gullies as a result of past erosion when the land was in agriculture and consisted of open fields. These conservation measures would only be applied on an individual lot basis. Lots 2, 3, 18, and 19 are the most important. The result of any conservation measures would help to reduce the sediment going into the brook along Route 67. This wetland is the most important wetland and watercourse on the property. It is a perennial brook with a much larger watershed area.

Some selective cutting would also be beneficial to the main brook in the open space. There are some trees that have fallen down. A tree will block the channel and create even more erosion. There are also trees immediately adjacent to Route 67 that are a danger to the road itself. The open space and the spring will remain in the existing condition. Overall, the development of the property will not significantly change the character of the property or the basic functions and areas of the wetlands. If there are any questions, please do not hesitate to contact me.

Respectfully submitted,

Henry T. Moeller

Henry T. Moeller

UPLAND SOIL DESCRIPTIONS----

(PbB) Paxton fine sandy loam, 3 to 8 percent slopes.

This soil is well drained and a very deep soil developed in firm glacial till. These soils consist of 20 to 40 inches of friable fine sandy loam over a gray compact fine sandy loam till substratum. The average depth to the compact substratum ranges from 25 to 35 inches. The surface soil ranges from a dark grayish brown fine sandy loam to a silt loam. The subsoil is a yellowish brown to brown fine sandy loam and may range in texture to a sandy loam. The compact substratum is firm to very firm and has a slow to very slow permeability. A perched water table a few inches thick may occur above the compact substratum in spring and after heavy and extended rainfall. This water moves downslope over the surface of the firm substratum in wet seasons. The Paxton series is classified as coarse-loamy, mixed, mesic Typic Fragiochrepts.

WETLAND SOIL DESCRIPTIONS----

(Rn) Ridgebury, Whitman, and Leicester extremely stony fine sandy loams, 0 to 5 percent slopes.

This mapping unit includes poorly and very poorly drained soils. These soils are very stony to extremely stony on the surface and throughout the soil profile. The stones and boulders may cover from 3 to 15 percent or more of the soil surface. These soils have either a perched water table or a ground water table at or near the surface from fall to spring and after heavy rains or long periods of rainfall in summer. Because of the stony conditions and the intricate and complex pattern of these soils, it is not possible or practical to map the individual soils out on a map of any scale.

SOILS INVESTIGATION OF NIEWENHOUS SUBDIVISION---5 March 9, 1998

The predominant soils in this mapping unit are the Ridgebury and Whitman soils which have a dark gray to black surface soil and a gray mottled subsoil. The topsoil ranges from silt loam to fine sandy loam and the subsoil texture is a fine sandy loam and is moderately permeable. The underlying substratum is a gray to grayish brown dense compact till consisting of fine sandy loam. It has a slow to very slow permeability. The Ridgebury soil is poorly drained and the Whitman soil is very poorly drained. The dense compact substratum ranges from 20 to 30 inches below the surface. These soils normally occur in till deposits and drumlins.

The Leicester soils are more common in areas of bedrock and near outwash deposits. The Leicester soils has a dark gray to black fine sandy loam surface soil and a mottled gray subsoil with a moderate permeability. The substratum is a gray fine sandy loam ranging to sandy loam and is also moderately permeable to depths of 40 inches and more. Any compact substratum is below 40 inches.

All of the above soils may have a coarse silt loam surface in places due to sedimentation. Only in the very poorly drained areas there may be a thin muck surface less than 12 inches thick.

The Ridgebury series is classified as coarse-loamy, mixed, mesic Aeric Fragiaquepts. The Whitman series is classified as coarse-loamy, mixed, mesic Typic Fragiaquepts. The Leicester series is classified as coarse-loamy, mixed, acid, mesic Typic Haplaquepts.

SOILS CONSULTING SERVICE

HENRY T. MOELLER

PEDOLOGIST (SOIL SCIENTIST) AND CONSULTANT

159 HULLS HILL ROAD
SOUTHBURY, CONNECTICUT 06488
PHONE: (203) 264-6977

June 21, 2010

ON-SITE REVIEW OF SOILS & FLAGGING OF WETLAND CROSSINGS OF PROPERTY FOR C. N. BUILDERS IN ROXBURY, CONNECTICUT

I had originally conducted an on-site soils investigation of the property located on Route 67 in 1998. I had flagged the wetlands in the field and the flags were located by survey at that time. Recently I flagged the wetlands at the two driveway crossings on April 9th, 2010 and flagged additional wetlands upslope of the second crossing on May 25th, 2010. At the request of the Roxbury Inlands Wetlands Commission I checked areas of concern on June 3rd, 2010.

In all soils investigations the soils are checked with a long heavy spade and in the last soils investigation an auger was also used to check the soils and log the holes. In this soils investigation and report, the classifications of the soils, soil textures, descriptive terms, and drainage classifications follow the guidelines and criteria of the National Cooperative Soil Survey.

SUMMARY OF ON-SITE INVESTIGATION ON 6/3/10----

In the definition, an intermittent watercourse must have a defined channel and two of the three following: 1. evidence of erosion and/or sedimentation, 2. has a flow longer than a single storm event, and 3. supporting or capable of supporting hydrophytic vegetation.

However, flagging the boundaries of an intermittent watercourse may include other complexities. The channel may be poorly defined in portions of the flagged area or even have a braided configuration. The flagged watercourse may also include seepage areas consisting of poorly drained soils. Thus, the criteria for watercourses and wetland soils may overlap. In some cases there is an obvious swale that conducts water on an intermittent basis or be part of a defined channel, but does not have a defined channel with banks of 6 inches or more. Thus, when the initial flagging at the crossings was done on April 9th, the water was flowing and included within the flagged watercourse boundary.

The soils checked which were outside of the flagged wetland boundary simply did not meet the color criteria for hydric soils or poorly drained soils. This finding includes several holes (holes 4, 5, 6, and 7) that were dug in areas of skunk cabbage located east and outside of the flagged watercourse boundary. This area is outside of flag 223 and flags 131 to 134. The soils in this area are moderately well drained and are outside of the flagged wetland boundary. Skunk cabbage plants will grow in moderately well to well drained soils if there is a seed source and there is a dense tree and shrub canopy.

Some soils on and within the flagged watercourse boundary also do not meet the color criteria for hydric or poorly drained soils. Holes 1 and 3 were moderately well to well drained.

Overall, the flagged wetland boundaries delineate a complex of channels, swales, alluvial soils, and poorly drained soils. For more detailed information on the logged holes, see the last section of this report. If there are any questions, please do not hesitate to contact me.

Respectfully submitted,

Henry T. Moeller

Henry T. Moeller

HOLE DATA IN QUESTIONED AREAS----

In the following logged holes, the primary textures range from fine sandy loam to sandy loam. The thickness of the A horizon or topsoil ranges from 10 to 15 inches. The soils were very stony and thus, sampling was difficult. The colors of the top of the B horizon or subsoil were the primary concern in the sampling. This is the determining criteria for hydric or poorly drained soils. The total depth of the holes was limited to 15 to 20 inches due to very stony soil profiles.

Hole #1--- Located on the boundary line between flags #125 and #126. No defined channel in this flagged area.
A Very dark brown (7.5YR2.5/2).
B Brown (7.5YR4/4) to dark yellowish brown 10YR4/4), no mottles.

Hole #2--- Located outside of flag #122 and approximately 15 feet from flag #121 on east side of stone wall.
A Very dark brown (7.5YR2.5/3).
B Strong brown (7.5YR4/6), no mottles.

Hole #3--- Located inside wetland boundary between flag #127 and water in proposed driveway crossing near station 11+0.
A Very dark brown (7.5YR2.5/3).
B Brown (7.5YR4/4), no mottles.

Hole #4--- Located outside of wetland boundary near flag #131, single skunk cabbage plant next to hole.
A Very dark brown (7.5YR2.5/3).
B Brown (7.5YR4/4), no mottles.

Hole #5--- Located 40 feet from station 11+0 on top of a skunk cabbage plant.
A Very dark brown (7.5YR2.5/3).
B Brown (7.5YR4/4), no mottles.

Hole #6--- Wettest area with numerous skunk cabbage plants located approximately 25 feet from center of driveway just outside of flag #223. Dense tree and shrub canopy with bayberry plants present.

A Dark brown (7.5YR3/2).

B Brown (7.5YR4/3) with few faint brown (7.5YR4/2 and 7.5YR4/3) mottles. This hole revealed a moderately well drained soil.

Hole #7--- Located 10 feet east of flag #223 in skunk cabbage plant area.

A Very dark brown (7.5YR2.5/2), few fine, faint yellowish red (5YR4/6) mottles.

B Brown (7.5YR4/4), no mottles. This hole is in a moderately well drained area with a dense tree and shrub canopy.

EXHIBIT 8

INLAND WETLANDS COMMISSION
Roxbury, CT 06783

Public Hearing

Tuesday, June 29, 2010

7:00 PM

AGENDA

Application by Charles Neiwenhous, Southbury Road (Map 32, Lot 08) for a stream crossing for a driveway to access the upland portion of the site for possible cell tower location.

Respectfully submitted,

Karen S. Eddy

Karen S. Eddy
Land Use Administrator

CC: B. Henry, P. Hurlbut, R. Dirienzo, M. Barton

Date posted: June 24, 2010

INLAND WETLANDS COMMISSION
Roxbury, CT 06783

Public Hearing

Continued on July 27, 2010

7:00 PM

AGENDA

Application by Charles Neiwenhous, Southbury Road (Map 32, Lot 08) for a stream crossing for a driveway to access the upland portion of the site for possible cell tower location.

Respectfully submitted,

Karen S. Eddy

Karen S. Eddy
Land Use Administrator

CC: B. Henry, P. Hurlbut, R. Dirienzo, M. Barton

Datd/Posted: July 23, 2010

INLAND WETLANDS COMMISSION
Roxbury, CT 06783

PUBLIC HEARING

Continued on August 24, 2010

7:00 PM

AGENDA

Application by Charles Neiwenhous, Southbury Road (Map 32, Lot 8) for a stream crossing for a driveway to access the upland portion of the site for possible cell tower location.

- **Letter dated 8/10/10 – Clarification of ownership**
- **Letter dated 8/11/10 – Notice of municipal boundary with Woodbury**

Respectfully submitted,

Karen S. Eddy

Karen S. Eddy
Land Use Administrator

Dated/Posted: August 19, 2010

FAX TO: **VOICES**
FROM: **Roxbury Inland Wetlands**
SUBJ: **Legal Notice**

Please publish on Wednesday, June 16 and June 23, 2010

Town of Roxbury
Inland Wetlands Commission

LEGAL NOTICE

The public is hereby noticed that the Roxbury Inland Wetlands & Watercourses Commission will hold a public hearing on **Tuesday, June 29, 2010 at 7:00 p.m.** in the Roxbury Town Hall. The purpose of the hearing is to solicit comments regarding an application by Charles Neiwenhous, Southbury Road (Map 32, Lot 08) for a stream crossing for a driveway to access the upland portion of the site for a possible cell tower location.

At this hearing interested persons may be present and heard and written communications will be accepted. A copy of the application and related documents are on file and available for public review in the Roxbury Town Hall Land Use Office during normal business hours.

Respectfully submitted,
Russell J. Dirienzo, P.G., LEP
Chairman

****

FORWARD BILL TO:

Karen Eddy
Roxbury Inland Wetlands Commission
29 North Street
Roxbury, CT 06783

Fax: (860) 354-4028
Phone: (860) 354-9612

Dated: June 11, 2010

Faxed: 6/11/10 @ 12:39 PM

CC: Town Clerk

FAX TO: VOICES
FROM: Roxbury Inland Wetlands
SUBJ: Legal Notice

Please publish on Wednesday, July 14 and July 21, 2010

Town of Roxbury
Inland Wetlands Commission

LEGAL NOTICE

The public is hereby noticed that the Roxbury Inland Wetlands & Watercourses Commission will continue a public hearing on **Tuesday, July 27, 2010 at 7:00 p.m.** in the Roxbury Town Hall. The purpose of the hearing is to solicit comments regarding an application by Charles Neiwenhous, Southbury Road (Map 32, Lot 08) for a stream crossing for a driveway to access the upland portion of the site for a possible cell tower location.

At this hearing interested persons may be present and heard and written communications will be accepted. A copy of the application and related documents are on file and available for public review in the Roxbury Town Hall Land Use Office during normal business hours.

Respectfully submitted,
Russell J. Dirienzo, P.G., LEP
Chairman

****

FORWARD BILL TO:

Karen Eddy
Roxbury Inland Wetlands Commission
29 North Street
Roxbury, CT 06783

Fax: (860) 354-4028
Phone: (860) 354-9612

Dated: July 5, 2010

Faxed: 7-5-10 @ 3:57PM

CC: Town Clerk

EXHIBIT 9

BERKOWITZ,
TRAGER &
TRAGER, LLC
COUNSELORS AT LAW

Robert H. Rubin
203 291 8205
rr@bertralaw.com

August 10, 2010

Russell Dirienzo, Chairman
Roxbury Inland-Wetlands Commission
Roxbury Town Hall
29 North Street
P.O. Box 203
Roxbury, CT 06783

Re: Niewenhous – Land Engineering/Southbury Road (Map 32/Lot 8) – Stream crossing to access possible cell tower site.

Dear Mr. Dirienzo:

I have been asked to clarify the ownership of the property involved in the above application. The properties owned by CN Builders Inc, a Connecticut Corporation, I represented CN Builders Inc when it acquired the property some thirty years ago. Charles Niewenhous in whose name the application has been filed, has always been, and still is, the owner and principal of CN Builders Inc.

Mr. Niewenhous and CN Builders Inc have no plans to convey or transfer any interest in the property except to lease a portion to the cell tower operator for the location of a cell tower.

Very truly yours,

Robert H. Rubin

RHR/ms

cc: Charles F. Niewenhous
Liam King

EXHIBIT 10

LAND ENGINEERING & SURVEYING, LLC

CONSULTING ENGINEERS & L
525 JOHN STREET BRIDGEPORT, CONN
PH (203) 268-7843 FAX (203) 336-1

STATE OF CONNECTICUT * JAY D. KELLER * No. 21277 REGISTERED PROFESSIONAL ENGINEER

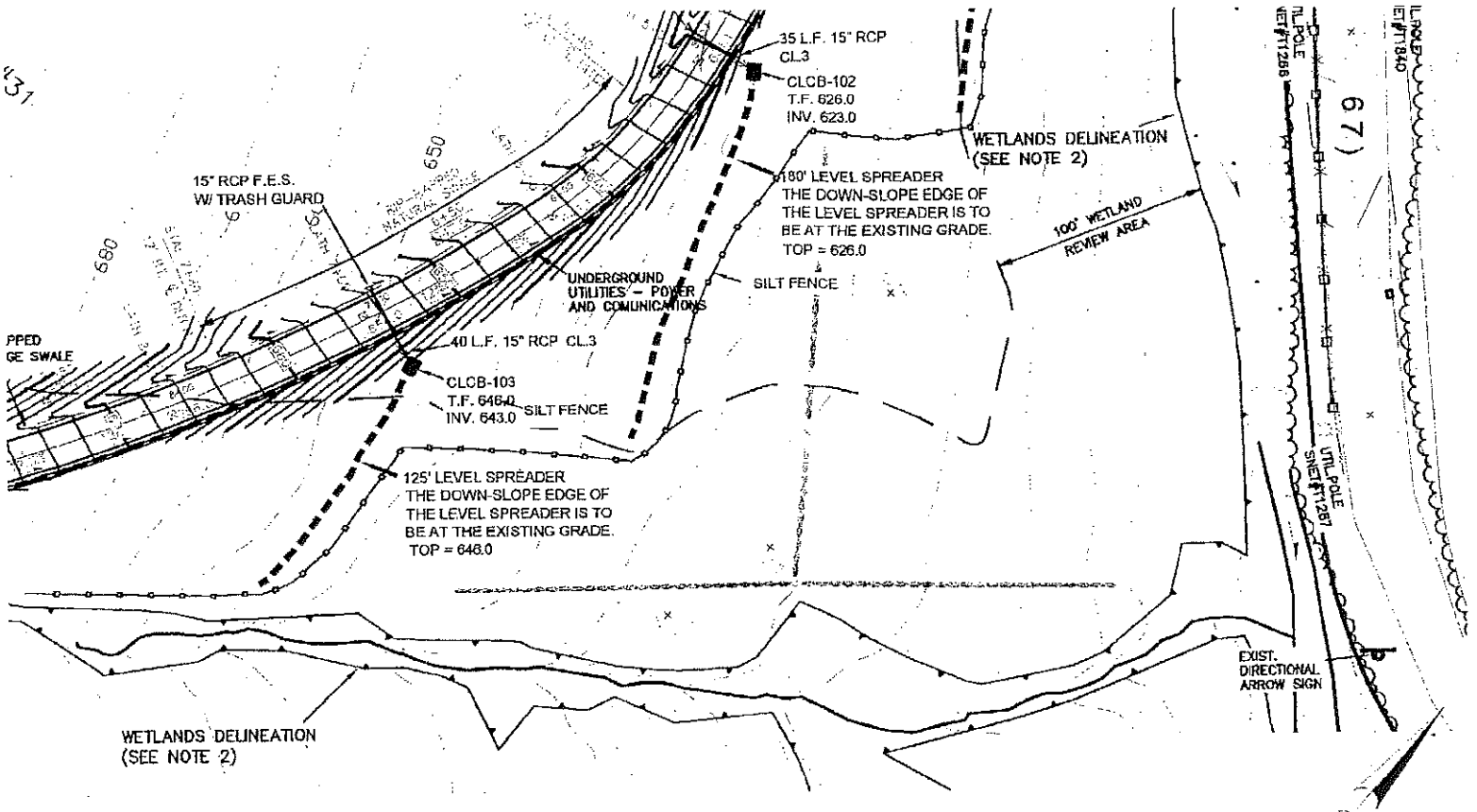
DRAWN	DMP
CHECKED	J.D.K.
APPROVED	J.D.K.

ALTERNATE "D"
DRIVEWAY PLAN AND LEVEL SPREADER

PROPERTY LOCATED AT
ROUTE 67
ROXBURY, CONNECTICUT

PREPARED FOR
C.N. BUILDERS

REVISIONS



CROSSING ADJACENT SOUTHBURY RD. = 2,600 SQ.FT.
ETLANDS AND WATERCOURSE = 1,280 SQ.FT.
4,090 SQ.FT.

CONSTRUCTION = 61,970 SQ.FT., = 1.42 ACRES (GROSS)
4,090 SQ.FT.

CONSTRUCTION = 57,880 SQ.FT., = 1.33 ACRES (NET)

GENERAL NOTES:

1. A DETAILED CONSTRUCTION SEQUENCING; EROSION AND SEDIMENTATION CONTROL PLAN IS TO BE REVIEWED AND APPROVED BY THE TOWN OF ROXBURY INLAND WETLANDS OR THIS DESIGN PRIOR TO CONSTRUCTION.
2. WETLAND DELINEATION REFERENCED FROM CLASS A-2, MAP OF PROPERTY PREPARED FOR CHARLES F, NIEWENHOUS; SCALE 1" = 50', DATED AUGUST 25, 1997; DONE BY DENNIS A. DEILUS - LAND SURVEYOR, CT LICENSE NO. 6396.
3. ON-SITE SOIL INVESTIGATION BY HENRY T. MOELLER SOIL CONSULTING SERVICES; DATED MARCH 9, 1998; SIGNED BY HENRY T. MOELLER (SOIL SCIENTISTS).

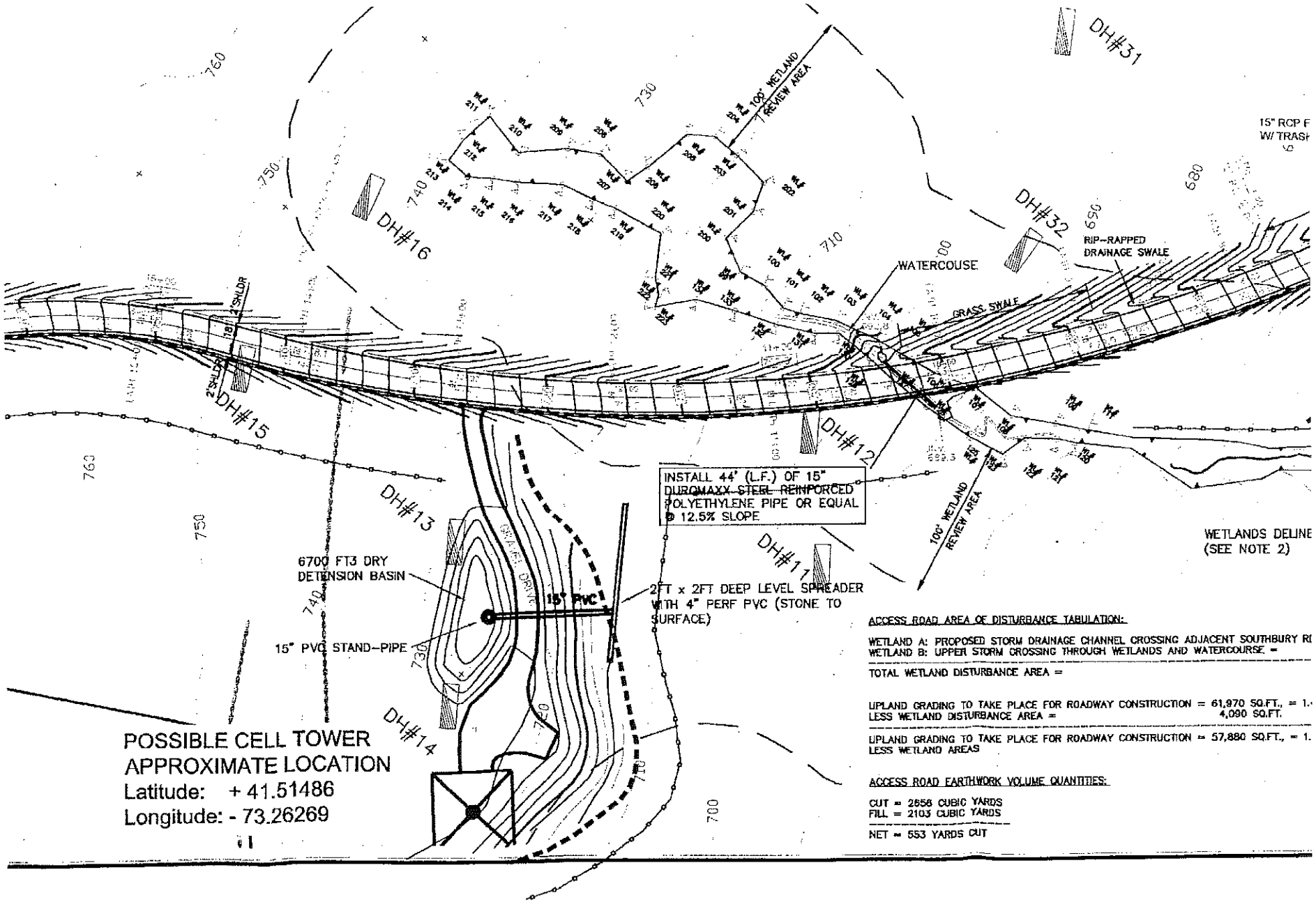
REVISIONS

ALTERNATE "D"
DRIVEWAY PLAN AND LEVEL SPREAD

PROPERTY LOCATED AT
ROUTE 67
ROXBURY, CONNECTICUT
PREPARED FOR
C.N. BUILDERS

Scale: 1" = 50'
Date: 12-14-09
Sheet No. 3B of 6
Job No. L07-790

Rec'd. 3/13/12



ACCESS ROAD AREA OF DISTURBANCE TABULATION:

WETLAND A: PROPOSED STORM DRAINAGE CHANNEL CROSSING ADJACENT SOUTHBURY RI
WETLAND B: UPPER STORM CROSSING THROUGH WETLANDS AND WATERCOURSE =

TOTAL WETLAND DISTURBANCE AREA =

UPLAND GRADING TO TAKE PLACE FOR ROADWAY CONSTRUCTION = 61,970 SQ.FT., = 1.
LESS WETLAND DISTURBANCE AREA = 4,090 SQ.FT.

UPLAND GRADING TO TAKE PLACE FOR ROADWAY CONSTRUCTION = 57,880 SQ.FT., = 1.
LESS WETLAND AREAS

ACCESS ROAD EARTHWORK VOLUME QUANTITIES:

CUT = 2656 CUBIC YARDS
FILL = 2103 CUBIC YARDS

NET = 553 YARDS CUT

EXHIBIT 11

FAX TO: Voices
FROM: Roxbury Inland Wetlands
SUBJ: Legal Notice
DATE: August 30, 2010

Please publish on Wednesday, September 1, 2010

Legal notice

THE ROXBURY INLAND WETLANDS COMMISSION having considered the factors and circumstances set forth in Section 10 of the Roxbury Inland Wetlands Regulations and finding that those activities will not have a significant impact on wetlands and watercourses involved in each, and determining that no other feasible and prudent alternatives exist for the proposed activity took the following action at its regular meeting of August 24, 2010:

Permits Approved:

Niewenhous – Southbury Road (Map 32/Lot 8) – Stream crossing to access possible cell tower site approved with conditions.

Respectfully submitted,
Russell J. Dirienzo, P.G., LEP
Chairman

****

FORWARD BILL TO:
Attn: Karen Eddy
Roxbury Inland Wetlands Commission
29 North Street
Roxbury, CT 06783
\Phone: (860) 354-9612
Fax: (860) 354-4028

Dated: August 30, 2010

Faxed: 8/30/10 @ 10:25 AM