



Transcript of the Hearing of

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Docket No. 445
June 3, 2014

STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

Docket No. 445

Homeland Towers, LLC, and New Cingular

Wireless PCS, LLC, Application for a

Certificate of Environmental Compatibility

and Public Need for the Construction,

Maintenance, and Operation of a

Telecommunications Facility Located at

Ridgefield Town Assessor Map Parcel #D08-124,

Southwest of the Intersection of Old
Stagecoach Road and Aspen Ledges Road,
Ridgefield, Connecticut

Continued Council Meeting held at the
Connecticut Siting Council, 10 Franklin
Square, New Britain, Connecticut, Tuesday,
June 3, 2014, beginning at 1:01 p.m.

H e l d B e f o r e :

ROBERT STEIN, Chairperson

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

2 Siting Council Members:

3 JAMES J. MURPHY, JR.

4 Vice Chairperson

5 PHILIP T. ASHTON

6 DR. BARBARA C. BELL

7 ROBERT HANNON, DEEP Designee

8 LARRY LEVESQUE, ESQ., PURA Designee

9 DR. MICHAEL W. KLEMENS

10 DANIEL P. LYNCH, JR.

11

12 Council Staff:

13 MELANIE BACHMAN, ESQ.,

14 Acting Executive Director, Staff

15 Attorney

16 DAVID MARTIN

17 Siting Analyst

18

19 For Homeland Towers and New Cingular

20 Wireless, PCS, LLC:

21 CUDDY & FEDER, LLP

22 445 Hamilton Avenue, 14th floor

23 White Plains, New York 10601

24 By: CHRISTOPHER B. FISHER, ESQ.

25

1 A p p e a r a n c e s : (Cont'd)
2 For the Intervenor Ridgefielders
3 Against the Cell Tower:
4 EVANS, FELDMAN & AINSWORTH, LLC
5 261 Bradley Street
6 New Haven, Connecticut 06507
7 By: KEITH R. AINSWORTH, ESQ.
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1 THE CHAIRPERSON: Good
2 afternoon, ladies and gentlemen. I'd like to
3 call to order this meeting of the Connecticut
4 Siting Council regarding Docket 445. Today
5 is June 3, 2014, at approximately 1:00 p.m.
6 My name is Robert Stein. I'm chairman of the
7 Connecticut Siting Council.

8 This hearing is a continuation
9 of the hearing held on April 24, 2014, at the
10 Ridgefield Town Hall, large conference room,
11 at 400 Main Street, Ridgefield, Connecticut.
12 It is held pursuant to provisions of Title 16
13 of the Connecticut General Statutes and of
14 the Uniform Administrative Procedure Act upon
15 an application from Homeland Towers, LLC, and
16 New Cingular Wireless PCS, LLC, for a
17 Certificate of Environmental Compatibility
18 and Public Need for the construction,
19 maintenance and operation of a
20 telecommunications facility located southwest
21 of the intersection of Old Stagecoach Road
22 and Aspen Ledges Road in Ridgefield,
23 Connecticut. This application was received
24 by the Council on February 21, 2014.

25 A verbatim transcript will be

1 made of this hearing and deposited with the
2 Town Clerk's office in the Ridgefield Town
3 Hall for the convenience of the public.

4 On May 1st and May 5, 2014,
5 the Council took administrative notice of
6 documents listed on the hearing program as
7 Roman numeral at ID 19 and then 25, 26 and
8 27, 44 and 53.

9 Does any of the parties or
10 intervenor object to the Council taking
11 administrative notice of these items?

12 MR. AINSWORTH: No, sir.

13 THE CHAIRPERSON: Thank you.

14 We will proceed in accordance with the
15 prepared agenda, copies of which are
16 available here, commencing with the
17 application of the Intervenor, Ridgefielders
18 Against the Cell Tower.

19 So, we'd begin by the swearing
20 in, identifying, Attorney Ainsworth, your
21 witnesses, and then we'll have a swearing in.

22 MR. AINSWORTH: Mr. Chairman,
23 I'd like to introduce the panel as it exists
24 today, which is Michael Dow of RACT; we have
25 Ian Dow; Dr. Steven Danzer, who's a wetlands

1 consultant; and Harry Manchester who are
2 present here today. And I'd like them to be
3 sworn in.

4 H A R R Y M A N C H E S T E R,
5 S T E V E N D A N Z E R,
6 M I C H A E L D O W,
7 I A N D O W,

8 called as witnesses, being first duly
9 sworn by Ms. Bachman, were examined and
10 testified on their oaths as follows:

11 MS. BACHMAN: Thank you.

12 THE CHAIRPERSON: Attorney
13 Ainsworth, will you continue by verifying the
14 exhibits you filed in the matter and by the
15 appropriately sworn witnesses?

16 MR. AINSWORTH: Okay. First
17 we'll start with the intervention request,
18 and I'll ask Mr. Manchester. Can you verify
19 that the intervention request filed by
20 Ridgefielders Against the Cell Tower, which
21 has been filed as prefile exhibit, is a true
22 and accurate copy of the document that was
23 authorized by RACT.

24 THE WITNESS (Manchester):

25 Yes.

1 MR. AINSWORTH: And are there
2 any additions, deletions or corrections which
3 need to be made to that document to your
4 knowledge?

5 THE WITNESS (Manchester): Not
6 to correct it, no.

7 MR. AINSWORTH: I seek that it
8 be admitted as a full exhibit unless there
9 are objections.

10 THE CHAIRPERSON: Are there
11 any objections? Okay.

12 MR. AINSWORTH: Now, with
13 regard to the Applicant's interrogatories or
14 responses to -- excuse me, the RACT's
15 responses to Applicant's interrogatories,
16 dated April 1, 2014, and I'll ask both Mr.
17 Manchester and Dr. Danzer, can you confirm
18 that the responses that you gave are true and
19 accurate answers to the interrogatories?
20 Obviously, Dr. Danzer will be asked with
21 regard to the wetlands questions and the
22 natural resources questions, and
23 Mr. Manchester with regard to the questions
24 regarding RACT's composition.

25 THE WITNESS (Danzer): Yes.

1 MR. AINSWORTH: Mr. Manchester.

2 THE WITNESS (Manchester):

3 Yes.

4 MR. AINSWORTH: Unless there's
5 any objection, I seek to have those admitted.

6 THE CHAIRPERSON: Is there any
7 objection?

8 MR. FISHER: No objection.

9 THE CHAIRPERSON: No
10 objection. Okay, they'll be made part of the
11 record. I believe you have either another
12 witness who has not been sworn in or who
13 arrived late?

14 MR. AINSWORTH: We have an
15 additional witness, Lauren Salkin, who has
16 just arrived. If you could stand and be
17 sworn in and raise your right hand?

18 L A U R E N S A L K I N,
19 called as a witness, being first duly
20 sworn by Ms. Bachman, was examined and
21 testified on her oath as follows:

22 THE CHAIRPERSON: Thank you.

23 MR. AINSWORTH: Now, as a
24 group, I'm going to ask you all with regard
25 to all of the testimony, did each of you on

1 this panel prepare the prefile testimony
2 which bears your name.

3 THE WITNESS (M. Dow): Yes.

4 THE WITNESS (I. Dow): Yes.

5 THE CHAIRPERSON: You should
6 start to go one by one, please.

7 MR. AINSWORTH: That's true.

8 And I'll just go by name.

9 Michael Dow?

10 THE WITNESS (M. Dow): Yes.

11 MR. AINSWORTH: Ian Dow?

12 THE WITNESS (I. Dow): Yes.

13 MR. AINSWORTH: Dr. Danzer?

14 THE WITNESS (Danzer): Yes.

15 MR. AINSWORTH:

16 Mr. Manchester?

17 THE WITNESS (Manchester): Yes.

18 MR. AINSWORTH: And Lauren

19 Salkin?

20 THE WITNESS (Salkin): Yes.

21 MR. AINSWORTH: And is the
22 testimony that was filed on your behalf a
23 true and accurate copy of what you prepared?

24 THE WITNESS (Manchester): Yes.

25 THE WITNESS (Salkin): Yes.

1 THE CHAIRPERSON: We need you
2 to go one by one.

3 MR. AINSWORTH: Still?

4 THE CHAIRPERSON: Yes.

5 MR. AINSWORTH: Ms. Salkin?

6 THE WITNESS (Salkin): Yes.

7 MR. AINSWORTH:

8 Mr. Manchester?

9 THE WITNESS (Manchester):
10 Yes.

11 MR. AINSWORTH: Dr. Danzer?

12 THE WITNESS (Danzer): Yes.

13 MR. AINSWORTH: And Mr. Dow?

14 THE WITNESS (M. Dow): Yes.

15 MR. AINSWORTH: And Mr. Dow?

16 THE WITNESS (I. Dow): Yes.

17 MR. AINSWORTH: And do any of
18 you have any deletions, corrections or
19 additions which need to be made to that
20 prefile testimony? And if you say yes, we'll
21 take your name, otherwise --

22 MR. AINSWORTH: Hearing no
23 request to make deletions or corrections,
24 we'll move on.

25 And do all of you adopt your

1 prefile testimony here as your testimony
2 before the Council?

3 Ms. Salkin?

4 THE WITNESS (Salkin): Yes.

5 THE WITNESS (Manchester): Yes.

6 MR. AINSWORTH: Mr. Dow?

7 THE WITNESS (M. Dow): Yes.

8 MR. AINSWORTH: And Mr. Dow?

9 THE WITNESS (I. Dow): Yes.

10 MR. AINSWORTH: The panel is
11 now ready for cross-examination.

12 THE CHAIRPERSON: We have a
13 question from Mr. Lynch.

14 MR. LYNCH: Mr. Ainsworth, you
15 have a number of other witnesses listed.

16 Will they be appearing or not appearing or --

17 MR. AINSWORTH: At the present
18 time, they're not here. We expected more of
19 them, and they're not here. If they arrive
20 soon enough to be included in the panel,
21 we'll include them; otherwise, I would ask
22 that the Council accept their prefile
23 testimony. It was sworn under oath as
24 limited appearance materials, obviously,
25 because it's not subject to

1 cross-examination.

2 MS. BACHMAN: Would it be
3 possible, Attorney Ainsworth, we do have an
4 additional hearing date, maybe that could be
5 offered to them, if they would like to appear
6 in person, since Mr. Maxson will be here at
7 that time and they could join him on the
8 panel?

9 MR. AINSWORTH: I'll make that
10 offer to them, and again, if they accept,
11 then I'd be happy to present them as
12 witnesses, but it was their intention to be
13 here, and if they don't show up, again, if
14 the materials can become limited appearance
15 materials.

16 MR. LYNCH: I was just
17 inquiring. Our attorney took care of the
18 rest of it.

19 MR. AINSWORTH: Thank you,
20 sir.

21 THE CHAIRPERSON: Okay. Thank
22 you. We'll now begin with cross-examination.
23 We'll start with our staff member,
24 Mr. Martin.

25 MR. MARTIN: I have no

1 questions, Mr. Chairman.

2 THE CHAIRPERSON: Okay.

3 Mr. Ashton?

4 MR. ASHTON: Just hang on for
5 one second. I think it's Dr. Danzer that I
6 want to have a little chat with, if you'll
7 bear with me until I find my sheet.

8 There was a lot of discussion,
9 Dr. Danzer, about the bog turtle, and I
10 wondered has Ridgefield taken any active
11 measures to protect the bog turtles and their
12 habitat in this area at all?

13 THE WITNESS (Danzer): As far
14 as I'm aware, there was a natural resource
15 inventory done by the Town of Ridgefield.

16 THE CHAIRPERSON: I'm sorry.
17 I'm having trouble hearing you.

18 THE WITNESS (Danzer): As far
19 as I'm aware, the Town of Ridgefield did do a
20 natural resource inventory where they
21 mentioned the bog turtle. I believe that
22 question was addressed to me through an
23 interrogatory by a member of your panel, and
24 within their natural resource inventory they
25 had a map with a series of polygons, and two

1 of the polygons were within proximity to the
2 site. So I know there's a certain level of
3 consciousness on behalf of the community
4 regarding the potential bog turtle habitat.

5 As far as protective
6 mechanisms go, I'm not involved officially
7 for the Town of Ridgefield, so I don't really
8 know what goes on in the wetland commission
9 so --

10 MR. ASHTON: You're unaware of
11 any action they've taken; is that fair to
12 say?

13 THE WITNESS (Danzer): Yes,
14 because I'm not on their wetland commission.

15 MR. ASHTON: Okay, you
16 answered my question. Thank you.

17 Bear with me while I just go
18 through. I made a few notes on this thing.

19 Mr. Danzer, you seem to be --
20 I read your testimony. You expressed some
21 concern about what the impact of the compound
22 will be downstream down the slope. Insofar
23 as the compound contains a pervious floor --
24 the site is stone -- and insofar as the
25 access road contains pervious surface, does

1 that diminish your concerns?

2 THE WITNESS (Danzer): No, it
3 does not because my position, after studying
4 the design that was given, was what they are
5 is they're substituting what used to -- under
6 existing conditions is the soil, and when you
7 think about soil, it's basically a
8 heterogeneous mixture of sand, silt, clay.
9 It's fairly deep in that area. They're
10 substituting that for gravel, and what gravel
11 is, it's basically large angular rocks with
12 large holes in between the rocks. So my
13 position is that what will happen is that
14 when they get any serious precipitation, that
15 water will infiltrate into those rocks, but
16 it will also flow out rather quickly as
17 shallow flow, which is different than the
18 existing conditions, which I kind of went
19 into in great detail, or at least tried to,
20 in my report.

21 Under existing conditions,
22 what you have is natural soil that soaks up
23 water, stores it for a period of time, and
24 very slowly meets it out over the course of
25 the growing season. So the wetland down

1 stream is basically dependent upon
2 groundwater seepage. Under proposed
3 conditions with that gravel, that water is
4 going to infiltrate, go down to a compacted
5 layer, which they have to lay as a subbase in
6 order to prepare the area before they put the
7 gravel on, and that water is going to shoot
8 through, and it's essentially going to shoot
9 up into the northwest corner of the compound,
10 as it's designed to do, on the basis of
11 elevations and change the whole dynamic of
12 that stream from a groundwater dependent
13 seepage dependent stream to an ephemeral
14 stream, basically a stream that only flows in
15 response to a specific storm event.

16 So the key is, under existing
17 conditions, the soils are anywhere from 10
18 inches to 20 inches or more deep of natural
19 soil. Under proposed conditions they're
20 proposing 8 inches of gravel. So even if
21 that gravel replicated mother nature, which
22 it does not, there's still a lag of material
23 in order to store. So it's a question of
24 water budget. What they're doing is they're
25 taking away a significant component of the

1 water budget of the existing stream by adding
2 that gravel.

3 MR. ASHTON: Of the stream.
4 Now, the stream you're referring to is which
5 one?

6 THE WITNESS (Danzer): The
7 wetlands that have been identified on site.

8 MR. ASHTON: The wetlands that
9 are just down slope from the --

10 THE WITNESS (Danzer): Yes.

11 MR. ASHTON: And would it be
12 possible, in your opinion, to ameliorate that
13 condition by a combination of different
14 materials used to prepare the site and storm
15 water storage detention?

16 THE WITNESS (Danzer): No,
17 because, again, they would have to replicate
18 the existing natural features of the soil,
19 and that they cannot do. What they can do is
20 reduce the size of the imprint, the
21 footprint. They can move it out of the
22 recharge area. I suggested those in my
23 reports as two alternatives to mitigate the
24 impact, but any particular storage there is
25 going to run into that same problem. You run

1 into that very often when you have a wetland
2 downstream that's dependent upon groundwater
3 seepage. There's always the potential to
4 alter the hydrology, wetland diversion,
5 dependent upon existing hydrology.

6 MR. ASHTON: Do you have any
7 feel for or estimate as to what is the total
8 drainage area into that wetland and how much
9 of that total the proposed development
10 involves?

11 THE WITNESS (Danzer): Well,
12 it depends on how you define that wetland
13 area, but if we strictly define it --

14 MR. ASHTON: Well, you were
15 talking about the wetland just down slope?

16 THE WITNESS (Danzer): Yes.
17 That's what I want to make clear, sure. The
18 headwaters wetland, which is just part of
19 that wetland, was part of a larger system.
20 That's why I was trying to be really
21 concrete. That's a headwater system, and
22 it's very dependent on a fairly small
23 recharge area, which is more or less the same
24 square footage of where the compound location
25 is going to be. So whatever that square

1 footage is that's -- because they're putting
2 it in the relatively flat area of the site.
3 Off the top of my head, I don't have the
4 number. It's in their drainage report.

5 MR. ASHTON: Did you look at
6 it?

7 THE WITNESS (Danzer): Yes.

8 MR. ASHTON: Is it large,
9 small, midland?

10 THE WITNESS (Danzer): Well,
11 it's in proportion. That's the concept.

12 MR. ASHTON: Do you know if
13 the houses up above contribute to that down
14 slope storage flow?

15 THE WITNESS (Danzer): They
16 contribute not to the storage, but they
17 generate the flow that is stored.

18 MR. ASHTON: How do they do
19 that, by septic systems or roof runoff?

20 THE WITNESS (Danzer): Well,
21 just increasing impervious areas. The higher
22 up in the watershed, the soils are a lot
23 thinner there, there's more runoff. That's
24 generally where a lot of the runoff is
25 generated to the watershed.

1 MR. ASHTON: Do they have
2 septic systems do you know?

3 THE WITNESS (Danzer): That, I
4 do not know.

5 MR. ASHTON: Is Ridgefield
6 sewerred do you know?

7 THE WITNESS (Danzer): Parts
8 of Ridgefield probably are.

9 MR. ASHTON: But you don't
10 know this area?

11 THE WITNESS (Danzer): I don't
12 know.

13 MR. ASHTON: Dr. Klemens?

14 DR. KLEMENS: I'd like to
15 follow up. I have other questions, but I'll
16 hold off on them until my turn, but I want to
17 follow up on this, Dr. Danzer.

18 I read a very detailed
19 analysis of the seepage wetland, and my
20 question to you was is there a way that the
21 storm water could be managed in a different
22 manner? I understand your concern, as I read
23 it, and please correct me if I'm wrong, was
24 that all the storm water was going to be
25 concentrated, discharged at a single point

1 and create a rather flashy superficial
2 runoff. I mean, that was one of the things
3 that I understood as well as the recharge you
4 were concerned about, the surficial
5 flashiness. Could this be remedied -- and I
6 was going to ask this also of the Applicant
7 when they come up -- could this be remedied
8 by multiple storm water discharge points and
9 level spreaders to put the water that is
10 being collected back into the system as
11 mitigation?

12 THE WITNESS (Danzer): Not to
13 speak for the Applicant, but I believe they
14 tried in their own way, at least partially,
15 to do that because there was a retention
16 basin for the water that comes off of the
17 driveway system. I mean, it's a fairly small
18 area, so it doesn't make a lot of practical
19 sense to break it up into further
20 subwatersheds for further storage areas. My
21 opinion is it's the luck of the draw. You
22 have a small recharge area that is overly
23 important for a fairly small water
24 wetlands --

25 DR. KLEMENS: Then how would

1 you mitigate other -- if you were not moving
2 it, how could you see that the recharge gets
3 back in, first question; secondly, weren't
4 you not concerned about the single discharge
5 point in your report creating erosion and
6 flashiness and creating an erosive condition
7 and an ephemeral stream or intermittent
8 stream?

9 THE WITNESS (Danzer): To the
10 second point, absolutely, yes, I was
11 concerned, and I believe I went into that in
12 the report. The first part, it's my position
13 that I don't know. I don't know what they
14 could do to mitigate that because you have a
15 natural soil system and to reduce that to
16 gravel, it's an alteration, and I don't know
17 how to -- I mean, other than what I
18 suggested, which is decrease the size of the
19 footprint and/or move it away from the
20 recharge zone --

21 MR. ASHTON: Dr. Danzer, keep
22 your voice up, please.

23 THE WITNESS (Danzer): Sorry.

24 DR. KLEMENS: Thank you, Dr.
25 Danzer.

1 THE CHAIRPERSON: Mr. Ashton?

2 MR. ASHTON: I was going to go
3 in the same direction. Would you advise that
4 the access road be, if approved, be required
5 to be covered with a porous asphalt or a
6 porous concrete to slow down discharge?

7 THE WITNESS (Danzer): I
8 wouldn't necessarily make that recommendation
9 and for two reasons: I believe most of that
10 road already is supposed to be semi-pervious,
11 and I believe that they were concerned about
12 meeting particular grades, which is why they
13 paved over the last third, and I would give
14 them the benefit of the doubt that that would
15 be needed. Again, I think it all goes down
16 to the fact that the location of this is
17 fairly unfortunate with respect to the one
18 area in the ecosystem there that is flat
19 enough to retain precipitation.

20 I understand the questions
21 you're asking me, but they're all, in my
22 mind, basically the same question, which is
23 can you regenerate what's there through some
24 type of engineered exclusion or alteration,
25 and I don't have an answer for that. I don't

1 think so.

2 MR. ASHTON: So there's no
3 way, in your opinion, you could restore a
4 disturbed site? That's my words.

5 THE WITNESS (Danzer): In a
6 general sense you can, in that particular
7 site, no.

8 MR. ASHTON: I couldn't hear
9 you.

10 THE WITNESS (Danzer): In that
11 particular site, no.

12 MR. ASHTON: What would happen
13 if a house was built where the access road
14 now is to that site?

15 THE WITNESS (Danzer):
16 Assuming it had the same type of footprint,
17 it would probably have the same impact.

18 MR. ASHTON: Okay. And do you
19 agree that the site has been disturbed
20 already and the access road has been
21 disturbed already?

22 THE WITNESS (Danzer): If you
23 could define what you mean by "disturbance"?

24 MR. ASHTON: Worked, that road
25 did not exist there naturally, the area was

1 graded?

2 THE WITNESS (Danzer): Yes,
3 there's been some grading and clearing all up
4 and down that area, but I wasn't focused on
5 the road, I was focused on the flat area
6 which is not paved. It's just been cleared,
7 but the soils there appeared, at least from
8 where I could see from off site, to be
9 somewhat undisturbed.

10 MR. ASHTON: If the subbase
11 was not compacted, would that relieve some of
12 the problem?

13 THE WITNESS (Danzer): It
14 would help. But I believe that the reason
15 why you have a subbase is in order to provide
16 an area habitable to putting the gravel on --
17 I mean, I believe you can't have one without
18 the other because they're doing grading
19 there. There's a difference in elevation
20 from one corner of the site to the other, so
21 in order to meet the grades, they have to do
22 some grading. In order to do the grading,
23 they have to prepare an area that is
24 sufficient in order to keep the gravel in
25 place.

1 MR. ASHTON: So it's your
2 opinion that there -- is it your opinion that
3 no construction, no construction would allow
4 for a drainage system that's similar to what
5 or equivalent to what's there now; is that
6 fair to say?

7 THE WITNESS (Danzer): Can you
8 please repeat that question?

9 MR. ASHTON: Is it your
10 opinion that any construction on that site
11 will change the runoff characteristics going
12 to the wetland just below the site such that
13 any construction would be deleterious; there
14 can't be any construction that would preserve
15 what we have there now, in effect?

16 THE WITNESS (Danzer): No,
17 sir. I mean, theoretically speaking, if you
18 put a compound there that only covered maybe
19 a third of that area, that would preserve
20 enough of a recharge zone to make a
21 difference between that and what is currently
22 being proposed.

23 MR. ASHTON: Nothing further.
24 Thank you, Mr. Chairman.

25 THE CHAIRPERSON: Mr. Hannon?

1 MR. HANNON: I don't have
2 anything at this time.

3 THE CHAIRPERSON:
4 Mr. Levesque?

5 MR. LEVESQUE: I have maybe
6 one or two questions of Mr. Manchester.

7 THE WITNESS (Manchester):
8 Surely.

9 MR. LEVESQUE: Can you look at
10 the application, the abutter's map?

11 THE WITNESS (Manchester): Is
12 that this map?

13 MR. LEVESQUE: Yes.

14 THE WITNESS (Manchester):
15 That's what was handed out at the public
16 meeting of the 24th.

17 MR. LEVESQUE: Your counsel
18 might have a larger one. It's sheet number
19 81, you know, after Tab 3.

20 THE WITNESS (Manchester): Do
21 you have a big map?

22 MR. LEVESQUE: That might be
23 easier.

24 THE WITNESS (Manchester):
25 Good.

1 MR. LEVESQUE: In the middle
2 lot of Old Stagecoach Road, is that your lot,
3 Lot Number 2?

4 THE WITNESS (Manchester):
5 Correct.

6 MR. LEVESQUE: Now, I'm
7 curious. It seems like the northerly lot
8 line, the one that sort of parallels your
9 driveway, do you see that?

10 THE WITNESS (Manchester):
11 Yes, parallels the driveway, yes, the
12 one that --

13 MR. LEVESQUE: See how it's
14 sort of darkly shaded, and then your rear lot
15 line is also kind of dark?

16 THE WITNESS (Manchester):
17 Yes. And the other one is light.

18 MR. LEVESQUE: Yes. So I
19 don't know, you know, if it accurately
20 depicted your boundaries. And then on your
21 front lot, they only got the dark line
22 halfway.

23 THE WITNESS (Manchester):
24 Well, I didn't know I needed to bring my plot
25 map with me today, but my map shows that my

1 property line continues and runs parallel to
2 what they call the ET road or whatever
3 that --

4 MR. LEVESQUE: I don't know
5 what the ET stands for.

6 THE WITNESS (Manchester):
7 Well, I don't know either, but I'm just
8 looking at it. That's on the road.

9 MR. ASHTON: That stands for
10 electric and telephone.

11 MR. LEVESQUE: We don't know
12 if they took this from the subdivision map or
13 some other --

14 THE WITNESS (Manchester): But
15 my property runs parallel to that entranceway
16 from the corner of Old Stagecoach and Aspen
17 Ledges to basically the bend, a little bit
18 less than the bend.

19 MR. LEVESQUE: All right. I
20 guess, if there's any other like actual maps
21 and anybody wants to submit them, it would be
22 helpful because on the lot across from you,
23 the Lot Number 054 --

24 THE WITNESS (Manchester): Yes.

25 MR. LEVESQUE: -- by Michael

1 Dow's lot.

2 THE WITNESS (Manchester):

3 He's here.

4 MR. LEVESQUE: That one does
5 have the dark line along where you don't have
6 one across the way, it seems. Correct?

7 THE WITNESS (Manchester):

8 Well, I do have a property line that runs
9 there.

10 MR. LEVESQUE: What I'm saying
11 is his westerly border has a dark line.

12 THE WITNESS (Manchester):

13 Right, but maybe that dotted line covers my
14 westerly.

15 MR. LEVESQUE: Could you take
16 a look at in -- the same book -- Attachment
17 3, behind Tab 3 of the application?

18 THE WITNESS (Manchester):

19 Okay.

20 MR. LEVESQUE: It's general
21 facility description.

22 THE WITNESS (Manchester):

23 Yes. Is there a map in there?

24 MR. LEVESQUE: Do you see it,
25 Attorney Ainsworth?

1 MR. AINSWORTH: In the
2 Ridgefield --

3 THE WITNESS (Manchester):
4 Yes, I found it.

5 MR. LEVESQUE: After your Tab
6 3.

7 THE WITNESS (Manchester):
8 Yes. Location map?

9 MR. LEVESQUE: There's an
10 Attachment 3, and it says "general facility
11 description."

12 THE WITNESS (Manchester):
13 General facility description.

14 MR. LEVESQUE: It's a few
15 pages before this map.

16 THE WITNESS (Manchester): Oh,
17 before that map? Yes, facility equipment
18 specifications?

19 MR. LEVESQUE: No. Let's -- I
20 know your counsel is looking for it also.

21 THE WITNESS (Manchester):
22 Site facility description?

23 MR. LEVESQUE: On the main
24 application, Tab 3, go to the first page
25 after Tab 3 before the maps.

1 THE WITNESS (Manchester):

2 Before the maps.

3 MR. AINSWORTH: Yes.

4 MR. LEVESQUE: And you see

5 Attachment 3?

6 THE WITNESS (Manchester):

7 General facility description, yes, I have it
8 right here.

9 MR. LEVESQUE: And go to the
10 next page.

11 THE WITNESS (Manchester):

12 Okay.

13 MR. LEVESQUE: At the top of
14 the page it says access Stagecoach Road and
15 Aspen Ledges Road using an existing paper
16 street, which, you know, I'm not certain of
17 the meaning of that. Do you know if that
18 existing paper street -- and I'm not sure
19 exactly where and what it is because it's not
20 stated on the map -- do you know if the
21 planning -- the dirt road that's along the
22 front of your lot, do you know if it was ever
23 accepted? Do you know if it was ever
24 approved by the planning and zoning
25 commission as a town road?

1 THE WITNESS (Manchester): As
2 a town road. No, I don't.

3 MR. LEVESQUE: Okay. Thank
4 you very much. I don't have any other
5 questions.

6 THE CHAIRPERSON: Mr. Lynch.

7 MR. LYNCH: Dr. Danzer, if I
8 heard you correctly -- and if I didn't,
9 please let me know -- that if the Applicant
10 reduces the size of the compound, that would
11 help alleviate some of the runoff problems?

12 THE WITNESS (Danzer): Yes --
13 well, not that -- I guess in determining my
14 hydrologic impact that I went into as a
15 runoff problem, yes, that would probably --
16 it would lead to a different situation that
17 might be in comparison more beneficial than
18 the situation that's being proposed right
19 now.

20 MR. LYNCH: Thank you. I just
21 wanted to make sure I understood that. I'll
22 leave the rest to the experts over here to my
23 left.

24 THE CHAIRPERSON: Dr. Klemens.

25 DR. KLEMENS: Dr. Danzer,

1 thank you for responding in detail to some of
2 the interrogatories that I sent to you, but I
3 want to start backward, having heard this
4 conversation, and talk about this wetland
5 area or this flat area, the recharge area.
6 And I think Mr. Ashton asked you also what
7 the size of this was because I understand,
8 and also correct me if I'm wrong, that you're
9 saying that the compound is on that, but is
10 there additional area where this recharge
11 exists beyond the compound? Now, I realize
12 you haven't been on the site --

13 THE WITNESS (Danzer): No.

14 DR. KLEMENS: -- but can you
15 tell me that?

16 THE WITNESS (Danzer): Well, I
17 haven't been on the site, but what I had
18 access to, as well as everyone here, was the
19 drainage analysis where they broke everything
20 up into sub watersheds pre and post. And
21 that was one of the questions I was looking
22 into. And if you recollect, in my
23 interrogatory I had asked the Applicant to
24 specifically enumerate the drainage areas of
25 some of the drainage, and they responded in

1 kind, basically to be kind of snarky about
2 it, go back to the drainage manual, which I
3 did, and they weren't there. There was some
4 information there that was missing. However,
5 just looking on the maps themselves, there is
6 some small areas of the recharge that are not
7 being proposed for the compound. However,
8 those areas are going to be redivided into
9 new proposed sub watersheds with the routing
10 of the new storm water system.

11 DR. KLEMENS: And I'm sure
12 you've looked at this area because it's very
13 visible from off site on public land. You're
14 aware that there's a structure, an old
15 structure, there?

16 THE WITNESS (Danzer): Yes, an
17 old cabin or whatever that is, yes.

18 DR. KLEMENS: And you're aware
19 that there's a whole bunch of pachysandra
20 there. Is it your position that, despite the
21 fact there's been a cabin placed there and,
22 obviously, cultivation of some sort, or
23 disturbance, that that area still functions
24 with the recharge, it has been disturbed;
25 could you characterize?

1 THE WITNESS (Danzer): Based
2 on, again, viewing off site and looking at
3 everything and seeing everything that you
4 see, I saw no evidence that would make me
5 believe that that area would not be still
6 functioning as a recharge. I don't recollect
7 that cabin having footings. In fact, I
8 recollect it was not in the position that it
9 was depicted on the maps, which meant that,
10 at some point in the last year or so, someone
11 actually moved it, which is not surprising.

12 As far as differences in
13 vegetative composition, I mean, obviously,
14 that area doesn't totally reflect the forest,
15 although there are some mature hardwood
16 trees, if I recollect, on it. There's more
17 shallow rooted species such as pachysandra,
18 but that itself isn't enough to really
19 disturb the hydrologic function of the soils.

20 The soils were mapped in the
21 soil series as a Charlton series. Charltons
22 can have up to 10 to 20 inches before
23 bedrock. Actually, let me go back. Those
24 soils were mapped as Hollis soils. I believe
25 that based on visual inspection that they're

1 actually Charlton. The soil survey basically
2 says that they are Hollis soils, but if you
3 go back into the original survey, they say
4 the Hollis soil series includes other soil
5 components such as Charlton and Sutton soils.
6 Sutton soils have that the bedrock, I
7 believe, is somewhere between 70 and 80
8 inches. Charlton has up to 70 inches.
9 Hollis, I believe, is up to 20 inches. I did
10 not see any bedrock or anything protruding
11 from that area that would be more typical of
12 a Hollis soil anyway, but again, let's say
13 just for the sake of argument that those
14 really were Hollis soils, then, you know, it
15 would be understood that there would be at
16 least 10 to 20 inches until the first layer
17 of refusal, in other words, the first
18 impervious layer underneath it.

19 So then the question coming
20 back to you is, okay, we have a house or some
21 type of structure that did not have footings.
22 We had pachysandra. Obviously, that area has
23 been cleared. It might have even been minor
24 graded; there might have been some soil
25 compaction. Is that enough to eliminate the

1 10 to 20 inches of natural soil? And
2 glancing on it, I didn't see anything that
3 would indicate a -- I didn't see any
4 quarrying. I didn't see anything exposed to
5 anything that would lead me to believe. I
6 did ask for detailed profiles from the
7 Applicant. They did not provide them to me.

8 DR. KLEMENS: So let me -- I
9 don't want to put words in your mouth. As I
10 am understanding it, because of the sort of
11 level bench-like topography you have there,
12 you have a much -- and we've all looked at
13 the site and realized that there's a lot of
14 bedrock protruding from the site, shallow
15 duff layers, I mean, it's a very rocky site,
16 so this flat level area has a deeper
17 accumulation of soil, and that acts as the
18 recharge for the wetland downstream.

19 Do you see -- you've looked,
20 obviously, at the soil map. Do you see
21 anywhere where that compound in a relatively
22 flat area could be moved to get off the
23 recharge area?

24 THE WITNESS (Danzer): Well,
25 the curse of the recharge area is that it's

1 the flat part of the site. I mean, the
2 correlation is part of the function. So, you
3 could move it off site. I wouldn't be an
4 advocate for this, but you could take out the
5 side of the hill. I mean, really your
6 options are -- it's the curse of the site. I
7 mean, they're basically locating the tower in
8 the flat part of the site, and the flat part
9 is functioning as the recharge zone. It's
10 unfortunate for the wetlands, and it's
11 unfortunate for the engineers.

12 DR. KLEMENS: Would it be
13 environmentally preferable then to move it
14 off this recharge window and actually blast
15 adjacent to it, a flat area, by blasting and
16 actually take it off this window of recharge
17 and move it some direction, blast something
18 down and actually create a site nearby for it
19 but not on this recharge area?

20 THE WITNESS (Danzer): That's
21 a good question, and my answer is that's a
22 question of environmental policy, and that's
23 not my decision to make. All I can basically
24 offer is the opinion that based on what I see
25 right now, it will have an impact.

1 DR. KLEMENS: Well, I'm asking
2 you as a professional, and this is the
3 question: Whether it would be less impactful
4 to the wetland and the recharge if the
5 compound was moved, the tower was moved,
6 somehow left, right, more south, east, west,
7 and we blasted the rock and required blasting
8 of the rock to create a shelf to place that
9 tower on?

10 THE WITNESS (Danzer): I think
11 blasting would open up a whole host of other
12 issues that were not considered in my report
13 that I'd have to look at, and I wouldn't
14 necessarily advocate disturbance on that
15 scale.

16 DR. KLEMENS: Okay. Well, I
17 guess I've gone as far as I can on that.
18 Let's get back to the bog turtle.

19 In your responses of Number 4
20 and 5 in your response to the interrogatories
21 that I posited to you, I asked for the extent
22 of the Hudson/Housatonic Recovery Unit. You
23 came back and gave us the Connecticut portion
24 of the recovery unit. Could you, for the
25 record, please give us the extent,

1 geographical extent, of the Hudson/Housatonic
2 Recovery Unit?

3 THE WITNESS (Danzer): I would
4 have to respectfully tell you I do not know
5 the answer to that. I'm sorry.

6 DR. KLEMENS: Well, let's
7 continue it then. You make a statement under
8 your response as -- and I'm paraphrasing --
9 that they, the bog turtles, are no less
10 likely to be found there than in any other
11 place within the Hudson/Housatonic Recovery
12 Unit. So, if you don't understand the extent
13 of the Hudson/Housatonic Recovery Unit, how
14 can you make that statement?

15 THE WITNESS (Danzer): I think
16 when we opened this up, Attorney Ainsworth
17 asked me if there was any additions,
18 deletions, I think I would delete the Hudson
19 and talk about the Housatonic region because
20 that was the region that I meant.

21 MR. ASHTON: Dr. Danzer, keep
22 your voice up, please.

23 DR. KLEMENS: All right. They
24 asked for -- we've been referring to the
25 Hudson/Housatonic Recovery Unit. And I'm

1 going to have one just very -- two other
2 questions, and I'll be finished.

3 Bog turtles have not been seen
4 for several decades, at a minimum, in this,
5 so I find it very hard to reconcile the
6 statement about they're equally likely to be
7 there than anywhere when one compares the
8 Titicus Mopus wetlands with other locations
9 in the Hudson/Housatonic Recovery Unit, both
10 in Connecticut, New York, and Massachusetts
11 where turtles are captured every year with
12 regularity and their production of eggs and
13 hatch them as a recruitment. I don't
14 understand how one can say that this is an
15 equally as likely a place to find a bog
16 turtle as some of these other sites that are
17 within the recovery unit, studied in that.

18 THE WITNESS (Danzer): I think
19 to address that, I think you're looking at it
20 like the glass is half full, and I was
21 looking at it as if the glass was half empty.
22 My intent when I wrote that -- and I
23 apologize if it was ambiguous -- was what I
24 was trying to say was if you look -- first of
25 all, I was talking about potential habitat

1 specifically, not necessarily the occurrence
2 of bog turtles, as we know, because those are
3 two related but separate issues.

4 But second of all, what I was
5 saying is if you pick a point, say, for the
6 sake of argument, a calcareous wetland in
7 Litchfield County, whether or not there are
8 bog turtles there, there is no reason to
9 believe that this area would not be as
10 potential a habitat as an area in Litchfield.
11 And if the probability of a bog turtle in
12 that comparative habitat is 1 percent, then
13 it would be 1 percent here.

14 I wasn't necessarily saying
15 that because, you know, with your expertise
16 you're saying that there's a 90 percent
17 probability you're going to find a bog turtle
18 in Litchfield, then there should be a 90
19 percent probability here. The way I read all
20 this is that the populations are near
21 extinct, so it's actually a relatively low
22 probability; however, we're kind of looking
23 at it in terms of habitat.

24 DR. KLEMENS: All right.
25 Thank you. And one last question: You

1 recommended a consultation with the United
2 States Fish and Wildlife Service. Are you
3 satisfied -- you saw also the interrogatory
4 responses from the Applicant to my questions.
5 Did you look at their response to question
6 and answer number 26 of the interrogatories
7 that the Applicant provided?

8 THE WITNESS (Danzer): If I
9 recollect what they have said, is that they
10 have made that initial overture to a
11 consultation with the U.S. Fish and Wildlife
12 Service, and not to paraphrase them, they
13 don't expect anything that's really going to
14 necessarily change, and they will incorporate
15 their suggestions in their DM plan.

16 DR. KLEMENS: This was
17 basically through their NEPA process. So,
18 has that satisfied your concern that the U.S.
19 Fish and Wildlife Service has been adequately
20 involved in the Applicant's proceedings?

21 THE WITNESS (Danzer): No.

22 DR. KLEMENS: Could you
23 explain why?

24 THE WITNESS (Danzer): I think
25 there's promises and maybe good intentions on

1 behalf of the Applicant, but I'd like to see
2 what the response from the U.S. Fish and
3 Wildlife Service is first and see if that's
4 going to change anything in the proposed site
5 plan and have them incorporate that. To me,
6 from my perspective, it's kind of like a
7 moving target because now they're saying,
8 well, we'll make some adjustments, if needed.
9 And when are we going to have the opportunity
10 to review those adjustments if an approval is
11 granted and the adjustments are left to be
12 incorporated in the DM plan?

13 DR. KLEMENS: I think that's
14 an excellent response. We'll ask that of the
15 Applicant when it's their turn.

16 Thank you. I have no further
17 questions, Mr. Chairman.

18 THE CHAIRPERSON: Thank you.
19 Dr. Bell?

20 DR. BELL: Thank you,
21 Mr. Chair. I just have a question for Ms.
22 Salkin.

23 In your statement, you say
24 that you believe the Town of Ridgefield can
25 find an alternate place. Have you been

1 reading the application and the associated
2 materials about the coverage from certain
3 alternate locations, and so forth?

4 THE WITNESS (Salkin): I've
5 read the application as far as seeing the
6 other sites that the Town had looked at, but
7 I have not, in detail, seen the technical
8 report as far as that's concerned.

9 DR. BELL: Well, the
10 Applicant, in the application materials and
11 the responses to questions, and so forth, the
12 Applicant mentions several sites, alternate
13 sites, that were searched. A couple of
14 them -- I don't have the numbers myself --
15 but some of them had been suggested by the
16 Town at various times or by other people at
17 various times. Some of them were actually
18 looked at by the Applicant from their own
19 maps, and so forth.

20 My question is simply, in
21 reading any of that material, how did you
22 react to that in terms of your own statement
23 that you believe another alternate location
24 can be found?

25 THE WITNESS (Salkin): Well,

1 in some of the data that I looked at, some of
2 the sites that the Town dismissed as possible
3 cell tower sites were very cursory as far as
4 the explanations as to why they were not
5 selected -- why they were dismissed, rather.
6 You know, offhand I can't remember, but there
7 is one particular site that is on town-owned
8 land that was dismissed by the Town, and
9 there's really no detailed explanation as to
10 why. And that is the prime concern that I
11 have that why was land that the Town owned
12 dismissed and not really looked at, you know,
13 as thoroughly as other sites were, and that
14 really is my concern from that report.

15 DR. BELL: And from your point
16 of view, what would the Town need to say to
17 be sufficiently open from your point of view?

18 THE WITNESS (Salkin): Well,
19 you know, that the site was dismissed because
20 maybe the land is in perpetuity or, you know,
21 because the location would not satisfy, you
22 know, the gaps that they purport will be
23 satisfied by the current site that they had
24 chosen. I would like a more detailed reason
25 why the Town looked -- again, dismissed the

1 sites that they owned as potential sites.
2 That's really my concern.

3 DR. BELL: And when you say
4 "the Town," do you mean the Town's RF
5 consultant as well as perhaps some zoning
6 expert who knew about the deeds on the
7 property?

8 THE WITNESS (Salkin): That
9 would really be helpful to know that they --
10 I just feel that they didn't pursue other
11 sites on town-owned land as thoroughly as
12 they pursued this one particular site that
13 they, quite frankly, had looked at for over
14 like nine years that they've been looking at
15 this one particular area, and I feel that
16 they were so focused on this one particular
17 area that they were not really looking at any
18 other areas as seriously because they had
19 this on their mind the whole time.

20 DR. BELL: Thank you. That's
21 my questions.

22 THE CHAIRPERSON: Senator
23 Murphy?

24 MR. MURPHY: No questions.

25 THE CHAIRPERSON: Mr. Ashton?

1 MR. ASHTON: Just a couple of
2 questions.

3 Mr. Manchester, I should have
4 asked you the question I asked Dr. Danzer,
5 but is your house served by a septic tank?

6 THE WITNESS (Manchester):
7 Yes, it is.

8 MR. ASHTON: Septic tank?

9 THE WITNESS (Manchester):
10 Septic tank.

11 MR. ASHTON: And does your
12 roof leader just spill out on the ground?

13 THE WITNESS (Manchester): Yes.

14 MR. ASHTON: Okay. And does
15 that apply the same to you, Mr. Dow?

16 THE WITNESS (M. Dow): Yes,
17 sir.

18 MR. ASHTON: Okay. Nothing
19 further. Thank you very much.

20 THE CHAIRPERSON: I have a
21 couple of questions. I admit I have a
22 problem because it seems to be that the cast,
23 or your witnesses, there's a list, and some
24 of them are not here. I didn't even see
25 Mr. Manchester on the list, so I'm not even

1 sure, but I know there -- maybe he's on one
2 of the lists. And I'm not criticizing, but
3 I'm just a little confused as to who to ask
4 the questions to, and several of the people
5 at the table have raised the same issue, but
6 with that just my confusion as to who to --
7 so we'll see who wants to answer or not, but
8 there were several -- several of you raised
9 the issue of the historic relationship of
10 this area and maybe even the site with the
11 Revolutionary War battle trail and Benedict
12 Arnold in his Patriot days actually was
13 involved here before he turned.

14 And we also have a letter,
15 which I think is important, from SHPO, the
16 State Historic Preservation Office, dated
17 April 29th. And I guess my first question,
18 any of you, have you seen that letter? And
19 again, I don't know, Mr. Dow, was one, and I
20 think somebody else raised the issue of that,
21 so I don't know if you've read the letter
22 from SHPO.

23 THE WITNESS (I. Dow): Again,
24 my name is Ian Dow, and I can say that I have
25 not seen that letter from SHPO. I would be

1 very interested in seeing what their findings
2 were.

3 THE CHAIRPERSON: Well, it is
4 part of the record, and it would be useful.
5 And I don't want, since I don't represent
6 them, but they do raise a concern, but they
7 suggest that maybe on a portion of the site
8 an archeological survey be done, but they, as
9 far as I can tell, do not specifically object
10 to the application, I think.

11 THE WITNESS (I. Dow): What I
12 will say about SHPO, again, let me just
13 introduce myself. My name is Ian Down. I'm
14 a modern world history doctoral candidate at
15 St. John's University. I'm currently ABD,
16 just trying to wrap up at this current time.

17 Insofar as SHPO is concerned,
18 I believe that they were contracted out by
19 the applicant, if I'm am not mistaken.

20 THE CHAIRPERSON: Contracted
21 out, I don't think is the right term. They
22 don't work for the Applicant. The Applicant
23 asked them to evaluate the material, so
24 there's a difference.

25 THE WITNESS (I. Dow): Okay.

1 THE CHAIRPERSON: They're not
2 a consultant for the Applicant.

3 THE WITNESS (I. Dow): Okay.
4 Well, as long as that's cleared up, I've been
5 in contact with Dr. Bellantoni up at the
6 University of Connecticut with regards to
7 this site. I know that he is currently -- I
8 think he's leaving his position. He's
9 retiring after a long dignified term as the
10 state, you know, historian, but I'm not sure
11 as if he has actually made overtures towards
12 going to the site to actually evaluate it in
13 person, but I would definitely, without a
14 question, hold this site as being
15 particularly important for the historical
16 preservation of revolutionary war sites,
17 monuments, infrastructure, et cetera,
18 especially during the only singular British
19 incursion into the State of Connecticut which
20 they never came back from.

21 During the Revolutionary War
22 the British never again made a significant
23 inland incursion as a direct result of the
24 actions taken in April of 1777 utilizing this
25 particular site as a pretty significant

1 background -- or, I'm sorry, just a pretty
2 significant site. That's what I'll say.

3 THE CHAIRPERSON: With that
4 said -- and I appreciate that, and as a
5 former history major, although not a doctoral
6 student, I always appreciate that kind of
7 information -- but has either the Town or the
8 State or any other entity classified this in
9 some special way because of that history? I
10 mean, I've seen the old maps but I --

11 THE WITNESS (I. Dow): If you
12 will turn to the affidavit that I think I had
13 submitted here, there is a federal map
14 showing this particular trail. It gets a
15 little confusing and convoluted in that the
16 trail itself -- well, you know, it was the
17 site of two major events. One was the march
18 of Rochambeau along this same trail, and
19 where it deviates, Rochambeau's army went off
20 towards White Plains, and the British
21 regulars went straight up and over the
22 mountain right in between that lot that's in
23 between my father's house and Harry
24 Manchester's house. The British marched
25 straight on through there, and at the base of

1 the mountain there was a pretty significant
2 engagement where 40 British troops were taken
3 prisoner, artillery pieces were captured, and
4 again, it provided the necessary delay for
5 General Arnold and, I believe it was
6 Stillman, to erect a barricade at the
7 entrance to the town in which the true battle
8 of Ridgefield occurred on.

9 THE CHAIRPERSON: Okay. Thank
10 you. Again, one other question. This one I
11 really don't know who to ask, but we have, I
12 guess -- well, definitely it's in the record,
13 but I think it may have been testimony by one
14 or both. This is the, at least at the time
15 of the hearing, the acting fire chief and the
16 police chief of the Town of Ridgefield, who I
17 think is pretty clear, has spoken in support
18 of this proposal.

19 And without getting into the
20 discussion as to whether there are -- and
21 we've heard that potentially other sites that
22 would be better. Is there anyone that takes
23 exception to, I guess, pretty much the
24 statement in both that there is a need for
25 some facility?

1 You can argue about the
2 technology and where it should be placed, but
3 that there is a need for a cell tower or for
4 something that -- if not a cell tower,
5 something that would provide this service? I
6 mean, both of them made pretty emphatic
7 statements. I'm just wondering whether
8 anybody -- again, I don't know who to address
9 the question to.

10 MR. AINSWORTH: And I believe
11 also that Mr. Maxson could be sworn in. We
12 have Maxime Francis who has arrived who is
13 part of the panel. We can swear her in. But
14 also I believe that David Maxson from
15 Isotrope has done some analysis on the
16 emergency services needs and alternatives and
17 that sort of thing that could probably more
18 technically answer your question.

19 THE CHAIRPERSON: So you
20 suggest we wait for him?

21 MR. AINSWORTH: As I said,
22 Maxime Francis who is the head of Ridgefield.

23 MAXIME FRANCIS: I don't know
24 about that.

25 MR. AINSWORTH: But she has

1 some comments on that particular subject as
2 well.

3 THE CHAIRPERSON: Well, we'll
4 have to swear her in as well.

5 M A X I M E F R A N C I S,
6 called as a witness, being first duly
7 sworn by Ms. Bachman, was examined and
8 testified on her oath as follows:

9 MR. AINSWORTH: Ms. Francis,
10 do you recall preparing testimony which was
11 prefiled before the Siting Council?

12 THE WITNESS (Francis): I do.

13 MR. AINSWORTH: And was the
14 filing that was made bearing your name a true
15 and accurate copy of the testimony you
16 prepared?

17 THE WITNESS (Francis): It
18 was.

19 MR. AINSWORTH: And do you
20 have any deletions, corrections or additions
21 to that testimony that need to be made since
22 the time of the filing?

23 THE WITNESS (Francis): I do
24 not.

25 MR. AINSWORTH: And do you

1 adopt that testimony as your testimony here
2 today?

3 THE WITNESS (Francis): Yes.

4 THE CHAIRPERSON: Is there any
5 objection?

6 MR. FISHER: No objection.

7 THE CHAIRPERSON: If not,
8 we'll make that part of the record. If you
9 want to address my question since, as I said,
10 we have written testimony from both police
11 and fire.

12 THE WITNESS (Francis): Yes,
13 I'm well aware. Hi, good afternoon. I
14 apologize that I'm late. I drove in from a
15 meeting in New York City, and traffic was a
16 bit brutal.

17 To address your second
18 question, Mr. Stein, Ridgefielders Against a
19 Cell Tower have always maintained that we're
20 not against cell towers, and we're not even
21 against cell phones, as shocking as that
22 might be to a lot of people. Most of us have
23 cell phones. I myself am a digital project
24 manager, so I work in the field, so I'm
25 certainly not against it. I think what we

1 object to is the fact that there is a lot of
2 alternative technologies that could be used
3 or could be researched rather than putting
4 160 foot obtrusive tower --

5 THE CHAIRPERSON: That
6 wasn't --

7 THE WITNESS (Francis): I
8 believe that was your question. Your
9 question was do we feel that there is a need
10 for a cell tower. Correct.

11 THE CHAIRPERSON: You're going
12 to have a technical expert that I assume will
13 answer --

14 THE WITNESS (Francis): Right.
15 So the short answer then, if that's what
16 you're looking for, is no we don't object to
17 cell phones and cell phone technology. We
18 object to location. Thanks.

19 THE CHAIRPERSON: You didn't
20 quite answer it, but that's good enough.

21 THE WITNESS (Francis): Okay.

22 THE CHAIRPERSON: Mr. Lynch?

23 MR. LYNCH: Just as a
24 follow-up to the Chairman's remarks, and this
25 is open to any panel member because it

1 doesn't really address the site. We are
2 heading into a world where landline phones
3 are disappearing, and especially with the
4 younger generation, they rely on wireless
5 communication, and that creates a public
6 safety issue. And I'd like to see if I can
7 get any member of the panel to comment on
8 that.

9 THE WITNESS (M. Dow): I'd
10 like to make a comment. If I remember
11 correctly, at the last siting council meeting
12 in Ridgefield there was a considerable amount
13 of discussion that surrounded the addition of
14 antenna on the proposed tower to support an
15 emergency response system to be used by the
16 Town of Ridgefield. And if I remember
17 correctly, there was a lot of back and forth
18 as to was this tower -- was the addition to
19 this tower for this antenna, would that, in
20 fact, provide the necessary emergency
21 response system that was discussed.

22 And if I remember correctly,
23 the response from the gentleman from the town
24 that was testifying was that it was only in
25 part, that this was not going to be a total

1 end-all be-all solution to the problem, and
2 in fact, there were additional towers that
3 would be required within the town should this
4 even be proposed or funded by the town, that
5 that system would require additional towers
6 to be a fully functional system within the
7 town.

8 MR. LYNCH: Now, Mr. Dow,
9 wasn't he actually referring to the town's
10 communication system and not a cell phone
11 carrier such as AT&T?

12 THE WITNESS (M. Dow): Yes,
13 sir.

14 THE WITNESS (Salkin): Hi, I
15 also believe that AT&T has already publicly
16 stated that they intend to build more towers
17 in the area. I think that was something that
18 was mentioned at the last public hearing that
19 was in Ridgefield, one or two. And I believe
20 also, in the attachments, there were also
21 mentions of potential cell towers that will
22 be built in Ridgefield. I just wanted to
23 mention that.

24 MR. LYNCH: And, Ms. Francis,
25 you reference that at the middle school that

1 they have good cell phone coverage there. Do
2 you know --

3 THE WITNESS (Francis): I
4 don't believe that was my --

5 THE WITNESS (Manchester): It
6 wasn't me but I --

7 MR. LYNCH: I probably have
8 the wrong person.

9 THE WITNESS (Francis): That's
10 quite all right.

11 MR. MURPHY: I think the
12 testimony was that they did not have it.

13 MR. LYNCH: As I'm looking at
14 it here, someone's testimony here says that
15 they did.

16 THE WITNESS (Salkin): Maureen
17 needs to be sworn in.

18 THE CHAIRPERSON: Let's try to
19 keep it from -- I appreciate all the people
20 wanting to be witnesses, but I think it's
21 getting a little bit out of hand.

22 Dr. Klemens, do you have --

23 DR. KLEMENS: I just have a
24 question actually. Reading through the
25 documents, maybe this is for Attorney

1 Ainsworth. I understand that you were going
2 to present a witness or someone who was going
3 to testify about the potential or the alleged
4 reduction in property values. Is that person
5 going to appear or not, a realtor or someone
6 who was going to testify about that issue?

7 MR. AINSWORTH: Correct. And
8 we had some late arrivals, so we've got an
9 addition to our panel. We have another
10 person to be sworn in.

11 MAUREEN CULHANE: I'm Maureen
12 Culhane. I'm a realtor in Ridgefield. I'm
13 licensed in New York and Connecticut. I live
14 in Twixt Hills tax district.

15 THE CHAIRPERSON: I just
16 remind both the Council and also if you look
17 at our charge and the information that we can
18 take in, the effect on property values, we
19 can submit it, if you want, for the sake of
20 having it submitted, but that, I am told, is
21 not an issue that is really germane before
22 us.

23 MR. AINSWORTH: I understand
24 that that's the Council's position. I think
25 my position, from a legal standpoint, is that

1 while the Council believes that property
2 values are not something that is within its
3 jurisdiction, I believe that an impact on
4 property values would be indicative of the
5 visual or environmental impact, and therefore
6 if there's a significant drop in property
7 value due to the placement of a tower and the
8 visual impact, that that is an indicator of
9 relative impact to the scenic vistas. So I
10 believe it becomes relevant from that
11 perspective as opposed to from a damages
12 perspective.

13 THE CHAIRPERSON: Okay. We'll
14 allow it. And I really would appreciate -- I
15 know there's such a thing as traffic, and I
16 know people have very difficult schedules,
17 but we also have a meeting to run. So I've
18 never had this in the years I've been where
19 people just keep, you know, coming in, but
20 for the sake of fairness, because people have
21 made the effort, I'll allow it, hopefully,
22 because we want to move this on, the last
23 individual to be sworn in, and she can opine
24 on the issue, and we'll take it for whatever
25 it's worth because Dr. Klemens did raise it.

1 DR. KLEMENS: I apologize. I
2 did not realize that was not within our
3 purview. Chalk it up to a new member.

4 THE CHAIRPERSON: Can you give
5 us your name?

6 MS. CULHANE: Maureen Culhane.

7 THE CHAIRPERSON: Will you
8 please rise so we can swear you in?

9 M A U R E E N C U L H A N E,
10 called as a witness, being first duly
11 sworn by Ms. Bachman, was examined and
12 testified on her oath as follows:

13 THE CHAIRPERSON: I think the
14 question was do you have somebody. As you
15 stated, I don't think there was a specific
16 question, I guess, as to what would be the
17 impact of a tower, but I guess since we've
18 opened the door on that, we'll just ask you
19 if you can give --

20 Dr. Klemens, you want to take
21 a shot at this?

22 DR. KLEMENS: No. I was just
23 merely -- and I did not realize this was an
24 area that we don't really evaluate. I just
25 was going through all the things that were

1 going to be discussed, and this was one of
2 them, and it was not there. Now that you
3 have made the point that this is not within
4 our jurisdiction, I will withdraw it, but if
5 they wish to put it on -- I don't know what
6 to do. I got us into -- opened the door. I
7 can't close it now, I guess.

8 THE CHAIRPERSON: Yes. So,
9 I'll ask the question. Would you explain and
10 hopefully give us, I would prefer, rather
11 than anecdotal information, factual
12 information on two things: One is, I guess,
13 the impact of having a tower in your
14 neighborhood; and two, the impact of not
15 having cell service in your neighborhood? So
16 I would ask you to answer both those
17 questions.

18 THE WITNESS (Culhane): As far
19 as cell service, I do have cell service in my
20 neighborhood. I additionally have children,
21 one in the middle school and two in the high
22 school. They do, in fact, have service down
23 there. I received two texts from my child as
24 I was driving here today. They can easily
25 text their parents, e-mail their parents,

1 from down at the field.

2 As far as the real estate
3 value, there are already people in that
4 neighborhood who have sold their homes
5 directly because they do not want to be by a
6 cell tower. Besides the homes that have
7 already sold, there are more on the market
8 right now that have not sold because it's
9 become much more public that a cell tower is
10 going to be placed there or could be placed
11 there. People move to Ridgefield
12 specifically for the scenic values, the
13 hiking, the swimming in the lake, boating and
14 people do like that natural area.

15 THE CHAIRPERSON: Okay. Thank
16 you.

17 Yes, Dr. Bell.

18 DR. BELL: I just wanted to
19 follow up. We had a statement about people
20 in the neighborhood, and I just want to know
21 what neighborhood you're -- we're not talking
22 about all of Ridgefield. As I see it, there
23 are a couple of distinct neighborhoods in
24 that area.

25 THE WITNESS (Culhane):

1 Correct.

2 DR. BELL: There's the
3 neighborhood that's around Stagecoach Road.

4 THE WITNESS (Culhane): That's
5 known as "the Knolls."

6 DR. BELL: Okay. And then
7 there's a neighborhood going down the hill to
8 the west.

9 THE WITNESS: That's Twixt
10 Hills tax district of which I'm the
11 president.

12 DR. BELL: Okay. And then
13 there's a neighborhood kind of at the base of
14 the ridge that extends out. So, which
15 neighborhood specifically are you referring
16 to when you made your statement, all of those
17 neighborhoods or one of them?

18 THE WITNESS (Culhane): The
19 houses that are directly below the tower.
20 You may have noticed, when you made your site
21 visit, there are at this time two on the
22 market that have been on the market well over
23 a year that have not sold. They are directly
24 below the tower.

25 DR. BELL: Okay.

1 THE WITNESS (Culhane): In the
2 Twixt Hills neighborhood we had one home
3 sold, and in the Knolls I know of at least
4 two, and there's two more on the market.

5 DR. BELL: Okay. Thank you.

6 Thank you, Mr. Chair.

7 THE CHAIRPERSON: Yes,
8 Mr. Lynch.

9 MR. LYNCH: I'm going to
10 apologize to you, Mr. Chair, because now
11 we're getting into an area that really upsets
12 me.

13 Now, your business is
14 cyclical; is it not?

15 THE WITNESS (Culhane):
16 Normally it is, but in Ridgefield we really
17 didn't have much of a break this year.

18 MR. LYNCH: So the fact that,
19 you know, the banks have tightened up on
20 mortgages and the Fed is being a little bit
21 tighter doesn't impact Ridgefield?

22 THE WITNESS (Culhane):
23 Generally people are moving to Ridgefield for
24 the schools.

25 MR. LYNCH: That didn't answer

1 my question.

2 THE WITNESS (Culhane): You
3 think that because of the mortgage tightening
4 Ridgefield's market has changed?

5 MR. LYNCH: I think because of
6 Glass-Steagall, but now we're really going
7 back to something that almost destroyed your
8 industry.

9 THE WITNESS (Culhane):
10 Ridgefield's market, right now, is quite
11 busy.

12 THE CHAIRPERSON: I think
13 that's why we stay out of this area because
14 we could spend --

15 MR. LYNCH: I apologize,
16 Mr. Chairman. This thing really upsets me.

17 THE CHAIRPERSON: I
18 understand. I kept my mouth shut too. I
19 don't know who is -- well, we're now going
20 to -- everybody stay where you are, but we're
21 now going to move to the --

22 MR. ASHTON: I have one other
23 question. I'm sorry.

24 THE CHAIRPERSON: Just one
25 more question.

1 MR. ASHTON: Ms. Francis, I'm
2 not sure I heard what your background is.
3 You are committee chairman that involves
4 emergency communication within the town; is
5 that right?

6 THE WITNESS (Francis): No,
7 that's not correct.

8 MR. ASHTON: Do you have any
9 background at all in this type of
10 communication other than as a user for one of
11 the cell companies?

12 THE WITNESS (Francis): I'm a
13 digital project manager, so I have
14 familiarity with technologies.

15 MR. ASHTON: What does digital
16 project manager mean?

17 THE WITNESS (Francis): What
18 does digital project manager mean?

19 MR. ASHTON: Who do you work
20 for?

21 THE WITNESS (Francis): I work
22 for an advertising agency.

23 MR. ASHTON: What agency?

24 THE WITNESS (Francis): An
25 advertising agency.

1 MR. ASHTON: So that does not
2 necessarily give you any expertise at all in
3 communication, does it?

4 THE WITNESS (Francis): No,
5 but I --

6 MR. ASHTON: Technological
7 communication?

8 THE WITNESS (Francis):
9 Correct. So I work for two major companies,
10 Bacardi and Dove, and when they have digital
11 projects, so apps or web sites. That's what
12 I do.

13 MR. ASHTON: That's all.

14 THE WITNESS (Francis): Yes.
15 Thank you.

16 THE CHAIRPERSON: Thank you.

17 We'll now go to the Applicant
18 for cross-examination.

19 Attorney Fisher.

20 MR. FISHER: Thank you,
21 Chairman. We don't actually have
22 cross-examination for any of the witnesses
23 and panel today. We're going to reserve
24 cross-examination for Mr. Maxson when he's
25 here on the 17th. And I did hear the

1 dialogue between Attorney Ainsworth and you,
2 the Chairman, on property values. We agree
3 that it's not relevant, and we would disagree
4 with Attorney Ainsworth's characterizations
5 of what's relevant evidence.

6 So I just wanted to note an
7 objection to the record for that testimony,
8 which I know you'll overrule and just take it
9 for what it's worth, but I just wanted to
10 note that for the record.

11 THE CHAIRPERSON: Thank you.

12 MR. FISHER: Thank you.

13 MR. AINSWORTH: One small
14 piece of housekeeping?

15 THE CHAIRPERSON:
16 Housekeeping, yes, sir.

17 MR. AINSWORTH: Maureen
18 Culhane's testimony was not submitted into
19 the record yet. She prefiled testimony, but
20 I don't believe we submitted it as a full
21 exhibit.

22 MR. MURPHY: Culhane's
23 statement never got put in the record.

24 MR. FISHER: I'm not sure I
25 saw prefiled testimony on that either, so I'm

1 not sure if it was prefiled, or you're
2 seeking to have something new sworn into
3 evidence.

4 THE CHAIRPERSON: I'm not sure
5 either.

6 Mr. Ainsworth, can you
7 clarify?

8 MR. MURPHY: But there's no
9 objection to it coming in?

10 MR. FISHER: I haven't seen it
11 yet.

12 MR. MURPHY: We have.

13 MR. AINSWORTH: There's no
14 prefiled under Maureen Culhane's --

15 MS. BACHMAN: We don't have
16 any prefiled testimony hard copy from Ms.
17 Culhane, but if it's been prepared and it was
18 inadvertently left out, certainly you could
19 submit that, and we can take that up at the
20 next evidentiary hearing on the 17th.

21 MR. AINSWORTH: Okay. I
22 thought there had been prefilings done with
23 her testimony with the others, but I'll deal
24 with it next time.

25 THE CHAIRPERSON: We're going

1 to take a short break while we reshuffle
2 because now it's the Applicant who will be on
3 the witness -- will be the witnesses. Mr.
4 Ainsworth, you know where to go, and the rest
5 of your group can move.

6 (Witnesses excused.)

7 (Whereupon, the witnesses were
8 excused, and a recess was taken from 2:17
9 p.m. until 2:26 p.m.)

10 S C O T T C H A S S E,
11 M I C H A E L L A W T O N,
12 J O H N W H I T C O M B,
13 D E A N G U S T A F S O N,
14 M I C H A E L L I B E R T I N E,
15 M A N U E L V I C E N T E,
16 R A Y M O N D V E R G A T I,
17 H A R R Y C A R E Y,

18 having been previously duly sworn, were
19 examined and testify further on their
20 oaths as follows:

21 THE CHAIRPERSON: Ladies and
22 gentlemen, we'd like to call to order, again,
23 our meeting of the Siting Council.

24 Attorney Fisher, I believe
25 that you have several additional documents.

1 I believe all of your participants have been
2 already sworn in, is that correct, so we
3 don't have to go through that. But if you
4 want to go through the process of verifying
5 whatever it is, three additional documents, I
6 appreciate that.

7 MR. FISHER: Yes. Thank you,
8 Chairman. We have three additional documents
9 for purposes of the proceeding this
10 afternoon. They're identified in the hearing
11 program as items under Applicant's Exhibits
12 12, 13 and 14. They include a supplemental
13 submission dated May 27th; they include
14 responses to RACT Interrogatories, Set II,
15 and Supplemental Responses to RACT
16 Interrogatories Set I, which are dated May
17 27; also responses to CSC Interrogatories,
18 Set II, dated May 27th, if you'll accept them
19 for identification. The panel that's here in
20 front of me was responsible for the
21 preparation, and I'll go through the
22 verification.

23 THE CHAIRPERSON: Okay. We'll
24 go through the verification.

25 MR. FISHER: I'd ask each of

1 the witnesses, the items I just identified
2 for the hearing record as Items 12, 13 and
3 14, did you prepare or assist in the
4 preparation and assemblage of those
5 materials?

6 THE WITNESS (Lawton): Michael
7 Lawton. I did.

8 THE WITNESS (Chasse): Scott
9 Chasse. Yes.

10 THE WITNESS (Whitcomb): John
11 Whitcomb. Yes.

12 THE WITNESS (Gustafson): Dean
13 Gustafson. Yes.

14 THE WITNESS (Libertine):
15 Michael Libertine. Yes.

16 THE WITNESS (Vicente): Manuel
17 Vicente. Yes.

18 THE WITNESS (Vergati):
19 Raymond Vergati. Yes.

20 THE WITNESS (Carey): Yes.

21 MR. FISHER: John, I did have
22 one typographical error to correct. It is
23 responses to RACT interrogatories. It's on
24 the second page. It's the response to Answer
25 3. There's a map reference. And in the body

1 of the interrogatory the reference is to a
2 date June 22nd. It should be May 22nd.

3 With that correction, the
4 witness panel -- are there any additional
5 corrections or modifications that are needed
6 to the documents, so identify?

7 THE WITNESS (Lawton): Michael
8 Lawton. No.

9 THE WITNESS (Chasse): Scott
10 Chasse. None at this time.

11 THE WITNESS (Whitcomb): John
12 Whitcomb. None at this time.

13 THE WITNESS (Gustafson): Dean
14 Gustafson. No.

15 THE WITNESS (Libertine):
16 Michael Libertine. No.

17 THE WITNESS (Vicente): Manuel
18 Vicente. No.

19 THE WITNESS (Vergati):
20 Raymond Vergati. No.

21 MR. FISHER: And are they true
22 and accurate, and do you adopt them here
23 today as your testimony?

24 THE WITNESS (Lawton): Michael
25 Lawton. Yes.

1 THE WITNESS (Chasse): Scott
2 Chasse. Yes.
3 THE WITNESS (Whitcomb): John
4 Whitcomb. Yes.
5 THE WITNESS (Gustafson): Dean
6 Gustafson. Yes.
7 THE WITNESS (Libertine): Mike
8 Libertine. Yes.
9 THE WITNESS (Vicente): Manuel
10 Vicente. Yes.
11 THE WITNESS (Vergati):
12 Raymond Vergati. Yes.
13 THE CHAIRPERSON: I can't
14 resist, but usually we hear the answer "no,"
15 and I heard from several "not at this time,"
16 so I'm just wondering if there's a different
17 nuance there that I'm missing?
18 THE WITNESS (Chasse): No.
19 MR. ASHTON: Not at this time.
20 THE CHAIRPERSON: I thought
21 this may be subject to Dr. Bell finding --
22 THE WITNESS (Chasse): There
23 are no changes, and it is adopted as my
24 testimony.
25 THE CHAIRPERSON: Thank you.

1 THE WITNESS (Whitcomb): The
2 same here.

3 MR. FISHER: Chairman, we
4 would offer those documents for evidence and
5 subject to cross-examination.

6 THE CHAIRPERSON: Dr. Bell.

7 DR. BELL: While we're doing
8 housekeeping, I do have one question about
9 the response to RACT document, Question 9,
10 Answer Number 9 on the bottom of page 2. And
11 at least the copy I had it's not -- the
12 sentence is not complete. It just ends in
13 the middle of a word. It's the response to
14 RACT. It's dated April 17th.

15 THE WITNESS (Lawton): I
16 agree, it does. The sentence just falls off
17 there. I'll have to figure out what it was
18 saying there.

19 MR. FISHER: You're right, Dr.
20 Bell, that original response is cut off, and
21 it's the last sentence in response to A9 from
22 the first set. The reference is to "Homeland
23 also analyzes sites with baseline information
24 on carrier networks and in," and then it
25 drops off. We can try to get a supplement to

1 that, but I believe Homeland will be able to
2 address what they do in response to that
3 question.

4 DR. BELL: Sometimes it's
5 immediately obvious, but it isn't there, and
6 it could be, you know, something like in
7 conservation areas or whatever.

8 MR. FISHER: Certainly.

9 DR. BELL: So, I think we
10 need the prints.

11 THE CHAIRPERSON: Thank you.
12 So you're submitting subject to clarification
13 on that?

14 MR. FISHER: Yes. We'll try
15 to determine what the end of that sentence
16 was, but we also think that Homeland can be
17 cross-examined on the question itself and
18 provide adequate testimony to explain it.

19 THE CHAIRPERSON: Okay.
20 Subject to clarification on A9 on page 2, are
21 there any objections to making these part of
22 the record?

23 MR. AINSWORTH: I have no
24 objection.

25 THE CHAIRPERSON: These will

1 be made part of the record.

2 Okay. We'll now start the
3 cross-examination with staff. And remember,
4 both staff and counsel, they had started
5 cross-examination. I'm not sure where we
6 left off, and we've had new examination, but
7 we did start that process at the last
8 meeting.

9 Go ahead.

10 CROSS-EXAMINATION

11 MR. MARTIN: Thank you, Mr.
12 Chairman. Just a couple of quick sort of
13 clean-up questions.

14 Could you confirm the size of
15 the propane tank that the Town would use for
16 its back-up generator?

17 THE WITNESS (Chasse): The
18 revised drawings, REV 4, dated 5/15, show a
19 500 gallon above-ground storage tank.

20 MR. MARTIN: Thank you. And
21 how would Homeland Towers address the
22 conditions that SHPO suggested in its review
23 comments specifically about the archeological
24 survey?

25 THE WITNESS (Libertine): This

1 is Mike Libertine. Just as way of
2 background, we did consult with the State
3 Historic Preservation Office, and we did
4 receive a no adverse effect letter for
5 above-ground resources or historic resources.
6 It's really a twofold consultation, and the
7 issue of an archeological review of the site
8 was recommended. As part of our initial
9 submission to the SHPO, we did provide
10 essentially half of that report, which is a
11 historical background or a Phase 1A
12 archeological review. Upon receiving that
13 recommendation, we commissioned Heritage
14 Consultants to go out and complete that Phase
15 1 or the Phase 1B, which consisted of
16 actually going out physically into the field
17 and conducting test pits in areas that have
18 potential significance. They completed that
19 work, found that the site held no
20 significance from a cultural resource
21 standpoint and have submitted that to the
22 state archeological folks up at UConn, Mr.
23 Bellantoni, who had been previously
24 introduced from the folks at RACT.

25 We had actually got a letter

1 back from the State Archeological Commission
2 stating that they are in concurrence with
3 that finding and that both the Phase 1B
4 report and that letter will be supplied to
5 the Council, I believe, as part of the
6 docket. We have also forwarded a copy back
7 to SHPO merely as a courtesy. It really did
8 not affect their particular finding on this
9 property or on this particular project.

10 MR. MARTIN: So, in effect,
11 you have addressed that suggested condition?

12 THE WITNESS (Libertine):
13 That's completed; that's correct, yes.

14 MR. MARTIN: Thank you. And
15 would there be any merit in designing the
16 facility storm drainage for the
17 500-year-storm event?

18 THE WITNESS (Whitcomb): John
19 Whitcomb. Designing for a 500-year storm
20 event, it's not generally done. In this site
21 there's no risk of flooding or dams or
22 overtopping of anything; so, no, it would not
23 be reasonable to do that at the site.

24 MR. MARTIN: And this one, I
25 believe, is for Mr. Lawton. The town

1 representative of the Emergency
2 Communications System testified that one of
3 the advantages of this particular site would
4 shine the RF coverage flashlight on both
5 sides of that ridge. And without this site,
6 how would you provide coverage to the north
7 side of this ridge?

8 THE WITNESS (Lawton): In
9 terms of the town representative's answer
10 versus my answer, of course, recognizing that
11 he's discussing a different system than I
12 would be, I don't know. I haven't studied
13 his system, so I can't answer on his behalf.
14 But from the AT&T Wireless perspective, we
15 did look at what we could do to replace this
16 site with sites located in areas off that
17 ridge, and it ended up being three sites at
18 three different schools in the area that
19 would be needed. One would be north of the
20 ridge, and two would be south of the ridge.

21 MR. MARTIN: Now, the schools
22 south of the ridge, were they already schools
23 at which the town declined to consider sites
24 as discussed in the application?

25 THE WITNESS (Lawton): That I

1 don't know. I don't know what the
2 communications with the town on the school
3 location would be.

4 THE WITNESS (Vergati): I can
5 speak to the conversations that I've had
6 regarding the schools. I have spoken with
7 First Selectman Marconi back in July of 2012,
8 and he had stated that not just the high
9 school, but the schools in general should
10 really be off limits for any type of cell
11 towers or leasing.

12 MR. MARTIN: There goes your
13 plan.

14 MR. FISHER: Just also, he's a
15 sworn witness, but Mr. Carey has had
16 conversations with the town from AT&T's panel
17 as well.

18 THE WITNESS (Carey): We had
19 additional conversation with Selectman
20 Marconi regarding the Farmingville School
21 closer to Route 7 where he indicated the same
22 thing that the schools were off limits.

23 MR. MARTIN: So without the
24 schools in play, it would become more
25 difficult to get the coverage to the north

1 side of the ridge, I would imagine?

2 THE WITNESS (Lawton): I would
3 imagine that there'd be some other area
4 nearby the school which would need to be
5 considered, but we didn't look at every
6 possible property in that area. We just kind
7 of chose the school as a representative
8 location on that side of the ridge. So
9 conceivably the analysis would be the same if
10 the property chosen was not the actual school
11 property but some other property in the
12 vicinity of that.

13 MR. MARTIN: So am I correct
14 in understanding that it would take
15 approximately three sites to cover what would
16 be covered from this site?

17 THE WITNESS (Lawton): That's
18 correct.

19 MR. MARTIN: And you heard the
20 concerns that Dr. Danzer expressed about the
21 recharge to the wetlands area. Do you feel
22 those concerns are justified, and how would
23 you address those concerns?

24 THE WITNESS (Whitcomb): John
25 Whitcomb. No, actually, in the report we

1 certainly agree that the recharge is the
2 supplying force for that wetland resource.
3 The drainage report we prepared, we prepared
4 as a drainage report. One of the side
5 benefits of doing a drainage report is you
6 actually get to look at the budget of what
7 becomes runoff and what becomes recharge or
8 infiltration into the ground.

9 If you go to page 7 of the
10 report, you can see that -- and it's also
11 stated in the report that the volume, which
12 is normally not listed in the drainage
13 report, you're usually concerned with simply
14 the rate. In this case we list the volume
15 also, specifically because it shows reduction
16 in rate -- excuse me, a reduction in volume.
17 That reduction in volume is a reduction in
18 the volume of runoff, which means it's
19 actually an increase in the volume of the
20 recharge.

21 MR. MARTIN: So more water
22 would be retained in that vicinity?

23 THE WITNESS (Whitcomb): Into
24 that site. That relates to a couple of
25 things but particularly in reference to the

1 retention basin. Although it is small, it is
2 only about 1400 cubic feet of total storage,
3 if you look at the size, how we got to that
4 size, if you look at the size of the
5 compound, it's approximately 7000 square foot
6 in the footprint of the compound. If you
7 look at that and figure 98 percent of all
8 rainstorm events are 2 inches or less, so if
9 you use that as a good number, you're really
10 capturing a significant portion of the
11 overall annual rain budget. If you put 2
12 inches over 7000 square feet, you come up
13 with about 1100 cubic feet of storage. We
14 provide 1400 cubic feet of storage.

15 So water that would normally
16 run off of the site enters this basin. The
17 location of that basin is also key and one of
18 the reasons we placed it in the spot we did.
19 If you look at the contouring of the site, as
20 you come down the road, which we added with
21 fill, which actually directs more drainage
22 towards our site, towards the flat areas of
23 the existing site --

24 MR. MARTIN: So it would be
25 graded to drain that way?

1 THE WITNESS (Whitcomb):

2 Correct. The road is actually graded to
3 drain to the inside or to the north side
4 basically, the northwest side of the road, so
5 that rain is getting pushed -- that runoff
6 gets pushed to our site to the infiltration.
7 The location of that, that basin we could
8 have put anywhere. We could have put it on
9 the front end or the back end of the
10 compound. We could have moved the compound
11 forward and put the retention basin at the
12 back end. Where it is located is at the head
13 of the soil storage area for the recharge.

14 So basically, what we're doing
15 is we're using those surficial soils.
16 Although the soil grouping itself has a
17 hydrologic soil grading of a D, the surficial
18 soils and the soils that are on site actually
19 have a high permeability that are just
20 shallow. So what happens here is we do have
21 the ability to get that water that we save
22 into the ground, and that's at the head end
23 of the system so it will basically -- and a
24 higher portion of it so that it will fill the
25 voids and provide that storage within the

1 recharge area.

2 Additionally, what happens is
3 we pick the flattest spot available to us.
4 Those grades where the basin are probably in
5 the 4 to 5 percent slopes, okay, where the
6 compound is located is 8 to 9 percent slopes.
7 So what we've done is we've pumped it in in
8 an appropriate location at the right spot on
9 site to hydrate all the existing soils.

10 The other issue that wasn't
11 brought up is that the discussion was about
12 earth work on site and that we were going to
13 dismantle basically the existing soils. This
14 site is a complete fill. If you look at the
15 calcs that are shown on Sheet A1 for the
16 site, you'll see that it's about 5000, 4500
17 cubic yards of import to the site. There is
18 no cut on this site. It's all added
19 material. Because they're surficial soils,
20 the rock is close. We didn't want to get
21 into blasting rock, and to made this pad it
22 was obviously -- it's not a cut/fill issue,
23 when pushed lower made the grading harder, it
24 became strictly a fill. So those soils
25 exist. We're not changing those subsurface

1 soils. Those soils are going to stay, and
2 those soils do get recharged.

3 MR. MARTIN: The soil that you
4 would be bringing in to fill, would that be
5 compacted on top of the existing soil?

6 THE WITNESS (Whitcomb): Yes,
7 that's going to be a granular fill, much like
8 the soils that are below it.

9 MR. MARTIN: And the water
10 that would be directed to the retention
11 basin, that would be allowed to drain through
12 the retention basin into the existing system?

13 THE WITNESS (Whitcomb):
14 Correct. That has no outlet to it. It
15 simply is a place for water to be retained
16 and infiltrate and any overflow goes off
17 site. That's the way it's calculated.

18 MR. MARTIN: Thank you. Those
19 are my questions, Mr. Chairman.

20 THE CHAIRPERSON: Thank you.
21 Senator Murphy?

22 MR. MURPHY: I have no
23 questions right now, Mr. Chairman.

24 THE CHAIRPERSON: Mr. Ashton?

25 MR. ASHTON: You've answered

1 already a lot of my questions. Mr. Whitcomb,
2 I'd like to just ask you a question that I
3 asked the previous panel. Do you believe
4 that there would be any benefit from a porous
5 asphalt or porous concrete roadway where
6 you're proposing paving?

7 THE WITNESS (Whitcomb): In
8 this location the only reason -- and their
9 answer was partly -- I agree with the answer
10 they gave that there's a lot more to it. As
11 far as looking at a porous pavement, if one
12 were to look at a steeper slope, when you get
13 to grades over 9 percent, the amount of
14 infiltration you're going to get is low
15 anyways because the velocity of the water
16 going on the paved surface would be higher;
17 it doesn't sit there.

18 We're plus 9 percent in that
19 location where we're paved, and that's why
20 we're paved. Normally, when you design an
21 infiltrative pavement surface, you like to be
22 less than 4, ideally less than 3 percent
23 grades because you have the time for the
24 water to actually enter in and not scour out
25 between the particles in between.

1 Also, those infiltrative
2 pavements have some difficulties,
3 particularly here in the Northeast. The
4 three that I think of right off the bat would
5 be, one, they don't stand up to freeze thaw.
6 That was part of the study we were still
7 working on -- that's still being worked on up
8 at UConn where they paved in front of the gym
9 with both porous asphalt and a porous
10 concrete pavement. It would be extremely
11 difficult to install a porous asphalt
12 pavement on such a slope. Basically, what
13 they do is they make the asphalt with the
14 same amount of bitumen with very few fines
15 and the same amount of aggregate, and it
16 basically slushes in the truck. So trying to
17 roll that on the slope of 9 percent would be
18 darn near impossible.

19 MR. ASHTON: Okay.

20 THE WITNESS (Whitcomb): And
21 the same goes for the concrete and probably
22 the concrete and the asphalt as far as
23 maintenance. One of the things that's been
24 proven to be very detrimental to pervious
25 pavements is leaf litter from leaves falling

1 off trees and jamming the pores, so the
2 maintenance and the long-term viability would
3 not be suitable.

4 MR. ASHTON: Beside the
5 detention basin or retention pond, I never
6 figured out the difference really, but --

7 THE WITNESS (Whitcomb): Would
8 you like to know? It's real simple.

9 MR. ASHTON: Okay.

10 THE WITNESS (Whitcomb): A
11 retention basin holds water. It has no
12 outlet like ours.

13 MR. ASHTON: Detention does
14 though.

15 THE WITNESS (Whitcomb): A
16 detention basin detains it so you can amend
17 the peak of the flow so it doesn't hit the
18 same peak flows.

19 MR. ASHTON: Is there anything
20 else that you would do in the design of the
21 access road that would ameliorate flash
22 runoff?

23 THE WITNESS (Whitcomb): We
24 looked at the drawings, we looked at the
25 existing conditions. I've been out to the

1 site multiple times. What we have to realize
2 is where we're putting the road is where the
3 existing roads are currently. The amount of
4 flash, you know, as nontechnical as that term
5 is, let's call it velocity of the runoff,
6 which is what we're really looking at, is not
7 going to be significantly different between a
8 hardened soil and gravel surface than it is
9 between a gravel surface or a paved surface.
10 It will be a little bit higher, but it's not
11 something that we designed around because it
12 already exists.

13 MR. ASHTON: I'd be inclined
14 to agree with that based on my experience.
15 The question being is what can we do to
16 improve rather than just maintain.

17 THE WITNESS (Whitcomb): And I
18 think we did. If you look at what we have,
19 the real things you want to accomplish in
20 drainage in this site are, one, control the
21 storm water runoff and control the recharge
22 to make sure we get that correct. What we've
23 done, if you look at the report, is we've
24 increased the recharge rate according to the
25 calculations that we provided.

1 MR. ASHTON: Nothing further,
2 Mr. Chairman. Thank you.

3 THE CHAIRPERSON: Thank you.
4 Mr. Hannon?

5 MR. HANNON: Can you give a
6 little more detail in terms of sort of the
7 final construction of the retention basin? I
8 didn't see anything in any of the plans. So,
9 I can tell the grades, but what's the finish
10 surface on it? Is it going to be --

11 THE WITNESS (Whitcomb): I
12 think it's noted on the plan. Proposed storm
13 water retention basin, and then there's a
14 line drawn that says, "Area bound by compound
15 existing dirt path and the new access shall
16 be topsoiled and seeded or overseeded in
17 undisturbed areas with New England wetland
18 plants, New England Conservation and Wildlife
19 mix coverage per suppliers recommendations."
20 So basically it's going to be covered with --
21 it's going to be planted so it maintains its
22 natural aspiration.

23 MR. HANNON: Are you looking
24 more at the wetland plants in that basin?

25 THE WITNESS (Whitcomb):

1 That's something, going forward, we'll work
2 with Dean in-house to get the proper plant
3 mix in there so that as long as it holds a
4 wetlands plant mix, that's what we'll put in.
5 If his recommendations are something
6 different, that's what we'll end up going
7 with. We'll put in the appropriate plant
8 seed mix in that area.

9 MR. HANNON: Part of that is
10 to help for the infiltration of the water
11 too?

12 THE WITNESS (Whitcomb):
13 Actually planting will help with the
14 long-term maintenance and infiltration of the
15 system, yes.

16 MR. HANNON: I have nothing
17 further.

18 THE CHAIRPERSON: Okay.

19 Mr. Levesque?

20 MR. LEVESQUE: I guess for Mr.
21 Chasse, on your abutters map, there's a
22 label. It says "existing drive easement."
23 Do you see it?

24 THE WITNESS (Chasse): Yes.

25 MR. LEVESQUE: The dots are

1 not on the shaded area like the one for the
2 proposed easement. Did you mean the shaded
3 area?

4 THE WITNESS (Chasse): I'm
5 sorry?

6 MR. LEVESQUE: You have a
7 label that says "existing drive easement."

8 THE WITNESS (Chasse): The
9 shaded area is the dotted area, did it not
10 come through on your drawing?

11 MR. LEVESQUE: The little dot
12 that you have your writing from, it doesn't
13 point to a shaded area.

14 THE WITNESS (Chasse): You
15 can't see it on there.

16 MR. LEVESQUE: Okay. On mine
17 it doesn't show. That's why.

18 THE WITNESS (Chasse): All
19 right.

20 MR. LEVESQUE: Great. Thank
21 you. Did you submit a copy of that easement
22 document?

23 THE WITNESS (Chasse): On the
24 next adjoining sheet is the property survey,
25 Sheet 1 of 1.

1 MR. LEVESQUE: Sure.

2 THE WITNESS (Chasse): And
3 those easement limits are shown much darkly
4 shaded as well.

5 MR. LEVESQUE: Okay. If you
6 didn't, can you submit a copy of this
7 easement document?

8 THE WITNESS (Chasse):
9 Certainly.

10 MR. LEVESQUE: Okay. Thank
11 you, Mr. Chairman.

12 THE CHAIRPERSON: Mr. Lynch.

13 MR. LYNCH: Mr. Lawton, in the
14 supplemental set of interrogatories to Set
15 1 -- you don't have to look it up. It's one
16 of our standard questions about dropped
17 calls, which I understand -- but how do you
18 evaluate dropped data, I guess, if you can
19 elaborate a little bit more on how you can
20 tell, you know, the weakness and strength of
21 data coming into the system?

22 THE WITNESS (Lawton): It's a
23 difficult concept to kind of explain. I
24 actually thought about this on the way down
25 here of how to actually explain this. When

1 you have a voice call, it's a continuous
2 transmission. When you have data, it's
3 packets, it's bursts. So, to your question,
4 what you're asking is how do you know when a
5 packet is or a dropped call would be either a
6 handoff or somebody drives out of a coverage
7 area and it's not there. The packet -- the
8 mobile is expecting packets. If they're
9 received in a corrupted way, that's flagged
10 and it's asked for retransmission, and that
11 gives an indication of the quality of the
12 radio link environment. So that's one way to
13 tell that your radio link environment is
14 deteriorating. But if a packet is sent and
15 it's not received, obviously, the mobile will
16 not receive it until it goes into another
17 area. And if it's continuing to resend, it
18 will receive it. So there is a metric that
19 the carriers look at that simulates a dropped
20 call on a data service.

21 MR. LYNCH: The dropped call I
22 get, I mean, I do understand, but how do you
23 monitor, you know, if you're not on a mobile,
24 you're not moving around, you're stationary,
25 what would, you know, be a weak service for

1 trying to establish a data connection?

2 THE WITNESS (Lawton): There's
3 a variety of what are called codex or coding
4 schemes which they vary from where your
5 message will go from all data very little
6 what's called check sums and training bits
7 and basically overhead to ensure a quality
8 communication. When the transmission is in a
9 good radio environment, very good radio
10 environment, you're right underneath the
11 site, you're not in a building, those are the
12 types of packets that are sent and received.

13 As soon as those packets are
14 deteriorated and need to be discarded and
15 retransmission is requested, the system will
16 drop down to a less -- a data transmission
17 scenario that has less bandwidth for the data
18 that's being sent or the message that's
19 intended to be sent and more bandwidth is
20 used for overhead correction. So when you
21 look at the messages, you can see what coding
22 scheme is being used; and if the coding
23 scheme is one that's a majority of overhead
24 or training and error checking, that's why,
25 when you get into a weaker coverage area, the

1 data rate is much lower.

2 MR. LYNCH: So within that
3 coding system you can actually track the
4 deterioration?

5 THE WITNESS (Lawton): Yes,
6 because what has to happen is the site, not
7 actually the site, but the network, will
8 adjust, it will drop from the highest rate
9 coding scheme to the lowest. You know, it
10 will step down. It will send it at the
11 previous coding scheme. If that fails, it
12 will drop; if that fails it will drop. And
13 the network management is tracking all of
14 that so you can look at what quality the data
15 transmission is.

16 MR. LYNCH: I've got it now.
17 Thank you.

18 THE CHAIRPERSON: Excuse me
19 just a minute. Do I understand, Mr. Lawton,
20 you have to leave in a few minutes?

21 THE WITNESS (Lawton): I do,
22 yes.

23 THE CHAIRPERSON: So I was
24 just wondering if we could -- any questions
25 just specifically for you of the remaining

1 Council members, if we could get them and
2 then we can --

3 MR. LYNCH: I've got two more
4 questions for him. That's it. And then you
5 can go.

6 I don't know if I've asked you
7 this in the past, but I know I've asked
8 Verizon. If I have asked, I apologize. As
9 you switch from voice down into the 700
10 frequency in the future, how long will you
11 continue to support what you have now in
12 voice in the 1900 frequency range?

13 THE WITNESS (Lawton): It will
14 actually end up being a circle because what
15 will happen is any frequency band that's
16 being used right now -- so right now AT&T has
17 deployed UMTS at 850 megahertz and at 1900
18 megahertz, and it's deploying LTE at 700
19 megahertz. And right now, as you know, LTE
20 is data service only, but eventually LTE will
21 be providing voice service. And as people
22 upgrade their phones to a phone that's
23 capable -- or their UEs, which is what we
24 should call phones -- to a UE that's capable
25 of providing voice-over LTE, then there will

1 be a migration of users from the UMTS over to
2 LTE service, which will allow AT&T to
3 decommission UMTS on 1900 and reuse those
4 frequencies for LTE. So it will turn --
5 that's why I had said it was somewhat
6 cyclical. They'll end up back using the same
7 frequencies but with different technology for
8 the same thing but faster data.

9 MR. LYNCH: I've got it.

10 Thank you. And my last question to you is:
11 I heard on the news the other day that some
12 of the carriers in some different states are
13 supporting texting 911. Connecticut wasn't
14 one of those states. When will that
15 technology to allow -- especially it was a
16 thing for the deaf so they could text 911.
17 Is that something coming in the future?

18 THE WITNESS (Lawton): I'm not
19 familiar with that service, but I'll research
20 it and come with an answer next time.

21 MR. LYNCH: Thank you. That's
22 it, Mr. Chairman.

23 THE CHAIRPERSON: Dr. Klemens,
24 do you have any specific questions?

25 DR. KLEMENS: Not for

1 Mr. Lawton.

2 THE CHAIRPERSON: Okay. Dr.

3 Bell?

4 DR. BELL: I was just raising
5 my hand because I do have one question.

6 There's no map of LTE coverage
7 from this site.

8 THE WITNESS (Lawton): That's
9 correct.

10 DR. BELL: Is there anything
11 notable that we should know about that?

12 THE WITNESS (Lawton): Just
13 that they would be, you know, what we would
14 show for LTE would be somewhat consistent
15 with what we've shown in the other hearings,
16 you know, it would be similar to what we
17 showed in the New Milford hearing and the
18 various other hearings. It's just that --
19 and there would be no -- assuming a
20 reasonable deployment schedule, in other
21 words, that the whole process of building the
22 site and approving the site, building the
23 site and commissioning the site was something
24 that, you know, took a normal amount of time,
25 the site would be deployed with 850 and 1900

1 UMTS to continue to serve those customers,
2 which is what was shown, but also with 700
3 LTE and possibly 1900 LTE at that time.

4 DR. BELL: And we can assume
5 that at 700 the LTE coverage will be quite
6 wide?

7 THE WITNESS (Lawton): Would
8 be larger than, yes, certainly than the 1900
9 LTE, somewhat larger than probably the 850
10 UMTS, and certainly larger than the 1900
11 UMTS; yes.

12 DR. BELL: Thank you.
13 Thank you, Mr. Chair.

14 THE CHAIRPERSON: Okay. Well,
15 you will be back at the next --

16 THE WITNESS (Lawton):
17 Absolutely.

18 THE CHAIRPERSON: The
19 cross-examination specifically of Mr. Lawton
20 we'll do at the next --

21 MR. AINSWORTH: Understood.

22 THE CHAIRPERSON: Mr. Lynch,
23 are you finished with your cross?

24 MR. LYNCH: The only questions
25 I had were for Mr. Lawton.

1 THE CHAIRPERSON: Dr. Klemens?

2 MR. KLEMENS: Thank you,
3 Mr. Chairman. My questions are primarily
4 going to be for Mr. Libertine and
5 Mr. Gustafson. And thank you for your
6 responses to the interrogatories. It
7 probably cut a good hour of my
8 cross-examination.

9 I want to first talk about
10 your discussion. I asked a question about
11 the visibility analysis. It was Question 21.
12 And I'm looking at your application and the
13 figure in your application, visibility
14 analysis aerial base, and I noticed that the
15 only place where you didn't do any
16 simulations or actually take any photographs
17 was right near the tower. And I tried to get
18 at that in my questions, and you responded
19 that, with the exception of the lower
20 portions of the access road, no substantive
21 year-round views of facilities will occur
22 from these areas.

23 Yet, if you look at the
24 blowup, the aerial blowup, there's several
25 houses, at least, that you're saying will

1 have year-round views of the tower in that
2 neighborhood. I don't know whose houses.
3 Those could be actually the Manchester house.
4 I'm not sure. It's very hard to tell. But
5 I'm seeing on the topo base, four, at least
6 four houses in the neighborhood there having
7 year-round visibility.

8 So, I guess my question is why
9 was that area, didn't you do an analysis
10 there, when you easily could have stood at
11 the juncture of those roads and done that?

12 THE WITNESS (Libertine):

13 Well, we did visit the site twice. It
14 happened to be when the leaves were on the
15 trees in both of those occurrences, and those
16 views, as you may have gained some -- albeit
17 it was limited on the day of our hearing,
18 unfortunately, because we had some fairly
19 strong winds. When the leaves are on the
20 trees, the views, although we're showing them
21 as year-round, they're highly obscured
22 because of the trees. You're right, in
23 hindsight I probably should have snapped a
24 few photographs.

25 It's something we're starting

1 to incorporate now and whether visible or
2 nonvisible, just to give a little better of a
3 characteristic, but the site itself, I stand
4 by the comments that are in the report. If
5 you're standing on the lower sections of the
6 site where it's open, obviously, you're going
7 to see the tower in full view, but that's on
8 the property itself. As you start to move to
9 the neighbor's properties -- and I think if
10 you remember at our site walk if you had an
11 opportunity to look from our property and
12 look out, it's very difficult to see anyone's
13 homes or backyards from those locations.
14 Similar, if you're standing on the road or on
15 the site, we just could not get those type of
16 views that really gave us any kind of real
17 character other than shooting into trees.

18 So your point is a good one,
19 and it's something that we're certainly going
20 to be a little bit more careful about that in
21 the future, but the fact is that for the most
22 part, with the exception of one or two
23 backyards perhaps, we're talking about
24 limited seasonal visibility in that
25 neighborhood.

1 DR. KLEMENS: Well, there's
2 four houses. My question is: How much of
3 this tower are they going to see? It would
4 be very helpful to have a photograph. Would
5 it have been a little bit -- I mean, I have
6 no way of understanding that because I
7 understand the further you get, you know, the
8 less it runs into it, but sitting right on
9 top of that tower, what is it going to look
10 like for those four residences?

11 THE WITNESS (Libertine): As I
12 said earlier, I think it's going to be highly
13 obscured. I think you're going to see
14 portions of it. It depends on what portion
15 of the yard you're in. I think from the
16 homes themselves the upper portions of the
17 tower may be visible through the trees?

18 DR. KLEMENS: How many feet do
19 you think?

20 THE WITNESS (Libertine): To
21 quantify it, you may see 10 feet, you may see
22 20 feet of a portion of the tower, but even
23 of that if we -- let's for the sake of
24 argument say it's 20 feet of steel; of that,
25 a high amount of that would be obscured as

1 well. It's just heavily wooded in that area.
2 And it is, it's a difficult thing. I did go
3 and stand at the property lines, per se, and
4 it really didn't give me a lot of information
5 in terms of what would be beyond that another
6 20 or 30 or 50 or 60 feet because of the
7 intervening vegetation, even with the leaves
8 off the trees. It's a thick mass in that
9 area.

10 DR. KLEMENS: So, if you're
11 basically sort of at the juncture of those
12 roads where we entered, you're selling that
13 we're not seeing much from that area?

14 THE WITNESS (Libertine): No.
15 Certainly you're going to see through the
16 trees. In the wintertime, you're going to
17 see portions of it, but this time of year, I
18 don't think you're going to see -- really I'd
19 be very hard-pressed to think you're going to
20 see anything.

21 DR. KLEMENS: It's unfortunate
22 because we don't have that information, but
23 anyway, I just find it odd that every other
24 place you have a photo station except there
25 right near the tower.

1 You made a remark that
2 actually, As far as Mamanasco Lake, that some
3 of those more distant views could be
4 mitigated by a stealth monopole, I guess, a
5 tree. Do you recall why the conservation
6 commission objected to that?

7 THE WITNESS (Libertine): I'm
8 not privy to why they had an objection to
9 that. I do know that they were not in favor
10 of it. I will say that from that particular
11 vantage point on the I guess I'll call it the
12 southwest shoreline and then the rising
13 hillside off the lake, you're really looking
14 at best at, in some cases, perhaps 20 feet of
15 the tower eclipsing the tree line. So I do
16 think that in that case, certainly, going
17 with a stealth option is going to help soften
18 it. I'm not necessarily a proponent of going
19 with a monopine here. I think it's one of
20 those situations where it could help, but I'm
21 not sure it's absolutely necessary. I just
22 don't see it as being that much of a visual
23 break on that particular ridge line from that
24 perspective.

25 DR. KLEMENS: Would it help

1 the neighbors if it was --

2 THE WITNESS (Libertine):

3 Certainly. Near views, I think that's where
4 you're going to see the biggest benefit only
5 because if there are what I'll call
6 bleed-through views, whether it's seasonal or
7 year-round, in that case it's going to make
8 it essentially disappear because it would be
9 green. So yes, it would be a benefit from
10 near views, but there are only a few near
11 views, so yes. But to answer your question,
12 yes, I think near views would definitely
13 benefit.

14 DR. KLEMENS: Let me move on
15 to Question Number 25. I think I read, and I
16 hope, that that easement that accesses that
17 tower, that was in place prior to the Town
18 purchasing it for conservation purposes; is
19 that how I read it? It says easement extends
20 over what is now town-owned land, benefits
21 the parcel granted by the town's predecessor
22 entitled "Private Property Owner 2011."

23 So, are you telling me that
24 that easement was, in fact, there already?

25 MR. FISHER: Dr. Klemens,

1 Attorney Fisher. I have title information
2 that was given to me as part of insight in
3 Homeland and AT&T's transactions, and my
4 understanding is that the property ownership
5 of the now town-owned land was privately held
6 at the time. And the Wilton Bank had
7 foreclosed on one of the parcels of property,
8 which is now this parcel that we're focused
9 on for the tower site, and that the easement
10 which provides access from the town
11 right-of-way over what is now the Town open
12 space parcel was in place as of 2011, which
13 is prior to any of the acquisition interests
14 here in this application, and that
15 subsequently the Town in 2013, subsequent to
16 its acquisition, went to Wilton Bank to ask
17 for an easement for its own purposes and its
18 own benefit, and they were granted that by
19 the Wilton Bank as well.

20 DR. KLEMENS: When did the
21 Town purchase that land for conservation
22 purposes?

23 MR. FISHER: It hasn't been
24 the scope of my representation. I don't know
25 the exact date. I generally know it was

1 around the 2012/2013 time period.

2 DR. KLEMENS: Because my
3 interest in this and why I said it's not
4 germane, my interest in this is that there is
5 in Connecticut some endangered species
6 statute with very clear prohibition against
7 using state funding in a manner that would
8 injure endangered or threatened species.

9 So it's two prongs here: One
10 of it is the ownership, and one of it
11 whether, in fact, these endangered species
12 issues are actually there or not. And so
13 that's been sort of the focus of my
14 questioning has been on these two prongs is,
15 in fact, whether State funds were used to
16 purchase that land, and then also to look at
17 the veracity of these endangered species that
18 I'm talking are threatened, that is, the
19 slimy salamander and the bog turtle. So
20 that's the reason I'm asking these questions.

21 MR. FISHER: Certainly Mr.
22 Gustafson can talk about species and habitat.
23 As it relates to the Town's acquisition of an
24 easement, part of the reason I think we noted
25 that it's not germane is because that would

1 be an issue for the Town. It's certainly not
2 an issue for the Applicants, we believe, with
3 respect to the easement rights they maintain.
4 And the Council typically doesn't have,
5 within its jurisdiction, a review of
6 transactional or easements of things of that
7 nature, but we certainly appreciate the
8 interest in that. We would refer that
9 comment, at least in the first part, to the
10 Town. To the extent that Mr. Gustafson can
11 answer questions on habitat species, we're
12 happy to do that.

13 DR. KLEMENS: Well, I, for
14 one, would be reluctant to approve an
15 application that violated the State's
16 endangered species law, so that's why I'm
17 asking these questions because I don't think
18 we should be violating -- but let's move on
19 with the bog turtle which has been very
20 overly well addressed.

21 Under question answered Number
22 31, you cite that the last record for the bog
23 turtle in the Titicus/Mopus work area was
24 around 1993. And I would ask you to consider
25 where did that date come from?

1 THE WITNESS (Gustafson): That
2 came from the Ridgefield Natural Resource
3 Inventory and within the species notes for
4 that record.

5 DR. KLEMENS: Was it a record,
6 or was it a reference to a book?

7 THE WITNESS (Gustafson): I
8 would have to double-check.

9 DR. KLEMENS: Could you,
10 please? Could you look and look at that
11 again? Because if it's a book reference,
12 it's conceivable that that record could have
13 been a decade or two earlier and was compiled
14 in a book that was published in 1993, but
15 it's conceivable that that record was not the
16 actual record. So if you could look into
17 that and inform us next time?

18 THE WITNESS (Gustafson): Yes.
19 I'm just looking through my notes, and I will
20 double-check that.

21 DR. KLEMENS: Please do.

22 THE WITNESS (Gustafson): It
23 appears that I grabbed that date from the
24 checklist that's located within the Natural
25 Resource Inventory document, but I will

1 double-check that and provide a response to
2 that.

3 DR. KLEMENS: It's my belief,
4 and I want you to tell us, that that's
5 actually a literature citation, not a record,
6 a record of the turtle, but I want you to
7 look into that, please.

8 Let's go to Number 32. This
9 gets right back to the whole issue of
10 endangered species. I questioned on the
11 Wetlands Function Report about the
12 classification of that wetland, that's that
13 small seepage wetland, as being endangered or
14 state or federally listed threatened or
15 endangered species. And you responded that
16 habitat is there, that you listed that
17 because it was a box turtle habitat, but are
18 box turtles endangered or threatened under
19 State or Federal Law?

20 THE WITNESS (Gustafson): No,
21 they are not. They are listed as a special
22 concern species under the Connecticut
23 Endangered Species Act.

24 DR. KLEMENS: So therefore, no
25 state listed endangered or threatened species

1 occurs at the seepage wetland on the site?

2 THE WITNESS (Gustafson):

3 That's correct.

4 DR. KLEMENS: Thank you.

5 THE WITNESS (Gustafson):

6 You're welcome.

7 DR. KLEMENS: Then I go back
8 to this whole -- I had questions also about
9 this -- I think that's been already addressed
10 about the recharge wetland.

11 The only additional question I
12 have for you is how will you integrate any
13 information from -- this was a question that
14 Dr. Danzer posited. How will your responses
15 from the U.S. Fish and Wildlife Service be
16 added into the D&M process, or has already
17 the need for a consultation has that already
18 been the Section 7 consultation?

19 THE WITNESS (Gustafson): The
20 Section 7 consultation has been initiated,
21 but it's not been completed. We have not
22 received a response yet from U.S. Fish and
23 Wildlife Service with respect to the
24 potential occurrence of the bog turtle. I
25 fully expect that we will receive a response

1 prior to our continuation hearing date on the
2 17th, and at that time I can appropriately
3 address your question.

4 I suspect, based on the
5 information that we've collected to date in
6 our correspondence with the wildlife division
7 at DEEP, that the concern is associated with
8 erosion control protections and avoiding
9 alteration of the hydrology of the seepage
10 wetland, which we have done already and
11 addressed to the wildlife division's
12 acceptance of the proposed project and
13 protection of the bog turtle species, but if
14 they have additional recommendations, we will
15 work to incorporate them into the design plan
16 and address those issues at the next hearing
17 date.

18 DR. KLEMENS: So you're
19 anticipating hearing from the service then
20 shortly?

21 THE WITNESS (Gustafson): I
22 will be contacting them this week and urging
23 them for a prompt response.

24 DR. KLEMENS: That's great,
25 because I think that would close that loop.

1 Lastly, if you look at Dr.
2 Danzer's response, you responded that the
3 entire site is in Zone 3 of the bog turtle
4 recovery plan?

5 THE WITNESS (Gustafson):

6 Correct.

7 DR. KLEMENS: Dr. Danzer
8 suggested that portions of it were actually
9 Zone 2. Do you agree or disagree with that?

10 THE WITNESS (Gustafson): I
11 disagree. I agree with the summation that
12 we've responded in our response to your
13 interrogatories that, and we've enumerated
14 why we feel that it is Zone 3, and I stand
15 behind that conclusion.

16 MR. KLEMENS: Thank you. I
17 have no further questions, Mr. Chairman.

18 THE CHAIRPERSON: Thank you.

19 Dr. Bell?

20 DR. BELL: Thank you,
21 Mr. Chair.

22 I just have one construction
23 question which is the wattles and the check
24 dams that are mentioned. Are those temporary
25 during the construction only?

1 THE WITNESS (Whitcomb): John
2 Whitcomb. They're designed for the
3 construction period until the slope is
4 stabilized. Normally we would leave wattles
5 in place. In this case because of concerns
6 with habitat and the movement of turtles on
7 site, if they do exist, is that the wattles
8 will be removed.

9 DR. BELL: Okay. I guess this
10 is a question maybe for Mr. Libertine, and
11 it's a follow-up to the questions that Dr.
12 Klemens was asking about visibility, in part,
13 but the question is: At one point you
14 describe the tower as on top of the ridge.
15 Well, I understand why you would say that,
16 but in actual terms it seems to me that the
17 houses that are at the level of the beginning
18 of the access road are really the ones that
19 are at the top of the ridge; would that be a
20 correct understanding?

21 THE WITNESS (Libertine): I
22 would say that's a fair characteristic.
23 We're on more or less the shoulder or shelf
24 just below the apex of the ridge.

25 DR. BELL: Okay. And so how

1 far would you estimate would be the distance
2 between the level like of the foundation of
3 the tower and the top of the ridge where the
4 level plane of the houses would be?

5 THE WITNESS (Chasse): This is
6 Scott Chasse. I have a topographic map in
7 front of me, and the ground elevation of the
8 proposed facility is elevation 807 AMSL, and
9 the top of that ridge, which would be just
10 near Mr. Manchester's property, is about 880,
11 so it's about a 73 foot differential.

12 DR. BELL: Okay. So, how far
13 would the -- if you just had the tower going
14 straight up and coming to the plane where the
15 houses are and we think of the nearest house,
16 how far then would that intersection be from
17 the nearest house? I mean, the tower is in
18 the air now. It's not a ground measurement,
19 but if you go along the ground a certain
20 distance and then you go out in the air a
21 certain distance, that's what I'm talking
22 about, the intersection.

23 THE WITNESS (Chasse): The
24 horizontal distance, I believe, is 264 feet,
25 and that's again to the same property, 310

1 Old Stagecoach Road.

2 DR. BELL: Okay. Say again --

3 THE WITNESS (Chasse): Two
4 hundred and sixty-four feet is the distance
5 between the tower and the nearest residence
6 and that that topography where the house is
7 is approximately 860, 870, somewhere around
8 there. So you're looking at about a 60-foot
9 differential between the foundation of the
10 house and the foundation of the tower.

11 DR. BELL: Okay. I think
12 those are my two questions.

13 Thank you, Mr. Chairman.

14 THE CHAIRPERSON: Thank you.

15 Dr. Klemens?

16 DR. KLEMENS: I just want to
17 follow up on that because Dr. Bell made an
18 interesting point.

19 So, basically, there's a
20 greater possibility that they're going to see
21 something from the neighboring residences,
22 there may be antenna platforms and the
23 antenna because you're getting into that top
24 of the tower?

25 THE WITNESS (Libertine):

1 Correct.

2 DR. KLEMENS: So that would
3 only make more sense than, would you say, to
4 put a stealth tower there?

5 THE WITNESS (Libertine): I
6 think, yes, I would agree. The stealth tower
7 would certainly give it, if there were what
8 we call views from neighboring properties
9 that eclipse the tree line, certainly that
10 would help. I was more concerned with during
11 the leaf-off time of the year when you're
12 looking through trees so that you're not
13 looking at steel because we are less than a
14 few hundred feet away from a few homes; but
15 yes, I agree with you.

16 DR. KLEMENS: Thank you.

17 THE CHAIRPERSON: Again, just
18 to clarify, from some distant viewpoints the
19 stealth tower would stand out as a tree
20 somewhat larger than anything around it.
21 There is one simulation which shows it
22 sticking up pretty high.

23 THE WITNESS (Libertine): This
24 is the balancing act you always get when you
25 start doing these. The more distant views --

1 and that's really the -- if we're going to
2 have what I'll call prevalent views, most of
3 them are from at least a half mile or more
4 away, and if you have the ridge and then some
5 type of a facility sticking above it, in some
6 cases 30 or 40 feet, it certainly can draw
7 the eye more to that.

8 Getting back to Dr. Klemens's
9 and Dr. Bell's point, though, and it's a good
10 one, if you start taking these elevation
11 differences of, you know, we have a 150-foot
12 tower, 157 feet if we went with a tree, we
13 have a 73-foot or so differential in
14 topography, and we start putting the trees
15 now in between there, although we use an
16 average height 65 high through the two-mile
17 study area, I think, if you remember from the
18 site walk, some of the trees on the property
19 are pretty substantial and quite taller than
20 that, some approaching 90 feet. So I think
21 from a direct line of sight at ground level
22 on some of the neighboring properties, I'm
23 not sure we're going to see that eclipsing of
24 the trees.

25 That's why we did focus more

1 on some of the more distant views because
2 that's where you started to get the facility
3 really protruding, again, anywhere from a few
4 feet to 10 feet, in some cases up to 40 feet
5 above the tree line. So, yes, doing a
6 stealth tower here is going to be a
7 trade-off.

8 THE CHAIRPERSON: Okay. And I
9 just want to make sure I understood. On the
10 archeological study you've done a portion of
11 it, but there's still --

12 THE WITNESS (Libertine): No.
13 Let me clarify. We've now completed the
14 entire Phase I archeological study, which was
15 requested by SHPO. And please stop me if I
16 go too far with this. The question really
17 was I think everyone wanted to get to the
18 answer of this pre-Revolutionary War or
19 Revolutionary circa question of significance
20 of the property. And through research and
21 through the shovel testing that was done at
22 the site, it was clear that there were
23 encampments, there were routes in the general
24 area, but there's no evidence to suggest that
25 they were on physically this property or even

1 that the road in question was the road that
2 has been raised as part of this issue or as
3 part of this docket or the march, for lack of
4 a better clarification.

5 So, to answer your question,
6 it's been completed. It's been submitted,
7 and we've got a concurrence letter, which
8 will be submitted by, I imagine, before the
9 next hearing from the state archeological
10 folks.

11 MR. FISHER: Chairman, just
12 for the record on that, Mr. Libertine just
13 recently provided me with the document
14 itself. It's by Heritage Consultants. It's
15 dated May 2014. It's a sizable document.
16 We're going to file that with all the other
17 correspondence that Mr. Libertine referenced,
18 and he'll be available for further
19 examination on this.

20 THE CHAIRPERSON: Thank you.

21 With that, we'll now go to
22 cross-examination by the Attorney Ainsworth
23 representing the Intervenor.

24 MR. AINSWORTH: Thank you,
25 Mr. Chairman.

1 MR. AINSWORTH: I have a few
2 questions.

3 CROSS-EXAMINATION

4 MR. AINSWORTH: Keying into
5 this last conversation regarding visibility,
6 did you, in fact, measure the trees that are
7 in between the Manchester and Dow homes and
8 the site?

9 THE WITNESS (Libertine): Not
10 all of them, but yes, we took some
11 measurements, yes.

12 MR. AINSWORTH: And what did
13 you find with regard to those measurements?

14 THE WITNESS (Libertine): That
15 they range anywhere from 50 feet to
16 approaching 90 feet in height.

17 MR. AINSWORTH: And did you
18 produce a photo simulation of what the tower
19 would look like from the Dow and Manchester
20 homes?

21 THE WITNESS (Libertine): No,
22 I did not. In fact, we provided no
23 simulation from any homes, just for the
24 record.

25 MR. AINSWORTH: Let me

1 clarify. Did you provide any simulations
2 from adjacent to the Manchester and Dow homes
3 on public right-of-ways?

4 THE WITNESS (Libertine): If
5 they are on the neighboring residential
6 streets then, no, we did not.

7 MR. AINSWORTH: And it is your
8 opinion, though, that a stealth monopine
9 would provide relief to some of the people
10 who bear the greatest closest views of this
11 tower; is that not true?

12 THE WITNESS (Libertine): I
13 would say, yes, it would help soften the
14 views, if those views exist, yes.

15 MR. AINSWORTH: And when you
16 say "if those views exist," it is your
17 opinion that those houses are likely to see
18 the facility?

19 THE WITNESS (Libertine): Yes,
20 it's my opinion that there are certainly
21 portions on their properties that they would
22 be able to see a portion of the facility,
23 yes.

24 MR. AINSWORTH: And that's
25 confirmed by your visual impact analysis map

1 which shows the bright yellow area that
2 predicts year-round visibility?

3 THE WITNESS (Libertine): As
4 well as some adjacent area for seasonal, yes,
5 it does. And I just again will clarify that
6 those areas are predicted, and all it shows
7 is that there are areas that we believe where
8 we anticipate within those areas that you may
9 be able to see a portion of the tower.

10 MR. AINSWORTH: And not having
11 done an actual photo simulation from those
12 locations or as close as you can get to those
13 locations, you have to rely on the study that
14 you did, the predictions. Right?

15 THE WITNESS (Libertine):
16 Correct.

17 MR. AINSWORTH: And AT&T has
18 proposed stealth towers in other
19 neighborhoods where it anticipated that there
20 might be relatively close views; is that not
21 true?

22 THE WITNESS (Libertine): I
23 believe both AT&T and Homeland Towers have,
24 yes.

25 MR. AINSWORTH: In fact, in

1 the recent Stamford application, it was
2 initially proposed even -- not during the
3 course of the proceedings, but actually in
4 the application itself is proposed to be a
5 stealth monopine.

6 THE WITNESS (Libertine): In
7 that case it was an AT&T tower; and, yes,
8 they had proposed a monopine from the concept
9 and in the beginning of the design.

10 MR. AINSWORTH: So it, in
11 fact, is feasible to produce a monopine
12 design when you want to ameliorate visual
13 impact?

14 THE WITNESS (Libertine): It's
15 certainly one of the options. It certainly
16 can soften views, yes.

17 MR. AINSWORTH: And given that
18 this tower is -- you just testified that the
19 trees are in that range of 65 up to 90 feet
20 or so, and the tower is on a shoulder off the
21 top of the ridge, the tower actually will not
22 project as far off of the treetops as it
23 would if it were, let's say, on the
24 Manchester property?

25 THE WITNESS (Libertine):

1 Correct, that Manchester property is above
2 and another 65 to 70 feet higher in
3 elevation, so yes. Correct.

4 MR. AINSWORTH: And isn't it
5 true that you've testified previously in
6 other dockets the -- let's see, that -- well,
7 in other dockets that where a tower has been
8 proposed against the side of a hill as
9 opposed to on the top of a ridge that a
10 monopine will actually help blend it into the
11 features?

12 THE WITNESS (Libertine):
13 Generally, yes. And the only reason I say
14 that is because, as I said earlier, there's
15 always going to be some locations and
16 perspectives where you're not going to
17 benefit from that backdrop. It's just the
18 perspective will be such that it will
19 protrude above the skyline or the backdrop of
20 the tree line. But generally, yes, if you're
21 on the shoulder and off the top of the ridge,
22 the most prevailing views will take advantage
23 of having that backdrop and not silhouetting
24 against the sky.

25 MR. AINSWORTH: And does your

1 visual impact analysis mapping show where
2 those particular perspectives would be where
3 it doesn't take into account the let's say
4 screening by the ridge line and not --

5 THE WITNESS (Libertine): It
6 doesn't in terms of the mapping itself. What
7 the maps are intended to do is just to give
8 you a footprint of where there's potential
9 visibility. What we try to do is then show
10 you characteristics of different views that
11 represent both what you're suggesting where
12 we can see it and other areas where you
13 cannot. So if you were to compare the
14 photograph and the locations on the map with
15 the actual simulations, you'll get a good
16 sense of just where you're going to get some
17 of that advantage and some of those areas
18 where you're not going to be able to, and
19 it's going to stick somewhat above the tree
20 line. But to answer your question, no, the
21 map itself does not distinguish between those
22 areas.

23 MR. AINSWORTH: This is a
24 fairly varied topography in the vicinity of
25 this tower?

1 THE WITNESS (Libertine):

2 Absolutely, yes.

3 MR. AINSWORTH: So those
4 perspectives could change in relatively short
5 distances as you move laterally from the
6 tower?

7 THE WITNESS (Libertine):

8 Absolutely. Yes, they do.

9 MR. AINSWORTH: As you look
10 out from the tower site and you look out at
11 the, let's say, the opposite direction
12 looking out from the tower, isn't it true
13 that you see that there's no prominent
14 man-made tall structures?

15 THE WITNESS (Libertine):

16 Well, from the site you're looking basically
17 into woods, you really don't have a vista off
18 to -- it does have a southwest or western
19 facing aspect, but you really don't have a
20 sweeping view of the what I'll call the
21 horizon. You're kind of within a bowl that
22 is an open field that's surrounded by fairly
23 tall trees, so you really don't have much of
24 a view beyond that immediate area maybe
25 several hundred feet.

1 MR. AINSWORTH: That would be
2 true from the perspective of a person who's 5
3 to 6 feet tall standing at the site. Let's
4 say if you went up to the top of the ridge --
5 I don't know if you did; I did -- but at the
6 top of that ridge and you look out, did you
7 look out at the distant views?

8 THE WITNESS (Libertine): From
9 the intersection of the two roads at the
10 access road in that area, it's very similar.
11 There are some spot views out on the horizon.
12 I think there are some areas where just to
13 the west and southwest that overlook the
14 state park that have much more of what I
15 think you're characterizing; and yes, I did
16 go out and check that area out as well, but
17 from our neighborhood, I don't think --
18 again, I'm not on people's backyards, and
19 they may have a little bit more of an open
20 area, but from the road itself you just don't
21 get that kind of what I'll call a large or
22 sweeping view to the west or actually to any
23 direction. You're on a high knoll, no
24 question about it, and if it was clear, if
25 those areas were cleared, you would

1 absolutely have a view, but they're not, so I
2 did not experience that myself. I did from
3 some other areas outside of that
4 neighborhood.

5 MR. AINSWORTH: And I guess my
6 point is this: You had a chance then to look
7 out to the west toward New York from
8 locations around this tower?

9 THE WITNESS (Libertine): Yes.

10 MR. AINSWORTH: And in doing
11 so, did you notice that there were no
12 prominent man-made features on any of the
13 ridges around this facility?

14 THE WITNESS (Libertine): On
15 the ridges themselves, I don't recall. I
16 know I did see other man-made structures in
17 the view shed. I'm afraid I can't really say
18 from a -- I guess I generally would agree
19 with that.

20 MR. AINSWORTH: And the
21 man-made structures that you can see are
22 houses in the valley around that bowl that
23 you're looking at from that perspective?

24 THE WITNESS (Libertine): I
25 can see that. I can see schools and other

1 infrastructure. There are some towers in the
2 distance, not on the ridges themselves, but
3 there are other man-made structures, but it's
4 I would say that, you know, there are none
5 that are on top of a ridge that I can recall.

6 MR. AINSWORTH: And so from
7 the perspective that this would be one of the
8 only -- and when I say ridgetop, we're
9 obviously close to the ridgetop, but we're
10 not on it -- but this would be the only
11 ridgetop facility you can see from miles
12 around on the ridges surrounding this valley?

13 THE WITNESS (Libertine): I'm
14 not sure I would agree with that totally. I
15 do recall, if you're in the state park
16 looking back towards our site, there are a
17 significant amount of homes, more than a
18 handful, that are literally placed on the
19 ridge and more or less hanging over the hills
20 there. So granted, they're residential
21 structures, but they are certainly man-made
22 structures that are on what I consider to be
23 a ridge or at least on a prominent hillside
24 in your line of view.

25 MR. AINSWORTH: But they don't

1 stick up above the ridge?

2 THE WITNESS (Libertine): They
3 don't stick up above the ridge, but they
4 stick out on the ridge. So from my
5 perspective, it's very similar in terms of
6 its prominence, for lack of a better term.

7 MR. AINSWORTH: So you would
8 equate a tower which sticks up above the
9 ridge to the houses that are placed on the
10 ridge?

11 THE WITNESS (Libertine): I'm
12 not sure I would say I would equate it. I
13 would equate -- let me clarify that. I would
14 equate it in the sense that there are
15 intrusions, if that's the right word, on the
16 hills. They're man-made structures, so from
17 my perspective they are not natural.

18 MR. AINSWORTH: Now, going
19 back to the discussion of the bog turtle and
20 habitat -- this is probably for Mr.
21 Gustafson -- you talked about most of the
22 site being Zone 3, but Zone 1 itself is
23 defined, as you put it in A28 answer to the
24 interrogatory, generally small open-canopy,
25 calcareous herbaceous sedge meadows and fens

1 bordered by more thickly vegetated and wooded
2 areas.

3 The calcareous nature of the
4 geology refers to a limestone type of
5 geology; does it not?

6 THE WITNESS (Gustafson): It
7 does.

8 MR. AINSWORTH: And there's
9 nothing about the limestone chemistry that
10 causes or itself facilitates the existence of
11 bog turtles; is that not true?

12 THE WITNESS (Gustafson): It
13 facilitates the habitat the bog turtle
14 prefers.

15 MR. AINSWORTH: The chemistry?

16 THE WITNESS (Gustafson):
17 (Nodding in the affirmative.)

18 MR. AINSWORTH: In what way?

19 THE WITNESS (Gustafson): In
20 the plant selection. It will dominate in
21 those type of calcareous bog environments.

22 MR. AINSWORTH: And what kind
23 of plants dominate in those environments that
24 wouldn't exist at the subject site, for
25 instance?

1 THE WITNESS (Gustafson):

2 There are a variety of sedges, petra plants.

3 There are a variety of plants that will
4 outcompete other species in a higher Ph soil
5 environment as opposed to a more acidic
6 environment that our site is located at.

7 MR. AINSWORTH: And the bog
8 turtle uses those as food?

9 THE WITNESS (Gustafson): It
10 does. It uses it as habitat. It prefers
11 these open bog habitats, and these are partly
12 promoted by the soil chemistry.

13 MR. AINSWORTH: Isn't it more
14 true that the occurrence of the calcareous
15 features is more of a correlation than it is
16 a causation for the population of the
17 turtles?

18 THE WITNESS (Gustafson):
19 That's probably true.

20 MR. AINSWORTH: That the bog
21 turtles probably prefer a more open area as
22 opposed to a densely canopied and thickly
23 vegetated area?

24 THE WITNESS (Gustafson): That
25 is true.

1 MR. AINSWORTH: And so the
2 proposed site is surrounded by -- while it's
3 a treed and canopied area, has a relatively
4 thin understory; is that not true?

5 THE WITNESS (Gustafson): It
6 is true.

7 MR. AINSWORTH: And so isn't
8 it possible that the bog turtle Zone 1 type
9 habitat actually does encompass this site
10 because the conditions in which the bog
11 turtles find desirable exist there but for
12 the soil chemistry?

13 THE WITNESS (Gustafson): I do
14 not agree with that statement. They do not
15 exist at the site. It is a forested wetland
16 system, it is an open understory, but there's
17 a relatively dense overstory, and the canopy
18 is relatively closed for the wetland system
19 located on the site immediately adjacent to
20 the site. So it isn't an open canopy wetland
21 system.

22 MR. AINSWORTH: Well, during
23 the site walk the canopy was -- it was
24 relatively sunny at the site; is that not
25 true?

1 THE WITNESS (Gustafson): We
2 also weren't in full leaf-out at that point,
3 but it's based on my understanding of the
4 habitat preferences for bog turtle, there's
5 enough canopy closure in that wetland system
6 that it would not be desirable for a bog
7 turtle.

8 MR. AINSWORTH: For all
9 purposes of its life cycle?

10 THE WITNESS (Gustafson): Yes.

11 MR. AINSWORTH: I'd like to
12 address a little bit of the surficial soil
13 analysis.

14 Have you done any soil depth
15 studies at the location where the facility is
16 to be built? And I'm not sure who would
17 answer that.

18 THE WITNESS (Chasse): Sure.
19 As part of our on-site wetlands delineation
20 some soil was turned over, but in terms of
21 depth, a geotechnical investigation will come
22 following the initial approval during the D&M
23 phase.

24 MR. AINSWORTH: So the answer
25 would be, no, you haven't done a depth to

1 refusal of depth to bedrock analysis at the
2 site yet?

3 THE WITNESS (Chasse): That is
4 correct.

5 MR. AINSWORTH: Now, isn't it
6 true that the depth of the soils would
7 indicate or the varying depth of the soils
8 will have an impact on the amount of
9 pass-through to soil to receive and contain
10 recharge. I can rephrase it.

11 THE WITNESS (Chasse): Please.

12 THE WITNESS (Whitcomb): John
13 Whitcomb. Yes, obviously, the storage
14 potential is dependent on the voids within
15 soil, the soil matrix, so yes.

16 MR. AINSWORTH: Okay. So,
17 without knowing how deep the soils are, how
18 can you opine that there's not likely to be
19 an impact on the storage capacity of the site
20 due to the construction?

21 THE WITNESS (Whitcomb): We're
22 not changing the existing soils in place.
23 The surficial soils above the ledge, they
24 stay in place. We're providing fill. So the
25 storage potential of that soil remains the

1 same.

2 MR. AINSWORTH: Although,
3 doesn't the water have to access those soils
4 to actually take advantage of that capacity?

5 THE WITNESS (Whitcomb): Yes,
6 it does.

7 MR. AINSWORTH: And you're
8 going to be putting compacted soils over the
9 top of the native soils?

10 THE WITNESS (Whitcomb):
11 Correct.

12 MR. AINSWORTH: And compacted
13 soils don't transmit water as well as the
14 existing soils that are on site right now?

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

17 MR. AINSWORTH: I'm going to
18 go back to the wetlands delineation. There's
19 a map within the supplemental responses to
20 set 1 of RACT's interrogatories, and that map
21 shows the wetland 1, and it's shown by a
22 yellow highlighted area. The back of that
23 wetland actually stops with a very straight
24 line, and the first wetland flag is off the
25 edge of the property. Why is it that that

1 wetland actually truncates on that straight
2 line on the map? I know it actually does
3 continue off the site, but why is it depicted
4 that way as opposed to going to the
5 property boundary?

6 THE WITNESS (Gustafson):

7 Beyond the property boundary was not within
8 our study area, so we, in our tactical
9 discussion of the wetland system, we describe
10 the wetland system as part -- the delineated
11 portion of the wetland system as part of a
12 larger wetland that extends to the
13 west-southwest. For mapping purposes we were
14 only going to show the delineated limits of
15 the wetland and not speculate on its
16 orientation or size as it leaves our study
17 area.

18 MR. AINSWORTH: Okay. But it
19 appears wetland flag Number 101 stopped
20 probably 25 to 30 feet -- using a scale --
21 off of the property boundary. Why wasn't it
22 that the study didn't -- that the first
23 wetlands flag started at the property
24 boundary and go in?

25 THE WITNESS (Gustafson): The

1 information that we used during our initial
2 wetland investigation for this wetland
3 delineation did not provide us with concrete
4 information as far as where the property
5 boundary lied in the field, so there's
6 limited ground control out in the field on
7 this site. There isn't a fence line, there
8 isn't a stone wall, there isn't monumentation
9 along that property boundary, so it was pure
10 speculation on our part where we started the
11 delineation. We scaled off some known
12 features to at least get close to the
13 property boundary, and that's essentially the
14 reason why some of the flagging extended off
15 the property and the other part doesn't.

16 MR. AINSWORTH: So at the
17 time -- sort of the short answer to that is,
18 at the time you were doing the wetlands
19 delineation, you didn't have a copy of the
20 survey?

21 THE WITNESS (Gustafson):
22 That's correct.

23 MR. AINSWORTH: And after you
24 did the wetlands delineation, did you go back
25 out on the site to either update or

1 redelineate the wetlands?

2 THE WITNESS (Gustafson): No.

3 Based on the survey information that we
4 received, we were comfortable that we had
5 delineated a significant portion of that
6 wetland feature so that we could evaluate it
7 and make a determination whether there would
8 be any potential impact from the proposed
9 development or not.

10 MR. AINSWORTH: Okay. And so
11 when Dr. Danzer or the interrogatory that led
12 to this supplemental map asked about, I
13 guess, Question 3 and Answer 3, did the
14 Applicant's soil scientist or similar site
15 analyst survey the area approximately 100
16 feet northwest of wetlands Flag 103 where the
17 phragmites, skunk cabbage community occupies
18 a level area on the slope?

19 In order to answer that
20 question, you did a desktop analysis based on
21 the survey and the previous data you had
22 collected?

23 THE WITNESS (Gustafson): The
24 information that we used to supplement the
25 map to identify the location of that

1 phragmites area that was referenced in the
2 question was actually derived from
3 information that we collected during our
4 delineation of wetlands on the property. We
5 did have field notes; we did have locational
6 information regarding that phragmites seep
7 area. Based on the information we had at the
8 time where we believe the property boundary
9 lied, we had concluded that that feature was
10 located off of the subject property, and we
11 didn't include it in our delineation, but we
12 did have information on its location and were
13 aware of it as a result of our original
14 wetland investigation of the property. So we
15 used that information to supplement the map
16 that was included as an attachment to that
17 response.

18 MR. AINSWORTH: And so the
19 shorter answer to that would be you didn't go
20 back out to the site to confirm that after
21 this interrogatory was asked?

22 THE WITNESS (Gustafson):
23 That's correct. We felt we didn't have to.
24 We already had the information in hand.

25 MR. AINSWORTH: And the

1 locational information that you have
2 regarding the phragmites seep, did it involve
3 GPS coordinates?

4 THE WITNESS (Gustafson): It
5 did. We have a survey quality backpack GPS
6 unit that we use during wetland
7 investigations. It has the capacity for
8 submeter accuracy or precision, and we use
9 that to collect a point where that phragmites
10 area is located.

11 MR. AINSWORTH: Mr. Whitcomb,
12 you were asked is it possible to design the
13 site for a 500-year flood event, and you said
14 it's not really necessary because there are
15 no potential overtopping events or dams in
16 the area. But wouldn't a design to the
17 500-year flood event, wouldn't that help
18 ameliorate the flashiness or velocity
19 complaint that Dr. Danzer has raised?

20 THE WITNESS (Whitcomb): First
21 I was asked if it was -- can you rephrase the
22 beginning of the question? I think you
23 phrased it incorrectly.

24 MR. AINSWORTH: I certainly
25 will.

1 Would designing this site to
2 accommodate the 500-year flood event, would
3 that help ameliorate the flashiness or the
4 velocity of storm water release during larger
5 storm water events?

6 THE WITNESS (Whitcomb): The
7 actual flow rate decreases from existing
8 proposed, so doing it for the 500-year would
9 only continue to show that that was the case.
10 To do the 500-year storm, you normally do the
11 500-year storm when there's an issue of life
12 safety or property value downgradient; it has
13 nothing to do with the velocity of the
14 runoff. The velocity of the runoff is
15 basically determined by the slopes and the
16 grades that exist, and it's not going to be
17 significantly different. All you're going to
18 see is an appreciable rise in the numbers
19 that you see on the chart that is in page --
20 I think it's page 7 of my report. What's
21 listed there 2, 5, 10, 25, 50 and 100 year.
22 Realistically for a site like this you'd
23 generally be happy with completing your
24 design at the 50-year storm. We carried the
25 100. You're not going to see an appreciable

1 difference. It's certainly not worth the
2 design, too, for the effects of erosion or
3 any of that effect because it's just too
4 irregular, and erosion is not a single event,
5 it's an accumulation of events in normal
6 cases because nothing here is going to
7 deteriorate drastically in a 500-year storm.

8 Can we include a 500-year
9 storm? We certainly could.

10 MR. AINSWORTH: But when you
11 say, "can we do; we certainly could," what do
12 you mean by that?

13 THE WITNESS (Whitcomb): Can
14 we calculate a 500-year storm, yes. I have
15 to change one factor in the report and add it
16 in there and find additional information or
17 ability to design things in a better manner.

18 MR. AINSWORTH: So, if you
19 were designing to a 500-year storm event,
20 there would be no changes in the site design?

21 THE WITNESS (Whitcomb): No.

22 MR. AINSWORTH: And why is
23 that?

24 MR. LYNCH: He just told you.

25 THE WITNESS (Whitcomb):

1 Pretty much. Because it would simply be an
2 increase in the values we see here, and
3 there's no issue to address a 500-year storm
4 event.

5 MR. AINSWORTH: So, in a
6 greater storm event, there's a greater volume
7 of water coming in the same period of time.
8 Correct?

9 THE WITNESS (Whitcomb): Yes,
10 that would be the case.

11 MR. AINSWORTH: And so, if you
12 design the system to handle a smaller storm
13 event, the excess above that would simply run
14 off without being detained. Correct?

15 THE WITNESS (Whitcomb):
16 Correct.

17 MR. AINSWORTH: And so, if we
18 have a greater storm design, then you're able
19 to handle the greater volume of water that
20 would occur during a storm event?

21 THE WITNESS (Whitcomb): Since
22 all our surface runoff is surficial flow and
23 sheet flow with one channel that provides the
24 capacity to handle a 100-year storm with an
25 average velocity discharge of less than --

1 actually it comes out to just even for a
2 one-foot-per-second on average discharge rate
3 for the velocity of that one channel, the
4 500-year storm is going to be a percentage
5 increase. And if that's the one position you
6 wanted to look at for that swale, that swale
7 would be increased to start including some of
8 the rock slope and the face of the surface of
9 the compound which are both, one's naturally
10 armored and one is armored by a compound rock
11 itself, it would still fit within that
12 channel and not provide any erosion.

13 As the gradient slope on the
14 bottom is about 2-and-a-half percent, I doubt
15 you would see any erosive velocities at the
16 500-year storm at that point. So, would it
17 provide any additional design criteria to
18 change our site? I would severely doubt it
19 at this point.

20 MR. AINSWORTH: But that's
21 purely from an erosive perspective as opposed
22 to from providing recharge to the downstream
23 wetlands?

24 THE WITNESS (Whitcomb): Well,
25 you wouldn't look at recharge from a 500-year

1 storm. That's why, in the beginning of the
2 discussion on recharge, I discussed the 2-
3 and 5-year storms as being what you want, so
4 that's 98 percent plus all your rainfall
5 events. The amount of recharge that happens
6 in a 500-year storm is all excess, and the
7 only thing you would consider is the
8 downstream flows and what will happen
9 downstream. So you'd be concerned about
10 erosion, life safety and the capacity of
11 pipes, channels, culverts, that kind of
12 thing. Since we don't have any, it doesn't
13 make sense to look at a 500-year storm for
14 this site.

15 THE CHAIRPERSON: Excuse me.
16 We have one question from the --

17 MR. ASHTON: Mr. Whitcomb, do
18 you know what the standard design for water
19 flow is in Ridgefield, 25-year storm,
20 50-year?

21 THE WITNESS (Whitcomb): For
22 roads, I'm not sure about exact -- I did
23 review it, but I do not remember it, and I do
24 not have it in my bag. Most local towns are
25 25 years, some are 10, some are actually 50,

1 because they've gone up to 50 to address the
2 new, you know, the global warming and the
3 changing weather.

4 MR. ASHTON: Thank you.

5 MR. AINSWORTH: And the local
6 standards, as we know them, don't apply to
7 this site, do they, Mr. Whitcomb?

8 THE WITNESS (Whitcomb): We're
9 not required to comply with them, but we did
10 comply with them in our design.

11 MR. AINSWORTH: Now, what are
12 the finished grades on the road, what do they
13 vary from and to?

14 THE WITNESS (Whitcomb): At
15 the entrance they're less than 2 percent. As
16 you come over the crest down into the site,
17 you rotate into something above 9 percent,
18 less than 10. Then you approach the site at
19 somewhere between 7 and 8 percent. When you
20 get to the turnaround area, you are in the 2
21 to 3 percent for the turnaround area, the
22 parking in front, and the compound itself is
23 about 3 percent from corner to corner.

24 MR. AINSWORTH: Have you done
25 any turning radius analysis of whether a fire

1 truck could access the site should that be
2 necessary?

3 THE WITNESS (Whitcomb): We're
4 designed to accommodate a WB-40 for access
5 into the site.

6 MR. AINSWORTH: And what is a
7 WB-40?

8 THE WITNESS (Whitcomb): It is
9 a standard tractor-trailer with a 40 foot
10 trailer. It's designed not for fire access.
11 It is designed for constructability of the
12 tower, delivery of the tower, and getting to
13 the site.

14 MR. AINSWORTH: Have you done
15 any analysis of whether a fire access can be
16 had?

17 THE WITNESS (Whitcomb): Fire
18 access, since it is a single unit truck, it
19 has a tighter turning radius, and it is
20 actually a better function than a WB-40 to
21 the site, it will function more like a SU-30
22 or SU-40 vehicle which has fixed axles
23 without a joint in the center, so it makes a
24 sharper tighter turn with more control.

25 MR. AINSWORTH: And who is

1 going to provide plowing services for this
2 road that accesses the site?

3 THE WITNESS (Vicente): That
4 would be Homeland Towers.

5 MR. AINSWORTH: And would it
6 be a standard type contract where during any
7 two-inch storm they would drive and clear the
8 road, or would they do it on an on-call
9 basis?

10 THE WITNESS (Vicente): It
11 depends what the requirements are. The most
12 practical method is an on-call basis because
13 you want to limit the impact you have on the
14 site and the roads unnecessarily, and since
15 these are unmanned facilities and only
16 require monthly maintenance visits, it would
17 be more practical to do it on a demand basis
18 rather than an inch or two requirement of
19 snowfall.

20 MR. AINSWORTH: When you said
21 it depends on the requirements, what did you
22 mean by that?

23 THE WITNESS (Vicente): Well,
24 we develop in a lot of different states, and
25 some local codes require -- have certain

1 requirements, so we comply with their
2 requirements. From a practical perspective,
3 an on-call basis is the best method to do
4 snowplowing for the reasons I've just stated.

5 MR. AINSWORTH: If you give me
6 a moment?

7 THE CHAIRPERSON: I believe,
8 Dr. Klemens has --

9 DR. KLEMENS: I just have a
10 question for the Chair. I'm going to have
11 to -- I have to chair my own P&Z meeting in
12 Salisbury tonight, so I'm going to have to
13 leave. I don't know how much longer this is
14 going to be.

15 THE CHAIRPERSON: I thought
16 we'd go to 4:30. Does that work for you?

17 DR. KLEMENS: That gives me
18 two hours to get there. Yes, that's fine.

19 THE CHAIRPERSON: For those of
20 us going towards the New York area, it might
21 take a little longer.

22 THE WITNESS (Vicente):
23 Chairman, I have a playoff game I have to go
24 to that I fear the consequences if I don't
25 show up.

1 THE CHAIRPERSON: What time is
2 your game?

3 THE WITNESS (Vicente): It's
4 in Lewisboro, New York. I have to be there
5 at 5:30, so I'm really pushing it.

6 MR. FISHER: He's asking to be
7 excused, and we can go till 4:30.

8 THE CHAIRPERSON: If I have to
9 stay here, I don't know why everybody else
10 wouldn't, and my grandson has karate
11 practice.

12 MR. AINSWORTH: Mr. Chairman,
13 if I can just take three minutes to review my
14 notes, and I'll see what I have left, I may
15 be done in a few minutes, if that helps?

16 THE CHAIRPERSON: That would
17 definitely help. So we'll give you -- that
18 could solve everybody's problem. So we'll
19 take some kind of a three-minute break.

20 MR. AINSWORTH: That's all I'm
21 asking for so I can take a look at my notes
22 while we wait.

23 (Whereupon, a recess was taken
24 from 4:02 p.m. until 4:06 p.m.)

25 THE CHAIRPERSON: Okay. We'll

1 resume cross-examination by Attorney
2 Ainsworth.

3 MR. AINSWORTH: I actually
4 have no more cross-examination.

5 THE CHAIRPERSON: All right.
6 Just announce that we'll continue the
7 evidentiary portion of the hearing in New
8 Britain here on Tuesday, June 17, at 1:00
9 p.m. And please note that anyone who has not
10 become a party or intervenor or desires it,
11 make his or her views known to the Council,
12 and they may make written statements to the
13 Council up until 30 days after the record
14 closes. Copies of transcript of the hearing
15 will be filed in the Ridgefield town clerk,
16 and I hereby declare this portion of the
17 hearing adjourned. Thank you all.

18 (Whereupon, the witnesses were
19 excused, and the above proceedings were
20 adjourned at 4:07 p.m.)

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CERTIFICATE

I hereby certify that the foregoing 161 pages are a complete and accurate computer-aided transcription of my original stenotype notes taken of the Continued Council Meeting in Re: DOCKET NO. 445, HOMELAND TOWERS, LLC, AND NEW CINGULAR WIRELESS PCS, LLC, APPLICATION FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED FOR THE CONSTRUCTION, MAINTENANCE, AND OPERATION OF A TELECOMMUNICATIONS FACILITY LOCATED AT RIDGEFIELD TOWN ASSESSOR MAP PARCEL #D08-124, SOUTHWEST OF THE INTERSECTION OF OLD STAGECOACH ROAD AND ASPEN LEDGES ROAD, RIDGEFIELD, CONNECTICUT, which was held before ROBERT STEIN, Chairperson, at the Connecticut Siting Council, 10 Franklin Square, New Britain, Connecticut, on June 3, 2014.

Lisa R. Warner, L.S.R. 061
Court Reporter
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