CONNECTICUT SITING COUNCIL

APPLICATION OF CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS TO THE CONNECTICUT SITTING COUNCIL FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED FOR THE CONSTRUCTION MAINTENANCE AND OPERATION OF A TELE-COMMUNICATIONS FACILITY LOCATED AT ORANGE TAX ASSESSOR MAP 77, BLOCK 3, LOT 1, 831 DERBY MILFORD ROAD, ORANGE, CT	)	DOCKET NO. 448
	)	SEPTEMBER 12, 2014

PRE-FILED TESTIMONY OF JILL MACINNES

Q1. Please state your name and address.

A1. Jill MacInnes, 905 Rainbow Trail, Orange, Connecticut.

Q2. How close do you live to the subject farm property at 831 Derby Milford Road?

A2. My property is directly adjacent to and next door to the subject property.

- The proposed Tower would be **578 feet from my property line** and **816 feet** from my dwelling.
- The measurements were provided by the Town of Orange and DO NOT match those presented by the applicant.

Q3. Have you fully reviewed the Application (Docket No. 448) which has been filed by Cellco Partnership d/b/a Verizon Wireless?

A3. Yes.

Q4. After reviewing the Application, do you have any concerns about Cellco's proposal?

A4. Yes. I have many very serious concerns about the Application. In summary my concerns are as follows:

- The Applicant has not demonstrated the need for a Tower at the proposed site. (See A6.)
- The Applicant has not been consistent in its claims about the benefits of the proposed Tower (see A6.)
- The Applicant misinformed and purposely mislead the Intervenors during the application and hearing process (See Isotope Report, dated 8/27).
- The Applicant has approached the process in a "casual" manner by not providing an accurate application at the beginning. Rather, the applicant has made numerous changes to the content of its application throughout the process.

Q5. Can you describe each concern that you have about the Application?

A5. I am concerned about many issues, including but not limited to:

1. The lack of public need to construct a telecommunications facility on the subject property, which is classified as farm land and is exempt from taxation pursuant to C.G.S. § 12-107c;
2. Environmental impact on the surrounding wetlands;
3. Environmental impact on indigenous wild life, including, without limitation, avian wildlife, avian flight paths, and box turtles and other amphibious wildlife;

4. Environmental impact of increased sound caused by the structure, including, without limitation, its diesel-fueled back-up generator and air-conditioning mechanisms;
5. Imbalanced cost to benefit ratio between the claimed potential benefit of the radio frequency coverage that will allegedly be realized by the proposed tower versus the potential negative environmental impacts;
6. Availability of other, more suitable "open space" areas;
7. Negative aesthetics in a residential neighborhood;
8. Clear violation of property rights;
9. Limited to no viability for co-location;
10. Impact of a tower in a residential neighborhood;
11. Desecration of a significant historic area of Connecticut;
12. Negative impact on my property value and that of my neighbors;
13. Availability of alternative technologies; and
14. Inconclusive health risk.

Q6. <u>What information or evidence have you discovered which supports any of the concerns that you have about the subject application?</u>

A6.

(A) The lack of public need for the proposed facility:

I am troubled by the casual and reckless approach the applicant has taken to determine the need for and location of the proposed tower facility.

As I have learned from both our expert, David Maxson, and from the record, coverage is not the primary factor prompting the proposed Orange North facility.

Further, the documentation that Cellco has provided to support its coverage claims is "specious," as detailed in Mr. Maxson's through report. Likewise, as detailed in Mr. Maxson's report, I have learned that the proposed facility does nothing to satisfy the

design requirements established by Cellco itself. The Orange North facility will not provide significant capacity relief to any of the six sectors at issue. The Orange North facility is unnecessary based on Cellco's own stated requirements.

In addition, Cellco, has significantly modified the statements presented by it in its application and during the hearings. Cellco initially averred in its application that 8 sectors of 6 cell sites would obtain "significant capacity relief" from Orange North. Orange North will not provide any meaningful capacity relief to any of the six sectors at issue.

(B) Negative aesthetics in a residential neighborhood: The tower, which will be at least 100 feet high with the option of adding an additional ten feet, and which will have up to 15 panel-type antennas, will be an absolute eyesore and substantially conflict with the otherwise serene residential and bucolic nature of the surrounding area. The large tower and antenna facility will impair views from the surrounding residences.

(C) All Visual Analysis/'s were performed during the "leaf on" season.

As a result the Visual Analysis provided by the applicant was performed during full foliage or without accessing my property. As such, the Visual Analysis is inadequate and does not represent the clear view that I will have of the cell tower for 6-8 months of the year.

(D) Negative impact on my property value and that of my neighbors:

There would be very few buyers who would consider purchasing a home with an active Cell Tower in clear view and **578 feet** from the property line. Documented studies show an adverse financial impact of up to 15 - 20% decline of property value. Cellco has not provided any evidence that the cell tower facility and operations will not negatively impact the fair market value of neighboring properties. I respectfully suggest that the CSC require Verizon to produce an expert that is a licensed commercial appraiser and MAI (Member of the Appraisal Institute) to testify regarding this issue.

(E) Impact of a tower in a residential neighborhood:

The tower will have a direct impact on the aesthetics of multiple surrounding residential properties. It will be an absolute eyesore. The proposed facility and its operation, if allowed, will be out of character for a residential neighborhood.

(F) Incomplete / Inaccurate Data:

I have concerns that while I and my co-intervenors were held to the CSC timeline, Cellco has been permitted to submit an inaccurate and incomplete application, which Verizon continuously amended throughout the CSC process. Verizon shall have simply withdrawn its application when it realized that it had significant inaccuracies, and then reapplied with a new application. As detailed in Mr. Maxson's report, Derby North was one of two sectors that were not even documented for capacity issues. The intervenors have been forced to respond to and address an application that is ever changing and inherently inconsistent and contradictory. Cellco lacks accountability to and has disrespected the residents of the neighborhood. I believe that Cellco has intentionally misinformed the public, government officials, the intervenors and this Council by its filings.

(G) Inconclusive health risk:

I recognize that the Federal Telecommunications Act of 1996 "preempts state and local jurisdictions - including this agency - with respect to the finding of need and the effects of radio-frequency (RF) emissions." However, that doesn't make me any less concerned of the potential health risk of an active Cell Tower just **578 feet from my property**.

(H) Environmental impact on wildlife:

I have learned that the "optimal time" to conduct field surveys for vernal pool amphibians and box turtles, which would have been in April to June time-frame, had already past as of the time Cellco's wildlife biologist, Eric Davison, visited the site on 7/28. Mr. Davison's report, therefore, and his conclusions made therein, do not have the benefit of a field survey conducted at the optimal time.

I believe that Mr. Davison's findings may have been different had he been able to conduct a field survey in the optimal time-frame of April-June.

I also learned of the presence of at least two vernal pool amphibians and box turtles at the site and those box turtles are a state-listed species of special concern.

I have learned that there is a large forested wetland that lies north-northwest of the proposed tower site, and that this wetland drains from northeast to southwest across the site. Further, this wetland contains an embedded intermittent watercourse that drains to a pond on the site.

There are vernal pools on the site, which provide breeding habitat for forest dwelling amphibians, principally frogs and salamanders. Mr. Davison's field inspection, however, was conducted at a time (7/28) when most vernal pools are in the hydrologic drawdown phase, meaning that they are dry. I believe that Mr. Davison may have found evidence of and/or additional vernal pools had he visited the site in the spring.

I learned that one of the vernal pools identified by Mr. Davison is suitable for wood frog breeding.

I am concerned that Mr. Davison does not have an opinion on what secondary impacts might be associated with the tower such as noise would have with respect to protection of terrestrial vernal pool habitats, and that this issue has not been further explored by Cellco. Further, Mr. Davidson's report does not take into account such things as possible blasting of ledge or mechanical chipping of ledge, as well as noise arising from generators operating at the site, or air conditioning systems. The site, however, has a lot of rock and possible rock ledge.

I also learned and am concerned because construction of the proposed facility would also result in "habitat fragmentation" According to Mr. Davison's report, "**The impacts of habitat fragmentation are well documented ... and are considered one of the greatest threats to Connecticut's wildlife.**"

I learned that Dean **Gustafson** testified at the hearing on 7/17/14 (p. 74) that there "**is considerable connectivity of wildlife**" at the site as it exists now. He also conceded (at p. 79) that the proposed facility "**is located close to a ridgeline**" with "wetlands" on both sides. He conceded that "**there's the potential for wildlife connectivity over that ridge line.**" (p. 79) I am concerned of the proposed project's impact on this wildlife connectivity, particularly in light of the fact that, according to Mr. Davison's own report, "**without site specific wildlife usage data, we cannot adequately assess the potential impacts to wildlife resulting from habitat fragmentation.**

I am concerned because there appears to be a material risk to wildlife, of which Cellco and this Council do not know, if this project is allowed to proceed. Mr. Davison's report appears to state that he can't rule out that risk. I ask, therefore, how can this Council rule out this risk? This risk includes unknown risk to box turtles, a species of special concern.

I ask how can this Council sign off on a project without knowing the impact of fragmentation on wildlife, including box turtles, resulting from that project.

In addition, I am concerned because it does not appear that Mr. Gustafson, who apparently authored or helped prepare the **Avian Resource Evaluation dated 8/4/14** submitted to the Council on Cellco's behalf as "**Attachment 3**" to Cellco's Additional Information, did not actually visit the site in connection with that report. It appears from the report as if Mr. Gustafson's company (All-Points Technology Corp, P.C.) merely reviewed "**publicly-available sources of avian data.** In fact, the report itself refers to the evaluation as a "**desktop analysis," which I must assume means** no actual field work was performed.

It appears that the entire report is premised upon Mr. Gustafson's company's review of other studies and no personal or direct observations.

Nonetheless, according to the report, Bald Eagle sites are only 1,735 feet from the project site. Likewise, according to the report, there is a "flyway" also only 1,735 feet from the project site. The report states "**siting of tower structures within flyways can be a concern.**" Although the report discounts that concern here because of the 103-foot height of the tower and that it will be disguised. I am concerned because that conclusion of "potential impacts" is not based upon any first hand field observations or study.

Similarly, according to the report, there is a "water fowl focus area" only 1,122 feet from the project site.

I am also concerned because the report notes that the **"proposed Facility and access drive will be in proximity to wetland resources: the proposed entrance of the access road is approximately 40 feet east of the wetlands bordering a stream across Derby Milford Road; and, the proposed Facility's compound area is located approximately 100 feet southeast of a forested wetland systems."**

The report concludes that the proposed facility will not result in "**significant**" adverse impact to the wild life habitat function (including avian habitat) being supported by these nearby wetland areas "**provided appropriate erosion controls are installed and maintained during construction.** So, according to the express language stated in the report, even with "**appropriate erosion controls**" there will still be an adverse impact to

the wild life habitat function (including avian habitat) being supported by these nearby wetland areas.

In addition, at page 9 of the report, it is concluded that "**grass land bird species may periodically be present within the general development areas**," which means that Cellco really doesn't know.

In fact, in the report it is recommend that " **a grass land bird nest survey ... be conducted to determine if breeding birds are present and would be disturbed by the proposed development activities.**

Further, the conclusions are contingent, stating that "**if the avian survey concludes that breeding birds could be disturbed, construction activities would be restricted to avoid the April 15 through July 15 peak nesting period.**"

I believe, therefore, that further study is needed.

Environmental impact on the wetlands: The subject property has wetlands, including vernal pools, which need to be preserved and I am concerned that Cellco's use of the property will impair the wetlands and vernal pools on the property both during construction and when the tower is serviced in the future.

Environmental impact of increased sound caused by the structure: The facility will be required to have a generator, and an air conditioning unit. I presume the generator will run during power outages lasting longer that the battery back-up. I also assume the air conditioner will run for several months due to extended warm weather. Both will cause undesirable and varying degrees of added mechanical sound to what is and has always been a quiet, residential neighborhood. The added sound will likely disturb surrounding residential properties and wildlife.

Availability of other, more suitable "open space" areas: I have learned that Cellco did not consider St. Peter's Cemetery as an alternative location, even though St. Peter's Cemetery has asked in writing to be considered as a possible alternative location. I do not believe that Cellco took reasonable steps to consider other viable alternative locations, including, without limitation, the Housatonic Overlook and Tucker's Ridge properties, or any locations outside of the so-called "Orange North search ring." Cellco should consider other "open space" areas in the vicinity, including outside the Orange North search ring

that would provide as equally favorable characteristics as those claimed to be provided by the subject farm land.

Q7. Based upon the information, evidence and testimony that you have observed so far, do you think that the Connecticut Siting Council should approve or deny this application?

A7. Based on what I have observed so far, I think that the CSC needs to deny this application.

Q8. If the Connecticut Siting Council were to approve Cellco's application, do you think that the approval should require any changes to what Cellco has proposed so far?

A8. Yes.

Q11. What changes do you suggest?

A11. If this tower is approved, I think the CSC should require the following conditions of approval:

a) Move the tower closer to the Bespuda Property.

b) Any generator used by Cellco, or any future telecommunications company cannot use any liquid fuel source;

c) The equipment shed must be sound-proof;

d) The air conditioning unit that will likely run 24/7 during the late spring and summer months should be state-of-the-art "low sound";

e) Cellco is required to construct a special dry well to absorb the rain-water run-off that will be increased due to the added surface area;

f) Antenna panels should be closely cropped to the pole.

g) The cell tower should be stat-of-the art camouflaged; and

h) Cellco is required to plant trees of at least forty (40) feet in height to be placed around the perimeter of the facility.

I, JILL MACINNES, duly sworn, hereby verify that this statement was prepared by me or under my direct supervision and is believed to be true and accurate to the best of my knowledge and belief.

Jill MacInnes — 9-11-14

JILL MacInnes — **Date**

The above signed, JILL MACINNES, personally appeared before me and verified that the above pre-file testimony for the Connecticut Siting Council is true and accurate and that he adopted it by his free act and deed on this ____ day of September, 2014.

Mario F. Coppola

Mario F. Coppola

Commissioner of Superior Court

~~**Notary Public/**~~

~~**My Commission expires**~~

RESPECTFULLY SUBMITTED BY:
ALBERT SUBBLOIE, JACQUELINE BARBARA, GLENN MACINNES, and JILL MACINNES

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CERTIFICATE OF SERVICE

This is to certify that on the above date a true copy of the foregoing has been sent by U.S. Mail, first-class, postage pre-paid, to the following parties of record:

Melanie Bachman, Esq., Executive Director, Connecticut Siting Council, 10 Franklin Sq., New Britain, CT 06051 (1 original, 15 copies, plus 1 electronic)

Cellco Partnership d/b/a Verizon Wireless, Kenneth Baldwin, Esq.; Robinson & Cole, 280 Trumbull Street, Hartford, CT 06103

State Senator Gayle Slossberg, Legislative Office Building Room 2000, Hartford, CT 06106

State Representative Paul Davis, Legislative Office Building, Room 4045, Hartford, CT 06106

State Representative Themis Klarides, Legislative Office Building, Room 4200, Hartford, CT 06106

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