

CONNECTICUT SITING COUNCIL

PETITION OF NEW CINGULAR)	
WIRELESS PCS, LLC ("AT&T") TO THE)	
CONNECTICUT SITING COUNCIL FOR A)	PETITION NO. 1010
DECLARATORY RULING THAT NO)	
CERTIFICATE OF ENVIRONMENTAL)	FEBRUARY 14, 2012
COMPATIBILITY AND PUBLIC NEED IS)	
REQUIRED FOR THE PROPOSED)	
INSTALLATION OF A CONCEALED)	
TOWER ON A WATER TANK AND)	
RELATED FACILITIES LOCATED AT A)	
WATER TREATMENT PLANT AT)	
455 VALLEY ROAD)	
GREENWICH, CONNECTICUT)	

AT&T's OPPOSITION TO THE SECOND MOTION FOR A CONTINUANCE

Petitioner, New Cingular Wireless PCS, LLC ("AT&T"), opposes the February 13, 2012 motion for a continuance made by counsel for the Intervenors in Petition 1010 ("Motion for Continuance"). AT&T requests that the February 22, 2012 public hearing proceed as scheduled for the reasons more fully set forth herein.

On February 9, 2012, the Connecticut Siting Council ("Council") opened a public hearing to consider Petition 1010 and AT&T's proposal to construct a concealed tower on a water tank and associated equipment at the Aquarion water treatment plant, with an address of 455 Valley Road, Greenwich, Connecticut ("Aquarion Plant"). At the public hearing, AT&T presented its evidence in support of a declaratory ruling. AT&T respectfully submits that it has met its burden of proof and demonstrated that the proposed wireless facility at the Aquarion Plant will not have any substantial adverse environmental effect within the meaning of the Public Utility Environmental Standards Act.

Contrary to counsel's statements in paragraph one of their Motion for Continuance, the Intervenors participation in this proceeding has yet to produce a fact of relevance to the Siting

Council's jurisdiction or the merits on this petition for a declaratory ruling. A copy of Aquarion's recorded site plan approval for its on-site diesel generator is annexed hereto as Exhibit 1 and confirms AT&T's position that fuel storage systems are an existing condition at the Aquarion Plant and do not present a substantial adverse environmental effect for any siting purpose let alone drinking water concern as overseen by the Connecticut Department of Public Health.¹ Furthermore, the Intervenors' own cross-examination confirmed that AT&T's concealed tower has been appropriately designed by Professional Engineers to comply with the State of Connecticut Building Code and as such is presumptively safe as a matter of state law.

As the Council is aware, Connecticut state law specifically allows water tank installations such as the one proposed by AT&T and exempts them from other potential restrictions on the use of water company lands. In fact, Section 25-32(f) of the Connecticut General Statutes was specifically adopted by the Legislature in 2000 as part of Public Act 00-203, an Act which incorporated a major overhaul of those statutes regulating the sale, lease and use of other water company lands. Simply put, AT&T's concealed tower facility at the Aquarion Plant is consistent with state law, its legislative history and is presumptively an appropriate use of a water tank for this exact purpose, the provision of wireless services to the public. Moreover, the fact that there are numerous water tank installations maintained by wireless carriers across the State of Connecticut provides yet further support for the consistency of this project with other state laws that regulate water companies and the environment and public safety as administered by the Departments of Public Health and Construction Services. Yet, the Intervenors have consistently sought to raise these and other matters regarding Aquarion's operations that are wholly outside

¹ We note that no permanent on-site generator is proposed by AT&T and that a small temporary back-up power generator might be brought to the site in the event of prolonged power outages with a fully contained system no different than automobiles and other vehicles that are parked at the site in the driveway.

of the Council's jurisdiction and which is limited in Petition 1010 to considering the environmental effects of AT&T's proposed tower facility.

At this point in time, AT&T submits that the burden has shifted to the Intervenor to present evidence in support of their, as of yet, baseless allegations of environmental harm associated with AT&T's proposed facility at the Aquarion Plant. Nevertheless, to date, the Intervenor has failed to provide any witness list, direct evidence, reports or other information to the Council in support of their intervention. Intervention once granted creates with it an obligation to raise relevant matters and participate in an administrative proceeding in a manner that "will not impair the orderly conduct of the proceedings." C.G.S. § 4-176(d)(2), See also C.G.S. § 22a-19. Yet, in their second Motion for Continuance, the Intervenor fails to make any proffer in this regard and instead assert that "new" information was disclosed at the public hearing requiring additional time for preparation of a direct case. That assertion is totally unsupported by the record of proceedings on February 9, 2012 where AT&T witnesses testified about evidentiary filings already made with the Siting Council and provided any clarifications sought by the Council or Intervenor.

AT&T previously noted in response to the first motion for a continuance, that the Intervenor has had months to prepare for the Council's hearing, a hearing which they requested and which is not statutorily required. The Intervenor has already been successful in procedurally delaying a ruling on AT&T's petition in a manner that prejudices it given the utter lack of any facts to support the Intervenor's allegations. Shockingly, in reading the Motion for Continuance, it is clear that the Intervenor has been "waiting" to hire any consultants to support their assertions all of which are lay opinion or legal argument by counsel. Furthermore, the

Intervenors offer no guarantee that they will actually continue on in this proceeding and present any evidence of relevance.

Upon information and belief, the Intervenors are seeking to delay this proceeding simply for the sake of delay. While at first glance, a "12 day" continuance may seem innocuous, we submit that the request is intended to extend these proceedings for purposes totally unrelated to Council review in Petition 1010. As was apparent at the public hearing, the new line of inquiry is related to Aquarion's deed and an effort to use the Council's process as a forum to garner additional public support for a challenge to Aquarion's legal right to enter into a lease with AT&T. While we have noted previously that the Aquarion deed is legally irrelevant to the Council's deliberations in this proceeding, we enclose as Exhibit 2 copies of Town of Greenwich Representative Town Meeting resolutions from 1953 and a sewer easement Aquarion granted to the Town of Greenwich in 2003. These documents are yet further evidence that Aquarion's deed contains no use restriction and any litigation by the Intervenors in this regard would be baseless.

For all of the foregoing reasons, the Petitioner respectfully requests that the Intervenors' second Motion for a Continuance and Order be denied and that the continued public hearing scheduled for February 22, 2012 proceed.

Respectfully Submitted,



Christopher B. Fisher, Esq.
Cuddy & Feder, LLP
445 Hamilton Avenue, 14th Floor
White Plains, New York 10601
(914) 761-1300

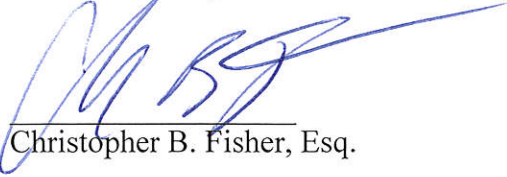
Attorneys for and on behalf of
Petitioner AT&T

CERTIFICATE OF SERVICE

I hereby certify that on this day, a copy of the foregoing was sent electronically and the original and twenty one copies by overnight delivery to the Connecticut Siting Council with a copy by first class mail to:

Mario F. Coppola, Esq.
Bercham, Moses, and Devlin, P.C.
27 Imperial Avenue
Westport, Connecticut 06880

Dated: February 14, 2012

A handwritten signature in blue ink, appearing to read 'CB Fisher', is written over a horizontal line.

Christopher B. Fisher, Esq.

cc: Michele Briggs, AT&T
Liz Camerino-Schultz, Aquarion

BK5181PG0099

DIANE W. FOX, AICP
DIRECTOR PLANNING AND ZONING/ZONING
ENFORCEMENT COORDINATOR/TOWN PLANNER



KATIE BLANKLEY, AICP, Assistant Town Planner
JOSEPH R. POTENZA, AICP, Senior Planner

5889

PLANNING AND ZONING - LAND USE DEPARTMENT
SITE PLAN APPROVAL CERTIFICATE

I, Frank Farricker, Secretary of the Planning and Zoning Commission of the Town of Greenwich, Connecticut, do hereby certify that the Commission granted final site plan approval, for the following project at its meeting held on Tuesday, May 9, 2006 at which a quorum was present.

RECORD OWNER: Aquarion Water Company of Connecticut
PROJECT: Final site plan to install an emergency standby 600 KW generator on a concrete pad and related underground conduits and contained in a noise reducing enclosure to power the Control Building during power outages.
PROJECT LOCATION: 455 Valley Road

SITE PLAN NUMBER: FSP #2882
SPECIAL PERMIT CERTIFICATE:

RESOLVED application FSP #2882 as submitted by Peter Galant of Tighe & Bond, Inc., and Carolyn Cooper, Project Manager, authorized agent for record owner, Aquarion Water Company of Connecticut, for a final site plan to install an emergency standby 600 KW generator on a concrete pad and related underground conduits and contained in a noise reducing enclosure to power the Control Building during power outages, as shown on map entitled "Aquarion Water Company of Connecticut Mianus Water Treatment Plant Standby Generator Installation" prepared by Tighe & Bond Consulting Engineers dated April, 2006 and "Exterior Building Elevation, Figure 3, Aquarion Water Company of Connecticut, Mianus Water Treatment Plan prepared by Tighe & Bond, Inc., Consulting Engineers dated March, 2006 per Section 6-15 and 6-139.1 of the Building Zone Regulations on a 2.8-acre property located at 455 Valley Road in the RA-1 zone is hereby approved with modifications.

The complete site plan is on file in the office of the Planning and Zoning Commission, Town Hall, Greenwich, Connecticut, as are the approved minutes of the meeting and the decision letter, which include any modifications to the approval.

IN WITNESS WHEREOF, I have hereunto set my hand this 23 day of May 2006.

Frank Farricker
Secretary, Planning and Zoning Commission

Town Hall • 101 Field Point Road • Greenwich, CT 06830 • (203) 622-7894 • FAX (203) 622-3795 • www.greenwichct.org
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received for Record MAY 25 2006 at 8:59 AM and recorded by Town Clerk

STATE OF CONNECTICUT
TOWN OF GREENWICH

Town Clerk.

A Representative Town Meeting will be held in the auditorium of the Greenwich High School on Monday, January 12, 1953, at 8 o'clock P.M. (E.S.T.) for the following purposes:

1. To elect a moderator to fill the unexpired term ending December 31, 1953, of Prescott S. Bush, resigned.
2. To act upon the nomination of the Board of Selectmen of Henry Hicks for appointment as a member of the Board of Health to fill the unexpired term ending December 31, 1955, of J. Fred Collins, resigned.
3. To act upon the nomination of the Board of Selectmen of Robert C. Barnum, Jr., for appointment as a member of the Board of Health to fill the unexpired term ending December 31, 1955, of Walter S. Peck, resigned.
4. To act upon the nomination of the Board of Selectmen of Walter Koempel for appointment as a member of the Board of Public Welfare to fill the unexpired term ending December 31, 1953, of Archibald H. Tunick, resigned.
5. To act upon the nomination of the Town Officers Committee of the Representative Town Meeting of Lewis S. Greenleaf, Jr., for appointment as a member of the Condemnation Commission to fill the unexpired term ending December 31, 1953, of Charles S. Reilly, deceased.
6. To act upon the application of the Housing Authority of the Town of Greenwich that the Representative Town Meeting appoint a committee composed of three of its members to serve with the Housing Authority Commissioners and others in the selection of tenants for housing projects under the control of said Housing Authority.
7. Upon the application of all the property owners on Fairfield Avenue (from North Street to Stanwich Road) to change the name thereof to Fairfield Road.
8. To amend the Civilian Defense Ordinance dated September 8, 1942, as amended, by deleting Section 7 thereof.
9. To act upon the recommendation of the Board of Selectmen that it be authorized to sell and convey to the Greenwich Water Company the Mianus Mill property, consisting of approximately $2\frac{1}{2}$ acres on the westerly side of the Mianus River between the river and Valley Road, and all rights of the Town in the Mill pond and dam as well as all flowage and water rights acquired from The Southern Connecticut Real Estate Company by deed dated August 30, 1945, and recorded in the Greenwich Land Records in Book 402 at Page 577, for the sum of \$11,500.00 and such covenants as may be required of the grantee by the Board of Selectmen in its discretion, including the grantee's agreement to make water service available in Mianus Mill Village.
10. To act upon the application of the Selectmen pursuant to the recommendation of the Board of Estimate and Taxation that the sum of \$7,500.00 be appropriated to be designated as 906 E-69 "Claims and Judgments."

Dated Greenwich, Conn.

December 29, 1952

ANTHONY V. LYNCH, JR.
Moderator Pro Tempore

FREDERICK D. BARRETT
Town Clerk

I, Frederick D. Barrett, Town Clerk of the Town of Greenwich, hereby certify that I caused to be published a copy of the above call in the Greenwich Time, in its issues of December

The Moderator then ruled that item No. 8 on the call was before the meeting.
Mr. Frank R. Parker offered the following resolution, which was duly seconded.

Resolved that the Civil Defense Ordinance adopted September 8, 1942, and amended April 8, 1951, be amended by deleting Section 7 thereof.

Mr. Souther Whittelsey offered the following substitute resolution, which was duly seconded.
The Civilian Defense Ordinance dated September 8, 1942, as amended, shall be amended by

substituting for the present section 7 the following:
Sec. 7. This ordinance shall cease to be effective upon the expiration of state laws authorizing the establishment of civil defense organizations.

Substitute Resolution Carried.

The Moderator then ruled that item No. 9 on the call was before the meeting.
Mr. Frank R. Parker offered the following resolution, which was duly seconded.

Resolved that the Selectmen be, and they hereby are authorized to sell and convey to the Greenwich Water Company the Mianus Mill property, consisting of approximately 2½ acres on the westerly side of the Mianus River between the river and Valley Road, and all rights of the Town in the Mill Pond and dam as well as all flowage and water rights acquired from the Southern Connecticut Real Estate Co. by deed dated August 30, 1945, and recorded in the Greenwich Land Records in Book 402 at page 577, for the sum of \$11,500.00 and such covenants as may be required of the grantee by the Board of Selectmen in its discretion, including the grantee's agreement to make water service available in Mianus Mill Village.

Mr. Truman S. Safford offered the following amendment, which was duly seconded.
Moved that the deed to the Water Company shall reserve from grant, a flow of 5 million gallons per day which is now required by Legislative Act to flow into the reservoir of the New Haven Railroad.

Mr. Robert E. Nickerson moved that the resolution be tabled, which was duly seconded.

Resolution Tabled.

Mr. Vernon Schilt moved that the resolution be taken from the table, which was duly seconded.

Motion Lost.

The Moderator then ruled that item No. 10 on the call was before the meeting.

Mr. Frank R. Parker offered the following resolution, which was duly seconded.

Resolved that upon recommendation of the Board of Estimate and Taxation there be and hereby is appropriated the sum of \$7,500. to pay the claim of the estate of Joseph C. Briggs, to be designated as 905 E-69 "Claims and Judgments."

Resolution Carried.

The Moderator then recognized Mr. Carleton L. Marsh who offered a sense of the meeting resolution which was duly seconded concerning the limit of membership of the Representative Town Meeting in the following terms:

"Other than officers designated as Town Meeting members Ex-Officio, the Town Meeting membership shall in each district consist of one member for each unit of representation, as hereinafter defined, or major portion thereof in such district, who shall hold office for two years from the first day of January following their election and until their successors shall be elected and shall have qualified. The unit of representation shall be the total of registered voters in the town as certified by the Registrars to the Town Clerk divided by 230."

Mr. Souther Whittelsey offered the following amendment, which was duly seconded.
Moved that the membership of town meeting members be limited to 200.

Amendment Lost.

Resolution Carried.

On motion the meeting adjourned,

- A Representative Town Meeting will be held in the auditorium of the Greenwich High School on Monday, April 13, 1953, at 8 o'clock P.M. for the following purposes:
1. To act upon the application of the Board of Selectmen pursuant to the recommendation of the Board of Estimate & Taxation that the sum of \$20,000 be appropriated to be added to the appropriation designated as 331 (7)-G-95-531 "Boat Harbors-Capital Outlays-Roger Sherman Baldwin Park Improvement".
 2. To act upon the application of the Board of Selectmen pursuant to the recommendation of the Board of Estimate & Taxation that the sum of \$5,500 be appropriated to be designated as appropriation 331 (7)-G-95-533 "Boat Harbors-Capital Outlays-Boat Moorings-Byram Park".
 3. To act upon the application of the Board of Education pursuant to the recommendation of the Board of Estimate & Taxation that the sum of \$34,000 be appropriated to be designated as 607 A-05-531 "Board of Education-Capital Outlays-Preliminary and Final Plans-New Lebanon School".
 4. Upon the application of more than twenty registered voters to consider and act upon the following proposed resolution: "RESOLVED that it is the sense of this meeting that the public water supply of Greenwich should not be fluoridated at this time".
 5. To take from the table and act upon the recommendation of the Selectmen that they be authorized to sell and convey a portion of the Mianus Mill property to the Greenwich Water Company.
 6. Upon recommendation of the Selectmen to consider and act upon (a) whether this meeting approves the local primary bill introduced into the present legislature as House Bill No. 358, and (b) whether such bill, if enacted, should become effective only if approved at a general referendum.
 7. To act upon the recommendation of the Board of Selectmen that the Representative Town Meeting determine whether or not there is a need for rent controls after the expiration of present controls and whether legislation for the extension of controls should be supported.
 8. To act upon the request of the Commissioner of Public Works pursuant to the recommendation by the Board of Estimate and Taxation (1) that an additional sum of \$85,000 be appropriated and added to the appropriation designated as 911-5201 "Trunk Line Sewer to Old Orchard Road" for the extension of a sewer from Adams Gardens to Old Orchard Road at the North Mianus School, as shown on a map entitled "Sewer Benefit Map - Old Orchard Road Trunk Line Sewer to North Mianus School, Greenwich, Connecticut," Certified March 12, 1953 by J. W. Cone, Town Engineer, and (2) that the following determinations of said Board of Estimate and Taxation be approved: (a) designating the area of present benefit to be shown on said map and (b) that 22 $\frac{1}{2}$ % of the cost of construction, as defined in Sec. 17 of the Sewer Act (S. A. 292 of 1949), of said sewer extension be reimbursed to the Town by assessments against the property within such area and (c) that the balance of the said cost of construction shall be reimbursed to the Town by the payment of connection charges as provided for in Sec. 35 of said Sewer Act.
 9. To act upon the request of the Commissioner of Public Works pursuant to the recommendation by the Board of Estimate and Taxation that (1) \$35,000 be appropriated as Appropriation No. 911-5302, "Sewer to North Street School," for the extension of a sewer along Parsonage Road, Sparrow Lane and over Private property to the Central District K-6 School on North Street, as shown on a map entitled "Sewer Benefit Map - North Street School, Greenwich, Connecticut," Certified March 12, 1953 by J. W. Cone, Town Engineer, and (2) that the following determinations of said Board of Estimate and Taxation be approved: (a) designating the area of present benefit to be as shown on said map and (b) that 82% of the cost of construction, as defined in Sec. 17 of the Sewer Act (S. A. 292 of 1949), of said sewer extension be reimbursed to the Town by assessments against the property within such area

designated as "Ocean Park".

The Moderator then ruled that item No. 3 on the call was before the meeting.
Mr. Frank K. Sheldon offered the following resolution, which was duly seconded.
RESOLVED, upon the application of the Board of Education pursuant to the recommendation of the Board of Estimate and Taxation, that the sum of \$34,000 be appropriated to be designated as 607 A-05-531 "Board of Education - Capital Outlays-Preliminary and Final Plans-New Lebanon School".

Resolution Carried.

The Moderator then ruled that item No. 4 on the call was before the meeting.
Mr. Douglas A. Milward offered the following resolution, which was duly seconded.
WHEREAS there has been extensive public discussion and debate with respect to the merits or demerits of the fluoridation of the Public Water Supply, and
WHEREAS there has been no effort to determine the public opinion with respect to such action and there is no available way to determine such opinion except through the process of an expensive and time-consuming public referendum,
NOW THEREFORE, BE IT RESOLVED that it is the sense of this Meeting that the Public Water Supply of Greenwich should not be fluoridated at this time.
Mr. Stewart L. Mims moved that the debate be limited to ten minutes each for two proponents of the resolution and ten minutes each for two opponents of the resolution, and that any further discussion should be limited to 3 minutes for any persons speaking on this item, which was duly seconded.

Motion Carried.

Mr. Carleton L. Bradley moved that action be now taken on this question, which was duly seconded.

Motion Lost.

In Favor 78
Opposed 80

Mr. Thomas C. Chubb offered the following amendment, which was duly seconded.
Moved that the following words be added to the original resolution, "but that the Board of Health be requested to secure the opinions on fluoridation of some nationally recognized organization such as the Rockefeller Foundation and present them to the Town Meeting at the earliest possible time."

Amendment Lost

Resolution Lost

In Favor 57
Opposed 99

A motion was made to adjourn for a ten minute recess, which was duly seconded.

Motion Lost

The Moderator then ruled that item No. 5 on the call was before the meeting.
Mr. C. Carleton Gisborne offered the following resolution, which was duly seconded.
RESOLVED, that the Selectmen be, and they hereby are authorized to sell and convey to the Greenwich Water Company for the sum of \$11,500 the Mianus Mill property, consisting of 2.64 acres more or less on the westerly side of the Mianus River between the river and Valley Road, and all rights of the Town in the Mill Pond, dam and river bed adjacent to said tract all as shown and designated on map entitled "Mianus Mill Property" dated February 5, 1953, together with all the flowage rights, riparian rights in the river flow and water rights conveyed by The Southern Connecticut Real Estate Company to the Town of Greenwich by Deed dated August 30, 1945, and recorded in the Greenwich Land Records in Book 402 at Page 577, provided, however, that the deed of conveyance shall contain covenants

(1) requiring the Greenwich Water Company to install at its expense the necessary water mains to make water service available in Mianus Mill Village, (2) stipulating that the Greenwich Water Company will release a flow of one million gallons per day below the premises to be conveyed, provided that Greenwich Water Company may be temporarily relieved of the necessity of releasing all or any portion of said daily flow upon application to the Board of Selectmen of the Town of Greenwich if and when in the judgment of the Selectmen emergency drought conditions arise such that the water required to be released is more urgently required by the customers of the Greenwich Water Company, and (3) providing for reverter to the Town in the event that the premises cease to be used for water works purposes.

Dr. Douglas A. Milward moved that an item tabled at the January Town Meeting, relating to the sale of town-owned land to the Greenwich Water Company, be removed from the table, which was duly seconded.

Motion Carried.

Mr. Robert E. Nickerson offered the following amendment, which was duly seconded. "Provided, however, that the said Water Company agrees forever to supply the residents of the Town of Greenwich such water as they shall need up to a minimum, averaged on a yearly basis, of 12,000,000 gallons of water per day."

Mr. George K. McKenzie moved that the motion to approve the sale to the Greenwich Water Company of certain land abutting the Mianus River together with the riparian rights of the Town of Greenwich in and to the waters of the Mianus River be referred for recommendation to a committee to be composed of the chairman of each of the Town Meeting districts, which was duly seconded.

Motion Lost.

Upon Standing vote the amendment offered by Mr. Robert E. Nickerson was lost.

In Favor	45
Opposed	101

Resolution Carried.

The Moderator then ruled that item No. 6 on the call was before the meeting.

Mr. Mark S. Matthews offered the following resolution, in two parts, 6 (a) and 6 (b), which was duly seconded.

6 (a) Resolution. RESOLVED that the Representative Town Meeting approve the local primary bill introduced into the present legislature as House Bill 358.

Mr. Robert C. Barnum moved that this item be tabled, which was duly seconded.

6 (a) Tabled

In Favor	75
Opposed	73

6 (b) Resolution. Moved that the House Bill 358 not require a referendum of the voters.

6 (b) Motion Carried.

The Moderator then ruled that item No. 7 on the call was before the meeting.

Mr. C. Carleton Gisborne offered the following resolution, which was duly seconded.

RESOLVED: By the Representative Town Meeting of the Town of Greenwich that it is the sense of this meeting that some form of rent control is still necessary in order to prevent evictions and other undue hardships in lower price rental accommodations and that THEREFORE, this meeting urges the representatives of the Town of Greenwich in the General Assembly to support such legislation when it is brought forward.

Resolution Lost.

Mr. Robert E. Nickerson moved to take 6 (a) from the table, which was duly seconded.

Motion Lost

In Favor	24
Opposed	88

The Moderator then ruled that item No. 8 on the call was before the meeting.

Mr. Joseph W. Cone offered the following resolution, which was duly seconded.

SEWER EASEMENT

GRANTOR: Aquarion Water Company

GRANTEE: Town of Greenwich, Connecticut

SUBJECT PREMISES: Aquarion Water Company's Water Treatment Plant
Valley Road, Cos Cob, CT 06807

DATE HEREOF: May 15, 2003

1 **THIS SEWER EASEMENT** is dated May 15, 2003 and is by **Aquarion Water**
2 **Company** (the "Company"), a/k/a Aquarion Water Company of Connecticut and f/k/a
3 Connecticut-American Water Company, and also f/k/a Greenwich Water Company, a
4 Connecticut stock company with its principal office at 835 Main Street, Bridgeport,
5 CT 06604, which entity is acting herein by David L. Medd, its Operations Manager.

WITNESSETH:

6

7 **WHEREAS**, the Town of Greenwich (the "Town"), a municipal subdivision of the
8 State of Connecticut, desires to have sanitary sewers, including the necessary sewer
9 manholes, main lines, pipes, laterals and other appurtenances and facilities
10 (collectively, the "Sewer"), installed, operated and maintained on, under and over the
11 Premises;

12 **WHEREAS**, the subject property (the "Premises") that is owned by the Company
13 is generally shown on a 3/28/03 Geographic Information System Map from the Town,
14 which Premises consist of certain water treatment facilities and related structures and
15 operations of the Company;

16

17 **WHEREAS**, the location of the Sewer in connection with the Premises is more
18 particularly shown on the attached 5/03 field drawing (the "5/03 Field Drawing") that
19 was prepared by the Stearns & Wheeler, LLC, of Trumbull, CT, which is the engineering
20 firm for the Mianus Sewer Project (of which the Sewer is a part); and,

21 **WHEREAS**, the relevant portion of the western boundary of the Premises, as
22 shown on the 5/03 Field Drawing, was surveyed on behalf of the Town in 5/03, which
23 survey revealed that a portion of the to-be-installed Valley Road Sewer Main (the
24 "V/R Sewer Main"), for approximately 170' in length between North Street and
25 Walnut Street, will in fact be located on the Premises, and therefore this Easement is
26 necessary in connection with the V/R Sewer Main;

2003 Sewer Easement

•To: Town of Greenwich, CT

•From: Aquarion Water Company

27 **WHEREAS**, the Company's Operations Manager, David L. Medd, has been duly
28 authorized by the Company to execute this Easement and to have the same recorded
29 on the Greenwich, CT Land Records, so as to be binding upon the Premises in
30 perpetuity; and,

31 **WHEREAS**, for good and valuable consideration from the Town, the sufficiency
32 and adequacy of which are hereby acknowledged, the Company hereby agrees to grant
33 an easement (the "Easement") on, under and over the Premises to the Town with
34 regard to the Sewer.

35 **NOW, THEREFORE**, the Company agrees to, and hereby grants, this Easement,
36 as follows:

37 1. **The Subject Premises.** The Company is the owner of the Premises, which
38 constitute the real property that is the subject of this Easement. More specifically, the
39 Company received the fee simple title to the Premises via a 3/15/62 Quitclaim Deed
40 from Westover Crescent, Inc. to the Greenwich Water Company, which was recorded
41 on 4/9/62 in Book 667, at Page 60, of the Greenwich, CT Land Records (reference to
42 which is hereby made for a more complete description of the Premises).

43 2. **The Terms and Conditions of this Easement.**

44 (a) **The Two Easement Areas.** There are two easement areas (in
45 connection with or relating to the Premises) that are subject to this Easement: (i) the
46 Permanent Easement Area - a twenty-foot wide corridor that is described in Paragraph
47 2(f) below; and (ii) the Temporary Easement Area - an additional corridor, ten feet in
48 width, contiguous with and located along the entirety of the length of the eastern
49 boundary of the twenty-foot wide Permanent Easement Area, which Temporary
50 Easement Area shall automatically terminate once the final course of asphalt has been
51 installed over the relevant section of the V/S Sewer Main that is to be installed on the
52 Premises.

53 (b) **The Relevant Location of the V/R Sewer Main.** The relevant
54 location of that portion of the V/R Sewer Main that is to be located on and under the
55 Premises is more specifically shown on the 5/03 Field Drawing with a thick line and
56 identified with the following designation: "8" Sanitary Sewer Main".

57 (c) **The Sewer Work.** The Town shall construct and install the Sewer
58 at the Premises; and, thereafter, the Town (as it deems necessary or appropriate) shall
59

2003 Sewer Easement**•To: Town of Greenwich, CT****•From: Aquarion Water Company**

60 use, operate, inspect, maintain, repair, reconstruct, remove, relocate and/or replace the
61 Sewer at the Premises. In connection with the full and perpetual right of the Town of
62 unobstructed entry in and to the Premises in order to undertake any work and related
63 matters pursuant to the preceding sentence (collectively, the "Sewer Work"), the
64 Sewer Work shall be at all times undertaken: (i) in a good and workmanlike manner;
65 and (ii) in as neat and safe a condition as may be reasonable under the circumstances.

66 (d) **The Sewer Lateral Stub.** In connection with the sewer lateral (*i.e.*,
67 the sanitary sewer waste pipe connecting a building on the Premises with the Sewer
68 Main), and more specifically the stub pipe section thereof (the "Lateral Stub") that will
69 extend from the V/R Sewer Main (typically, at approximately a 90° angle) for a
70 distance of approximately five feet towards the main portion of the Premises, the
71 following protocols shall be applicable: (i) the Lateral Stub shall be installed by the
72 Town as a part of its installation of the V/R Sewer Main; (ii) the location of the Lateral
73 Stub shall be selected by the Company; (iii) if, however, the Company does not timely
74 communicate to the Town (or to its contractor) its decision with regard to the location
75 of the Lateral Stub, then the Town (or its contractor) shall make said decision. Once
76 the Lateral Stub has been installed by the Town, the responsibility (including any costs
77 and expenses) for any maintenance, repair or replacement of it shall be solely with the
78 Company and every subsequent owner of the Premises.

79 (e) **Restoration of the Premises.** In connection with any Sewer Work,
80 the Town shall restore the Premises, after the completion of the Sewer Work, to as
81 reasonably good a condition as existed at the Premises, prior to the commencement
82 of the subject Sewer Work; provided, however, that if the removal of trees and other
83 plantings becomes necessary on the Premises in connection with the Sewer Work, the
84 Town shall not be required to replace such trees and other plantings, but instead it
85 shall properly grade and plant the affected area with grass seed.

86 (f) **The Permanent Easement Area Re: the Ten-Foot Corridor on either**
87 **side of the Center Line of the V/R Sewer Main.** In order to avoid any interference with
88 the intended uses of this Easement, therefore, within a ten (10) foot corridor (the
89 "Ten-Foot Corridor") on each side of the center line of the V/R Sewer Main (or, a total
90 Permanent Easement Area of 20' in width), there shall be no excavation or filling, and
91 no buildings or other structures constructed, used or maintained by the Company, or
92 by any subsequent owner of the Premises. Provided, however, that the foregoing
93 restrictions shall not apply to any excavation, filling or other utility-related work which
94 is undertaken by an appropriately licensed contractor: (i) in connection with the Lateral
95 Stub or any other portion of a sewer lateral; or (ii) on behalf of a public utility company
96 (such as an upgrade of the overhead electric transmission lines by The Connecticut
97 Light and Power Company). Provided, further, the restrictions with regard to any walls
98 and fences within the Ten-Foot Corridors are set forth in Paragraph 2(g) next below.

2003 Sewer Easement

•To: Town of Greenwich, CT

•From: Aquarion Water Company

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(g) **Walls and Fences.** The Company, or any subsequent owner of the Premises, shall be entitled to maintain, repair and replace any wall or fence on the Premises that is currently located (*i.e.*, as of the date of this Easement) within a Ten-Foot Corridor. However, in the event that the Company, or any subsequent owner of the Premises, desires to change the height, length or width of any such existing wall or fence, or desires to change the type of an existing wall or fence (*for example*: a replacement of a split rail fence with a stone wall, or vice-versa), or desires to install a new wall or fence, then: (i) the Company (or the then-subsequent owner of the Premises) shall send (via certified mail, return receipt requested), a letter (the "Request Letter") with the details of the proposal (including an understandable drawing thereof), requesting the approval from the Town's Commissioner of the Department of Public Works, which approval shall not be unreasonably withheld; (ii) the Commissioner shall notify the Company (or the then-subsequent owner of the Premises) in writing of his decision, within 45 days after the Commissioner's receipt of the Request Letter; (iii) in the event of the Commissioner's denial of the Request Letter, he shall state the reasons for the denial in his response letter; and (iv) in the event that the Commissioner does not notify the Company (or the then-subsequent owner of the Premises) of his decision within said 45-day period, the Request Letter shall be deemed to have been automatically approved.

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3. **Running with the Land.** With regard to this Easement: (i) it shall run with the land (*i.e.*, with regard to the title of the Premises), and therefore it shall be binding upon the Company, and upon its successors and assigns (*i.e.*, upon each and every subsequent owner of the Premises); and (ii) it shall be in perpetuity for the benefit of the Town, and its successors and assigns.

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* * *
• DATED May 15, 2003 at Greenwich, CT.

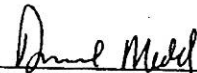
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SIGNED, SEALED and
DELIVERED in the Presence of:

• GRANTOR
Aquarion Water Company, a/k/a
Aquarion Water Company of Connecticut

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Philip H. Bartels

By: 
David L. Medd
Its duly-authorized Operations
Manager


Stefani Kruczkiewicz

2003 Sewer Easement

•To: Town of Greenwich, CT

•From: Aquarion Water Company

136

ACKNOWLEDGMENT

137

STATE OF CONNECTICUT)

138

) ss: Greenwich

May 15, 2003

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COUNTY OF FAIRFIELD)

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Personally appeared David L. Medd, as the duly-authorized Operations Manager of Aquarion Water Company, a/k/a Aquarion Water Company of Connecticut, signer and sealer of the foregoing, who acknowledged the same to be the free act and deed of Aquarion Water Company and also to be his own free act and deed as its Operations Manager, before me on May 15, 2003.

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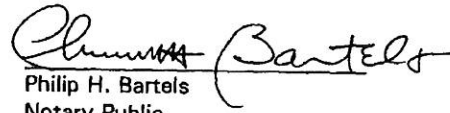
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Philip H. Bartels

Notary Public

My Commission Expires: 11/30/2004

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Prepared by:

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• Aamina Ahmad, Esq. (Assistant Town Counsel, Town of Greenwich, CT)

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• Philip H. Bartels, Esq. (Mianus/Milbrook Sewer Task Force, Town of Greenwich, CT)

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•Mianus Sewer Project's Website: www.Greenwichsewers.com

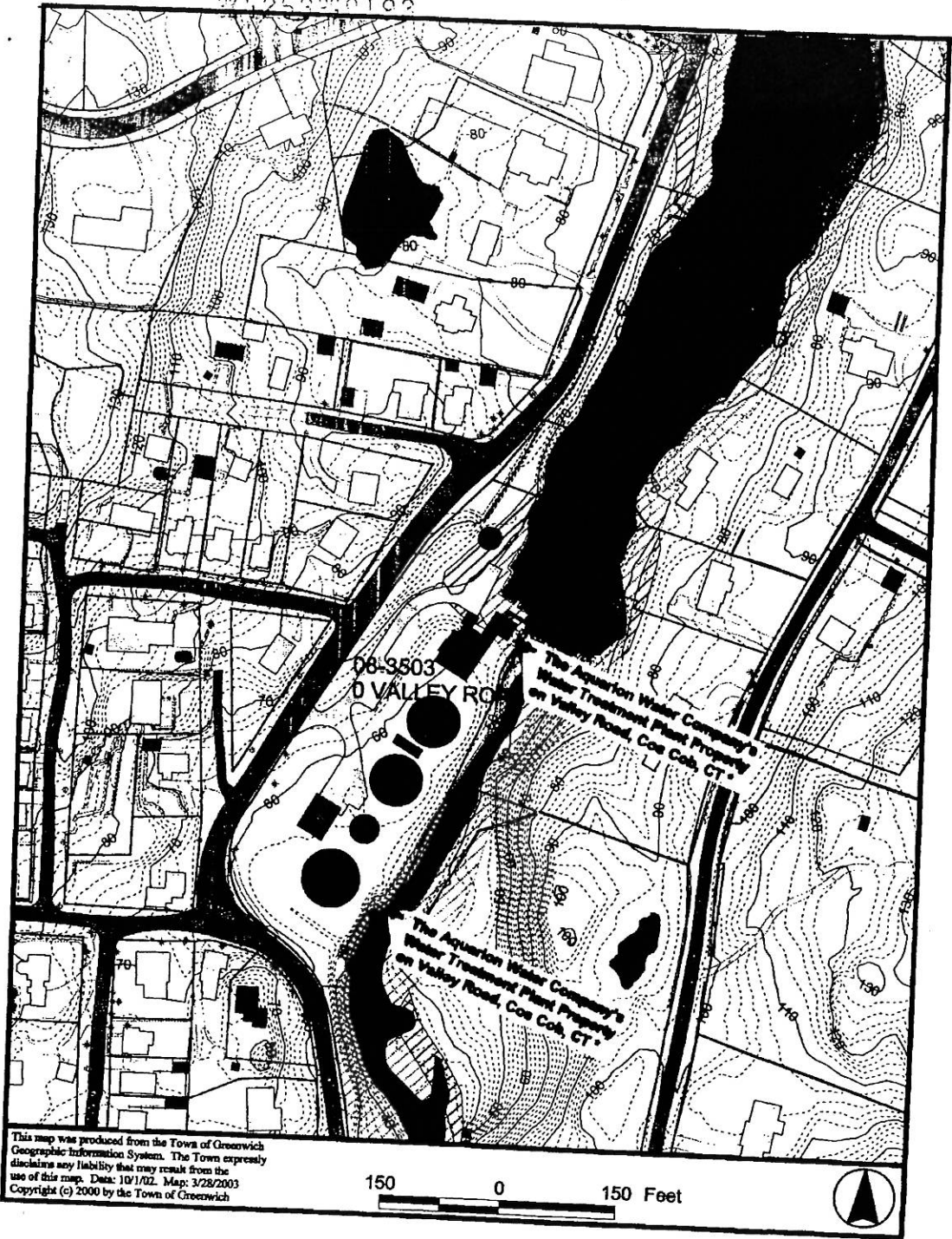
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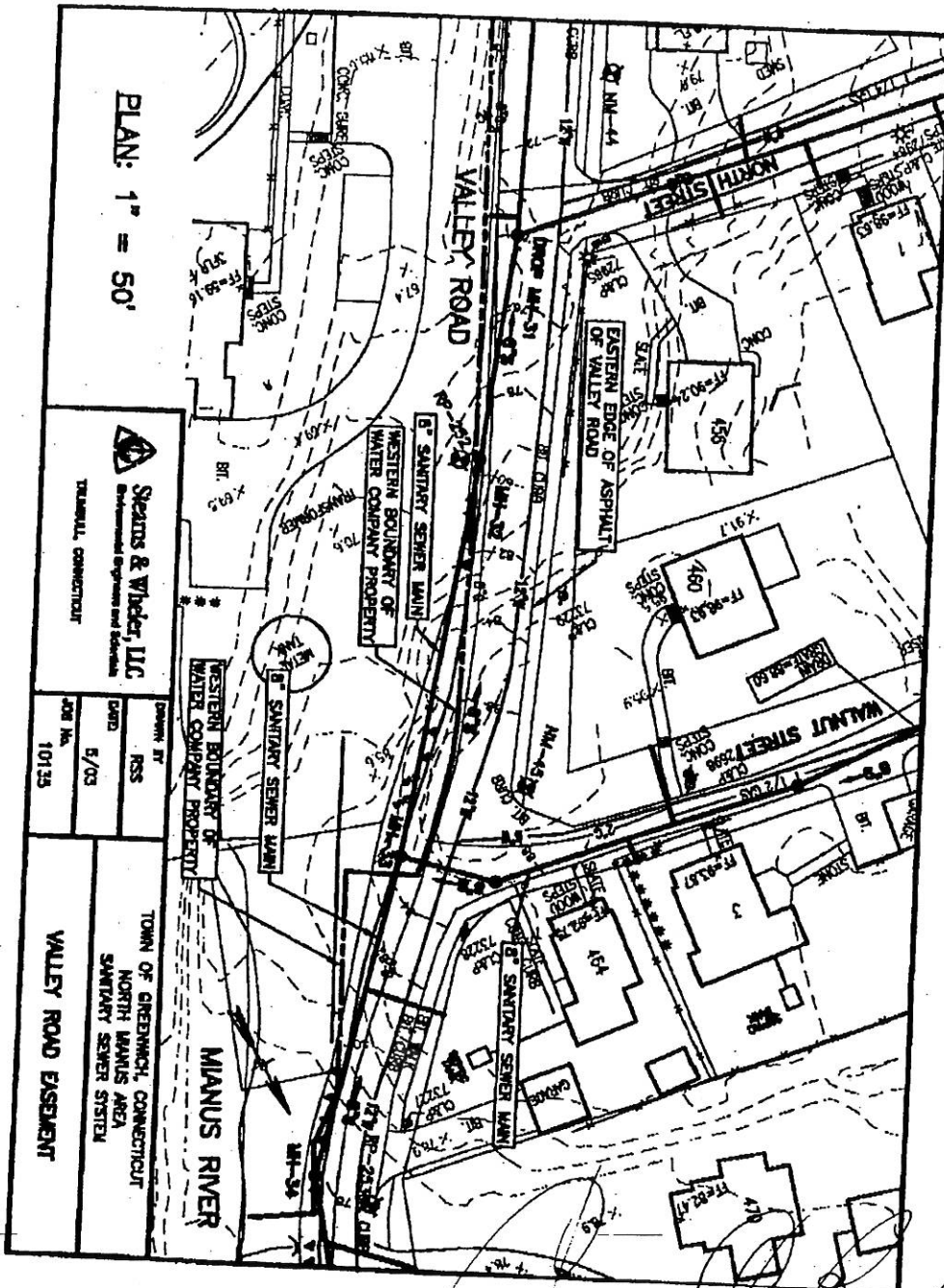
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Received for Record MAY 20 2003 at 3:26 P.M. Attest

Denise P. Decker's
Town Clerk

The person(s) purporting to release this document Book 4479 page 288
Dorothy E. Matthews of SSF