

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

In Re: Application of New Cingular Wireless	:	Docket No. 373
PCS, LLC (AT&T) for a Certificate of Environmental	:	
Compatibility and Public Need for the Construction	:	
Maintenance and Operation of a Telecommunications	:	
Tower Facility at St. Matthew Lutheran Church at	:	
224 Lovely Street in the Town of Avon	:	April 28, 2009

TOWN OF AVON RESPONSES TO INTERROGATORIES
DIRECTED TO TOWN OF AVON BY AT&T

The Town of Avon ("Avon" or "Town") hereby responds to Applicant New Cingular Wireless PCS, LLC ("AT&T") Interrogatories directed to the Town of Avon, dated April 22, 2009, as follows:

Q1. Please review AT&T's responses to the Council's Third Set of Pre-Hearing Interrogatories (specifically, the material behind Exhibit 1) and advise if the Town of Avon still has a preference for siting a new tower facility at the Huckleberry Hill Open Space parcel owned by the Town in the specific location identified by AT&T and in lieu of a tower facility at St. Matthew Lutheran Church. If the Town does have an interest, as inquired above, please provide information and respond to the interrogatories below.

A1. Avon has an interest in potentially locating a telecommunications facility on the Huckleberry Hill Open Space ("HHOS") property in lieu of the facility, as it is currently proposed, at St. Matthew Lutheran Church. As to the specific location identified by AT&T in Exhibit 1 to AT&T's Responses to Siting Council Interrogatories (Third Set) & Follow up Information Requested at the Initial Hearing, dated April 22, 2009 ("April 22 Responses"), Avon does not have sufficient information from AT&T in order to evaluate the potential impacts of this site. Specifically, Avon would require a Technical Report from AT&T, to include a visual analysis of a facility at this location, an evaluation of alternative tower designs (monopine vs. wooden monopole vs. standard design), site plans, a site evaluation report, facility and equipment specifications, and an environmental assessment.

Q2. Please provide a legal opinion from the Town Attorney with copies of deeds which confirm that there are no legal restrictions on use of the Huckleberry Hill Open Space Parcel for a tower facility, that the Town of Avon is free to enter into a long term lease and easements with AT&T for a tower facility, and that conveyance of standard form permanent easements to CL&P and other utility companies for electric and telephone services to the tower compound would be legally permitted.

A2. The deed by which the Town received the HHOS property does not contain any deed restrictions that would prohibit the placement of a telecommunications facility on the site. A copy of the deed for the HHOS property is attached hereto. However, in the available time period, the Town has not been able to determine if there are other restrictions concerning the use of the property that were imposed by federal or state authorities or by Town bodies as a

condition of accepting the property. In addition, the Town has not yet determined whether it would support the location of the tower facility on the HHOS property. Subject to appropriate approvals, the Town does have the authority to enter into lease agreements such as the one contemplated and to convey, where appropriate, the standard form permanent utility easements necessary for the siting of the tower facility.

Q.3 Comment on the potential environmental effects associated with extension of a new gravel drive 800' from the Northgate cul-de-sac up the ridge and clearing of the up to 20" dbh trees necessary for the access road and tower compound depicted in the Locus Plan included in Exhibit 1 of AT&T's responses to the Council's Third Set of Pre-Hearing Interrogatories.

A3. Avon does not have sufficient information to provide comment on potential environmental impacts of installing the described gravel drive access road. AT&T has not provided the Town a Technical Report with any engineering detail, facility and equipment specifications, an environmental assessment, or a site evaluation report in order for the Town to provide any comment.

Q.4. Provide an opinion from the Town Planner on how a tower site (regardless of the height) at the Huckleberry Hill Open Space parcel would be consistent with the following:

- a) Section 8-1aa of the Connecticut General Statutes (and despite the exception for facilities defined in Section § 16-50i of the Statutes) which specifically notes "Huckleberry Hill" as an amphibolite ridge of some statewide importance?
- b) The Town of Avon Comprehensive Plan of Development, Chapter 4, Policy #4 which specifically states as a Town objective:

“Prohibit additional transmitting towers on Talcott Mountain and other high elevation areas in Avon in order to maintain the natural character of the area.”

A.4. The Town Planner is unavailable until after May 1 to undertake any specific review of the Interrogatory request. Notwithstanding, as the Interrogatory indicates, Conn. Gen. Stat. § 8-1aa, identifies Huckleberry Hill, along with other specified hill or mount formations in the State, as within the definition of “amphibolite ridge.” According to Conn. Gen. Stat. § 8-2(c), a municipality is authorized to impose restrictions on the development of “buildings” in ridgeline setback areas in any municipality where a statutorily defined “traprock ridge” or “amphibolite ridge” is located. As AT&T points out “facilities” as defined by Conn. Gen. Stat. § 16-50i, which includes telecommunications facilities, are exempt from the definition of a “building” for purposes of Section 8-2. As a general proposition, therefore, an appropriately located tower “facility” at the HHOS site would not appear inconsistent with Conn. Gen. Stat. § 8-1aa. However, Avon does not have sufficient details from AT&T, e.g., a Technical Report, to evaluate the impact of a tower at the location specified by AT&T on the HHOS property. With respect to the Town of Avon Comprehensive Plan of Development, it is generally the Town’s objective to prohibit additional transmitting towers on Talcott Mountain and other high elevation areas.

Q.5. Will the Town of Avon consider approval of a lease for up to a 150’ tower in the specific location identified by AT&T for it and other carriers’ potential use as a wireless facility site? Is your answer dependent on the type of structure (i.e. monopole, brown monopole with flush mount antennas, “flagpole”, “stealth” evergreen tree)?

A.5. Avon will consider entering into a lease agreement with AT&T. However, Avon would have to consider the height, design, visual, and other impacts of any proposed facility on the HHOS property before entering into a lease agreement.

Q.6. Will the Town Council consider a resolution at its May 7, 2009 meeting in furtherance of its prior resolutions (adopted pursuant to C.G.S. § 16-50gg) and authorize the Town Manager to execute the same basic lease executed by AT&T with St. Matthew Lutheran Church, as provided to the Siting Council and attached, which lease would allow AT&T to do additional due diligence on the project?

A.6. Avon is willing to consider passing a resolution at its May 7, 2009 meeting to allow the Town to enter into an access agreement with AT&T to allow AT&T to undertake additional due diligence on the property and so that AT&T can submit a Technical Report to the Town for its further consideration of locating a tower facility on the HHOS property.

Q.7. Will the Town Council refer its resolution, if any, to the Town Planning & Zoning Commission in furtherance of C.G.S. § 8-24 for confirmation of the proposed use of Town land for purposes of a tower facility and execution of a lease with AT&T?

A.7. The Town is willing to place discussion of AT&T's potential location of a tower facility on the HHOS property on its May 7, 2009 agenda. However, the Town Council does not have enough information, e.g., a Technical Report, as previously described, from AT&T at this time regarding the impacts of a proposed tower facility at the HHOS site in order to consider a resolution and referral to the Avon Planning & Zoning Commission ("P&Z"), pursuant to Conn. Gen. Stat. § 8-24. Town Council's ability to refer such proposal to P&Z is

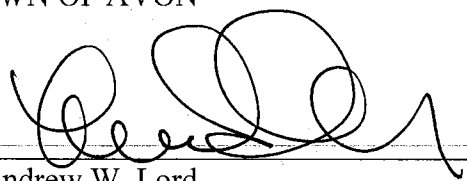
predicated on a review by Town Staff (Town Planner, Engineering) of AT&T's Technical Report.

Q.8. Will the Town Planning & Zoning Commission consider such a referral and a resolution of its own pursuant to C.G.S. § 8-24 at its May 12, 2009 meeting?

A.8. The P&Z would likely consider any referral from Town Council regarding location of a tower facility at the HHOS site at its next scheduled meeting following a meeting in which Town Council initiated such referral.

THE TOWN OF AVON

By: _____


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Loni S. Gardner

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185 Asylum Street
Hartford, Connecticut 06103-3469
Telephone: (860) 240-6000
Its Attorney

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TO ALL PEOPLE TO WHOM THESE PRESENTS SHALL COME, GREETING:

KNOW YE, THAT, IT, the UNIONVILLE WATER COMPANY, a Connecticut corporation with its principal place of business in Unionville, Town of Farmington, County of Hartford and State of Connecticut for the consideration to TEN DOLLARS (\$10.00) and other valuable considerations received to its full satisfaction of the TOWN OF AVON, a municipal corporation having its territorial limits within the County of Hartford and State of Connecticut does give, grant, bargain, sell and confirm unto the said TOWN OF AVON, its successors and assigns, a certain piece or parcel of land with any and all improvements thereon situated on the easterly side of Huckleberry Hill Road in said Town of Avon and being more particularly bounded and described as follows:

Commencing at a point on the easterly highway line of Huckleberry Hill Road, which point marks the ~~northwesterly~~ ^{northerly} corner of land now or formerly of Anne C. Lacy; thence running in a northerly direction along the easterly highway line of Huckleberry Hill Road three hundred (300) feet, more or less, to a C.H.D. monument; thence continuing in a northerly direction along the easterly highway line of Huckleberry Hill Road one hundred fifty (150) feet to a point marking the ~~southwesterly~~ ^{southeasterly} corner of land now or formerly of Stanley A. and Lois A. Erksen; thence making an angle of ninety degrees (90°) of the last mentioned line and running in an easterly direction along the southerly line of said land now or formerly of Stanley A. and Lois A. Erksen ~~two hundred (200) feet to a point~~; thence running in a ~~northerly~~ ^{northerly} direction along the easterly lines of land now or formerly of Stanley A. and Lois A. Erksen, land now or formerly of Elmer E. and Leona L. McNutt, land now or formerly of David J. and Ellen Hudon, and land now or formerly of John B. and Clara Dubiel, in part by each, in all a distance of six hundred thirty-nine and eighteen one-hundredths ~~(639.18) feet to a point at the southeasterly corner of said land now or formerly of John B. and Clara Dubiel~~; thence making a right angle with the last described line and running in a westerly direction along the northerly line of said land now or formerly of John B. and Clara Dubiel two hundred (200) feet to a point in the easterly highway line of Huckleberry Hill Road; thence running in a northerly direction along said easterly highway line of Huckleberry Hill Road one thousand four hundred (1,400) feet, more or less, to a point marking the southwesterly corner of land now or formerly of George and Hedwig M. Kubik; thence running easterly along the southerly line of said land now or formerly of George and Hedwig M. Kubik four hundred twenty (420) feet, more or less, to a monument; thence running in a northerly direction along said land now or formerly of George and Hedwig M. Kubik ninety-two and ninety-one one-hundredths (92.91) feet to a monument; thence running in a northeasterly direction along said land now or formerly of George and Hedwig M. Kubik one hundred thirty-seven and eighty one-hundredths (137.80) feet to a monument; thence continuing in a northeasterly direction along land now or formerly of George and Hedwig M. Kubik one hundred eighteen and sixty one-hundredths (118.50) feet to a monument; thence running in a northerly direction still along said land now or formerly of George and Hedwig M. Kubik one hundred fifty-seven and thirty-seven one-hundredths (157.37) feet to a monument; thence running in a northerly direction along said land now or formerly of George and Hedwig M. Kubik and land now or formerly of Francis J. and Louise H. Dubiel, in part by each, in all a distance of five hundred eighty (580) feet more or less to a monument at the southeasterly corner of land now or formerly of the Town of Avon; thence continuing in a northerly direction along the easterly line of said land now or formerly of the Town of Avon three hundred (300) feet, more or

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less, to a monument; thence continuing in a northerly direction along said land now or formerly of the Town of Avon and land now or formerly of Michael Jakubiak, in part by each, in all a distance of two hundred eighty (280) feet, more or less, to a point; thence running in an easterly direction along the southerly line of said land now or formerly of Michael Jakubiak and passing through three (3) monuments a distance of one thousand seven hundred twenty-five and seventy one-hundredths (1,725.70) feet, more or less, to a monument set in the westerly line of land now or formerly of Hehn E. and Albert M. Cowles and Frederick C. Schmidt; thence running in a southerly direction along said land now or formerly of Hehn E. and Albert M. Cowles and Frederick C. Schmidt one thousand one hundred sixty-eight and seventy one-hundredths (1,168.70) feet to a monument; thence running in an easterly direction along the southerly line of said land now or formerly of Hehn E. and Albert M. Cowles and Frederick C. Schmidt one hundred seventy-five and sixty-three one-hundredths (175.63) feet to a monument; thence running in a southerly direction crossing an ancient highway and along the westerly line of land now or formerly of Oliver C. and Irene S. Buckland two hundred twenty-six and seventy-five one-hundredths (226.75) feet to a monument; thence running in an easterly direction along said land now or formerly of Oliver C. and Irene S. Buckland two hundred seventy-eight and five one-hundredths (278.05) feet to a monument; thence running in a southerly direction along said land now or formerly of Oliver C. and Irene S. Buckland and land now or formerly of William E. Kullberg, in part by each, a distance of five hundred eighty-nine and seventy one-hundredths (589.70) feet to a monument; thence continuing in a southerly direction along said land now or formerly of William E. Kullberg and passing through four (4) monuments a distance of one thousand one hundred fifty-seven and fifty-five one-hundredths (1,157.55) feet to a monument in the northerly line of land now or formerly of Marion H. Buttles; thence running South $81^{\circ} 54' 30''$ West along said land now or formerly of Marion H. Buttles three hundred seventy-seven and fifty one-hundredths (377.50) feet to a point; thence running South $8^{\circ} 12'$ West still along said land now or formerly of Marion H. Buttles four hundred fifty-nine and thirty one-hundredths (459.30) feet to a point; thence running South $6^{\circ} 15'$ West along land now or formerly of Frank J. and Helen V. Parker five hundred five and fifty one-hundredths (505.50) feet to a monument in the northerly line of land now or formerly of Richard G. and Betty S. Cady; thence running South $81^{\circ} 36'$ West along said northerly line of land now or formerly of Richard G. and Betty S. Cady one thousand one hundred seventy and ten one-hundredths (1,170.10) feet to a point; thence continuing South $81^{\circ} 36'$ West along the northerly line of land now or formerly of Anne G. Lacy one thousand one hundred fifty (1,150) feet, more or less, to the point or place of beginning.

Said premises are more particularly shown on a certain map entitled, "Map of Land owned by The Unionville Water Company Huckleberry Hill Road Avon, Connecticut Scale 1" = 200' February 1967 Merton Hodge & Assoc., Eng'rs & Surveyors," which map is on file in the Office of the Town Clerk for the Town of Avon.

Said premises are conveyed subject to the following:

1. Any and all provisions of any ordinance, municipal regulation, or public or private law.
2. Such state of facts as an accurate survey of said premises might disclose.

WITNESSETH that the above described premises are situated in a township of the State of Connecticut, and are bounded and described as follows:

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3. Drainage right-of-way in favor of the State of Connecticut, dated July 23, 1934, and appearing of record in Volume 23, Page 69, Avon Land Records.

4. Drainage right-of-way in favor of the State of Connecticut dated August 1956 and appearing of record in Volume 23, Page 276, Avon Land Records.

5. Drainage right-of-way in favor of the State of Connecticut dated July 20, 1936, and appearing of record in Volume 23, Page 270, Avon Land Records.

TO HAVE AND TO HOLD the above granted and bargained premises, with the appurtenances thereof, unto it the said grantee its successors and assigns forever, to its and their own proper use and behoof. And also, it the said grantor does for itself, its successors and assigns, covenant with the said grantee, its successors and assigns, that at and until the ensueing of these presents, it is well seized of the premises, as a good indefeasible estate in **FEE SIMPLE**; and has good right to bargain and sell the same in manner and form as is above written and that the same be free from all encumbrances whatsoever, except as hereinbefore mentioned.

AND FURTHERMORE, it the said grantor does by these presents bind itself and its successors and assigns forever to **WARRANT AND DEFEND** the above granted and bargained premises to the said grantee, its successors and assigns, against all claims and demands whatsoever, except as hereinbefore mentioned.

IN WITNESS WHEREOF, the **UNIONVILLE WATER COMPANY** acting herein by **Henry J. Courtemanche, Jr.** its Secretary-Treasurer hereunto duly authorized has caused its name to be subscribed and its seal affixed this 18th day of April 1967.

Signed, sealed and delivered in the presence of:

UNIONVILLE WATER COMPANY

Douglas W. McCallum
Douglas W. McCallum
Robert C. Hunt, Jr.
Robert C. Hunt, Jr.

By Henry J. Courtemanche, Jr.
HENRY J. COURTEMACHE, JR.

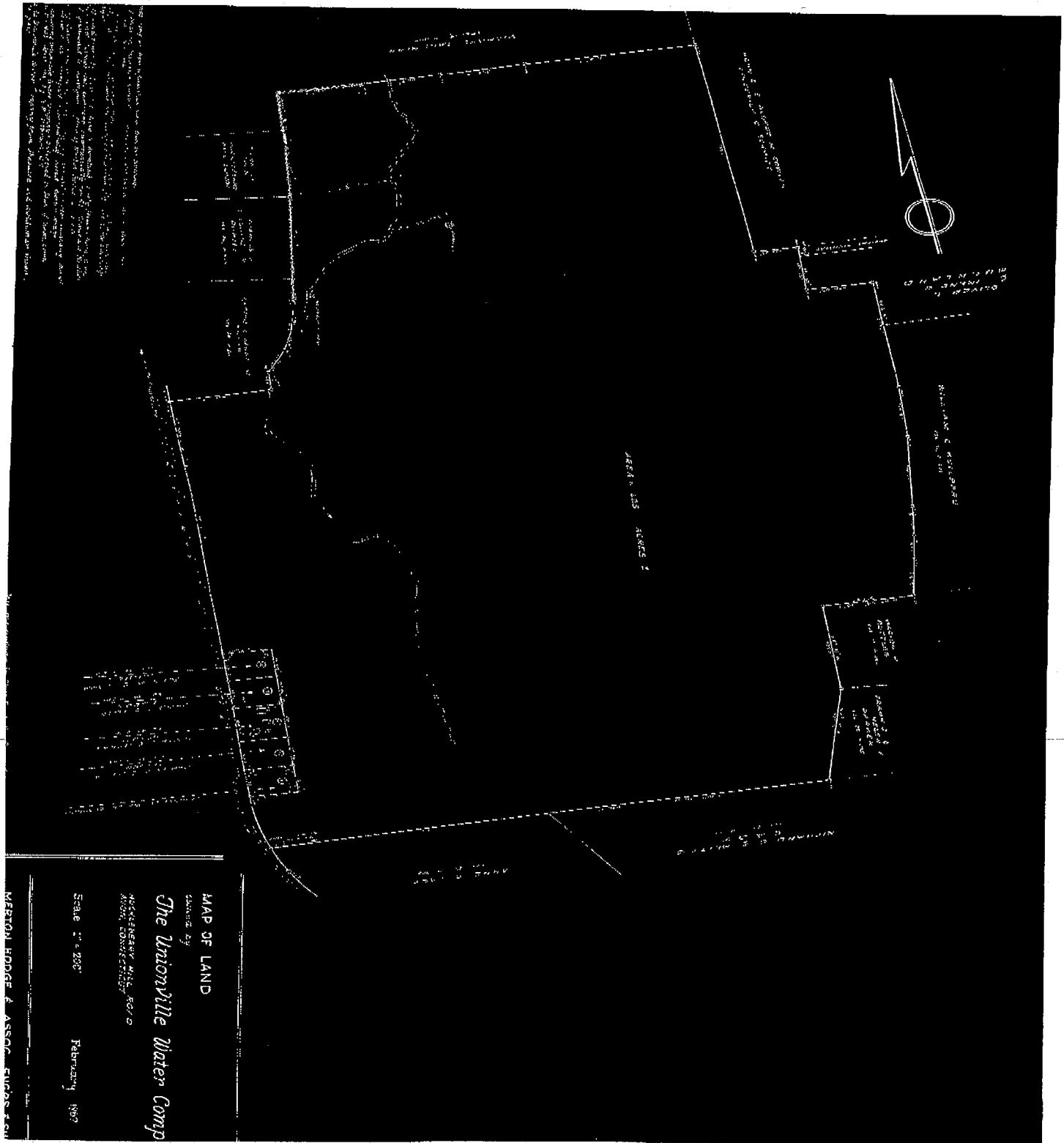
STATE OF CONNECTICUT } ss: Farmington
COUNTY OF HARTFORD }

On this 18th day of April 1967, before me, Douglas W. McCallum, the undersigned officer, personally appeared **Henry J. Courtemanche, Jr.**, who acknowledged himself to be the Secretary-Treasurer of **UNIONVILLE WATER COMPANY**, a corporation, and that he, as such Secretary-Treasurer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as Secretary-Treasurer.

IN WITNESS WHEREOF I hereunto set my hand.

Record Apr. 18. 1967
4:56 P.M.
Douglas W. McCallum
Douglas W. McCallum

Douglas W. McCallum
Notary Public - Commissioner of
the Superior Court for Hartford
County Douglas W. McCallum

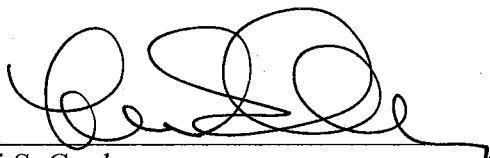


MAP OF LAND
owned by
The Unionville Water Comp
ACQUISITION WITH 2010
FROM TOWN OF AVON
Scale 1" = 200'
February 1987
MERTON HODGE & ASSOC. ENGINEERS

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been mailed, postage prepaid, on this
28th day of April, 2009 to:

Christopher B. Fisher, Esq. Cuddy & Feder LLP 445 Hamilton Avenue, 14 th Floor White Plains, New York 10601	Patricia McMahon 21 Greenwood Drive Avon, Connecticut 06001
Sheridan Toomey 9 Greenwood Drive Avon, Connecticut 06001	Thomas McMahon 21 Greenwood Drive Avon, Connecticut 06001
Mark Toomey 9 Greenwood Drive Avon, Connecticut 06001	Jane Garrett 15 Greenwood Drive Avon, Connecticut 06001
Peter Emmett Wiese 240 Lovely Street Avon, Connecticut 06001	Juan Fernandez 246 Lovely Street Avon, Connecticut 06001
Carrie L. Larson, Esq. Pullman & Comely, LLC 90 State House Square Hartford, Connecticut 06103-3702	Mary Ann Keenan 24 Quail Ridge Drive Avon, Connecticut 06001
David Lampert 4 Clearwater Court Avon, Connecticut 06001	Stuart Noyes 3 Clearwater Court Avon, Connecticut 06001
Michael Pastore 80 Wildwood Drive Avon, Connecticut 06001	



Loni S. Gardner