

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

**RE: APPLICATION OF SBA TOWERS II, LLC
FOR A CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED FOR
THE CONSTRUCTION, MAINTENANCE AND
OPERATION OF A TELECOMMUNICATIONS
FACILITY AT ONE OF TWO ALTERNATE SITES AT
RABBIT HILL ROAD, WARREN, CONNECTICUT**

DOCKET NO. 378

Date: May 11, 2009

**APPLICANT'S RESPONSES TO SITING COUNCIL PRE-HEARING
INTERROGATORIES SET TWO**

Applicant SBA Towers II, LLC ("SBA") hereby submits the following responses to the Siting Council's second set of pre-hearing interrogatories.

Q1. Can an alternate access road to Site A be developed that begins from the barnyard area, descending to the tower site? If so, please depict a possible route.

A1. An access route commencing in the barnyard area down to the Site A compound would require crossing the wetlands located in the vicinity of Site B, would require crossing through an area used for growing crops and the cutting of numerous trees. Therefore, SBA does not view such an access road as a realistic option to provide access to Site A.

Q2. Can an alternate access road to Site A be developed that enters the pasture at a higher elevation along Rabbit Hill Road? If so, please depict a possible route.

A2. The owners of the Property would be unwilling to permit an access drive to Site A cutting across the pasture area as this pasture area is utilized by the owners for grazing cattle.

Q3. Provide a copy of the letter from Bruce Coleman to SBA dated September 9, 2008.

A3. See copy of the letter dated September 9, 2008 attached hereto as Exhibit 1.

Q4. What is the height of the retaining wall on the north, east and west sides of the Site A compound?

A4. The retaining wall is 26' high on the north side of the compound. On the west and east sides, the wall slopes from 26' high on the northern corner to 1' high on the southern corner.

Q5. What were the comments from the Towns of Warren and Washington, and area residents that necessitated SBA to develop an alternative location at Site B? How was this location chosen?

A5. As can be seen from the minutes of the Warren public informational meeting recently submitted by the Town of Warren and the municipal correspondence materials filed with this application, both the Towns of Warren and Washington and the residents thereof raised concerns about the fact that the Tanners, the owners of the Property, had sold development rights to the land where Site A is situated to the State of Connecticut pursuant to Conn. Gen. Stat. § 22-26cc. In addition, numerous residents either inquired regarding installing antennas in the existing silo, which is located in the vicinity of Site B, or locating the facility in the vicinity of the silo. Because of these concerns, SBA chose to include Site B in the application; which is located on a portion of the Tanners' Property that was not subject to the conveyance pursuant to Conn. Gen. Stat. § 22-26cc. The Site B location was chosen in conjunction with the owners of the Property. Consideration was taken so that Site B did not interfere with farming operations, was accessible and had the least amount of visual and environmental impact.

Q6. In correspondence dated February 11, 2009 to the Town of Warren, SBA indicated Verizon was interested in locating at the Site B facility. What was the basis of this statement?

A6. As can be seen from the municipal correspondence materials, SBA endeavored to keep both the Towns of Warren and Washington informed about the progress of this application prior to it being filed with the Council. The February 11, 2009 letters to both towns were intended for just this purpose. In correspondence to both towns dated February 11, 2009, SBA simply indicated that they had received interest from both Verizon and T-Mobile in the proposed application and does not specify either carriers' specific interests in the two alternate sites.

Q7. Did the site search include properties south of Route 202? If so, list the properties investigated and reasons for rejection. If not, why not?

A7. SBA did conduct a preliminary site search on the south side of Route 202. However, SBA determined that this area was more densely developed with residential development and there were no properties suitable for a telecommunications facility.

Q8. Would development of either site directly affect any habitat for the Sedge Skipper butterfly, Bronze Copper butterfly or the wood turtle? If so, describe the potential impact and any measures SBA could undertake to mitigate such impact.

A8. The species listed require wetland or watercourse for part, or all, of their life cycle. No wetland impact is anticipated as part of this proposed development of either site and as a result, no change in the potential use of the wetlands by these species is anticipated. Both tower sites are upland sites. Site A is a forested location. Site B is currently a pasture.

Therefore, the proposed development of the propose Facility at either site will have no impact on any of these three species. If any of the species are encountered during construction or prior thereto, SBA would work with the Department of Environmental Protection ("DEP") to develop and implement the appropriate mitigation plan. SBA is conducting a detailed habitat evaluation of both proposed sites in relation to potential use by these species. The results of that study will be provided upon completion.

Q9. Provide a copy of the Natural Diversity Database map used to determine no listed species occur at either site.

A9. See NDDB maps attached hereto as Exhibit 2.

The NDDB maps associated with the NEPA compliance documentation are included. The NEPA compliance documentation for Site A was completed in September, 2008, the first map included. The NEPA compliance documentation for Site B was completed in February, 2009, the second map included. In addition, an NDDB map from May, 2009 is also included. The updated NDDB map does not include any new NDDB areas from the map utilized for the February, 2009 NEPA compliance documentation.

Q10. Was SBA invited to the October 5, 2008 Washington Conservation Commission meeting. If so, how was this request made? How did SBA respond to this request?


A10. As indicated in the application and the municipal consultation materials bulk-filed therewith, representatives from SBA (then Optasite) met with the First Selectman of Washington on September 11, 2008 to discuss the proposed facility. During that initial meeting, SBA's representatives indicated SBA's willingness to attend a public informational meeting, should the Town choose to hold one. In follow up correspondence dated September 12, 2008, September 18, 2008, September 30, 2008 and October 21, 2008, SBA affirmed its willingness to attend such a meeting.

Ms. Diane Dupuis, a member of the Washington Conservation Commission, was present during the Town of Warren's public informational session held on September 26, 2008. After that meeting, Ms. Dupuis indicated to SBA's representatives that the proposal *may* be discussed at the October 5, 2008 Washington Conservation Commission meeting. At no time during the municipal consultation period did the First Selectman of Washington indicate to SBA that he had designated Ms. Dupuis as the Town's representative for this proposal. As such, SBA indicated its willingness to attend a public informational meeting in Washington and that when that meeting was confirmed, such a request should be forwarded in writing from the First Selectman to SBA. No such request was received and thus SBA did not attend the Conservation Commission meeting on October 5, 2008.

Q11. Did SBA respond to the Town of Washington's October 24, 2008 request that SBA attend the November 5, 2008 Conservation Commission meeting? If so, how? If not, why not?

A11. As discussed in response to interrogatory #10, SBA had indicated to the First Selectman of Washington on numerous occasions its willingness to attend a public informational meeting with the Town to discuss the proposed facility and simply had requested confirmation of such request in writing. Representatives of SBA also had telephone conversations with the First Selectman discussing this topic. Based upon the correspondence dated October 24, 2008, SBA considered this the Town's response to SBA's numerous offers. Since that correspondence indicated that this item would be formally noticed on the agenda, did not request a formal response and since SBA had sent four letters to the Town of Washington seeking confirmation of a date and time for an informational meeting, SBA did not respond in writing confirming, yet again, their willingness to attend. SBA representatives did attend the November 5, 2008 Conservation Commission meeting, as requested.

Respectfully Submitted,

By: 
Attorney For SBA Towers II, LLC
Carrie L. Larson, Esq.
clarson@pullcom.com
Pullman & Comley, LLC
90 State House Square
Hartford, CT 06103-3702
Ph. (860) 424-4312
Fax (860) 424-4370

Certification

This is to certify that a copy of the foregoing has been mailed this date to all parties and intervenors of record.

Christopher B. Fisher
Cuddy & Feder LLP
445 Hamilton Avenue
14th Floor
White Plains, New York 10601

F. Philip Prelli
Commissioner
Department of Agriculture
165 Capitol Avenue
Hartford, CT 06106

Kenneth Baldwin, Esq.
Robinson & Cole LLP
280 Trumbull Street
Hartford, CT 06103

Washington Conservation Commission
c/o Susan Payne, Chairperson
Town of Washington
Bryan Memorial Town Hall
P. O. Box 383
Washington Depot, CT 06794

The Honorable Mark E. Lyon
First Selectman, Town of Washington
Bryan Memorial Town Hall
P. O. Box 383
Washington Depot, CT 06794

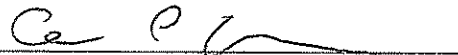
Washington Conservation Commission
c/o Diane Dupuis
Town of Washington
Bryan Memorial Town Hall
P.O. Box 383
Washington Depot, CT 06794

The Honorable Jack Travers
First Selectman, Town of Warren
Warren Town Hall
7 Sackett Hill Road
Warren, CT 06754

Ray and Maryellen Furse
26 Jack Corner Road
Warren, CT 06777

CROWW
Gabriel North Seymour
200 Route 126
Falls Village, CT 06031

Bruce Coleman
President, CROWW
P. O. Box 2426
New Preston, CT 06777


Carrie L. Larson

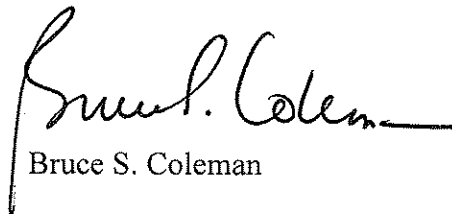
sale, the Tanners acknowledged their intent, and the intent of the State of Connecticut, "to prohibit development of the [approximately 182 acres of agricultural land] for residential, commercial and/or industrial purposes."

Given this prior sale of Development Rights, the Tanners no longer own the right to lease to your client any portion of a Subject Parcel for a commercial and/or industrial purpose, which clearly includes constructing, maintaining and operating a cell phone tower. Accordingly, the statement at page 10 of the Report regarding the ownership of the land on which the proposed cell phone tower is to be constructed is both incomplete and materially misleading.

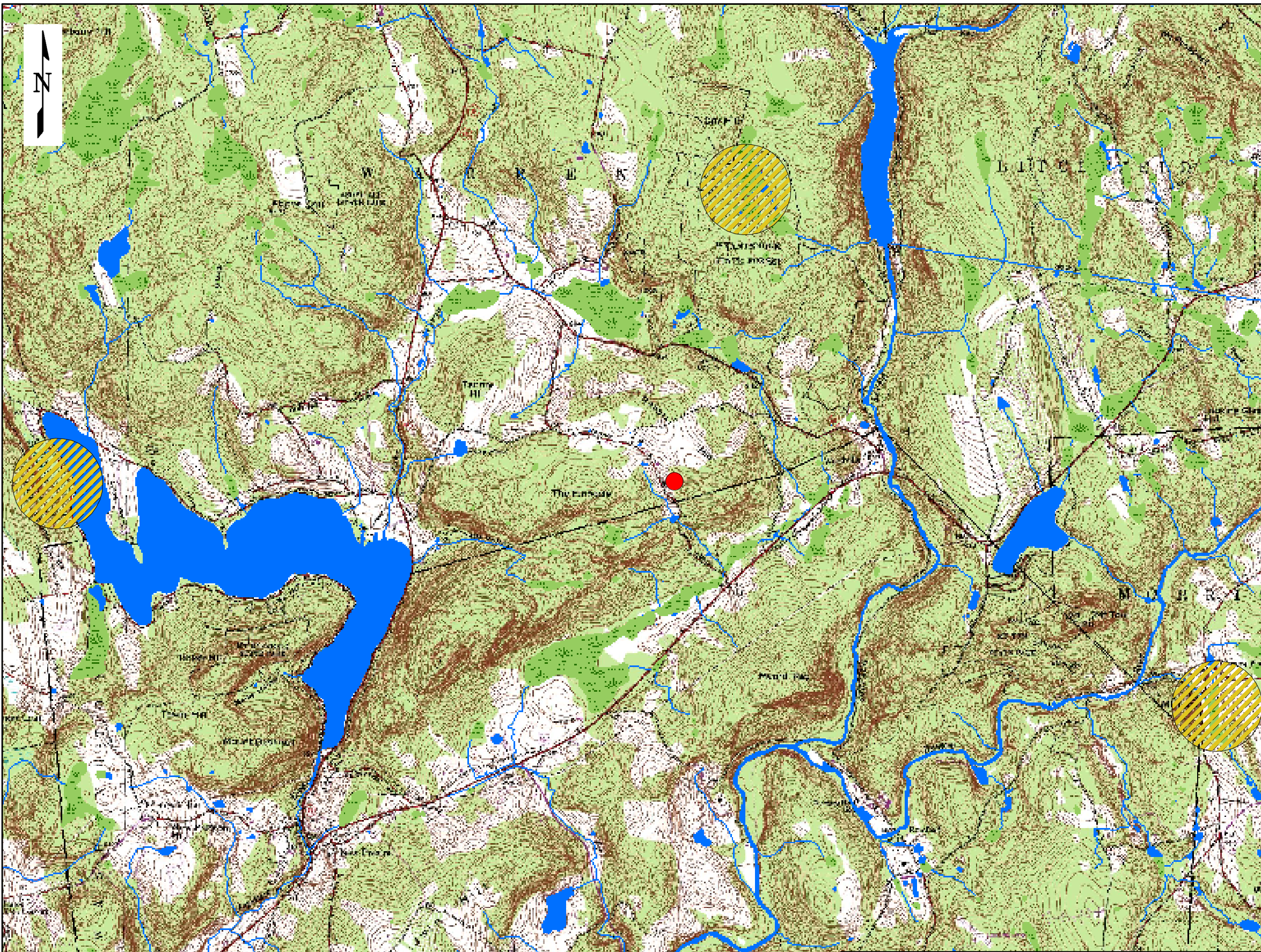
A copy of the Conveyance of Development Rights, together with a copy the related Survey, each of which was filed with the Warren Town Clerk, are enclosed for your reference.

In the event that notwithstanding the foregoing, your client seeks to proceed with its application to construct a cell phone tower on the Proposed Site, the Report should be amended to include, in addition to appropriate revisions to correct its other misstatements, omissions and deficiencies, a complete and accurate description of the ownership of the Subject Parcel and the legal basis of the Tanners' purported right to grant a lease to your client covering the Proposed Site for a commercial and/or industrial purpose.






Very truly yours,

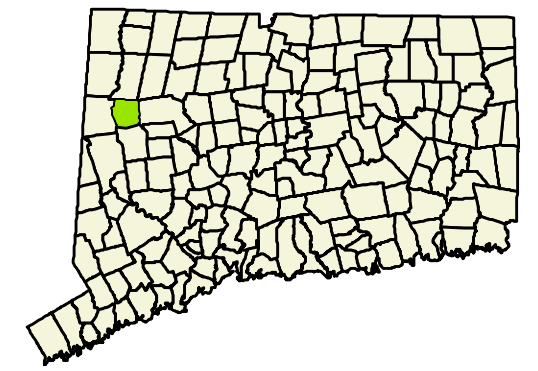
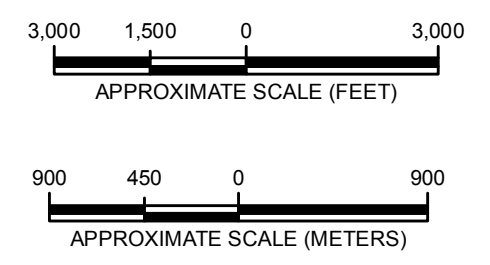

Bruce S. Coleman

cc: Jack Travers, First Selectman of Warren
Mark E. Lyon, First Selectman of Washington
F. Philip Prelli, Commissioner, State of Connecticut Department of Agriculture
Lewis and Truda Tanner



LEGEND

-  SITE LOCATION
-  NATURAL DIVERSITY DATABASE AREA
-  WETLAND
-  WATERBODY
-  WATERCOURSE



THE INFORMATION INCLUDED ON THIS GRAPHIC REPRESENTATION HAS BEEN COMPILED FROM A VARIETY OF SOURCES AND IS SUBJECT TO CHANGE WITHOUT NOTICE. KLEINFELDER MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, AS TO ACCURACY, COMPLETENESS, TIMELINESS, OR RIGHTS TO THE USE OF SUCH INFORMATION. THIS DOCUMENT IS NOT INTENDED FOR USE AS A LAND SURVEY PRODUCT NOR IS IT DESIGNED OR INTENDED AS A CONSTRUCTION DESIGN DOCUMENT. THE USE OR MISUSE OF THE INFORMATION CONTAINED ON THIS GRAPHIC REPRESENTATION IS AT THE SOLE RISK OF THE PARTY USING OR MISUSING THE INFORMATION.

SOURCE:
 CONNECTICUT DEP HYDROLOGY DATASETS (2005), NATIONAL WETLANDS INVENTORY (1980), CONNECTICUT DEP NATURAL DIVERSITY DATABASE (2008) AND USGS 7.5' TOPOGRAPHIC MAP, NEW PRESTON, CONNECTICUT QUADRANGLE (1969-1984).

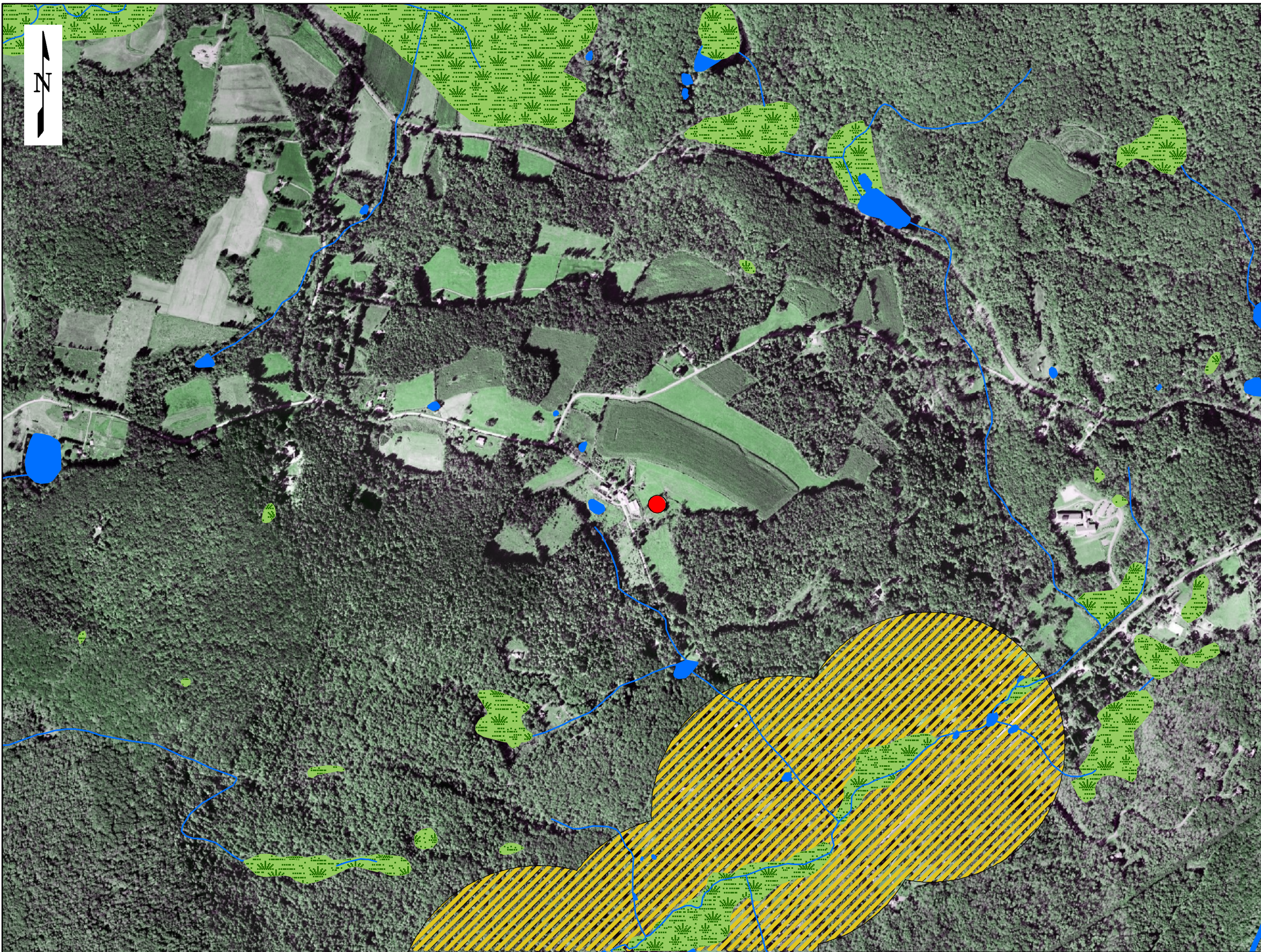


PROJECT NO.	96682
DRAWN:	08/26/08
DRAWN BY:	KAW
CHECKED BY:	AH
FILE NAME:	96682NEPAAUG08F1B.MXD






NDDB AREA MAP

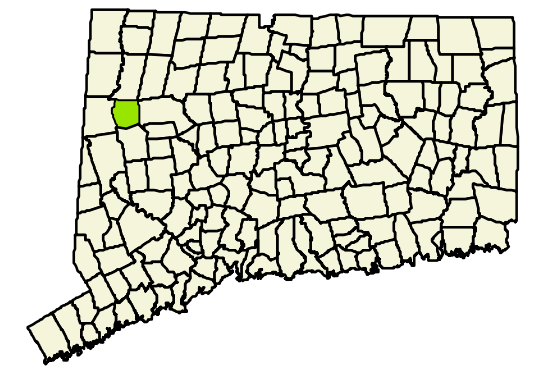
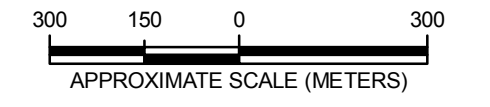
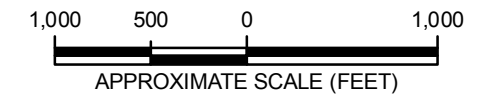
OPTASITE TOWERS, LLC
 131 RABBIT HILL ROAD
 WARREN, CONNECTICUT

FIGURE
1



LEGEND

-  SITE LOCATION
-  NATURAL DIVERSITY DATABASE AREA (DEC 2008)
-  WATERBODY
-  WETLAND
-  WATERCOURSE



THE INFORMATION INCLUDED ON THIS GRAPHIC REPRESENTATION HAS BEEN COMPILED FROM A VARIETY OF SOURCES AND IS SUBJECT TO CHANGE WITHOUT NOTICE. KLEINFELDER MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, AS TO ACCURACY, COMPLETENESS, TIMELINESS, OR RIGHTS TO THE USE OF SUCH INFORMATION. THIS DOCUMENT IS NOT INTENDED FOR USE AS A LAND SURVEY PRODUCT NOR IS IT DESIGNED OR INTENDED AS A CONSTRUCTION DESIGN DOCUMENT. THE USE OR MISUSE OF THE INFORMATION CONTAINED ON THIS GRAPHIC REPRESENTATION IS AT THE SOLE RISK OF THE PARTY USING OR MISUSING THE INFORMATION.

SOURCE:
 CONNECTICUT DEP HYDROLOGY DATASETS (2005), NATIONAL WETLANDS INVENTORY (1980), CONNECTICUT DEP NATURAL DIVERSITY DATABASE (DECEMBER 2008) AND USGS 7.5' TOPOGRAPHIC MAP, NEW PRESTON, CONNECTICUT QUADRANGLE (1969-1984).

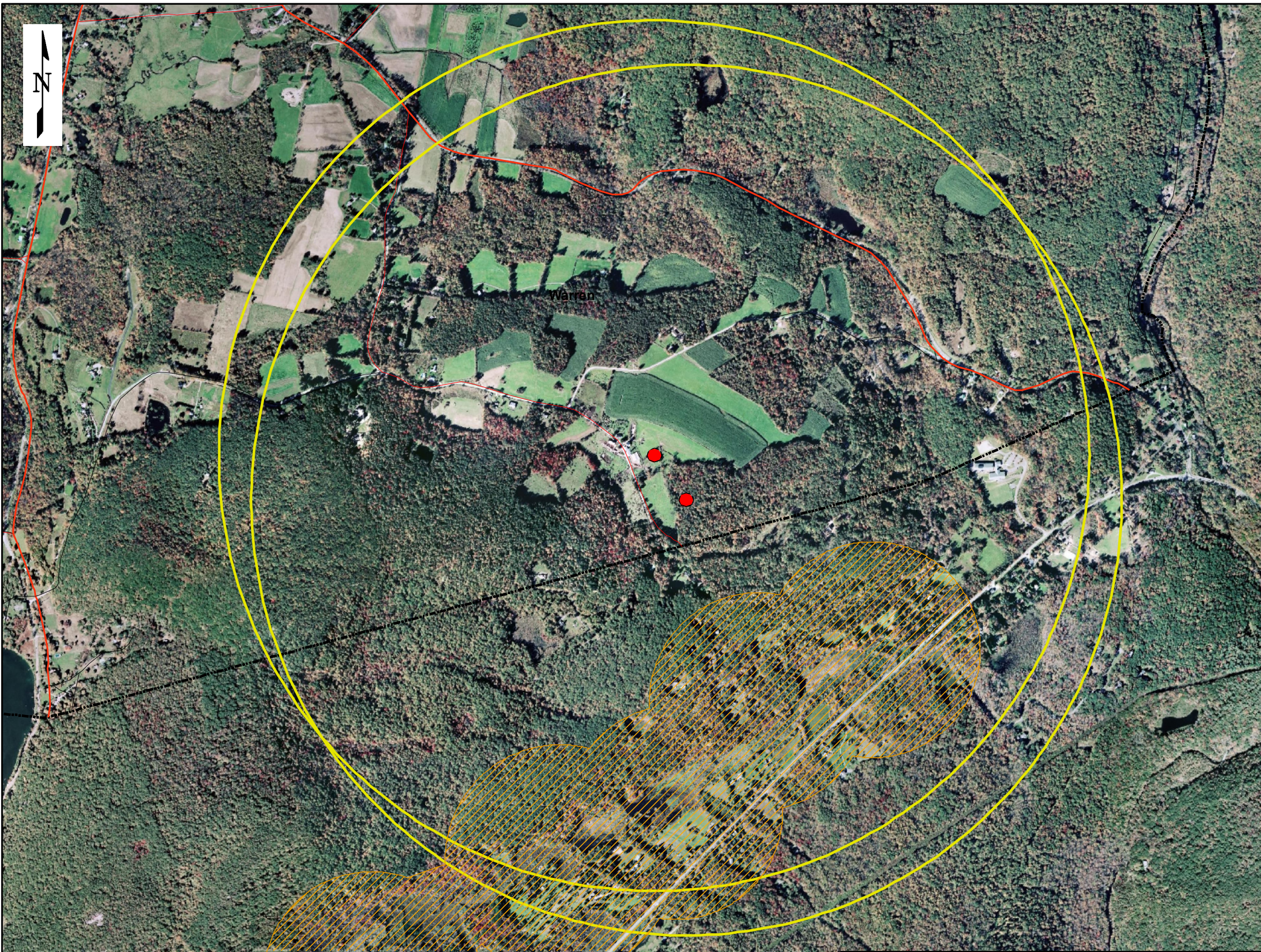


PROJECT NO.	99114
DRAWN:	01/13/09
DRAWN BY:	CTH
CHECKED BY:	AH
FILE NAME:	96682NEPAAUG08F1.MXD

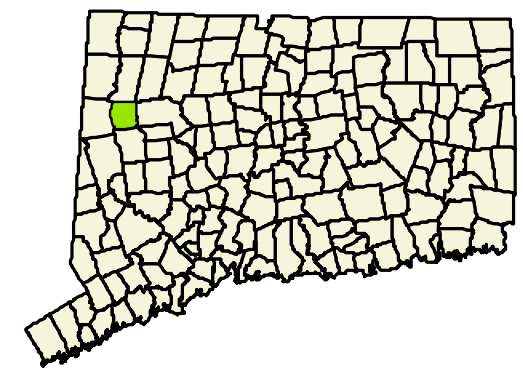
NDDB AREA MAP

SBA NETWORK SERVICES, INC
 131 RABBIT HILL ROAD
 WARREN, CONNECTICUT

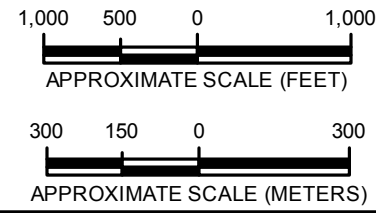
FIGURE
1



- LEGEND**
- SITE LOCATION
 - TOWN BOUNDARY
 - PRIMARY HIGHWAYS
 - SECONDARY HIGHWAYS
 - LOCAL ROADS
 - NATURAL DIVERSITY DATABASE AREA
 - 1 MILE RADIUS



THE INFORMATION INCLUDED ON THIS GRAPHIC REPRESENTATION HAS BEEN COMPILED FROM A VARIETY OF SOURCES AND IS SUBJECT TO CHANGE WITHOUT NOTICE. KLEINFELDER MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, AS TO ACCURACY, COMPLETENESS, TIMELINESS, OR RIGHTS TO THE USE OF SUCH INFORMATION. THIS DOCUMENT IS NOT INTENDED FOR USE AS A LAND SURVEY PRODUCT NOR IS IT DESIGNED OR INTENDED AS A CONSTRUCTION DESIGN DOCUMENT. THE USE OR MISUSE OF THE INFORMATION CONTAINED ON THIS GRAPHIC REPRESENTATION IS AT THE SOLE RISK OF THE PARTY USING OR MISUSING THE INFORMATION.



- SOURCE:**
- CONNECTICUT DEP GIS DATASETS AND GOOGLE DIGITAL GLOBE IMAGE (2008). NATURAL DIVERSITY DATABASE AREA DATA UPDATED DECEMBER 2008.
 - STATE OF CONNECTICUT INTERGOVERNMENTAL POLICY DIVISION CONSERVATION AND DEVELOPMENT POLICIES PLAN GIS DATA (TOWN OF WARREN).



PROJECT NO.	99114
DRAWN:	05/07/09
DRAWN BY:	KAW
CHECKED BY:	AH
FILE NAME:	96682MISC MAY09.MXD

NATURAL DIVERSITY DATABASE AREA PLAN

SBA NETWORK SERVICES, INC
131 RABBIT HILL ROAD
WARREN, CONNECTICUT

FIGURE
1