

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051
Phone: (860) 827-2935 Fax: (860) 827-2950
E-Mail: siting.council@ct.gov
www.ct.gov/csc

July 28, 2009

Thomas J. Regan, Esq.
Brown Rudnick LLP
CityPlace I, 38th Floor
185 Asylum Street
Hartford, CT 06103-3402

RE: **DOCKET NO. 380** - Bay Communications, LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a wireless telecommunications facility at 47 Garrett Ridge Drive, New Hartford, Connecticut.

Dear Attorney Regan:

By its Decision and Order dated July 22, 2009, the Connecticut Siting Council (Council) granted a Certificate of Environmental Compatibility and Public Need (Certificate) for the construction, maintenance and operation of a wireless telecommunications facility at 47 Garrett Ridge Drive, New Hartford, Connecticut.

Enclosed are the Council's Certificate, Findings of Fact, Opinion, and Decision and Order.

Very truly yours,



S/ Derek Phelps
Executive Director

SDP/RDM/laf

Enclosures (4)



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**CERTIFICATE
OF
ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED
DOCKET NO. 380**

Pursuant to General Statutes § 16-50k, as amended, the Connecticut Siting Council hereby issues a Certificate of Environmental Compatibility and Public Need to Bay Communications, LLC for the construction, maintenance and operation of a wireless telecommunications facility at 47 Garrett Ridge Drive, New Hartford, Connecticut. This Certificate is issued in accordance with and subject to the terms and conditions set forth in the Decision and Order of the Council on July 22, 2009.

By order of the Council,


Daniel F. Caruso, Chairman

July 22, 2009



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July 28, 2009

TO: Parties and Intervenors

FROM: S. Derek Phelps, Executive Director

RE: **DOCKET NO. 380** - Bay Communications, LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a wireless telecommunications facility at 47 Garrett Ridge Drive, New Hartford, Connecticut.

By its Decision and Order dated July 22, 2009, the Connecticut Siting Council granted a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a wireless telecommunications facility at 47 Garrett Ridge Drive, New Hartford, Connecticut.

Enclosed are the Council's Findings of Fact, Opinion, and Decision and Order.

SDP/RDM/laf

Enclosures (3)

c: State Documents Librarian

STATE OF CONNECTICUT)

ss. New Britain, Connecticut :

COUNTY OF HARTFORD)

I hereby certify that the foregoing is a true and correct copy of the Findings of Fact, Opinion, and Decision and Order issued by the Connecticut Siting Council, State of Connecticut.

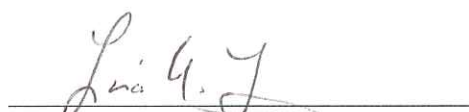
ATTEST:



S. Derek Phelps
Executive Director
Connecticut Siting Council

I certify that a copy of the Findings of Fact, Opinion, and Decision and Order in Docket No. 380 has been forwarded by Certified First Class Return Receipt Requested mail, on July 28, 2009, to all parties and intervenors of record as listed on the attached service list, dated April 24, 2009.

ATTEST:



Lisa A. Fontaine
Fiscal Administrative Officer
Connecticut Siting Council

LIST OF PARTIES AND INTERVENORS
SERVICE LIST

Status Granted	Document Service	Status Holder (name, address & phone number)	Representative (name, address & phone number)
Applicant	<input type="checkbox"/> E-mail or <input checked="" type="checkbox"/> U.S. Mail	Bay Communications, LLC 16 East Washington St., Ste 207 North Attleborough, MA 02760 (508) 695-0072 (508) 695-0092 fax jriley@baycommunicationsllc.com	Thomas J. Regan, Esq. Brown Rudnick LLP CityPlace I, 38 th Floor 185 Asylum Street Hartford, CT 06103-3402 (860) 509-6522 (860) 509-6501 - fax tregan@brownrudnick.com
Intervenor (granted on April 23, 2009)	<input checked="" type="checkbox"/> E-mail or <input type="checkbox"/> U.S. Mail	Cellco Partnership d/b/a Verizon Wireless	Kenneth C. Baldwin, Esq. Robinson & Cole LLP 280 Trumbull Street Hartford, CT 06103-3597 (860) 275-8200 (860) 275-8299 – fax kbaldwin@rc.com
	<input type="checkbox"/> E-mail or <input type="checkbox"/> U.S. Mail		
	<input type="checkbox"/> E-mail or <input type="checkbox"/> U.S. Mail		

<p>DOCKET NO. 380 - Bay Communications, LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a wireless telecommunications facility at 47 Garrett Ridge Drive, New Hartford, Connecticut.</p>	<p>} } }</p>	<p>Connecticut Siting Council July 22, 2009</p>
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Findings of Fact

Introduction

1. Bay Communications LLC (Bay), in accordance with the provisions of General Statutes §§ 16-50g through 16-50aa, applied to the Connecticut Siting Council (Council) on March 17, 2009 for the recertification of a wireless telecommunications facility originally approved at 170 Southeast Road, New Hartford, Connecticut. (Bay 1, p. 6)
2. On November 20, 2003, the Council approved an application (Docket 251) from Sprint Spectrum, L.P. d/b/a Sprint PCS (Sprint) to construct a 150-foot monopole facility at this location with the condition that the facility be constructed within one year. (Council Administrative Notice 19)
3. On February 3, 2004, the Council approved a petition (Petition 649) from Cellco Partnership d/b/a as Verizon Wireless (Cellco) to increase the height of the approved facility from 150 feet to 160 feet above ground level (agl). (Council Administrative Notice 20)
4. On March 4, 2004, the Council approved a Development and Management (D&M) Plan for the approved 160-foot facility. (Council Administrative Notice 19)
5. On August 12, 2004, the Council approved a transfer of the Certificate of Environmental Compatibility and Public Need (Certificate) from Sprint to Bay. While Bay and Sprint were finishing details of the transfer, the Certificate expired. (Council Administrative Notice 19)
6. On March 13, 2006 Bay applied to the Council for a recertification of the site under Docket 314. The Council re-approved the facility on July 27, 2006. (Council Administrative Notice 18)
7. On December 12, 2006, the Council approved a second D&M Plan for the site. The second D&M Plan was necessary to account for changes in the access road due to residential development of the host property. (Council Administrative Notice Item 18)
8. On April 24, 2008, the Council approved an extension of time to September 30, 2008 to complete work at the site. Due to complications associated with the redesign of a bridge to the site, the limited availability of construction material and site conditions hindering construction, the Certificate expired before work was complete. (Council Administrative Notice Item No. 18; Bay 1, pp. 5, 10)
9. The party in this proceeding is the applicant. An intervenor to the proceeding is Cellco Partnership d/b/a Verizon Wireless (Cellco). (Transcript 1, 5/21/09, 2:10 p.m. [Tr. 1], p. 5)
10. Bay is a tower development company based in Massachusetts that owns and operates tower sites in Massachusetts, Connecticut, and Rhode Island. (Council Administrative Notice 18)

11. Pursuant to General Statutes § 16-50m, the Council, after giving due notice thereof, held a public hearing on May 21, 2009, beginning at 2:10 p.m. at the Warren Town Hall, 7 Sackett Hill Road, Warren, Connecticut. (Council's Hearing Notice dated April 14, 2009; Tr. 1, p. 3)
12. Public notice of the application was published in The Hartford Courant, the Republican-American, and The Register Citizen on January 29, 2009 and February 3, 2009. (Bay 1, p. 8)
13. Pursuant to CGS § 16-50/(b), Bay notified abutting property owners by certified mail. All certified mail receipts were received. Bay also notified all homeowners on Garrett Ridge Drive. (Bay 1, p. 9; Bay 2, Q. 2; Tr. 1, p. 14)
14. The Council received written comment on May 13, 2009 from the Metropolitan District Commission (MDC), an entity that owns the Nepaug Reservoir, a public water supply reservoir east of the site. (Specific comment is provided in Finding 33). (Record)

State Agency Comment

15. Pursuant to General Statutes § 16-50j(h), on April 14, 2009, the following state agencies were solicited to submit written comments regarding the proposed facility: Department of Environmental Protection (DEP), Department of Public Health (DPH), Council on Environmental Quality (CEQ), Department of Public Utility Control (DPUC), Office of Policy and Management (OPM), Department of Economic and Community Development (DECD), Department of Agriculture (DOAg) and the Department of Transportation (DOT). (Record)
16. The DPH provided written comment to the Council on June 26, 2009 requesting that Bay follow best management practices during construction activities that occur adjacent to Spruce Brook, a tributary to the Nepaug Reservoir. The DOT's Bureau of Engineering and Highway Operations provided correspondence to the Council on May 11, 2009, indicating they had no comment. (Record)
17. The following state agencies did not file written comment on the application: DEP, CEQ, DPUC, OPM, DOAg and the DECD. (Record)

Municipal Consultation

18. Bay and the Town had ongoing dialogue during the development of this project. Bay met with the New Hartford First Selectman Earl MacInnes on May 7, 2009 to discuss the recertification application. At the meeting, the Town recognized a need for service in the affected section of New Hartford and had no issues with the application. (Bay 2, Q. 7)

Public Need for Service

19. In 1996, the United States Congress recognized a nationwide need for high quality wireless telecommunications services, including cellular telephone service. Through the Federal Telecommunications Act of 1996, Congress seeks to promote competition, encourage technical innovations, and foster lower prices for telecommunications services. (Council Administrative Notice Item No. 7)
20. In issuing cellular licenses, the Federal government has preempted the determination of public need for cellular service by the states, and has established design standards to ensure technical integrity and nationwide compatibility among all systems. (Council Administrative Notice 7)

21. The Telecommunications Act of 1996 prohibits local and state entities from discriminating among providers of functionally equivalent services. (Council Administrative Notice 7)
22. The Telecommunications Act of 1996, a Federal law passed by the United States Congress, prohibits any state or local entity from regulating telecommunications towers on the basis of the environmental effects of radio frequency emissions to the extent that such towers and equipment comply with the Federal Communication Commission's regulations concerning such emissions. This Act also blocks the Council from prohibiting or acting with the effect of prohibiting the provision of personal wireless service. (Council Administrative Notice Item No. 7)

Site Description

23. The site was originally located on a 64-acre parcel designated as 170 Southeast Road in New Hartford. (Council Administrative Notice 18)
24. The parcel was subdivided into 11 residential lots accessed by a new road, Garrett Ridge Drive, in 2006. The current subdivision is located west of Spruce Brook, a stream that traverses the eastern portion of the property in a north-south direction. (Council Administrative Notice 18; Bay 1, Tab 14; Bay 2, Q. 2)
25. The remaining portion of the property containing the proposed site, approximately 15-acres, was assigned a new address, 47 Garrett Ridge Drive. (Record; Bay 2, Q. 1)
26. The proposed tower site is located on the eastern side of the undeveloped parcel in a heavily wooded area. (Bay 2, Q. 1)
27. Access to the tower site would be from an existing 870-foot long tower access drive originating from the Garrett Ridge Drive cul-de-sac, the route previously approved in the Docket 314 D&M Plan. From the cul-de-sac, the driveway proceeds downhill, crosses Spruce Brook on a concrete, prefabricated bridge, and proceeds uphill to the compound site. (Council Administrative Notice 18; Bay 1, Tab 14)
28. Construction of the existing tower access drive began before the expiration of the D 314 Certificate. The driveway was constructed in accordance with the Council-approved D&M Plan with subsequent approved modifications. The road is complete except for the installation of waterbars and runoff deflectors within the roadbed. (Council Administrative Notice 18; Bay 1, Tab 14; Bay 2, Q 6)
29. Bay proposes to construct a 160-foot monopole at the site. (Bay 1, p. 9)
30. Bay would construct a 65-foot by 75-foot compound within a 100-foot by 100-foot lease area. The compound area has already been cleared and rough graded. (Council Administrative Notice 18; Bay 1, p. 9)
31. Underground utilities would be installed from the end of the subdivision road along the new access road to the compound site. (Bay 1, Tab 14)
32. The nearest abutting property, owned by the MDC, is 150 feet north of the tower site. (Bay 1, Tab 14)
33. Two residences are within 1,200 feet of the site, located at 35 Garrett Ride Drive and 36 Garrett Ridge Drive. (Tr. 1, p 15; Bay late file of June 2, 2009)

34. Cellco would install 12 panel antennas on a platform at a centerline height of 160 feet agl. (Cellco 1, Q. 3)
35. Although Sprint did not intervene in this proceeding, Sprint is expected to locate at the 150-foot level of the tower. (Bay 1, p. 9)
36. New Cingular Wireless PCS LLC (AT&T) intends to install six platform mounted panel antennas at the 130-foot level of the tower, through a Council-approved tower exempt modification filing (approved May 7, 2008). AT&T would install a 12-foot by 20-foot equipment shelter within the compound. (Council EM-CING-092-080403)
37. Youghiogheny Communications-Northeast LLC (Pocket) intends to install three flush mounted antennas at the 110-foot level of the tower, through a Council-approved tower exempt modification filing (approved March 16, 2009). Pocket would install an equipment cabinet within the compound. (Council EM-POCKET-092-09226)

Environmental Considerations

38. All clearing and roadwork at the site has been completed except for water control features in the road. (Bay 2, Tab 6; Tr. 2, p. 19)
39. The MDC recommended the following:
 - a. paving the bridge and the approaches at each end to prevent loose sand and gravel from washing into Spruce Brook.
 - b. paving the steep grades along the access road if the water deflectors are ineffective in preventing erosion.
 - c. installing of guard rails on both sides of the bridge to prevent accidents and spills.(MDC letter of May 11, 2009)
40. The DPH recommended the following:
 - a. installing of guard rails on both sides of the bridge to prevent accidents and spills.
 - b. annual bridge inspections for erosion and structural deficiencies.
 - c. use of best management practices during construction activities to prevent contamination sedimentation of watershed.(DPH letter of June 26, 2009)
41. The proposed facility would have no effect upon historic or archaeological resources. (Council Administrative Notice 19)
42. The Bald Eagle (*Haliaeetus leucocephalus*), a federally threatened and state endangered species, occurs in the site area, specifically using the shoreline of the Nepaug Reservoir as habitat. The nearest shoreline is approximately 1,900 feet east of the site. The proposed tower would have no effect on resident eagles. (Council Administrative Notice 19)
43. Aircraft hazard obstruction marking or lighting of the proposed tower would not be required. (Council Administrative Notice 18)

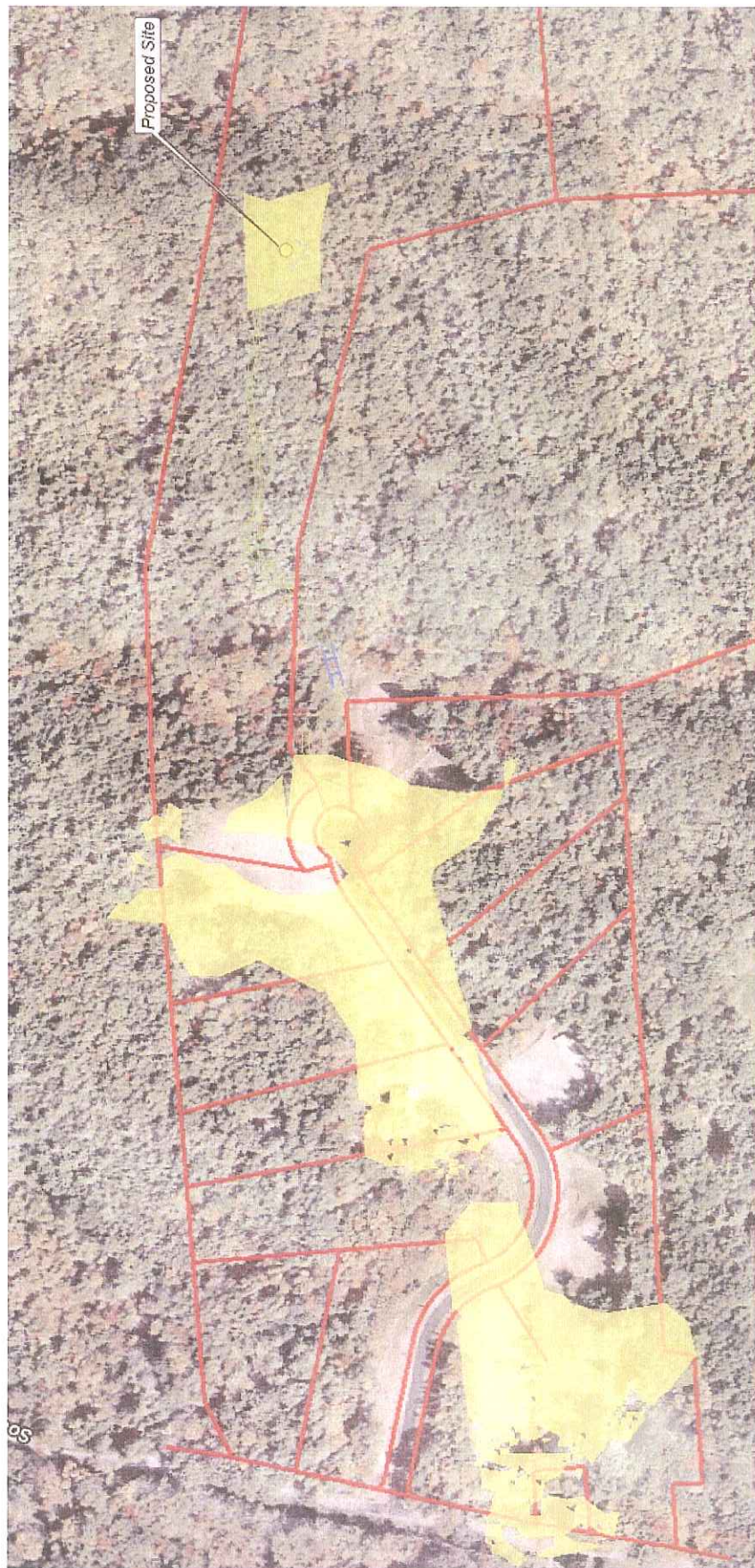
44. The cumulative worst-case maximum power density from the radio frequency emissions from the operation of all approved antennas and Verizon's proposed antennas is 41.7% of the standard for Maximum Permissible Exposure, as adopted by the FCC, at the base of the proposed tower. This calculation was based on methodology prescribed by the FCC Office of Engineering and Technology Bulletin No. 65E, Edition 97-01 (August 1997) that assumes all antennas would be pointed at the base of the tower and all channels would be operating simultaneously, which creates the highest possible power density levels. Under normal operation, the antennas would be oriented outward, directing radio frequency emissions away from the tower, thus resulting in significantly lower power density levels in areas around the tower. (Bay 1, p. 9; Council Administrative Notice 18; Cellco 2, Q. 7; Council EM-CING-092-080403; Council EM-POCKET-092-09226)

Visibility

45. The Council previously ruled that the proposed tower would not be visually obtrusive to the surrounding area. (Council Administrative Notice 18)
46. Development of the Garrett Ridge subdivision altered near-range views of the tower through the clearing of approximately 13-acres of forest to create 11 residential building lots. Six of the lots were sold and five were developed. (Bay 2, Q. 2; Tr. 1, pp. 15-16)
47. Portions of eight of the lots would have year-round views of the tower (refer to Figure 1). Views would range from the top of the tower to the upper 70 feet of the tower, depending on the viewer's orientation. (Bay 5; Tr. 1, pp. 15-18)

Cellco – Existing and Proposed Wireless Coverage

48. Cellco operates at a minimum signal level threshold of -85 dBm for in-vehicle coverage and -75 dBm for in-building coverage. Cellco intends to operate 800 MHz, 1900 MHz, and 700 MHz equipment at this site. (Cellco 1, Q. 1, Q. 2)
49. Cellco has identified an approximate 2.5-mile cellular coverage gap and an approximate 2.7 mile PCS coverage gap on Route 202 in New Hartford between existing Cellco facilities in New Hartford and Canton (refer to Figures 2 & 3). (Cellco 1, Q. 1, Q. 4)
50. Installing antennas at 160 feet agl would satisfy Cellco's PCS and cellular coverage gaps on Route 202. (refer to Figures 4 & 5). (Cellco 1, Q. 1, Q. 5)



Legend



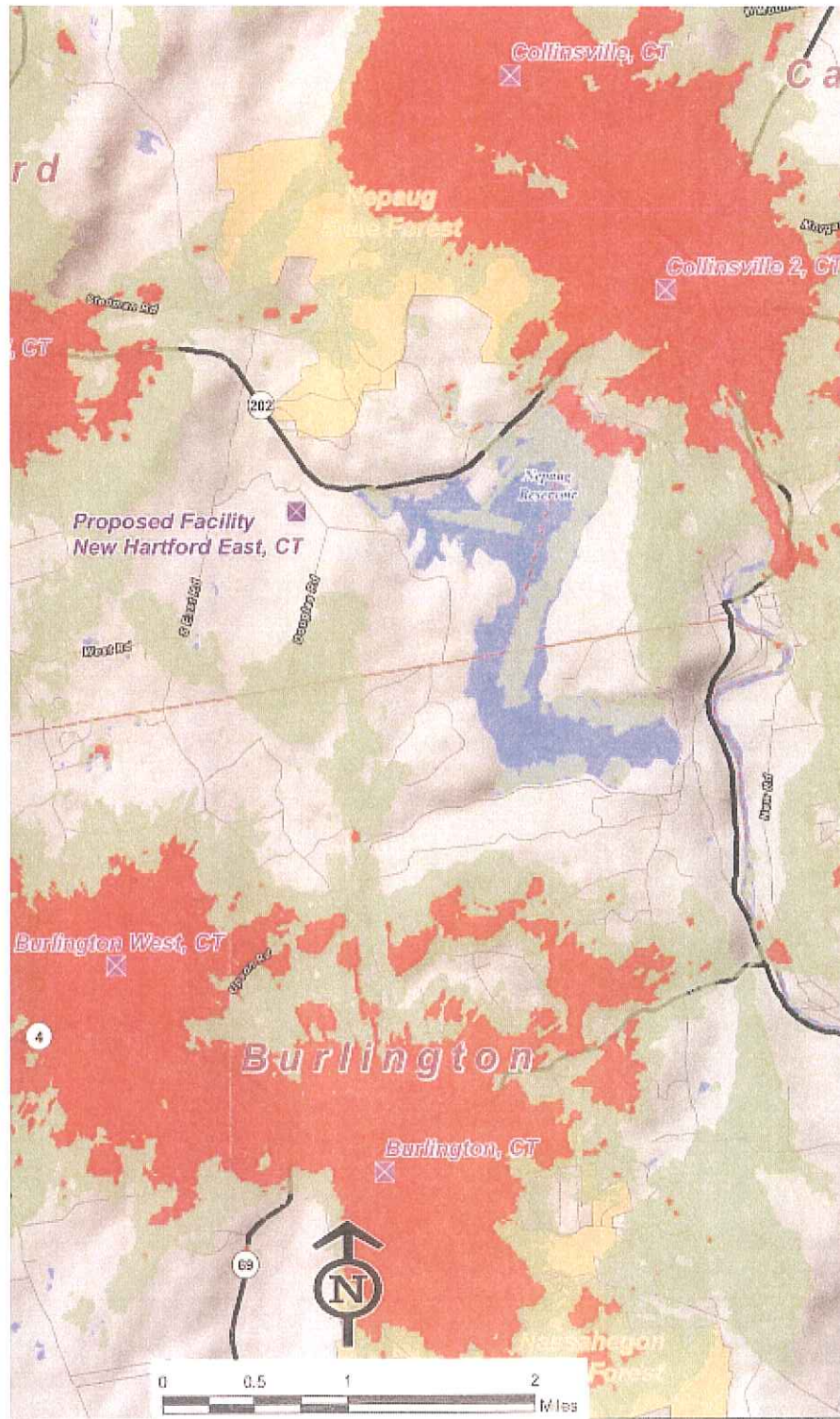
-  Proposed Site Location
-  Year-Round Visibility
-  Property Boundary
-  Proposed Water Crossing
-  Proposed Access Drive and Compound Area

FIGURE 1
NEAR RANGE VISIBILITY OF PROPOSED 160-FOOT
TOWER

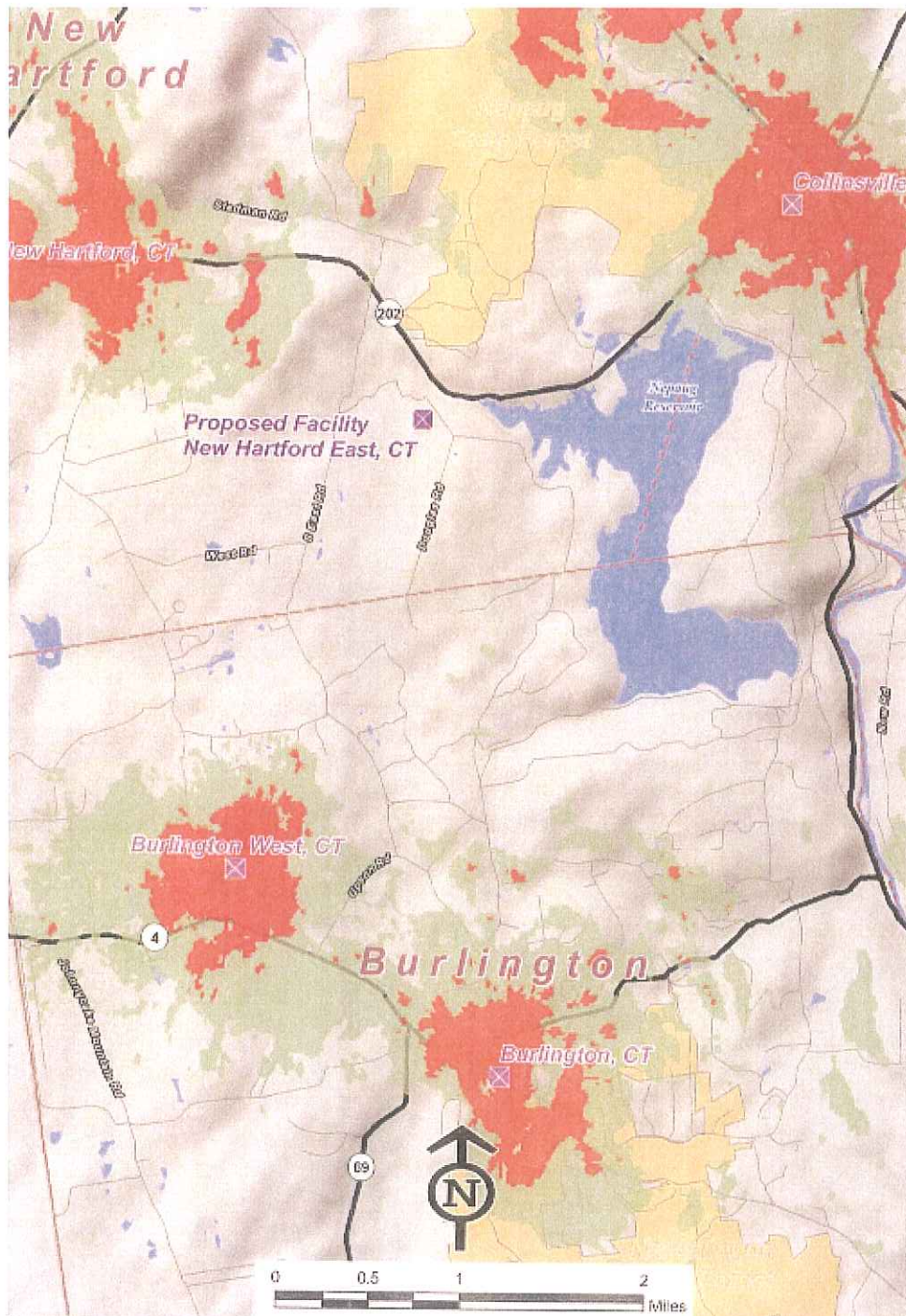
(Bay 5)

FIGURE 2
CELLCO – EXISTING CELLULAR COVERAGE



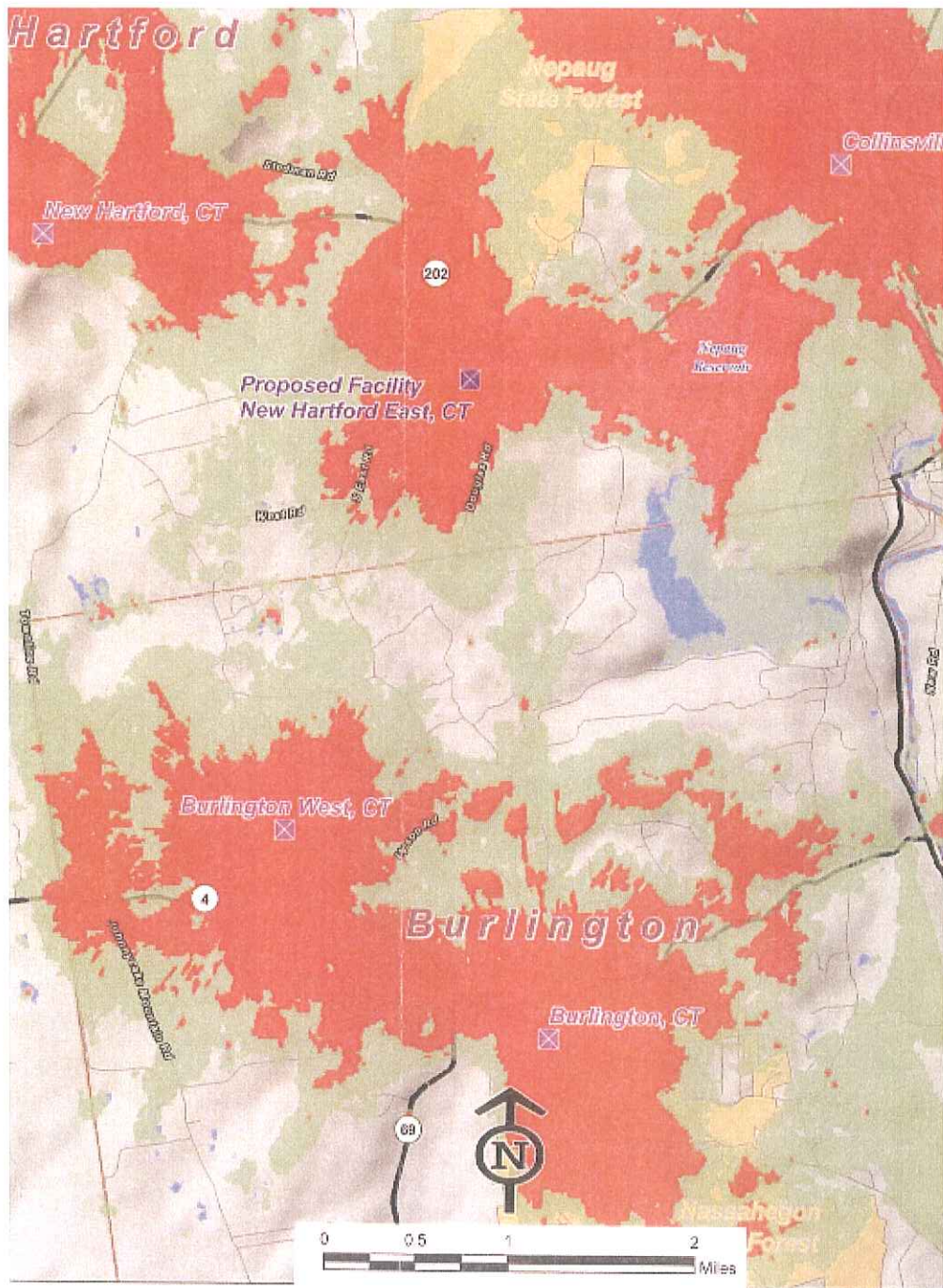
Green designation: - 76 dBm to - 85 dBm
Orange designation: - 75 dBm
(Cellco 1, Q. 4)

FIGURE 3
CELLCO – EXISTING PCS COVERAGE



Green designation: - 76 dBm to - 85 dBm
Orange designation: - 75 dBm
(Cellco 1, Q. 4)

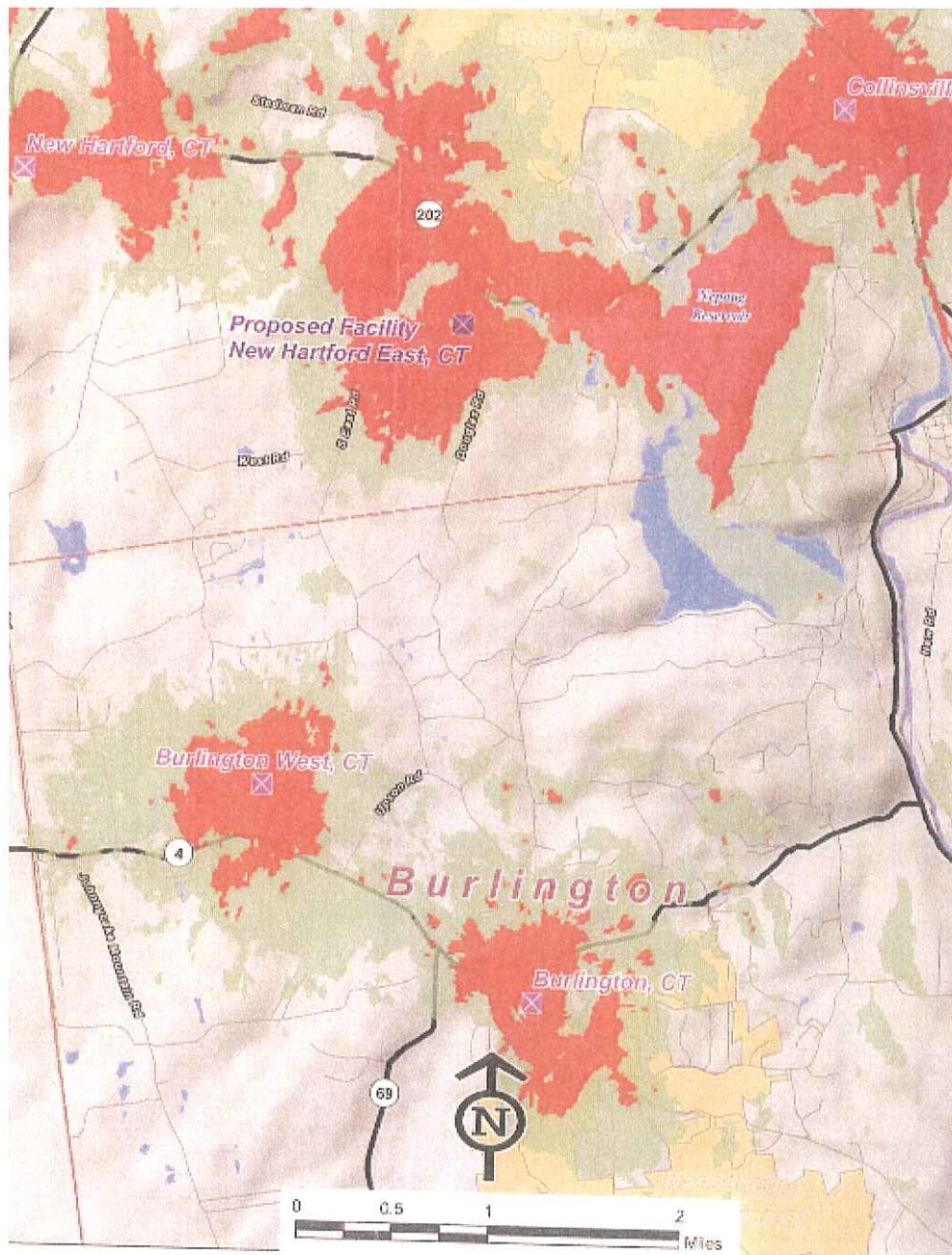
FIGURE 4
CELLCO – EXISTING AND PROPOSED CELLULAR COVERAGE



Green designation: - 76 dBm to - 85 dBm
Orange designation: - 75 dBm

(Cellco 1, Q. 5)

FIGURE 5
CELLCO – EXISTING AND PROPOSED PCS COVERAGE



Green designation: - 76 dBm to - 85 dBm
Orange designation: - 75 dBm

(Cellco I, Q. 5)

DOCKET NO. 380 - Bay Communications, LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a wireless telecommunications facility at 47 Garrett Ridge Drive, New Hartford, Connecticut. }

Connecticut

Siting

Council

July 22, 2009

Opinion

On March 17, 2009, Bay Communications, LLC (Bay) applied to the Connecticut Siting Council (Council) for the recertification of a wireless telecommunications facility originally approved at 170 Southeast Road, New Hartford, Connecticut. The Council previously approved a 150-foot monopole facility at the subject property on November 20, 2003 (Docket 251). The Council approved a petition on February 3, 2004 to increase the height of the monopole to 160 feet. The Certificate expired before the facility was constructed. Bay reapplied to the Council on March 13, 2006, and the Council re-certified the site on July 27, 2006 (Docket 314). While Bay was constructing the access road to the site, the Certificate again expired. Bay subsequently applied to the Council on March 17, 2009 for the re-certification of the same site approved in Docket 314. Due to subdivision of the site parcel, the lot of land containing the tower site was designated as 47 Garret Ridge Drive.

The tower would be utilized by Verizon, AT&T and Pocket Wireless to provide wireless service to the Route 202 corridor and surrounding areas.

The proposed tower site is located on an approximate 15-acre parcel located in the southeast portion of New Hartford. The site is just west of the Nepaug Reservoir, a drinking water supply reservoir owned by the Metropolitan District Commission (MDC). The tower would be located east of Spruce Brook, a tributary of the Nepaug Reservoir that traverses the central portion of the parcel in a south to north direction. The tower site is approximately 150 feet from the nearest property boundary and 1,200 feet from the nearest residence.

A 160-foot monopole and an associated 65-foot by 75-foot equipment compound would be constructed at the site. Access to the site would be from a 12-foot wide, 870-foot long gravel drive emanating from the end of Garrett Ridge Drive, a new subdivision road that extends from Southeast Road to immediately west of Spruce Brook. The access road, including a concrete span arch bridge over Spruce Brook, was substantially constructed as part of Docket 314. The compound area was also cleared and rough graded.

As found in the previous two dockets for this site, the environmental impact of site construction would be minimal as long as proper mitigation measures were undertaken. The primary concern was the protection of the water quality of Spruce Brook and the minimization of wetland impacts in the riparian area. These objectives were accomplished through the installation of a span arch bridge to avoid disturbance of the stream bed and to minimize disturbance to associated wetlands. During road construction, Bay satisfactorily addressed construction-related erosion issues that were raised by the MDC and Council staff, and retained an environmental inspector to perform periodic inspections of all erosion control measures.

The Council finds no other construction-related environmental impacts associated with the project. The Council notes a subdivision was created on the original 64-acre parcel west of Spruce Brook that involved extensive forest clearing and land disturbance. Additionally, two additional subdivision are proposed on the east side of Spruce Brook that could result in more environmental disturbance.

The MDC and Department of Public Health both expressed concerns over the lack of railings on the existing bridge to the tower site. The Council understands that a portion of the access road and bridge will also act as a private driveway serving the two proposed residential lots on the east side of the brook. It is unclear as to whether the town, when accepting the driveway as conforming to town standards, would require railings to be installed for public safety. If the town does not specify railings, then the Council will order that railings be installed to prevent vehicles from leaving the bridge travel surface and protect the public water supply watershed.

The Council finds no substantial changes related to projected visibility of the tower except for new, near-range views of the tower resulting from development of an 11-lot subdivision on the original parcel. Portions of eight of the subdivision lots would have year-round views of the tower, with views ranging from the top of the tower to the upper 70 feet of the tower. Six of the lots were sold and five were developed with single family residences. In order to provide some natural vegetation throughout the development, the builder made an effort to retain forest cover, particularly trees such as pine and hemlock, on a majority of the lots. This existing, mature vegetation interspersed throughout the development also serves to screen the tower from several residences.

Radio frequency power density levels at the base of the proposed tower would be well below federal and state standards. If federal or state standards change, the Council will require that the facility be brought into compliance with such standards. The Council will require remodeled power density levels in the event that other carriers locate at this facility.

Based on the record in this proceeding, we find that the effects associated with the construction, operation, and maintenance of a telecommunications facility at the proposed site, including effects on the natural environment; ecological integrity and balance; public health and safety; scenic, historic, and recreational values; forests and parks; air and water purity; and fish and wildlife are not disproportionate either alone or cumulatively with other effects when compared to need, are not in conflict with policies of the State concerning such effects, and are not sufficient reason to deny this application. Therefore, we will issue a Certificate for the construction, operation, and maintenance of a 160-foot monopole telecommunications facility at the proposed site.

DOCKET NO. 380 - Bay Communications, LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a wireless telecommunications facility at 47 Garrett Ridge Drive, New Hartford, Connecticut.	} } }	Connecticut Siting Council July 22, 2009
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Decision and Order

Pursuant to the foregoing Findings of Fact and Opinion, the Connecticut Siting Council (Council) finds that the effects associated with the construction, operation, and maintenance of a telecommunications facility, including effects on the natural environment; ecological integrity and balance; public health and safety; scenic, historic, and recreational values; forests and parks; air and water purity; and fish and wildlife are not disproportionate, either alone or cumulatively with other effects, when compared to need, are not in conflict with the policies of the State concerning such effects, and are not sufficient reason to deny the application, and therefore directs that a Certificate of Environmental Compatibility and Public Need, as provided by General Statutes § 16-50k, be issued to Bay Communications, LLC, hereinafter referred to as the Certificate Holder, for a telecommunications facility at 47 Garrett Ridge Drive, New Hartford, Connecticut.

The facility shall be constructed, operated, and maintained substantially as specified in the Council’s record in this matter, and subject to the following conditions:

1. The tower shall be constructed as a monopole, no taller than necessary to provide the proposed telecommunications services, sufficient to accommodate the antennas of Cellco Partnership d/b/a Verizon Wireless, New Cingular Wireless PCS LLC, Youghioghny Communications-Northeast LLC, Sprint Nextel and other entities, both public and private, but such tower shall not exceed a height of 160 feet above ground level. The height at the top of the antennas shall not exceed 163 feet above ground level.

2. The Certificate Holder shall abide by the Development and Management Plan approved for this site on December 18, 2006 under Docket 314, and shall include all subsequent modifications, including but not limited to the bridge details dated July 9, 2008 and the site plans contained in Attachment 15 of the Docket 380 application.

3. The Certificate Holder shall, prior to the commencement of operation, provide the Council worst-case modeling of the electromagnetic radio frequency power density of all proposed entities’ antennas at the closest point of uncontrolled access to the tower base, consistent with Federal Communications Commission, Office of Engineering and Technology, Bulletin No. 65, August 1997. The Certificate Holder shall ensure a recalculated report of the electromagnetic radio frequency power density be submitted to the Council if and when circumstances in operation cause a change in power density above the levels calculated and provided pursuant to this Decision and Order.

4. Upon the establishment of any new State or federal radio frequency standards applicable to frequencies of this facility, the facility granted herein shall be brought into compliance with such standards.

5. The Certificate Holder shall permit public or private entities to share space on the proposed tower for fair consideration, or shall provide any requesting entity with specific legal, technical, environmental, or economic reasons precluding such tower sharing.

6. The Certificate Holder shall provide reasonable space on the tower for no compensation for any Town of New Hartford public safety services (police, fire and medical services), provided such use can be accommodated and is compatible with the structural integrity of the tower.
7. Unless otherwise approved by the Council, if the facility authorized herein is not fully constructed and providing wireless services within eighteen months from the date of the mailing of the Council's Findings of Fact, Opinion, and Decision and Order (collectively called "Final Decision"), this Decision and Order shall be void, and the Certificate Holder shall dismantle the tower and remove all associated equipment or reapply for any continued or new use to the Council before any such use is made. The time between the filing and resolution of any appeals of the Council's Final Decision shall not be counted in calculating this deadline.
8. Any request for extension of the time period referred to in Condition 7 shall be filed with the Council not later than 60 days prior to the expiration date of this Certificate and shall be served on all parties and intervenors, as listed in the service list, and the Town of New Hartford. Any proposed modifications to this Decision and Order shall likewise be so served.
9. If the facility ceases to provide wireless services for a period of one year, this Decision and Order shall be void, and the Certificate Holder shall dismantle the tower and remove all associated equipment or reapply for any continued or new use to the Council before any such use is made.
10. The Certificate Holder shall remove any nonfunctioning antenna, and associated antenna mounting equipment, within 60 days of the date the antenna ceased to function.
11. The Certificate Holder shall install railings on the access road bridge to prevent vehicles from leaving the travel surface and protect public water supply watershed if the town does not specify the installation of railings as part of the subdivision approval process. Design specifications shall conform to applicable local, state and federal regulations concerning such installation and submitted to the Council.
12. In accordance with Section 16-50j-77 of the Regulations of Connecticut State Agencies, the Certificate Holder shall provide the Council with written notice two weeks prior to the commencement of site construction activities. In addition, the Certificate Holder shall provide the Council with written notice of the completion of site construction and the commencement of site operation.

Pursuant to General Statutes § 16-50p, the Council hereby directs that a copy of the Findings of Fact, Opinion, and Decision and Order be served on each person listed below, and notice of issuance shall be published in The Hartford Courant, the Republican-American, and The Register Citizen.

By this Decision and Order, the Council disposes of the legal rights, duties, and privileges of each party named or admitted to the proceeding in accordance with Section 16-50j-17 of the Regulations of Connecticut State Agencies.

The parties and intervenors to this proceeding are:

Applicant

Bay Communications, LLC

Its Representative

Thomas J. Regan, Esq.
Brown Rudnick LLP
CityPlace I, 38th Floor
185 Asylum Street
Hartford, CT 06103-3402

Intervenor



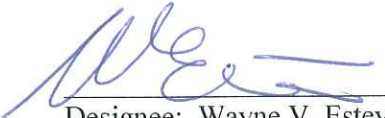
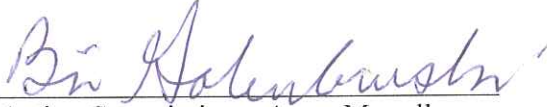
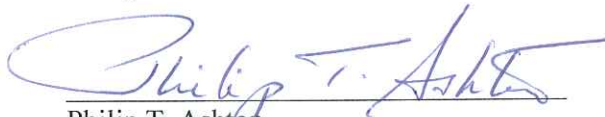
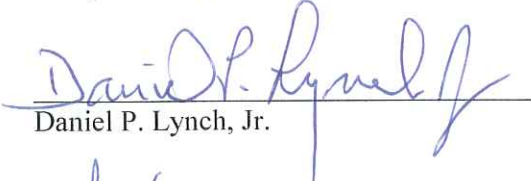

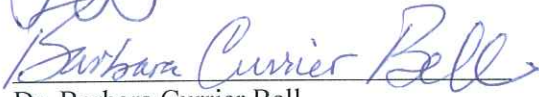

Cellco Partnership d/b/a Verizon Wireless

Its Representative

Kenneth C. Baldwin, Esq.
Robinson & Cole LLP
280 Trumbull Street
Hartford, CT 06103-3597

CERTIFICATION





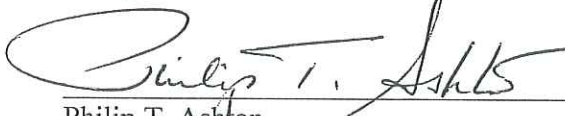
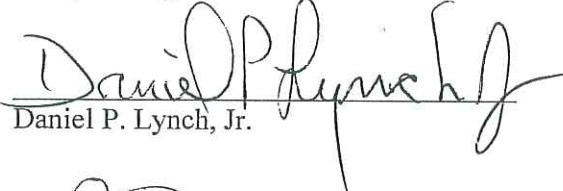
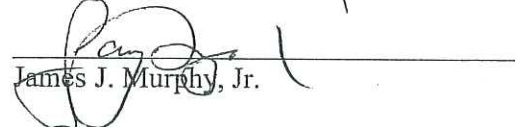

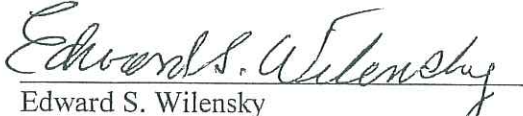
The undersigned members of the Connecticut Siting Council (Council) hereby certify that they have heard this case, or read the record thereof, in **DOCKET NO. 380** - Bay Communications, LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a wireless telecommunications facility at 47 Garrett Ridge Drive, New Hartford, Connecticut, and voted as follows to approve the proposed telecommunications facility:

<u>Council Members</u>	<u>Vote Cast</u>
 _____ Daniel F. Caruso, Chairman	Yes
 _____ Colin C. Tait, Vice Chairman	Yes
 _____ Designee: Wayne V. Estey	Abstain
 _____ Acting Commissioner Amey Marrella Designee: Brian Golembiewski	Yes
 _____ Philip T. Ashton	Yes
 _____ Daniel P. Lynch, Jr.	Abstain
 _____ James J. Murphy, Jr.	Yes
 _____ Dr. Barbara Currier Bell	Yes
 _____ Edward S. Wilensky	Absent

Dated at New Britain, Connecticut, July 22, 2009.

CERTIFICATION

The undersigned members of the Connecticut Siting Council (Council) hereby certify that they have heard this case, or read the record thereof, in **DOCKET NO. 380** - Bay Communications, LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a wireless telecommunications facility at 47 Garrett Ridge Drive, New Hartford, Connecticut, and voted as follows to approve the proposed telecommunications facility:

<u>Council Members</u>	<u>Vote Cast</u>
 Daniel F. Caruso, Chairman	Yes
 Colin C. Tait, Vice Chairman	Yes
 Commissioner Kevin M. DelGobbo Designee: Wayne V. Estey	Abstain
 Acting Commissioner Amey Marrella Designee: Brian Golembiewski	Yes
 Philip T. Ashton	Yes
 Daniel P. Lynch, Jr.	Abstain
 James J. Murphy, Jr.	Yes
 Dr. Barbara Currier Bell	Yes
 Edward S. Wilensky	Absent

Dated at New Britain, Connecticut, July 22, 2009.



STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051
Phone: (860) 827-2935 Fax: (860) 827-2950
E-Mail: siting.council@ct.gov
www.ct.gov/csc

July 28, 1009

TO: Classified/Legal Supervisor
378/380090521
The Hartford Courant
285 Broad St.
Hartford, CT 06115

Classified/Legal Supervisor
378/380090521
The Register Citizen
190 Water Street, P.O. Box 58
Torrington, CT 06790-0058

Classified/Legal Supervisor
378/380090521
Waterbury Republican
389 Meadow Street, P.O. Box 2090
Waterbury, CT 06722

FROM: Lisa A. Fontaine, Fiscal Administrative Officer

RE: **DOCKET NO. 380** - Bay Communications, LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a wireless telecommunications facility at 47 Garrett Ridge Drive, New Hartford, Connecticut.

Please publish the attached notice as soon as possible, but not on Saturday, Sunday, or a holiday.

Please send an affidavit of publication and invoice to my attention.

Thank you.

LAF



STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

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NOTICE

Pursuant to General Statutes § 16-50p (e), the Connecticut Siting Council (Council) announces that, on July 22, 2009, the Council issued Findings of Fact, an Opinion, and a Decision and Order approving an application from Bay Communications, LLC for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a wireless telecommunications facility at 47 Garrett Ridge Drive, New Hartford, Connecticut. This application record is available for public inspection in the Council's office, Ten Franklin Square, New Britain, Connecticut