

Environmental Impact Remediation Testimony

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Intervenor: Russell L. Brown

Docket #396 – Exhibit 1

Environmental Impact Remediation Proposal
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Pre-Filed Testimony
March 23, 2010

Thank you for the opportunity to present this testimony for your consideration. I propose that the Connecticut Siting Council take the necessary action to reposition the proposed cell tower Facility in Docket #396 to an alternate site at 49 Brainerd Road and thereby minimize its environmental impact and ensure that no group of people bear a disproportionate share of the negative environmental consequences resulting from governmental policies regarding the approval and installation of telecommunication towers.

I am here as a private citizen to offer a change to the proposed Application that I believe will mitigate its environmental impact and significantly minimize the negative physical impact of the proposed Facility location on the three closest abutting neighbors and the adjoining 26-acre Raven's Wood woodland recreational parcel which is owned and managed as a part of the "East Lyme and Niantic Land Conservation Trust" incorporated as a non-profit entity in 1975.

Please let me make it clear that I strongly oppose the construction of the cell tower Facility anywhere on the Samuelsen property at 49 Brainerd Road or elsewhere on Brainerd Road, as not being appropriate for this residential shoreline location. Other testimony you will hear today (and that which you have already heard at the Feb 23 Public Hearing) strongly addresses this issue. However, if the Council is still considering approving this Application for the 49 Brainerd Road location, I am proposing two options for the repositioning of the proposed Facility site to a more suitable location on the Samuelsen property relative to the various nearby residential neighbors to the north.

Although either of these options would be a relatively minor adjustment for the Applicant to make, they will substantially reduce the negative impact on the quality of life for the nearest neighbors and lessen the environmental impact of this industrial facility in our residential coastline neighborhood.

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I will first describe for you what I am specifically proposing and why I think it is an overall improved situation for all involved. Mr. John Mereen, from the firm of “Gerwick-Mereen Civil Engineering and Land Surveying” of Waterford, CT, is here today and at my request he has prepared Exhibit 2 to provide you with his evidence and analysis to show that there is less environmental impact and significantly less impact on the immediate neighboring view shed from either of the two options which I am presenting for your consideration.

Currently, the proposed cell tower Facility site on the Samuelsen property is sited nearly as close as it can legally be to the three nearest neighbors’ homes at 41, 44 and 46 Brainerd Road. I live at 41 Brainerd Road and have made it my home for almost 27-years with my wife Susan and our son, David. I am also speaking on behalf of John and Carolyn Olsen, our neighbors across the street at 44 Brainerd Road and residents for 22-years and Mrs. Nelly Abarca, a neighbor adjacent to me for 10-years and who is actually the closest at 46 Brainerd Road to the Samuelsen property at 49 Brainerd Road and the proposed Facility site. Mrs. Abarca and her family will clearly bear the brunt of the tower’s overwhelming presence just 240-feet from her property line and 376-feet from her home (as described in the Application). Mrs. Abarca is a naturalized citizen who is bewildered by this process but trusts in the government to protect everyone’s interests, including those of the innocent neighbors. She tells me she does not understand why the tower has to be so close to her home when 49 Brainerd Road has 51-acres on which to site the Facility.

Mrs. Abarca feels that the tower will appear to hang right over her home where she is raising her two school-age children and trying to build financial equity in her property. She believes she will lose most if not all of the equity already in her property that she has gained over the last ten years through devaluation of its eventual selling price due solely to this relatively enormous industrial facility placed so close to her. In fact, the 5,625 square-foot footprint of the cell tower Facility’s concrete slab and equipment sheds will dwarf the 1,500 square-foot footprint of her home by almost 4 times its size.

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Not only will this Facility be an overwhelming presence just 240-feet from the Abarca property line but my analysis of the 23 most recent pending and approved cell tower applications that have come before the Siting Council, shows that this Facility, if approved as proposed, will be one of the closest off-site residentially occupied properties in Connecticut. **Attachment A** to this Exhibit provides the data I have extracted from the “Finding of Fact” and “Pending Docket” information at the Connecticut Siting Council website for cell tower applications going back to an approval date of September 11, 2008. My analysis of the data involved 23 various Dockets taken in the order of newest to oldest and shows that relative to Mrs. Abarca’s home at 46 Brainerd Road the proposed tower height will be 21% higher and 95% closer than the average Facility installation. I and my neighbors want to mitigate this disparity.

I would like to believe that our neighbor Mr. Samuelsen had little to say about this positioning of the Facility on his property and instead, it seems that the Applicant chose the most opportune location to minimize the Facility installation cost without consideration of the impact on the neighbors or the nearby recreational Raven’s Wood Land Conservation Trust. Whatever the case, this situation is just not fair to the three nearest homeowners who receive no benefit at all from the proposed Facility and will bear an unfair burden of its negative consequences. This tower will be a very visible four-season industrial presence to the three nearby homes with a tower height of 17-stories (that’s 3 times the height of the average 55-foot tree line). As a point of comparison, the maximum height in any area in Niantic apart from this proposed tower, is a single four-story building dating back to the 1800’s, located on Main Street in the center of the village of Niantic. I do not believe that a cell tower fits with the town character anywhere on Brainerd Road and certainly not in the site location that has been proposed for it.

The other major concern I have is that the proposed gravel access road to the Facility is diagonally across the 12-foot wide paved roadway and south by about 50-feet from the entrance/exit to Raven’s Wood that consists of 26 acres of well-maintained and frequently used hiking and bicycling trails. This pristine shoreline recreational area has been donated and set

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aside for public use and its trails and paths wend their way through a forest of evergreens, Mountain Laurel, and hardwood forest between Brainerd Road and the Giant's Neck Beach section of Niantic. Not only will the Raven's Wood users be subjected to the visual impact of the actual tower, the substantial industrial ground equipment and the 25-foot right-of-way, including an unnatural 12-foot wide gravel access road, but also to the noise of air conditioning compressors during the warm weather months and the several emergency electric generators' weekly testing.

I believe there is a much more appropriate solution that I respectfully request be considered if the Siting Council sees fit to otherwise approve this Application. This entails the selection of one of my two proposed repositioned sites for the Facility on the Samuelsen property.

Option 1:

Reposition the proposed cell tower Facility to a new site approximately 500-feet to the south of the Applicant's currently proposed location. This is my preferred repositioning option and would eliminate any view or noise impact of the Facility on the abutting neighbors at 41, 44 and 46 Brainerd Road and may well significantly decrease any negative property value impact by its otherwise close proximity. Additionally, the Raven's Wood trailhead will be similarly removed from the visual and noise impact of this proposed repositioned location. Mr. Mereen's Sight Line Analysis of Option 1 [Exhibit 2 – Attachment C] shows the sight line impacts for the nearest residents and he has determined that it will have somewhat of an adverse affect on the view shed of our neighbors on Marshfield Road, although possibly a fair adjustment in my estimation. For example, the Sight Line Analysis shows that with Option 1, 39 Marshfield Road will have a 58-foot higher visual impact (from the Applicant's proposed site location), using a tower height of 180-feet to account for terrain height differences, while Mrs. Abarca's home at 46 Brainerd Road will have an 81-foot lower visual impact. However, the actual distance of the Facility from each of the two locations will be a much more equitable 902-foot distance for 46 Brainerd Road and 920-feet for 39 Marshfield Road.

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Although I and Mr. Mereen believe the visual impact from the southern water area looking north will be negligible due to the intervening effects of the terrain with either of these two locations on the Samuelsen property (the Applicant's proposed site and Option 1), although this may still be a concern for the Council and accordingly I offer Option 2 as an alternate solution.

Option 2:

Reposition the proposed cell tower Facility to a new site approximately 144-feet to the south of the Applicant's proposed location. I believe this is a reasonable repositioning compromise proposal to minimize the negative view shed impact for other property owners to the west and also to eliminate any possible new view shed impacts from the adjacent seawaters. At the same time, the abutting property owners at 41, 44 and 46 Brainerd Road and Raven's Wood will have the impact of the Facility's placement lessened to a more reasonable extent. For example, using the same locations described previously in Option 1, in Option 2 the closest home, Mrs. Abarca's at 46 Brainerd Road, has a 55-foot lower visual impact while 39 Marshfield Road has only a 15-foot higher visual impact. But, the Facility distance from the properties is no longer equitable with the Facility being only 546-feet from 46 Brainerd Road and 1184-feet from 39 Marshfield Road. The Raven's Wood trailhead visual and noise impact will also be substantially decreased by moving the Facility 144-feet south from the Applicant's proposed site.

Option 2 also offers the advantage of a shorter access road and fewer trees that need to be removed. There is an existing electric power pole in close proximity (within 25-feet) of this new location. The Facility can also be more naturally screened to the south and west through use of the existing mature pine tree stand at that location. Overall, this may not be the most equitable repositioning of the Facility for the northerly neighbors at 41, 44 and 46 Brainerd Road but it may be the most practical for the situation.

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Either option seems to benefit all parties in a more fair and equitable manner as follows:

1. Mr. Samuelsen keeps the Facility on his property in a repositioned location and still receives the land-lease funds, and
2. The cell phone companies and the Applicant can build the Facility they need to improve the service to their customers with essentially no change in the RF propagation patterns [Feb 23, 2010 Transcript: Page 67, Lines 1-10], and
3. The users of the Raven's Wood Public Land Trust do not have to be confronted by the facility noise or be exposed to an unsightly gravel road cut into the forest as they enter or exit the existing nature trails, and
4. The Facility can be repositioned at either of the two options without any impact on wetlands [Feb 23, 2010 Transcript: Page 52, Lines 1-21] and with Option 2, very minimal negative impact on the view shed from vantage points away from the three closest affected neighbors [Feb 23, 2010 Transcript: Pages 20-21 – Lines 1-5 and 6-24, respectively], and
5. The physical environment for Option 2 is least impacted with fewer cut trees and less vegetation removal, including vulnerable Mountain Laurel stands (our state flower that was not mentioned as impacted vegetation in the Application), and
6. The adjoining property owners at 41, 44 and 46 Brainerd Road receive some relief from this unfair and uncompensated intrusion into their outdoor living space and the likely resulting property devaluation.

In fact, as testified to by Mr. Lacasse during the February 23, 2010 evidentiary hearing, the Applicant has already discussed the possibility of a 500-foot southerly move of the Facility location with Mr. Samuelsen and he has agreed to that repositioning if requested by the Council [Feb 23, 2010 Transcript: Page 60 – Lines 4-9]. Presumably then, he would also agree to Option 2 that entails a lesser move of 144-feet.

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Additionally, Mr. Libertine testified as to his opinion of whether the RF Propagation Patterns included in the Application would suffice for a repositioned Facility 500-feet to the south (my Option 1) and he answered “yes” with the caveat that the tower may need to be heightened by anywhere from 0-feet to 20-feet to account for the approximately 10-feet of terrain drop at the Option 1 site [Feb 23, 2010 Transcript: Page 30, Line 23 through Page 33, Line 9]. Presumably, this would also be true for a southerly move of the Facility by 144-feet (Option 2) but without the need for an increase in tower height because the terrain height remains essentially the same.

I am requesting the Siting Council to conclude that for the greater good it is reasonable and logical that if another Facility location substantially away from Brainerd Road and the shoreline cannot be found, then a repositioning of this proposed tower on the Samuelsen land to one of the two Options south of the Applicant’s proposed location is a better alternative. This will be a relatively small move along a north-south line which stretches an additional 1450-feet from the currently proposed location to the Samuelsen property line with Amtrak, but it will make a huge difference to the neighbors who are otherwise being asked to live literally in the shadow of this industrial intrusion into their residential neighborhood potentially for up to 55 years (the basic 5-year Lease term plus 10 five-year options as stated in the Application).

As I said previously and want to emphasize again, I believe this Facility is not an appropriate addition to Brainerd Road that has a narrow non-conforming width and no outlet or vehicle turnaround capability. The road is truly a quiet woodlands lane prized for its serenity and natural beauty by its residents and the users of the Public Land Trust hiking trails. To mar the beauty of this setting with an industrial installation will truly be a regrettable choice. But, if the Council through its deliberations sees fit to approve this Application, then it is also in the Council’s power to create a better situation for those most directly involved by choosing one of the two repositioning options I have identified in this testimony. In fact, I have noted that in more than one of the past Dockets the Siting Council has indeed used its discretionary authority to require a repositioning of a Facility on the property for which it was proposed.

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I have prepared a 3-part visual simulation of the Applicant's proposed Facility at 49 Brainerd Road that includes my two repositioning options as **Attachment B** to this Exhibit 1:

- The first visual overview labeled "Exhibit 1 - Attachment B1" depicts the three closest residential abutting properties, the Applicant's proposed Facility site and my two Facility repositioning options.
- The second visual labeled "Exhibit 1 - Attachment B2" depicts a wider view of the area and brings into the picture the relative distance of the three other closest neighbors to the west and east most affected by my proposed repositioning of the Facility.
- The third visual overview labeled "Exhibit 1 - Attachment B3" depicts a much wider view of the area to allow a view of the littoral waters around the Brainerd Road Facility locations.

In conclusion, I respectfully request your careful consideration and approval of one of my proposed repositioning options on the Samuelsen land. I especially call your attention to the National Environmental Justice Advisory Council (NEJAC) in accordance with the requirements of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. § 9 (c). This EPA Environmental Justice requirement states in part:

"Environmental Justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment means that no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies."

Again, thank you for the opportunity to address the Council and to present my evidence for a remedial action to the Applicant's proposed positioning of the Facility.

Russell L. Brown, BSEE/MBA

Mr. Brown's biography is included as **Attachment C** to this Exhibit

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Nearest Off-Site Residence Analysis

Exhibit 1 Attachment A

Data Taken From the Siting Council's Online "Decision and Order List" and "Pending Dockets"

Docket	Location	Zoning	New Gravel Access Road	Tower Height	Nearest Off-Site Residence	Notes
400	Willington	R-80	1100'	100'	780'	(if approved as proposed)
399	Stonington	R-80	350'	120'	427'	(if approved as proposed)
397	Woodstock	Town District	345'	130'	300'	(if approved as proposed)
396	Niantic	R-40	155'	170'	376'	(if approved as proposed)
387	Barkhamstead	RA-2	1700'	170'	2600'	Approved
386	Branford	R-3	120'	125'	360'	Approved
384	North Haven	IG-80	440'	120'	696'	Approved
383	Southbury	R-80	87'	150'	430'	(if approved as proposed)
382	Shelton	R-1	1680'	130'	528'	Approved
381	Lyme	RU-80	1833'	180'	1320'	Approved
380	New Hartford	R-40	870'	160'	1200'	Approved
379	Bloomfield	R-30	50'	130'	460'	Approved

Data Taken From the Siting Council's Online "Decision and Order List" and "Pending Dockets"

Docket	Location	Zoning	New Gravel Access Road	Tower Height	Nearest Off-Site Residence	Notes
376	Newtown	R-2	360'	150'	542'	Approved
375	Woodbury	OS-100	135'	150'	670'	Approved
374	Farmington	R-40	580'	110'	750'	Approved – to be disguised as a pine tree
373	Avon	R-30	0'	110'	238'	Approved – on church grounds w/exterior flush – mount antennas
369	Woodstock	Town District	220'	140'	>1000'	Approved
368	Plainfield	RA-60	870'	160'	770'	Approved
366	Danbury	RA-40	175'	140'	142'	Approved – on church grounds w/exterior flush – mount antennas
365	Norwich	R-20	363'	120'	200'	Approved
363	Madison	RU-2	50'	150'	742'	Approved
362	Putnam	AG-2	1195'	150'	510'	Approved
361	Winchester	RU-2	1268'	150'	1850'	Approved, Sept 11, 2008
Averages	5 (22%) are shoreline communities	87% in residential zones	606'	140'	734'	

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Facility Repositioning Options (Graphic Depictions)

Exhibit 1 Attachment B

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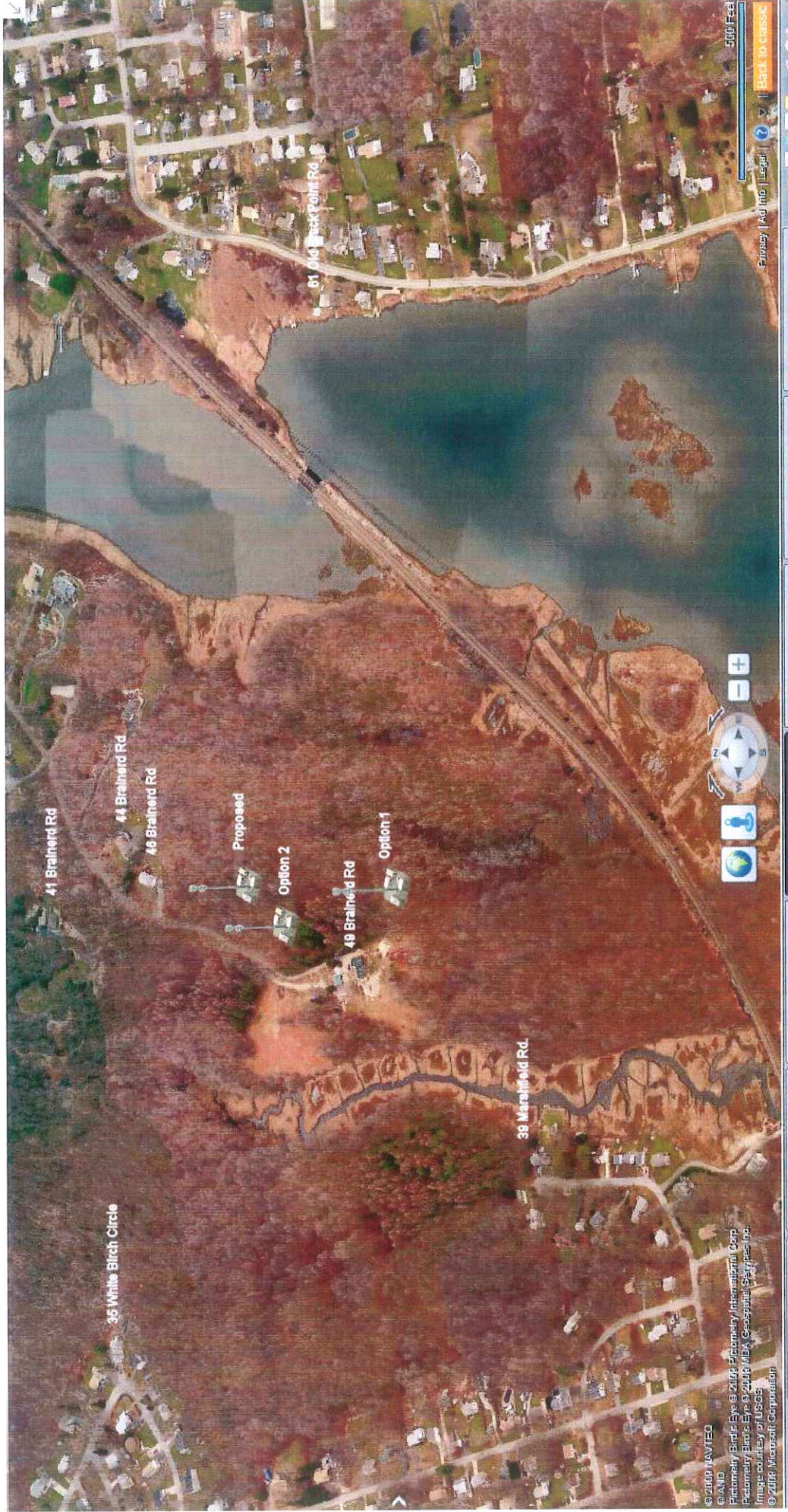


Scale: 1 inch ~ 200 feet

For Illustration Purposes Only

Exhibit 1 – Attachment B1

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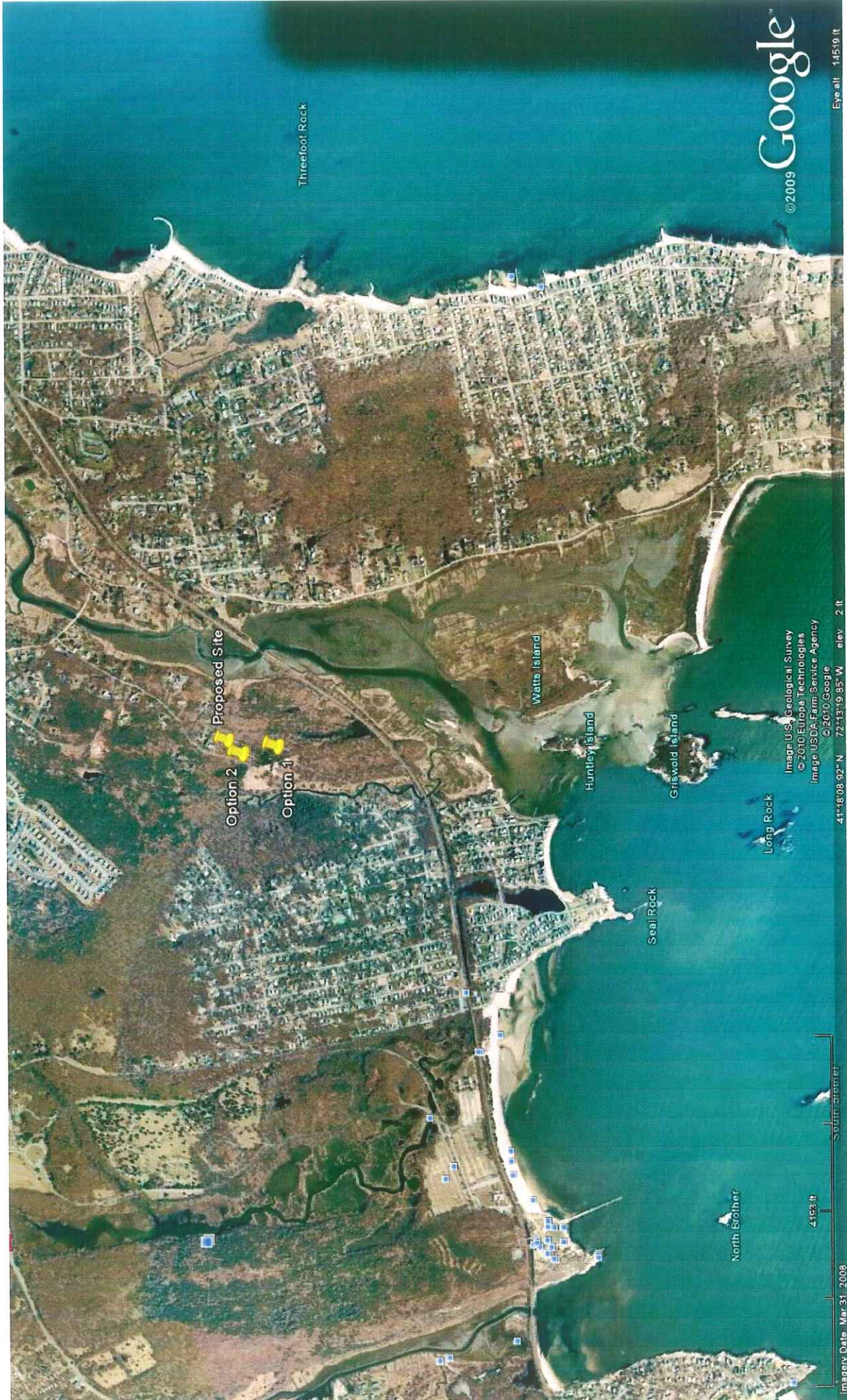


Scale: 1 inch ~ 400 feet

For Illustration Purposes Only

Exhibit 1 – Attachment B2

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Scale: 1 inch ~ 2100 feet

For Illustration Purposes Only

Exhibit 1 – Attachment B3

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Biography of Russell L. Brown

Exhibit 1 Attachment C

Biography of Russell L. Brown

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Mr. Russell L. Brown has been a business broker, consultant and author for the past 14 years and has been directly or indirectly involved in all aspects of the buying, selling, brokering, and appraisal of hundreds of existing companies. He has been widely sought as an expert consultant and lecturer on these subjects. He has authored two commercially successful books and a trademarked software program (BizPricer®) related to business valuation.

Mr. Brown's broad-based professional experience includes extensive senior business management tasks, corporate and federal government management assignments, manufacturing business ownership and commercial real estate development and management. He was also the co-founder and Board Chairman of various non-profit organizations such as "Technology for Connecticut, Inc." (TECHCONN) and the Small Business Administration's "Defense Economic Transition Assistance Center." These organizations were formed to assist economic development initiatives in Connecticut and received over \$3 million in federal and state funding during a period of economic downturn in Connecticut during the mid-1990s.

Mr. Brown retired in 1996 from the Department of the Navy's R&D Laboratory, the Naval Undersea Warfare Center, Newport, RI as a senior supervisory electrical engineer and a five-year Head of the Engineering Technology Department in which he was serving upon his retirement. During his 25 years as an electrical engineer, Mr. Brown worked with and managed many different technologies including the development of various electromagnetic radiating systems as well as submarine mounted RF antenna systems, onboard acoustic simulators and numerical modeling.

As Head of the Engineering Technology Department he was responsible for 275 scientists, electronics/electrical engineers, computer engineers, technicians and support staff with expertise in large-scale numerical modeling and analysis, micro-electronics, structural analysis, stereo lithography, antenna and array modeling and design and manufacturing/fabrication technologies.

MAJOR TECHNICAL ACCOMPLISHMENTS:

Dual Use & Technology Transfer program: to advance the focus on technologies with both military and commercial applications for purposes of enhancing U.S. economic growth. Under this program, he spearheaded an Electric Vehicle research and development initiative and established a collaborative project with the Connecticut Municipal Electric Energy Cooperative (CMEEC) to further the development of electric vehicles as a viable means of alternative energy transportation. As a result of this development program and his hands-on approach he was awarded a US Patent for an Electric Vehicle Monitoring System.

Founder and Board Chairman: TECHCONN, Technology for Connecticut, Inc., a grassroots private non-profit (501(c)(3) corporation formed by volunteers from business, universities, government, service organizations and consulting firms was created in response to a downturn in the regional economy due to decreased defense spending during the mid-1990's.

