

DOCKET NO. 412 – SBA Towers III and New Cingular } Connecticut
Wireless PCS, LLC application for a Certificate of Environmental }
Compatibility and Public Need for the construction, maintenance } Siting
and management of a telecommunications facility located at }
Wewaka Brook Road, Bridgewater, Connecticut. } Council

January 5, 2012

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, maintenance, and management 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 SBA Towers III (SBA), hereinafter referred to as the Certificate Holder, for a telecommunications facility at the proposed site, located at Wewaka Brook Road, Bridgewater, Connecticut.

Unless otherwise approved by the Council, 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 New Cingular Wireless PCS, LLC (AT&T) and other entities, both public and private, but such tower shall not exceed a height of 170 feet above ground level. The height at the top of AT&T's antennas shall not exceed 170 feet above ground level.
2. The Certificate Holder shall prepare a Development and Management (D&M) Plan for this site in compliance with Sections 16-50j-75 through 16-50j-77 of the Regulations of Connecticut State Agencies. The D&M Plan shall be served on the Town of Bridgewater for comment, and all parties and intervenors as listed in the service list, and submitted to and approved by the Council prior to the commencement of facility construction and shall include:
 - a) a final site plan(s) of site development to include specifications for the tower, tower foundation, antennas, equipment compound, radio equipment, access road, utility line, and landscaping; and
 - b) construction plans for site clearing, grading, landscaping, water drainage, and erosion and sedimentation controls consistent with the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control, as amended.
3. The Certificate Holder shall follow the protective measures for inland wetland resources specified on page 11 of the November 11, 2010 report by VHB, Inc. to the extent feasible:
 - a) An extensive erosion and sedimentation control plan should be developed in accordance with the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control to properly protect these vernal pools and the wildlife with them, particularly amphibians. Silt fencing will act as an exclusion to amphibians from active construction areas and avoid amphibian mortality associated with construction equipment traffic.

- b) A thorough cover search of the construction area should be performed by a properly qualified professional for amphibians prior to and following the installation of silt fencing to remove amphibians from the work zone prior to the initiation of construction activities.
 - c) A properly qualified professional independent of the site contractor should monitor the installation and maintenance of erosion and sedimentation controls throughout the construction project and perform periodic sweeps for amphibians to ensure that nearby wetlands are protected and amphibians are not trapped within the construction zone of the project.
 - d) Construction of the wireless telecommunications facility should be seasonally restricted from occurring between March 1 and May 15 to avoid construction activities and potential disturbance during the peak amphibian migration and breeding period. Access drive construction activities located more than 750 feet from the vernal pools need not be seasonally restricted from this period, excepting in-stream work associated with the bridge replacement previously described.
 - e) Any ruts or artificial depressions that could hold water created unintentionally by site clearing/construction activities should be properly filled in and permanently stabilized with vegetation to avoid the creation of decoy pools that could intercept amphibians moving towards the vernal pools.
 - f) The use of herbicides and pesticides at the proposed wireless telecommunications facility and along the proposed access drive should be restricted.
4. Prior to the commencement of operation, the Certificate Holder shall 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.
 5. 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.
 6. 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.
 7. The Certificate Holder shall provide reasonable space on the tower for no compensation for any Town of Bridgewater public safety services (police, fire and medical services), provided such use can be accommodated and is compatible with the structural integrity of the tower.

8. Unless otherwise approved by the Council, if the facility authorized herein is not fully constructed with at least one fully operational wireless telecommunications carrier providing wireless service 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. Authority to monitor and modify this schedule, as necessary, is delegated to the Executive Director. The Certificate Holder shall provide written notice to the Executive Director of any schedule changes as soon as is practicable.
9. Any request for extension of the time period referred to in Condition 8 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 Bridgewater. Any proposed modifications to this Decision and Order shall likewise be so served.
10. 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.
11. Any nonfunctioning antenna and associated antenna mounting equipment on this facility shall be removed within 60 days of the date the antenna ceased to function.
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.
13. The Certificate Holder shall remit timely payments associated with annual assessments and invoices submitted by the Council for expenses attributable to the facility under Conn. Gen. Stat. §16-50v.
14. This Certificate may be transferred in accordance with Conn. Gen. Stat. §16-50k(b), provided both the Certificate Holder/transferor and the transferee are current with payments to the Council for their respective annual assessments and invoices under Conn. Gen. Stat. §16-50v. In addition, both the Certificate Holder/transferor and the transferee shall provide the Council a written agreement as to the entity responsible for any quarterly assessment charges under Conn. Gen. Stat. §16-50v(b)(2) that may be associated with this facility.
15. The Certificate Holder shall maintain the facility and associated equipment, including but not limited to, the tower, tower foundation, antennas, equipment compound, radio equipment, access road, utility line and landscaping in a reasonable physical and operational condition that is consistent with this Decision and Order and a Development and Management Plan to be approved by the Council.
16. If the Certificate Holder is a wholly-owned subsidiary of a corporation or other entity and is sold/transferred to another corporation or other entity, the Council shall be notified of such sale and/or transfer and of any change in contact information for the individual or representative responsible for management and operations of the Certificate Holder within 30 days of the sale and/or transfer.

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 Housatonic Times, The Spectrum, and Danbury News Times.

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

SBA Towers III and
New Cingular Wireless PCS, LLC

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Intervenor

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