

STATE OF CONNECTICUT

SITING COUNCIL

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NORTH ATLANTIC TOWERS, LLC * MARCH 6, 2012
AND NEW CINGULAR WIRELESS, PCS LLC * (1:10 p.m.)

APPLICATION FOR A CERTIFICATE OF *
ENVIRONMENTAL COMPATIBILITY AND *
PUBLIC NEED FOR THE CONSTRUCTION, * DOCKET NO. 422
MAINTENANCE AND OPERATION OF A *
TELECOMMUNICATIONS FACILITY *
LOCATED AT 655 BASSETT ROAD *
WATERTOWN, CONNECTICUT *
* * * * *

BEFORE: ROBIN STEIN, CHAIRMAN

BOARD MEMBERS: Colin C. Tait, Vice Chairman
Brian Golembiewski, DEP Designee
Daniel P. Lynch, Jr.
Philip T. Ashton
James J. Murphy, Jr.
Dr. Barbara Currier Bell

STAFF MEMBERS: Linda Roberts, Executive Director
David Martin, Siting Analyst
Melanie Bachman, Staff Attorney

APPEARANCES:

FOR THE APPLICANTS, NORTH ATLANTIC TOWERS, LLC
AND NEW CINGULAR WIRELESS PCS, LLC:

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BY: LUCIA CHIOCCHIO, ATTORNEY
CHRISTOPHER B. FISHER, ESQUIRE

FOR THE PARTY, THE TOWN OF WATERTOWN:

SLAVIN, STAUFFACHER & SCOTT, LLC
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FOR THE INTERVENOR, ROBERT AND CATHLEEN ALEX:

Robert and Cathleen Alex (Pro Se)
435 Bassett Road
Watertown, Connecticut 06795

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1 . . .Verbatim proceedings of a hearing
2 before the State of Connecticut Siting Council in the
3 matter of an application by North Atlantic Towers, LLC,
4 and New Cingular Wireless PCS, LLC, held at the offices
5 of the Connecticut Siting Council, Ten Franklin Square,
6 New Britain, Connecticut, on March 6, 2012 at 1:10 p.m.,
7 at which time the parties were represented as
8 hereinbefore set forth . . .

9
10
11 CHAIRMAN ROBIN STEIN: I'd like to call
12 the meeting of the Connecticut Siting Council to order on
13 Docket 422 today, Tuesday, March 6th, at approximately
14 1:10 p.m.

15 My name is Robin Stein. I'm Chairman of
16 the Siting Council.

17 This hearing is a continuation of the
18 hearing that was opened on October 27, 2011 in Watertown.
19 It is held pursuant to the provisions of Title 6 of the
20 Connecticut General Statutes and of the Uniform
21 Administrative Procedure Act upon the application from
22 North Atlantic Towers LLC and New Cingular Wireless PCS,
23 LLC for a Certificate of Environmental Compatibility and
24 Public Need for the construction, maintenance, and

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1 management of a telecommunications facility located at
2 655 Bassett Road in Watertown, Connecticut. This
3 application was received by the Council on August 8,
4 2011.

5 A verbatim transcript will be made of this
6 hearing and deposited with the Town Clerk's Office in
7 Watertown and Thomaston Town Hall for the convenience of
8 the public.

9 We will proceed in accordance with the
10 prepared agenda, copies of which -- I guess everybody has
11 -- yeah, copies are on the table.

12 And I guess first we have a motion. The
13 Applicant objects to the admission of exhibits of the
14 Intervenors Robert and Cathleen Alex. Attorney Bachman
15 may wish to comment. Attorney Bachman.

16 MS. MELANIE BACHMAN: Thank you, Mr.
17 Chairman.

18 On Friday, March 2nd, the Applicant filed
19 an objection to documents filed by the Intervenors Mr.
20 and Mrs. Alex because the documents relate to the health
21 effects of radio frequency emissions, which this Council
22 is preempted from taking into consideration as long as
23 the emissions are in compliance with the FCC standard.

24 Staff would recommend that the objection

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1 be denied and the documents be admitted into the record
2 for what they're worth.

3 MR. PHILIP T. ASHTON: So moved.

4 CHAIRMAN STEIN: I have a motion. Do I
5 have a second?

6 DR. BARBARA C. BELL: Second.

7 CHAIRMAN STEIN: Any further discussion?
8 All those in favor of the motion to deny the -- to deny
9 the motion I guess or request, signify by saying aye.

10 VOICES: Aye.

11 CHAIRMAN STEIN: Opposed, abstentions?
12 Motion carries.

13 We'll now begin with the appearance of the
14 Applicant, North Atlantic Towers LLC and New Cingular
15 Wireless PCS, LLC, to swear in their new witness, Mark
16 Kiburz, from Infinigy Engineering, and verify the new
17 exhibits marked as Roman Numeral II, Item B, 10 and 12 on
18 the hearing program.

19 Attorney Bachman, could you please swear
20 in the new witness.

21 MS. BACHMAN: Please raise your right
22 hand.

23 (Whereupon, Mark Kiburz was duly sworn
24 in.)

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1 MS. BACHMAN: Thank you.

2 CHAIRMAN STEIN: Attorney Chiocchio, would
3 you please begin by verifying the new exhibits you have
4 filed in this matter and verifying the exhibits by the
5 appropriate sworn witness.

6 MS. LUCIA CHIOCCHIO: Thank you, Chairman.
7 Our exhibits as listed in the program are a Visual
8 Resource Evaluation Report, dated December 16, 2011;
9 Supplemental Information, dated December 23, 2011;
10 Responses to the Alexes' Interrogatories, dated February
11 27, 2012; a Supplemental Submission, dated February 27,
12 2012; and the Resume of Mark Kiburz.

13 I'll ask a series of questions to my
14 witnesses in order to enter these items as exhibits.
15 We'll start with Randy on your end. Randy, did you
16 prepare and assist in the preparation of the items
17 listed?

18 MR. RANDY HOWSE: Yes, I did.

19 MS. CHIOCCHIO: Mike, the same question.

20 MR. MICHAEL DOIRON: Yes, I did.

21 MS. CHIOCCHIO: Mark.

22 MR. MARK KIBURZ: Yes, I did.

23 MS. CHIOCCHIO: David.

24 MR. DAVID VIVIAN: Yes, I did.

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1 MS. CHIOCCHIO: John.

2 MR. JOHN STEVENS: Yes, I did.

3 MS. CHIOCCHIO: And John.

4 MR. JOHN FAVREAU: Yes, I did.

5 MS. CHIOCCHIO: Do you have any
6 corrections or updates to the information contained in
7 the exhibits identified? Randy.

8 MR. HOWSE: No, I don't.

9 MS. CHIOCCHIO: Mike.

10 MR. DOIRON: No, I don't.

11 MR. KIBURZ: No, I don't.

12 MS. CHIOCCHIO: David.

13 MR. VIVIAN: No.

14 MS. CHIOCCHIO: John.

15 MR. STEVENS: No, I didn't.

16 MS. CHIOCCHIO: John Favreau.

17 MR. FAVREAU: And no, I don't.

18 MS. CHIOCCHIO: Is the information
19 contained in the exhibits true and accurate to the best
20 of your knowledge?

21 MR. HOWSE: Yes, it is.

22 MR. DOIRON: Yes, it is.

23 MR. KIBURZ: Yes, it is.

24 MR. VIVIAN: Yes, it is.

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1 MR. STEVENS: Yes, it is.

2 MR. FAVREAU: Yes, it is.

3 MS. CHIOCCHIO: And do you adopt this as
4 your testimony in this proceeding?

5 MR. HOWSE: I do.

6 MR. DOIRON: Yes, I do.

7 MR. KIBURZ: Yes, I do.

8 MR. VIVIAN: Yes, I do.

9 MR. STEVENS: Yes, I do.

10 MR. FAVREAU: Yes, I do.

11 MS. CHIOCCHIO: We'd ask that the Council
12 accept these items as full exhibits.

13 CHAIRMAN STEIN: Thank you. Does either
14 the party or intervenor object to the admission of the
15 Applicant's new exhibits?

16 MR. PAUL W. JESSELL: No objection.

17 MR. ROBERT ALEX: No objection.

18 CHAIRMAN STEIN: Thank you. Then the
19 exhibits are admitted.

20 (Whereupon, Applicant's Exhibit Nos. 10,
21 11, 12, 13, and 14 were received into evidence as full
22 exhibits.)

23 CHAIRMAN STEIN: We'll now begin cross-
24 examination by staff by Mr. Martin, because my

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1 understanding is there's been some modifications of both
2 the location and the tower itself since we were at our
3 last meeting. So we'll begin cross-examination by Mr.
4 Martin.

5 MR. DAVID MARTIN: Thank you, Mr.
6 Chairman.

7 Could you summarize for us the current
8 proposal that's on the table and how it differs from the
9 original proposal as part of the original application?

10 MS. CHIOCCHIO: We have the drawings
11 mounted on boards. It might be helpful to present it
12 that way.

13 MR. STEVENS: This is John Stevens. Let
14 me -- (pause) -- well there's been some slight site plan
15 changes. The largest change in the plan really was
16 moving the proposed tower location from the location
17 approximately here to a location approximately 200 feet
18 south of that location, more towards Bassett Road.

19 Site plan changes, we've changed some of
20 the access road, the grading on it, but the largest
21 change is moving the tower down to that location. The
22 height being a proposed 130-foot monopine. Everything
23 else relatively stays the same.

24 MR. MARTIN: Okay. So the access road is

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1 approximately 200 feet to the new location?

2 MR. STEVENS: Yes, the access road did
3 lengthen. The ground elevation from the old location
4 fell off about eight feet, ten feet.

5 MR. MARTIN: What is the ground elevation
6 at the new location?

7 COURT REPORTER: Make sure that microphone
8 is close to you.

9 MR. STEVENS: Approximately 833 feet above
10 mean sea level.

11 MR. MARTIN: And is this the proposal that
12 the SHPO evaluated when it issued its letter of no
13 effect, where they found it had no adverse effect?

14 MR. FAVREAU: Yes, it is.

15 MR. MARTIN: Okay.

16 CHAIRMAN STEIN: And just to clarify, it's
17 the third letter from SHPO, right, because there is --
18 there was -- the first letter said no effect. And there
19 was a second letter that said adverse. So this is the
20 final letter dated -- I don't know what the date is --

21 MS. CHIOCCHIO: It's --

22 CHAIRMAN STEIN: -- but I just wanted to
23 make sure that it's clear.

24 MS. CHIOCCHIO: That's correct. And it's

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1 dated January 31st.

2 CHAIRMAN STEIN: Okay.

3 MR. BRIAN GOLEMBIEWSKI: Mr. Chairman.

4 This map is in Applicant's Exhibit 13, is that correct?

5 MS. CHIOCCHIO: That's correct, in the
6 supplemental submission.

7 MR. MARTIN: Okay. Would -- the tower at
8 the lower height, the 20-foot lower height, what would
9 the power density of AT&T's proposed antenna array be?

10 MR. DOIRON: The power density would not
11 change. It would change slightly with the 10-foot
12 difference, but assuming that the tower height is 150
13 feet, the power --

14 MS. CHIOCCHIO: At 130 feet, the lower
15 height.

16 MR. DOIRON: I'm sorry. The power density
17 would change, but it still would be within the FCC
18 standards.

19 MR. MARTIN: Okay. Alright, thank you.
20 And -- and is the property owner, Mr. Gustafson, is he
21 amenable to the new location of the facility?

22 MR. HOWSE: Yes, he is.

23 MR. MARTIN: Okay. And what would the
24 overall height of the proposed monopine be with its

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1 branches in place?

2 MR. STEVENS: The overall height would be
3 approximately 135 feet.

4 MR. MARTIN: Okay. And how many
5 additional carriers would the monopine accommodate in
6 addition to AT&T?

7 MR. STEVENS: It's designed to accommodate
8 three additional antennas.

9 MR. MARTIN: Four all together?

10 MR. STEVENS: Four -- four total.

11 MR. MARTIN: Okay. And what would --
12 could you summarize the visibility of the monopine at its
13 new location from the berry farm?

14 MR. FAVREAU: The visibility from the
15 perimeter of the actual berry farm itself -- the new 130-
16 foot height is not anticipated to be visible from the
17 perimeter of the berry farm itself.

18 MR. MARTIN: Okay. What do you mean by
19 the perimeter?

20 MR. FAVREAU: The actual -- the property
21 lines.

22 MR. MARTIN: Okay. How about from the
23 entrance road?

24 MR. FAVREAU: The entrance road, I believe

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1 -- from the actual entrance road to the berry farm or at
2 the entrance, the road entrance?

3 MR. MARTIN: The entrance to the property,
4 the Alexes' property.

5 MR. FAVREAU: From Bassett Road --

6 MR. MARTIN: Yeah --

7 MR. FAVREAU: -- itself?

8 MR. MARTIN: Right.

9 MR. FAVREAU: Approximately 10 to 20 feet
10 of the actual tower top or tree top would be visible.

11 MR. MARTIN: And how about from those
12 areas where the actual berry bushes are, where the
13 customers would come to pick berries?

14 MR. FAVREAU: From the blueberry fields
15 themselves no visibility is anticipated at all. There
16 are two -- as I understand it, there are two smaller
17 fields where there are black raspberry bushes. And those
18 areas may have -- well actually during -- during leaf-on
19 conditions there would be no anticipated visibility.
20 During leaf-off conditions there is some -- some
21 visibility from those two -- from those areas through the
22 trees, but not above the tree line.

23 MR. MARTIN: And how about visibility from
24 the Mattatuck Trail?

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1 MR. FAVREAU: I actually hiked the trail
2 on November 9th I believe it was from Route 6 -- is that
3 it -- and from -- from Route 6 all the way to Route 109
4 to the northwest -- I guess the northwestern side of the
5 Morris Reservoir, and there was no visibility --

6 MR. MARTIN: Okay, and --

7 MR. FAVREAU: -- on that trail.

8 MR. MARTIN: How about from Black Rock
9 State Park?

10 MR. FAVREAU: I visited the park and I did
11 not have visibility from the park.

12 MR. MARTIN: Okay, thank you. And could
13 you summarize what difference in AT&T's cover the 20-foot
14 lower height would make?

15 MR. DOIRON: There would be a difference
16 in coverage. We've provided coverage maps based on the
17 new height --

18 MR. MARTIN: Yeah --

19 MR. DOIRON: -- as well as coverage maps
20 that showed loss in our coverage with respect to in-
21 building coverage, vehicle coverage, as well as street
22 level coverage. So there would be a reduction in signal
23 level that would expand into a number of areas, and in
24 particular residences.

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1 MR. MARTIN: Would -- would AT&T deploy
2 LTE antennas at this location?

3 MR. DOIRON: There would be a broadband
4 antenna, which would accompany the next generation LTE
5 technology as well.

6 MR. MARTIN: Would the lower frequencies -
7 - the lower LTE frequencies, would they be able to
8 penetrate the areas that you anticipate having a problem
9 with the coverage?

10 MR. DOIRON: They would provide coverage,
11 but it would still be impacted based on the 20-foot
12 reduction in height. So there is a balance that we
13 looked at to have a site with coverage and the balance of
14 the compliance with respect to SHPO. So we felt that
15 reducing the height to look at the economies and what
16 we're trying to do to provide coverage, that it was a
17 good balance and decision for us to make to try to move
18 forward.

19 MR. MARTIN: Okay. With the kind of loss
20 of coverage in certain area, would AT&T look at
21 providing another site in this area to provide additional
22 coverage?

23 MR. DOIRON: Not necessarily in this
24 search ring area, but certainly to the south in

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1 Watertown, as well as towards the southeasterly corner of
2 Watertown. This is an area that it's not just a one-site
3 solution that will provide adequate coverage to blanket
4 the area. It's going to need to be a multiple site
5 scenario to really meet the coverage objectives out there
6 based on our customer requirements.

7 MR. MARTIN: Okay, thank you. Could you
8 confirm the total number of trees that would be taken
9 down for this facility at its new location?

10 MR. STEVENS: I'd have to review my notes
11 and see what the previous number was, but we estimate
12 that there will be an additional 38 trees on top of the
13 original location.

14 MR. MARTIN: Okay, thank you. Have you
15 reviewed the comments of the Watertown town engineer in
16 his memorandum of December 30, 2011 and have you
17 addressed his comments?

18 MR. STEVENS: Yes, we have. I've
19 reviewed the letter -- what was the date you -- you
20 referenced?

21 MR. MARTIN: December 30.

22 MR. STEVENS: Okay, yes. What we've done
23 is on -- on the supplemental plans we submitted, we
24 addressed most of the comments. There as quite a bit of

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1 discussion on alternative accesses. So the -- the thing
2 that we haven't designed are our improvements to the
3 existing road, the existing town -- Litchfield Road. But
4 we agree with all the comments, including turnoff. We
5 aren't clearing any additional trees. If we decide that
6 is the way we're going to come in after, you know,
7 subsequent discussions, the one larger thing we'd have to
8 do on the existing town road would be to improve the
9 intersection where it hits Bassett Road, which was a
10 comment that the town engineer had. It's simply too deep
11 a dip right now. We'd need to redo that intersection.
12 But everything else we do agree with.

13 MR. MARTIN: Okay, thank you. And could
14 you quantify the amounts of cuts and fill that the new
15 facility would require?

16 MR. STEVENS: The new facility is a
17 balance, meaning anything we cut would generally be used
18 somewhere else for a fill. The way we have it graded out
19 right now there are no substantial cuts required simply
20 because we're using existing road and the grade at the
21 tower location we're generally keeping the same, so most
22 of the work involved is removing topsoil and placing
23 crushed stone. Maybe -- I don't have the exact number --
24 is there a number in the --

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1 MS. CHIOCCHIO: I don't think there's --

2 MR. STEVENS: I would estimate maybe 500
3 total yards cut to fill.

4 MR. MARTIN: Alright, thank you. Those
5 are my questions, Mr. Chairman.

6 CHAIRMAN STEIN: Thank you. We'll now
7 continue with cross-examination by the Council.
8 Professor Tait.

9 MR. COLIN C. TAIT: In moving 200 feet
10 south, what's your loss in elevation?

11 MR. STEVENS: Approximately eight to ten
12 feet.

13 MR. TAIT: Eight to ten feet. And you're
14 dropping the tower from 150 to 130, so you've lost 38
15 feet. And you're still satisfied with that coverage?

16 MR. STEVENS: Yeah, it's actually 28 feet.
17 We lost 20 feet of tower height and eight to ten feet of
18 elevation change, so a total of 28 to 30.

19 MR. TAIT: Yeah.

20 MR. STEVENS: I'll let the RF engineer
21 answer the coverage question.

22 MR. DOIRON: One fifty is ultimately the
23 height that AT&T -- that we would like to see. But
24 again, with the balance of the viewshed analysis from

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1 SHPO and based on the need and wants of the site to
2 enhance coverage to our customers, we have taken the
3 stance of reducing the tower height to provide that
4 balancing act and meeting the SHPO requirements, but also
5 still meeting our customers' needs but at reduced
6 coverage. But to answer your question, we -- we do agree
7 on the lower height, though it's not perfect for us for
8 coverage.

9 MR. TAIT: Will this necessitate an
10 additional tower that you would not otherwise have
11 planned?

12 MR. DOIRON: We -- we would still need
13 locations to the south as well as to the east in
14 Watertown in order to --

15 MR. TAIT: Would this increase by another
16 -- would you need another tower that you wouldn't have
17 planned on but for this decrease in height?

18 MR. DOIRON: In this particular area
19 search ring --

20 MR. TAIT: Yeah --

21 MR. DOIRON: -- no, we would not.

22 MR. TAIT: So we're not gaining another
23 tower at the expense of lowering this tower?

24 MR. DOIRON: That is correct.

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1 MR. TAIT: Okay. The other change is you
2 now propose a monopine. Was that proposed the first --
3 your application --

4 MR. STEVENS: No, it was not.

5 MR. TAIT: Have you talked to people about
6 the monopine -- does SHPO know you have a monopine?

7 MR. STEVENS: Yes, they do.

8 MR. TAIT: And they're satisfied with it?

9 MR. STEVENS: Yes, they are.

10 MR. TAIT: Have you heard from the town or
11 the neighbors on the monopine or was it just between you
12 and SHPO?

13 MR. STEVENS: I believe --

14 MR. FAVREAU: We have not received direct
15 correspondence from anyone.

16 MR. TAIT: Who proposed the monopine, SHPO
17 or you guys?

18 A VOICE: We did --

19 MR. STEVENS: Yeah, I think -- I think we
20 volunteered it based on the last hearing and in
21 consultation with SHPO.

22 MR. TAIT: So you don't know what the
23 reaction to -- well I guess we'll hear the reaction to
24 the monopine --

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1 MR. STEVENS: That's correct.

2 MR. TAIT: Thank you.

3 CHAIRMAN STEIN: Mr. Ashton.

4 MR. ASHTON: In looking at the February
5 27th supplemental filing and the maps behind it -- first
6 of all I'm looking at layout Z-4, zebra 4 -- the
7 monopine is at the south end of the compound, is that
8 correct?

9 MR. STEVENS: That is correct.

10 MR. ASHTON: Is there anything to be
11 gained by moving it to the north end of the compound
12 where the ground is a little higher?

13 MR. STEVENS: I'd probably prefer that.
14 We were just trying to move it -- we picked a spot for
15 the tower moving it far south away from the Alexes'
16 property as possible. Any further south, it falls off
17 the face --

18 MR. ASHTON: Yeah --

19 MR. STEVENS: -- so that pushed the
20 compound back up the hill. If we move it north, we would
21 gain a little bit of elevation on the ground.

22 MR. ASHTON: In the other material that
23 was -- let me get my -- again looking at -- let's see --
24 the -- the coverage chart behind Tab 4, that's the

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1 coverage with the new tower in place?

2 MR. DOIRON: That is correct.

3 MR. ASHTON: Okay. And so you're
4 indicating -- I'm reading from this and correct me if I'm
5 wrong, that there's a need for the tower somewhere in the
6 Buckingham Street area south and east of this present new
7 -- this Bassett Street site, and then one or more towers
8 west of Litchfield Road, is that fair to say?

9 MR. DOIRON: There is a further
10 requirement to enhance coverage throughout the Town of
11 Watertown --

12 MR. ASHTON: But is my conclusion
13 basically correct?

14 MR. DOIRON: That is correct.

15 MR. ASHTON: Okay. Now I have to confess
16 that the charts behind that one coverage map puzzled me a
17 little bit. The first one is a map which claims to show
18 coverage degradation due to height reduction of 150 to
19 130. Does that also include the eight feet that we've
20 lost in terms of site elevation?

21 MR. DOIRON: That is correct.

22 MR. ASHTON: Okay.

23 MR. DOIRON: Yeah.

24 MR. ASHTON: So it's really 150 to 130,

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1 plus the eight feet?

2 MR. DOIRON: Yes, sir.

3 MR. ASHTON: Now the dots, I'm not quite
4 sure what they mean. Are those -- are those where
5 coverage is below your acceptable minimum or -- or what?
6 They're not quantified and that's what puzzled me.

7 MR. DOIRON: The -- the colors represent a
8 design criteria. Green representing in-building coverage
9 --

10 MR. ASHTON: Yeah --

11 MR. DOIRON: -- to residents or buildings
12 in general. The yellow represents in-vehicle coverage.
13 And the blue would represent street level coverage --

14 MR. ASHTON: Okay -- well first of all, I
15 had a problem sorting out blue from green --

16 MR. DOIRON: It's --

17 MR. ASHTON: -- I'm not colorblind, but
18 this is a challenge.

19 MR. DOIRON: My apologies. But those --
20 those dots or colors of dots represent a signal
21 degradation based on dropping the antennas --

22 MR. ASHTON: Yeah --

23 MR. DOIRON: -- or the elevation of the
24 site to a lower level. Anytime you vertically drop

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1 antenna systems, there's going to be an impact to
2 coverage --

3 MR. ASHTON: Right, I understand that. My
4 -- the question that I have is how much degradation?
5 Clearly I can understand there is some, but the question
6 is how much? Is it below your accepted criteria?

7 MR. DOIRON: Well, we've accepted the site
8 at the 130 feet and the new ground elevation --

9 MR. ASHTON: Yeah --

10 MR. DOIRON: -- with the acceptance of
11 degrading these areas in particular that are depicted on
12 these maps --

13 MR. ASHTON: Yeah--

14 MR. DOIRON: -- and the level of
15 degradation could be from -- anywhere from 8 dB to a
16 greater level.

17 MR. ASHTON: Okay, but it goes below your
18 acceptable limits, is that correct?

19 MR. DOIRON: Our acceptable limit would be
20 to be at 150 feet and not to provide or have any
21 degradation --

22 MR. ASHTON: Well --

23 MR. DOIRON: -- within the area --

24 MR. ASHTON: -- you're missing my point.

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1 MR. DOIRON: Yeah.

2 MR. ASHTON: What is the acceptable dB
3 level for in-house coverage?

4 MR. DOIRON: Minus 74.

5 MR. ASHTON: Okay. So using that, are you
6 telling me that the green represents degradation where
7 the signal strength goes below minus 74?

8 MR. DOIRON: That is correct. So --

9 MR. ASHTON: Okay --

10 MR. DOIRON: -- so therefore, residents or
11 building environments and people using their phones --

12 MR. ASHTON: Right --

13 MR. DOIRON: -- will not be able to
14 connect to the network at a good signal level.

15 MR. ASHTON: Okay, that's fair. But it
16 goes below what you have established as your in-house,
17 in-car, or whatever coverage --

18 MR. DOIRON: That is --

19 MR. ASHTON: -- levels --

20 MR. DOIRON: -- that is correct, yeah.

21 MR. ASHTON: Okay.

22 CHAIRMAN STEIN: I think doctor --

23 MR. ASHTON: What --

24 CHAIRMAN STEIN: Excuse me. Dr. Bell had

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1 a --

2 MR. ASHTON: Well I've got one more if I
3 can for a second --

4 DR. BELL: I -- I just want to clarify
5 exactly that question you were asking, it's not a
6 separate question. May I --

7 MR. ASHTON: Oh, sure --

8 DR. BELL: -- clarify?

9 CHAIRMAN STEIN: Sure.

10 DR. BELL: It really is --

11 COURT REPORTER: Your microphone --

12 DR. BELL: Green is usually your color for
13 good coverage and yellow we call caution coverage or
14 whatever. So it's -- I just fail to understand even in
15 your replies to Mr. Ashton. Are you showing us the
16 coverage which is really green and yellow that's fine,
17 but within the blue circle there's some kind of
18 degradation or are you actually marking degraded points
19 with now the green and the yellow, which used to be okay
20 points? Do you see what I'm --

21 MR. DOIRON: Yeah --

22 DR. BELL: -- the confusion?

23 MR. DOIRON: -- no, I -- I understand your
24 confusion --

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1 DR. BELL: Yeah, okay --

2 MR. DOIRON: -- and I believe I can
3 provide you a good explanation --

4 DR. BELL: Okay --

5 MR. DOIRON: -- to make sure we're all on
6 the same page.

7 DR. BELL: Yes.

8 MR. DOIRON: What -- what we did was use
9 the same colors that represent excellent signal level as
10 well as good. So green and yellow. But we've added a
11 component of street level coverage. So any points here
12 that you see are representative of signal degradation, so
13 the green points were signal levels that we provided good
14 coverage to in-building users. So what's happening when
15 you're lowering antennas, that signal is degrading, so
16 now ultimately that green level of coverage that you've
17 represented on the map now turns to a yellow in
18 particular. It still might be confusing, but these
19 points are all levels of degradation.

20 DR. BELL: So what's -- what's yellow here
21 used to be a green if we were looking at this scattered
22 dot type of thing, which we don't see on your other maps,
23 we see kind of areas --

24 MR. DOIRON: Yes --

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1 DR. BELL: -- broader areas of colors.

2 But if we were looking at a scatter map like these ones -

3 -

4 MR. DOIRON: Mmm-hmm --

5 DR. BELL: -- where we see yellow here, we
6 would have seen green on the other scatter map?

7 MR. DOIRON: No, what it's saying is that
8 the green area that used to be a minus 74 signal level
9 has ultimately now become a yellow or a blue based on the
10 lower height. A yellow now has become a blue color.
11 What I should have done in representation to the Board is
12 that I should have just identified this as red and
13 quantified the signal level degradation across the board
14 --

15 DR. BELL: Yes --

16 MR. DOIRON: A cell site --

17 DR. BELL: -- that would have been --

18 MR. DOIRON: -- is much --

19 DR. BELL: -- that would have been -- I
20 understand now --

21 MR. DOIRON: Yeah --

22 DR. BELL: -- what you're saying. I think
23 the problem arose because you were --

24 MR. DOIRON: -- the representation of that

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1 information --

2 DR. BELL: Thank you. I'm sorry to
3 interrupt.

4 MR. DOIRON: That's quite okay.

5 MR. ASHTON: My next question would be --
6 there are three circles that are shown on this labeled
7 No. 1, 2, and 3. Do the 1, 2, and 3 refer to the pages
8 following, which are detailed area maps?

9 MR. DOIRON: That is correct.

10 MR. ASHTON: Okay. The next question I
11 have is if you go back a page -- two pages -- and see the
12 map which shows where there is limited coverage or where
13 there's good coverage, are the areas that you have
14 degraded likely to be covered also by the new facilities
15 that you will be applying for at some point in time? In
16 other words, you've degraded certain areas below
17 acceptable limits, yet you acknowledge that you're going
18 to have to put another tower southeast of this and to
19 the west and southwest of this. Would those new
20 structures cover some of the area that is now considered
21 degraded?

22 MR. DOIRON: It's tough to say whether
23 those future potential structures would provide the fill-
24 in for coverage with the reduction that we're doing here.

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1 Until we have viable site potential locations and have
2 quantifiable evidence that they're going to become
3 approved structures, it's tough to address your question
4 --

5 MR. ASHTON: I --

6 MR. DOIRON: -- but we hope that --

7 MR. ASHTON: I hear you, but I also would
8 be suspicious -- I'm suspicious enough that when you
9 announce that you're willing to come down 20 feet, you
10 must have acknowledged that -- or done some work to study
11 how you could make up for the lack of coverage for that
12 tower height reduction. So you're not just shooting
13 yourself in the foot.

14 MR. DOIRON: With dropping the height as
15 well as ground elevation, unfortunately in some cases we
16 are shooting ourselves in the foot -- not necessarily
17 ourselves, but our customers. There's always going to be
18 that balance of give and take. In this case with the
19 SHPO viewshed analysis dictating that we do go lower,
20 that was a balance that we took into account to make the
21 decision to drop it in order to gain the compliance
22 approval.

23 MR. ASHTON: Okay, thank you. Nothing
24 further, Mr. Chairman, thank you.

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1 CHAIRMAN STEIN: Thank you. Mr.

2 Golembiewski.

3 MR. GOLEMBIEWSKI: Mr. Chairman, I have no
4 questions. Thank you.

5 CHAIRMAN STEIN: Mr. Lynch.

6 MR. DANIEL P. LYNCH, JR.: Mr. Doiron --
7 is that it -- do I have that right?

8 MR. DOIRON: Yeah.

9 MR. LYNCH: Great. You answered Mr.
10 Martin saying that this site will be an LTE site in the
11 future?

12 MR. DOIRON: That's correct.

13 MR. LYNCH: Is that to help enhance the G-
14 4 --

15 MR. DOIRON: To enhance --

16 MR. LYNCH: -- or 4 --

17 MR. DOIRON: -- 4-G coverage in the area.

18 MR. LYNCH: Well with 4-G and all the
19 streaming and what you're storing in the clouds, you
20 know, isn't the really important number here for coverage
21 neg 74?

22 MR. DOIRON: Neg 74 is the coverage that
23 we're focused on to provide in-building coverage for
24 residents as well as the public areas.

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1 MR. LYNCH: And -- well your marketing
2 says that and you ought to be able to deliver?

3 MR. DOIRON: It's -- it's the engineering
4 that states the requirement because --

5 MR. LYNCH: Then prioritize for me -- you
6 say that the in-building coverage is the most important.
7 Where do we go next, street, and then in-vehicle?

8 MR. DOIRON: Well street level coverage is
9 obviously important. That's how we've built our
10 industry, on mobile coverage, whether it's from street to
11 the mobile. But now a lot of our customers are becoming
12 much more tech savvy. They want real-time media in their
13 hands, to have a college class right in the warmth of
14 their home versus needing to go to a community college to
15 do that.

16 MR. LYNCH: Then we're not really dealing
17 with gaps in roads any more, are we?

18 MR. DOIRON: I'm sorry?

19 MR. LYNCH: We're not really dealing with
20 coverage where there's gaps in roads any more, are we?

21 MR. DOIRON: Unfortunately, we are. And
22 that's what we're trying to fulfill here.

23 MR. LYNCH: Well if you say that the most
24 important is to deliver service to the home and to the

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1 street, you know, I can't really comprehend why it's
2 important for someone who's driving in their vehicle, you
3 know, to have access to 4-G and as you say, you know, the
4 new technology --

5 MR. DOIRON: Well a lot of --

6 MR. LYNCH: -- because you can't use it in
7 your car anyhow.

8 MR. DOIRON: A lot of the vehicles are
9 equipped with wireless Blue Tooth services to still make
10 phone calls. And who's to say what the technology --

11 MR. LYNCH: Well what I'm -- what I'm
12 getting at here is the phone as I use it -- and I'm an
13 old guy --

14 MR. DOIRON: Mmm-hmm --

15 MR. LYNCH: -- you know, it's no longer a
16 phone, it's an entertainment device. I mean whether it's
17 a phone or an iPad or an iPhone, there's so many things
18 that can be delivered from it. You're no longer talking
19 about -- I know it's not your commercial, but we're no
20 longer talking about can you hear me now.

21 MR. DOIRON: That -- that's correct. But
22 unfortunately, the United States is not a level field, so
23 the terrain is quite challenging --

24 MR. LYNCH: I -- I understand that. What

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1 I'm getting at is I just think as far as the carriers are
2 concerned they're going to keep up with their marketing,
3 and their marketing is going in-home to deliver all the
4 bells and whistles --

5 MR. DOIRON: Mmm-hmm --

6 MR. LYNCH: -- and I think we're -- we're
7 off in still covering gaps. That's all I have to say,
8 Mr. Chairman.

9 CHAIRMAN STEIN: Thank you. Senator
10 Murphy.

11 MR. JAMES J. MURPHY, JR.: Thank -- thank
12 you, Mr. Chairman. Just a couple of questions.

13 Mr. Doiron, the power density at 130 would
14 be less than 150 feet, correct?

15 MR. DOIRON: That is correct.

16 MR. MURPHY: And if you can't provide the
17 computation between now and the time you finish, could
18 you give us a late file so that we have it at least for
19 our files so we know exactly what it was?

20 MR. DOIRON: Certainly.

21 MR. MURPHY: And the other -- my other
22 question is also from hearing the other questions. As an
23 RF engineer testifying here today is it your opinion that
24 130 feet coverage from this tower will meet the criteria

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1 for AT&T coverage for this area?

2 MR. DOIRON: For -- I didn't hear the end
3 of that.

4 MR. MURPHY: Will meet the AT&T criteria
5 for coverage for the area?

6 MR. DOIRON: We -- we have approved the
7 site at 130 feet again with the balance with respect to
8 SHPO --

9 MR. MURPHY: That's not my question. I'm
10 asking you in your opinion --

11 MR. DOIRON: Our stance is we'd -- we'd
12 like 150 feet, but we are willing to take this acceptance
13 of lowering it to 130 feet to provide enhanced coverage
14 to our customers.

15 MR. MURPHY: Do I take it that as an
16 individual you're not -- as an RF engineer you're not
17 satisfied with 130 feet?

18 MR. DOIRON: We are never satisfied with
19 lowering and degrading coverage to our customers out in
20 the field.

21 MR. MURPHY: We can duck each other
22 forever, so I'll -- (laughter) --

23 CHAIRMAN STEIN: Dr. Bell.

24 DR. BELL: Thank you, Mr. Chairman.

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1 Another question about clarifying these maps. In the
2 responses to the Alexes' questions there are three maps
3 behind Tab 1. And the last one shows areas that are
4 colored gray with a kind of a chartreuse or more lime
5 green color. Could you explain this -- that area?

6 MR. DOIRON: Sure. That is -- the gray
7 area that we focused on was just more of a representation
8 of area that we still needed to make improvements on, to
9 enhance the coverage throughout the Town of Watertown.
10 So beyond having the Bassett Road location on there as
11 well as the original No. 3, the Crestbrook Park location
12 on-air, there would still be a requirement to the west
13 and south as well as through the east of Watertown.

14 DR. BELL: Okay. And so that the color
15 that I described as lime green is actually yellow masked
16 by the gray kind of -- so you do have some coverage in
17 parts of those areas that's yellow coverage, but in
18 general you're saying that's where the coverage is that
19 you'd have to fill in even if you had those two towers
20 working, which I understand you would not --

21 MR. DOIRON: Yeah --

22 DR. BELL: -- but -- I understand --

23 MR. DOIRON: That is correct.

24 DR. BELL: Okay, thank you. I just have a

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1 couple of questions about -- going back to Mr. Martin's
2 question about the town engineer's comments. The town --
3 the letter that was written on December 30th doesn't
4 include any comments about the 200-foot -- moving the
5 site because the town engineer at the time he wrote his
6 comments hadn't contemplated the 200-foot change. I just
7 want to -- I don't want to get into a big business about
8 the dates, but my basic question is the town engineer now
9 is fully apprised of the 200-foot move and his comments
10 would be satisfied? For instance, he in his earlier
11 comments wanted to have a pull-off area on the access
12 drive --

13 MR. STEVENS: Yes --

14 DR. BELL: -- will that be accommodated by
15 the 2 point turn that you built into the access drive?

16 MR. STEVENS: Yeah, he actually -- he
17 actually requested two -- two turn-offs --

18 DR. BELL: Yes --

19 MR. STEVENS: -- one on Litchfield, which
20 we would add --

21 DR. BELL: Yes --

22 MR. STEVENS: -- and then the 2 point
23 turnaround, I designed that as also a pull-off.

24 Ultimately, we'd have to get another set of drawings with

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1 everything. And with the final improvements to
2 Litchfield Road if we ultimately decide, you know, that
3 is the access, which is what I'm representing should be
4 the access because there is no other viable access, we
5 would get a final set of plans to really ensure that
6 we've conformed to all of his comments, which we would.

7 DR. BELL: Okay. And I -- sorry, I
8 forgot, I had one more question for Mr. Doiron.

9 MR. DOIRON: Sure.

10 DR. BELL: What sites would this site hand
11 off to? I'm not sure that we have that even in the
12 original application -- maybe we do -- but could you
13 review that for us, the nearby sites that the
14 contemplated site would hand off to?

15 MR. DOIRON: Sure. I -- I can address
16 that question now if you'd like?

17 DR. BELL: Yeah.

18 MR. DOIRON: It would hand off to location
19 CT1174 to the east. It would hand off to the west to
20 CT1062 where it enhances contiguous coverage greatly
21 between those two cell sites. And there may be minimal
22 hand off to CT1130, but that's -- that's questionable.
23 We need to do extensive drive testing to validate that.

24 DR. BELL: Okay, so those three?

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1 MR. DOIRON: That's correct.

2 DR. BELL: Thank you very much. Thank
3 you, Mr. Chair.

4 CHAIRMAN STEIN: Professor Tait, did you
5 want to ask the RF --

6 MR. TAIT: When you lower -- when you
7 lower the tower from 150 to 130, that would increase the
8 level of radiation at the base?

9 MR. DOIRON: It -- it would add a marginal
10 level, but still well below the FCC limitation.

11 MR. TAIT: Is that the exhibit you wanted
12 --

13 MR. MURPHY: He indicated -- he's
14 indicated in response to Mr. Martin that it would be
15 within the federal level. I asked him to provide the
16 exact figure --

17 MR. TAIT: Okay --

18 MR. MURPHY: -- so we would have it in the
19 file.

20 MR. TAIT: Which will show a marginal
21 increase?

22 MR. DOIRON: That is correct --

23 MR. TAIT: Thank you --

24 MR. DOIRON: -- very marginal.

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1 MR. MURPHY: Because it will be a little
2 bit higher --

3 MR. DOIRON: Yes --

4 MR. MURPHY: -- so I think we should have
5 it in the record.

6 MR. DOIRON: But if you don't mind, what
7 I'd like to add is that the analysis that was previously
8 done is an analysis that is a worse case analysis. It
9 essentially just takes the antennas --

10 MR. MURPHY: Right --

11 MR. DOIRON: -- and points them directly
12 to the ground with a six-foot individual below them. It
13 also takes a look at the radios as they're operating at
14 full power, which is not a realistic analysis. It's --
15 it's a total worse case. And it's well below the limit.
16 So in a perfect world there would be less than a
17 percentile as far as what you would see.

18 MR. TAIT: Or if Yo Ming was under the
19 tower it may be a little bit different -- (laughter) --

20 MR. DOIRON: Yeah -- yes.

21 CHAIRMAN STEIN: We have a follow-up
22 question from staff --

23 MR. MARTIN: Well this is not a question.
24 This is more on the point of the power density

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1 calculations --

2 COURT REPORTER: One moment, I'm sorry.

3 (pause - tape change)

4 MR. MARTIN: I did use the information
5 originally provided by Mr. Doiron and I lowered the
6 height by 20 feet, and it increased the power density by
7 about two percent, from 7 point something to 9 point
8 something. That's what we're looking at.

9 MR. DOIRON: Yeah.

10 MR. TAIT: And you used 20 feet, but not
11 28 feet?

12 MR. MURPHY: Twenty feet is --

13 MR. MARTIN: Well you've still got 130 --

14 A VOICE: Actually it's --

15 MR. TAIT: I'm just a lawyer -- (laughter)

16 --

17 CHAIRMAN STEIN: Well I'm neither a lawyer
18 or an engineer, but my question is is this part of -- the
19 number you came up with, which is 130 feet, is I guess --
20 I don't know whether compromise is a good term -- but it
21 satisfied the SHPO office. Did you look at 140 feet?
22 And why did you use -- why did you go 20 feet and not --
23 not 10 feet? Presumably, that would have given you --
24 sited less -- or sited better coverage than the 130 and -

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1 - or would it have created the same visual problem? I'm
2 just curious.

3 MR. FAVREAU: Yeah, we decided to offer
4 130 feet as a, quote/unquote, meaningful, you know,
5 substantial, significant if you will, reduction as
6 opposed to just -- just 10 feet. So we knew that going
7 to a monopine design there would also be, you know, a
8 little bit of a crown on the top of the actual structure
9 itself. So really it was out of visibility concerns more
10 than anything else that we decided to drop down 20 feet
11 initially.

12 CHAIRMAN STEIN: Okay. Another question.
13 My understanding is the RF -- as you say, the maximum is
14 at the ground just below the pole. Is that correct?

15 MR. DOIRON: Well the -- the maximum RF
16 emissions would be right by the antennas. So anytime
17 they're going to be away from those antennas or not in
18 the direct RF emittance -- I'm not sure I understand the
19 question --

20 CHAIRMAN STEIN: Well as they get further
21 away from the actual area of the antenna, they drop off
22 as far as any impact on the ground?

23 MR. DOIRON: The RF emissions would
24 dissipate, yeah.

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1 CHAIRMAN STEIN: Okay. And this is now
2 200 feet further away from the berry farm, is that --
3 than the original application, is that correct?

4 MR. STEVENS: Right. Right, from the --
5 from the abutter to the north.

6 CHAIRMAN STEIN: Which is the --

7 MR. STEVENS: The Alexes' --

8 CHAIRMAN STEIN: The Alex --

9 MR. STEVENS: -- berry farm.

10 CHAIRMAN STEIN: Okay. Alright, any
11 further questions from Council?

12 Okay, we'll now go to cross-examination by
13 the Party, which would be the Town of Watertown.

14 MR. JESSELL: Thank you, Mr. Chairman.
15 Paul Jessell, Town Attorney for the Town of Watertown. I
16 just have very few questions I'd like to ask. First by
17 way of clarification --

18 COURT REPORTER: Move the microphone near
19 you.

20 MR. JESSELL: I'm sorry. It's right here.
21 I'm sorry.

22 COURT REPORTER: Thank you.

23 MR. JESSELL: By way of clarification,
24 this is the first I've heard of a different access. Is

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1 it the intent to use the unimproved town road for access
2 to your driveway at this point or is there any other
3 access that's being considered or may be used?

4 MR. STEVENS: One of the questions we were
5 asked to look at was was there an alternative access that
6 would have less -- less gradient on any part of the road.
7 So we took a look at that, and the answer was no. So
8 it's our intent right now to request of the Town Council
9 of the Town of Watertown to use the unimproved Litchfield
10 Road and improve it.

11 MR. JESSELL: Okay. And -- and again just
12 for clarification, it's your intent to comply with
13 essentially all aspects of the October and December
14 memorandum from the town engineer?

15 MR. STEVENS: Yes. The only -- the only
16 thing that I can't comply with would be his comment No. 2
17 on the new access road once it leaves Litchfield of
18 trying not to exceed the town's standard of seven percent
19 for non-residential uses. I can't -- I can't meet that
20 standard. We did redesign the road to the best we could
21 and feel comfortable in terms of access for both
22 ourselves and emergency. So that's the only caveat.
23 Everything else we would -- we would comply with.

24 MR. JESSELL: Who do you envision

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1 maintaining that unimproved town road, because it is
2 unimproved and the town does not intend to maintain it?

3 MR. STEVENS: Yeah, it would be -- it
4 would be the Applicant.

5 MR. JESSELL: And you would enter into
6 agreement with the town regarding that maintenance?

7 MR. STEVENS: Yes.

8 MR. JESSELL: As a final question, would
9 you intend to block that right-of-way from other
10 vehicular traffic?

11 MR. STEVENS: My preference would be to
12 block it, to put a gate up, and to give a key to the
13 town. But if the town felt differently, we would -- we
14 would not block it --

15 MR. JESSELL: Thank you --

16 MR. STEVENS: -- but I would prefer to
17 block it.

18 MR. JESSELL: Thank you, Mr. Chairman.

19 CHAIRMAN STEIN: Thank you. Cross-
20 examination by the Alexes. Any questions?

21 MS. CATHLEEN ALEX: Mr. Chairman, we have
22 exhibits to help in our questioning. Would this be an
23 appropriate time to present those?

24 (pause)

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1 CHAIRMAN STEIN: Normally exhibits are
2 presented when it's your turn to be sworn in and go
3 through that process, but I don't -- let me ask Attorney
4 Bachman to respond more succinctly.

5 MS. BACHMAN: Are these exhibits that you
6 have just to assist in your cross-examination of the
7 Applicant?

8 MS. ALEX: They are. If you would like to
9 peruse them briefly?

10 MS. BACHMAN: I certainly would ask that
11 Attorney Chiocchio be able to --

12 MS. ALEX: Correct --

13 MS. BACHMAN: -- view them ahead of time
14 before we move any further.

15 MS. ALEX: I can give a brief description?
16 (voices in background)

17 MS. BACHMAN: I'm sorry, Mrs. Alex?

18 MS. ALEX: I can give you a brief
19 description of them. One is just an alternate road topo
20 map. One is just an aerial map showing some coordinates
21 that were given to SHPO for their determination. One is
22 a map noting some areas described by the Applicants in
23 their original submission to SHPO in March of 2010.
24 There's an e-mail from Lauren Mancuso (phonetic) to Allan

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1 Penanski (phonetic) who was part of the Attorney
2 General's Office. And Lauren Mancuso was instrumental in
3 the decision-making for SHPO. There's also obtained from
4 SHPO in person by my husband a letter from Cudder and
5 Feder to David Bahlman, the SHPO officer involved. And
6 lastly, a simple photograph from the tower site looking
7 south. If any or all of those --

8 MS. CHIOCCHIO: Without having seen the
9 exhibits, I would object to any correspondence with SHPO.
10 You know, we have on the record their no adverse effect
11 determination dated January 31st. They indicated in that
12 determination that that superseded any prior
13 determinations. So anything -- you know, like I said, I
14 would object to the submission of any other materials
15 related to the SHPO and the SHPO process.

16 (pause)

17 CHAIRMAN STEIN: Let's start by seeing if
18 you can ask your questions without referring to those
19 exhibits --

20 MS. ALEX: Although for the -- assistance
21 to -- for visual, the topo map, which is pretty benign,
22 it's just showing --

23 CHAIRMAN STEIN: Is that different from
24 the topo map that's submitted by the Applicant?

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1 MS. ALEX: No, this is -- it's -- it's
2 actually their map and it has been --

3 CHAIRMAN STEIN: That's not a problem --

4 MS. ALEX: Okay --

5 CHAIRMAN STEIN: -- that's already in the
6 record.

7 MS. ALEX: And then the photograph, it's
8 simply a photograph taken from the tower site showing the
9 stake looking south from the Gustafsons' property.

10 MS. CHIOCCHIO: That's fine --

11 CHAIRMAN STEIN: Do you object to that?

12 MS. CHIOCCHIO: The photograph is fine.

13 CHAIRMAN STEIN: Okay, so those two you
14 can use.

15 MS. ALEX: Which two? The -- and the last
16 one would be simply an aerial photo that shows the
17 coordinates that were given by the Applicant to SHPO most
18 recently -- I'm sorry -- SHPO -- I'm sorry -- Applicant
19 to DEEP to make the determination regarding wildlife.

20 CHAIRMAN STEIN: Is that possibly in the
21 record?

22 MS. ALEX: It's just an aerial map. It
23 shows the coordinates that were given.

24 A VOICE: No, it's not in the previous

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1 record.

2 CHAIRMAN STEIN: Attorney Chiocchio --

3 MS. ALEX: The only thing that's in the
4 previous record are the actual coordinates that were
5 supplied by the Applicant to the DEEP.

6 MS. CHIOCCHIO: That's fine -- that's
7 fine.

8 CHAIRMAN STEIN: Okay.

9 MS. CHIOCCHIO: I would just say that
10 overall, you know, we would have appreciated submission
11 of those ahead of time --

12 MS. ALEX: We would certainly have
13 obliged, but just -- having just received your responses
14 last week, we did the best we could in the time frame
15 that we had. Thank you.

16 We did staple these, so we have to remove
17 the staples to remove the interior correspondence that
18 you would prefer not to be brought forward.

19 CHAIRMAN STEIN: Right, but you can ask
20 the questions --

21 MS. ALEX: Okay -- until we get to -- you
22 need to see the map to understand what we're trying to
23 bring forward.

24 MR. TAIT: Are these maps in the record?

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1 MS. CHIOCCHIO: My understanding is one of
2 the maps -- the topo map is in the record --

3 MS. ALEX: We've just --

4 MR. TAIT: Then that's fine --

5 MS. ALEX: Right -- right --

6 MR. TAIT: And there's a photograph that
7 you have no objection to?

8 MS. CHIOCCHIO: Correct. And there's
9 another aerial map that is not in the record.

10 CHAIRMAN STEIN: So you're asking if we
11 have a staple remover -- is that what you're asking --
12 (laughter) --

13 MS. ALEX: Well we can do that -- it's not
14 that big a deal. I have the first round of questions and
15 I'll let my husband address that.

16 We also brought a very large map, aerial
17 map, that simply just shows a lot of the things that
18 we're discussing. It's -- it's labeling all existing
19 historic homes -- (inaudible) -- I'll stand close to the
20 mic -- it labels all the historic homes and properties to
21 the tower --

22 COURT REPORTER: You have to speak into
23 the microphone.

24 MS. ALEX: Okay. It also shows the CL&P

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1 right-of-way --

2 MR. TAIT: This sounds like this ought to
3 come in in their case in chief.

4 MS. BACHMAN: Yes, that's what I --

5 MS. ALEX: This has already been
6 submitted, but you have a smaller version of it in your
7 preexisting packet.

8 MR. TAIT: You might show it to opposing
9 counsel to see whether they --

10 A VOICE: They have --

11 (multiple voices in background)

12 MR. TAIT: You have it? Okay --

13 MS. CHIOCCHIO: A smaller version.

14 CHAIRMAN STEIN: And this is in the record
15 and submitted by --

16 MS. CHIOCCHIO: The Alexes submitted that
17 --

18 MS. ALEX: Yeah --

19 MS. CHIOCCHIO: -- we have a copy of that.

20 MS. ALEX: This first series of questions
21 is -- I -- is probably more for the engineer, Michael
22 Doiron. It's regarding predominantly the power density
23 so we have a good understanding of what might be in our
24 backyard. The power density released from the surface of

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1 an operating antenna, does it exceed the FCC standards,
2 the safety standards for human exposure? This is at the
3 surface of the antenna where it's actually released, both
4 near field, far a field. And I know there's two
5 standards; one for the occupational control worker, and
6 you also have the guidelines for the public that are
7 continuous. But I'm just looking for right at the
8 antenna when it's released, are -- are both guidelines
9 exceeded at that point?

10 MR. DOIRON: The guidelines with respect
11 to -- you will never come in close contact with the
12 antennas --

13 MS. ALEX: No, I --

14 MR. DOIRON: -- so the guidelines do not -
15 - there will be no issues with respect to the public --

16 MS. ALEX: Right --

17 MR. DOIRON: -- with respect to being
18 close in proximity to those antennas.

19 MS. ALEX: Well I have other questions
20 pertaining to this that -- and this question needs to be
21 somewhat answered. The surface of the antenna would
22 exceed the safety guideline for human exposure. The
23 typical power density released from those antennas would
24 exceed the guidelines of human exposure if indeed a human

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1 was there?

2 MR. DOIRON: In front of the antennas --

3 MS. ALEX: In front of the antennas --

4 MR. DOIRON: -- that are 130 feet above?

5 You would never be able to be in front of those --

6 MR. TAIT: The question is if you stood in
7 front of it, what would be -- would it exceed the
8 guideline?

9 MR. DOIRON: I'd have to make some
10 calculations in order to establish that. I --

11 MS. ALEX: So there's not a typical
12 behavior of an antenna -- a range of power density
13 outside on an antenna when you're planning the towers?

14 MR. DOIRON: Well the radios are
15 essentially transmitting only when the site is in use.
16 So with respect to the calculations that we've made with
17 antennas pointing to the ground, that is based on all
18 transmitters operating a hundred percent power --

19 MS. ALEX: Correct, but you don't know the
20 -- the degree of that power at the surface of the antenna
21 -- in order to make those calculations you need to know
22 the starting power to know what the degradation is by the
23 time you get to that six-foot man on the ground with the
24 antennas pointing at him. I'm just simply asking what

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1 the power density might be released from that. I know
2 there's going to be a range and I know there's two
3 separate guidelines for the workers that are near there
4 for occupational and the general public. But I'm just
5 asking a basic power question that you base your
6 calculations on.

7 MR. DOIRON: Sure. Anytime you get close
8 to the antennas, the power density is going to be much
9 greater than being 130 feet away from it. So yes, there
10 will be an increased amount of power density in front of
11 the antenna. And there are guidelines between a
12 controlled and uncontrolled environment --

13 MS. ALEX: Correct --

14 MR. DOIRON: -- uncontrolled is the public
15 and the controlled is the workers --

16 MS. ALEX: I understand that --

17 MR. DOIRON: -- or personnel that
18 understand what they're up against --

19 MS. ALEX: Right. So you're -- you're
20 unable to tell me the typical power density released at
21 the surface of an antenna?

22 MR. DOIRON: I'd have to make those
23 calculations to understand exactly the percentage.

24 MS. ALEX: Alright. Is it necessary to

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1 cut the power to the antennas if service personnel are
2 working in close proximity to the antennas?

3 MR. DOIRON: We always make sure that
4 standards -- safety standards are followed. So --

5 MS. ALEX: So -- so --

6 MR. DOIRON: -- if there are workers or
7 antenna workers that are up on the tower, we make sure
8 that it's within compliance with the environment that
9 they're working in.

10 MS. ALEX: So if someone is painting a
11 church steeple that houses an antenna or an AT&T employee
12 or service employee is up on those towers servicing the
13 antenna, would the power be cut?

14 MR. DOIRON: The power would be reduced in
15 order for the workers to do what they need to do.

16 MS. ALEX: So again, calculations would be
17 necessary to determine the distance in front of and
18 horizontally to a proposed operating antenna that the
19 power density would drop sufficiently to meet the
20 guidelines for human exposure where you wouldn't have to
21 necessarily reduce the power -- do you know the distance
22 from an antenna -- a typically operating antenna that the
23 power density would potentially drop sufficiently where
24 no precautions would be needed?

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1 MR. DOIRON: That -- that is correct,
2 being away from the antenna.

3 MS. ALEX: But you don't know what
4 distance that might be?

5 MR. DOIRON: I would need to make
6 calculations and understanding who the personnel are
7 going to be in close proximity to the antennas --

8 MS. ALEX: Mmm-hmm --

9 MR. DOIRON: -- whether it's controlled or
10 uncontrolled personnel --

11 MS. ALEX: Right. I also understand that
12 it's -- this is a time weighted averaging type of thing
13 because it's variable. I'm an audiologist, so I work
14 with this type of technology for the hearing impaired --

15 MR. DOIRON: Mmm-hmm --

16 MS. ALEX: -- so it's not unfamiliar
17 territory and I understand the variability that's there
18 and symmetry and the difficulty in making some of these
19 calculations. So I'm not looking for specific numbers -
20 -

21 MR. DOIRON: Mmm-hmm --

22 MS. ALEX: -- just an idea of safety and
23 distance from a typically operating antenna.

24 CHAIRMAN STEIN: We have I guess a

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1 clarification question --

2 MR. LYNCH: Yeah --

3 CHAIRMAN STEIN: -- from Mr. Lynch.

4 MR. LYNCH: Mr. Doiron, does OSHA or the
5 AT&T union have standards for working on a tower?

6 MR. DOIRON: Absolutely. Yes. And they
7 are followed.

8 MR. LYNCH: Thank you.

9 MR. DOIRON: Yep.

10 MS. ALEX: If the power density in front
11 of an operating antenna is potentially unsafe for human
12 exposure at a particular distance that you've determined
13 the density exceeds the FCC criteria, is it fair to state
14 that it would also be unsafe for a falcon?

15 MS. CHIOCCHIO: I'm going to have to
16 object to any questions regarding RF emissions and
17 perceived health effects.

18 MS. ALEX: I'm trying to stay within the
19 FCC guidelines. I'm not looking at non-thermal low
20 density --

21 MS. CHIOCCHIO: I think it's been
22 established that the Siting Council is preempted from
23 considering health effects of RF emissions as long as
24 we've provided demonstration that we're within those

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1 guidelines.

2 MS. ALEX: Considering the tower is now at
3 130 feet, at what distance might you expect the EMF
4 fields to reach the ground assuming the ground's level?
5 I'm thinking about the umbrella effect. If you have a
6 two degree tilt of the antennas per your application, do
7 you know at what distance the EMF field may reach the
8 ground --

9 MR. DOIRON: At the greatest level of
10 power to meet the ground?

11 MS. ALEX: A typically operating antenna -
12 -

13 MR. DOIRON: Mmm-hmm --

14 MS. ALEX: -- is going to have a certain
15 power density and it's going to have --

16 MS. CHIOCCHIO: Objection --

17 MS. ALEX: -- and when you look at the
18 projection map, it's a fan, and at some point the angle
19 will hit the ground. Do you know what that distance
20 might be on a 130-foot tower?

21 MR. DOIRON: Well within an RF antenna
22 pattern, the main lobe of a typical antenna is generating
23 RF energy outward --

24 MS. ALEX: Mmm-hmm --

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1 MR. DOIRON: -- but there are always side
2 lobes within the RF pattern that there is RF going to
3 the ground levels right at the tower base. But those RF
4 levels are at extremely low levels in comparison to the
5 former MPE study that we did on the RF antennas pointing
6 straight to the ground with the main lobe and the RF
7 energy pointing straight down to a human underneath.

8 MS. ALEX: So to confirm that the EMF
9 exposure meets the FCC guidelines for the general public
10 at ground level to our residence, is there a guesstimate
11 of the expected power density to our home that's
12 currently proposed to be 755 feet from this 130-foot
13 tower at this two degree tilt?

14 MR. DOIRON: Well at 130 feet below the
15 tower with the antennas pointing down, we're still
16 roughly around nine percent of a new calculation based on
17 the previous analysis --

18 MS. ALEX: Mmm-hmm --

19 MR. DOIRON: -- so if you're over 700
20 feet, you're going to be significantly less than that
21 percentage that we previously calculated. And again,
22 that was a worse case scenario. My expert opinion based
23 on theory and being in this industry well over 25 years
24 is that the RF as it meets your house will be

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1 significantly less, probably less than a percentile of
2 the maximum permissible exposure standard.

3 MS. ALEX: Do you have an expected power
4 density increase with additional carriers? Would it
5 double with the second, triple with the third? What are
6 the ratios like when additional carriers come on board?
7 The nine percent you recognize, is that worse case
8 scenario with AT&T or AT&T and the additional carriers?

9 MR. DOIRON: That is with respect to AT&T.
10 I can't speak on behalf of other carriers other than to
11 state that there will be a contributing factor to
12 increase those exposure levels.

13 MS. ALEX: I believe you did provide some
14 tables in the original application labeled worse case
15 scenario --

16 MR. DOIRON: Mmm-hmm --

17 MS. ALEX: -- with all carriers on board.
18 Would you be able to supply the Council with that data?

19 MR. DOIRON: I can provide a hypothetical,
20 but -- what I provided was an analysis based on the
21 technologies --

22 MS. ALEX: Mmm-hmm --

23 MR. DOIRON: -- and the RF environment
24 that AT&T would be transmitting at the tower site. There

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1 is no speculation or hypotheticals built into that
2 analysis based on other carriers. I'm not sure what
3 they're looking to do versus what we as AT&T are doing.

4 CHAIRMAN STEIN: If I may interrupt, I
5 believe that if any other carrier -- first of all, if
6 this were to be approved, if this were to be constructed,
7 and any other carrier desired to co-locate, they would
8 have to come before the Siting Council, and the Siting
9 Council would have to review the additional worse case
10 scenario that you mentioned prior to making any decision.
11 Is that -- am I correct in that --

12 A VOICE: Mmm-hmm --

13 CHAIRMAN STEIN: -- so there would be no
14 hypothetical analysis if some other carrier were to go
15 on. And if they did -- Mr. Martin --

16 MR. MARTIN: The question -- to perhaps
17 clarify this, Mr. Doiron, have you ever had the
18 opportunity to take actual field measurements in the area
19 of a tower?

20 MR. DOIRON: Yes, we have.

21 MR. MARTIN: And what is your experience
22 in what the field measurements show versus the
23 theoretical calculations based on worse case scenarios?

24 MR. DOIRON: The field measurements were

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1 significantly low versus the worse case scenarios that we
2 provide to meet the Siting Council's requirement.

3 MR. MARTIN: And do you -- a tower like
4 this of 130 feet with antennas at the top, what would
5 your estimate be of the distance away from the tower that
6 you would find negligible influence from the radiation
7 emitted by the antennas?

8 MR. DOIRON: I would suspect it would be
9 negligible, maybe 100, 200, 300 feet out. So it would be
10 nothing much to read on the meters.

11 MR. MARTIN: Alright, thank you.

12 MR. DOIRON: Yes.

13 CHAIRMAN STEIN: Can we go on please.

14 MS. ALEX: I believe the Council addressed
15 this briefly about how the power density might change
16 when you add new technologies like 4-G, streaming
17 television and things like that. Would that nine percent
18 change with the addition of 4-G?

19 MR. DOIRON: The -- the 4-G LT component
20 is baked into our previous analysis and submission.

21 MS. ALEX: So that nine percent assumes
22 that you're going to that 4-G --

23 MR. DOIRON: That takes into account 4-G
24 immediately.

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1 MS. ALEX: Who monitors power density?
2 And are there power density audits that we would be able
3 to purview?

4 MR. DOIRON: AT&T monitors their network,
5 their systems, not only as approval to the Siting Council
6 Board as well as other zoning jurisdictions. But at AT&T
7 we also do our own, whether it's theoretical analysis or
8 field measurements, to ensure that we're in compliance
9 with the FCC.

10 MS. ALEX: Is that information available
11 to the public?

12 MR. DOIRON: It -- it has been made
13 available in the past to the public. I'd have to speak
14 with counsel and AT&T to -- (pause) --

15 MS. ALEX: How often is the power density
16 monitored or measured?

17 MR. DOIRON: Every site is different. In
18 some cases it can be a yearly, annual event to monitor
19 that.

20 MS. ALEX: Are any of the power density
21 reports done or measured by parties outside of AT&T,
22 unbiased parties?

23 MR. DOIRON: Yes, ma'am.

24 MS. ALEX: Is there a limit or a maximum

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1 power density allowed when all -- in this case now four
2 providers -- it was prior six, but apparently four now --
3 is there -- is there a maximum when all four are on
4 board? Are there any guidelines for what multiple
5 carriers on a single tower can produce?

6 MR. DOIRON: A compilation of all the
7 carriers, they would need to be under a hundred percent
8 of the maximum permissible exposure requirement --

9 MS. ALEX: Alright, so --

10 MR. DOIRON: -- if they exceed that, then
11 they're obligated to get it back into compliance.

12 MS. ALEX: So as additional carriers come
13 on board, they go to the Council, and the Council looks
14 at those cumulative effects and makes a determination
15 from there?

16 MR. TAIT: It has to comply with the
17 federal limit.

18 MS. ALEX: Okay. Do you have an expected
19 coverage loss in miles along Route 109 with the 130-foot
20 tower for the 850 and 1900 hertz bands when compared to
21 the 150-foot tower? You had provided the Siting Council
22 with some tables in response to their questions on the
23 September 20th supplement?

24 MR. DOIRON: I don't have any of that

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1 information with me based on the new height other than
2 the degradation points that we showed in maps previously,
3 but it wouldn't be based on miles of coverage loss. It
4 would be pockets of coverage loss based on the previous
5 maps.

6 MS. ALEX: You also provided them with
7 square miles. And I'm wondering if a table -- similar
8 tables might be provided to the Council that would show
9 the coverage in square miles for a 130-foot tower
10 compared to say the 150-foot tower, or better still the
11 160-foot tower that was alternately looked at at the
12 Crestbrook site by prior folks, because there's been a
13 back and forth with the potential of the Bassett site
14 relative to the Crestbrook site should this be denied and
15 Crestbrook opened up, as alternate sources of towers need
16 to be reviewed before the Crestbrook piece could be
17 potentially looked at?

18 MR. DOIRON: I think to answer the
19 multiple parts of your question --

20 MS. ALEX: Sorry --

21 MR. DOIRON: -- we -- no, no problem --
22 we've exhausted reviewing all the sites throughout.
23 We've probably done more analyses on this particular site
24 than we've ever done on any site. And we feel confident

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1 that we've exhausted and explored all opportunities out
2 there. The Crestbrook Park site was a previously
3 approved site, but unfortunately is not buildable, so
4 it's not an option to us other than only to pass the
5 location.

6 MS. ALEX: It's not buildable only
7 because of the deed restrictions and the fact that
8 alternate sites have to be denied --

9 MR. DOIRON: But --

10 MS. ALEX: -- before you can pursue it?

11 MR. DOIRON: Even if it was a buildable
12 location, it still doesn't provide enhanced coverage like
13 the Bassett Road site does. In a perfect world if we
14 have two sites that we can build, the one that we would
15 choose would still be the Bassett Road even at the lower
16 height because it provides enhanced coverage between the
17 two existing sites that I pointed out earlier to Dr.
18 Bell.

19 MS. ALEX: You've indicated that Sprint
20 has a need for coverage in the area and that Verizon has
21 been contacted by the tower company. Are Sprint and
22 Verizon aware of the height reduction and are they still
23 interested in co-locating on a 130-foot tower?

24 MR. DOIRON: I don't believe that's a

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1 question for me.

2 MR. HOWSE: They're aware of it. They
3 have not responded. They don't have the budget this year
4 to engage this site, so I don't --

5 MS. ALEX: Have any other carriers been
6 notified of the tower and --

7 MR. HOWSE: All major carriers in
8 Connecticut have been notified.

9 MR. ASHTON: Can I make a request that you
10 pick your voices up. It's hard for us to hear --

11 MS. ALEX: I'm sorry --

12 MR. ASHTON: -- a sweet gentle voice just
13 doesn't carry in this dead room, so --

14 MR. HOWSE: Typically we contact all
15 carriers when we get close to a filing and -- either we
16 contact them or through the public notices they're made
17 aware that the proceedings are starting, looking for
18 intervenors. And in this case Verizon is -- this site is
19 in analysis with Verizon and they were backlogged and
20 couldn't provide an input in time for this hearing, but
21 they may in the future. Obviously Sprint wanted to go on
22 the Crestbrook site, so we know there's an interest over
23 there, but they have no money, no budget to build new
24 sites. T-Mobile is aware of the site as well as Metro

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1 PCS.

2 MS. ALEX: And they're aware that it's 130
3 feet now?

4 MR. HOWSE: We didn't get to that. We
5 didn't get feedback from the site period, so the height
6 itself is -- has not come into question yet. Verizon is
7 aware of the height.

8 MS. ALEX: Okay. We had requested a
9 coverage map potentially for the lowest carrier. It was
10 not provided. We thought that this coverage map, even if
11 it was using AT&T type equipment, might help understand
12 and demonstrate that the tower design is or is not in
13 keeping with the Connecticut General Statute on tower
14 sharing at 16-50aa to avoid unnecessary proliferation of
15 towers.

16 CHAIRMAN STEIN: Is that a question or a
17 statement? I -- are you suggesting --

18 MS. ALEX: I guess --

19 CHAIRMAN STEIN: -- that they raise the
20 tower?

21 MS. ALEX: I guess I'm requesting the
22 coverage maps from the lowest source and just ask why it
23 wasn't provided? Why a mock of the low carrier couldn't
24 have been provided to show just how much degradation of

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1 your signal might occur at that lowest platform?

2 MR. DOIRON: With respect to producing
3 coverage plots at lower heights in speculation of what
4 other carriers have, the problem is that every carriers'
5 network is different. The placement of sites in general
6 locations are different. Not everyone is co-located on
7 the same structures, the same towers. Even if they are
8 co-located on a similar structure, the likelihood of them
9 being at the same horizontal or vertical plane height-
10 wise is physically impossible. So to speculate what
11 other carriers' coverage is going to look like and us
12 producing a plot based on our technologies, it's not
13 providing good evidential data and it's something that
14 AT&T would rather not try to predict other people's
15 network other than our own.

16 MS. ALEX: Is there any desire for the
17 companies or the carriers to work cohesively as a team
18 effort to provide coverage on a shared tower basis? Is
19 there any kind of mutual relationship to say look we all
20 have similar coverage needs, can we work together in
21 order to minimize tower proliferation?

22 MR. DOIRON: And I think that would be
23 called a monopoly, that the FCC tried to get away from
24 where to create a competitive landscape for carriers to

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1 provide the consumers the best possible network as well
2 as pricing for those. So collaboration -- there might be
3 collaboration on building sites, but to co-locate or co-
4 exist in the same antenna centerlines is something that
5 is frowned upon.

6 MS. ALEX: So it's a tough balance then to
7 minimize tower proliferation and still create a
8 competitive environment.

9 CHAIRMAN STEIN: How would you like to sit
10 up here and make those decisions -- (laughter) -- on a
11 regular basis.

12 MS. ALEX: We -- going through this, we
13 have to hand it to all of you absolutely.

14 I think we've talked enough about the
15 signal degradation from 150 feet to the 130 feet and
16 we've gone over those colored coverage maps that show
17 primarily low density populated areas. When you look at
18 your maps, the dot map that Miss Ball was asking about --
19 Bell -- I'm sorry -- they seem to show coverage primarily
20 to low density population areas, primarily Gustafson's
21 orchard and hayfield. I guess we're still concerned that
22 the 130-foot tower -- how does that balance the public
23 need that you're going out there for compared to the
24 original application? Again, you had a proposed area

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1 gain of 2.8 square miles with an affected population gain
2 of 17 percent on the 150-foot tower. Do you know what
3 your proposed area of gain in square miles might be with
4 a 130-foot tower and what the proposed affected
5 population gain would be on that 130-foot tower?

6 MR. DOIRON: Well unfortunately, there is
7 a degradation and not a gain in this case --

8 MS. ALEX: Right, have you -- have you put
9 it in numerics as you did for the first application?

10 MR. DOIRON: Square miles reduced, it
11 would probably be around a one percent reduction in the
12 square miles, as well as about a one percent reduction in
13 the population that we would be able to adequately cover.
14 But it goes beyond just the population. In some cases
15 the population could be mobile, you know, driving from
16 one town to the next through Watertown, and so that's
17 obviously a big focus of ours. Litchfield, that road
18 alone there's upwards of 5,000 vehicles traveling that
19 roadway on a given day. The same with Route 109 to the
20 north and Thomaston where this site is providing enhanced
21 coverage as well. It's providing contiguous coverage and
22 a good level of coverage to that roadway that is heavily
23 covered as well.

24 MS. ALEX: Yeah, but the last -- the power

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1 density -- the Siting Council requests identification of
2 schools, day cares, playgrounds and recreational areas
3 when considering transmission lines and electric
4 generation plants. Is the same request made when
5 considering cell tower placement? Do you know?

6 CHAIRMAN STEIN: You're cross-examining
7 the Applicant and not the Siting Council.

8 MS. ALEX: Does the Siting Council -- I'm
9 sorry.

10 CHAIRMAN STEIN: We do try to be
11 comprehensive --

12 MS. ALEX: Okay. I -- I guess my question
13 was why wouldn't the Evergreen Berry Farm have been
14 identified as a recreational area with significant public
15 access in the original application?

16 MR. STEVENS: Your question is why was it
17 not identified as a noted recreational area?

18 MS. ALEX: Correct. A recreational area
19 with significant public access.

20 MR. STEVENS: I would guess that -- and
21 I'm just kind of -- that's a good question -- I guess
22 it's -- we viewed it as an agricultural area,
23 agricultural use, which is the same as Gustafson's Farm.

24 MS. ALEX: Are you aware that Gustafson's

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1 apple orchard is visited quite routinely by the public to
2 purchase apples and pears and peaches?

3 MR. STEVENS: Yes. Yes, we're aware of
4 that.

5 MS. ALEX: This next series of questions
6 regards the access to the road to the tower. Have the
7 Applicants contacted the fire department directly to
8 determine what, if any, fire trucks are four-wheel
9 drive?

10 COURT REPORTER: One moment please.

11 (pause - take change)

12 MR. STEVENS: Yes, we have in consultation
13 with Charles Berger, the town engineer, and he
14 coordinated with them also and they've reviewed the
15 plans.

16 MS. ALEX: Have the Watertown Police
17 Department been contacted in a similar way to see if any
18 of their vehicles are four-wheel drive?

19 MR. STEVENS: We asked the town engineer
20 to contact public safety. And I have not contacted the
21 police specifically.

22 MS. ALEX: Are the Applicants aware that
23 the American Medical Response ambulances that service
24 Watertown are not equipped with four-wheel drive?

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1 MR. STEVENS: I'm -- I'm not aware of
2 that.

3 MS. ALEX: And are you aware that to
4 transport an injured worker from the site might require
5 the fire department's John Deere four-wheel drive gator
6 to evacuate the patient from the site to the nearest
7 ambulance as the AMR ambulances are not four-wheel
8 drive?

9 MR. STEVENS: Again, we just -- we talked
10 to the town engineer to coordinate with public safety and
11 they gave us their comments on what they needed to have
12 access to the property, and we've agreed to conform to
13 those -- to those requirements.

14 MS. ALEX: Would you agree that a two-
15 stage rescue process to transfer a patient might delay or
16 compromise critical care to an injured worker?

17 MR. STEVENS: I'm not -- I'm not a medical
18 expert on that, so I really couldn't comment.

19 MS. ALEX: What diesel fuel company has
20 four-wheel drive to service your site for your diesel
21 generators?

22 MR. STEVENS: We have -- we have many
23 sites with very similar roads throughout the Northeast.
24 And we've -- in looking at a road like this, we've never

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1 had a problem accessing the diesel truck to the site,
2 whether it be four-wheel drive or not.

3 MS. ALEX: Considering the tower location
4 has changed, what's the distance to the nearest
5 residence now? And do you know the address and property
6 owner?

7 MR. STEVENS: It looks to me the closest
8 residence would be Priscilla Mambrino. And from the
9 tower, approximately 600 feet.

10 MS. ALEX: If blasting is required for the
11 road construction, will the state blasting protocol that
12 you'll follow protect the integrity of the City of
13 Waterbury's aqueduct?

14 MR. STEVENS: Oh, there's no blasting.
15 There will be no blasting done on the property to get the
16 road in.

17 MS. ALEX: You've stated that the
18 development cost is projected -- the site development
19 cost at 130,000 out of 645,000. How much of the site
20 development costs are for road construction?

21 MR. STEVENS: Almost all of it.

22 MS. ALEX: Does that include the
23 additional cost for the additional 200 feet of road in
24 the current proposal?

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1 MR. STEVENS: I might increase the number
2 now to maybe 150 or 160.

3 MS. ALEX: When you consider the cost per
4 foot of a gravel road constructed through the woods and
5 compare that in cost per foot on a gravel road through an
6 open field, how do the costs vary?

7 MR. STEVENS: Really the only difference
8 is the clearing -- the tree clearing. You still have to
9 remove the topsoil, whether it's a field or woods. It is
10 more expensive in the woods.

11 MS. ALEX: This is the place where my
12 husband had drawn a sketch on your topo map proposing --
13 or looking at an alternate route from a southern
14 approach that would avoid the steep slopes.
15 Theoretically, this goes to the field south of the tower
16 500 feet shorter than your proposed road and could
17 potentially meet the town's specifications. If I -- I
18 don't know if it's easier for you just to look at that
19 topo map --

20 MR. ALEX: May I hand out the exhibits --

21 MS. ALEX: -- that -- that particular topo
22 map?

23 MR. LYNCH: Mrs. Alex?

24 MS. ALEX: Yes.

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1 MR. LYNCH: If you wouldn't mind speaking
2 up a little. I'm the furthest away --

3 MS. ALEX: I'm sorry --

4 MR. LYNCH: -- I can hear you, but if you
5 wouldn't mind speaking up.

6 MS. ALEX: When I talk directly into this,
7 does it help?

8 CHAIRMAN STEIN: It doesn't matter.

9 MS. ALEX: It doesn't matter?

10 CHAIRMAN STEIN: It just for --

11 MS. ALEX: Okay.

12 CHAIRMAN STEIN: Also, about how much
13 longer, because we're either going to take a break now or
14 at the end -- if it's going to go on for much longer,
15 we're going to take a break now.

16 (pause)

17 CHAIRMAN STEIN: You're still going
18 through your 2,000 questions -- (laughter) --

19 MS. ALEX: I'm sorry. My husband does
20 have a page or two of questions that are pretty
21 straightforward and short answers. If you feel that you
22 would like to take a break and then come back and let him
23 finish up, I think we'd probably finish up within an
24 hour.

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1 CHAIRMAN STEIN: Well then I guess we
2 better take a break now.

3 MS. ALEX: Okay.

4 CHAIRMAN STEIN: We'll take a 10-minute
5 break.

6 (Whereupon, a short recess was taken.)

7 CHAIRMAN STEIN: We'll reconvene the
8 meeting of the Siting Council. We received the exhibits
9 from Mr. Alex. And Mr. and Mrs. Alex, you can continue
10 your cross-examination.

11 MS. ALEX: I'll let the deep voice take
12 over.

13 MR. STEVENS: Mrs. Alex or Mr. Alex, I
14 think you still had your open-ended question to me about
15 the revised location based on the topo map? Is that the
16 last question that --

17 MS. ALEX: Correct --

18 MR. STEVENS: -- you're waiting for me to
19 answer?

20 MS. ALEX: Yeah --

21 MR. STEVENS: Okay. Maybe we can start
22 off --

23 MS. ALEX: If you'd like, my husband can
24 just reiterate that --

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1 MR. STEVENS: No, I'm --

2 MS. ALEX: -- so you can follow on the map
3 now that you have --

4 MR. STEVENS: No, I've got it. In looking
5 at the topo map, I see -- I see your sketch of going
6 through the field. I guess I've got just two comments on
7 that. One of the reasons we chose the location in the
8 woods is because that was the existing dirt road. And
9 you know, the existing woods road was put where it was
10 because generally it was the easiest way of getting up
11 the hill, so we chose the same location because it didn't
12 require any -- you know, very much clearing. When I
13 walked off the face of that hill down into the field, it
14 seemed much steeper than the way I'm currently going.
15 Now these are 20-foot contours, so -- you know, I see
16 what you mean by it looks less steep than where I'm using
17 the existing road, but you know, the Gustafsons haven't
18 made that area available yet. They kind of want us to
19 use the existing woods road to minimize the disturbance,
20 so that's why we kept it where it is. But again, I -- I
21 don't believe -- or at least -- and I could be wrong, but
22 when I walked it, it seemed pretty steep coming off the
23 face of the hill into the field.

24 MR. KIBURZ: And if I may add? DEP -- or

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1 DEEP also indicated this area to be a grassland bird area
2 with Kestrels, Meadowlarks, and Bob-o-Links. To take
3 field when we have a perfectly good road would not be
4 good ecology. Additionally, Mr. Gustafson has a farm
5 operation and there are various fences there. He has
6 feed cattle in that area. I'm not sure that he would
7 want to put a road through his pasture.

8 MR. ASHTON: May -- may I comment please?
9 This map -- is this a USGS map?

10 MS. ALEX: It appears to be. It's labeled
11 as such.

12 MR. STEVENS: Yes.

13 MR. ASHTON: Okay. I think those are 10-
14 foot contours and not 20-foot contours.

15 MR. STEVENS: Okay.

16 (pause)

17 MR. STEVENS: You're right, they are
18 10's.

19 MR. ASHTON: Okay.

20 MR. ALEX: For the record my name is Bob
21 Alex.

22 Cathy was asking a previous question on
23 the cost per foot of a gravel road in a woods. Do you
24 have those figures, what it cost to put a road in through

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1 the woods versus on a gravel field?

2 MR. STEVENS: I don't have the exact
3 numbers on a per foot basis. We talked to our contractor
4 or one of our contractors in determining this estimate of
5 it --

6 MR. ALEX: Okay --

7 MR. STEVENS: -- and all I can say is that
8 generally it cost more to go through the woods than it
9 does through a field.

10 MR. ALEX: With respect to this map here
11 that we gave you and that access road -- and with all due
12 respect to Mark Kiburz's notations on the wildlife, I
13 proposed this access road as an alternative more for
14 cost-effectiveness and due to the fact that it's going to
15 be used once this facility is in place about once a month
16 according to the Applicants. But anyways, for example,
17 starting at point 4,000 -- 1,400 feet from Bassett Road
18 on an existing unimproved town road, turning
19 west/southwest diagonally uphill across a hayfield, plus
20 or minus 400 feet, and turning north/northeast to reach
21 the tower compound for a total road length of
22 approximately twenty-two hundred feet, this scenario is
23 500 feet shorter than the proposed twenty-seven hundred
24 and fifty feet of road construction, and could more or

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1 less meet the town road specifications as noted on this
2 map in the contours. The only caveat here is, yes,
3 Frank has a pasture, he does have cattle there throughout
4 the season, and maybe two gates. But if that could be
5 worked out with the Applicant and Frank, I think it's a
6 worthwhile thing to look at. And don't -- wouldn't you
7 agree that it would be much more cost-effective?

8 MR. STEVENS: Anytime you can shorten a
9 road, it is -- it is more cost-effective. I just would
10 want to -- I'm not against a shorter road at all.
11 Obviously, it's less cost and that would be great. I'm
12 willing to go out and take a look at it from a survey
13 standpoint as opposed to simply me walking it and -- and
14 talking to Mr. Gustafson, which I think is, you know,
15 probably -- that may be the bigger -- the bigger issue.

16 MR. KIBURZ: If I may? We have to be
17 cognizant that DEEP may not allow us to do that.

18 MR. ALEX: I realize that perfectly.
19 Okay, the next question. As construction costs are
20 ultimately passed on to the consumer, wouldn't it be
21 ultimately most cost-effective to build a 250-foot gravel
22 road through a slightly sloping wooden parcel, such as
23 Crestbrook Park --

24 MS. CHIOCCHIO: Mr. Chairman, I'm sorry to

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1 interrupt, but I don't see the relevance of the cost of
2 the road with respect to our facility --

3 MR. ALEX: Well --

4 MS. CHIOCCHIO: -- I understand the point
5 that Mr. Alex is making with respect to the access road,
6 but with respect to the Council's, you know, balancing
7 the public need and the environmental impacts, the cost
8 is not something that's part of the balancing.

9 CHAIRMAN STEIN: Yeah. I mean it
10 certainly would be to AT&T's advantage to have it less
11 costly, but I think there are some -- there are other
12 issues --

13 MR. ALEX: We're well aware of --

14 CHAIRMAN STEIN: -- and so I really don't
15 see -- I agree that the point of cost, I think you've --
16 you've gotten the answer as best you can get from them -
17 -

18 MR. ALEX: This -- this --

19 CHAIRMAN STEIN: -- and I would not
20 continue with that line of questioning about costs
21 because I think it's -- we all agree if it's shorter and
22 if it's less steep, it would be less costly, but there
23 are other issues that may prohibit that from even being
24 examined, so --

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1 MR. ALEX: Okay. I have some questions
2 for John Favreau concerning SHPO. Exhibit C, I have a
3 sketch of the address locations provided to SHPO relative
4 to the Roderick Brian listed house. Could Infinigy
5 Engineering please state the name of the historian that
6 was used as your consultant to the original 106
7 application to SHPO in the spring of 2010?

8 MR. FAVREAU: That would be Catherine
9 Labadia (phonetic) of Heritage Consultants.

10 MR. ALEX: Did the Applicant's historian
11 and Infinigy Engineering use only the information listed
12 on the National Historic Register database to complete
13 the original Section 106 application to SHPO in the
14 winter and spring of 2010?

15 MR. FAVREAU: The original Section 106
16 review was conducted using all available resources in
17 accordance with SHPO requirements.

18 MR. ALEX: So what were -- what did you
19 use?

20 MR. FAVREAU: The Heritage Consultants
21 made an actual visit to the state records and -- (pause)
22 -- records on file with the State Historic Preservation
23 Office were reviewed, as well as a field visit conducted
24 by Catherine Labadia of an area within a one-half mile

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1 radius of the proposed tower location.

2 MR. ALEX: As stated in your original
3 application to the Siting Council dated August 8, 2011,
4 the wrong address of 936 Linkville Road was provided to
5 SHPO in the original Section 106 application. Did the
6 historian and Infinigy Engineering note this address as
7 approximately 500 feet from the National Registered
8 Broderick Brian House as located at 837 Linkville Road?

9 MR. FAVREAU: I -- I do know that that
10 error in address was discovered and then correspondence
11 was submitted directly to SHPO explaining that situation
12 in detail, that correspondence was submitted with the
13 incorrect address, and clarification that although the
14 address itself was incorrectly listed, the site
15 coordinates and all other pertinent information was
16 correct. And I believe those documents are part of the
17 record.

18 MR. ALEX: Did your historian and Infinigy
19 Engineering note on the second -- on the original Section
20 106 application that homes at both the original address
21 of 936 Linkville Road and the correct address of 655
22 Bassett Road provided to SHPO are eligible historic homes
23 within the APE?

24 MR. FAVREAU: At the time -- at the time

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1 the original Section 106 review was completed, these
2 addresses were not considered as eligible for listing in
3 the National Register.

4 MR. ALEX: This is after she did her field
5 review?

6 MR. FAVREAU: That's correct.

7 MR. ALEX: Did the Applicant's
8 historian/Infinigy Engineering contact either the
9 Watertown Historical Society or the Watertown Historic
10 District for any historic information available
11 regarding the area of potential effects surrounding the
12 site?

13 MR. FAVREAU: I'm just looking to verify,
14 but I'm sure that they were contacted. It's a standard
15 part of every one of our NEPA Section 106 consultations -
16 - and I'm looking through the original NEPA report right
17 now -- (pause) -- I don't see the documentation in front
18 of me, but I do know that our standard procedure for
19 initiating any Section 106 consultation includes
20 submittal of letters of inquiry and requests for comment
21 to town zoning boards, planning boards, historical
22 societies and town historians. So, I -- I would have to
23 look at another copy of this report to find those actual
24 letters.

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1 MR. ALEX: Did the Applicant's historian
2 or Infinigy Engineering invite the public input on any of
3 the historic significance to the area as part of their
4 research to complete the original 106 application in
5 2010?

6 MR. FAVREAU: Yes. It would have been
7 documented under the Section 106 process, which requires
8 public notice to go into the local newspapers. And
9 documentation of that public notice is included in the
10 NEPA report.

11 MR. ALEX: Did your historian in the
12 original submission on 106 to SHPO at her on-site review
13 identify eligible properties such as homes, barns,
14 meadows, or stonewalls that would comprise a potential
15 historic district in the vicinity of the tower?

16 MS. CHIOCCHIO: Once again, Chairman, I'm
17 not sure of the relevance of all of these questions
18 regarding the 106 review. We consulted with SHPO. We
19 followed the process for the 106 review. We had
20 subsequent correspondence from SHPO once that review was
21 completed. So then we continued in further consultation
22 with them and came up with a site design -- as you know,
23 made some compromises and but came up with a site design
24 that satisfied SHPO. So our Section 106 process in

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1 consultation was done properly, was redone, and you have
2 our no adverse effect determination.

3 CHAIRMAN STEIN: I'm inclined to agree
4 unless there are, you know, specific questions --

5 MR. ALEX: Well --

6 CHAIRMAN STEIN: -- I'm not sure whether -
7 - or what you're getting at. What is it, that the
8 process was not correctly followed or --

9 MR. ALEX: With all due respect, Chairman,
10 I have information that the process was not followed
11 correctly. These two documents here that I tried to
12 submit from the SHPO's office that I went to to get last
13 Thursday, which I didn't have enough time to get
14 everybody some notice to it, clearly show that the
15 Applicants failed to (1) identify an historic house in
16 the area, and (2) failed to identify eligible homes in
17 the area. The reason that SHPO had to come out and do a
18 review was at my request. It was brought to my attention
19 that there was indeed a listed home --

20 CHAIRMAN STEIN: No, I --

21 MR. ALEX: -- I made a request to David
22 Bahlman. The next day he sent his team out to review the
23 property and they changed their letter of determination
24 from no adverse effects to yes there was an adverse

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1 effect. That all stemmed from the Applicants not
2 supplying the information and --

3 MS. CHIOCCHIO: I -- I'm sorry, but I
4 respectfully disagree. And I don't think this is the
5 forum to discuss the SHPO process --

6 CHAIRMAN STEIN: No, but I -- but if I
7 understand it correctly, there were three letters from
8 SHPO --

9 MR. ALEX: Right --

10 CHAIRMAN STEIN: -- and I don't disagree
11 because with the process or the chronology or whatever it
12 is that you're explaining, however ultimately we -- we
13 have first a letter saying no adverse and then a second
14 letter saying there was with some documentation or
15 information, and then a third letter, which presumably --
16 which I guess -- my point is unless you can say that that
17 third letter, after all the process either -- and I don't
18 want to belabor whether initially it was wrong, but
19 presumably by the time the third letter came out with I
20 would say the compromises as far as moving it and the
21 height, etcetera, are you still saying that that was
22 based on --

23 MR. ALEX: I still have questions to SHPO
24 that are unresolved. I had sent an e-mail yesterday to

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1 Laura Mancuso, who informed me that David Bahlman has
2 resigned -- or retired -- so it's now in her hands. And
3 she has basically stopped and asked me to get a Freedom
4 of Information request to get the documents I need --

5 CHAIRMAN STEIN: Well --

6 MR. ALEX: -- and that takes time and I
7 can't do it within --

8 CHAIRMAN STEIN: Well we're under -- I
9 mean this process has been going on for, as you know, a
10 long time --

11 MR. ALEX: I realize that --

12 CHAIRMAN STEIN: -- and we've got
13 correspondence. We certainly take into account SHPO --
14 the letter we get. But ultimately the Council -- the
15 Council makes the decision and that is not the only
16 factor. And right now, you know, unless there's a
17 process where we can get everybody to agree to an
18 extension of time so SHPO can, quote/unquote, get there -
19 - I don't know -- I don't know how we can --

20 MR. ALEX: The only reason I bring this up
21 --

22 CHAIRMAN STEIN: All we can --

23 MR. ALEX: -- is the Attorney General's
24 Office has been contacted on this issue --

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1 CHAIRMAN STEIN: Well that's --

2 MR. ALEX: I mean it's not -- they have
3 mitigated the problem and I agree to what they have done
4 in theory. I have sufficient questions that are still at
5 SHPO right now that aren't answered. And I wouldn't
6 bring this up had those been answered.

7 MS. ALEX: I guess the question to the
8 Applicants might be had your historian identified the
9 listed home and the eligible properties in the very
10 beginning of this process, would you have pursued it
11 anyway? Back in March of 2010 if the information had
12 been brought to your attention in the very beginning of
13 this process, would you have pursued it?

14 MS. CHIOCCHIO: I'm going to object to any
15 questions regarding the SHPO process. It's pretty clear
16 that we engaged in additional consultation. We completed
17 the Section 106 process, which is a SHPO process based on
18 the National Historic Preservation Act. We engaged in
19 further consultation post to that process completion and
20 SHPO has indicated that they find no adverse effect or
21 impact with our redesigned facility.

22 CHAIRMAN STEIN: I -- I really -- I don't
23 -- I mean if there are issues between SHPO and the
24 Applicant, I mean we can't -- we can't judge that at this

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1 point. So I think -- the Applicant I think is telling
2 us, and I'm not sure at point in the process, but at the
3 end of the process that they feel that they have touched
4 all the bases. And we do have that letter from SHPO.
5 Now whether -- I don't know if I understood correctly,
6 but there's a new director at SHPO who's going to totally
7 change the process or something? That's really something
8 that we cannot develop any further here. So I think we
9 have to go with what's on the record and -- well let me
10 just ask one final question on this issue to the
11 Applicant and see if they -- and whoever wants to answer
12 it -- do you feel that prior to the final letter -- and
13 I'm not -- that you have met the requirements -- what is
14 it, Section 106 --

15 MR. STEVENS: Yes, we do.

16 CHAIRMAN STEIN: Alright. Then let's --
17 let's go on.

18 MR. ALEX: The next set of questions
19 concern the balloon float, so I guess John these are
20 directed to you -- John Favreau. Are we correct to say
21 that two witnesses must sign the balloon float affidavit
22 in the presence of a notary?

23 MS. CHIOCCHIO: I'm not aware of any
24 requirement for --

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1 MR. ALEX: I know when I need to get deer
2 permits, both my wife and I have to go down and sign. So
3 wouldn't this be similar?

4 MS. CHIOCCHIO: No, not necessarily. It's
5 an affidavit regarding the balloon float.

6 MR. ALEX: In the last three balloon
7 floats the balloon tether was snagged in tree limbs
8 causing a lowering of the height. Why weren't the tree
9 limbs removed?

10 MR. FAVREAU: I wasn't at the actual
11 balloon site itself. I don't know how high these snags
12 were, if they were 30 or 40 or 60 feet. I don't know
13 how they would have been removed. I -- I can't answer
14 that.

15 MR. ALEX: You're the one who flew the
16 balloon?

17 MR. FAVREAU: The last -- well I flew it -
18 - I was at the site the morning of October 27th. The
19 mornings of November 3rd and November 9th, I was not at
20 the balloon site after the first probably half-hour. I
21 was out doing field reconnaissance. One of my associates
22 was at the balloon site.

23 MR. ALEX: What was the drop in height
24 caused by wind deflections?

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1 MR. FAVREAU: The deflections I believe
2 were noted -- I know I have them here -- upwards of --
3 anywhere upwards of 50 to 60 feet maximum lateral
4 deflection, which at that height would cause a lowering
5 in elevation of probably no more than 10 to -- certainly
6 no more than 10 feet.

7 MR. ALEX: Can you claim that the
8 photographic evidence shows the balloons at 150 feet when
9 you have documented a wind effect of five to eight miles
10 an hour and impeded tethers by the trees?

11 MR. FAVREAU: Could you repeat that
12 please, I'm sorry?

13 MR. ALEX: Can you claim that the
14 photographic evidence shows the balloon at 150 feet when
15 you have documented wind effects of five to eight miles
16 an hour and an impeded tether by the trees?

17 MR. FAVREAU: Yes.

18 MR. ALEX: Yes that is to 150 or yes there
19 is a lowered height?

20 MR. FAVREAU: I can -- I can verify that
21 when I am out in the field and I make visual observations
22 and take photographs, I wait, you know, any number of
23 minutes and I look -- you know, the balloon doesn't just
24 sit in one spot as we've agreed due to wind deflection,

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1 changes in wind direction, and changes in wind speed.
2 You know, short of -- short of putting up some stationary
3 object, there's going to be some variation in lateral
4 movement. And typically what I see -- I wait until that
5 balloon reaches its apex if it is indeed wavering due to
6 winds, and I -- you know, I guess the answer to that is
7 it can't -- it's -- it's not at the same height a hundred
8 percent of the time.

9 MR. ALEX: Moving on, was there any kind
10 of communication between the witness at the balloon site
11 and the photographer for the visual resource analysis
12 during the course of the photo-shoot to confirm that the
13 balloon maintained proper height?

14 MR. FAVREAU: Yes, there was occasional
15 conversation. I drove back to the site myself several
16 times to talk to the associate who was at the balloon
17 site. I drove back to the actual Bassett Road -- even if
18 I didn't go in the woods and take the time to hike up
19 there, I drove probably past the 655 Bassett site
20 several times an hour to verify that it was in the air
21 myself.

22 MR. ALEX: Why is a three-foot diameter
23 balloon flown to represent a total antenna array that
24 exceeds 20 feet width visually?

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1 MR. FAVREAU: The balloon typically is to
2 demonstrate -- to get an appreciate of the height and not
3 necessarily the width of the tower. It's flown so that
4 we can get an idea as to the actual height. And then the
5 simulations will show -- will be used to show --

6 MR. ALEX: So the general public who
7 doesn't have access to the simulations, they just got to
8 guess? I mean when we were in the field taking
9 photographic evidence, I -- I actually ran around the
10 same day you did to take pictures, but unfortunately my
11 wife's little camera isn't as good as yours. And you
12 know, a three-foot balloon is a lot different than a 20-
13 foot wide array. Why is -- why is that misrepresented?

14 MR. FAVREAU: It's not misrepresented in
15 the photographs. The photographs are available --

16 MR. ALEX: From the public -- from the
17 ground it is.

18 MR. FAVREAU: It's -- it's intended -- the
19 balloon float is intended to simulate the height and give
20 the public an idea of the height of the tower.

21 MR. ALEX: According to the December 23,
22 2011 Visual Resource Analysis, you reportedly walked the
23 Mattatuck Trail on November 9th and determined there was
24 no visibility during partial leaf-on conditions. In

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1 contrast, during the balloon flight on November 3rd, I
2 placed two pieces of orange surveyor tape head high at
3 approximately 1,750 feet from the tower east/northeast
4 along the Mattatuck Trail where the balloon was visible
5 during that same partial leaf-on conditions. Why did you
6 miss that?

7 MR. FAVREAU: I don't know.

8 MR. ALEX: How can you claim that the
9 trail will have no views of the tower when the assessment
10 was made during partial leaf-on and never during leaf-off
11 conditions?

12 MR. FAVREAU: The assessment wasn't made
13 during leaf-on conditions. As -- I guess there were some
14 leaves and that's why I called it partial leaf-on, but
15 predominantly it was leaf-off conditions. And I made the
16 assessment based on my own observations.

17 MR. ALEX: If you'll look at your
18 photographic evidence, it's pretty much leaf-on at the
19 top of that ridge where most of the --

20 MR. TAIT: Can I -- can I interrupt, sir?

21 MR. ALEX: Yes, sir.

22 MR. TAIT: I think you're arguing your
23 case --

24 MR. ALEX: Okay --

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1 MR. TAIT: -- rather than putting in new
2 evidence.

3 MR. ALEX: I'll -- I'll just stick to the
4 questions --

5 MR. TAIT: Yeah, stick to the questions -
6 -

7 MR. ALEX: Sorry --

8 MR. TAIT: -- and you'll have full
9 opportunity to make the connections.

10 MR. ALEX: I'm sorry.

11 MR. FAVREAU: Can I just clarify something
12 for the record? The conditions along the Mattatuck Trail
13 were very much predominantly leaf-off.

14 MR. ALEX: But at the ridge site itself,
15 what were the conditions at the ridge site?

16 MR. FAVREAU: I don't know. From the
17 trail, I couldn't see it --

18 MR. ALEX: At the ridge site where the
19 tower was? Your photographic evidence shows leaves on
20 the trees --

21 CHAIRMAN STEIN: Did you hear what --

22 MR. ALEX: I'm sorry. Let's move on. Did
23 you walk the U.S. Army Corps or Engineers property access
24 road on the dry dam at Black Rock Lake on Route 109 to

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1 the --

2 MR. FAVREAU: Yes, I did.

3 MR. ALEX: And what was your findings?

4 MR. FAVREAU: I did not see the balloon.

5 MR. ALEX: From the dry dam?

6 MR. FAVREAU: Is that the -- just so that
7 we're talking about the same thing, is that where there's
8 scads and scads of riprap?

9 MR. ALEX: Yes, sir.

10 MR. FAVREAU: Yes.

11 MR. ALEX: I clearly saw it there. Are
12 you aware of how this federal recreation is used and how
13 many people use this area?

14 MR. FAVREAU: No, I'm not.

15 MR. ALEX: Can I make a note to the
16 Council that I've requested the U.S. Army Corps of
17 Engineers from -- usage data from that area and they're
18 going to send it directly to you. It takes time to get
19 things from the government.

20 CHAIRMAN STEIN: Okay, you've made your --
21 you've made your --

22 MR. ALEX: John Stevens, I have some
23 questions for you. How were the coordinates for the
24 stakes determined?

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1 MR. STEVENS: They're determined two ways.
2 The first is with a hand-held GPS, which is not quite as
3 accurate as the subsequent surveyor visiting the site and
4 getting the exact coordinates.

5 MR. ALEX: How accurate is the hand-held
6 GPS?

7 MR. STEVENS: It's normally within about a
8 half a second. In this area a half a second is roughly
9 equal to about 50 feet.

10 MR. ALEX: Did you do a line survey or
11 traverse from existing ground coordinates to the site to
12 determine the coordinates and height elevation?

13 MR. STEVENS: We did an actual -- having a
14 traverse survey -- there's -- there's different
15 technologies --

16 MR. ALEX: Right --

17 MR. STEVENS: -- so I'll answer the
18 question that --

19 MR. ALEX: -- a line survey -- a line
20 survey --

21 MR. STEVENS: Yeah, we did an actual
22 survey in the field with surveying equipment to get the
23 exact coordinates.

24 MR. ALEX: What data did you use to start

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1 from?

2 MR. STEVENS: Most of the coordinates now
3 are done from a GPS using -- not a hand-held GPS, but
4 survey equipment that have the accuracy that has
5 supplanted going from the known benchmark or coordinates
6 that --

7 MR. ALEX: That's what I asked you for,
8 the known benchmark. What survey data did you start
9 from?

10 MR. STEVENS: I'm not sure I know your
11 question. You mean where was the point we went from?

12 MR. ALEX: Yes.

13 MR. STEVENS: You don't go from a point.
14 You use the -- you use the satellites now --

15 MR. ALEX: Everything is satellite?

16 MR. STEVENS: Yes.

17 MR. ALEX: Okay. On October 27th the
18 balloon was actually flown 42 feet south of the original
19 stake on Frank Gustafson's land as witnessed by the
20 Siting Council. Yet in your response to Question 1 of
21 our interrogatories you state the location was 14.25 feet
22 north of the original stake in the direction of my farm.
23 How can these coordinates show the balloon was flown
24 14.25 feet north of the original stake when in the field

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1 it was actually south of that stake?

2 MR. STEVENS: Are we talking about the
3 original location now?

4 MR. ALEX: Yes, sir.

5 MR. FAVREAU: I can answer that. On
6 October 27th, I believe that was the morning that I met
7 you in the field --

8 MR. ALEX: Yes, sir --

9 MR. FAVREAU: -- and you had asked me --
10 we were -- we were standing north of the stake and you
11 asked me why are you -- you know, you approached me from
12 the north and said why are you anchoring it there, why
13 not at the stake. And I looked up and I said I can't fly
14 it there because of the tree canopy. And I measured it
15 off and it was 14.25 feet to the north of the original
16 stake.

17 MR. ALEX: You were standing at the south
18 edge of that open area, is that correct?

19 MR. FAVREAU: I was standing -- no, I was
20 standing at the original staked area.

21 MR. ALEX: There was an original white
22 stake in the center of that open area that the trees were
23 removed from, is that correct?

24 MR. FAVREAU: I believe I was standing

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1 over a stake that said tower center --

2 MR. ALEX: Right. That was put up the
3 week before.

4 MR. STEVENS: Yes, the original white
5 stake was one that was placed by one of the first
6 visitors this site ever -- on picking a general location
7 for the tower --

8 MR. ALEX: Was that the original 180-foot
9 stake where they flew?

10 MR. STEVENS: I don't know. I -- we're
11 talking about sites that are no longer -- that we're no
12 longer considering.

13 MR. ALEX: Okay, let's drop that. Was an
14 FAA 1A survey certification for the new tower coordinates
15 provided to the FAA to make their new December 8, 2011
16 determination?

17 MR. STEVENS: Yes.

18 MR. ALEX: How come that document wasn't
19 provided to us?

20 MR. STEVENS: What we provided was the FAA
21 determination which was based on that 1A given to the
22 FAA.

23 MR. ALEX: The next set of questions are
24 for Mark Kiburz. In response to our interrogatories

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1 question and answer 89, the Applicant stated that an on-
2 site field investigation was performed March 1, 2010 by
3 Mark Kiburz, staff biologist with Infinigy. Where is
4 your report?

5 MR. KIBURZ: Typically we just make notes
6 in the field and then we include everything in our NEPA
7 report if there's anything significant that we observed.

8 MR. ALEX: So there was no report to send
9 to this application?

10 MR. KIBURZ: The NEPA report.

11 MR. ALEX: What were the weather and field
12 conditions for March 1st?

13 MR. KIBURZ: I don't know off the top of
14 my head.

15 MR. ALEX: What was the area of potential
16 effect used in its determination?

17 MR. KIBURZ: Please describe area of
18 effect?

19 MR. ALEX: How far away did -- from the
20 tower did you look?

21 MR. KIBURZ: Actually, I don't just look
22 at the tower, sir. I actually go all the way up the
23 road. We look at the existing roadway, we look at the
24 lease area. I look within a hundred feet of the lease

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1 area. Now in this case we had some issues because
2 there's posted property there and we couldn't go on that
3 posted property. The city's watershed property is
4 posted. And obviously we can't break the law --

5 MR. ALEX: Right --

6 MR. KIBURZ: -- so we just go up those
7 trails of that lease area and we record what is there.
8 General recording.

9 MR. ALEX: The next question you partially
10 answered and maybe you can finish it. Please explain the
11 methodology you used to evaluate habitat characteristics
12 in the vicinity of the tower location relative to known
13 local threatened and endangered species?

14 MR. KIBURZ: Well we know the grassland
15 birds in that area are species of concern as they are
16 throughout the U.S. So when we looked at those areas, I
17 was looking at the road. And because we're only going to
18 impact that road, there was no major issues outside of
19 that. I looked at the field, that would be to the west,
20 and those were active hayfields, which means they've been
21 maintained, they've been mowed, hayed, whatever Mr.
22 Gustafson does. We proceeded in approximately twelve
23 hundred feet, off the top of my memory, into the woods,
24 primarily of oak wood, red oak. There's a little bit of

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1 white oak. There was some shagbark hickory and a few
2 beech interspersed in there.

3 COURT REPORTER: One moment please.

4 (pause - tape change)

5 MR. KIBURZ: So when we're out there, we
6 look for cavities, I look for animal feces, I look for
7 feathers, I look for hair, I listen for bird calls,
8 basically whatever I can utilize to determine the species
9 of animals that are out there. Additionally, we did
10 consult with the DEEP, with the Natural Diversity
11 Database, which I know you have done as well.

12 MR. ALEX: Was this investigation
13 exclusive to the habitat of only known threatened or
14 endangered species or were other listed species, such as
15 plants, animals, insects, invertebrates, bats -- birds
16 and bats investigated as required by the DEP in their
17 January 2, 2012 letter?

18 MR. KIBURZ: Because we take snapshots --
19 as biologist we can't always identify every species
20 that's out there. We rely on your Department of
21 Environmental Protection. We rely on basic knowledge. I
22 also reviewed some the bird web pages from that area to
23 get an idea of the species. We do look at plants.
24 Plants, trees, wetlands, all those are specific to

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1 different species and species preferences.

2 MR. ALEX: What are your qualifications as
3 an entomologist?

4 MR. KIBURZ: About nine college credits,
5 invertebrate zoology, entomology. Wildlife management is
6 my degree --

7 MR. ALEX: Nine credits in entomology?

8 MR. KIBURZ: I spent multiple years in
9 this field. I worked for the National Park Service for
10 several years. And I'm a diehard fly-fisherman, so I
11 know bugs.

12 CHAIRMAN STEIN: I think we have your
13 resume as part of -- it has been submitted --

14 MS. CHIOCCHIO: That is correct --

15 CHAIRMAN STEIN: -- as part of the
16 record.

17 MR. ALEX: Were any Bob-o-Links, Eastern
18 Meadowlarks, American Kestrels, Bald Eagles, or common
19 Nighthawks present on March 1, 2010?

20 MR. KIBURZ: I believe there were Kestrels
21 just coming in and setting up breeding territories, but I
22 did not observe the other species.

23 MR. ALEX: Who's the raptor specialist for
24 the DEP?

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1 MR. KIBURZ: I don't know that off the top
2 of my head. I didn't contact --

3 MS. CHIOCCHIO: I'm not sure that's
4 relevant.

5 MR. ALEX: Well let me ask this a
6 different way. Did you contact Jennie Dickson at the DEP
7 in regards to the land -- the City of Waterbury's
8 watershed property for possible Bald Eagle habitat?

9 MR. KIBURZ: We did not. Additionally,
10 when we do our reviews, if it's not on our site, the
11 state agencies or other agencies will not release that
12 information because Bald Eagle nests are protected.

13 MR. ALEX: They released it to me. Why
14 not you?

15 MR. KIBURZ: Typically they don't release
16 them to us.

17 MR. ALEX: You never called them. Was Art
18 Gingert (phonetic), a wildlife sanctuary biologist,
19 contacted with reference to his ongoing Kestrel project
20 on the Gustafson property that had begun in 2008?

21 MR. KIBURZ: No. And please note that
22 that's across the road. It's not on our -- on the
23 project that we're reviewing. It's across the road in
24 the orchards.

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1 MR. ALEX: So you're aware of his sites?

2 MR. KIBURZ: Based on your letter I am.

3 MR. ALEX: Are those sites within the
4 range of the normal flying -- or the habitat of a
5 Kestrel?

6 MR. KIBURZ: Are you asking me would a
7 Kestrel fly into the woods?

8 MR. ALEX: What's -- what's the range?
9 The normal range of a Kestrel?

10 MR. KIBURZ: Migratory range? Yearly
11 feeding range?

12 MR. ALEX: In -- in its nesting proximity,
13 that range, not -- not migratory. Migratory is a big
14 difference.

15 MR. KIBURZ: Well, we need to be specific.
16 If you're going to ask that question, I want specifics
17 because I'm not going to give you -- I'm going to say
18 they have about a two -- a two-mile feeding area -- two
19 miles square feeding area.

20 MR. ALEX: In response to our question
21 88, the Applicant states the original proposed tower and
22 the current proposed tower exhibit the same habitat
23 characteristics. Why are the tower coordinates you
24 provided to the DEEP on January 3, 2012, which you

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1 erroneously dated 2011, different from the tower
2 coordinates noted on the current application?

3 MR. KIBURZ: The differences are
4 approximately half a second and it reflects the
5 difference between a hand-held and the actual field
6 survey we've got. So again, you know, (1) the -- you
7 know, roughly half a second is 50 feet either way.

8 MR. ALEX: Fifty feet, huh?

9 MR. KIBURZ: Yes.

10 MR. ALEX: See Exhibit B please. The
11 Google Earth satellite photo of the coordinates provided
12 to the DEP is showing the tower deeper in the woods than
13 it actually is. The coordinates provided by Mark Kiburz
14 with the DEEP application is latitude 41-39-26-09,
15 longitude minus 73-89-28. The Applicants -- the
16 application coordinates are 30 -- 41-39-25-48 and
17 longitude 73-8-10-54. Are you aware that these
18 coordinates that you gave to DEP are approximately 110
19 feet deeper in the woods compared to the 50-foot the
20 application states the compound is from the fence line?

21 MR. KIBURZ: Are you utilizing Google
22 Earth to determine --

23 MR. ALEX: That's what you said in your
24 report. In the application you sent to the DEP those are

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1 the -- those are the coordinates you gave.

2 MR. KIBURZ: Are you basing that on Google
3 Earth?

4 MS. ALEX: The hundred and ten --

5 MR. ALEX: Oh, my hundred and ten-foot?
6 Yes.

7 MR. KIBURZ: Okay. Just so the Council is
8 aware, Google Earth has an issue in this area. Anything
9 you lay over is about 50 to 60 additional feet in error.
10 I don't why. It's a -- it's a problem with their web
11 page.

12 MR. LYNCH: Can you confirm that there's a
13 problem?

14 MR. KIBURZ: I can confirm it -- if we had
15 Google Earth, I could drop the topo maps on it, and the
16 topo maps and all the maps don't line up right, so
17 there's an error somewhere in their system.

18 MR. ALEX: Are you aware that in your
19 January 3, 2012 application to the DEP -- DEEP, sorry --
20 you noted the compound size of twenty-five hundred square
21 feet, and in fact the 75-by-75 foot equipment compound
22 covers 5,200 -- 625 square feet, and that of the lease
23 area is 100-by-100 or 10,000 square feet? Do you want me
24 to ask that simpler?

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1 MR. KIBURZ: Yeah, actually because I
2 don't understand what you're --

3 MR. ALEX: Sorry, I -- you got that look
4 in your eye -- you asked -- you noted in your application
5 twenty-five hundred square feet. That seems to be wrong.
6 What's -- what's the right answer there?

7 MR. KIBURZ: What are --

8 MS. ALEX: 75-by-75.

9 MR. KIBURZ: Then that would be the right
10 answer.

11 MR. ALEX: And not the lease area?

12 MR. KIBURZ: And not the lease area? The
13 lease area is probably a hundred by a hundred. That's --
14 that would a typical --

15 MR. ALEX: So instead of twenty-five
16 hundred feet, it should have been 10,000?

17 MR. KIBURZ: Are we talking -- well what
18 was the reference, because it may have been disturbance -
19 -

20 MR. ALEX: It was --

21 MR. KIBURZ: -- rather than the lease area
22 --

23 MR. ALEX: -- it was -- it was in your
24 application on page -- the DEP application, January 6,

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1 2012 --

2 MS. ALEX: Tab 5 in the new supplemental.

3 MR. ALEX: Page 3 of 4, right at the top,
4 No. 2, right underneath reg and --

5 (pause)

6 MR. KIBURZ: I think we -- I think I made
7 an error in my calculation.

8 MR. ALEX: How can you expect the DEEP to
9 make an accurate determination of impact on listed
10 species with inaccurate information?

11 MR. TAIT: Again I think you're arguing
12 your case --

13 MS. CHIOCCHIO: Yes --

14 MR. ALEX: Sorry. I take that back. In a
15 letter from Elaine Hench, DEP specialist -- program
16 specialist, to Mr. Kiburz on January 6, 2012, she states
17 that the American Kestrel, the Bob-o-Link, and Eastern
18 Meadowlark are --

19 CHAIRMAN STEIN: Is that in the record?

20 MR. KIBURZ: Yes --

21 MS. ALEX: Yes, it is.

22 MR. ALEX: Yes, it is. Are populations of
23 species within the vicinity of the site. These birds
24 inhabit grassland areas (woodland edges) and open fields.

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1 Please define woodland edges?

2 MR. KIBURZ: The transition between
3 grasslands and forestlands.

4 MR. ALEX: How far from the field edge was
5 the original tower location you investigated on March 10,
6 2010?

7 MR. TAIT: Is that relevant?

8 CHAIRMAN STEIN: Yeah, can't we --

9 MR. ALEX: It is -- unfortunately, it is.
10 I'm sorry, I tried to cut these down --

11 MR. TAIT: We're not with that tower any
12 more --

13 MR. ALEX: Exactly. So he needs to answer
14 that because there's a difference between that, to where
15 he did the investigation and this, to where we are not.

16 MR. KIBURZ: I think -- let me sum this
17 up. When we look at a species and we look at a habitat,
18 we look at a whole area. If you're only going to ask me
19 about 5,000 square feet, whether a Bob-o-Link or a
20 Kestrel or a Meadowlark is going to use that area, most
21 likely not because it's in the woods. And that's another
22 thing that Elaine states in her letter. Therefore, the
23 proposed project will not impact the grassland birds
24 because we're in the forest. I can see Kestrels coming

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1 up and landing on the wood edges, you know, using them
2 for perches to find prey, grasshoppers, mice, whatever
3 they would use. Meadowlarks stay away from edges because
4 that's where your predators would want to try to hang out
5 and nab them. The same with Bob-o-Links. Bob-o-Links
6 are a deep field species. They're not on the edges.
7 They hang more in the center of the fields. So in
8 reference to where that tower is, whether I'm a hundred
9 feet off or two hundred feet, being the woods, and I'm
10 taking this from recall, it's approximately 110 feet from
11 the wood edge, I don't necessarily see that that would be
12 an issue for the grassland birds.

13 MR. ALEX: How about if I point out the
14 fact that it was 300 feet in?

15 MR. KIBURZ: That would be better for our
16 case.

17 MR. ALEX: The original place where you
18 did your investigation was 300 feet in.

19 MR. KIBURZ: Okay.

20 MR. ALEX: And where is it now?

21 MR. KIBURZ: Probably about 110. That's
22 the site I'm talking about.

23 MR. ALEX: The last photo that I gave you
24 was a picture from your tower site looking south --

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1 MR. KIBURZ: Now is that a compound stake
2 or is that a tower stake?

3 MR. ALEX: That's a tower stake where you
4 last flew the balloon, twice. That stake happens to be
5 58 feet to the wire fence.

6 MR. KIBURZ: I don't understand --

7 MR. ALEX: Wouldn't that be considered --

8 MR. KIBURZ: I can't answer that question
9 because the stake doesn't state whether it's a tower
10 stake. We always write tower stake on a stake. So, I
11 can't -- I can't answer the question based on the photo.

12 MR. ALEX: How many trees will be left
13 between the compound area and the fence line? And was
14 this provided to the DEP, and actually also to the SHPO
15 office?

16 MR. KIBURZ: There is no requirement to
17 give tree numbers to the DEP.

18 MR. ALEX: Wouldn't a significant
19 reduction in trees between the compound and the fence
20 line compared to the original site now constitute a
21 woodland edge noted to be Kestrel, Bob-o-Link, and
22 Eastern Meadowlark habitat?

23 MR. KIBURZ: In my professional opinion
24 no.

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1 MR. ALEX: In response to our
2 interrogatories, Question 98, it was stated that falcons,
3 such as the American Kestrel, either perch high above the
4 ground or hover above the ground, sweeping down to
5 capture its prey. Wouldn't you agree that a 130-foot
6 monopine would be considered a high perch?

7 MR. KIBURZ: It would be a high perch, but
8 I would have issues with the surrounding woods around it.
9 It would not be a preferred perch.

10 MR. ALEX: Would you agree that a Kestrel
11 or other birds of prey such as Bald Eagles, the Red-
12 Tailed Hawk, the Cooper's Hawk, or our own bird abatement
13 falcons could potentially perch on this tower?

14 MR. KIBURZ: You're asking me questions
15 that are all possibilities rather than facts.

16 MR. LYNCH: Well then I guess the question
17 would be do you know of any that have nested in a
18 monopine?

19 MR. KIBURZ: That have nested in a
20 monopine? I am not personally aware of them. I know
21 that every once in a while they will have issues with --
22 there's a big fat Red-Tail down in Rhode Island that
23 there's few towers that they'll want to nest in. But
24 they're -- they're now designed to reduce that nesting

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1 potential.

2 MR. LYNCH: Thank you.

3 MR. ALEX: On those particular towers that
4 you know of, do they nest behind the antennas?

5 MR. KIBURZ: I don't know the answer to
6 that.

7 MR. ALEX: If our bird abatement falcon
8 perches on a monopine in front of an operating antenna
9 and is injured by power densities that exceed FCC maximum
10 permission exposures, who do we contact to retrieve our
11 falcon from within your compound?

12 MS. CHIOCCHIO: Chairman, I'm objecting to
13 any questions regarding emissions and impacts.

14 MR. ALEX: I will drop the emissions part.
15 If my bird abatement falcon lands on your tree and
16 happens to die and falls in your compound area and I want
17 to retrieve the bird from 250 to 500 dollars worth of
18 transmitters to do an autopsy on, who do I call? That's
19 all I'm asking.

20 MS. CHIOCCHIO: There's contact
21 information at every facility with respect to the
22 facility --

23 MR. ALEX: So there's a phone number
24 there?

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1 MS. CHIOCCHIO: There's a phone number.

2 MR. ALEX: That's all I needed to know.

3 CHAIRMAN STEIN: You said it would be
4 about an hour --

5 MR. ALEX: I have one more question --

6 CHAIRMAN STEIN: -- because the town has
7 some scheduling issues, so we'd appreciate it if you
8 could wrap up.

9 MS. ALEX: Yeah, we are. This is just a
10 theoretical question for the Applicants --

11 COURT REPORTER: I'm sorry, do you have
12 the microphone in front of you?

13 MS. ALEX: No, it's my voice again. I'll
14 try to speak up.

15 Theoretically if the Crestbrook site was
16 available, would not that better serve the Applicants in
17 cost savings, coverage, and enhanced tower sharing
18 capability because of the extra height, while at the same
19 time offer the Town of Watertown a new revenue source and
20 eliminate impacts on historic homes, scenic views, and
21 farms with significant public access and recreational
22 value, as well as prevent any alteration to steep slopes,
23 impacting water flow and adjoining watershed?

24 MS. CHIOCCHIO: Just very briefly, the

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1 Crestbrook Park site is not available. And we did look
2 into it and we did consult with the town about making it
3 available for a wireless facility. It's not feasible.
4 It's not an alternative, so it's not something we can
5 pursue.

6 MR. ALEX: From your standpoint. If this
7 was denied --

8 CHAIRMAN STEIN: Didn't you ask that in a
9 -- you asked the Applicant the question, so they answered
10 --

11 MR. ALEX: Okay, sorry.

12 MS. ALEX: Thank you.

13 MR. ALEX: Thank you.

14 CHAIRMAN STEIN: Okay. Yeah, if you don't
15 mind, we'll just keep the seating the way it is, unless
16 the town has a preference to sit some other way. And
17 we'll now go to the Town of Watertown. Mr. Jessell.

18 MR. JESSELL: Mr. Chairman, I have only
19 one witness --

20 COURT REPORTER: Could you bring the
21 microphone --

22 MR. JESSELL: I'm sorry, yes. Mr.
23 Chairman, I have only one witness, it's Roy Cavanaugh,
24 the Public Works Director for the Town of Watertown,

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1 simply to have the two memorandums from Charles Berger
2 admitted as full exhibits. Unfortunately, Mr. Berger is
3 on vacation this week and couldn't be here. So if I may,
4 I'd just like to ask Mr. Cavanaugh some questions to
5 verify the documents to have them admitted.

6 CHAIRMAN STEIN: Well first he needs to be
7 sworn in. Mr. Cavanaugh.

8 MS. BACHMAN: Please raise your right
9 hand.

10 (Whereupon, Roy Cavanaugh was duly sworn
11 in.)

12 MS. BACHMAN: Thank you.

13 CHAIRMAN STEIN: Okay.

14 MR. JESSELL: Thank you. Mr. Cavanaugh,
15 what's your position with the Town of Watertown?

16 MR. ROY CAVANAUGH: I'm currently Director
17 of Public Works.

18 MR. JESSELL: In that position does
19 Charles Berger, the Town Engineer, report to you?

20 MR. CAVANAUGH: Yes, he does.

21 MR. JESSELL: Okay. I have two documents,
22 a memo from Mr. Berger dated October 26, 2011, and
23 another dated December 30, 2011, are you aware of those
24 documents?

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1 MR. CAVANAUGH: Yes, I am.

2 MR. JESSELL: Those documents were
3 prepared by Mr. Berger?

4 MR. CAVANAUGH: Yes, they were

5 MR. JESSELL: And you've reviewed those
6 documents?

7 MR. CAVANAUGH: Yes, I have.

8 MR. JESSELL: And you have personal
9 knowledge of both the cell tower and all the information
10 in those documents?

11 MR. CAVANAUGH: Yes, I do.

12 MR. JESSELL: Do you feel there are any
13 errors in those documents?

14 MR. CAVANAUGH: No, I don't.

15 MR. JESSELL: Mr. Chairman, I'd like to
16 have them admitted as full exhibits.

17 CHAIRMAN STEIN: Any objection from either
18 the Applicant or the intervenors?

19 MS. CHIOCCHIO: No objection.

20 MR. ALEX: No objection.

21 CHAIRMAN STEIN: Okay, they're -- they're
22 admitted.

23 (Whereupon, the Town of Watertown Exhibit
24 No. 1 and No. 2 were received into evidence.)

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1 CHAIRMAN STEIN: So cross-examination by
2 staff. Mr. Martin?

3 MR. MARTIN: No questions, Mr. Chairman.

4 CHAIRMAN STEIN: Professor Tait.

5 MR. TAIT: No questions.

6 CHAIRMAN STEIN: Mr. Ashton? Mr.
7 Golembiewski? Mr. Lynch?

8 MR. LYNCH: No questions.

9 CHAIRMAN STEIN: Dr. Bell.

10 DR. BELL: We've asked the Applicant if
11 their new position for the tower is agreeable and other
12 arrangements they've made about the access road, and they
13 replied that they felt that the -- with one exception
14 that they met the town engineer's requirements. And
15 would you agree with that?

16 MR. CAVANAUGH: Yes, I would.

17 DR. BELL: Excuse me?

18 MR. CAVANAUGH: Yes, I do.

19 DR. BELL: Thank you. Thank you, Mr.
20 Chair.

21 CHAIRMAN STEIN: Okay, Professor Tait does
22 have --

23 MR. TAIT: The town is aware that it's
24 proposed to be a monopine?

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1 MR. CAVANAUGH: We are now.

2 MR. TAIT: Is that acceptable to the
3 town?

4 MR. CAVANAUGH: Yes, it is.

5 MR. TAIT: Thank you.

6 CHAIRMAN STEIN: Okay, I guess there's no
7 other questions from the Council. The Applicant?

8 MS. CHIOCCHIO: No questions.

9 CHAIRMAN STEIN: No questions. The
10 intervenors?

11 MR. ALEX: No questions.

12 CHAIRMAN STEIN: No questions. As a
13 former municipal official, that was somewhat painless,
14 wasn't it -- (laughter).

15 MR. TAIT: Unfortunately, you have time to
16 get to your next meeting -- (laughter) --

17 CHAIRMAN STEIN: Yeah, there's always good
18 news and bad news.

19 MR. TAIT: Good news and bad news, you'll
20 get to your meeting on time.

21 CHAIRMAN STEIN: Okay. Now we'll go to
22 the appearance by the intervenors, Mr. and Mrs. Alex.

23 MR. TAIT: Is there anything that's not on
24 the record that you would like to put on the record?

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1 MR. ALEX: What was that again?

2 MR. TAIT: Is there anything that's --
3 that you would like to put on the record that is not now
4 on the record?

5 MR. ALEX: We -- actually there is. Where
6 was that one exhibit --

7 MR. TAIT: Well I think the exhibits are
8 all in -- if you have something, then we've got to swear
9 them in --

10 MR. ALEX: I have a notary version of Art
11 Gingert's letter. You have the letter, AT&T has the
12 letter. Would you like the notarized version? I'm not
13 sure it makes a difference.

14 MR. TAIT: I don't believe it makes a
15 difference. There was a letter from SHPO that you didn't
16 get in?

17 MR. ALEX: There was an e-mail from SHPO
18 and a letter from Lucia Chiochio that I would like to
19 admit as evidence if possible. I didn't realize you got
20 to do it all beforehand. I was unaware of that. I'm not
21 a lawyer.

22 MR. TAIT: If there's something that's not
23 in the record that you want in the record, you need to do
24 it now --

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1 MR. ALEX: Yes --

2 MR. TAIT: -- and we need to swear you in

3 --

4 MR. ALEX: Yes --

5 MR. TAIT: -- and you have to verify --

6 MR. ALEX: Can I do it at that time?

7 MR. TAIT: This is your case. This is

8 your -- this is --

9 MR. ALEX: Yes, I would love at least to

10 admit those two items.

11 MR. TAIT: Or at least we'll have an

12 argument about those two items.

13 MR. ALEX: Right.

14 MR. TAIT: But first you have to --

15 (laughter) --

16 MR. ALEX: If that's how it works.

17 MR. TAIT: So --

18 CHAIRMAN STEIN: We'll swear you in, so

19 rise please.

20 MS. ALEX: Do I --

21 CHAIRMAN STEIN: Your name is on it --

22 it's too late to get out -- (laughter) --

23 (Whereupon, Robert and Cathleen Alex were

24 duly sworn in.)

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1 MS. BACHMAN: Thank you.

2 CHAIRMAN STEIN: So you have additional
3 exhibits that you want to --

4 MR. ALEX: Just these two things.

5 MR. TAIT: Has -- have you seen those--

6 MS. CHIOCCHIO: I'm not sure what those
7 are.

8 MR. TAIT: Why don't you show them to --
9 (pause)

10 MS. CHIOCCHIO: Thank you.

11 MR. ALEX: (Indiscernible) --

12 COURT REPORTER: You have to be at the
13 microphone when you're speaking, sir.

14 (pause)

15 CHAIRMAN STEIN: Do you have any --

16 MS. CHIOCCHIO: Well I obviously have no
17 objection to the letter I wrote as an exhibit, so --

18 MR. LYNCH: Are you sure -- (laughter) --

19 MS. CHIOCCHIO: Yes, I am.

20 MR. TAIT: Do you have an objection to the
21 other matter?

22 MS. CHIOCCHIO: The e-mail, I -- I don't
23 object to this e-mail.

24 MR. TAIT: Whether it's relevant or not is

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1 up to --

2 CHAIRMAN STEIN: Okay, so that will be --

3 MR. TAIT: That's your -- they're in --

4 CHAIRMAN STEIN: They're in --

5 MR. TAIT: -- your Exhibit No. 1 --

6 MR. ALEX: I think we had them listed or
7 labeled differently, but --

8 (multiple voices in background)

9 CHAIRMAN STEIN: They're in.

10 (Whereupon, two exhibits were admitted
11 into evidence by the Intervenors)

12 CHAIRMAN STEIN: So at this point I have
13 cross-examination. Staff?

14 MR. MARTIN: No questions, Mr. Chairman.

15 CHAIRMAN STEIN: Professor Tait.

16 MR. TAIT: No questions.

17 CHAIRMAN STEIN: Mr. Ashton.

18 MR. ASHTON: No, thank you.

19 CHAIRMAN STEIN: Mr. Golembiewski.

20 MR. GOLEMBIEWSKI: No questions, thank
21 you.

22 CHAIRMAN STEIN: Mr. Lynch.

23 MR. LYNCH: No questions.

24 MR. MURPHY: I have no questions.

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1 CHAIRMAN STEIN: Dr. Bell. Yes.

2 DR. BELL: Thank you, Mr. Chair. I just
3 had a question about the list of places that were visible
4 during the balloon flights. I'm trying to put my hand on
5 it --

6 MR. ALEX: Is that the --

7 DR. BELL: -- at any rate, I can ask it
8 without having the list. There was a list of locations
9 visible. One -- one list said leaf-on and one list said
10 during leaf-off conditions --

11 MR. ALEX: Right --

12 DR. BELL: -- were those two different
13 balloon flights? I couldn't quite understand how --

14 MR. ALEX: No. Just as the Applicant has
15 done, if it was totally visible without trees in the way,
16 it was leaf-on. If there were trees that you had to look
17 through, then it was leaf-off.

18 DR. BELL: Oh, I see. Okay, that -- that
19 explains it. Thank you. Thank you, Mr. Chair, that's my
20 question.

21 CHAIRMAN STEIN: I have a question which I
22 hope is not too far a field, but your blueberries -- to
23 order to keep birds from eating the blueberries, the way
24 they do in my yard, you -- what do you use? Do you use a

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1 falcon? Is that --

2 MR. ALEX: I use a variety of techniques
3 to keep the birds off the property. I use scare eye
4 balloons, which are about a two-foot wide balloon with
5 sort of a diagram -- a realistic type eye on it. I have
6 an Avalon device, which is an auditory device, which uses
7 actual bird distress calls, followed by a predator call,
8 and in this case it's a Cooper's Hawk, which is a native
9 hawk that uses this area as habitat. Those techniques
10 are -- usually work for about one to two weeks depending
11 on how you move them around.

12 Six years ago I became a falconer after
13 discovering that falcons have been used successfully on
14 the west coast for agricultural situations. Connecticut
15 was the last state in the Union, other than Hawaii, to
16 get falconry regulations. Bird abatement as a falconer
17 is a very tough thing to do. We've flown a Gyrseeker, a
18 hybrid, for three successful seasons. It does work.
19 It's very complicated. The only problem I see with this
20 project as it affects that situation is it's going to
21 make it difficult to see if the bird lands in that tree
22 or not. Now that they've moved it back for visual
23 problems that, you know, it caused to my farm, it
24 mitigated -- by moving it back, now I actually have to

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1 track using telemetry to see if the bird is indeed in
2 fact perched in that tree, which I hope he doesn't. And
3 that is all due to training techniques that we use to
4 get the bird to fly in a certain area instead of what he
5 wants to do, which is naturally flying long distances.

6 CHAIRMAN STEIN: I guess that gets to my
7 point, which may be relevant. Are you concerned about
8 the change in design to --

9 MR. ALEX: Very much so.

10 CHAIRMAN STEIN: You would prefer --

11 MR. ALEX: The original design -- I talked
12 to Ed Mantaplee (phonetic), who's a biologist at the FCC
13 in Virginia, in great lengths about this subject. He has
14 told me that there are Osprey nests that are in monopines
15 or monopoles, but they're usually located behind the
16 transmitters. These transmitters are shielded in the
17 back. He says there's very little radiation that emits
18 to the rear of them. Most of -- most all of it -- and
19 that's the way the design is, is to go forward and spread
20 it at a 30 degree angle. I tried to reach him in the
21 last couple of days but his e-mail and his telephone was
22 full, to see what his thoughts were as to what it would
23 be if the birds are perching right in front of it.
24 Subsequently, my wife tried to get some information out

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1 of the Applicants on that today. I'm concerned about it
2 and that's why I asked the question as to who to call
3 about birds --

4 CHAIRMAN STEIN: I didn't mean -- I -- now
5 I want to get specific, and maybe you answered it, would
6 you -- if -- if this were to be approved -- and I know
7 your preference is that it's not --

8 MR. ALEX: That's right --

9 CHAIRMAN STEIN: -- but if it were, would
10 you prefer it to be as proposed as a monopine versus some
11 other monopole? Is there a preference because of your --
12 would your falcon be more attracted to hanging out on a
13 fake pine or --

14 MR. ALEX: Possibly the low profile, but
15 in due respect to all parties, I -- I am thoroughly aware
16 of everybody's side here. I try not to be just committed
17 as a farmer. I was on a planning and zoning board in
18 Morris for a couple of years, so I try to look at
19 situations like this from both sides. But my aspect as a
20 falconer, I'd rather have it not in the area. It's going
21 to cause --

22 CHAIRMAN STEIN: Okay, but I -- I still
23 would like an answer. If you'd answer --

24 MR. ALEX: If you have to put it there,

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1 I'd rather see the low profile. But as far as visually
2 goes for the rest of the viewing public from Linkville
3 Road area, Frank Gustafson's property, I would rather see
4 it as a monopine visually. But from a bird's standpoint,
5 and that's just my own perspective, for me I'd rather see
6 a low profile where, you know, hopefully he can't get
7 behind it to perch or maybe -- I -- I don't know -- I'd
8 really like to consult with Ed Mantaplee at the FCC and
9 get his documentation and also Oliver Manfield
10 (phonetic), who I spoke to on the phone about this
11 situation, who had actually helped to write some of the
12 U.S. Fish and Wildlife guidelines for these situations.
13 So to properly answer that question, I would rather
14 consult with both of those individuals first.

15 CHAIRMAN STEIN: Okay -- alright, I think
16 I've got as good an answer as I'm going to get today --

17 MR. TAIT: It's something that I think we
18 would like know more about on the D&M plan if and when --
19 if developed --

20 MR. ALEX: Okay --

21 MR. TAIT: -- to see what we can do to
22 help if it's going to be --

23 MR. ALEX: I appreciate that concern from
24 you folks.

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1 CHAIRMAN STEIN: So we'd still appreciate
2 finding that -- finding out that information.

3 MR. TAIT: And talk to the Applicant when
4 you have your information to see what --

5 MR. ALEX: Okay. Thank you, sir.

6 CHAIRMAN STEIN: Okay. Now cross-
7 examination by the Applicant.

8 MS. CHIOCCHIO: Just a few questions,
9 Chairman.

10 Just going back to your hybrid falcons,
11 how many hybrid falcons do you own?

12 MR. ALEX: Right now?

13 MS. CHIOCCHIO: Yes.

14 MR. ALEX: Zero.

15 MS. CHIOCCHIO: Okay. And when you've
16 used them for bird abatement, how many do you typically
17 use?

18 MR. ALEX: I usually only keep one bird
19 per season.

20 MS. CHIOCCHIO: Okay.

21 MR. ALEX: I generally fly him every day
22 of the week if possible. If you want an average, it's
23 usually five to six days per week year-round. You fly
24 them during the harvest season for their use, but to keep

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1 their exercise up throughout the whole year, it keeps
2 them in better shape.

3 MS. CHIOCCHIO: Right. And you have a mew
4 --

5 MR. ALEX: Yes, there's a certified mew --

6 MS. CHIOCCHIO: Right --

7 MR. ALEX: -- on the back of my barn.

8 It's very highly regulated. It's -- it's nothing you get
9 into very lightly, believe me.

10 MS. CHIOCCHIO: My understanding is the
11 hybrid falcons are actually superior to naturally
12 occurring falcons with respect to agility, eyesight --

13 MR. ALEX: I --

14 MS. CHIOCCHIO: -- and that's why they're
15 -- no?

16 MR. ALEX: I -- I don't know where you saw
17 that, but I mean --

18 MS. CHIOCCHIO: Well what's the purpose of
19 a hybrid falcon as opposed to a naturally occurring
20 falcon?

21 MR. ALEX: It -- a lot of it is due to
22 what breeders have, what birds. Hybrid falcons, the last
23 one I had was a Gyrseeker. Gyrrers are -- Gyrfalcons are
24 the largest of the falcons. They live in the artic.

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1 Seekers are a desert bird from Eastern Europe that
2 migrate into Northern Africa. That particular hybrid
3 which is used successfully in airports, it flies low.
4 You can train it to stay low and stay in a small area,
5 okay. Other types of hybrids, which mostly these birds
6 are used for hunters -- for hunting -- some hybrids work
7 well for abatement, others are like the worse --

8 MS. CHIOCCHIO: Okay, so -- so you're --
9 you're basing your selection on the breed --

10 MR. ALEX: On how -- its flight
11 characteristics.

12 MS. CHIOCCHIO: Right.

13 MR. ALEX: In Connecticut -- Connecticut
14 is probably one of the worst places to fly a falcon in.
15 It just doesn't have enough land -- open land. I
16 actually trained my falcon in Frank Gustafson's property
17 so that he visually knows the area. He got lost over at
18 Frank's several times. I had to go to retrieve him over
19 there. When I was first manning the bird to get him used
20 to me and the area, I would walk through Frank's property
21 along Bassett Road and Linkville Road to get him used to
22 that area. They will naturally fly not just in your
23 field -- I have a 13-acre lot -- but they want a size
24 field like Frank's, you know, three to four hundred acres

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1 --

2 MS. CHIOCCHIO: Alright, so --

3 MR. ALEX: -- they need big areas.

4 MS. CHIOCCHIO: So are hybrid falcons
5 easier to train? I mean is that -- or are they --

6 MR. ALEX: They're probably one of the
7 more difficult ones to train compared to hawks.

8 MS. CHIOCCHIO: To a hawk?

9 MR. ALEX: Yes, ma'am.

10 MS. CHIOCCHIO: A few questions about your
11 visibility analysis.

12 MR. ALEX: Yes, ma'am.

13 MS. CHIOCCHIO: How did you conduct that?
14 Did you drive around on the day of the balloon float?

15 MR. ALEX: Yes.

16 MS. CHIOCCHIO: And did you take
17 photographs from --

18 MR. ALEX: I did. Unfortunately, the
19 camera I had doesn't have the resolution that your camera
20 must have that you used. I have the photographs. I
21 really wanted to get one of the dry dam because it is
22 very visible there and it's a high usage area for the
23 U.S. Fish and -- or the Army Corps of Engineers property.
24 I just couldn't develop the picture properly for you.

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1 MR. ALEX: Alright. So you stepped out of
2 your car and took a photo from where you could see it --

3 MR. ALEX: Yes, ma'am.

4 MS. CHIOCCHIO: -- and so forth -- okay.
5 And could you characterize or do you have any kind of
6 notes with respect to how far away you were from it and
7 how much of the balloon you could see or --

8 MR. ALEX: Let me see that photo.

9 (pause)

10 MR. ALEX: If you'll look at these -- I
11 gave you all a copy of this --

12 MS. CHIOCCHIO: Mmm-hmm --

13 MR. ALEX: -- just above the blue line,
14 you'll see a gray area and the actual dam --

15 COURT REPORTER: Mr. Alex, you need to --

16 MR. ALEX: Yes, ma'am --

17 COURT REPORTER: -- be near a microphone.

18 MR. ALEX: Sorry. I'm looking at the
19 Malone and McBroom map. The dry dam -- this Army Corps
20 of Engineers dry dam is right off 109. Just to the left
21 there's a light, the CL&P right-of-way --

22 MS. CHIOCCHIO: Well I don't know if it
23 was -- if -- Mr. Alex if you made notes with respect to
24 how far away you were when you saw the balloon --

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1 MR. ALEX: Yeah -- no, I'm giving you that
2 right now. It looks like it's eight and a quarter
3 inches, so that would be a thousand two hundred and fifty
4 feet. And that access road goes -- from 109 there's a
5 parking lot right below the road and then it goes across
6 the dry dam, and then there's an elevated walkway up to
7 the control tower, but it goes all the way over toward
8 the spillway, it actually crosses that dam --

9 MS. CHIOCCHIO: And can you characterize
10 the view of the balloon? Was it through the trees? Was
11 it --

12 MR. ALEX: It's an open view valley all
13 the way up to Wigwam Reservoir. At the end of Wigwam
14 Reservoir -- (indiscernible, not near mic) --

15 COURT REPORTER: Mr. Alex, could you bring
16 that microphone up please.

17 MR. ALEX: Sorry. The balloon was very
18 visible from that spot, as also it was visible from the
19 elementary school, the corner of Route 6 and 109. I
20 drove in there and I could see it. That area there I
21 could see with the binoculars because it was only a
22 three-foot balloon. If I had been 20 feet, I might have
23 been able to see it unaided, I'm not sure. But it will
24 be -- unaided easily seen from that dry dam.

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1 MS. CHIOCCHIO: So did you use binoculars
2 for other views that were on your list of --

3 MR. ALEX: No.

4 MS. CHIOCCHIO: No? Just in that area?

5 MR. ALEX: I tried to see up on 254
6 because I know I can see that area from my house, but
7 trying to see a red balloon when you've got Red Oaks and
8 Scarlet Oaks in full leaf color, it's not going to
9 happen.

10 COURT REPORTER: One moment please.

11 (pause - tape change)

12 MS. CHIOCCHIO: Alright, thank you.

13 That's -- that's all my questions.

14 CHAIRMAN STEIN: I guess -- the town, do
15 you have any cross-examination questions?

16 MR. JESSELL: No questions.

17 CHAIRMAN STEIN: Attorney Chiocchio, do
18 you have any rebuttal -- final rebuttal or just --

19 MR. TAIT: Not final argument.

20 MS. CHIOCCHIO: I'm sorry?

21 MR. TAIT: Not final argument.

22 MS. CHIOCCHIO: No final argument --

23 MR. TAIT: -- rebuttal --

24 MS. CHIOCCHIO: -- no -- no redirect.

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1 MR. TAIT: Okay.

2 CHAIRMAN STEIN: So the answer --

3 MS. CHIOCCHIO: No redirect. No, thank
4 you, Chairman.

5 CHAIRMAN STEIN: Okay. Okay, I'm ready to
6 read my closing statement.

7 Before closing this hearing, the
8 Connecticut Siting Council announces that briefs and
9 proposed findings of fact may be filed with the Council
10 by any party or intervenor no later than April 5, 2012.
11 The submission of briefs or proposed findings of fact are
12 not required by the Council, rather we leave it to the
13 choice of the parties and intervenors.

14 The Council also announces that any state
15 agencies desiring to submit additional comments on this
16 application, pursuant to General Statute 16-50j, are to
17 submit their comments to the Council no later than March
18 20th of this year.

19 Anyone who has not become a party or an
20 intervenor, but who desires to make his or her views
21 known to the Council, may file written statements with
22 the Council within 30 days of this date.

23 The Council will issue draft findings of
24 fact. And thereafter, the parties and intervenors may

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1 identify errors or inconsistencies between the Council's
2 findings of fact and the record. However, no new
3 information, no new evidence or argument, and no reply
4 briefs without our permission will be considered by the
5 Council.

6 As stated earlier, copies of the
7 transcript of this hearing will be filed with the Town
8 Clerk's Offices in Watertown and the Thomaston Town Halls
9 for the convenience of the public.

10 And I hereby declare this hearing
11 adjourned and thank you all for your participation and
12 drive home safely.

13
14 (Whereupon, the hearing adjourned at 4:07
15 p.m.)

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