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# STATE OF CONNECTICUT

## CONNECTICUT SITING COUNCIL

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February 28, 2007

TO: Parties and Intervenors

FROM: S. Derek Phelps, Executive Director

RE: **DOCKET NO. 320** - Message Center Management, Inc. and New Cingular Wireless PCS, LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a telecommunications facility located off Greenwoods Road East (U.S. Route 44), Norfolk, Connecticut.

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As stated at the hearing in Norfolk on December 19, 2006, after the Council issues its draft findings of fact, parties and intervenors may identify errors or inconsistencies between the Council's draft findings of fact and the record; however, no new information, evidence, argument, or reply briefs will be considered by the Council.

Parties and Intervenors may file written comments with the Connecticut Siting Council on the Draft Findings of Fact issued on this docket by March 8, 2007.

SDP/laf

Enclosure

**LIST OF PARTIES AND INTERVENORS**  
**SERVICE LIST**

<b>Status Granted</b>	<b>Status Holder (name, address &amp; phone number)</b>	<b>Representative (name, address &amp; phone number)</b>
<b>Applicant</b>	Message Center Management, Inc. and New Cingular Wireless PCS, LLC	<p>Christopher B. Fisher, Esq. Cuddy &amp; Feder LLP 445 Hamilton Avenue, 14<sup>th</sup> Floor White Plains, NY 10601 (914) 761-1300 (914) 761-5372 – fax <a href="mailto:cfisher@cuddyfeder.com">cfisher@cuddyfeder.com</a></p> <p>Virginia King Message Center Management, Inc. 40 Woodland Street Hartford, CT 06105</p>
<b>Intervenor (granted on 10/10/06)</b>	Cellco Partnership d/b/a Verizon Wireless	<p>Kenneth C. Baldwin, Esq. Robinson &amp; Cole LLP 280 Trumbull Street Hartford, CT 06103-3597 (860) 275-8200 (860) 275-8299 fax <a href="mailto:kbaldwin@rc.com">kbaldwin@rc.com</a></p>

DOCKET NO. 320 - Message Center Management, Inc. and }  
New Cingular Wireless PCS, LLC application for a Certificate }  
of Environmental Compatibility and Public Need for the }  
construction, maintenance and operation of a }  
telecommunications facility located off Greenwoods Road East }  
(U.S. Route 44), Norfolk, Connecticut.

Connecticut

Siting

Council

February 22, 2007

## DRAFT Findings of Fact

### Introduction

1. On September 7, 2006, Message Center Management, Inc. (MCM) and New Cingular Wireless PCS, LLC (Cingular), collectively referred to as the "Applicants", in accordance with provisions of Connecticut General Statutes (CGS) § 16-50g through 16-50aa, applied to the Connecticut Siting Council (Council) for the construction, operation, and maintenance of a wireless telecommunications facility at the Town Farm parcel off Greenwoods Road East (U.S. Route 44), Norfolk, Connecticut. (Applicants 1, p. 1, Attachment 1)
2. MCM is a Connecticut corporation with an administrative office in Hartford, Connecticut. MCM would construct and maintain the facility and is the leaseholder of the site. Cingular is a Delaware limited liability company with an administrative office in Rocky Hill, Connecticut. Cingular would be a tenant on the MCM tower. (Applicants 1, pp. 2-3)
3. The parties in this proceeding are the Applicants. An intervenor is Cellco Partnership d/b/a Verizon Wireless (Cellco). (Transcript 1 [Tr. 1], 4:00 p.m., pp. 5-6)
4. The purpose of the proposed facility is to provide wireless service to coverage gaps along Route 44 in the area of the Norfolk/Colebrook town line. (Applicants 1, p. 5, Attachment 3)
5. Pursuant to CGS § 16-50m, the Council, after giving due notice thereof, held a public hearing on December 19, 2006, beginning at 4:00 p.m. and continuing at 7:00 p.m. at the Norfolk Town Hall, 19 Maple Avenue, Norfolk, Connecticut. (Tr. 1, p. 4; Transcript 2 [Tr. 2], 7:00 p.m., p. 2)
6. The Council and its staff conducted a field inspection of the proposed site on December 19, 2006, beginning at 3:00 p.m. On the day of the field inspection, the Applicants flew a balloon from 12:00 p.m. to 4:00 p.m. at the proposed site to simulate the height of the proposed tower. Due to windy conditions, the balloon varied in height from 120 to 150 feet. (Council's Hearing Notice dated October 20, 2006; Tr. 1, pp. 27-28)
7. The Applicants placed a four-foot by six-foot sign on Route 44 that provided notice of the Council's public hearing. The sign was installed on December 4, 2006. (Tr. 1, p. 27)
8. Pursuant to CGS § 16-50l (b), public notice of the application was published on August 30 and August 31, 2006 in The Register Citizen and on August 31 and September 1, 2006 in the Hartford Courant. (Applicants Administrative Notice Item 1)
9. Pursuant to CGS § 16-50l(b), notice of the application was provided to all abutting property owners by certified mail. Notice to two abutters was unclaimed. (Applicants 1, pp. 4-5, Attachment 11; Applicants late file)
10. Pursuant to CGS § 16-50l (b), the Applicants provided notice to all federal, state and local officials and agencies listed therein. (Applicants 1, Attachment 9)

### State Agency Comments

11. Pursuant to CGS § 16-50j (h), on November 1, 2006 and December 20, 2006, the following State agencies were solicited by the Council to submit written comments regarding the proposed facility; Department of Environmental Protection (DEP), Department of Public Health (DPH), Council on Environmental Quality (CEQ), Department of Public Utility Control (DPUC), Office of Policy and Management (OPM), Department of Economic and Community Development (DECD), and the Department of Transportation (DOT). (Record)
12. The DOT responded to the Council's solicitation with no comment. (DOT letter dated December 11, 2006)
13. The following agencies did not respond with comment on the application: DEP, CEQ, DPUC, OPM, DPH, and DECD. (Record)

### Municipal Consultation

14. MCM approached the Town prior in the summer of 2005 regarding use of the Town Farm parcel for a telecommunications facility. The Town approved a lease with MCM on February 7, 2006. (Applicants 1, p. 16, Attachment 1)
15. On May 31, 2006, the Applicants submitted a technical report describing the proposed project to the First Selectman of both the Town of Norfolk and the Town of Colebrook. The Town of Colebrook is within 2,500 feet of the proposed site. Neither town objected to the proposal. (Applicants 1, p. 16, Attachment 8)
16. The First Selectman of the Town of Norfolk made a limited appearance statement into the record at the December 19, 2006 hearing stating the town is in favor of the proposal and that there have been no resident objections. (Tr. 1, p. 7)

### Public Need for Service

17. In 1996, the United States Congress recognized a nationwide need for high quality wireless telecommunications services, including cellular telephone service. Through the Federal Telecommunications Act of 1996, Congress seeks to promote competition, encourage technical innovations, and foster lower prices for telecommunications services. (Council Administrative Notice Item No. 7)
18. In issuing cellular licenses, the Federal government has preempted the determination of public need for cellular service by the states, and has established design standards to ensure technical integrity and nationwide compatibility among all systems. Cingular is licensed by the Federal Communications Commission (FCC) to provide personal wireless communication service in Connecticut. (Council Administrative Notice Item No. 7; Applicants 1, p. 3)
19. The Telecommunications Act of 1996 prohibits local and state entities from discriminating among providers of functionally equivalent services. (Council Administrative Notice Item No. 7)

20. The Telecommunications Act of 1996 prohibits any state or local entity from regulating telecommunications towers on the basis of the environmental effects of radio frequency emissions to the extent that such towers and equipment comply with FCC's regulations concerning such emissions. This Act also blocks the Council from prohibiting or acting with the effect of prohibiting the provision of personal wireless service. (Council Administrative Notice Item No. 7)
21. In an effort to ensure the benefits of wireless technologies to all Americans, Congress enacted the Wireless Communications and Public Safety Act of 1999 (the 911 Act). The purpose of this legislation was to promote public safety through the deployment of a seamless, nationwide emergency communications infrastructure that includes wireless communications services. (Applicants 1, pp. 6-7)
22. Following the 911 Act, the FCC mandated wireless carriers to provide enhanced 911 services to allow 911 public safety dispatchers to determine a wireless caller's geographical location within several hundred feet. The proposed facility would become a component of Cingular's 911 network in this area of the state. (Applicants 1, p. 7)

#### Site Selection

23. Cingular and MCM were both searching for a telecommunications site in the Norfolk/Colebrook area in the summer of 2005. After negotiating, both companies decided MCM would have the main role of selecting a site at the Town Farm and negotiating a lease with the Town. (Applicants 1, Attachment 1)
24. No suitable existing structures were within the search area. The nearest structure is an existing 150-foot monopole approximately 1.75 miles southeast of the site. Cingular is located on this facility. (Applicants 1, Attachment 3, Attachment 4)

#### Site Description

25. The site is located on a Town-owned 149-acre mostly wooded parcel know as the Town Farm. The parcel was historically used for agricultural purposes and portions are presently used as the town transfer station and for materials storage. (Applicants 1, p. 2, Attachment 8)
26. The tower site is located in a small clearing in the north central portion of the property. A storage area for the public works department is south of the site. (Applicants 1, Attachment 1, Attachment 5)
27. The site is at a ground elevation of 1463 feet above mean seal level. (Applicants 1, Attachment 5)
28. The site is approximately 2,400 feet west of the Norfolk/Colebrook town line and approximately 1,700 feet north of Route 44. (Applicants 1, Attachment 5)
29. The site is within a Commercial-Industrial zoning district. (Applicants 1, p. 13)
30. Land uses within a quarter mile of the site are: the transfer station, low-density residential development, hunting clubs, and large tracts of forested land. (Applicants 1, Attachment 5)

31. The nearest property line to the compound site is 193 feet to the west (Travaglin property). The proposed tower is 250 feet from the Travaglin property. (Applicants 1, Attachment 5; Applicants 2, Q. 5)
32. The tower setback radius would be contained within the site parcel. (Applicants 1, Attachment 5)
33. The nearest residence to the tower site is approximately 1,800 feet to the south. (Applicants 1, Attachment 5)
34. The Applicants would construct a 180-foot monopole within a 60-foot by 100-foot lease area at the site. The tower would be designed to support five levels of antennas with a 10-foot center-to-center vertical separation. The monopole would be approximately 4.5 feet wide at the base tapering to 1.5 feet at the top. (Applicants 1, Attachment 5)
35. Cingular would install up to 12 panel antennas on a platform at a centerline height of 180 feet agl. The height of the facility with antennas would be 183 feet agl. Cellco would install 12 panel antennas on a platform at an antenna height of 160 feet agl. (Applicants 1, Attachment 5)
36. A 60-foot by 100-foot compound would be established around the base of the tower. An eight-foot high chain link fence would enclose the compound. The compound would be able to accommodate the equipment of five wireless carriers. Cingular and Cellco would each install an equipment shelter within the compound. Cellco would install a diesel-fueled back-up generator within the shelter. (Applicants 1, Attachment 5; Cellco 1, Q. 8)
37. Access to the site would be from a 60-foot long gravel drive of new construction extending from an existing gravel drive on the property. (Applicants 1, Attachment 5)
38. Utilities would be installed overhead from Route 44 to the public works storage area of the parcel; then underground through the open area to the compound. Six utility poles would be required for the overhead portion of the utility line. The Town requested the combined overhead/underground line in order to provide flexibility with future use of the parcel. (Applicants 1, Attachment 1, Attachment 5)
39. The estimated cost to develop the facility is as follows (excluding Cingular's and Verizon's equipment):

Tower and foundation	165,000
Site development	24,000
<u>Utility installation</u>	<u>30,500</u>
Total	\$219,500

(Applicants 1, p. 17)

#### **Environmental Considerations**

40. Construction of the proposed facility would have no effect on historic, architectural, or archaeological resources listed on or eligible for the national Register of Historic Places. (Applicants 1, Attachment 7)
41. Construction of the proposed facility would have no effect on state endangered, threatened or special concern species. (Applicants, Attachment 7)

42. Development of the site would require the removal of three eight-inch diameter trees, one 12-inch diameter tree and one 15-inch diameter tree. (Applicants 1, Attachment 5)
43. Site grading would require 25 cubic feet of cut and 40 cubic feet of fill. (Applicants 1, Attachment 5)
44. No wetlands would be disturbed during development of the site. The nearest wetland is 450 feet south of the compound site, adjacent to the existing gravel drive. (Applicants 1, Attachment 5)
45. The proposed tower would not require aircraft hazard obstruction marking or lighting. (Applicants 1, Attachment 5)
46. The maximum power density from the radio frequency emissions of Cingular's and Cellco's antennas would be  $0.055 \text{ mW/cm}^2$  or 6.96% of the standard for Maximum Permissible Exposure (MPE), as adopted by the FCC, at the base of the proposed 180-foot tower. This calculation was based on methodology prescribed by the FCC Office of Engineering and Technology Bulletin No. 65E, Edition 97-01 (August 1997) that assumes all antennas would be pointed at the base of the tower and all channels would be operating simultaneously. (Applicants 1, Attachment 5; Cellco 1, Q. 10)

#### Visibility

47. The proposed tower would be visible year-round from approximately 62 acres within a two-mile radius of the site (refer to Figure 1). (Applicants 1, Attachment 6, p. 4)
48. The proposed tower would be seasonally visible from an additional 50 acres within a two-mile radius of the site. (Applicants 1, Attachment 6)
49. Three residences on Tom O'Conner Road, approximately 0.4 miles south of the site, would have views of the upper 115 feet of the tower. (Applicants 1, Attachment 6; Tr. 1, p. 25)
50. Two residences on Route 182, approximately 1.1 miles north of the site, would have views of the upper 45 feet of the tower. (Applicants 1, Attachment 6; Tr. 1, p. 26)
51. The upper 115 feet of the tower would be visible year-round from 0.2 miles of Route 44 and 0.1 miles of Tom O'Conner Road. Both roads are approximately 0.4 miles south of the site. (Applicants 1, Attachment 6)

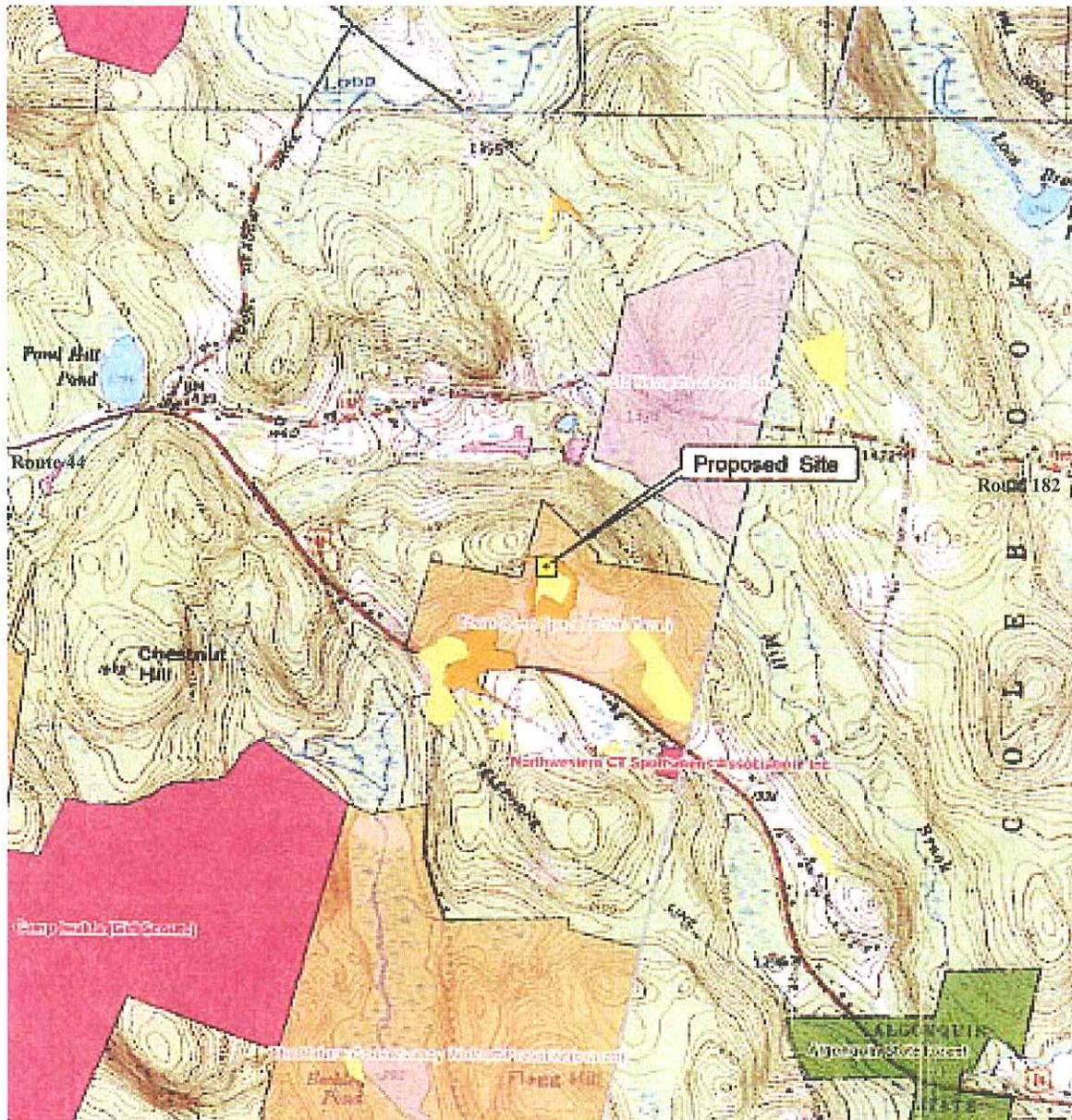
#### Existing and Proposed Wireless Coverage – Cingular

52. Cingular operates in both the cellular (800 MHz) and PCS (1900 MHz) frequency bands. Cingular is designing the site with a signal level threshold of -80 dBm, sufficient for in-vehicle coverage. Cingular's in-building signal level threshold is -75 dBm. (Tr. 1, pp. 19-20)
53. Using a signal level of -80 dBm at 800 MHz, Cingular currently experiences an approximate one-mile coverage gap on Route 44 primarily west of the Norfolk/Colebrook town line (refer to Figure 2). (Applicants 1, Attachment 3)
54. Cingular's minimum antenna height to meet coverage design objectives is 180 feet agl (refer to Figure 3). (Applicants 3)

55. Installing antennas at 170 feet agl would result in an approximate 0.06-mile area of degraded cellular coverage (>-90 dBm) on Route 44 west of the site (refer to Figure 4). A slight degradation of coverage (-80 to -90 dBm) would also occur on Stillman Hill Road (Route 182) to the north of the site. (Applicants 4)

#### **Cellco - Existing and Proposed Wireless Coverage**

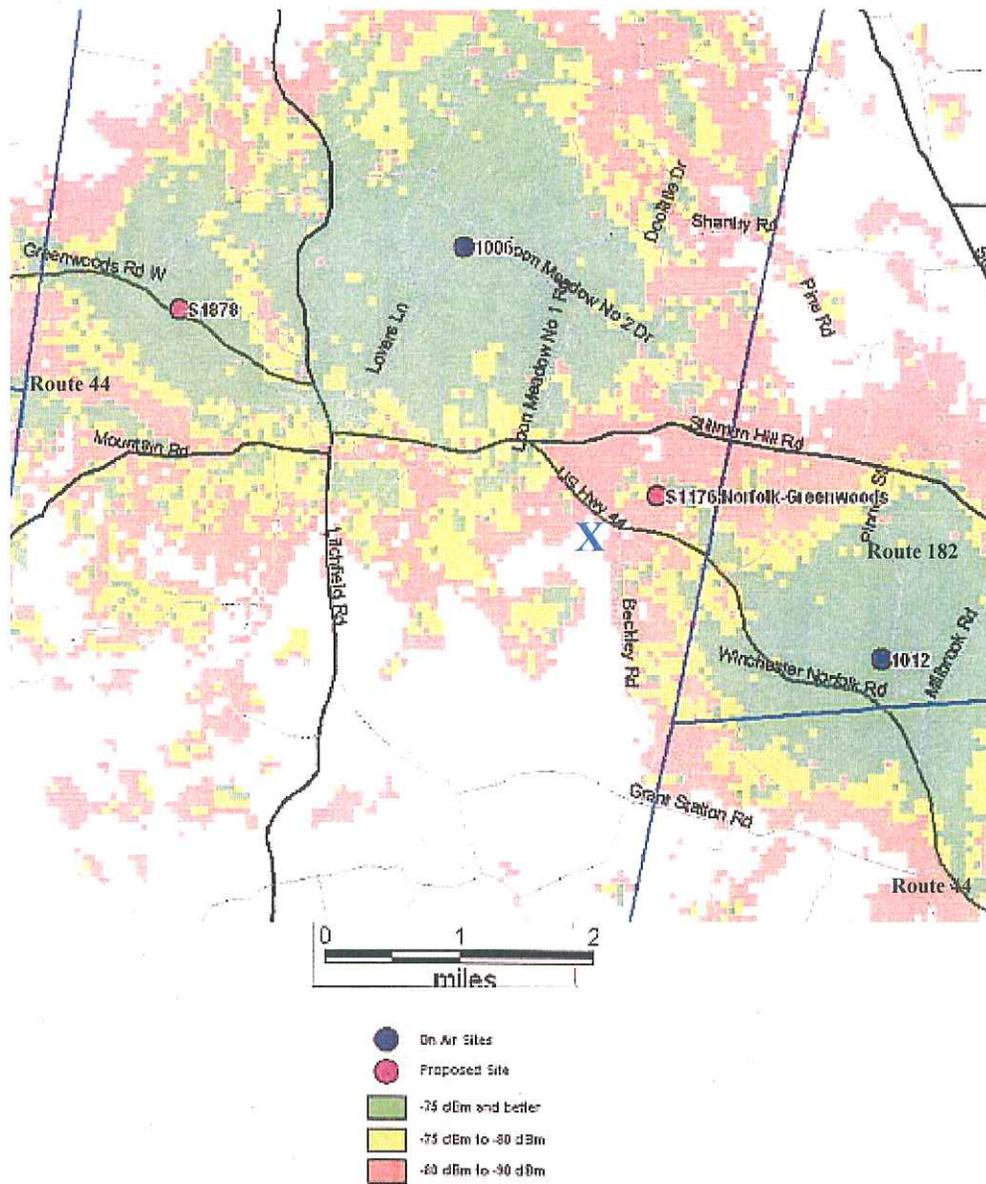
56. Cellco provides PCS services in Litchfield County. (Tr. 1, p. 43)
57. Cellco is designing the site with a signal level threshold of -85 dBm, sufficient to provide 99% reliability for in-vehicle coverage. Cellco in-building design threshold is -75 dBm. (Tr. 1, pp. 43-44)
58. Cellco experiences an approximate 4.75-mile coverage gap on Route 44 between an existing facility at 161 Pinney Street in Colebrook and a proposed facility at 10 Ashpohtag Road in Norfolk (refer to Figure 5). (Cellco 1, Q. 1)
59. The minimum height required by Cellco to meet PCS coverage design objectives is 160 feet agl. At this height, the site would provide 2.6 miles of coverage on Route 44, interacting with the Pinney Street site (refer to Figure 6). (Cellco 1, Q. 1; Tr. 1, p. 45)
60. Installing antennas at 150 feet agl would result in an approximate 0.1 mile area of degraded coverage on Route 44 southeast of the site. Additionally, the coverage footprint would be reduced from 6.5 square miles to 5.5 square miles. (Cellco 1, Q. 7)



**Legend**

-  Proposed Tower Location (includes area of visibility approximately 500 feet around facility)
-  Year-Round Visibility (Approximately 82 acres)
-  Seasonal Visibility (Approximately 50 acres)

Figure 1. Location and projected visibility of the proposed tower.



**Figure 2.** Cingular's existing cellular coverage in the Norfolk/Colebrook area. Coverage gap marked by blue X.



**Figure 3.** Drive test data showing expected Cingular coverage on Route 44 and area roads with antennas at 180 feet agl.



**Figure 4.** Drive test data showing expected coverage on Route 44 and area roads with antennas at 170 feet agl. The drive test shows an approximate 0.06-mile area of degraded coverage on Route 44 west of the site (marked by blue X).



Figure 5. Cellco's existing PCS coverage on Route 44 in the Norfolk/Colebrook area.

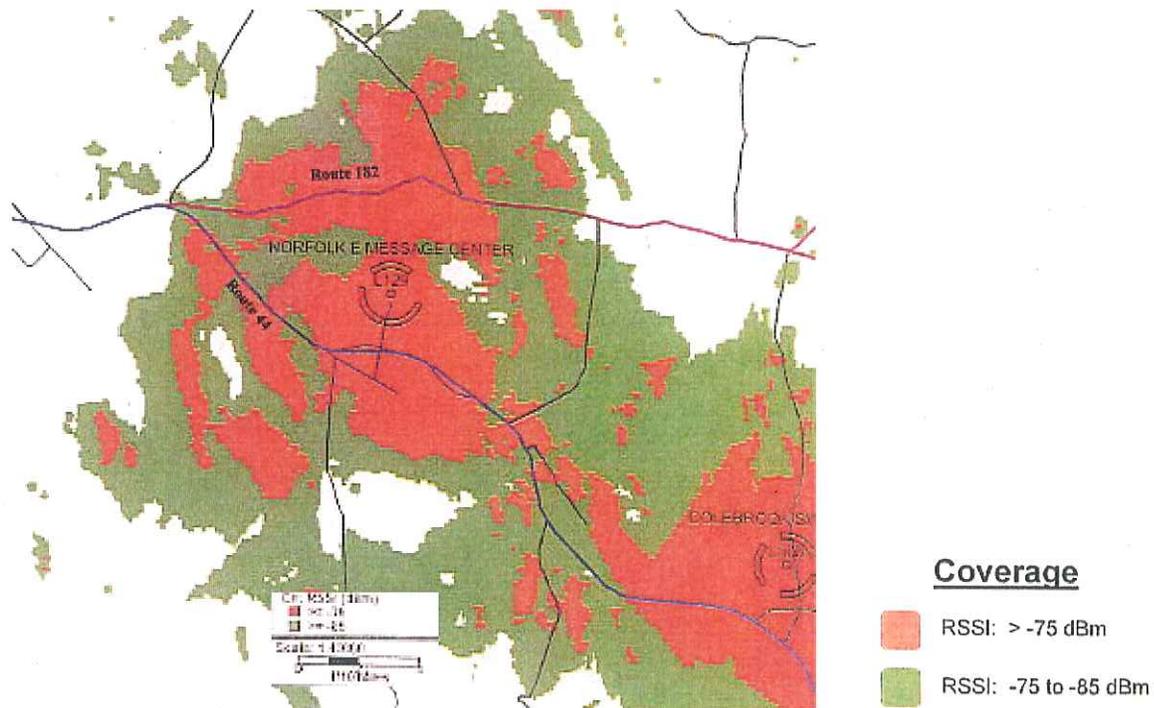


Figure 6. Cellco's proposed coverage with antennas at 160 feet agl.