

Daniel F. Caruso  
Chairman

# STATE OF CONNECTICUT

## CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

Phone: (860) 827-2935 Fax: (860) 827-2950

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June 11, 2008

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

RE: **DOCKET NO. 347** - Cellco Partnership d/b/a Verizon Wireless application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a telecommunications facility located at 700 Kent Road, New Milford, Connecticut.

Dear Attorney Baldwin:

By its Decision and Order dated May 22, 2008, the Connecticut Siting Council (Council) denied without prejudice an application from Cellco Partnership d/b/a Verizon Wireless for the construction, maintenance and operation of a telecommunications facility located at 700 Kent Road, New Milford, Connecticut.

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

Very truly yours,

S. Derek Phelps  
Executive Director

SDP/cm

Enclosures (4)

c: Sandy Carter, Verizon Wireless



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June 11, 2008

TO: Parties and Intervenors

FROM: S. Derek Phelps, Executive Director 

RE: **DOCKET NO. 347** - Cellco Partnership d/b/a Verizon Wireless application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a telecommunications facility located at 700 Kent Road, New Milford, Connecticut.

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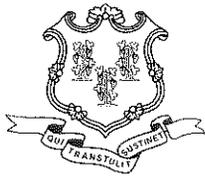
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Enclosed are the Council's Findings of Fact, Opinion, and Decision and Order.

SDP/cm

Enclosures (3)

c: Kenneth Baldwin, Robinson & Cole  
Sandy Carter, Verizon Wireless  
State Documents Librarian



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June 11, 2008

TO: Classified/Legal Supervisor

**347071106**

The Hartford Courant

285 Broad St.

Hartford, CT 06115

Classified/Legal Supervisor

**347071106**

The Danbury News Times

333 Main Street

Danbury, CT 06810

FROM: Carriann Mulcahy, Secretary 

RE: **DOCKET NO. 347** - Cellco Partnership d/b/a Verizon Wireless application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a telecommunications facility located at 700 Kent Road, New Milford, Connecticut.

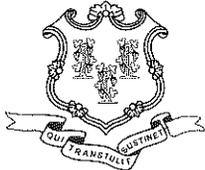
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Please publish the attached notice as soon as possible, but not on Saturday, Sunday, or a holiday.

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

Thank you.

CM



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Chairman

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### NOTICE

Pursuant to General Statutes § 16-50p (d), the Connecticut Siting Council (Council) announces that, on May 22, 2008, the Council issued Findings of Fact, an Opinion, and a Decision and Order denying without prejudice an application from Celco Partnership d/b/a Verizon Wireless for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a telecommunications facility located at 700 Kent Road, New Milford, Connecticut. This application record is available for public inspection in the Council's office, Ten Franklin Square, New Britain, Connecticut

**DOCKET NO. 347** - Cellco Partnership d/b/a Verizon Wireless } Connecticut  
application for a Certificate of Environmental Compatibility and }  
Public Need for the construction, maintenance and operation of a } Siting  
telecommunications facility located at 700 Kent Road, New }  
Milford, Connecticut. } Council

May 22, 2008

## **Findings of Fact**

### **Introduction**

1. Pursuant to Chapter 277a, Sections 16-50g et seq. of the Connecticut General Statutes (CGS), as amended, and Section 16-50j-1 et seq. of the Regulations of Connecticut State Agencies (RCSA), Cellco Partnership d/b/a Verizon Wireless (Cellco) applied to the Connecticut Siting Council (Council) on September 14, 2007 for the construction, operation, and maintenance of a telecommunications facility to be located at 700 Kent Road (15 South Kent Road) in the Gaylordsville section of the Town of New Milford, Connecticut. (Cellco 1, pp. i and 1)
2. Cellco is a Delaware Partnership with an administrative office located at 99 East River Drive, East Hartford, Connecticut. Cellco is licensed by the Federal Communications Commission (FCC) to operate a wireless telecommunications system in Connecticut. The operation of wireless telecommunications systems and related activities are Cellco's sole business in Connecticut. (Cellco 1, p. 4)
3. The party in this proceeding is the applicant. Intervenors are: the Town of New Milford's Zoning Commission, Theodore and Ellen Berson, James and Linda Hart, Reed Hotchkiss, Michael Covert, Carmen and Anthony Scuderi, Ilene Siegel Deutsch, Peter and Aline Flynn, Stephen and Barbara Dull, Henry and Elizabeth Marino, and Alisyn and Dan Hamilton. (Transcript, December 18, 2007, 3:00 p.m. [Tr. 1], pp. 7-8)
4. The proposed facility would provide coverage and capacity relief along Routes 7 and 55, as well as local roads, in the northwesterly portion of New Milford and the northerly portion of Sherman. (Cellco 1, p. i and pp. 1-2)
5. Pursuant to CGS § 16-50m, the Council, after giving due notice thereof, held a public hearing on December 18, 2007, beginning at 4:10 p.m. and continuing at 7:07 p.m. at the New Milford High School in New Milford, Connecticut. (Tr. 1, p. 4 ff.)
6. The public hearing was continued on January 23, 2008 and was re-convened at 10:10 a.m. in Hearing Room Two of the Council's offices at Ten Franklin Square, New Britain, Connecticut. (Transcript, January 23, 2008, 10:10 a.m. [Tr. 3], p. 4 ff.)
7. The hearing was re-opened on March 26, 2008 in Hearing Room One of the Council's offices at Ten Franklin Square, New Britain to allow intervenors an opportunity to cross-examine testimony of Captain Karl Fuchs of the Gaylordsville Volunteer Fire Department (GVFD) that was presented in an affidavit dated February 6, 2008. (Tr. 4, p. 5)

8. The Council and its staff conducted an inspection of the proposed site on December 18, 2007, beginning at 3:00 p.m. The applicant flew a balloon at the proposed site beginning at 7:30 a.m. until approximately 4:30 p.m. The balloon was flown at a height of 127 feet to simulate the height of a possible monopine tower. There was additional flagging at a height of 120 feet, which is the height of the proposed tower. There were no winds until about noon, and then light winds blew in the range of five to seven miles an hour. There was superb visibility throughout the day. (Tr. 1, pp. 24-25)
9. Pursuant to CGS § 16-50/(b), Cellco had notice of its intent to submit this application published on September 11 and 12, 2007 in The Danbury News Times. (Cellco 1, p. 5; Attachment 4)
10. In accordance with CGS § 16-50/(b), Cellco sent notices of its intent to file an application with the Council to each person appearing of record as owner of property abutting the property on which the site is located. (Cellco 1, p. 5; Attachment 5)
11. All but one of the certified notices sent to abutters were returned to Cellco. The one notice that did not come back was addressed to Basketshop Properties Family Limited Partnership. A second letter was sent to the same address via first class mail. (Cellco 4, Response 8)
12. Pursuant to CGS § 16-50/ (b), Cellco provided notice to all federal, state and local officials and agencies listed therein. (Cellco 1, p. 5; Attachment 2)
13. Cellco installed two signs on the GVFD property notifying the general public of its pending application. One sign was installed on Kent Road, and one sign was installed on South Kent Road. The signs were approximately four feet by six feet. They briefly summarized the pending proposal, including the time and date of the scheduled hearing and information on how to contact the Council. (Tr. 1, p. 25)

#### State Agency Comment

14. Pursuant to CGS § 16-50/, the Council solicited comments on Cellco's application from the following state departments and agencies: Department of Environmental Protection, Department of Public Health, Council on Environmental Quality, Department of Public Utility Control, Office of Policy and Management, Department of Economic and Community Development, and the Department of Transportation. The Council's letters requesting comments were sent on November 6, 2007 and January 24, 2008. (CSC Hearing Package dated November 6, 2007; CSC Letter to State Department Heads dated January 24, 2008)
15. The Connecticut Department of Transportation (ConnDOT) responded to the Council's solicitation with no comment. (ConnDOT Letter dated December 20, 2007)
16. Other than from ConnDOT, no comments were received from any state agency solicited by the Council regarding this proceeding. (Record)

### Municipal Consultation

17. On November 13, 2006, Cellco representatives met with New Milford Town Attorney D. Randall DiBella, who was representing Mayor Patricia A. Murphy, to discuss its proposal. At this meeting, Attorney DiBella received technical information summarizing Cellco's plans for its proposed facility in the Gaylordsville section of New Milford. (Cellco 1, p. 17)
18. Cellco representatives appeared at an informational hearing held by the New Milford Planning and Zoning Commission on January 9, 2007. (Cellco 4, p. 2)
19. Following this hearing, the New Milford Zoning Commission wrote a letter to Cellco in which it stated that it believed the location of the proposed tower was inappropriate. As reasons for this belief, the Commission cited the following reasons:
  - a. Residents in the vicinity expressed concerns over the effect of the tower on their property values;
  - b. Cellco's proposed facility could have a negative impact on the historic character of the Village of Gaylordsville;
  - c. No representatives of the GVFD testified in support of the tower;
  - d. Concern over RF interference with emergency service communications;
  - e. Inaccurate information provided in the application documents and site plan;
  - f. Lack of propagation maps for alternative sites.

(Cellco 4: Letter from New Milford Zoning Commission to Ms. Sandy Carter, dated January 24, 2007)
20. The New Milford Zoning Commission suggested that the site of the Connecticut Light & Power (CL&P) transmission line structure that came to be identified as Site 7 (see finding no. 72 and Figure 6) would be a better location than Cellco's proposed site. (Cellco 4, Item 8)
21. Because the proposed New Milford site is located within 2,500 feet of the Sherman municipal boundary, Cellco representatives attempted to meet with Sherman First Selectman, Andrea O'Connor. They were unable to meet with the Sherman First Selectman due to a series of scheduling conflicts. Cellco did, however, provide the First Selectman with technical information about their proposed facility. (Cellco 1, p. 17)
22. A radio needs assessment was prepared for the Town of New Milford by Oliver Associates in 2007 as part of an effort to upgrade the town's radio system. The needs assessment identified three different possible solutions to providing a better radio system for the town's fire, EMS, public works, and police departments. Each solution included a tower site in the vicinity of the GVFD with antennas located at least 100 feet above ground level (agl). The assessment stated that the existing tower at the GVFD does not have sufficient altitude. (Cellco Administrative Notice Item No. 1, pp. 13, 15)
23. The GVFD would install three 17-foot antennas at the top of Cellco's tower. (Cellco 1, p. 2; Tr. 4, p. 10)

24. The GVFD would not be interested in using any existing or modified electric transmission line structures in Gaylordsville to support its antennas due to access and maintenance restrictions imposed by CL&P. (Affidavit of Captain Karl Fuchs, GVFD, dated February 6, 2008)
25. The GVFD would not be willing to install its antennas on any structure that is not located at its fire station, primarily because of the need and expense of relocating the radio equipment that is currently at its fire station. (Tr. 4, pp. 12-15, 22)
26. GVFD would need a height of at least 100 feet at the base of the antennas it would install on Cellco's proposed tower. (Tr. 4, p. 16)
27. It is Cellco's policy to provide free space for emergency antennas of the town in which a tower is located. (Tr. 3, p. 107)

#### **Public Need for Service**

28. In its Report and Order issued May 4, 1981 in FCC Docket No. 79-318, the FCC recognized the public need for technical improvement, wide-area coverage, high quality service and a degree of competition in mobile telephone service. (Cellco 1, p. 5)
29. The Telecommunications Act of 1996 (Act), a federal law passed by the United States Congress, recognized a nationwide public need for high-quality wireless telecommunication services. The Act also promoted competition among wireless service providers, tried to foster lower prices for consumers, and encouraged the rapid deployment of new telecommunications technologies. (Cellco 1, pp. 5-6)
30. Cellco's proposed facility in the Gaylordsville section of New Milford would be part of its expanding wireless telecommunications network envisioned by the Act. (Cellco 1, p. 6)
31. In issuing cellular licenses, the federal government has preempted the determination of public need for cellular service by the states, and has established design standards to ensure technical integrity and nationwide compatibility among all systems. (Council Administrative Notice Item No. 7)
32. The Act prohibits local and state bodies from discriminating among providers of functionally equivalent services. (Council Administrative Notice Item No. 7 - Telecommunications Act of 1996)
33. The Act 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)

34. In 1999, Congress passed the Wireless Communications and Public Safety Act (E911 Act) to promote and enhance public safety by encouraging deployment of wireless 9-1-1 capabilities and related functions. (Cellco 4, Response 2)
35. Cellco's equipment at the proposed site would comply with the requirements of the E911 Act. (Cellco 4, Response 3)

**Site Selection**

36. Cellco issued a search ring for this area in June, 2004. The ring had a radius of 0.2 miles and was centered on the intersection of Routes 7 and 55. (Cellco 4, Response 17)
37. There is one telecommunications tower within four miles of the proposed site. It is located off Bulls Bridge Road in Kent, Connecticut. Cellco has antennas on this facility and three other facilities in the general area. None of these facilities, however, allow Cellco to adequately cover the area that it would cover from its proposed site. The four nearby facilities on which Cellco is located are identified in the table below.

<b>Location</b>	<b>Facility Owner</b>	<b>Facility Type</b>	<b>Cellco's Antenna Height</b>	<b>Distance and Direction from proposed site</b>
136 Bulls Bridge Road Kent, CT	SpectraSite	180' monopole	160 feet	2.3 miles to north
86 Boardman Road New Milford, CT	Sprint	150' monopole	130 feet	4.1 miles to southeast
32 Route 37 East Sherman, CT	Cellco/Nextel	90' farm silo	77 feet	4.5 miles to southwest
4 Elkington Farm Road New Milford, CT	SpectraSite	150' monopole	133 feet	5.6 miles to southeast

(Cellco 1, Attachment 9; Cellco 4, Response 28)

38. Of the transmission line structures in the vicinity of GVFD, Cellco reviewed a total of eleven different locations as possible alternatives to its proposed tower. Cellco's RF engineers rejected five of the eleven sites because they could not achieve Cellco's coverage objectives. The six remaining sites were rejected due to: 1) concerns for access; 2) wetland impacts; 3) impacts on adjacent residential areas; 4) construction difficulties; and 5) possible difficulties securing easements from landowners. (Cellco 1, Attachment 9, pp. 2-3)

39. As part of its search for suitable sites, Cellco investigated the possible use of transmission line structures of the two CL&P lines that run through Gaylordsville. One of these transmission lines (#398) is a 345 kV line supported by a series of 60 to 70-foot wooden poles. The other line (#568) is a 115 kV line supported by a series of metal poles between 60 and 75 feet tall. The wooden poles of the 398 line could not support Cellco's equipment and could not be extended to the height required for Cellco to achieve its coverage objectives. They would have to be replaced with poles between 100 to 120 feet. In order to do this, the 398 line would have to be taken out of service, and CL&P could offer no assurance as to when, or if, it would be willing to interrupt service to do this work. The structures of the 568 line present similar problems. They could not support Cellco's equipment and would have to be replaced with significantly taller structures. (Cellco 1, Attachment 9, p. 2)
40. Cellco explored the possibility of installing antennas in the steeple of the Gaylordsville United Methodist Church located at 685 Kent Road. This site was rejected because two carriers have antennas inside the church's steeple: Sprint and Nextel. Sprint's antennas are installed at the 78-foot level. Nextel has antennas at 68 feet and 62 feet agl. The use of the steeple by other carriers leaves no room for Cellco's antennas. (Cellco 1, Attachment 9, p. 3; Cellco 5, Response 5; Tr. 3, p. 76)
41. Cellco explored the possibility of installing antennas on a 50-foot tall silo off Long Mountain Road in New Milford. The silo is located approximately one mile from Cellco's proposed tower site. Cellco concluded the silo was too short and too far from its target area to provide the required coverage. Furthermore, propagation plots prepared by Cellco indicate that, in order to achieve the extent of coverage possible from the GVFD site, antennas would have to be installed at 180 feet agl at this location. (Cellco 1, Attachment 9, p. 3; Cellco 5, Response 9)
42. Cellco investigated two "raw land" sites as potential locations for its facility. One site was the GVFD's parcel, on which the facility is being proposed. The other site was the Golf Club at River Oaks, a 350-acre private golf club and residential community located off Evans Hill Road in Sherman. Golf club owners rejected Cellco's offer to lease space for a cell site. (Cellco 1, Attachment 9, pp. 3-4)
43. Cellco investigated the Bulls Bridge generating station, which is approximately 4,400 feet north of the Gaylordsville fire house on Route 7. At this location, Cellco's antennas would have a smaller coverage footprint than at the proposed site and approximately a half mile reduction of coverage to the south. This site was rejected on the basis of the reduced coverage area. (Tr. 3, p. 16)
44. Cellco maintains that there are no viable and available alternative technologies to provide the coverage and service that its proposed facility would provide. (Cellco 1, p. 9)

### Site Description

45. Cellco's proposed site would be on a 4.73-acre parcel located at 700 Kent Road (aka 15 South Kent Road) in New Milford. The property is owned by the GVFD and is the current location of the GVFD fire house. The parcel is located north-northeast of where Route 7 crosses the Housatonic River in Gaylordsville. (See Figures 1 and 2) (Cellco 1, p. 2; Attachment 1)
46. The site is located within a B-1 (Restricted Business) zoning district. Telecommunications facilities are allowed in B-1 districts subject to a special permit approval. (Cellco 1, p. 2, p. 16; Cellco Bulk File: New Milford Zoning Regulations Section 150)
47. At this location Cellco would lease a 100-foot by 100-foot parcel within which it would construct a 120-foot monopole telecommunications tower inside a 50-foot by 50-foot enclosed equipment compound. The equipment compound would have a gravel surface and would be enclosed by an eight-foot high chain line fence topped with three strands of barbed wire. (See Figure 3) (Cellco 1, Attachment 1, Drawing SC-2)
48. The tower would be located at 41° 38' 56.54"N latitude and 73° 28' 59.9"W longitude. Its elevation at ground level would be approximately 285 feet above mean sea level. (Cellco 1, Attachment 1)
49. The tower would have a diameter of 42 inches at its base and a diameter of 30 inches at its top. (Cellco 1, Attachment 1, p. 6; Tr. 1, pp. 17-18)
50. Cellco's tower would be designed in accordance with the most current specifications of the Electronic Industries Association's "Structural Standards for Steel Antenna Towers and Antenna Support Structures." (Cellco 1, Attachment 1, p. 6)
51. The tower would be designed to accommodate four antenna placements. (Cellco 4, Response 16)
52. Cellco would install twelve panel-type antennas at a centerline height of 120 feet agl. The antennas would extend three feet above the top of the tower to a total height of 123 feet agl. (Cellco 1, p. 2)
53. Cellco would use a low profile antenna platform to mount its antennas on the proposed monopole, but would be amenable to using T-arm mounts. (Cellco 4, Response 23)
54. Cellco's ground equipment would be housed within a 12-foot by 30-foot shelter. (Cellco 1, p. 2)
55. Cellco would install a 1,000 gallon propane tank in the southwesterly corner of its fenced compound to fuel its back-up emergency generator. (Cellco 1, p. 2)
56. Approximately ten cubic yards of fill and ten cubic yards of cut would be needed to develop the proposed facility. (Cellco 4, Response 15)

57. Vehicular access to the site would extend from South Kent Road over a new, 12-foot wide gravel driveway for a distance of approximately 200 feet to Cellco's compound. (Cellco 1, p. 2)
58. Utilities would be extended underground to the proposed facility from existing service along South Kent Road. (Cellco 4, Response 22)
59. No blasting is anticipated for the development of the proposed facility. (Cellco 4, Response 19)
60. The proposed tower's setback radius would lie completely within the GVFD property. (Cellco 4, Response 24)
61. At the tower's proposed location, its setback radius would encompass the Gaylordsville fire house. Cellco could engineer a yield point into the tower to minimize the potential to impact the fire house in the event of a tower failure. (Tr. 3, p. 15)
62. There are 17 residences within 1,000 feet of the proposed facility. (Cellco 1, p. 13)
63. The nearest residence is located 225 feet to the west of the proposed facility at 702 Kent Road and is owned by Robert M. Zaloski. (Cellco 4, Response 25 )
64. There are areas of low-density residential development to the north and east of Cellco's site. Land use to the west and south of the site is characterized by mixed residential and commercial uses along Route 7 and Riverview Road. (Cellco 1, p. 15)
65. The estimated cost of the facility, including antennas and radio equipment, is:

Cell site radio equipment	\$450,000
Tower, coax, and antennas costs	125,000
Power systems costs	20,000
Equipment building costs	60,000
<u>Miscellaneous costs</u>	<u>150,000</u>
Total	\$805,000

(Cellco 1, p. 19)

#### Possible Tower Alternatives

66. Cellco could disguise its proposed tower as a monopine in order to mitigate its visual impact on the immediate vicinity. If it were to erect a monopine tower, the total height of the tower would be 127 feet agl to allow for the tapering of the pine branches. (Tr. 2, pp. 17-18)

67. For a monopine tower, the estimated cost would be as shown below:

Cell site radio equipment	\$450,000
Tower, coax, and antennas costs	300,000
Power systems costs	20,000
Equipment building costs	60,000
<u>Miscellaneous costs</u>	<u>150,000</u>
Total	\$980,000

(Tr. 3, pp. 73-74)

68. If Cellco were to utilize a flagpole tower at the proposed location, it would need to raise the height of its antennas' centerline by ten feet to compensate for the loss of spatial diversity that would occur with flush-mounted antennas. To accommodate antennas with a centerline height of 130 feet, the flagpole tower would have to be 135 feet high. (Tr. 3, pp. 56-57, 59)

Potential Alternative Sites

69. Cellco could achieve coverage comparable to the GVFD site's coverage from any one of several CL&P transmission line structures in the vicinity. However, Cellco would have to raise the height of the existing structures significantly to heights varying between 100 to 120 feet. (Cellco 5, Response 10)

70. The table below compares the coverage possible from various CL&P transmission structure locations to the coverage from the Gaylordsville fire house. The locations of the transmission structures can be seen in Figure 6.

Site Location w/ Antenna Height	Route 7 Coverage	Route 55 Coverage	Overall Coverage Footprint
GVFD at 120'	2.4 miles	0.9 miles	4.34 square miles
CL&P 1 at 150'	2.4 miles	1.0 mile	4.2 square miles
CL&P 2 at 150'	1.85 miles	0.7 miles	4.2 square miles
CL&P 3 at 150'	1.66 miles	0.65 miles	3.68 square miles
CL&P 4 at 150'	1.66 miles	0.65 miles	3.68 square miles
CL&P 5 at 150'	2.1 miles	1.0 mile	4.4 square miles
CL&P 6 at 150'	2.2 miles	0.9 miles	4.6 square miles
CL&P 7 at 100'	2.5 miles	0.9 miles	4.5 square miles

(Cellco 11, p. 2)

71. If Cellco were to use the structure identified as CL&P 7 as its tower location, it would need to either replace the existing pole or install a new tower next to the existing pole. Utilities would be brought in underground from South Kent Road, which would require additional clearing to access the site. The visibility of the 100-foot tower that would be required at this site would be similar to the visibility of the tower proposed for the GVFD. (Tr. 3, pp. 22-24)

72. If Cellco were to use one of the nearby CL&P transmission line structures for its antennas, its ability to service the antennas would be limited due to restrictions on access to the structure, which would be subject to approval from the Independent System Operator of New England. (Tr. 3, p. 70 ff.)

#### Environmental Considerations

73. Cellco's proposed facility would have no effect on Connecticut's historic, architectural, or archaeological heritage. (Cellco 1, Attachment 11 – Letter from State Historic Preservation Office dated January 29, 2007)
74. There are no federally-listed or proposed, threatened or endangered species or critical habitats known to occur near the proposed facility. (Cellco 1, Attachment 11: Letter from Fish and Wildlife Service dated September 20, 2006)
75. Department of Environmental Protection (DEP) records indicate that the state endangered Northern Metalmark butterfly (*Calephelis borealis*) has been documented in the area of Cellco's proposed facility. As this butterfly is associated with the plant *Senecio obovatus*, DEP recommended that an invertebrate biologist conduct a survey to determine if Cellco's site supported the butterfly's habitat. Acting on this recommendation, a botanist employed by Environmental Planning Services conducted a survey of the wooded area where Cellco's site would be located. The botanist concluded that this area could not support the vegetation associated with the Northern Metalmark butterfly. DEP's Wildlife Division concurred with this assessment. (Cellco 1, Attachment 11 – DEP Review correspondence)
76. The closest wetland/watercourse to the proposed site is the Housatonic River, which is approximately 500 feet to the southwest. Cellco's facility would not directly or indirectly affect wetlands or watercourses. (Cellco 1, p. 17; Attachment 12)
77. Seven trees with a diameter of six inches or more at breast height would be removed in the development of the proposed facility. (Cellco 4, Response 14)
78. Cellco's site would not constitute an obstruction or hazard to air navigation. No obstruction marking or lighting would be required. (Cellco 1, p. 18; Attachment 13)
79. The maximum power density from the radio frequency emissions of Cellco's antennas and the town's antennas is estimated to be 11.52% of the standard for Maximum Permissible Exposure, as adopted by the FCC, at the base of the proposed tower. This calculation was based on a 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. (Cellco 4, Response 5; Cellco 8)

**Visibility**

- 80. The proposed tower would be visible year-round from approximately 63 acres within a two-mile radius. (Cellco 1, Attachment 10, p. 4)
- 81. The tower would be seasonally visible from an additional 12 acres within a two-mile radius. (Cellco 1, Attachment 10 – Viewshed Map )
- 82. Approximately 14 residences would have year-round views of the proposed tower. (Cellco 1, Attachment 10, p. 5)
- 83. An additional eight residential properties would have seasonal views of the proposed tower. (Cellco 1, Attachment 10, p. 5; Cellco 4, Response 27)
- 84. The visibility of the proposed site from different vantage points in the surrounding vicinity is summarized in the following table. The locations of the vantage points listed are identified by their corresponding number in the Visual Resource Evaluation Report contained in Attachment 10 of Cellco’s application and Figure 7 of this document.

<b><u>Location</u></b>	<b><u>Site Visible</u></b>	<b><u>Approx. Portion of (120’) Tower Visible (ft.)</u></b>	<b><u>Approx. Distance and Direction to Tower</u></b>
1 – South Kent Road, at Morningside Cemetery	Yes	Upper 100’	740 feet; SW
2 – Route 7, south of Route 55	Yes	Upper 70’	1050 feet; NE
3 – Route 7, GVFD	Yes	Upper 20’	370 feet; NE
4 – #5 Evans Hill Road	Yes	Upper 20’	3500 feet; NE
5 - #9 Hemlock Lane	Yes	Upper 20’	3850 feet; NE
6 – Front of Mountain Road at transmission Right-of-way	Yes	Upper 10’	2950 feet; NW
7 – South Kent Road, adjacent to host property	Yes	Upper 30’	470 feet; N

(Cellco 1, Attachment 10 – Photographic Simulations)

- 85. The proposed tower would not be visible from the location of the Merwinsville Hotel because of the separating distance and the heavily wooded nature of the area. (Cellco 1, Attachment 11, NT Submission Packet-FCC Form 620)
- 86. No views of the tower are anticipated from the Housatonic Ridge Trail located approximately one mile south of the proposed site. (Cellco 1, Attachment 10, p. 5)
- 87. From Route 7, the overall visibility of a tower at any of the CL&P locations would be similar to that of the GVFD tower, except that the visibility of a tower at CL&P structure location number 6 would be slightly less, and slightly fewer residences would have a direct view of a tower at this location. (Tr. 3, pp. 67-69)

**Existing and Proposed Wireless Coverage**

88. In Litchfield County, Cellco is licensed to operate in the PCS F Block (1970-1975 MHz) and PCS C3 Block (1975-1980 MHz) frequency bands. (Cellco 4, Response 1)
89. Cellco's signal coverage threshold is -85 dBm for in-vehicle coverage and -75 dBm for in-building coverage. (Cellco 4, Response 9)
90. Cellco's existing signal strength in the area that would be served by the proposed facility ranges from -86 dBm to -105 dBm. (See Figure 4) (Cellco 4, Response 10; Tr. 1, pp. 25-26)
91. Cellco collects data on its coverage areas, and those of its competitors, on a monthly basis by driving its network area and using computers to gather information on existing signal strengths, incomplete call attempts, and dropped calls. These data are used to help design its system. (Tr. 3, pp. 16-18)
92. Cellco's network currently has a coverage gap of 4.1 miles on Route 7 and does not provide any coverage on Route 55 in the Gaylordsville area. Cellco also has significant coverage gaps along local roads in the northwesterly portion of New Milford and the northerly portion of Sherman. (Cellco 1, p. 7)
93. Cellco subscribers in northwest New Milford experience a rate of failed calls in excess of 15%. (Cellco 5, Response 14)
94. Although Cellco customers do receive limited cellphone service in the Gaylordsville area of New Milford due to a roaming agreement with Alltel, Cellco cannot deploy some of its advanced wireless services such as high speed data transmission through networks with which it has roaming agreements nor can it hand off an on-going call to a roaming network. Callers would drop a call and then have to re-initiate it on the roaming network. (Tr. 1, pp. 27-28)
95. From the GVFD location, Cellco's antennas would cover approximately 2.4 miles on Route 7 and 0.9 miles on Route 55. (See Figure 5) (Cellco 4, Response 12)
96. Cellco is investigating possible sites in the vicinity of Bulls Bridge in Kent and another to the south, in the vicinity of its site at 86 Boardman Road in New Milford, to fill the coverage gaps that the proposed site would not fill. (Tr. 3, pp. 135-136)
97. From the GVFD location, Cellco's antennas would have an overall coverage footprint of 4.34 square miles. (Cellco 4, Response 13)

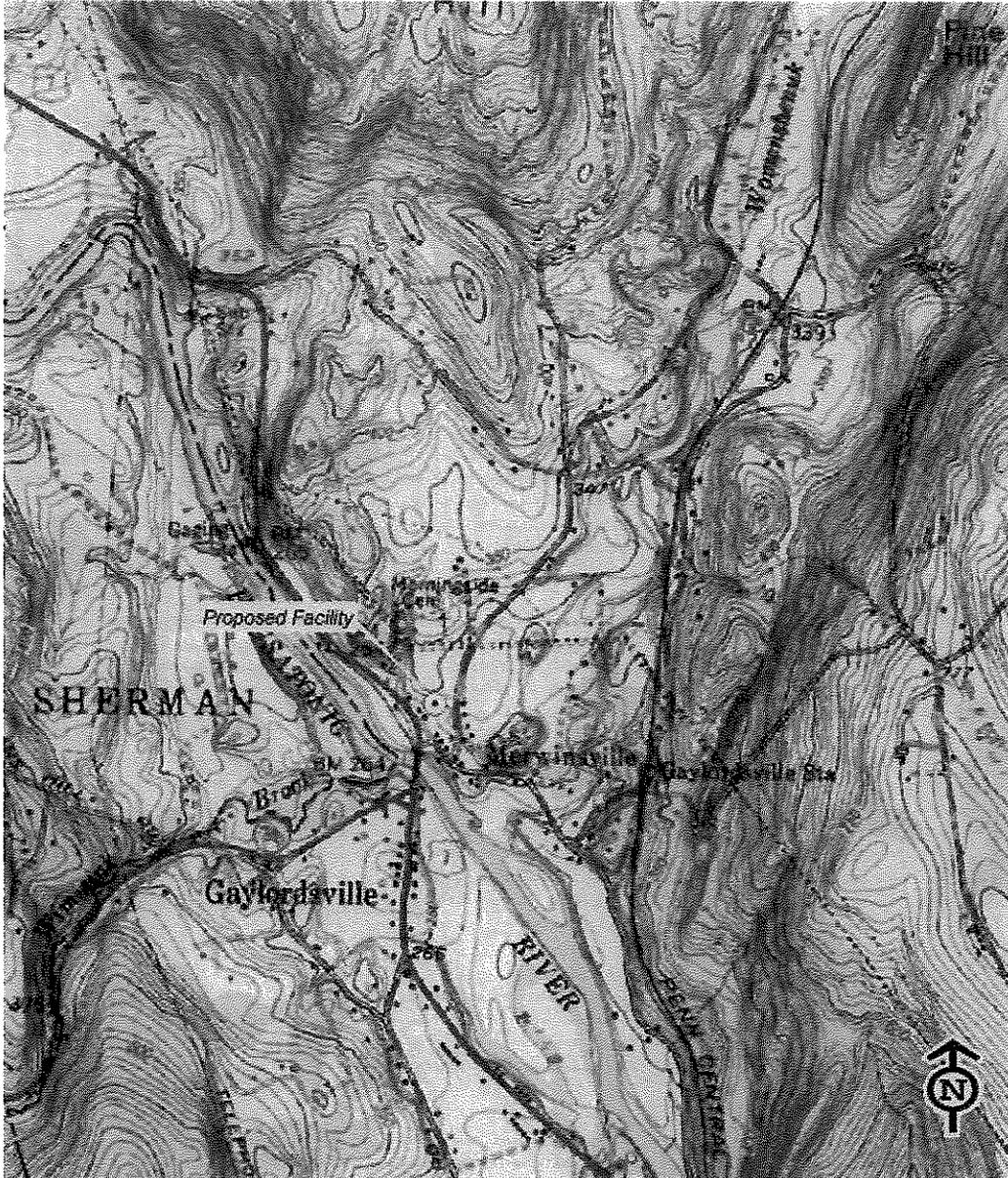
98. Cellco's antennas at the proposed site would hand off signals with the adjacent Cellco sites identified below:

<b>Site Address</b>	<b>Type of Facility</b>	<b>Site Owner</b>	<b>Distance and Direction from Proposed Site</b>
136 Bulls Bridge Road, Kent	180-foot monopole	SpectraSite	2.3 miles to north
86 Boardman Road, New Milford	150-foot monopole	Sprint	4.1 miles to southeast

(Cellco 4, Response 4)

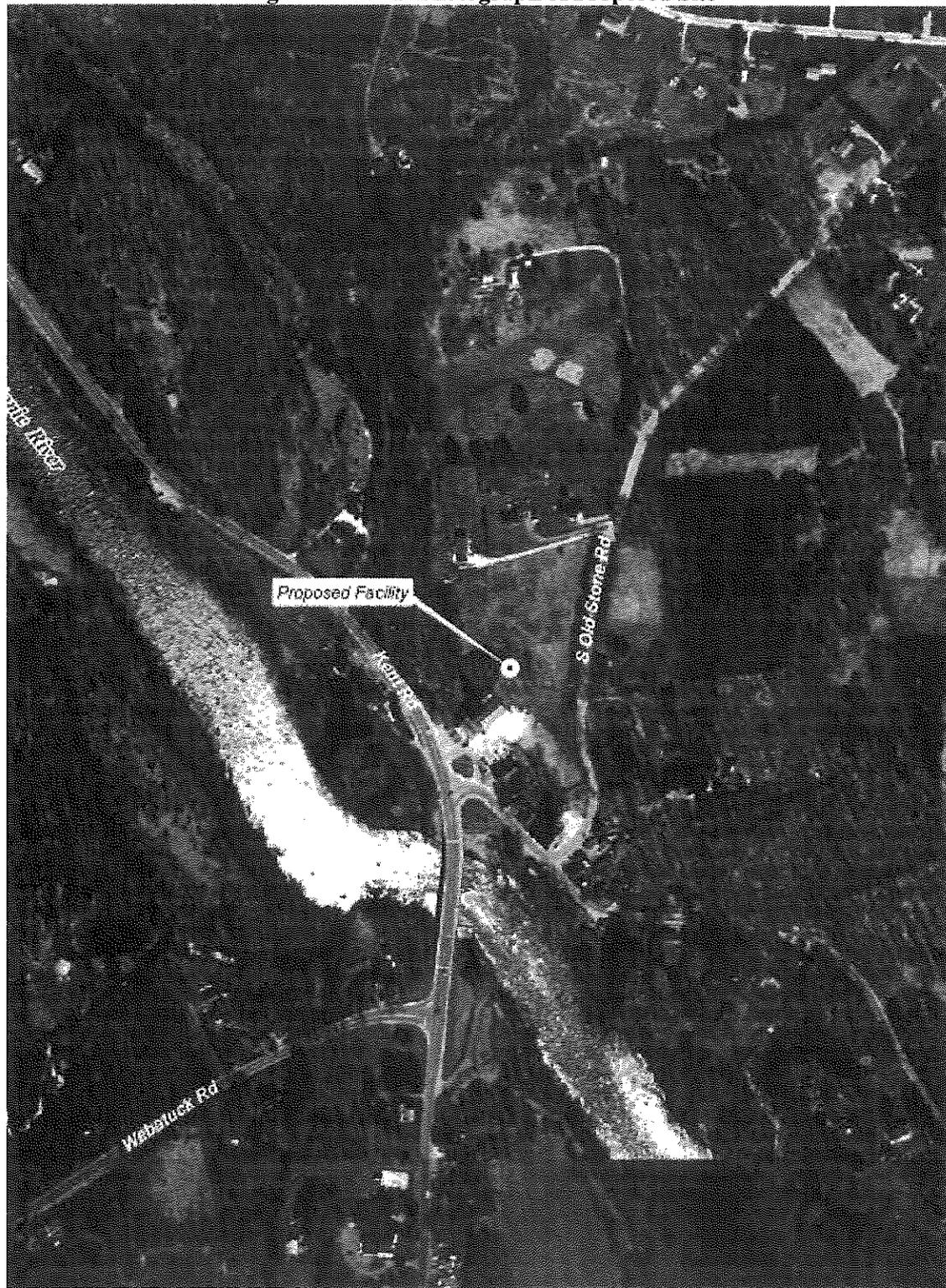
99. The minimum height at which Cellco's antennas could achieve its coverage objective from this location would be 120 feet. (Cellco 4, Response 7)

Figure 1: Location Map



(Cellco 1, p. ii)

**Figure 2: Aerial Photograph of Proposed Site**



(Cellco 1, p. iii)



Figure 4: Celco's Existing Coverage

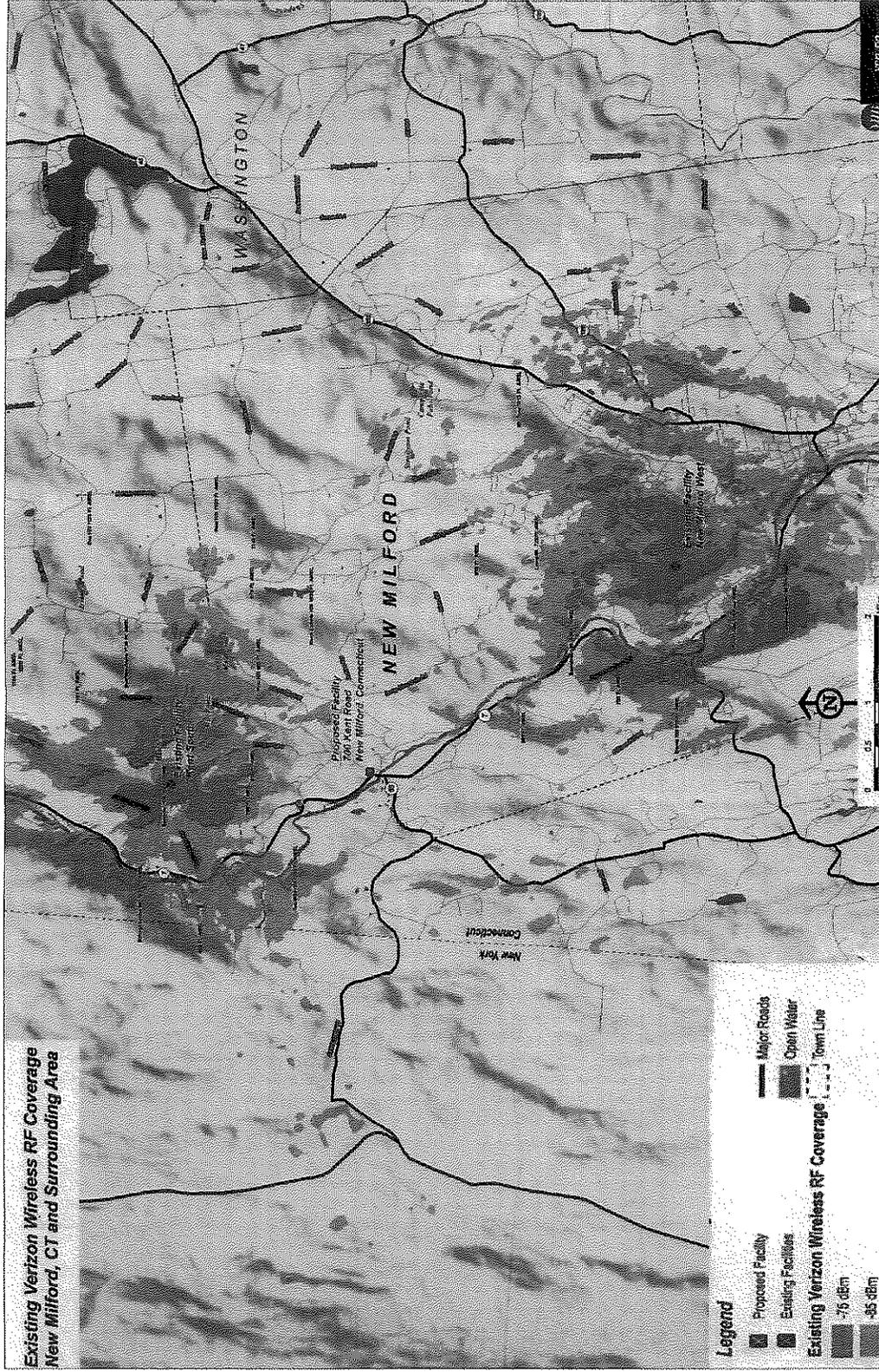


Figure 5: Cellco's Coverage with Proposed Site

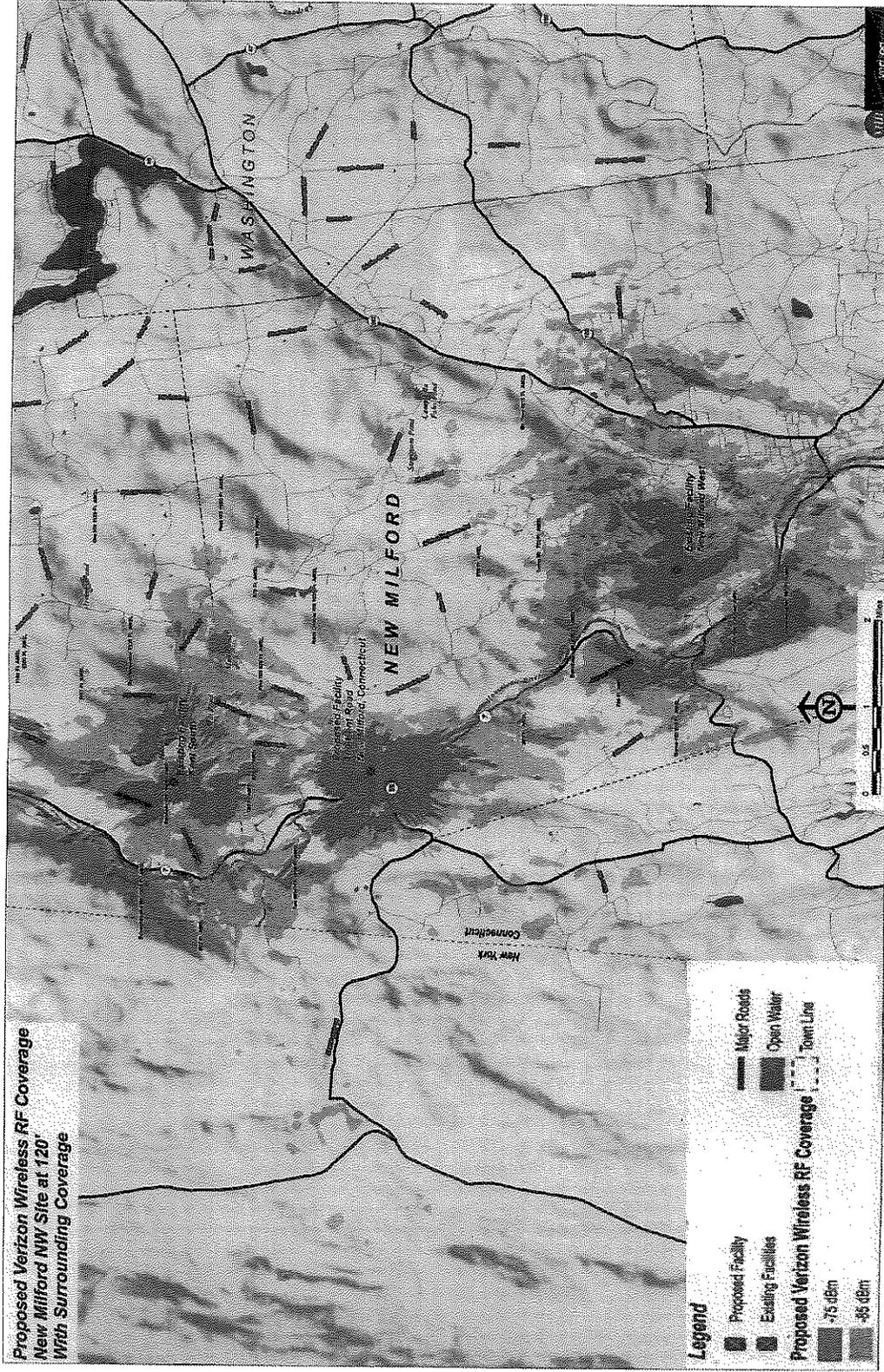
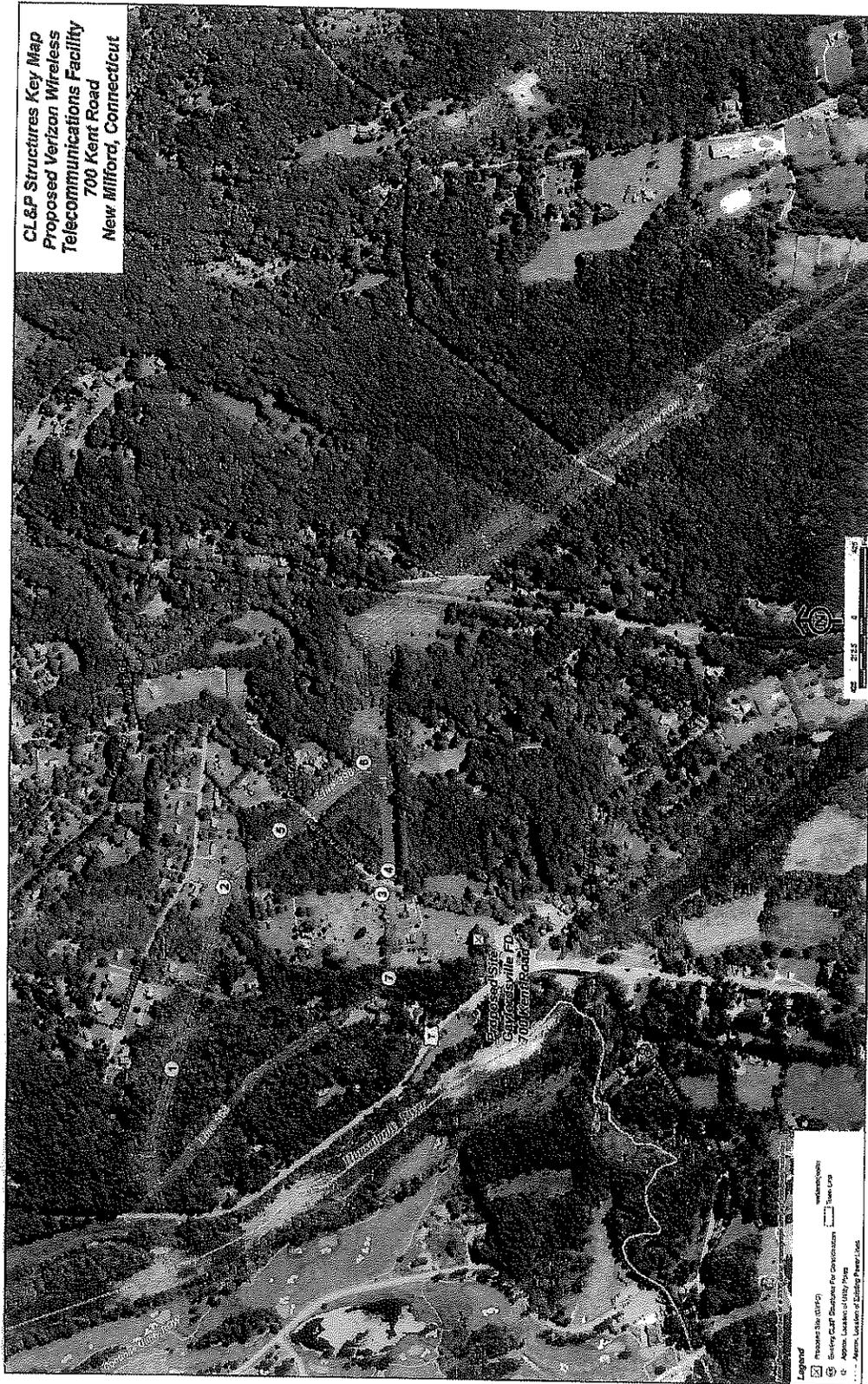
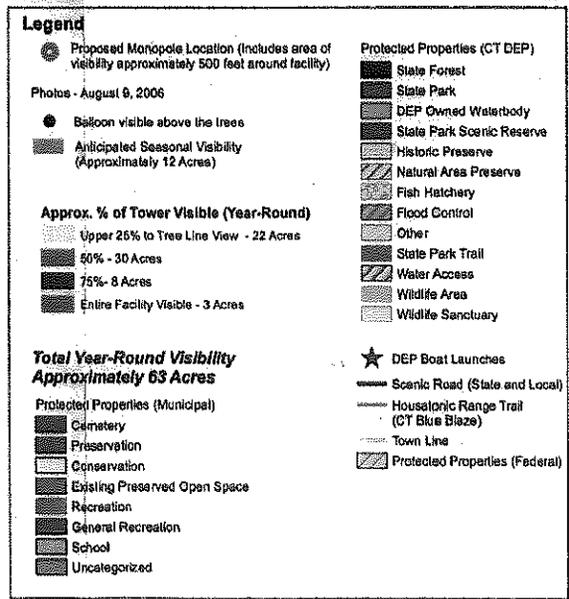
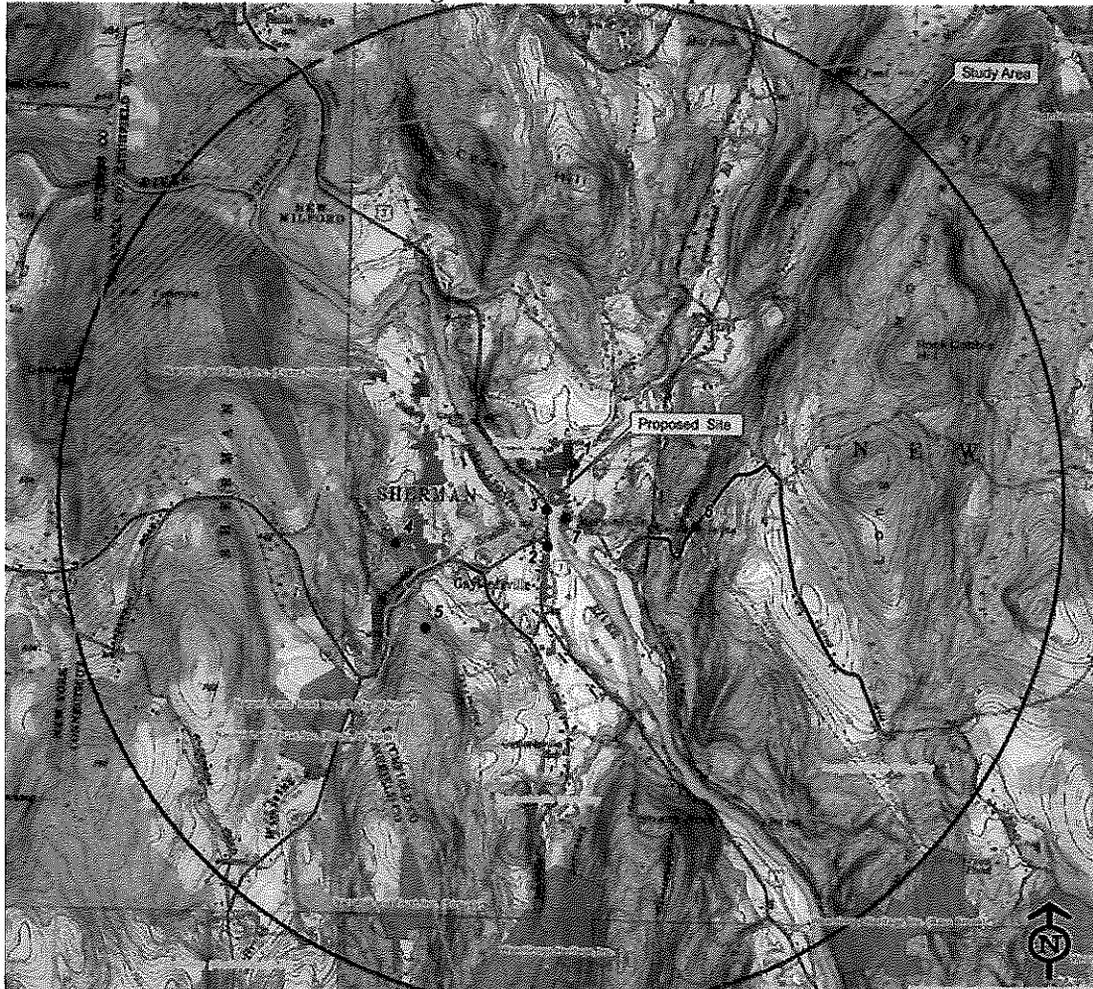


Figure 6: CL&P Transmission Poles in Vicinity of Proposed Site



(Cellco 11)

Figure 7: Visibility Map



(Cellco 1, Attachment 10)

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May 22, 2008

### Opinion

On September 14, 2007, Cellco Partnership d/b/a Verizon Wireless (Cellco) applied to the Connecticut Siting Council (Council) for a Certificate of Environmental Compatibility and Public Need (Certificate) for the construction, maintenance and operation of a wireless telecommunications facility to be located at 700 Kent Road in the Town of New Milford, Connecticut. Cellco is seeking to develop a facility on property owned by the Gaylordsville Volunteer Fire Department (GVFD) and used as its fire house. Cellco's objective in locating a facility at this location is to provide coverage and capacity relief along Route 7 and Route 55, as well as on local roads in the northwesterly portion of New Milford and the northerly portion of Sherman. The Town of New Milford's Zoning Commission, Theodore and Ellen Berson, James and Linda Hart, Reed Hotchkiss, Michael Covert, Carmen and Anthony Scuderi, Ilene Siegel Deutsch, Peter and Aline Flynn, Stephen and Barbara Dull, Henry and Elizabeth Marino, and Alisyn and Dan Hamilton participated as intervenors in this proceeding to demonstrate their opposition to this facility.

Cellco proposes to construct a 120-foot monopole within a 50-foot by 50-foot fenced compound on a 4.73-acre parcel owned by the GVFD. Underground utilities would be extended from existing service on South Kent Road. Vehicular access would extend from South Kent Road over a gravel driveway approximately 200 feet long. The tower would be designed to support four antenna placements and several whip antennas of the town's planned emergency services radio network.

The tower's setback radius would be contained within the GVFD property. It would, however, encompass the GVFD firehouse. Cellco could design a yield point into the tower to minimize any potential danger to the firehouse.

Cellco's proposed tower would be visible year-round from approximately 63 acres within a two-mile radius of its site. The tower would be seasonally visible from an additional 12 acres within this area. Approximately 14 residences would have year-round views of the proposed tower, and an additional eight residential properties would have seasonal views. The tower would be very visible to the homes in what is considered to be the center of the village of Gaylordsville. Cellco offered to camouflage the proposed tower as a pine tree in order to lessen its visual impact on the surrounding neighborhood. Cellco also proposed planting pine trees around the perimeter of the compound for the same reason.

The proposed tower would have no impact on wetlands as the nearest wetland or watercourse is the Housatonic River, which is 500 feet to the west.

Department of Environmental Protection (DEP) records indicate that the state endangered Northern Metalmark butterfly (*Calephelis borealis*) has been documented in the area of Cellco's proposed facility. However, a botanist, employed by Cellco and acting on a recommendation from the DEP, surveyed the vicinity where the proposed tower would be located and could not find any of the types of vegetation that would support this butterfly. The Council agrees that the proposed facility would not impact the Northern Metalmark butterfly.

Many of the residents who spoke at the public hearing on this docket expressed concern that the proposed tower would be visible from locations considered historic in Gaylordsville. The visibility analysis, however, indicates the tower would not be visible from any of the historic sites mentioned by the residents, including the Merwinsville Hotel. The State Historic Preservation Office concluded that Cellco's proposed facility would have no effect on Connecticut's historic, architectural, or archaeological heritage.

According to a methodology prescribed by the FCC Office of Engineering and Technology Bulletin No. 65E, Edition 97-01 (August 1997), the combined radio frequency power density levels of the antennas proposed to be installed on the tower have been calculated to amount to 11.52% of the FCC's Maximum Permissible Exposure, as measured at the base of the tower. This percentage is well below federal and state standards established for the frequencies used by wireless companies.

Cellco's proposed tower location was chosen after an extensive investigation of alternative sites. The terrain around Gaylordsville and in the northwestern area of New Milford makes it difficult to find suitable locations for towers that can provide coverage over a large enough area to make a facility feasible. Prior to proposing a new tower, wireless carriers typically seek to utilize existing structures such as church steeples or electric transmission poles that may be in the area of a site under consideration. In this case, unfortunately, the church located a short distance to the south of the GVFD firehouse already supports antennas belonging to Sprint and Nextel and has no room for Cellco's antennas. Furthermore, the two transmission lines that are proximate to Cellco's site are critical interfaces between New York's and Connecticut's electric grids. Installing the necessary replacement tower on one of these lines would require taking the lines out of service for a certain amount of time. The Council believes it to be unlikely that these particular circuits would be allowed to be out of service for the length of time necessary to install or service wireless antennas and ancillary equipment.

After investigating the alternative sites mentioned above, Cellco chose the proposed tower location at the GVFD firehouse. Although the Council generally supports locating wireless facilities on municipal properties such as firehouses, the site proposed by Cellco in this proceeding is located in the middle of a village center surrounded by residences. Gaylordsville is one of a number of such small villages along the Route 7 corridor that typify Connecticut's heritage. The Council feels that it is important to preserve the character of these villages to the greatest possible extent. A tower at this location, even one disguised as a tree, would be an obtrusive presence. While the Council recognizes the good-faith efforts Cellco made to explore numerous possible tower locations, it believes that there may be an available, alternative coverage solution that makes use of site/s with less cultural sensitivity.

After reviewing the record in this proceeding, the Council recognizes a need for a facility in this vicinity. Besides Cellco, at least four other wireless carriers are licensed to provide services in Litchfield County. The Council acknowledges that this region of the state lacks sufficient coverage. The Council also acknowledges that the terrain in this region makes finding acceptable sites particularly challenging. Consequently, the Council strongly encourages the wireless carriers serving this region to collaborate with each other, with municipal officials, and with any other parties having resources relevant to the region's telecommunications infrastructure, on developing strategies to provide the needed services. While the legislature has directed the Council to minimize proliferation of towers, the Council recognizes one potential strategy may be to include more but shorter towers. Other strategies possible could be to identify a wider range of municipal sites, to expand stealth options, or to design coverage with the maximum use of new wireless technologies.

In light of the above discussion, the Council is not convinced that the proposed site provides the best available solution to meet Cellco's coverage objectives effectively. Although a more thorough examination of other possible strategies may yet determine that the site proposed by Cellco in this proceeding is indeed the most prudent and feasible, the Council would prefer to base such a determination on a wider evaluation of available alternatives. Therefore, the Council will deny, without prejudice, a Certificate for the construction, operation, and maintenance of a 120-foot monopole telecommunications facility at the proposed site at 700 Kent Road, New Milford, Connecticut.

**DOCKET NO. 347** - Cellco Partnership d/b/a Verizon Wireless } Connecticut  
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telecommunications facility located at 700 Kent Road, New }  
Milford, Connecticut. } Council

May 22, 2008

### **Decision and Order**

Pursuant to the foregoing Findings of Fact and Opinion, the Connecticut Siting Council (Council) finds that the proposed site may not be the best available solution for providing wireless telecommunications service to the area that Cellco seeks to cover with this certificate application. The Council therefore denies, without prejudice, a Certificate of Environmental Compatibility and Public Need for Cellco Partnership d/b/a Verizon Wireless for a telecommunications facility at 700 Kent Road in New Milford, Connecticut.

Pursuant to General Statutes § 16-50p, the Council hereby directs that a copy of the Findings of Fact, Opinion, and Decision and Order be served on each person listed below, and notice of issuance shall be published in the Danbury News Times.

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

The parties and intervenors to this proceeding are:

#### **APPLICANT**

Cellco Partnership d/b/a  
Verizon Wireless

#### **ITS REPRESENTATIVE**

Sandy Carter, Regulatory Manager  
Verizon Wireless  
99 East River Drive  
East Hartford, CT 06108

Kenneth C. Baldwin, Esq.  
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**INTERVENORS**

Town of New Milford  
Zoning Commission

Theodore & Ellen Berson

James & Linda Hart

Reed Hotchkiss

Michael Covert

Carmen & Anthony Scuderi

Ilene Siegel Deutsch

Peter & Aline Flynn

Stephen & Barbara Dull

Henry & Elizabeth Marino

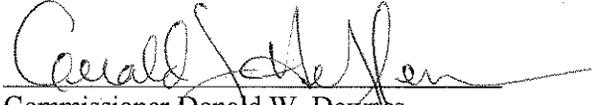
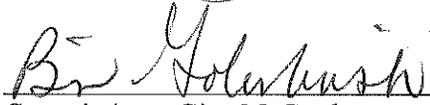
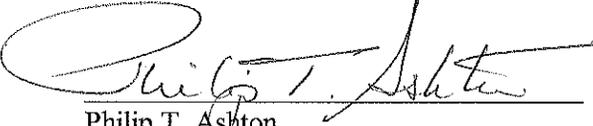
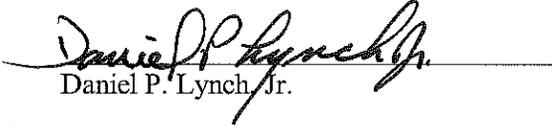
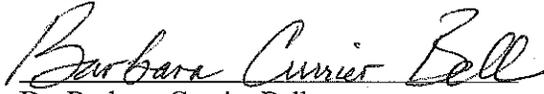
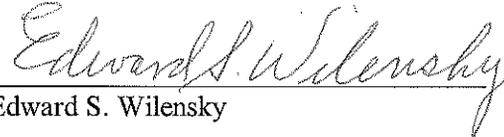
**THEIR REPRESENTATIVES**

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Cramer & Anderson, LLP  
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New Milford, CT 06776

Thomas W. Beecher, Esq.  
Collins, Hannafin, Garamella,  
Jaber & Tuozzolo, P.C.  
148 Deer Hill Avenue  
Danbury, CT 06810

CERTIFICATION

The undersigned members of the Connecticut Siting Council (Council) hereby certify that they have heard this case, or read the record thereof, in **DOCKET NO. 347** - Cellco Partnership d/b/a Verizon Wireless application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a telecommunications facility located at 700 Kent Road, New Milford, Connecticut, and voted as follows to deny without prejudice the proposed site:

<u>Council Members</u>	<u>Vote Cast</u>
 Daniel F. Caruso, Chairman	Yes
 Colin C. Tait, Vice Chairman	Yes
 Commissioner Donald W. Downes Designee: Gerald J. Heffernan	Yes
 Commissioner Gina McCarthy Designee: Brian Golembiewski	Abstain
 Philip T. Ashton	Yes
 Daniel P. Lynch, Jr.	Yes
_____ James J. Murphy, Jr.	Absent
 Dr. Barbara Currier Bell	Yes
 Edward S. Wilensky	Yes

Dated at New Britain, Connecticut, May 22, 2008.

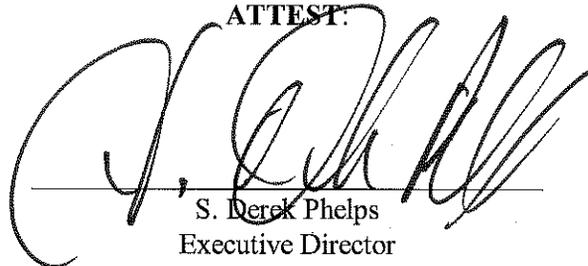
STATE OF CONNECTICUT )

ss. New Britain, Connecticut :

COUNTY OF HARTFORD )

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

ATTEST:



S. Derek Phelps  
Executive Director  
Connecticut Siting Council

I certify that a copy of the Findings of Fact, Opinion, and Decision and Order in Docket No. 347 has been forwarded by Certified First Class Return Receipt Requested mail, on June 11, 2008, to all parties and intervenors of record as listed on the attached service list, dated December 17, 2007.

ATTEST:



Carriann Mulcahy  
Secretary II  
Connecticut Siting Council

**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>	Cellco Partnership d/b/a Verizon Wireless	<p>Sandy Carter, Regulatory Manager Verizon Wireless 99 East River Drive East Hartford, CT 06108</p> <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>
<b>Intervenor (Approved on October 16, 2007)</b>	Town of New Milford Zoning Commission	<p>D. Randall DiBella, Esq. Cramer &amp; Anderson, LLP 51 Main Street New Milford, CT 06776 <a href="mailto:drdibella@crameranderson.com">drdibella@crameranderson.com</a> 860-355-2631</p> <p>Kathy Castagnetta New Milford Zoning Commission 10 Main Street New Milford, CT 06776 860-355-6095 860-210-2664 <a href="mailto:kcastagnetta@newmilford.org">kcastagnetta@newmilford.org</a></p>
<b>Intervenor (Approved on November 29, 2007)</b>	Theodore & Ellen Berson	<p>Thomas W. Beecher, Esq. Collins, Hannafin, Garamella, Jaber &amp; Tuozzolo, P.C. 148 Deer Hill Avenue Danbury, CT 06810 <a href="mailto:tbeecher@chgjtlaw.com">tbeecher@chgjtlaw.com</a> 203-744-2150-w 203-791-1126-f</p>

Docket No. 347 Service List

<p><b>Intervenor (Approved on November 29, 2007)</b></p>	<p>James &amp; Linda Hart 44 South Kent Road Gaylordsville, CT 06755 860-210-8094 <a href="mailto:elsieann@msn.com">elsieann@msn.com</a> <a href="mailto:jhart@msn.com">jhart@msn.com</a></p>	
<p><b>Intervenor (Approved on November 29, 2007)</b></p>	<p>Reed Hotchkiss 703 Kent Road Gaylordsville, CT 06755 860-354-6202 <a href="mailto:thebasketshop@aol.com">thebasketshop@aol.com</a></p>	
<p><b>Intervenor (Approved on November 29, 2007)</b></p>	<p>Michael Covert 17 South Kent Road Gaylordsville, CT 06755 860-354-3427 <a href="mailto:mcovert@thecareoftrees.com">mcovert@thecareoftrees.com</a></p>	
<p><b>Intervenor (Approved on November 29, 2007)</b></p>	<p>Carmen &amp; Anthony Scuderi 21 South Kent Road Gaylordsville, CT 06755 860-350-6504</p>	
<p><b>Intervenor (Approved on December 13, 2007)</b></p>	<p>Ilene Siegel Deutsch 12 Riverview Road Gaylordsville, CT 06755 917-415-1159 917-682-9018 <a href="mailto:isdeutsch@aol.com">isdeutsch@aol.com</a></p>	
<p><b>Intervenor (Approved on December 13, 2007)</b></p>	<p>Peter &amp; Aline Flynn 8 South Kent Road Gaylordsville, CT 06755 860-355-0351</p>	

Docket No. 347 Service List

<b>Intervenor (Approved on December 13, 2007)</b>	Stephen & Barbara Dull 65 South Kent Road P.O. Box 73 Gaylordsville, CT 06755 860-355-3001 <a href="mailto:bosdull@sbcglobal.net">bosdull@sbcglobal.net</a>	
<b>Intervenor (Approved on December 13, 2007)</b>	Henry & Elizabeth Marino 906 Kent Road P.O. Box 153 Gaylordsville, CT 06755 860-354-6215 <a href="mailto:Hbmarino@sbcglobal.net">Hbmarino@sbcglobal.net</a>	
<b>Intervenor (Approved on December 13, 2007)</b>	Alisyn & Dan Hamilton 6 South Kent Road Gaylordsville, CT 06755 860-354-6411 203-355-9023 <a href="mailto:alisynart@aol.com">alisynart@aol.com</a>	