

EXAMINATION UNDER OATH

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MARTY THACKER

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7 Stenographic report of examination under oath of
8 MARTY THACKER taken at the East Kentucky Network d/b/a
9 Appalachian Wireless facility, located on U.S. 23, Ivel,
10 Kentucky, on Tuesday, September 15, 2009, at the
11 approximate hour of 12:20 p.m. Said testimony taken in
12 conjunction with a case before the Commonwealth of
13 Kentucky, Public Service Commission, Case No. 2009-00064,
14 East Kentucky Network, LLC, d/b/a Appalachian Wireless,
15 Petitioner, Dry Fork Cell Tower Property, Letcher County,
16 Kentucky.

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20 PRESENT: Hon. William S. Kendrick
21 ATTORNEY AT LAW
22 311 North Arnold Avenue
23 Prestonsburg, Kentucky 41653
ATTORNEY FOR EAST KENTUCKY NETWORK

24 Mr. Dennis Shepherd

25 Mr. Mike Johnson

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1 business as Appalachian Wireless in this application. You
2 said you're employed by Thacker Grigsby, right?

3 A. Yes. When East Kentucky Networks was formed, it was
4 a very small operation and was run from the -- basically
5 the telephones company at home and --

6 Q. Speak up Marty. She's got to get you.

7 A. For a short period of time that it was actually
8 operated by Harold Telephone Company and Thacker Grigsby
9 Telephone. I worked in the Kentucky cellular parts of it
10 as doing the job that I do now for them. And when it
11 became --

12 Q. Did it merge with some other companies?

13 A. Yes. When the two companies were merged together, I
14 was asked to come on board to help with the construction
15 projects.

16 Q. So Eastern Kentucky Network: What companies is it
17 comprised of?

18 A. Peoples Rural Telephone in McKee, Kentucky,
19 Coalfields Telephone in Harold, Thacker Grigsby Telephone
20 in Hindman, Foot Hills in Staffordsville, and Mountain
21 Rural in West Liberty.

22 Q. So it's five companies that were existing rural
23 telephone service providers; is that correct?

24 A. That is correct.

25 Q. Who are now in business with one another in what

1 kind of business?

2 A. In the cellular telephone business.

3 Q. And I take it that when you started work at Thacker
4 Grigsby, there basically were no cell towers or cell
5 facilities available in eastern Kentucky in these areas
6 where you said these companies existed; is that correct?

7 A. That is correct.

8 Q. So is it fair to say that EKN is a cellular arm and
9 combination of these rural telephone companies, these five
10 rural telephone companies, that have existed and provided
11 telephone service as public utilities for a number of
12 years?

13 A. Yes, sir.

14 Q. Is the type of work that you do now what you were
15 doing before in connection with EKN, what you were doing
16 before?

17 A. Yes.

18 Q. And for how many years have you been involved in
19 this cellular company, whether it was when it was a
20 combination of Harold Telephone and Thacker Grigsby or in
21 its present form with all five of these companies?

22 A. Since 1991.

23 Q. And what is your work exactly as a technical
24 adviser?

25 A. I manage the construction project from the process

1 of, of seeing what land's available out there to construct
2 the tower.

3 Q. Does that include the areas of the coverage that's
4 to be provided and the technical part or understanding of
5 that coverage for the company's purpose?

6 A. Yes, sir.

7 Q. Now with respect to the proposed tower site at Dry
8 Fork, has EKN requested that the Public Service Commission
9 of Kentucky provide it a certificate of convenience and
10 necessity for the construction and operation of a Dry Fork
11 facility?

12 A. Yes.

13 Q. Now when did you first visit the Dry Fork site?

14 A. Probably a little before it was signed, Dennis?

15 Q. Just go ahead, Marty.

16 A. I first visited with Dennis Shepherd, who's the land
17 agent for the operation.

18 Q. For EKN?

19 A. For EKN.

20 Q. Is Dennis Shepherd with Thacker Grigsby, also?

21 A. Yes, sir.

22 Q. And around when was that? I'm not --

23 A. Late 2000 --

24 Q. (Continuing) -- asking for exact date but when?

25 A. Late 2008.

1 Q. And why did you all start searching for a tower site
2 in this area?

3 A. Highway 15 from Whitesburg going toward Isom had
4 virtually no coverage on it. It caused a lot of complaints
5 from people that used our service. It caused a lot of
6 complaints from emergency service personnel that were
7 trying to work in the area, having accidents. It's a large
8 coal haul road that's used, and there are quite a few
9 accidents that happen on it due to the coal truck traffic.
10 And the emergency service people were probably the primary
11 people that complained the most about it.

12 Q. Now do you operate, that is, does EKN operate other
13 tower facilities that serve Letcher County?

14 A. Yes.

15 Q. Do any of those provide coverage in that area along
16 15 there, Highway 15, that you're seeking to have a license
17 to operate in?

18 A. No, they do not.

19 Q. Is there any other company which provides adequate
20 service to that area of Highway 15, to your knowledge?

21 A. No.

22 Q. Now let me ask you: You mentioned Dennis Shepherd
23 and he's your land agent. What is the normal process in
24 selecting a site? You didn't own any property up there.
25 So what did you all do, or what do you normally do in doing

1 that?

2 A. Okay. In probably finding a place, coverage is one
3 of the most important things: To be able to cover the area
4 from the land. Normally we would locate these on a topo
5 map, and they would be sent to J.W. Caudill. He would
6 depict for me the property owners at that point, or the
7 prospective property owners once we determine that any of
8 these sites would cover it. A whole lot goes into that
9 part of it, one of them being would this place pass state
10 and federal regulations that's on us. And the other part
11 would be the availability of the property to be able to
12 acquire it.

13 Q. That there be somebody willing to work with you
14 either through a lease. Or if not a lease, what? Sell you
15 the property or what?

16 A. That is correct. Either way.

17 Q. And what about access to a site or a potential site?
18 Do you look at that aspect of it?

19 A. Yes, sir. Access is a very important part of it
20 since a lot of concrete has to be hauled in, buildings have
21 to be hauled in, tower steel and access to maintain the
22 property once we do get done with it.

23 Q. And did you basically follow the process you've just
24 described in connection with the Dry Fork tower site that
25 you ended up selecting?

1 A. Yes, sir.

2 Q. Now I want you to describe for me the area in
3 general along this section of Route 15, the terrain, the
4 topography, the use of the property in general around
5 there. Is it heavily populated through there, for instance?

6 A. Okay. The general area is a valley that stretches
7 from the Isom area into Whitesburg. It has one communitive
8 interest: The Dry Fork area, which has a food market, car
9 lot, and a few other businesses. It has a quite a few
10 intersections with other highways into that area such as
11 Smoot Creek.

12 Q. There are homes and businesses in the area; is that
13 correct?

14 A. That is correct.

15 Q. Well, where is the site in relation to the area you
16 were seeking to cover?

17 A. Okay. The site that we chose for the Dry Fork site
18 is located approximately halfway through the bad coverage
19 area and from Whitesburg.

20 Q. What significant towns or communities is this site
21 located near, Mr. Thacker?

22 A. The Dry Fork area of Letcher County.

23 Q. Is that near Whitesburg?

24 A. Yes.

25 Q. And is it Highway 15 that goes from Isom? Does 15

1 from the area where the tower was eventually located run
2 southeast to Whitesburg?

3 A. That is correct.

4 Q. And what other major town in eastern Kentucky is
5 located down the opposite direction, northwest, along
6 Highway 15?

7 A. Hazard.

8 Q. Hazard is the county seat of Perry County?

9 A. Perry.

10 Q. Whitesburg is the county seat of Letcher County; is
11 that correct?

12 A. Yes, sir.

13 Q. So this is near to Whitesburg in Letcher County?

14 A. Yes.

15 Q. Now when you went out there with Dennis Shepherd,
16 what areas did you investigate at that time as possible
17 location sites?

18 A. At the time that I went out there with Dennis, we
19 had pretty much eliminated most all the sites except this
20 general area, and we went out and viewed the site Number 1
21 and the -- or Alternate Site Number 1.

22 Q. As proposed by Ms. Cummings?

23 A. Yes.

24 Q. So did you look at the site initially?

25 A. That was actually the first site that we looked at.

1 Q. And just tell us real quickly why you did not select
2 that site?

3 A. The difficulty of being able to access it.

4 Q. And what was the particular difficulty about access
5 to that site?

6 A. Rocky, steep, gas lines, just a lot of things that
7 we didn't --

8 Q. Let me break that down a minute. When you say it
9 was rocky and steep, what are you talking about there? Is
10 that what the topography was?

11 A. Yes.

12 The general area would require quite a bit extensive
13 work with an excavator with a chipping hammer, which is a
14 long process and disturbs a lot of area that we don't need
15 to do.

16 Q. Where was this area that you're talking about?
17 Where was it: The site that you looked at first in
18 relation to the site you eventually selected? How far away
19 was it?

20 A. Probably a thousand feet.

21 Q. And since you're talking about having to excavate
22 rock and stuff, was that on top of the ridge? Just tell us
23 where it was and what you would have to do to get to it
24 that you would not have to do to get to the present site.

25 A. Okay. It was located on the ridge up behind where

1 we chose the site. It was a very steep, rocky grade that
2 would require a lot of effort to put a road into it.

3 Another thing it would've required: We would've had to
4 deal with another property owner.

5 Q. Who else would you have had to -- when you say you
6 have to deal with another property owner, who was that?

7 A. Lee Etta Cummings.

8 Q. Whose property is Alternative Site 1 on, if you can
9 tell us from the map?

10 A. On one side of the property it is Raymond Brown.
11 They kind of split the ridge line there. On the other side
12 is Lee Etta Cummings.

13 Q. So when you say split the ridge line, are you
14 talking about a site that's located on top of the ridge
15 then as Alternative Site 1?

16 A. Yes. Pretty much set straddle of the ridge. You
17 would have to use both sides in order to get a location big
18 enough.

19 Q. So you would have to deal with two different
20 property owners; is that correct?

21 A. Yes.

22 Q. And would you in any case have to use a part of the
23 road that was located on Mr. Brown for access to the point
24 where you would have to construct a road?

25 A. Yes.

1 Q. Were there access roads available to it as far as
2 the Brown property at that time?

3 A. Yes.

4 Q. And is that from Highway 15?

5 A. Yes, sir.

6 Q. So would you have to cross the same property owners
7 that you have to cross now with the proposed site to get to
8 Alternative Site 1?

9 A. To get to Alternative Site 1 we would've had to
10 involve two property owners, or actually three property
11 owners.

12 Q. Okay. State who they are.

13 A. Lee Etta Cummings, the Linda Fields/Harry Fields
14 property, and the Raymond Brown property.

15 Q. And then for the actual construction itself, what
16 would have to be done for that for the tower site as to
17 Alternative --

18 A. Alternative Site 1? You're saying what would've had
19 to have been done different to get to Alternate 1 versus --

20 Q. Well, what additional length of road would you have
21 had to build from the existing access road that got you as
22 far as the Brown property to get to Alternative Site 1?

23 A. Twelve, 1500 feet. To make a manageable travelable
24 year-round road that we could maintain the site at.

25 Q. And that would've been on rocky terrain; is that

1 correct?

2 A. That is correct.

3 Q. And rocky to the extent that the road would have to
4 be drilled; is that correct?

5 A. That is correct.

6 Q. Well, how expensive a proposition is that, if it
7 played any part in your decision?

8 A. Any time you deal with rock in a steep place, it is
9 a very big expense in the beginning to construct it. It's
10 also an expensive proposition to maintain once it's in
11 place.

12 Q. Did you consider that at the time that you decided
13 that would not be a good site?

14 A. Yes, I did.

15 Q. That is the difficulty of constructing a road there;
16 is that correct?

17 A. That is correct.

18 Q. And what about maintenance on that road? Did you
19 consider that?

20 A. Yes, sir. Cell phone service is a thing that needs
21 to be 24/7, 365 days a year. And in order to provide
22 service, you need to be able to access these places in the
23 same order. Bad weather and etcetera needs -- you need
24 your road travelable in all conditions to be able to, in
25 case the site is knocked out by lightning or a snowstorm.

1 You need to be able to get generators, propane, anything
2 that you need back there in order to provide the level of
3 service to our customers that we want.

4 Q. What was more difficult in connection with
5 maintaining the portion of the road that you would've had
6 to construct to Alternative Site 1 than on, say, the road
7 that went up either side of this hill from the Dry Fork or
8 from the Smoot Creek side?

9 A. Both of the existing roads to the site that we chose
10 were well established roads and had been for many years.
11 They had been coal haul roads. Mining had been done over
12 and well established and to a grade that heavy loads could
13 be hauled over.

14 Q. Would the extension of 12 to 1500 foot that you had
15 to build, you would've had to build to access Alternative
16 Site 1 -- what would've been the specific problems as to
17 maintenance or use of that road?

18 A. The steepness, switchbacks in it would've had to be
19 narrowed. Would've been very dangerous to work on.

20 Q. And what would've been more difficult about normal
21 maintenance in keeping that road up for your purposes?

22 A. The steeper it is, the more slides you have to deal
23 with. Another -- another thing is trees. If we can get by
24 without cutting any trees, we try to do that for the
25 environment, if there's no need to.

1 Q. Let me ask you this: Was the site for Alternative
2 Site 1 that Ms. Cummings is talking about, is that higher
3 up on the ridge to where there's no mining that's been done
4 up there, at Alternative Site 1?

5 A. There are no surface mining that has been done.

6 Q. That's what I mean, yes.

7 So there would be more trees and more rock to
8 remove, is that correct, in constructing the road?

9 A. Yes.

10 Q. What about once you got up there to the site? What
11 would you have to do different at that site than what you
12 had to do at Mr. Brown's site that you chose?

13 A. In leveling a lot of approximately 150-foot square
14 located in the center of that ridge, you would need to,
15 again, bring in rock removal tools, which would be a pretty
16 expensive job. Once the site was constructed, you would
17 have to deal with the high wall that would be located
18 behind you that would be a maintenance problem in the
19 future and could interrupt your service. You would have to
20 deal with a lot of debris that you would have to put over
21 the hill in front of the tower that could cause possibly a
22 slide later on.

23 Q. So you're talking about additional work and more
24 environmental impact; is that correct?

25 A. That is correct.

1 MR. KENDRICK: All right. Go off the
2 record a minute.

3 (WHEREUPON, AN OFF-THE-RECORD DISCUSSION
4 WAS HELD, AFTER WHICH THE FOLLOWING PROCEEDINGS OCCURRED.)
5 CONTINUED QUESTIONS BY MR. KENDRICK:

6 Q. Now Ms. Cummings has listed on her witness list Mike
7 or Michael Cornette of C & C Construction. Did you review
8 his estimate of the cost of the additional road length that
9 you're talking about on Alternative Site 1?

10 A. Yes.

11 Q. Based on your experience in being involved on all
12 phases of cell tower construction, from the planning to the
13 completion including road building; is that correct?

14 A. Yes.

15 Q. Do you have an opinion as to the accuracy or
16 inaccuracy of Mr. Cornette's cost estimate for building the
17 road you're talking about: The 12 to 1500-foot road?

18 A. I think Mr. Cornette's proposal to build that road
19 is very inadequate. I don't think that they are any way
20 that you could build that road that we would need for that
21 amount of money.

22 Q. Do you remember what amount of money roughly? I
23 know you're not looking at his report right now, but
24 roughly what he projected on?

25 A. Five thousand dollars.

1 Q. Something in that neighborhood?

2 A. Uh-huh.

3 Q. Is that right or close to being right, or how far
4 wrong is it, do you think?

5 A. I would think from my experience, I would -- I would
6 think that it would be probably in the neighborhood of
7 25,000 by the time you graded it and got your switchbacks
8 fixed, graveled and proper ditching and reseeding.

9 Q. And what about the site construction itself once you
10 got up to the -- you're talking about the top of the ridge,
11 right?

12 A. Yes.

13 Q. Would that add additional costs to the project?

14 A. Yes, sir.

15 Q. Now in the site that you selected, tell me if this
16 is right or wrong. You did not have to build 12 to 1500
17 feet of additional road; is that correct?

18 A. That is correct.

19 Q. And what about the site preparation that existed
20 already on the Brown property that you selected?

21 A. Just grade the vegetation from it and start
22 construction.

23 Q. You didn't have to use a jack hammer or hammers to
24 remove rock or --

25 A. No, sir.

1 Q. (Continuing) -- do any extraordinary grading or push
2 debris over the hill, causing additional environmental
3 impact or anything like that; is that correct?

4 A. That is correct.

5 Q. Were there any other reasons as to Alternative Site
6 Number 1 that you ruled out after your original
7 investigation for this area of building the cell tower?

8 A. You're talking about the alternate sites?

9 Q. No. I'm just talking about Alternate Site 1. I'm
10 limiting my questions at this point to Alternate Site 1,
11 because you did investigate that site before this went to
12 any kind of litigation or before Ms. Cummings intervened in
13 this case; is that not correct?

14 A. Yes.

15 Q. It was on your list of original sites to look at; is
16 that correct?

17 A. Yes, sir.

18 Q. Okay.

19 A. And we did not -- the environmental issues alone
20 with Site Number 1 was enough to --

21 Q. Well, tell us about that because Mr. Caudill spoke
22 about the engineering and additional road and that kind of
23 thing and the jack hammering and everything that had to be
24 done, but I don't believe he touched on the environmental
25 aspect of it. I want you to just tell me about that.

1 A. Along with the permit process for a tower, we have
2 to pass NEPA.

3 Q. What's that?

4 A. Environmental regulations that's set forth by the
5 FCC.

6 Q. Okay.

7 A. And in that we have to tell them how much
8 disturbance we're going to have on the surface, how many
9 trees we're going to remove, how visible the tower is going
10 to be from the community and what all in general we're
11 going to disturb -- which animals, plants, trees, any of
12 the environmental issues that's going to arise from this.
13 And site --

14 Q. Let me stop you on that before you go to another
15 one.

16 Q. Are you saying that they came to look at it? What
17 did you call this organization?

18 A. NEPA.

19 Q. Do you know what that's an acronym for? Is that the
20 Federal National Environmental Protection group?

21 A. Yes.

22 Q. Did they come and look at the site, or is that just
23 something that's built in that you have to consider by
24 reason of that organization's laws and regulations?

25 A. It's something we have to take into consideration

1 every place that we build.

2 Q. And how did that impact your investigation of this
3 site and your ultimate decision regarding this Alternative
4 Site 1?

5 A. On the side that we chose, they were no
6 environmental impact issues at all because we were
7 constructing no road, we were clearing no trees or pushing
8 any dirt over or harming anything in any way in choosing
9 the site that we did. In Site Number 1 we would've had to
10 have cleared trees and had bat studies done and all the
11 regulations that would've -- and a good chance that it
12 would not pass.

13 Q. By reason of what?

14 A. Tree removal and the height of it would be kind of
15 in plain view to the community.

16 Q. Now were there any other considerations that you
17 have to meet by either environmental or historical or other
18 organizations in your review of a particular area?

19 A. Yes. The SHIPA (sic) organization, which is the
20 state historical society.

21 Q. State historical for --

22 A. For preservation.

23 Q. (Continuing) -- preservation organization or
24 something like that; is that right?

25 A. Yes.

1 Q. Is that part of the Kentucky government or is that
2 part of a private organization or what is it?

3 A. State government.

4 Q. Historical Preservation Society? The state
5 historical preservation unit or arm of the state of
6 Kentucky; is that correct?

7 A. Yes.

8 Q. Was there any impact concerning Site Number 1 that
9 had to be taken into consideration with the historical
10 preservation agency's regulations?

11 A. Yes. They were a cabin located in the Dry Fork area
12 that was on the National Historical Register and we had to
13 stay out of view of it.

14 Q. Well, what kind of cabin is this and where is it, if
15 you can tell us?

16 A. It's located right in the Hazard end of the Dry Fork
17 community and, honestly, I don't know the significance of
18 the history of it, but it looks like a substantially old
19 cabin.

20 Q. Maybe a settler's cabin or something?

21 A. Could've been, yes.

22 Q. And is that some kind of historical site designation
23 or something like that?

24 A. As I understand it from the people that came to
25 investigate it, it was. That was one site that they wanted

1 to see, which we had to track that down. I didn't know it
2 existed at the time, but we located in on a map and found
3 it.

4 Once you acquire one of these sites or actually
5 before you acquire it, you notify an organization that --
6 there are only two companies in the eastern part of the
7 United States that do these studies, and they are more or
8 less private contractors for these organizations, and they
9 write up their reports and they have archaeologists,
10 biologists, and people on staff to adequately do those
11 studies.

12 Q. Did EKN in this case hire someone to conduct the
13 NEPA investigation --

14 A. Yes.

15 Q. (Continuing) -- or assessment; is that correct?

16 A. That is correct.

17 Q. Who did you hire?

18 A. DEA.

19 Q. Dynamic Environmental Associates, Inc.?

20 A. Yes.

21 Q. Does this relate to the site we selected or --

22 A. That relates to the site that we selected, yes, sir.

23 Q. So you have to have some kind of submission to and
24 and approval from the NEPA regarding a site that you
25 request a cell tower on; is that correct?

1 A. Yeah.

2 Q. Through the federal government; is that correct?

3 A. That is correct.

4 Q. Was that obtained for the site that you all
5 proposed?

6 A. Yes.

7 Q. And was that based in part on an assessment by DEA
8 you've told us about: Dynamic Environmental Associates?

9 A. Yes.

10 MR. KENDRICK: Go off the record.

11 (WHEREUPON, AN OFF-THE-RECORD DISCUSSION
12 WAS HELD, AFTER WHICH THE FOLLOWING PROCEEDINGS OCCURRED.)

13 CONTINUED QUESTIONS BY MR. KENDRICK:

14 Q. Let me ask you. I'm presenting you here today with
15 a document that is probably an inch and a half thick and
16 titled, NEPA, N-E-P-A, Assessment: Dry Fork Site, Letcher
17 County, DEA Project Number 20903028, and ask you to
18 identify this document for me.

19 A. Okay. The document you handed me is the NEPA report
20 for the site that was chosen at the Dry Fork area.

21 Q. And is that document as I described it as far as its
22 thickness, probably an inch and a half thick or so, or how
23 would you describe it?

24 A. Yes. I would -- I would describe it exactly in the
25 same way.

1 Q. I want you to just set that exhibit aside unless you
2 need to refer to it.

3 Basically, was this an onsite inspection that DEA
4 came to the actual site to conduct?

5 A. Yes.

6 Q. Were you present with them?

7 A. Yes, sir.

8 Q. And the report is dated January of 2009. So is it
9 fair to say they came before that to conduct their
10 investigation and, if so, what did they tell you? Do you
11 remember what time of year it was or exactly when was, or
12 what do you recall where the commission can put this into a
13 time frame of some kind?

14 A. It would've been a little bit before that. Probably
15 late December.

16 Q. And do you remember who they sent or how many
17 inspectors they sent?

18 A. They were a group of three that came, and Tim
19 Gilliam was the primary contact with DEA.

20 Q. The DEA report approved of the site you selected; is
21 that correct?

22 A. That is correct.

23 Q. So I just want to make it clear to the commission:
24 You obtained approval from the NEPA, or N-E-P-A, people for
25 the present site; is that correct?

1 A. That is correct.

2 Q. And that was after you'd pretty much selected that
3 as the most desirable site; is that correct?

4 A. That is correct.

5 Q. In requesting an inspection of this site, which you
6 have to do by law, if I understand -- is that correct?

7 A. Yes, sir.

8 Q. You'd pretty much settled on this site; is that
9 correct?

10 A. That is correct.

11 Q. And that is to say had you rejected Alternative Site
12 1 by that time?

13 A. Yes.

14 Q. And did your rejection of that site in any manner
15 relate to the fact that you were going to have to have this
16 kind of inspection for that site, too?

17 A. Yes, sir, it did.

18 Q. I take it these inspections are not cheap?

19 A. No, they're not.

20 Q. Where did these particular people come from?

21 A. Atlanta, George.

22 Q. So when you call them in, you have to have pretty
23 well selected in your own mind, or in the company's
24 judgment anyway, a site that is going to pass mustard with
25 the environmental inspectors; is that correct?

1 A. Yes, sir.

2 Q. And did that knowledge have anything to do, or tell
3 us what that knowledge that you had about that played, if
4 anything, in your decision to not request an inspection of
5 Alternative Site Number 1?

6 A. On Alternate Site 1, I don't think it would've
7 passed. There were so many things such as trees needed to
8 be cut, dozer work needed to be done, the view of the tower
9 to other buildings down in the area, down in the valley:
10 Those three things alone would probably be a show-stopper
11 for the Alternate Site 1.

12 Q. And that's not just something you came up with
13 recently? Did you or did you not consider that at the time
14 of your original investigation?

15 A. I did consider that at the time of the original
16 investigation.

17 Q. Now moving on here, so the Brown site was selected
18 by January 1, or before January 1, 2009; is that correct?

19 A. Yes.

20 Q. What documents do you have that give you a right to
21 enter any of the property for which you made application
22 including the Brown site or the access roads and so forth
23 for a right of entry for that purpose?

24 A. Exhibit 1, which is a lease agreement between
25 Raymond Brown and his wife with Appalachian Wireless for

1 the part of the access road and the site where the tower is
2 being prepared.

3 Q. And Mr. Caudill said that the description of the
4 property that he prepared for the tower site of a half acre
5 is with -- let me ask you if that description is a part of
6 that lease?

7 A. Yes, sir.

8 Q. As well as that part of the access road that goes
9 over Raymond Brown; is that correct?

10 A. That is correct.

11 Q. What about Exhibit 2?

12 A. Exhibit 2 is a right-of-way lease with Dale Ray
13 Brown and his wife Melissa Brown. That is a small portion
14 of the road that's located on the Raymond Brown drive area
15 of Letcher County that leads up to Raymond Brown's
16 property.

17 Q. And which side of the hill is that on?

18 A. The Dry Fork side.

19 Q. And is that person that you're looking at there who
20 granted you a right-of-way, his name is Dale -- what's the
21 name?

22 A. Dale Ray Brown.

23 Q. Is that Mr. Browns's son, Raymond Brown's son?

24 A. That is correct.

25 Q. And that's for that part of the road on the Dry Fork

1 side that crosses Dale Ray Brown's property; is that
2 correct?

3 A. That is correct.

4 Q. What's the date of that?

5 A. The date of that is January 14, 2009.

6 Q. What about Exhibit 3?

7 A. Exhibit 3 is a right-of-way easement between Linda
8 Fields Simpson and William Simpson, her husband, and
9 Raymond Brown and his wife, that grants Mr. Brown a
10 right-of-way easement across the Highway 15 side of the
11 mountain.

12 MR. KENDRICK: Off the record.

13 (WHEREUPON, AN OFF-THE-RECORD DISCUSSION
14 WAS HELD, AFTER WHICH THE FOLLOWING PROCEEDINGS OCCURRED.)
15 CONTINUED QUESTIONS BY MR. KENDRICK:

16 Q. Exhibit 3 is a grant of a right-of-way from Linda
17 Fields to Mr. Raymond Brown for what road, if any?

18 A. For the access to their land from the Highway 15
19 side of the property.

20 Q. From the Smoot Creek side; is that correct?

21 A. That is correct.

22 Q. And that's dated January 1, 2009; is that correct?

23 A. January 30, 2009.

24 Q. What did Raymond Brown give the company, that is
25 EKN, the rights that he got from Linda Fields on the Smoot

1 Creek side?

2 A. The right to use the access road.

3 Q. Is that contained in your lease with Mr. Brown,
4 Exhibit 1?

5 A. Yes.

6 Q. Let me ask you this. At the time that you got these
7 agreements here from Brown, in Exhibit 1, the lease
8 agreement we had from Mr. Brown, was the road from 15 up
9 Smoot Creek to his property actually in existence, that is,
10 from Route 15 all the way to his property, including rather
11 the part that crossed Linda Fields and the property that
12 Ms. Cummings owned together?

13 A. Yes, it was in existence at the time.

14 Q. And that's contained on page two of this agreement;
15 is that correct? The lease, Exhibit 1?

16 A. Yes.

17 Q. Where it says, "Lessor grants full or complete
18 rights of ingress, egress, and regress over roads located
19 on this property or controlled by lessors"; is that
20 correct?

21 A. Yes.

22 Q. So those three documents constitute your right of
23 access to and use of the tower site and roads up Smoot
24 Creek and Dry Fork for the purpose of the construction
25 maintenance and use of the tower site; is that correct?

1 A. Yes, sir.

2 Q. I want to ask you to look at Exhibit 4 that you have
3 in front of you and tell the commission -- identify that
4 exhibit and what it purports to show.

5 A. Exhibit 4 is a map that shows the existing coverage
6 in the area of the Dry Fork area of Highway 15.

7 Q. And how does it show that?

8 A. It shows it by a group of green and yellow dots.
9 The green dots are usable signal; the yellow dots is a very
10 marginal signal; and where there are no dots existing, they
11 are no coverage exists in those areas.

12 Q. What was your plan going into this? What was EKN's
13 plan in connection with the area that's shown on Exhibit 4
14 regarding that area where little or no coverage is shown on
15 this map? This is a map; is that correct?

16 A. That is correct.

17 Q. What was your plan going into this project?

18 A. Is to have seamless coverage from the green dots on
19 the north end of the map to the green dots on the south end
20 of the map.

21 Q. The north being that end which along Route 15 that
22 goes to Hazard; is that correct?

23 A. That is correct.

24 Q. And the south being that area that goes to
25 Whitesburg; is that correct?

1 A. That is correct.

2 Q. Do you have larger blowups of these maps that you
3 intend to present at a formal hearing?

4 A. Yes, sir.

5 Q. So what we're looking at here is a reduced area of
6 the same map; is that correct?

7 A. Yes.

8 Q. And it shows a stretch along Highway 15 and
9 adjoining watersheds and adjoining roads that you were
10 interested in targeting here --

11 A. Yes.

12 Q. (Continuing) -- with cellular coverage; is that
13 correct?

14 A. That is correct.

15 Q. Are you able to say approximately what distance this
16 target area encompasses --

17 A. A section of --

18 Q. (Continuing) -- along Route 15?

19 A. A section probably two and a half miles, three miles
20 long.

21 Q. And when you say this shows existing coverage, I
22 want you to tell the commission what you mean by that.

23 A. What is available to a cell phone in that area at
24 this time.

25 Q. Today?

1 A. Today.

2 Q. And it was your objective in applying for this to
3 fulfill the needs of this area, of these communities and
4 the residents along this road and the people who travel
5 this road to provide cellular service?

6 A. That is correct.

7 Q. And the people who that impacts, as you've told us
8 here earlier, among those parties are the people who made
9 the complaints or were requesting cell service in that
10 area; is that correct? Emergency people. Who else? What
11 other types of facilities would be served? What's in
12 Whitesburg? Is there a hospital in Whitesburg?

13 A. Yes.

14 Q. What are some of the facilities that would be
15 served?

16 A. The hospital in Whitesburg when they're transporting
17 patients from Whitesburg to Lexington. That's one of the
18 main arteries going in that direction. Or even to the
19 Hazard Hospital. A lot of the --

20 Q. What about fire departments?

21 A. Fire departments had complained quite a bit. They'd
22 been a whole lot of accidents in this area due to coal
23 truck traffic, and they were no cell phone coverage for
24 them to use. And that's one of their main forms of
25 communication.

1 Q. And it's fire departments who respond to those types
2 of accidents; is that correct --

3 A. Yes.

4 Q. (Continuing) -- in this area?

5 A. Ambulance, fire, police.

6 Q. And what about police departments? Sheriff or other
7 police departments in that area? Had they made complaints?

8 A. They had.

9 Q. What about any governmental or -- Whitesburg has a
10 city school, and there's a Letcher County public school; is
11 that correct?

12 A. Yes.

13 Q. Had you received any complaints from some of those
14 institutions, city or county school or government?

15 A. Governmental parts of it, yes.

16 Q. Or the idea is to supply service to all these
17 institutions; is that correct?

18 A. That is correct.

19 Q. As well as the public that lives up and down or
20 travels up and down that section of Route 15 or any
21 traveler who wishes to use his cell phone through there?

22 A. That is correct.

23 Q. Tell the commission if school buses travel that
24 road, to your knowledge.

25 A. Yes, sir.

1 Q. So a school bus driver who had a cellular phone on
2 which he was making a call concerning some situation
3 involving his school bus and the safety of the children on
4 it would have little or no coverage in that area, that two
5 to three-mile area, or going up one of those hollows that's
6 shown along -- the secondary roads that go up from 15 at
7 present day; is that correct?

8 A. That is correct.

9 Q. So there was a need and demand from the public and
10 consumers in this area for cell phone service in that area?

11 A. Yes, sir.

12 Q. Did you get complaints about dropped calls in that
13 area, that is somebody who is, say, coming from the north
14 end of 15 through the area that's shown in green here from
15 Hazard who's talking on a cell phone whose service would be
16 interrupted in his travels?

17 A. Yes.

18 Q. All in all, do you have few or many complaints about
19 this?

20 A. Many complaints.

21 Q. And in connection with your investigation of
22 possible sites, what part, if any, did co-location play in
23 your investigation, that is, renting space from another
24 cellular company to cover this area?

25 A. That would've been our first choice if it would've

1 been available.

2 Q. Was it available?

3 A. No.

4 Q. Why is that?

5 A. There are no towers located in the area that would
6 serve that.

7 Q. So there were no towers to co-locate or lease space
8 on; is that correct?

9 A. That is correct.

10 Q. I want to run real quick with you through the rest
11 of these exhibits here concerning the coverage area. Tell
12 the commission what Exhibit 5 portrays.

13 A. Okay. Exhibit 5 is coverage from existing cell
14 sites in the area, how far each one covers. The blue dots
15 is our Isom cell site, which would be to the north of the
16 map area; the red is from the Whitesburg, Pine Mountain
17 location; and the green is our Dean site located up Route
18 7.

19 Q. And what does this map illustrate with respect to
20 coverage for this area?

21 A. It shows that with our existing cell sites that we
22 have in place that we cannot cover that area adequately.

23 Q. And you're talking about your company's cellular
24 coverage; is that correct?

25 A. That is correct.

1 Q. From its other available sites? Excuse me. Its
2 other sites in Letcher County; is that correct?

3 A. That is correct.

4 Q. And, again, as with Exhibit 4, this shows that you
5 cannot cover that area -- is that what you said -- from
6 those existing sites?

7 A. Yes, with Exhibit 5.

8 Q. What about Exhibit 6? What does it purport to show?

9 A. Okay. Exhibit 6 is a coverage map on the proposed
10 location of the coverage on Highway 15.

11 Q. You're looking now at Exhibit 6, and I'd ask you to
12 tell us what that is.

13 A. Exhibit 6 is a map that depicts the coverage that
14 would be from the chosen site at Dry Fork on Highway 15 and
15 the area around it.

16 Q. So in Exhibit 4 and Exhibit 5 you told us about the
17 area of the coverage that's not there from existing sites.
18 If I understand it, this Exhibit 6 is a projection of what
19 coverage would be available from the proposed site; is that
20 correct?

21 A. That is correct.

22 Q. And is that along what we'll call the targeted area
23 that's shown on Exhibits 4 and 5?

24 A. Yes, sir.

25 Q. I see a lot of colors on this map, or I see a few

1 colors that are bright. So tell me those colors, how they
2 relate to coverage.

3 A. All right. The areas that are shown in red would be
4 excellent coverage from that site.

5 Q. Along the targeted area there: Is it shown on that
6 map? The targeted area along 15: Is that displayed on
7 Exhibit 6?

8 A. Yes.

9 Q. And what color -- and red is excellent; is that
10 correct?

11 A. Yes.

12 Q. What color is shown on Exhibit 6 as the projected
13 coverage and the quality of that coverage along the
14 targeted area of Exhibit 6?

15 A. Red.

16 Q. Is that what you said the key is for that represents
17 coverage that is of excellent quality?

18 A. Yes, sir.

19 Q. And I notice you're looking a key to the map, or
20 what are you looking at there with respect to the color
21 code?

22 A. Yes, that is a key to the map.

23 MR. KENDRICK: Off the record a minute.

24 (WHEREUPON, AN OFF-THE-RECORD DISCUSSION
25 WAS HELD, AFTER WHICH THE FOLLOWING PROCEEDINGS OCCURRED.)

1 CONTINUED QUESTIONS BY MR. KENDRICK:

2 Q. Were maps four, five, and six and what you've told
3 us about them here today and their meaning -- let me ask
4 you this: Was that a part, and those factors that you've
5 described that are shown on maps four, five, and six, part
6 of your, that is the company EKN doing business as
7 Appalachian Wireless, evaluation of this site in connection
8 with this application?

9 A. Yes.

10 Q. So those existed at that time?

11 A. Yes.

12 Q. That's how you determined the need and convenience
13 of the public at the time you made your application for the
14 necessity of cell tower coverage from the proposed site; is
15 that correct?

16 A. Exhibits 4 and 5 showed the need for the site, and
17 they were done at an early date to determine the best
18 location for it. The number six was done --

19 Q. The best location to fulfill the public need for
20 cell coverage; is that correct?

21 A. That is correct.

22 Q. All right. Now go ahead and explain Exhibit 6 to
23 us. When was it made?

24 A. After the site was chosen and we seen the need to
25 prove the coverage area to the commission, it was generated

1 at that point.

2 Q. And was that done here in Appalachian cellular
3 offices that we're sitting in today at Ivel, Kentucky?

4 A. Yes, sir.

5 Q. And just tell us who did that and under what
6 circumstances.

7 A. Gerald Robinette generated the map from a computer
8 program that is able to generate maps through taking the
9 topo of the area and the coverage that would be available
10 from that using the CDMA technology that we use.

11 Q. And are you familiar generally with that technology?

12 A. Yes.

13 Q. Is this the type of computer program and the data
14 obtained from it that is used in Appalachian Wireless's
15 business on a regular basis to make this type of
16 determination as to the coverage that will or is projected
17 to be supplied to the public from a given tower selection?

18 A. Yes.

19 Q. Do you have Exhibit 7 there?

20 A. Yes.

21 Q. Just explain to the commission what this Exhibit 7
22 is. I see it's a map. Just explain it a little bit more.

23 A. Okay. Exhibit 7 was taken from the state
24 transportation records showing the area of Highway 15 from
25 Isom to Whitesburg.

1 Q. Is that the targeted area?

2 A. Yes.

3 And it shows amounts of traffic in a 24-hour period
4 that travels Highway 15 and the tributaries off of Highway
5 15.

6 Q. And what does it show with respect to the targeted
7 area that's shown on these other maps as to the amount of
8 travel of this section of road for which I understand it
9 right now coverage is not very available, if at all?

10 A. Okay. It shows they would be 10,241 vehicles that
11 would pass through Highway 15 in a 24-hour period.

12 Q. And at what location does this map show that this
13 survey was taken?

14 A. Basically the targeted area that we'd want to cover
15 with this site.

16 Q. Well, what is that purple triangle on the map?

17 A. That is the traffic counter where it was set at.

18 Q. For which the numbers that's on this --

19 A. Map were taken.

20 Q. (Continuing) -- were taken?

21 That looks to me like the intersection of two roads
22 there: 15 and another road; is that correct?

23 A. Yes.

24 Q. Just tell us where that is if somebody were going
25 through Letcher County and wanted to identify this

1 particular spot that's shown in this purple triangle here.

2 A. That would be the junction of Highway 15 and Highway
3 3401, would be the starting point there where the first
4 traffic counter was set. And each one of the tributaries
5 has a counter on it, also, such as the Dry Fork Road, which
6 is 3402, showing that there were 683 vehicles. Also, the
7 Smoot Creek area, which is Highway 160, it was set at the
8 mouth of Holly Bush, which is located just inside 160,
9 which shows 2,477 vehicles.

10 Q. That passed that point that's shown in that blue
11 triangle there at Station 770; is that correct?

12 A. That is correct.

13 Q. How else is the section along Route 15 and the
14 traffic count there, that 2,000 -- or, excuse me, 10,241
15 identified in addition to the purple triangle? Is there a
16 station number on it, too?

17 A. Yes. Station Number 784.

18 Q. So in the traffic count that's shown for the
19 targeted area and areas along Smoot Creek and Dry Fork, are
20 those in the targeted area, too, adjacent to the Route 15
21 targeted area?

22 A. Yes.

23 Q. Those traffic count numbers are shown on this map?

24 A. Yes.

25 Q. And at the time you were evaluating the site, was

1 this what's illustrated on this map here, these numbers,
2 figure into your formula for determining the demand for
3 coverage in this area?

4 A. Yes.

5 Q. Just looking at this map, the coverage area, how is
6 that illustrated on this map by that number that's shown
7 there for Station 784?

8 A. It is showing there that they were 10,241 vehicles
9 that passed Station 784 in a 24-hour period.

10 Q. Is there any other number that's even near that high
11 shown at any other of these other stations on that map?

12 A. No.

13 Q. What's the next highest number you see on this map
14 for the traffic count? And tell us where that is.

15 A. The next highest would be Station 770, would be at
16 the mouth of Holly Bush on Route 160, and it would be 2,477
17 vehicles.

18 Q. So this map, by looking just at the numbers on this
19 map, what was the significance of this information in your
20 determination of the necessity of coverage in this area
21 where the citizens of Letcher County and the travelers on
22 this area of the target area along Route 15?

23 A. There are a substantial amount of traffic on Highway
24 15 that's not being able to use the phone every day and
25 nights, because they're mining and all that going on.

1 Q. There's a demand for this at night, also; is that
2 right?

3 A. That is correct.

4 Q. And this shows the traffic in a 24-hour period, is
5 that correct, day and night, in other words?

6 A. Yes.

7 Q. And is it your company's desire and what you're
8 asking the commission here for today is to allow you to
9 develop this tower site to fulfill that need?

10 A. That is correct.

11 Q. Regarding the design of the tower, would you look at
12 Exhibit 8 and tell us what it is?

13 A. Exhibit 8 is a set of stamped drawings for the
14 proposed tower at the Dry Dork site.

15 Q. Was this part of your application, this Exhibit 8,
16 for the tower site?

17 A. Yes, sir.

18 Q. And what does it show basically here?

19 A. It's showing the vertical height overall with
20 dimensions, the location of the coaxes that need to go down
21 the tower to feed the antennae (sic) and where they should
22 be placed for the best wind loading. It tells what all the
23 tower's equipped to handle as far as antennae and coaxes.
24 Over in the left-hand corner it also tells the leg
25 diameters, diagonal lengths, girts, braces, bolts, flanges,

1 and all the things that go into the design structure of the
2 tower.

3 Q. So this is basically a diagram of the tower that's
4 proposed to be built; is that correct?

5 A. That is correct.

6 Q. You mentioned it's stamped. Look at that stamp and
7 tell us what that stamp is. Who signed it?

8 A. The stamp is from Chi Lee. He's an engineer that
9 works for Allstate Tower, Incorporated, of Henderson,
10 Kentucky. He is a registered professional engineer and has
11 a stamp for the State of Kentucky.

12 Q. Does it say what's required by law as part of your
13 application: That the design be one that is submitted by
14 an engineer who is qualified and who is registered in the
15 state of Kentucky?

16 A. That is correct.

17 Q. Is there a date on that?

18 A. Yes. 2/19/09.

19 Q. Was that at or about the time your application was
20 submitted?

21 A. Yes, sir.

22 Q. Was this diagram prepared in connection with the
23 requirements for the submission of this very application?

24 A. Yes.

25 Q. I notice the diagram is on stationary that says

1 Allstate Tower, Inc., P. O. Box 25, Henderson, Kentucky
2 42419. Could you tell us what's the connection of that
3 entity and Mr. Lee? Is that who he works for?

4 A. Mr. Lee is a private engineer that does drawings,
5 which is not uncommon in the tower industry. That's the
6 way it's done with all companies that we deal with.

7 Q. And who is Allstate Tower, Inc.?

8 A. Allstate Tower is a manufacturer located in
9 Henderson.

10 Q. In other words, they make the tower?

11 A. That is correct.

12 Q. And what's Mr. Lee's connection with that?

13 A. Mr. Lee is an engineer that certifies that this
14 tower is of strength to hold all the required antennae,
15 coaxes, and he also designs the foundations.

16 Q. This tower shown on here does not require any other
17 safety mechanisms such as guide wires and so forth to
18 support the tower; is that correct?

19 A. That is correct. We use all self-supporting towers
20 in this area due to terrain.

21 Q. I take it from the tenor of your testimony that
22 Mr. Lee as an engineer and Allstate as the manufacturer has
23 done other cell tower construction and manufactured other
24 cell towers for your company?

25 A. Yes. We have probably 50 Allstate towers out there.

1 And not only that, but Mr. Lee -- other towers that we've
2 bought, Mr. Lee has also stamped those drawings. He's used
3 by several of the tower manufacturers.

4 Q. Is that to say that he's designed the tower to be
5 made in accordance with his knowledge and training,
6 education, experience as a professional engineer?

7 A. Yes, sir.

8 Q. Do these towers, to your knowledge, and this tower
9 in particular, is it required to be designed in connection
10 with any type of standards and safety regulations?

11 A. Yes.

12 Can we refer to another exhibit here?

13 Q. Yes.

14 A. On Exhibit 9 they are standard for 22-F that all
15 tower designs are done by.

16 Q. And what is Exhibit 9, if we could move on to that,
17 and in particular connection with your discussion or
18 testimony concerning the laws and regulations and standards
19 according to which towers have to be built? What are you
20 referring to there?

21 A. Exhibit 9 is a foundation drawing to support the
22 tower structure itself.

23 Q. I see a certification that says the foundation is
24 designed to meet all standards set forth by the American
25 Concrete Institute and building code requirements for

1 structural concrete and structural standard for steel
2 antenna towers and antenna supporting structures. Is that
3 part of what Mr. Lee certified to on Exhibit 9?

4 A. Yes.

5 Q. I see on Number 5 at Exhibit 8 -- just read that
6 into the record as to the standards according to which this
7 tower was designed.

8 A. What was that again, please?

9 Q. Number 5 on his design notes on Exhibit 8.

10 A. "This tower has been designed for 70-mile-an-hour
11 basic wind speed in accordance with TIA/EIA 222-F
12 standards, including a half inch of radial ice with
13 reduction."

14 Q. That's if ice stuck to the tower; is that correct?

15 A. That is correct.

16 Q. So basically with Mr. Lee's certifying Exhibits 8
17 and 9, he's certifying that these towers are built in
18 accordance with lawful and accepted standards and
19 regulations?

20 A. Yes.

21 Q. Have you reviewed the exhibit with reference to
22 alternative sites that Ms. Cummings proposed?

23 A. Yes.

24 Q. And did you also visit those sites?

25 A. Yes, I did.

1 Q. And with whom did you do that?

2 A. J.W. Caudill.

3 Q. Were you here for Mr. Caudill's testimony?

4 A. Yes, I was.

5 Q. And did you hear him testify as to what was wrong
6 with those other additional sites?

7 A. Yes.

8 Q. Do you agree with what he said concerning the
9 problem with those sites?

10 A. I do.

11 Q. And have you here today added some information about
12 the road building and other problems with Alternative Site
13 Number 1? Have you already testified about that today and
14 added to his testimony?

15 A. Yes.

16 Q. I think when we were off the record, I heard you say
17 something about the SHIPA requirements as to Alternative
18 Site Number 1 and your concern about those. Just real
19 briefly tell the commission about that.

20 A. In the process of building the tower, one of the
21 requirements is to pass the state historical preservation,
22 and in doing that the more visible the tower is at a higher
23 location, the more chances are that you're going to
24 interrupt something that is historical or be in view of it,
25 which is not accepted by those folks.

1 Q. And would the tower site, Alternative Tower Site
2 Number 1, be at an elevation that is higher than the site
3 that was selected?

4 A. Yes.

5 Q. Approximately how much? You can probably look at
6 the -- and I think this is Mr. Caudill's exhibit -- well, I
7 forget the number -- of all his maps, with all the
8 alternative sites shown on it.

9 Compare Alternative Site 1 with the site that was
10 chosen to elevation.

11 A. Okay. The elevation of Alternate Site 1 would be
12 1860, and the current proposed site is 1670.

13 Q. So Alternative Site 1 is how many feet approximately
14 higher than the selected site?

15 A. Two hundred and ten feet.

16 Q. Would Alternate Tower Site 1 be visible from the
17 settler's cabin?

18 A. Yes.

19 Q. What about the selected site?

20 A. We don't think that it will be visible.

21 Q. What's the difference? Why not?

22 A. It's located at a lower altitude.

23 Q. What is the character of this property in general in
24 this vicinity?

25 A. It's a previously-mined area that would lend itself

1 to building the tower on.

2 Q. Are there any kind of dwellings located on the
3 property that you got leased or in this area dwellings or
4 other buildings that would be affected by the tower?

5 A. No.

6 Q. Is all the property up around where this tower is
7 unoccupied, whether it's -- is Raymond Brown's property
8 unoccupied up there?

9 A. Yes.

10 Q. What does he use it for?

11 A. As he told me one day, to bird hunt on.

12 Q. Recreation hunting?

13 A. Yes.

14 Q. Would this area be suitable for pasturing of cattle?

15 A. Yes.

16 Q. Now what about Ms. Cummings's property? Are there
17 houses on it? And I'm speaking of her individual property
18 that she individually owns, which is shown here as on Tract
19 8 on the site location map, or the James Harry Fields
20 property, which is tract Number 7 on this location map,
21 that was submitted with your application?

22 A. There are no residences of any kind in the area of
23 the tower that is visible.

24 Q. On Ms. Cummings's property or the Henry Fields's
25 property, Tracts 8 and 7 respectively; is that correct?

1 A. That is correct. You know, they could be something
2 way down in the valley that I don't know about on those
3 tracts, but there's nothing up on top that's --

4 Q. That's inside the tower?

5 A. Yes.

6 Q. And all that property including the tracts I'm
7 talking about there, seven and eight, that Ms. Cummings
8 owns or has an interest in, have been previously surface
9 mined in the area around the tower?

10 A. That is correct.

11 Q. Are there improvements or infrastructure to this
12 property as far as, or the property around it, the area
13 we're talking about, where there are no improvements in the
14 nature of utility lines, such as water, sewer, heat,
15 electric, and so forth?

16 A. No.

17 Q. So it's basically isolated rural pasture land that
18 you have chosen and for which all this property around the
19 tower, including Tracts 7 and 8, are used for at present?

20 A. That is correct.

21 Q. There was something said about a prison being
22 planned for this area. What do you know about that, if
23 anything?

24 A. I know nothing about it. I've heard that. Of
25 course, when Ms. Cummings mentioned it, it was the first

1 that any of us had heard about it and we've worked on the
2 project for approximately a year.

3 Q. So you've received no notice about your tower being
4 any kind of impediment or impacting the selection of this
5 site for possible use as a prison of some kind?

6 A. No.

7 Q. Well, let me ask you this. If your tower that you
8 construct up there, if it were to adversely impact the
9 selection of this whole area up there for use as a prison,
10 what would you be willing to do? What would EKN be willing
11 to do if this area is so selected?

12 A. If the tower become a problem to the prison that was
13 going to be located there, the last thing EKN would want to
14 be is a problem to the community and a place that would be
15 in the way of providing jobs or anything to Letcher County.
16 We would be able to move it. We would be able to work
17 around it in some aspect to make both parties happy, I
18 feel.

19 MR. KENDRICK: Off the record.

20 (WHEREUPON, AN OFF-THE-RECORD DISCUSSION
21 WAS HELD, AFTER WHICH THE FOLLOWING PROCEEDINGS OCCURRED.)

22 CONTINUED QUESTIONS BY MR. KENDRICK:

23 Q. I want to ask you one more thing with respect to the
24 construction of a road to Alternative Site 1, and I think
25 you said it was 12 to 1500 feet that would have to be

1 constructed for new road. Just tell us what type of road
2 construction is necessary to accommodate your purposes at
3 Alternative Site 1. Do you just have to have a path
4 scraped out that a four-wheeler or all terrain vehicle can
5 get over, or what are your requirements for that kind of
6 stable road that would support what all you have to do to
7 construct a tower up there and get to it and keep it up.

8 A. The road would need to be at least 12-foot wide on
9 the surface with drainage on the side. The road would also
10 need to be cut from the solid, not only fill, and a grade
11 of approximately 12 to 15 percent.

12 Q. Or no steeper grade than that?

13 A. Yeah, no steeper.

14 Q. Why is the grade important?

15 A. Grade is very important in traveling in the
16 construction aspect of moving buildings, concrete trucks
17 and all this up the hills. And as far as maintaining the
18 site once it's built, if you have a grade steeper than
19 that, a lot of times in the snow and ice you can't travel
20 it.

21 Q. Taking those types of specifications and
22 requirements in mind, what is the likelihood of such a road
23 being constructed from the present road accessing
24 Mr. Brown's property to Alternative Site 1?

25 A. I think it'd be a very expensive road.

1 Q. What's your best estimate as to the cost on it, if
2 such a road were to be built, and what would be required to
3 build it?

4 A. I would think price-wise somewhere around 25,000.

5 Q. Or more?

6 A. Or more.

7 Q. You said it had to have switchbacks in it?

8 A. Yes.

9 Q. It would have to accommodate concrete trucks that
10 routinely haul what type of weight?

11 A. Probably a concrete truck would be in the
12 neighborhood of 45, 50,000 pounds. The truck itself is
13 probably in length --

14 Q. Does the present terrain and structure up there of
15 that ridge make it feasible to construct such a road at
16 Alternative Site 1, in your judgment?

17 A. No.

18 MR. KENDRICK: Off the record.

19 (WHEREUPON, AN OFF-THE-RECORD DISCUSS WAS
20 HELD, AFTER WHICH THE FOLLOWING PROCEEDINGS OCCURRED.)

21 CONTINUED QUESTIONS BY MR. KENDRICK:

22 Q. What are some of the other requirements for either
23 construction or maintenance of the road that tend to make
24 the construction of the road 12 to 1500 foot to Alternative
25 Site 1 unfeasible? Just tell the commission.

1 A. Even after the construction of the site was done and
2 all the concrete trucks were up and all this, you have the
3 problem of maintaining the site. And maintaining the site
4 in the wintertime up on a mountainside is a very hard thing
5 to do. You can have ice storms that can knock your power
6 line down. And if you don't have an extremely good road,
7 the power company in the area won't service you through the
8 winter months. Also --

9 Q. What kind of power are you talking about there?

10 A. The commercial power that's provided to --

11 Q. An electric power transmission?

12 A. Yes.

13 Q. Okay.

14 A. And, also, propane trucks need to be able to access
15 the site to refuel the tanks for the standby generators.

16 Q. And what do you use those for?

17 A. When the commercial AC power is gone, such as an ice
18 storm, it will carry us through till the electric company
19 can repair the line.

20 Q. Are you saying then that if the steep -- and as I
21 understand it, you're saying the 12 to 1500 foot would be
22 very steep, is that correct, at best?

23 A. Yes.

24 Q. How would ice on the road, say, in the wintertime
25 when your power up there, electric power, went out, what

1 would that make it do as to supplying those auxiliary
2 generators with fuel?

3 A. It's been our experience in wintertime storms, power
4 outages, ice storms, that if we don't have a good road that
5 is travelable in bad weather conditions, that we can get
6 our normal commercial power knocked out, and the power
7 company not be able to get back there and then use up our
8 supply of propane and be totally out of service to the
9 customer in a bad condition.

10 Q. And the steeper the road, the icier, and the higher
11 up it is, the icier it can get. I guess we all know that;
12 is that correct?

13 A. Yes, that is correct.

14 Q. What about the construction itself? As far as the
15 concrete trucks and the weight that they can carry and so
16 forth? The construction of the pad, I mean.

17 A. Repeat the question, please.

18 Q. The construction of the pad the tower would set on:
19 What difficulty -- knowing that you have to do that, what
20 difficulty or additional difficulties is there as far as
21 being able to do that or get the supplies and concrete up
22 there to do it at that higher site?

23 A. The pad requires usually somewhere around, oh,
24 anywhere from a hundred to 150 yards of concrete. And the
25 steeper the road, the less the trucks can haul, for one

1 thing. The other thing is that this has to be a pour that
2 is monolithic, or all poured at one time. Never setup.

3 Q. The concrete never hardens?

4 A. Right. It all -- all hundred yards of concrete has
5 to be poured in there one right after the other. You can't
6 pour part of it one day and part of it the next. So the
7 road has to lend itself to all that traffic, too.

8 Q. So you're saying if the road was too steep for
9 concrete trucks to come ready to deliver, they might not be
10 able to deliver a full load; is that correct?

11 A. That is correct.

12 Q. And that could affect or impact the integrity of the
13 pour for the base, or you might not be able to comply
14 period because this has to be a monolithic pour; is that
15 right?

16 A. That is correct.

17 Q. Now I want to ask you one more question. Have you
18 constructed this tower at this location? Has construction
19 on the tower itself begun?

20 A. You're saying the --

21 Q. She says we've been building up there, building this
22 tower without a permit, and I don't think that's right.

23 A. We have not done anything to violate any regulations
24 that I'm aware of.

25 Q. As far as the construction of the tower?

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A. Yes.

Q. All you've done is prepare? How far have you gone exactly, Mr. Thacker?

A. We have set the building in place and poured the foundation and delivered the steel on site.

Q. But you've not started the tower construction?

A. That is correct.

MR. KENDRICK: That's all I have.

(TESTIMONY CONCLUDED.)

1 CERTIFICATION OF REPORTER

2
3
4 STATE OF KENTUCKY)

5)

6 COUNTY OF MARTIN)

7
8 I, DENISE M. GAUZE, the undersigned Notary
9 Public in and for the State of Kentucky at Large, certify
10 that the facts stated in the caption hereto are true; that
11 at the time and place stated in said caption, the witness
12 named in the caption hereto personally appeared before me
13 and that after being by me duly sworn, was examined by
14 Counsel for East Kentucky Network d/b/a Appalachian
15 Wireless; that said testimony was taken down in stenotype
16 by me and later reduced to a computer-aided transcription
17 under my supervision; and that the foregoing is a true and
18 complete record of the testimony given by said witness.

19 My commission expires: November 17, 2010.

20 IN TESTIMONY WHEREOF, I have hereunto set my hand on
21 the 16th day of September, 2009.

22
23 
24 DENISE M. GAUZE
25 NOTARY PUBLIC

1 EXAMINATION UNDER OATH
 2 OF
 3 MARTY THACKER

4
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 6
 7 Stenographic report of examination under oath of
 8 MARTY THACKER taken at the East Kentucky Network d/b/a
 9 Appalachian Wireless facility, located on U.S. 23, Ivel,
 10 Kentucky, on Tuesday, September 15, 2009, at the
 11 approximate hour of 12:20 p.m. Said testimony taken in
 12 conjunction with a case before the Commonwealth of
 13 Kentucky, Public Service Commission, Case No. 2009-00064,
 14 East Kentucky Network, LLC, d/b/a Appalachian Wireless,
 15 Petitioner, Dry Fork Cell Tower Property, Letcher County,
 16 Kentucky.

17
 18
 19
 20
 21 PRESENT: Hon. William S. Kendrick
 22 ATTORNEY AT LAW
 23 311 North Arnold Avenue
 24 Prestonsburg, Kentucky 41653
 25 ATTORNEY FOR EAST KENTUCKY NETWORK

Mr. Dennis Shepherd
 Mr. Mike Johnson

1 The witness, MARTY THACKER, having first been duly
 2 sworn by the Court Reporter/Notary Public, was questioned
 3 and testified as follows:

4 EXAMINATION
 5 QUESTIONS BY MR. KENDRICK:

6 Q. Would you state your name, please?
 7 A. **Marty Wayne Thacker.**
 8 Q. Where do you live, sir?
 9 A. **I live at 31 Will Farm Drive in Leburn, Kentucky.**
 10 Q. Is that in Knott County?
 11 A. **Yes, sir.**
 12 Q. May I ask you your age?
 13 A. **I'm 52.**
 14 Q. Now by whom are you employed and in what capacity?
 15 A. **I am employed by Thacker Grigsby Telephone as a**
 16 **technical person in their operation.**
 17 Q. How long have you been employed in that capacity by
 18 Thacker Grigsby?
 19 A. **Since 1977.**
 20 Q. That's 32 years. That's basically been your life's
 21 work since that time; is that correct?
 22 A. **Yes.**
 23 Q. I need you just to explain very quickly and
 24 momentarily, if you can, how you are connected with
 25 Appalachian Wireless, or Eastern Kentucky Network doing

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1 business as Appalachian Wireless in this application. You
 2 said you're employed by Thacker Grigsby, right?
 3 A. **Yes. When East Kentucky Networks was formed, it was**
 4 **a very small operation and was run from the -- basically**
 5 **the telephones company at home and --**
 6 Q. Speak up Marty. She's got to get you.
 7 A. **For a short period of time that it was actually**
 8 **operated by Harold Telephone Company and Thacker Grigsby**
 9 **Telephone. I worked in the Kentucky cellular parts of it**
 10 **as doing the job that I do now for them. And when it**
 11 **became --**
 12 Q. Did it merge with some other companies?
 13 A. **Yes. When the two companies were merged together, I**
 14 **was asked to come on board to help with the construction**
 15 **projects.**
 16 Q. So Eastern Kentucky Network: What companies is it
 17 comprised of?
 18 A. **Peoples Rural Telephone in McKee, Kentucky,**
 19 **Coalfields Telephone in Harold, Thacker Grigsby Telephone**
 20 **in Hindman, Foot Hills in Staffordsville, and Mountain**
 21 **Rural in West Liberty.**
 22 Q. So it's five companies that were existing rural
 23 telephone service providers; is that correct?
 24 A. **That is correct.**
 25 Q. Who are now in business with one another in what

1 kind of business?

2 A. **In the cellular telephone business.**

3 Q. And I take it that when you started work at Thacker

4 Grigsby, there basically were no cell towers or cell

5 facilities available in eastern Kentucky in these areas

6 where you said these companies existed; is that correct?

7 A. **That is correct.**

8 Q. So is it fair to say that EKN is a cellular arm and

9 combination of these rural telephone companies, these five

10 rural telephone companies, that have existed and provided

11 telephone service as public utilities for a number of

12 years?

13 A. **Yes, sir.**

14 Q. Is the type of work that you do now what you were

15 doing before in connection with EKN, what you were doing

16 before?

17 A. **Yes.**

18 Q. And for how many years have you been involved in

19 this cellular company, whether it was when it was a

20 combination of Harold Telephone and Thacker Grigsby or in

21 its present form with all five of these companies?

22 A. **Since 1991.**

23 Q. And what is your work exactly as a technical

24 adviser?

25 A. **I manage the construction project from the process**

5

1 **of, of seeing what land's available out there to construct**

2 **the tower.**

3 Q. Does that include the areas of the coverage that's

4 to be provided and the technical part or understanding of

5 that coverage for the company's purpose?

6 A. **Yes, sir.**

7 Q. Now with respect to the proposed tower site at Dry

8 Fork, has EKN requested that the Public Service Commission

9 of Kentucky provide it a certificate of convenience and

10 necessity for the construction and operation of a Dry Fork

11 facility?

12 A. **Yes.**

13 Q. Now when did you first visit the Dry Fork site?

14 A. **Probably a little before it was signed, Dennis?**

15 Q. Just go ahead, Marty.

16 A. **I first visited with Dennis Shepherd, who's the land**

17 **agent for the operation.**

18 Q. For EKN?

19 A. **For EKN.**

20 Q. Is Dennis Shepherd with Thacker Grigsby, also?

21 A. **Yes, sir.**

22 Q. And around when was that? I'm not --

23 A. **Late 2000 --**

24 Q. (Continuing) -- asking for exact date but when?

25 A. **Late 2008.**

6

1 Q. And why did you all start searching for a tower site

2 in this area?

3 A. **Highway 15 from Whitesburg going toward Isom had**

4 **virtually no coverage on it. It caused a lot of complaints**

5 **from people that used our service. It caused a lot of**

6 **complaints from emergency service personnel that were**

7 **trying to work in the area, having accidents. It's a large**

8 **coal haul road that's used, and there are quite a few**

9 **accidents that happen on it due to the coal truck traffic.**

10 **And the emergency service people were probably the primary**

11 **people that complained the most about it.**

12 Q. Now do you operate, that is, does EKN operate other

13 tower facilities that serve Letcher County?

14 A. **Yes.**

15 Q. Do any of those provide coverage in that area along

16 15 there, Highway 15, that you're seeking to have a license

17 to operate in?

18 A. **No, they do not.**

19 Q. Is there any other company which provides adequate

20 service to that area of Highway 15, to your knowledge?

21 A. **No.**

22 Q. Now let me ask you: You mentioned Dennis Shepherd

23 and he's your land agent. What is the normal process in

24 selecting a site? You didn't own any property up there.

25 So what did you all do, or what do you normally do in doing

7

1 that?

2 A. **Okay. In probably finding a place, coverage is one**

3 **of the most important things: To be able to cover the area**

4 **from the land. Normally we would locate these on a topo**

5 **map, and they would be sent to J.W. Caudill. He would**

6 **depict for me the property owners at that point, or the**

7 **prospective property owners once we determine that any of**

8 **these sites would cover it. A whole lot goes into that**

9 **part of it, one of them being would this place pass state**

10 **and federal regulations that's on us. And the other part**

11 **would be the availability of the property to be able to**

12 **acquire it.**

13 Q. That there be somebody willing to work with you

14 either through a lease. Or if not a lease, what? Sell you

15 the property or what?

16 A. **That is correct. Either way.**

17 Q. And what about access to a site or a potential site?

18 Do you look at that aspect of it?

19 A. **Yes, sir. Access is a very important part of it**

20 **since a lot of concrete has to be hauled in, buildings have**

21 **to be hauled in, tower steel and access to maintain the**

22 **property once we do get done with it.**

23 Q. And did you basically follow the process you've just

24 described in connection with the Dry Fork tower site that

25 you ended up selecting?

8

1 A. **Yes, sir.**

2 Q. Now I want you to describe for me the area in

3 general along this section of Route 15, the terrain, the

4 topography, the use of the property in general around

5 there. Is it heavily populated through there, for instance?

6 A. **Okay. The general area is a valley that stretches**

7 **from the Isom area into Whitesburg. It has one communitive**

8 **interest: The Dry Fork area, which has a food market, car**

9 **lot, and a few other businesses. It has a quite a few**

10 **intersections with other highways into that area such as**

11 **Smoot Creek.**

12 Q. There are homes and businesses in the area; is that

13 correct?

14 A. **That is correct.**

15 Q. Well, where is the site in relation to the area you

16 were seeking to cover?

17 A. **Okay. The site that we chose for the Dry Fork site**

18 **is located approximately halfway through the bad coverage**

19 **area and from Whitesburg.**

20 Q. What significant towns or communities is this site

21 located near, Mr. Thacker?

22 A. **The Dry Fork area of Letcher County.**

23 Q. Is that near Whitesburg?

24 A. **Yes.**

25 Q. And is it Highway 15 that goes from Isom? Does 15

9

1 from the area where the tower was eventually located run

2 southeast to Whitesburg?

3 A. **That is correct.**

4 Q. And what other major town in eastern Kentucky is

5 located down the opposite direction, northwest, along

6 Highway 15?

7 A. **Hazard.**

8 Q. Hazard is the county seat of Perry County?

9 A. **Perry.**

10 Q. Whitesburg is the county seat of Letcher County; is

11 that correct?

12 A. **Yes, sir.**

13 Q. So this is near to Whitesburg in Letcher County?

14 A. **Yes.**

15 Q. Now when you went out there with Dennis Shepherd,

16 what areas did you investigate at that time as possible

17 location sites?

18 A. **At the time that I went out there with Dennis, we**

19 **had pretty much eliminated most all the sites except this**

20 **general area, and we went out and viewed the site Number 1**

21 **and the -- or Alternate Site Number 1.**

22 Q. As proposed by Ms. Cummings?

23 A. **Yes.**

24 Q. So did you look at the site initially?

25 A. **That was actually the first site that we looked at.**

10

1 Q. And just tell us real quickly why you did not select

2 that site?

3 A. **The difficulty of being able to access it.**

4 Q. And what was the particular difficulty about access

5 to that site?

6 A. **Rocky, steep, gas lines, just a lot of things that**

7 **we didn't --**

8 Q. Let me break that down a minute. When you say it

9 was rocky and steep, what are you talking about there? Is

10 that what the topography was?

11 A. **Yes.**

12 **The general area would require quite a bit extensive**

13 **work with an excavator with a chipping hammer, which is a**

14 **long process and disturbs a lot of area that we don't need**

15 **to do.**

16 Q. Where was this area that you're talking about?

17 Where was it: The site that you looked at first in

18 relation to the site you eventually selected? How far away

19 was it?

20 A. **Probably a thousand feet.**

21 Q. And since you're talking about having to excavate

22 rock and stuff, was that on top of the ridge? Just tell us

23 where it was and what you would have to do to get to it

24 that you would not have to do to get to the present site.

25 A. **Okay. It was located on the ridge up behind where**

11

1 **we chose the site. It was a very steep, rocky grade that**

2 **would require a lot of effort to put a road into it.**

3 **Another thing it would've required: We would've had to**

4 **deal with another property owner.**

5 Q. Who else would you have had to -- when you say you

6 have to deal with another property owner, who was that?

7 A. **Lee Etta Cummings.**

8 Q. Whose property is Alternative Site 1 on, if you can

9 tell us from the map?

10 A. **On one side of the property it is Raymond Brown.**

11 **They kind of split the ridge line there. On the other side**

12 **is Lee Etta Cummings.**

13 Q. So when you say split the ridge line, are you

14 talking about a site that's located on top of the ridge

15 then as Alternative Site 1?

16 A. **Yes. Pretty much set straddle of the ridge. You**

17 **would have to use both sides in order to get a location big**

18 **enough.**

19 Q. So you would have to deal with two different

20 property owners; is that correct?

21 A. **Yes.**

22 Q. And would you in any case have to use a part of the

23 road that was located on Mr. Brown for access to the point

24 where you would have to construct a road?

25 A. **Yes.**

12

1 Q. Were there access roads available to it as far as
 2 the Brown property at that time?
 3 A. **Yes.**
 4 Q. And is that from Highway 15?
 5 A. **Yes, sir.**
 6 Q. So would you have to cross the same property owners
 7 that you have to cross now with the proposed site to get to
 8 Alternative Site 1?
 9 A. **To get to Alternative Site 1 we would've had to**
 10 **involve two property owners, or actually three property**
 11 **owners.**
 12 Q. Okay. State who they are.
 13 A. **Lee Etta Cummings, the Linda Fields/Harry Fields**
 14 **property, and the Raymond Brown property.**
 15 Q. And then for the actual construction itself, what
 16 would have to be done for that for the tower site as to
 17 Alternative --
 18 A. **Alternative Site 1? You're saying what would've had**
 19 **to have been done different to get to Alternated 1 versus --**
 20 Q. Well, what additional length of road would you have
 21 had to build from the existing access road that got you as
 22 far as the Brown property to get to Alternative Site 1?
 23 A. **Twelve, 1500 feet. To make a manageable travelable**
 24 **year-round road that we could maintain the site at.**
 25 Q. And that would've been on rocky terrain; is that

1 correct?
 2 A. **That is correct.**
 3 Q. And rocky to the extent that the road would have to
 4 be drilled; is that correct?
 5 A. **That is correct.**
 6 Q. Well, how expensive a proposition is that, if it
 7 played any part in your decision?
 8 A. **Any time you deal with rock in a steep place, it is**
 9 **a very big expense in the beginning to construct it. It's**
 10 **also an expensive proposition to maintain once it's in**
 11 **place.**
 12 Q. Did you consider that at the time that you decided
 13 that would not be a good site?
 14 A. **Yes, I did.**
 15 Q. That is the difficulty of constructing a road there;
 16 is that correct?
 17 A. **That is correct.**
 18 Q. And what about maintenance on that road? Did you
 19 consider that?
 20 A. **Yes, sir. Cell phone service is a thing that needs**
 21 **to be 24/7, 365 days a year. And in order to provide**
 22 **service, you need to be able to access these places in the**
 23 **same order. Bad weather and etcetera needs -- you need**
 24 **your road travelable in all conditions to be able to, in**
 25 **case the site is knocked out by lightning or a snowstorm.**

1 **You need to be able to get generators, propane, anything**
 2 **that you need back there in order to provide the level of**
 3 **service to our customers that we want.**
 4 Q. What was more difficult in connection with
 5 maintaining the portion of the road that you would've had
 6 to construct to Alternative Site 1 than on, say, the road
 7 that went up either side of this hill from the Dry Fork or
 8 from the Smoot Creek side?
 9 A. **Both of the existing roads to the site that we chose**
 10 **were well established roads and had been for many years.**
 11 **They had been coal haul roads. Mining had been done over**
 12 **and well established and to a grade that heavy loads could**
 13 **be hauled over.**
 14 Q. Would the extension of 12 to 1500 foot that you had
 15 to build, you would've had to build to access Alternative
 16 Site 1 -- what would've been the specific problems as to
 17 maintenance or use of that road?
 18 A. **The steepness, switchbacks in it would've had to be**
 19 **narrowed. Would've been very dangerous to work on.**
 20 Q. And what would've been more difficult about normal
 21 maintenance in keeping that road up for your purposes?
 22 A. **The steeper it is, the more slides you have to deal**
 23 **with. Another -- another thing is trees. If we can get by**
 24 **without cutting any trees, we try to do that for the**
 25 **environment, if there's no need to.**

1 Q. Let me ask you this: Was the site for Alternative
 2 Site 1 that Ms. Cummings is talking about, is that higher
 3 up on the ridge to where there's no mining that's been done
 4 up there, at Alternative Site 1?
 5 A. **There are no surface mining that has been done.**
 6 Q. That's what I mean, yes.
 7 So there would be more trees and more rock to
 8 remove, is that correct, in constructing the road?
 9 A. **Yes.**
 10 Q. What about once you got up there to the site? What
 11 would you have to do different at that site than what you
 12 had to do at Mr. Brown's site that you chose?
 13 A. **In leveling a lot of approximately 150-foot square**
 14 **located in the center of that ridge, you would need to,**
 15 **again, bring in rock removal tools, which would be a pretty**
 16 **expensive job. Once the site was constructed, you would**
 17 **have to deal with the high wall that would be located**
 18 **behind you that would be a maintenance problem in the**
 19 **future and could interrupt your service. You would have to**
 20 **deal with a lot of debris that you would have to put over**
 21 **the hill in front of the tower that could cause possibly a**
 22 **slide later on.**
 23 Q. So you're talking about additional work and more
 24 environmental impact; is that correct?
 25 A. **That is correct.**

1 MR. KENDRICK: All right. Go off the
2 record a minute.
3 (WHEREUPON, AN OFF-THE-RECORD DISCUSSION
4 WAS HELD, AFTER WHICH THE FOLLOWING PROCEEDINGS OCCURRED.)
5 CONTINUED QUESTIONS BY MR. KENDRICK:
6 Q. Now Ms. Cummings has listed on her witness list Mike
7 or Michael Cornette of C & C Construction. Did you review
8 his estimate of the cost of the additional road length that
9 you're talking about on Alternative Site 1?
10 A. **Yes.**
11 Q. Based on your experience in being involved on all
12 phases of cell tower construction, from the planning to the
13 completion including road building; is that correct?
14 A. **Yes.**
15 Q. Do you have an opinion as to the accuracy or
16 inaccuracy of Mr. Cornette's cost estimate for building the
17 road you're talking about: The 12 to 1500-foot road?
18 A. **I think Mr. Cornette's proposal to build that road
19 is very inadequate. I don't think that they are any way
20 that you could build that road that we would need for that
21 amount of money.**
22 Q. Do you remember what amount of money roughly? I
23 know you're not looking at his report right now, but
24 roughly what he projected on?
25 A. **Five thousand dollars.**

17

1 Q. Something in that neighborhood?
2 A. **Uh-huh.**
3 Q. Is that right or close to being right, or how far
4 wrong is it, do you think?
5 A. **I would think from my experience, I would -- I would
6 think that it would be probably in the neighborhood of
7 25,000 by the time you graded it and got your switchbacks
8 fixed, graveled and proper ditching and reseeded.**
9 Q. And what about the site construction itself once you
10 got up to the -- you're talking about the top of the ridge,
11 right?
12 A. **Yes.**
13 Q. Would that add additional costs to the project?
14 A. **Yes, sir.**
15 Q. Now in the site that you selected, tell me if this
16 is right or wrong. You did not have to build 12 to 1500
17 feet of additional road; is that correct?
18 A. **That is correct.**
19 Q. And what about the site preparation that existed
20 already on the Brown property that you selected?
21 A. **Just grade the vegetation from it and start
22 construction.**
23 Q. You didn't have to use a jack hammer or hammers to
24 remove rock or --
25 A. **No, sir.**

18

1 Q. (Continuing) -- do any extraordinary grading or push
2 debris over the hill, causing additional environmental
3 impact or anything like that; is that correct?
4 A. **That is correct.**
5 Q. Were there any other reasons as to Alternative Site
6 Number 1 that you ruled out after your original
7 investigation for this area of building the cell tower?
8 A. **You're talking about the alternate sites?**
9 Q. *No. I'm just talking about Alternate Site 1. I'm*
10 *limiting my questions at this point to Alternate Site 1,*
11 *because you did investigate that site before this went to*
12 *any kind of litigation or before Ms. Cummings intervened in*
13 *this case; is that not correct?*
14 A. **Yes.**
15 Q. It was on your list of original sites to look at; is
16 that correct?
17 A. **Yes, sir.**
18 Q. Okay.
19 A. **And we did not -- the environmental issues alone
20 with Site Number 1 was enough to --**
21 Q. Well, tell us about that because Mr. Caudill spoke
22 about the engineering and additional road and that kind of
23 thing and the jack hammering and everything that had to be
24 done, but I don't believe he touched on the environmental
25 aspect of it. I want you to just tell me about that.

19

1 A. **Along with the permit process for a tower, we have
2 to pass NEPA.**
3 Q. What's that?
4 A. **Environmental regulations that's set forth by the
5 FCC.**
6 Q. Okay.
7 A. **And in that we have to tell them how much
8 disturbance we're going to have on the surface, how many
9 trees we're going to remove, how visible the tower is going
10 to be from the community and what all in general we're
11 going to disturb -- which animals, plants, trees, any of
12 the environmental issues that's going to arise from this.
13 And site --**
14 Q. Let me stop you on that before you go to another
15 one.
16 Q. Are you saying that they came to look at it? What
17 did you call this organization?
18 A. **NEPA.**
19 Q. *Do you know what that's an acronym for? Is that the*
20 *Federal National Environmental Protection group?*
21 A. **Yes.**
22 Q. Did they come and look at the site, or is that just
23 something that's built in that you have to consider by
24 reason of that organization's laws and regulations?
25 A. **It's something we have to take into consideration**

20

1 **every place that we build.**
 2 Q. And how did that impact your investigation of this
 3 site and your ultimate decision regarding this Alternative
 4 Site 1?
 5 A. **On the side that we chose, they were no**
 6 **environmental impact issues at all because we were**
 7 **constructing no road, we were clearing no trees or pushing**
 8 **any dirt over or harming anything in any way in choosing**
 9 **the site that we did. In Site Number 1 we would've had to**
 10 **have cleared trees and had bat studies done and all the**
 11 **regulations that would've -- and a good chance that it**
 12 **would not pass.**
 13 Q. By reason of what?
 14 A. **Tree removal and the height of it would be kind of**
 15 **in plain view to the community.**
 16 Q. Now were there any other considerations that you
 17 have to meet by either environmental or historical or other
 18 organizations in your review of a particular area?
 19 A. **Yes. The SHIPA (sic) organization, which is the**
 20 **state historical society.**
 21 Q. State historical for --
 22 A. **For preservation.**
 23 Q. (Continuing) -- preservation organization or
 24 something like that; is that right?
 25 A. **Yes.**

21

1 Q. Is that part of the Kentucky government or is that
 2 part of a private organization or what is it?
 3 A. **State government.**
 4 Q. Historical Preservation Society? The state
 5 historical preservation unit or arm of the state of
 6 Kentucky; is that correct?
 7 A. **Yes.**
 8 Q. Was there any impact concerning Site Number 1 that
 9 had to be taken into consideration with the historical
 10 preservation agency's regulations?
 11 A. **Yes. They were a cabin located in the Dry Fork area**
 12 **that was on the National Historical Register and we had to**
 13 **stay out of view of it.**
 14 Q. Well, what kind of cabin is this and where is it, if
 15 you can tell us?
 16 A. **It's located right in the Hazard end of the Dry Fork**
 17 **community and, honestly, I don't know the significance of**
 18 **the history of it, but it looks like a substantially old**
 19 **cabin.**
 20 Q. Maybe a settler's cabin or something?
 21 A. **Could've been, yes.**
 22 Q. And is that some kind of historical site designation
 23 or something like that?
 24 A. **As I understand it from the people that came to**
 25 **investigate it, it was. That was one site that they wanted**

22

1 **to see, which we had to track that down. I didn't know it**
 2 **existed at the time, but we located in on a map and found**
 3 **it.**
 4 **Once you acquire one of these sites or actually**
 5 **before you acquire it, you notify an organization that --**
 6 **there are only two companies in the eastern part of the**
 7 **United States that do these studies, and they are more or**
 8 **less private contractors for these organizations, and they**
 9 **write up their reports and they have archaeologists,**
 10 **biologists, and people on staff to adequately do those**
 11 **studies.**
 12 Q. Did EKN in this case hire someone to conduct the
 13 NEPA investigation --
 14 A. **Yes.**
 15 Q. (Continuing) -- or assessment; is that correct?
 16 A. **That is correct.**
 17 Q. Who did you hire?
 18 A. **DEA.**
 19 Q. Dynamic Environmental Associates, Inc.?
 20 A. **Yes.**
 21 Q. Does this relate to the site we selected or --
 22 A. **That relates to the site that we selected, yes, sir.**
 23 Q. So you have to have some kind of submission to and
 24 and approval from the NEPA regarding a site that you
 25 request a cell tower on; is that correct?

23

1 A. **Yeah.**
 2 Q. Through the federal government; is that correct?
 3 A. **That is correct.**
 4 Q. Was that obtained for the site that you all
 5 proposed?
 6 A. **Yes.**
 7 Q. And was that based in part on an assessment by DEA
 8 you've told us about: Dynamic Environmental Associates?
 9 A. **Yes.**
 10 MR. KENDRICK: Go off the record.
 11 (WHEREUPON, AN OFF-THE-RECORD DISCUSSION
 12 WAS HELD, AFTER WHICH THE FOLLOWING PROCEEDINGS OCCURRED.)
 13 CONTINUED QUESTIONS BY MR. KENDRICK:
 14 Q. Let me ask you. I'm presenting you here today with
 15 a document that is probably an inch and a half thick and
 16 titled, NEPA, N-E-P-A, Assessment: Dry Fork Site, Letcher
 17 County, DEA Project Number 20903028, and ask you to
 18 identify this document for me.
 19 A. **Okay. The document you handed me is the NEPA report**
 20 **for the site that was chosen at the Dry Fork area.**
 21 Q. And is that document as I described it as far as its
 22 thickness, probably an inch and a half thick or so, or how
 23 would you describe it?
 24 A. **Yes. I would -- I would describe it exactly in the**
 25 **same way.**

24

1 Q. I want you to just set that exhibit aside unless you
2 need to refer to it.
3 Basically, was this an onsite inspection that DEA
4 came to the actual site to conduct?
5 A. **Yes.**
6 Q. Were you present with them?
7 A. **Yes, sir.**
8 Q. And the report is dated January of 2009. So is it
9 fair to say they came before that to conduct their
10 investigation and, if so, what did they tell you? Do you
11 remember what time of year it was or exactly when was, or
12 what do you recall where the commission can put this into a
13 time frame of some kind?
14 A. **It would've been a little bit before that. Probably**
15 **late December.**
16 Q. And do you remember who they sent or how many
17 inspectors they sent?
18 A. **They were a group of three that came, and Tim**
19 **Gilliam was the primary contact with DEA.**
20 Q. The DEA report approved of the site you selected; is
21 that correct?
22 A. **That is correct.**
23 Q. So I just want to make it clear to the commission:
24 You obtained approval from the NEPA, or N-E-P-A, people for
25 the present site; is that correct?

25

1 A. **That is correct.**
2 Q. And that was after you'd pretty much selected that
3 as the most desirable site; is that correct?
4 A. **That is correct.**
5 Q. In requesting an inspection of this site, which you
6 have to do by law, if I understand -- is that correct?
7 A. **Yes, sir.**
8 Q. You'd pretty much settled on this site; is that
9 correct?
10 A. **That is correct.**
11 Q. And that is to say had you rejected Alternative Site
12 1 by that time?
13 A. **Yes.**
14 Q. And did your rejection of that site in any manner
15 relate to the fact that you were going to have to have this
16 kind of inspection for that site, too?
17 A. **Yes, sir, it did.**
18 Q. I take it these inspections are not cheap?
19 A. **No, they're not.**
20 Q. Where did these particular people come from?
21 A. **Atlanta, George.**
22 Q. So when you call them in, you have to have pretty
23 well selected in your own mind, or in the company's
24 judgment anyway, a site that is going to pass mustard with
25 the environmental inspectors; is that correct?

26

1 A. **Yes, sir.**
2 Q. And did that knowledge have anything to do, or tell
3 us what that knowledge that you had about that played, if
4 anything, in your decision to not request an inspection of
5 Alternative Site Number 1?
6 A. **On Alternate Site 1, I don't think it would've**
7 **passed. There were so many things such as trees needed to**
8 **be cut, dozer work needed to be done, the view of the tower**
9 **to other buildings down in the area, down in the valley:**
10 **Those three things alone would probably be a show-stopper**
11 **for the Alternate Site 1.**
12 Q. And that's not just something you came up with
13 recently? Did you or did you not consider that at the time
14 of your original investigation?
15 A. **I did consider that at the time of the original**
16 **investigation.**
17 Q. Now moving on here, so the Brown site was selected
18 by January 1, or before January 1, 2009; is that correct?
19 A. **Yes.**
20 Q. What documents do you have that give you a right to
21 enter any of the property for which you made application
22 including the Brown site or the access roads and so forth
23 for a right of entry for that purpose?
24 A. **Exhibit 1, which is a lease agreement between**
25 **Raymond Brown and his wife with Appalachian Wireless for**

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1 **the part of the access road and the site where the tower is**
2 **being prepared.**
3 Q. And Mr. Caudill said that the description of the
4 property that he prepared for the tower site of a half acre
5 is with -- let me ask you if that description is a part of
6 that lease?
7 A. **Yes, sir.**
8 Q. As well as that part of the access road that goes
9 over Raymond Brown; is that correct?
10 A. **That is correct.**
11 Q. What about Exhibit 2?
12 A. **Exhibit 2 is a right-of-way lease with Dale Ray**
13 **Brown and his wife Melissa Brown. That is a small portion**
14 **of the road that's located on the Raymond Brown drive area**
15 **of Letcher County that leads up to Raymond Brown's**
16 **property.**
17 Q. And which side of the hill is that on?
18 A. **The Dry Fork side.**
19 Q. And is that person that you're looking at there who
20 granted you a right-of-way, his name is Dale -- what's the
21 name?
22 A. **Dale Ray Brown.**
23 Q. Is that Mr. Browns's son, Raymond Brown's son?
24 A. **That is correct.**
25 Q. And that's for that part of the road on the Dry Fork

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1 side that crosses Dale Ray Brown's property; is that
2 correct?
3 A. **That is correct.**
4 Q. What's the date of that?
5 A. **The date of that is January 14, 2009.**
6 Q. What about Exhibit 3?
7 A. **Exhibit 3 is a right-of-way easement between Linda
8 Fields Simpson and William Simpson, her husband, and
9 Raymond Brown and his wife, that grants Mr. Brown a
10 right-of-way easement across the Highway 15 side of the
11 mountain.**
12 MR. KENDRICK: Off the record.
13 (WHEREUPON, AN OFF-THE-RECORD DISCUSSION
14 WAS HELD, AFTER WHICH THE FOLLOWING PROCEEDINGS OCCURRED.)
15 CONTINUED QUESTIONS BY MR. KENDRICK:
16 Q. Exhibit 3 is a grant of a right-of-way from Linda
17 Fields to Mr. Raymond Brown for what road, if any?
18 A. **For the access to their land from the Highway 15
19 side of the property.**
20 Q. From the Smoot Creek side; is that correct?
21 A. **That is correct.**
22 Q. And that's dated January 1, 2009; is that correct?
23 A. **January 30, 2009.**
24 Q. What did Raymond Brown give the company, that is
25 EKN, the rights that he got from Linda Fields on the Smoot

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1 Creek side?
2 A. **The right to use the access road.**
3 Q. Is that contained in your lease with Mr. Brown,
4 Exhibit 1?
5 A. **Yes.**
6 Q. Let me ask you this. At the time that you got these
7 agreements here from Brown, in Exhibit 1, the lease
8 agreement we had from Mr. Brown, was the road from 15 up
9 Smoot Creek to his property actually in existence, that is,
10 from Route 15 all the way to his property, including rather
11 the part that crossed Linda Fields and the property that
12 Ms. Cummings owned together?
13 A. **Yes, it was in existence at the time.**
14 Q. And that's contained on page two of this agreement;
15 is that correct? The lease, Exhibit 1?
16 A. **Yes.**
17 Q. Where it says, "Lessor grants full or complete
18 rights of ingress, egress, and regress over roads located
19 on this property or controlled by lessors"; is that
20 correct?
21 A. **Yes.**
22 Q. So those three documents constitute your right of
23 access to and use of the tower site and roads up Smoot
24 Creek and Dry Fork for the purpose of the construction
25 maintenance and use of the tower site; is that correct?

30

1 A. **Yes, sir.**
2 Q. I want to ask you to look at Exhibit 4 that you have
3 in front of you and tell the commission -- identify that
4 exhibit and what it purports to show.
5 A. **Exhibit 4 is a map that shows the existing coverage
6 in the area of the Dry Fork area of Highway 15.**
7 Q. And how does it show that?
8 A. **It shows it by a group of green and yellow dots.
9 The green dots are usable signal; the yellow dots is a very
10 marginal signal; and where there are no dots existing, they
11 are no coverage exists in those areas.**
12 Q. What was your plan going into this? What was EKN's
13 plan in connection with the area that's shown on Exhibit 4
14 regarding that area where little or no coverage is shown on
15 this map? This is a map; is that correct?
16 A. **That is correct.**
17 Q. What was your plan going into this project?
18 A. **Is to have seamless coverage from the green dots on
19 the north end of the map to the green dots on the south end
20 of the map.**
21 Q. The north being that end which along Route 15 that
22 goes to Hazard; is that correct?
23 A. **That is correct.**
24 Q. And the south being that area that goes to
25 Whitesburg; is that correct?

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1 A. **That is correct.**
2 Q. Do you have larger blowups of these maps that you
3 intend to present at a formal hearing?
4 A. **Yes, sir.**
5 Q. So what we're looking at here is a reduced area of
6 the same map; is that correct?
7 A. **Yes.**
8 Q. And it shows a stretch along Highway 15 and
9 adjoining watersheds and adjoining roads that you were
10 interested in targeting here --
11 A. **Yes.**
12 Q. (Continuing) -- with cellular coverage; is that
13 correct?
14 A. **That is correct.**
15 Q. Are you able to say approximately what distance this
16 target area encompasses --
17 A. **A section of --**
18 Q. (Continuing) -- along Route 15?
19 A. **A section probably two and a half miles, three miles
20 long.**
21 Q. And when you say this shows existing coverage, I
22 want you to tell the commission what you mean by that.
23 A. **What is available to a cell phone in that area at
24 this time.**
25 Q. Today?

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1 A. **Today.**
2 Q. And it was your objective in applying for this to
3 fulfill the needs of this area, of these communities and
4 the residents along this road and the people who travel
5 this road to provide cellular service?
6 A. **That is correct.**
7 Q. And the people who that impacts, as you've told us
8 here earlier, among those parties are the people who made
9 the complaints or were requesting cell service in that
10 area; is that correct? Emergency people. Who else? What
11 other types of facilities would be served? What's in
12 Whitesburg? Is there a hospital in Whitesburg?
13 A. **Yes.**
14 Q. What are some of the facilities that would be
15 served?
16 A. **The hospital in Whitesburg when they're transporting**
17 **patients from Whitesburg to Lexington. That's one of the**
18 **main arteries going in that direction. Or even to the**
19 **Hazard Hospital. A lot of the --**
20 Q. What about fire departments?
21 A. **Fire departments had complained quite a bit. They'd**
22 **been a whole lot of accidents in this area due to coal**
23 **truck traffic, and they were no cell phone coverage for**
24 **them to use. And that's one of their main forms of**
25 **communication.**

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1 Q. And it's fire departments who respond to those types
2 of accidents; is that correct --
3 A. **Yes.**
4 Q. (Continuing) -- in this area?
5 A. **Ambulance, fire, police.**
6 Q. And what about police departments? Sheriff or other
7 police departments in that area? Had they made complaints?
8 A. **They had.**
9 Q. What about any governmental or -- Whitesburg has a
10 city school, and there's a Letcher County public school; is
11 that correct?
12 A. **Yes.**
13 Q. Had you received any complaints from some of those
14 institutions, city or county school or government?
15 A. **Governmental parts of it, yes.**
16 Q. Or the idea is to supply service to all these
17 institutions; is that correct?
18 A. **That is correct.**
19 Q. As well as the public that lives up and down or
20 travels up and down that section of Route 15 or any
21 traveler who wishes to use his cell phone through there?
22 A. **That is correct.**
23 Q. Tell the commission if school buses travel that
24 road, to your knowledge.
25 A. **Yes, sir.**

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1 Q. So a school bus driver who had a cellular phone on
2 which he was making a call concerning some situation
3 involving his school bus and the safety of the children on
4 it would have little or no coverage in that area, that two
5 to three-mile area, or going up one of those hollows that's
6 shown along -- the secondary roads that go up from 15 at
7 present day; is that correct?
8 A. **That is correct.**
9 Q. So there was a need and demand from the public and
10 consumers in this area for cell phone service in that area?
11 A. **Yes, sir.**
12 Q. Did you get complaints about dropped calls in that
13 area, that is somebody who is, say, coming from the north
14 end of 15 through the area that's shown in green here from
15 Hazard who's talking on a cell phone whose service would be
16 interrupted in his travels?
17 A. **Yes.**
18 Q. All in all, do you have few or many complaints about
19 this?
20 A. **Many complaints.**
21 Q. And in connection with your investigation of
22 possible sites, what part, if any, did co-location play in
23 your investigation, that is, renting space from another
24 cellular company to cover this area?
25 A. **That would've been our first choice if it would've**

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1 **been available.**
2 Q. Was it available?
3 A. **No.**
4 Q. Why is that?
5 A. **There are no towers located in the area that would**
6 **serve that.**
7 Q. So there were no towers to co-locate or lease space
8 on; is that correct?
9 A. **That is correct.**
10 Q. I want to run real quick with you through the rest
11 of these exhibits here concerning the coverage area. Tell
12 the commission what Exhibit 5 portrays.
13 A. **Okay. Exhibit 5 is coverage from existing cell**
14 **sites in the area, how far each one covers. The blue dots**
15 **is our Isom cell site, which would be to the north of the**
16 **map area; the red is from the Whitesburg, Pine Mountain**
17 **location; and the green is our Dean site located up Route**
18 **7.**
19 Q. And what does this map illustrate with respect to
20 coverage for this area?
21 A. **It shows that with our existing cell sites that we**
22 **have in place that we cannot cover that area adequately.**
23 Q. And you're talking about your company's cellular
24 coverage; is that correct?
25 A. **That is correct.**

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1 Q. From its other available sites? Excuse me. Its
 2 other sites in Letcher County; is that correct?
 3 A. **That is correct.**
 4 Q. And, again, as with Exhibit 4, this shows that you
 5 cannot cover that area -- is that what you said -- from
 6 those existing sites?
 7 A. **Yes, with Exhibit 5.**
 8 Q. What about Exhibit 6? What does it purport to show?
 9 A. **Okay. Exhibit 6 is a coverage map on the proposed**
 10 **location of the coverage on Highway 15.**
 11 Q. You're looking now at Exhibit 6, and I'd ask you to
 12 tell us what that is.
 13 A. **Exhibit 6 is a map that depicts the coverage that**
 14 **would be from the chosen site at Dry Fork on Highway 15 and**
 15 **the area around it.**
 16 Q. So in Exhibit 4 and Exhibit 5 you told us about the
 17 area of the coverage that's not there from existing sites.
 18 If I understand it, this Exhibit 6 is a projection of what
 19 coverage would be available from the proposed site; is that
 20 correct?
 21 A. **That is correct.**
 22 Q. And is that along what we'll call the targeted area
 23 that's shown on Exhibits 4 and 5?
 24 A. **Yes, sir.**
 25 Q. I see a lot of colors on this map, or I see a few

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1 colors that are bright. So tell me those colors, how they
 2 relate to coverage.
 3 A. **All right. The areas that are shown in red would be**
 4 **excellent coverage from that site.**
 5 Q. Along the targeted area there: Is it shown on that
 6 map? The targeted area along 15: Is that displayed on
 7 Exhibit 6?
 8 A. **Yes.**
 9 Q. And what color -- and red is excellent; is that
 10 correct?
 11 A. **Yes.**
 12 Q. What color is shown on Exhibit 6 as the projected
 13 coverage and the quality of that coverage along the
 14 targeted area of Exhibit 6?
 15 A. **Red.**
 16 Q. Is that what you said the key is for that represents
 17 coverage that is of excellent quality?
 18 A. **Yes, sir.**
 19 Q. And I notice you're looking a key to the map, or
 20 what are you looking at there with respect to the color
 21 code?
 22 A. **Yes, that is a key to the map.**
 23 MR. KENDRICK: Off the record a minute.
 24 (WHEREUPON, AN OFF-THE-RECORD DISCUSSION
 25 WAS HELD, AFTER WHICH THE FOLLOWING PROCEEDINGS OCCURRED.)

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1 CONTINUED QUESTIONS BY MR. KENDRICK:
 2 Q. Were maps four, five, and six and what you've told
 3 us about them here today and their meaning -- let me ask
 4 you this: Was that a part, and those factors that you've
 5 described that are shown on maps four, five, and six, part
 6 of your, that is the company EKN doing business as
 7 Appalachian Wireless, evaluation of this site in connection
 8 with this application?
 9 A. **Yes.**
 10 Q. So those existed at that time?
 11 A. **Yes.**
 12 Q. That's how you determined the need and convenience
 13 of the public at the time you made your application for the
 14 necessity of cell tower coverage from the proposed site; is
 15 that correct?
 16 A. **Exhibits 4 and 5 showed the need for the site, and**
 17 **they were done at an early date to determine the best**
 18 **location for it. The number six was done --**
 19 Q. The best location to fulfill the public need for
 20 cell coverage; is that correct?
 21 A. **That is correct.**
 22 Q. All right. Now go ahead and explain Exhibit 6 to
 23 us. When was it made?
 24 A. **After the site was chosen and we seen the need to**
 25 **prove the coverage area to the commission, it was generated**

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1 **at that point.**
 2 Q. And was that done here in Appalachian cellular
 3 offices that we're sitting in today at Ivel, Kentucky?
 4 A. **Yes, sir.**
 5 Q. And just tell us who did that and under what
 6 circumstances.
 7 A. **Gerald Robinette generated the map from a computer**
 8 **program that is able to generate maps through taking the**
 9 **topo of the area and the coverage that would be available**
 10 **from that using the CDMA technology that we use.**
 11 Q. And are you familiar generally with that technology?
 12 A. **Yes.**
 13 Q. *Is this the type of computer program and the data*
 14 *obtained from it that is used in Appalachian Wireless's*
 15 *business on a regular basis to make this type of*
 16 *determination as to the coverage that will or is projected*
 17 *to be supplied to the public from a given tower selection?*
 18 A. **Yes.**
 19 Q. Do you have Exhibit 7 there?
 20 A. **Yes.**
 21 Q. Just explain to the commission what this Exhibit 7
 22 is. I see it's a map. Just explain it a little bit more.
 23 A. **Okay. Exhibit 7 was taken from the state**
 24 **transportation records showing the area of Highway 15 from**
 25 **Isom to Whitesburg.**

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1 Q. Is that the targeted area?
 2 A. **Yes.**
 3 **And it shows amounts of traffic in a 24-hour period**
 4 **that travels Highway 15 and the tributaries off of Highway**
 5 **15.**
 6 Q. And what does it show with respect to the targeted
 7 area that's shown on these other maps as to the amount of
 8 travel of this section of road for which I understand it
 9 right now coverage is not very available, if at all?
 10 A. **Okay. It shows they would be 10,241 vehicles that**
 11 **would pass through Highway 15 in a 24-hour period.**
 12 Q. And at what location does this map show that this
 13 survey was taken?
 14 A. **Basically the targeted area that we'd want to cover**
 15 **with this site.**
 16 Q. Well, what is that purple triangle on the map?
 17 A. **That is the traffic counter where it was set at.**
 18 Q. For which the numbers that's on this --
 19 A. **Map were taken.**
 20 Q. (Continuing) -- were taken?
 21 That looks to me like the intersection of two roads
 22 there: 15 and another road; is that correct?
 23 A. **Yes.**
 24 Q. Just tell us where that is if somebody were going
 25 through Letcher County and wanted to identify this

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1 particular spot that's shown in this purple triangle here.
 2 A. **That would be the junction of Highway 15 and Highway**
 3 **3401, would be the starting point there where the first**
 4 **traffic counter was set. And each one of the tributaries**
 5 **has a counter on it, also, such as the Dry Fork Road, which**
 6 **is 3402, showing that there were 683 vehicles. Also, the**
 7 **Smoot Creek area, which is Highway 160, it was set at the**
 8 **mouth of Holly Bush, which is located just inside 160,**
 9 **which shows 2,477 vehicles.**
 10 Q. That passed that point that's shown in that blue
 11 triangle there at Station 770; is that correct?
 12 A. **That is correct.**
 13 Q. How else is the section along Route 15 and the
 14 traffic count there, that 2,000 -- or, excuse me, 10,241
 15 identified in addition to the purple triangle? Is there a
 16 station number on it, too?
 17 A. **Yes. Station Number 784.**
 18 Q. So in the traffic count that's shown for the
 19 targeted area and areas along Smoot Creek and Dry Fork, are
 20 those in the targeted area, too, adjacent to the Route 15
 21 targeted area?
 22 A. **Yes.**
 23 Q. Those traffic count numbers are shown on this map?
 24 A. **Yes.**
 25 Q. And at the time you were evaluating the site, was

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1 this what's illustrated on this map here, these numbers,
 2 figure into your formula for determining the demand for
 3 coverage in this area?
 4 A. **Yes.**
 5 Q. Just looking at this map, the coverage area, how is
 6 that illustrated on this map by that number that's shown
 7 there for Station 784?
 8 A. **It is showing there that they were 10,241 vehicles**
 9 **that passed Station 784 in a 24-hour period.**
 10 Q. Is there any other number that's even near that high
 11 shown at any other of these other stations on that map?
 12 A. **No.**
 13 Q. What's the next highest number you see on this map
 14 for the traffic count? And tell us where that is.
 15 A. **The next highest would be Station 770, would be at**
 16 **the mouth of Holly Bush on Route 160, and it would be 2,477**
 17 **vehicles.**
 18 Q. So this map, by looking just at the numbers on this
 19 map, what was the significance of this information in your
 20 determination of the necessity of coverage in this area
 21 where the citizens of Letcher County and the travelers on
 22 this area of the target area along Route 15?
 23 A. **There are a substantial amount of traffic on Highway**
 24 **15 that's not being able to use the phone every day and**
 25 **nights, because they're mining and all that going on.**

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1 Q. There's a demand for this at night, also; is that
 2 right?
 3 A. **That is correct.**
 4 Q. And this shows the traffic in a 24-hour period, is
 5 that correct, day and night, in other words?
 6 A. **Yes.**
 7 Q. And is it your company's desire and what you're
 8 asking the commission here for today is to allow you to
 9 develop this tower site to fulfill that need?
 10 A. **That is correct.**
 11 Q. Regarding the design of the tower, would you look at
 12 Exhibit 8 and tell us what it is?
 13 A. **Exhibit 8 is a set of stamped drawings for the**
 14 **proposed tower at the Dry Dork site.**
 15 Q. Was this part of your application, this Exhibit 8,
 16 for the tower site?
 17 A. **Yes, sir.**
 18 Q. And what does it show basically here?
 19 A. **It's showing the vertical height overall with**
 20 **dimensions, the location of the coaxes that need to go down**
 21 **the tower to feed the antennae (sic) and where they should**
 22 **be placed for the best wind loading. It tells what all the**
 23 **tower's equipped to handle as far as antennae and coaxes.**
 24 **Over in the left-hand corner it also tells the leg**
 25 **diameters, diagonal lengths, girts, braces, bolts, flanges,**

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1 **and all the things that go into the design structure of the**
2 **tower.**
3 Q. So this is basically a diagram of the tower that's
4 proposed to be built; is that correct?
5 A. **That is correct.**
6 Q. You mentioned it's stamped. Look at that stamp and
7 tell us what that stamp is. Who signed it?
8 A. **The stamp is from Chi Lee. He's an engineer that**
9 **works for Allstate Tower, Incorporated, of Henderson,**
10 **Kentucky. He is a registered professional engineer and has**
11 **a stamp for the State of Kentucky.**
12 Q. Does it say what's required by law as part of your
13 application: That the design be one that is submitted by
14 an engineer who is qualified and who is registered in the
15 state of Kentucky?
16 A. **That is correct.**
17 Q. Is there a date on that?
18 A. **Yes. 2/19/09.**
19 Q. Was that at or about the time your application was
20 submitted?
21 A. **Yes, sir.**
22 Q. Was this diagram prepared in connection with the
23 requirements for the submission of this very application?
24 A. **Yes.**
25 Q. I notice the diagram is on stationary that says

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1 Allstate Tower, Inc., P. O. Box 25, Henderson, Kentucky
2 42419. Could you tell us what's the connection of that
3 entity and Mr. Lee? Is that who he works for?
4 A. **Mr. Lee is a private engineer that does drawings,**
5 **which is not uncommon in the tower industry. That's the**
6 **way it's done with all companies that we deal with.**
7 Q. And who is Allstate Tower, Inc.?
8 A. **Allstate Tower is a manufacturer located in**
9 **Henderson.**
10 Q. In other words, they make the tower?
11 A. **That is correct.**
12 Q. And what's Mr. Lee's connection with that?
13 A. **Mr. Lee is an engineer that certifies that this**
14 **tower is of strength to hold all the required antennae,**
15 **coaxes, and he also designs the foundations.**
16 Q. This tower shown on here does not require any other
17 safety mechanisms such as guide wires and so forth to
18 support the tower; is that correct?
19 A. **That is correct. We use all self-supporting towers**
20 **in this area due to terrain.**
21 Q. I take it from the tenor of your testimony that
22 Mr. Lee as an engineer and Allstate as the manufacturer has
23 done other cell tower construction and manufactured other
24 cell towers for your company?
25 A. **Yes. We have probably 50 Allstate towers out there.**

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1 **And not only that, but Mr. Lee -- other towers that we've**
2 **bought, Mr. Lee has also stamped those drawings. He's used**
3 **by several of the tower manufacturers.**
4 Q. Is that to say that he's designed the tower to be
5 made in accordance with his knowledge and training,
6 education, experience as a professional engineer?
7 A. **Yes, sir.**
8 Q. Do these towers, to your knowledge, and this tower
9 in particular, is it required to be designed in connection
10 with any type of standards and safety regulations?
11 A. **Yes.**
12 **Can we refer to another exhibit here?**
13 Q. Yes.
14 A. **On Exhibit 9 they are standard for 22-F that all**
15 **tower designs are done by.**
16 Q. And what is Exhibit 9, if we could move on to that,
17 and in particular connection with your discussion or
18 testimony concerning the laws and regulations and standards
19 according to which towers have to be built? What are you
20 referring to there?
21 A. **Exhibit 9 is a foundation drawing to support the**
22 **tower structure itself.**
23 Q. I see a certification that says the foundation is
24 designed to meet all standards set forth by the American
25 Concrete Institute and building code requirements for

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1 structural concrete and structural standard for steel
2 antenna towers and antenna supporting structures. Is that
3 part of what Mr. Lee certified to on Exhibit 9?
4 A. **Yes.**
5 Q. I see on Number 5 at Exhibit 8 -- just read that
6 into the record as to the standards according to which this
7 tower was designed.
8 A. **What was that again, please?**
9 Q. Number 5 on his design notes on Exhibit 8.
10 A. **"This tower has been designed for 70-mile-an-hour**
11 **basic wind speed in accordance with TIA/EIA 222-F**
12 **standards, including a half inch of radial ice with**
13 **reduction."**
14 Q. That's if ice stuck to the tower; is that correct?
15 A. **That is correct.**
16 Q. So basically with Mr. Lee's certifying Exhibits 8
17 and 9, he's certifying that these towers are built in
18 accordance with lawful and accepted standards and
19 regulations?
20 A. **Yes.**
21 Q. Have you reviewed the exhibit with reference to
22 alternative sites that Ms. Cummings proposed?
23 A. **Yes.**
24 Q. And did you also visit those sites?
25 A. **Yes, I did.**

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1 Q. And with whom did you do that?
 2 A. **J.W. Caudill.**
 3 Q. Were you here for Mr. Caudill's testimony?
 4 A. **Yes, I was.**
 5 Q. And did you hear him testify as to what was wrong
 6 with those other additional sites?
 7 A. **Yes.**
 8 Q. Do you agree with what he said concerning the
 9 problem with those sites?
 10 A. **I do.**
 11 Q. And have you here today added some information about
 12 the road building and other problems with Alternative Site
 13 Number 1? Have you already testified about that today and
 14 added to his testimony?
 15 A. **Yes.**
 16 Q. I think when we were off the record, I heard you say
 17 something about the SHIPA requirements as to Alternative
 18 Site Number 1 and your concern about those. Just real
 19 briefly tell the commission about that.
 20 A. **In the process of building the tower, one of the**
 21 **requirements is to pass the state historical preservation,**
 22 **and in doing that the more visible the tower is at a higher**
 23 **location, the more chances are that you're going to**
 24 **interrupt something that is historical or be in view of it,**
 25 **which is not accepted by those folks.**

1 Q. And would the tower site, Alternative Tower Site
 2 Number 1, be at an elevation that is higher than the site
 3 that was selected?
 4 A. **Yes.**
 5 Q. Approximately how much? You can probably look at
 6 the -- and I think this is Mr. Caudill's exhibit -- well, I
 7 forget the number -- of all his maps, with all the
 8 alternative sites shown on it.
 9 Compare Alternative Site 1 with the site that was
 10 chosen to elevation.
 11 A. **Okay. The elevation of Alternate Site 1 would be**
 12 **1860, and the current proposed site is 1670.**
 13 Q. So Alternative Site 1 is how many feet approximately
 14 higher than the selected site?
 15 A. **Two hundred and ten feet.**
 16 Q. Would Alternate Tower Site 1 be visible from the
 17 settler's cabin?
 18 A. **Yes.**
 19 Q. What about the selected site?
 20 A. **We don't think that it will be visible.**
 21 Q. What's the difference? Why not?
 22 A. **It's located at a lower altitude.**
 23 Q. What is the character of this property in general in
 24 this vicinity?
 25 A. **It's a previously-mined area that would lend itself**

1 **to building the tower on.**
 2 Q. Are there any kind of dwellings located on the
 3 property that you got leased or in this area dwellings or
 4 other buildings that would be affected by the tower?
 5 A. **No.**
 6 Q. Is all the property up around where this tower is
 7 unoccupied, whether it's -- is Raymond Brown's property
 8 unoccupied up there?
 9 A. **Yes.**
 10 Q. What does he use it for?
 11 A. **As he told me one day, to bird hunt on.**
 12 Q. Recreation hunting?
 13 A. **Yes.**
 14 Q. Would this area be suitable for pasturing of cattle?
 15 A. **Yes.**
 16 Q. Now what about Ms. Cummings's property? Are there
 17 houses on it? And I'm speaking of her individual property
 18 that she individually owns, which is shown here as on Tract
 19 8 on the site location map, or the James Harry Fields
 20 property, which is tract Number 7 on this location map,
 21 that was submitted with your application?
 22 A. **There are no residences of any kind in the area of**
 23 **the tower that is visible.**
 24 Q. On Ms. Cummings's property or the Henry Fields's
 25 property, Tracts 8 and 7 respectively; is that correct?

1 A. **That is correct. You know, they could be something**
 2 **way down in the valley that I don't know about on those**
 3 **tracts, but there's nothing up on top that's --**
 4 Q. That's inside the tower?
 5 A. **Yes.**
 6 Q. And all that property including the tracts I'm
 7 talking about there, seven and eight, that Ms. Cummings
 8 owns or has an interest in, have been previously surface
 9 mined in the area around the tower?
 10 A. **That is correct.**
 11 Q. Are there improvements or infrastructure to this
 12 property as far as, or the property around it, the area
 13 we're talking about, where there are no improvements in the
 14 nature of utility lines, such as water, sewer, heat,
 15 electric, and so forth?
 16 A. **No.**
 17 Q. So it's basically isolated rural pasture land that
 18 you have chosen and for which all this property around the
 19 tower, including Tracts 7 and 8, are used for at present?
 20 A. **That is correct.**
 21 Q. There was something said about a prison being
 22 planned for this area. What do you know about that, if
 23 anything?
 24 A. **I know nothing about it. I've heard that. Of**
 25 **course, when Ms. Cummings mentioned it, it was the first**

1 **that any of us had heard about it and we've worked on the**
 2 **project for approximately a year.**
 3 Q. So you've received no notice about your tower being
 4 any kind of impediment or impacting the selection of this
 5 site for possible use as a prison of some kind?
 6 A. **No.**
 7 Q. Well, let me ask you this. If your tower that you
 8 construct up there, if it were to adversely impact the
 9 selection of this whole area up there for use as a prison,
 10 what would you be willing to do? What would EKN be willing
 11 to do if this area is so selected?
 12 A. **If the tower become a problem to the prison that was**
 13 **going to be located there, the last thing EKN would want to**
 14 **be is a problem to the community and a place that would be**
 15 **in the way of providing jobs or anything to Letcher County.**
 16 **We would be able to move it. We would be able to work**
 17 **around it in some aspect to make both parties happy, I**
 18 **feel.**
 19 MR. KENDRICK: Off the record.
 20 (WHEREUPON, AN OFF-THE-RECORD DISCUSSION
 21 WAS HELD, AFTER WHICH THE FOLLOWING PROCEEDINGS OCCURRED.)
 22 CONTINUED QUESTIONS BY MR. KENDRICK:
 23 Q. I want to ask you one more thing with respect to the
 24 construction of a road to Alternative Site 1, and I think
 25 you said it was 12 to 1500 feet that would have to be

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1 constructed for new road. Just tell us what type of road
 2 construction is necessary to accommodate your purposes at
 3 Alternative Site 1. Do you just have to have a path
 4 scraped out that a four-wheeler or all terrain vehicle can
 5 get over, or what are your requirements for that kind of
 6 stable road that would support what all you have to do to
 7 construct a tower up there and get to it and keep it up.
 8 A. **The road would need to be at least 12-foot wide on**
 9 **the surface with drainage on the side. The road would also**
 10 **need to be cut from the solid, not only fill, and a grade**
 11 **of approximately 12 to 15 percent.**
 12 Q. Or no steeper grade than that?
 13 A. **Yeah, no steeper.**
 14 Q. Why is the grade important?
 15 A. **Grade is very important in traveling in the**
 16 **construction aspect of moving buildings, concrete trucks**
 17 **and all this up the hills. And as far as maintaining the**
 18 **site once it's built, if you have a grade steeper than**
 19 **that, a lot of times in the snow and ice you can't travel**
 20 **it.**
 21 Q. Taking those types of specifications and
 22 requirements in mind, what is the likelihood of such a road
 23 being constructed from the present road accessing
 24 Mr. Brown's property to Alternative Site 1?
 25 A. **I think it'd be a very expensive road.**

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1 Q. What's your best estimate as to the cost on it, if
 2 such a road were to be built, and what would be required to
 3 build it?
 4 A. **I would think price-wise somewhere around 25,000.**
 5 Q. Or more?
 6 A. **Or more.**
 7 Q. You said it had to have switchbacks in it?
 8 A. **Yes.**
 9 Q. It would have to accommodate concrete trucks that
 10 routinely haul what type of weight?
 11 A. **Probably a concrete truck would be in the**
 12 **neighborhood of 45, 50,000 pounds. The truck itself is**
 13 **probably in length --**
 14 Q. Does the present terrain and structure up there of
 15 that ridge make it feasible to construct such a road at
 16 Alternative Site 1, in your judgment?
 17 A. **No.**
 18 MR. KENDRICK: Off the record.
 19 (WHEREUPON, AN OFF-THE-RECORD DISCUSS WAS
 20 HELD, AFTER WHICH THE FOLLOWING PROCEEDINGS OCCURRED.)
 21 CONTINUED QUESTIONS BY MR. KENDRICK:
 22 Q. What are some of the other requirements for either
 23 construction or maintenance of the road that tend to make
 24 the construction of the road 12 to 1500 foot to Alternative
 25 Site 1 unfeasible? Just tell the commission.

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1 A. **Even after the construction of the site was done and**
 2 **all the concrete trucks were up and all this, you have the**
 3 **problem of maintaining the site. And maintaining the site**
 4 **in the wintertime up on a mountainside is a very hard thing**
 5 **to do. You can have ice storms that can knock your power**
 6 **line down. And if you don't have an extremely good road,**
 7 **the power company in the area won't service you through the**
 8 **winter months. Also --**
 9 Q. What kind of power are you talking about there?
 10 A. **The commercial power that's provided to --**
 11 Q. An electric power transmission?
 12 A. **Yes.**
 13 Q. Okay.
 14 A. **And, also, propane trucks need to be able to access**
 15 **the site to refuel the tanks for the standby generators.**
 16 Q. And what do you use those for?
 17 A. **When the commercial AC power is gone, such as an ice**
 18 **storm, it will carry us through till the electric company**
 19 **can repair the line.**
 20 Q. Are you saying then that if the steep -- and as I
 21 understand it, you're saying the 12 to 1500 foot would be
 22 very steep, is that correct, at best?
 23 A. **Yes.**
 24 Q. How would ice on the road, say, in the wintertime
 25 when your power up there, electric power, went out, what

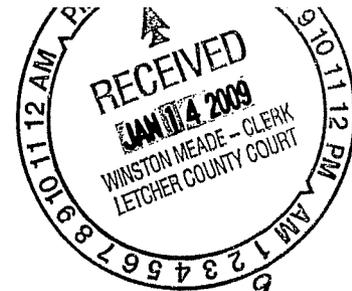
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1 would that make it do as to supplying those auxiliary
 2 generators with fuel?
 3 A. **It's been our experience in wintertime storms, power**
 4 **outages, ice storms, that if we don't have a good road that**
 5 **is travelable in bad weather conditions, that we can get**
 6 **our normal commercial power knocked out, and the power**
 7 **company not be able to get back there and then use up our**
 8 **supply of propane and be totally out of service to the**
 9 **customer in a bad condition.**
 10 Q. And the steeper the road, the icier, and the higher
 11 up it is, the icier it can get. I guess we all know that;
 12 is that correct?
 13 A. **Yes, that is correct.**
 14 Q. What about the construction itself? As far as the
 15 concrete trucks and the weight that they can carry and so
 16 forth? The construction of the pad, I mean.
 17 A. **Repeat the question, please.**
 18 Q. The construction of the pad the tower would set on:
 19 What difficulty -- knowing that you have to do that, what
 20 difficulty or additional difficulties is there as far as
 21 being able to do that or get the supplies and concrete up
 22 there to do it at that higher site?
 23 A. **The pad requires usually somewhere around, oh,**
 24 **anywhere from a hundred to 150 yards of concrete. And the**
 25 **steeper the road, the less the trucks can haul, for one**

1 **thing. The other thing is that this has to be a pour that**
 2 **is monolithic, or all poured at one time. Never setup.**
 3 Q. The concrete never hardens?
 4 A. **Right. It all -- all hundred yards of concrete has**
 5 **to be poured in there one right after the other. You can't**
 6 **pour part of it one day and part of it the next. So the**
 7 **road has to lend itself to all that traffic, too.**
 8 Q. So you're saying if the road was too steep for
 9 concrete trucks to come ready to deliver, they might not be
 10 able to deliver a full load; is that correct?
 11 A. **That is correct.**
 12 Q. And that could affect or impact the integrity of the
 13 pour for the base, or you might not be able to comply
 14 period because this has to be a monolithic pour; is that
 15 right?
 16 A. **That is correct.**
 17 Q. Now I want to ask you one more question. Have you
 18 constructed this tower at this location? Has construction
 19 on the tower itself begun?
 20 A. **You're saying the --**
 21 Q. She says we've been building up there, building this
 22 tower without a permit, and I don't think that's right.
 23 A. **We have not done anything to violate any regulations**
 24 **that I'm aware of.**
 25 Q. As far as the construction of the tower?

1 A. **Yes.**
 2 Q. All you've done is prepare? How far have you gone
 3 exactly, Mr. Thacker?
 4 A. **We have set the building in place and poured the**
 5 **foundation and delivered the steel on site.**
 6 Q. But you've not started the tower construction?
 7 A. **That is correct.**
 8 MR. KENDRICK: That's all I have.
 9 (TESTIMONY CONCLUDED.)
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1 CERTIFICATION OF REPORTER
 2
 3
 4 STATE OF KENTUCKY)
 5)
 6 COUNTY OF MARTIN)
 7
 8 I, DENISE M. GAUZE, the undersigned Notary
 9 Public in and for the State of Kentucky at Large, certify
 10 that the facts stated in the caption hereto are true; that
 11 at the time and place stated in said caption, the witness
 12 named in the caption hereto personally appeared before me
 13 and that after being by me duly sworn, was examined by
 14 Counsel for East Kentucky Network d/b/a Appalachian
 15 Wireless; that said testimony was taken down in stenotype
 16 by me and later reduced to a computer-aided transcription
 17 under my supervision; and that the foregoing is a true and
 18 complete record of the testimony given by said witness.
 19 My commission expires: November 17, 2010.
 20 IN TESTIMONY WHEREOF, I have hereunto set my hand on
 21 the ____ day of _____, 2009.
 22
 23
 24 DENISE M. GAUZE
 25 NOTARY PUBLIC



LEASE AGREEMENT

THIS LEASE is made and executed on the 14th day of January, 2008 by and between Raymond Brown and Beryl Wavey Brown, husband and wife, having a life's interest, with a mailing address of 309 Raymond Road, Whitesburg, Kentucky 41858, and Connie Sturgill, and Carlos Sturgill, husband and wife, with a mailing address of 237 Raymond Branch Road, Whitesburg, Kentucky 41857, and Dale Ray Brown, and Mellissa Brown, husband and wife, with a mailing address of 168 Raymond Road, Whitesburg, Kentucky 41858; hereinafter referred to as "LESSORS", and East Kentucky Network, LLC, d/b/a Appalachian Wireless, 101 Technology Trail, Ivel, Kentucky 41642, hereinafter referred to as "LESSEE":

WITNESSETH:

That for and in consideration of the rents and other considerations hereinafter set out and subject to the terms and conditions therefore, Lessors do hereby lease, let and demise unto Lessee, its successors and assigns, to have and to hold for the term hereinafter set out and subject to the Lessee's right to surrender or terminate this Lease and provided hereinafter, the following described premises ("Leased Premises"), which term shall include all real property, rights and privileges herein granted:

BEING a part of the same property conveyed to Lessor by Deed, dated March 1, 2008, recorded in Deed Book 394, Page 614, Letcher County Clerk's Office.

BEING the same property described by metes and bounds in the description attached hereto and made a part hereof as Exhibit "A", and as shown on the plat dated 16th day of Sept., 2008, prepared by J. W. Caudill, Licensed Professional Land Surveyor, and attached hereto and made a part hereof as Exhibit "B."



At the death of Raymond Brown and Beryl Brown, husband and wife, the Lease payments will go to Connie Sturgill, their daughter, and Dale Ray Brown, their son in equal shares. All Lease payments will go to Raymond and Beryl Brown, husband and wife during their life time.

The Lessor grants unto Lessee full and complete right of ingress, egress and regress over roads located upon this property controlled by Lessor to and from the Leased Premises, and the non-exclusive right to use any existing road located on this property. In the event the Lessee desires to relocate all or any portion of an existing roadway or to construct another access road to the Leased Premises, the location of such roadway shall be mutually agreed upon by Lessor and Lessee. Lessor further grants to the Lessee a right of way and easement to construct and maintain and operate telephone and power transmission lines over Lessor's remaining property to the Leased Premises for service of the tower and related facilities only, said lines to be located where feasible along the access road to the Leased Premises, with Lessor having input as to location of said power transmission lines in the event Lessee changes the location of its access road. Lessee shall have the right to trim or remove trees, limbs or underbrush which interferes with its access road or power/telephone lines wherever such road and lines are located.

This Lease is made on the following terms and conditions:

1. TERM OF LEASE. The term of this lease shall be for a period of twenty-five (25) years from and after the date hereof (the "Initial Term"), with the exclusive option of Lessee to extend the Leasehold period for an additional term of twenty-five (25) years (the "Additional Term"). In the event that Lessee desires to extend this Lease Agreement, it shall give Lessors notice of such intention in writing at least six (6) months before expiration of the Initial Term.

2. CANCELLATION. Lessee shall have the right to terminate this Lease and abandon the Premises at any time under its sole discretion, upon six (6) month written notice to Lessors' of its intention to do so. In the event of termination by Lessee, the Lessors shall have no obligation to refund all or any portion of the annual Leasehold rental payment that has been paid. Upon termination of this Lease, Lessee shall have one hundred eight (180) days thereafter to remove all structures it has erected upon the Leased Premises, and to reclaim the premises. Payment shall continue until said structures are removed.

3. RENTAL - INITIAL LEASE TERM. Simultaneous, with the execution of this Lease Agreement, and as consideration hereunder, Lessee has made to Lessor a one time payment of \$ 10,000.00 hereunder. As rental for the Leased Premises, Lessee shall pay to Lessors annually and in advance the sum of Three Thousand Six Hundred Dollars (\$3,600.00) per annum beginning with the date of execution of this Lease Agreement by the parties, with the same sum being due and payable thereafter on each anniversary date that this Lease Agreement is in effect through and including the first five (5) years of the Initial Term of this Lease Agreement.

NOTE: The \$3,600.00 for the first year of the Lease term is paid in addition to the \$10,000.00 one time pay mentioned above.

Provided that this Lease Agreement is not sooner terminated as provided herein, the annual rental payment shall be adjusted to provide for a five percent (5%) increase in the amount of the annual rental payment at the beginning of the sixth (6th), eleventh (11th), sixteenth (16th) and twenty-first (21st) lease years of the Initial Term hereof, so that the annual rental shall be payable in accordance with the following schedule and amounts:

LEASE YEAR	ANNUAL RENTAL
6 thru 10	\$3,780.00
11 thru 15	\$3,969.00
16 thru 20	\$4,167.45
21 thru 25	\$4,375.82

4. RENTAL - ADDITIONAL TERM. In the event this Lease Agreement is extended for an additional term of twenty-five (25) years, the annual rental payable for the twenty-fifth (25th) year of the Initial Term shall be increased by a sum equal to Twenty-Five Percent (25%) of the rent provided for in Paragraph 3 hereof during the final year of the Initial Term of this Lease Agreement. Thereafter the annual rental payment during the Additional Term shall be adjusted to provide for a Five Percent (5%) increase in the amount of the annual rental payment at the beginning of the sixth (6th), eleventh (11th), sixteenth (16th) and twenty-first (21st) lease years of the Additional Term hereof, so that the annual rental shall be payable in accordance with the following schedule and amounts:

LEASE YEAR	ANNUAL RENTAL
6 thru 10	\$5,743.26
11 thru 15	\$6,030.42
16 thru 20	\$6,331.94
21 thru 25	\$6,965.14

5. USE OF PREMISES. Lessee shall have the exclusive rights and privileges of the use of the Leased Premises for the purpose of constructing buildings, towers, and other related facilities, including, but not limited to telephone lines, coaxial lines, power lines and the installation of any and all other equipment deemed necessary by Lessee to receive and

transmit any and all electronic signals in the rural service area now or hereafter to be served by the facility. The parties hereto recognize that technology in the communications field is advancing at a rapid rate and that this site may be used for any other purpose now in the development stage or which may later be developed in the communications industry to carry out the objectives of Lessee, that being to transmit and receive signals and communications by wire, fiber optics, radio and satellite. Lessee shall not use the Leased Premises for purposes other than maintenance or use as a site for communications by the use of methods now or hereafter known.

Lessee shall gate its access road in a manner to best prevent trespassing. The gate shall be kept locked with a lock furnished by Lessee, who shall also furnish the Lessor with a key to the lock. Lessee shall not allow any persons not associated with its business to have access to the Leased Premises or its access road. Lessees shall have the right to relocate the road to the site at Lessee's expense, at a mutually agreed upon route, so as long as Lessor has the right to use the new road, which use by Lessor shall not interfere with Lessee's use thereof or pose a threat to the security of Lessee's operations or the Leased Premises.

Lessee agrees to maintain the Leased Premises in a neat and orderly manner.

6. INDEMNITY. Lessee agrees to indemnify and save harmless the Lessors from any liability by virtue of Lessee's activities upon the Leased Premises or in the exercise of any rights and privileges granted herein, specifically including but not limited to any claim, loss, fine, penalty and costs (including reasonable attorney's fees) arising out of any violation of any environmental laws or regulations. This provision shall survive the termination of the lease. Lessee shall maintain and keep in full force and effect public liability and property damage insurance in an amount of at least One Million Dollars

(\$1,000,000.00). Lessors shall not be held liable for personal injury or property damage on the Leased Premises whether or not associated with Lessee.

7. MISCELLANEOUS PROVISIONS. Lessee shall keep and maintain the Leased Premises and keep the site clear and free of litter.

8. NOTICES. All notices, demands, or other writings in this Lease Agreement provided to be given, made or sent, or which may be given or made or sent, to either party hereto to the other, shall be deemed to have been fully given or made or sent when made in writing and deposited in the United States Mail, certified and postage prepaid, to Lessors and Lessee at the addresses stated in the caption of this Lease Agreement. Such addresses may be changed by written notice given by such party as above provided.

9. SUCCESSORS AND ASSIGNS. This Lease Agreement shall be binding upon the parties hereto, their heirs, executors, administrators and assigns.

WITNESS OUR HANDS, the day and year aforesaid.

LESSORS:

Raymond A Brown
RAYMOND BROWN

Beryl Wavy Brown
BERYL WAVEY BROWN

Dale Ray Brown
DALE RAY BROWN

Melissa Renee Brown
MELLISSA BROWN

Connie A Sturgill
CONNIE STURGILL

Carlos W. Sturgill
CARLOS STURGILL

LESSEE:

EAST KENTUCKY NETWORK, LLC
d/b/a APPALACHIAN WIRELESS

BY: Gerrell F. Polunette

ITS: General Manager/CEO

STATE OF KENTUCKY
COUNTY OF LETCHER

The foregoing Lease Agreement was this 14th day of January, 2009, produced and acknowledged before me by **Raymond Brown and Beryl Wavey Brown**, Lessor.

Dennis Shepherd
NOTARY PUBLIC
COMMISSION EXPIRES: oct-02-2009

STATE OF KENTUCKY
COUNTY OF LETCHER

The foregoing Lease Agreement was this 14th day of January, 2009, produced and acknowledged before me by **Dale Ray Brown and Melissa Brown**, Lessor.

STATE OF KENTUCKY
COUNTY OF LETCHER

The foregoing Lease Agreement was this 14th day of January, 2009, produced and acknowledged before me by **Connie Sturgill and Carlos Sturgill**, Lessors.

STATE OF KENTUCKY
COUNTY OF Floyd

The foregoing Lease Agreement was this 14 day of January, 2009, produced and acknowledged before me by **East Kentucky Network, LLC, dba Appalachian Wireless** by Gerald F. Robinette, its General Manager/CEO, Lessee.

Teresa M. Opel
NOTARY PUBLIC
COMMISSION EXPIRES: June 22, 2009

This is to certify that this instrument was prepared by:

William S. Kendrick
WILLIAM S. KENDRICK, ATTORNEY
FRANCIS, KENDRICK & FRANCIS
P.O. Box 268
Prestonsburg, Kentucky 41653
606/886-2812

STATE OF KENTUCKY
COUNTY OF LETCHER

Clerk's Certificate of
Lodgment and Record

I, Wendell Meade, Clerk of the County for the County and State aforesaid, certify that the foregoing Lease Agreement was on the 14th day of Jan, 2009 lodged for record, whereupon the same, with the foregoing and this certificate have been duly recorded in my office. 60/151

WITNESS my hand, this 14th day of Jan, 2009.

Wendell Meade Clerk
By Jesse Meyers D.C.

LEASE LOT DESCRIPTION

Property of
Connie Sturgill, Dale Ray Brown, Raymond & Beryl Brown
309 Raymond's Branch Road
Whitesburg, Ky 41824
Near Van in Letcher County
September 16, 2008

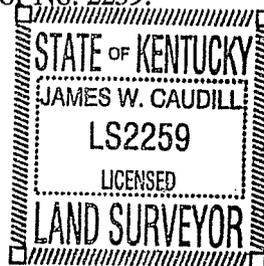
A portion of the property lying within the tract of land located on Dry Fork in Letcher County Kentucky, near the community of Van. Being a part of the same land conveyed by deed from Billy Royce Brown and Thelma Brown to Raymond & Beryl Brown, and recorded in Deed Book 182 Page 139 of the Letcher County Court House. Also being a part of the same land conveyed by deed from Raymond and Beryl Brown to Connie Sturgill and Dale Ray Brown and recorded in Deed Book 394 Page 614 of the Letcher County Court House.

Unless stated otherwise, any monument referred to herein as "set iron pin with cap" is a set 1/2" diameter rebar, at least eighteen (18") in length, with a plastic cap stamped "LS-2259". All bearings stated herein are referred to the NAD83 KY South State Plane Coordinate System. This survey performed by James W. Caudill, LS2259, on September 16, 2008.

Lease Lot A1

Beginning on a set iron pin with cap marked LS2259 at NAD 83 coordinates North-1949378.29ft and East-2480073.97ft and located North 51 deg 50 min 03 sec East, 653.02 feet from a found iron pin on top of the ridge; thence severing the land of Raymond & Beryl Brown (Book 182 page 139) and the property of Connie Sturgill and Dale Brown (Book 394 Page 614) North 36 deg 22 min 31 sec West, 94.26 feet to a set iron pin with cap marked ls2259 on hillside by 3" tree, North 46 deg 26 min 56 sec East, 175.86 feet to a set iron pin with cap marked ls2259 near the road, South 37 deg 39 min 24 sec East, 152.09 feet to a set iron pin with cap marked ls2259 near the edge of road, South 65 deg 00min 42 sec West, 181.45 feet to the beginning. Containing a calculated area of 21685 sq ft or 0.50 acres.

This survey was performed on September 16, 2008 by James W. Caudill, a Kentucky Licensed Professional Land Surveyor No. 2259.

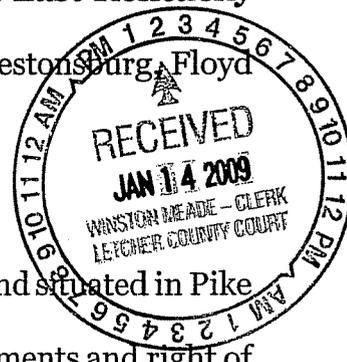


James W. Caudill
James W. Caudill, PLS #2259

Exhibit "A"

RIGHT OF WAY EASEMENT

This Right of Way Easement is made and entered into this 14th day of January, 2009, by and between **Dale Ray Brown, and Mellissa Brown, HIS WIFE**, of 168 Raymond's Branch, Whitesburg, Kentucky 41858, **GRANTORS**, and **East Kentucky Network, LLC d/b/a Appalachian Wireless**, of P.O. Box 405, Prestonsburg, Floyd County, Kentucky 41653, **GRANTEE**:



WITNESSETH:

WHEREAS, Grantee is the owner of certain a tract or parcel of land situated in Pike County, Kentucky as more particularly described in various deeds, easements and right of way conveyances to Grantee as shown by instruments recorded or to be recorded in the Office of the Letcher County Clerk; and

WHEREAS, Grantee proposes to construct a telecommunication-cellular tower and related facilities upon portions of its property as described hereinabove, together with an access road leading thereto; and

WHEREAS, Grantee desires to have a right of way and easement over and across the property of the Grantors for access to Grantee's property for the purpose constructing its telecommunications/cellular tower and related facilities; the Grantors are to stay within the property boundaries; Grantors will have no access to the property other than for business associated with the tower; and all gates are to remain locked at all times. The Grantees will furnish keys to the gate for Grantor's use and no one else is to have access to Grantees' keys;

WHEREAS, Grantors are willing to grant such right of way easement to Grantee upon the terms and conditions set out herein;



NOW, THEREFORE, for and in consideration of the sum of \$00.00 and benefits derived from Lease by Raymond Brown and wife, and sufficiency of which is hereby acknowledged, the Grantors do hereby grant unto the Grantee, its successors and assigns, the following:

A right of way easement over and across the existing road upon Grantors' property and being a right of way easement over and across property of Grantors as more particularly described in the Deed of Conveyance from Raymond A. Brown and Beryl Brown, his wife, recorded in Deed Book 363, Page 409, Letcher County Clerk's Office. (See description attached at Ex "A").

The right of way easement herein granted shall be used by Grantee, its successors and assigns for access to and from the Grantee's property and for use in connection with the construction of Grantee's telecommunication/cellular tower and related facilities to be constructed thereon, and Grantee may move men, equipment, and machinery over and across the existing roadway for such purposes, and may clear trees, branches or undergrowth which interfere with the use of the right of way easement granted herein and maintain and do all acts necessary or convenient for the use of the rights and privileges granted herein.

This Grant is for a term equal to and commensurate with the term, and any extensions and renewals of the Lease by and between Raymond Brown and Beryl Brown, his wife, "LESSORS" and East Kentucky Network, LLC, a/b/a Appalachian Wireless, as LESSEE entered into simultaneously herewith.

Grantee agrees to indemnify and save Grantors harmless from any and all claims for property damage or personal injury or death made by third parties and arising out of

Grantee's operations upon Grantors' property.

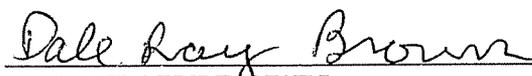
Grantee may terminate their Agreement upon thirty (30) days written notice to Grantors.

TO HAVE AND TO HOLD the aforesaid right of way easement, together with the appurtenances thereunto belonging unto Grantee, its successors and assigns forever, with covenant of General Warranty.

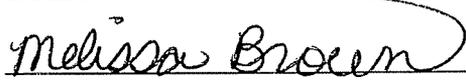
We, the undersigned, do hereby certify, pursuant to KRS 382, that the above-stated consideration in the amount of \$00.00 is the true, correct and full consideration paid for the property herein conveyed. We further certify that falsification of the stated consideration of the property is a Class D Felony, subject to one to five years imprisonment and fines up to \$10,000.00.

IN TESTIMONY WHEREOF, witness the signatures of the Grantors and Grantee on this the day and year first above written.

GRANTORS:



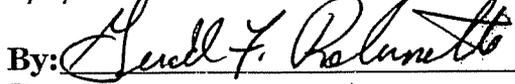
DALE RAY BROWN



MELLISSA BROWN

GRANTEE:

**EAST KENTUCKY NETWORK, LLC
d/b/a APPALACHIAN WIRELESS**

By: 

Its: General Manager/CEO

STATE OF KENTUCKY

COUNTY OF Letcher

I, Dennis Shepherd, a Notary Public in and for the County and State aforesaid, do hereby certify that the foregoing Right of Way Easement (~~Temporary~~) and Consideration Certificate was this day produced, acknowledged, subscribed and sworn before me in the said County and State and signed by **Dale Ray Brown, and Mellissa Brown, his wife, Grantors**, this 14th day of January, 2009.

Dennis Shepherd
NOTARY PUBLIC
Commission Expires: oct-22-2009

STATE OF KENTUCKY

COUNTY OF Floyd

I, Teresa M. Apel, a Notary Public in and for the county and state aforesaid, do hereby certify that the foregoing Right of Way Easement (~~Temporary~~) and Consideration Certificate was this day produced, acknowledged, subscribe and sworn to before me in said County and State and signed by **East Kentucky Network, LLC, d/b/a Appalachian Wireless**, by Gerald Robinette, its General Manager/CEO, this 14 day of January, 2009.

Teresa M. Apel
NOTARY PUBLIC
Commission Expires: June 22, 2009

This is to certify that this instrument was prepared by:

William S. Kendrick

WILLIAM S. KENDRICK, ATTORNEY
FRANCIS, KENDRICK & FRANCIS
P.O. Box 268
Prestonsburg, Kentucky 41653
606/886-2812

STATE OF KENTUCKY

COUNTY OF LETCHER

Clerk's Certificate of
Lodgment and Record

I, Winston Meade, Clerk of the County for the County and State aforesaid, certify that the foregoing Right of Way Easement was on the 14th day of Jan, 2009 lodged for record, whereupon the same, with the foregoing and this certificate have been duly recorded in my office. Deed 400/358

WITNESS my hand, this 14th day of Jan, 2009.

Winston Meade Clerk

By [Signature] D.C.

LEASE LOT DESCRIPTION

Property of
Connie Sturgill, Dale Ray Brown, Raymond & Beryl Brown
309 Raymond's Branch Road
Whitesburg, Ky 41824
Near Van in Letcher County
September 16, 2008

A portion of the property lying within the tract of land located on Dry Fork in Letcher County Kentucky, near the community of Van. Being a part of the same land conveyed by deed from Billy Royce Brown and Thelma Brown to Raymond & Beryl Brown, and recorded in Deed Book 182 Page 139 of the Letcher County Court House. Also being a part of the same land conveyed by deed from Raymond and Beryl Brown to Connie Sturgill and Dale Ray Brown and recorded in Deed Book 394 Page 614 of the Letcher County Court House.

Unless stated otherwise, any monument referred to herein as "set iron pin with cap" is a set 1/2" diameter rebar, at least eighteen (18") in length, with a plastic cap stamped "LS-2259". All bearings stated herein are referred to the NAD83 KY South State Plane Coordinate System. This survey performed by James W. Caudill, LS2259, on September 16, 2008.

Lease Lot A1

Beginning on a set iron pin with cap marked LS2259 at NAD 83 coordinates North-1949378.29ft and East-2480073.97ft and located North 51 deg 50 min 03 sec East. 653.02 feet from a found iron pin on top of the ridge; thence severing the land of Raymond & Beryl Brown (Book 182 page 139) and the property of Connie Sturgill and Dale Brown (Book 394 Page 614) North 36 deg 22 min 31 sec West, 94.26 feet to a set iron pin with cap marked ls2259 on hillside by 3" tree, North 46 deg 26 min 56 sec East, 175.86 feet to a set iron pin with cap marked ls2259 near the road, South 37 deg 39 min 24 sec East, 152.09 feet to a set iron pin with cap marked ls2259 near the edge of road, South 65 deg 00min 42 sec West, 181.45 feet to the beginning. Containing a calculated area of 21685 sq ft or 0.50 acres.

This survey was performed on September 16, 2008 by James W. Caudill, a Kentucky Licensed Professional Land Surveyor No. 2259.



James W. Caudill
James W. Caudill, PLS #2259

EXHIBIT "A"

FEB 10 2009
WINSTON MEADE - CLERK
LETCHER COUNTY COURT

RIGHT OF WAY EASEMENT

THIS RIGHT OF WAY EASEMENT made this 30th day of January, 2009, by and between **LINDA FIELDS SIMPSON** and **WILLIAM SIMPSON**, her husband, of 405 Windfield Place, Lexington, KY 40517; **JAMES H. FIELDS JR.** of 444 Paddock Drive, Versailles, KY 40383, Parties of the First Part, hereinafter referred to as "Grantors", and **RAYMOND BROWN** and **BERYL BROWN**, his wife, of 309 Raymond's Branch Whitesburg, KY 41858, Parties of the Second Party, hereinafter referred to as "Grantees".

Grantees are the owners of certain lands near the land of said Grantors, and said Grantees desire access from the said lands to Highway 15 over the land of said Grantors.

For a good and valuable consideration, including the prior agreement, the receipt of which is hereby acknowledged, and in consideration of the agreements of said Grantees herein contained, the Grantors do hereby grant unto said Grantees, their heirs and assigns forever, a non-exclusive right of way on and over a certain piece of land, owned by said Grantors, situated in the County of Letcher, State of Kentucky, and more particularly described as follows:

That certain property described in Deed Book 284, Page 190, records of the Letcher County Court Clerk's Office.

EXHIBIT
3

The right of way is limited to the road currently in existence which is a part of Smoot Creek mine operation permit # 867-0450.

For said Grantees, their heirs and assigns, and their agents, servants, tenants, their heirs and assigns shall, at all times, have the right to freely pass and repass, on foot, or with vehicles of every description, to and fro, from said Highway 15 to said land of said Grantees.

To have and to hold said easement and privilege unto said Grantees, their heirs and assigns forever. The Grantees agree that any use of the road shall not interfere with the use of the road for any purpose contemplated by Grantors, especially for mining.

The Grantors make no warranty of title as to their ownership of the property upon which the road is located but grants such rights as they may have to do so.

Said Grantees further promises and agrees to repair said way, together with the gates used for security, and to maintain the same in good condition. Grantees agree to assist Grantors in keeping trespassers off the road. Said Grantees further agree that at all times the gates shall be kept closed and locked except while persons entitled thereto are passing through the same. If Grantees install a lock, then a key shall be made for Grantors. Grantors shall at all times maintain a key to the gate.

In witness whereof, the Parties hereto have hereunto set their hands the day and year first above written.

In witness whereof, the parties have hereunto set their hand this day and date aforesaid.

GRANTORS:

Linda Field Simpson
LINDA FIELDS SIMPSON

William Simpson
WILLIAM SIMPSON

James H. Field, Jr.
JAMES H. FIELDS, JR.

GRANTEES:

Raymond A Brown
RAYMOND BROWN

Beryl Brown
BERYL BROWN

COMMONWEALTH OF KENTUCKY
COUNTY OF Letcher

I, Brenda Joseph, a notary public in and for the State and County aforesaid, do certify that the foregoing deed was this day produced to me in said county by LINDA FIELDS SIMPSON and WILLIAM SIMPSON and acknowledged by them to be their true act and deed.

Witness my hand and seal this 30th day of January, 2009.

Brenda Joseph
NOTARY PUBLIC

MY COMMISSION EXPIRES: 10/8/2010

COMMONWEALTH OF KENTUCKY

COUNTY OF Wetcher

I, Brenda Joseph, a notary public in and for the State and County aforesaid, do certify that the foregoing deed was this day produced to me in said county by JAMES H. FIELDS JR. and acknowledged by him to be his true act and deed.

Witness my hand and seal this 30th day of January, 2009.

Brenda Joseph
NOTARY PUBLIC

MY COMMISSION EXPIRES:

Oct 8, 2010

COMMONWEALTH OF KENTUCKY

COUNTY OF Wetcher

I, Betsy W. Addington, a notary public in and for the State and County aforesaid, do certify that the foregoing deed was this day produced to me in said county by RAYMOND BROWN AND BERYL BROWN and acknowledged by them to be their true act and deed.

Witness my hand and seal this 9th day of February, 2009.

Betsy W. Addington
NOTARY PUBLIC

MY COMMISSION EXPIRES:

12-19-2010

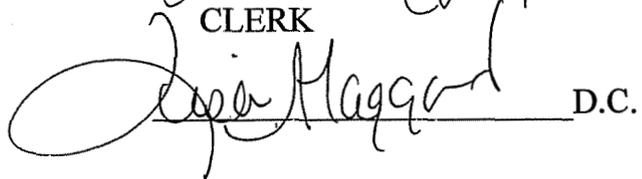
COUNTY OF LETCHER

I, WINSTON MEADE, Clerk of the County Court of the County aforesaid, do certify that the foregoing Right of Way Easement from LINDA FIELDS SIMPSON and WILLIAM SIMPSON, JAMES H. FIELDS, JR. to RAYMOND BROWN and BERYL BROWN, was on the 10th day of Feb., 2009, lodged in my office for record, and that it, the foregoing certificate, and this certificate, have been duly recorded in my office in Deed Book No. 400, Page 699.

Given under my hand this the 10th day of Feb., 2009.



CLERK

 D.C.

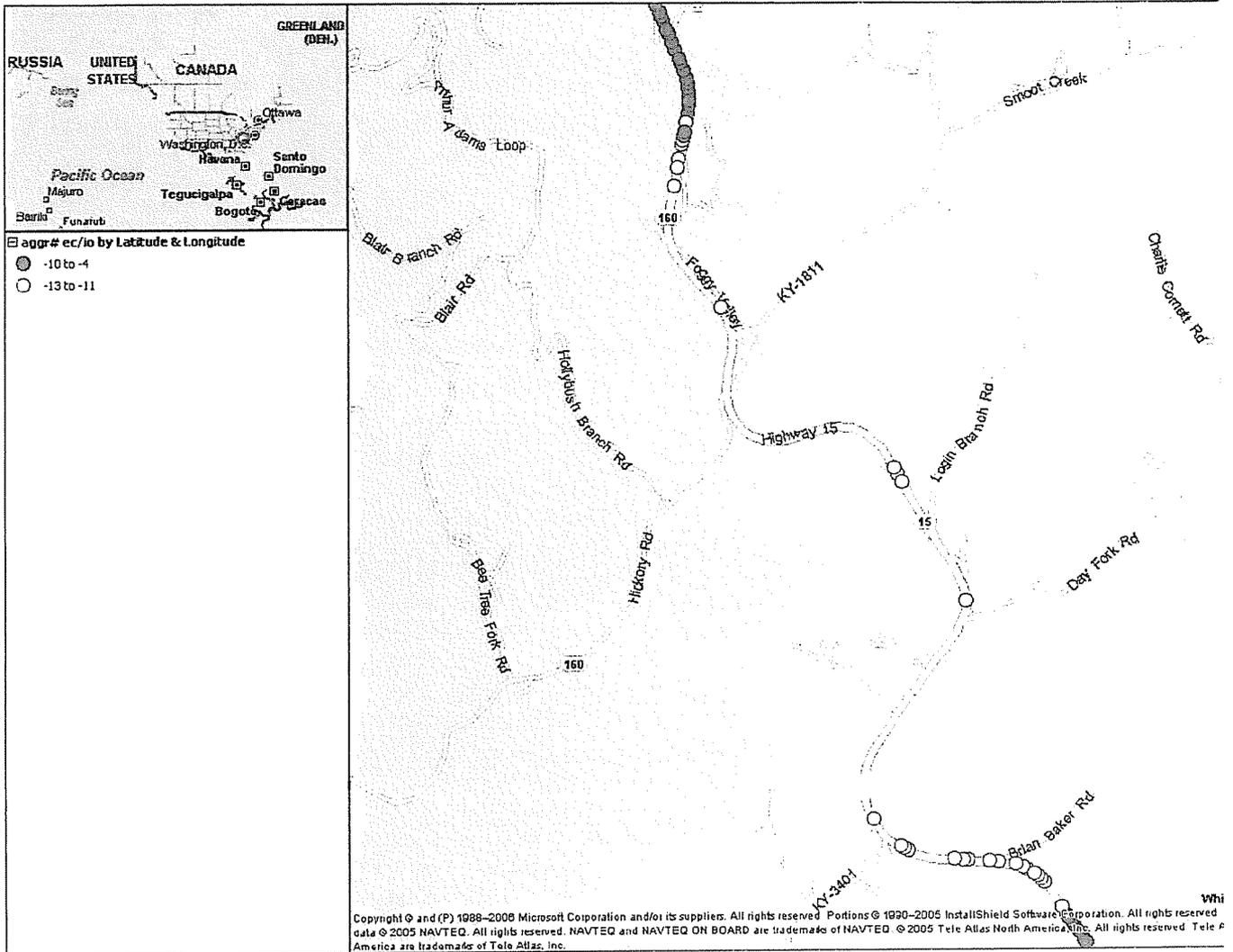
This instrument was prepared by:



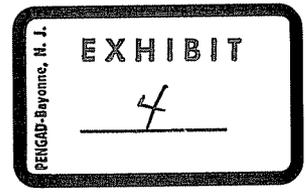
Bolling & Tackett Law Office
40 Main Street
Whitesburg, KY 41858

Mike Johnson

From: Mike Johnson [mjohnson@ekn.com]
Sent: Friday, April 17, 2009 9:48 AM
To: Marty Thacker
Subject: dry fork



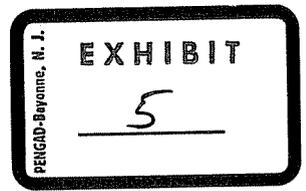
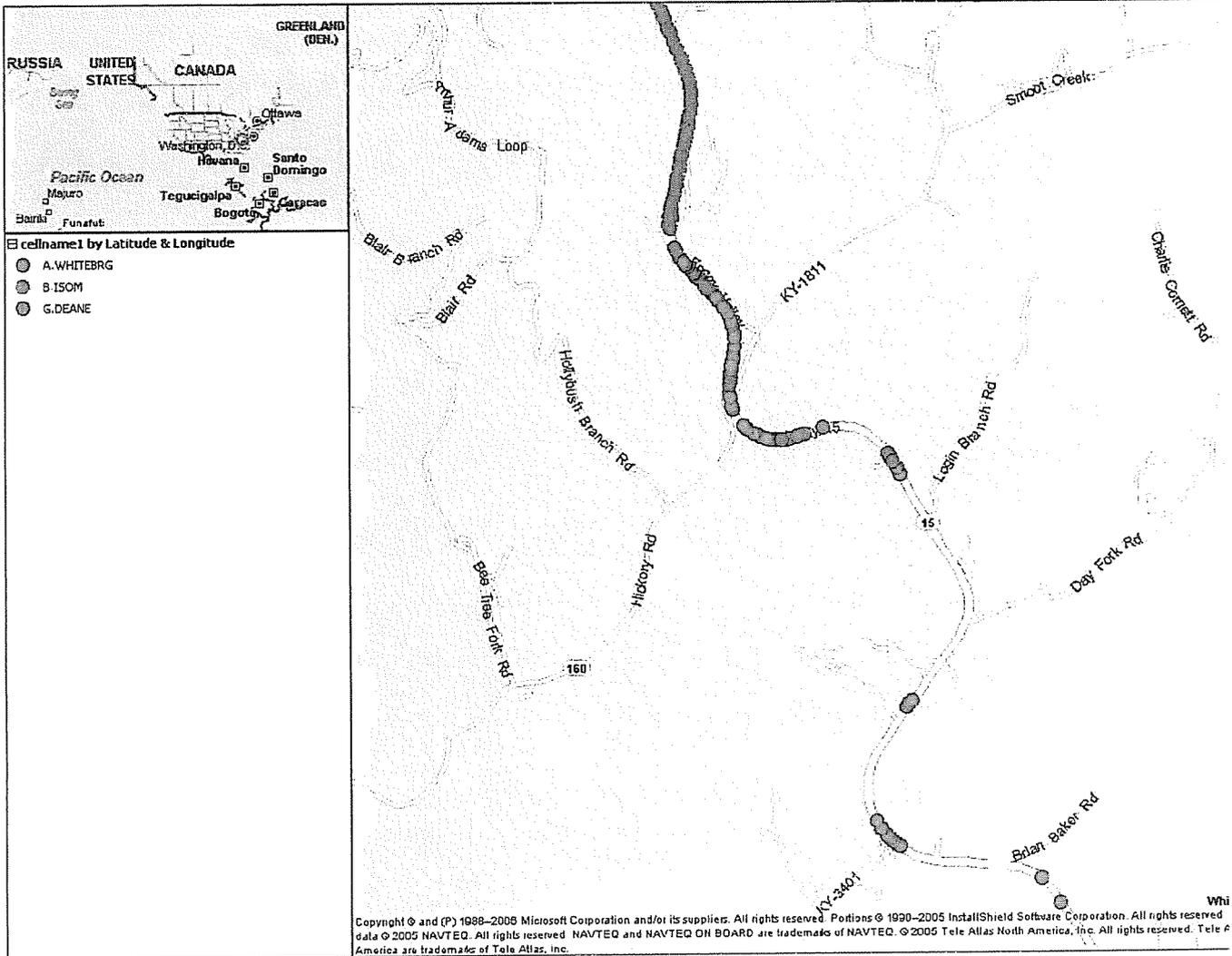
9/15/2009

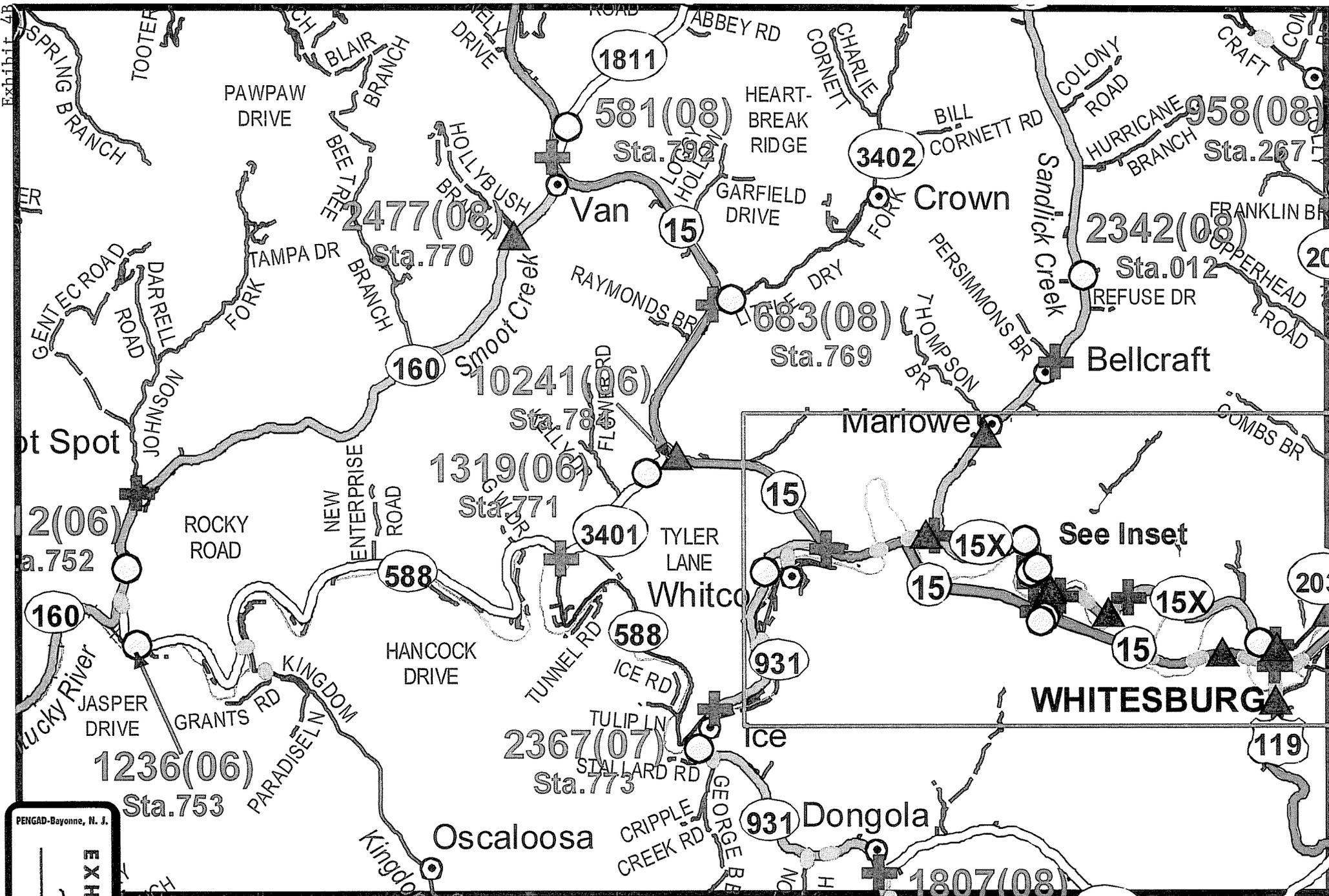


Mike Johnson

From: Mike Johnson [mjohnson@ekn.com]
Sent: Friday, April 17, 2009 9:30 AM
To: Marty Thacker
Subject: dry fork

Mike Johnson





PENGAD-Bayonne, N. J.

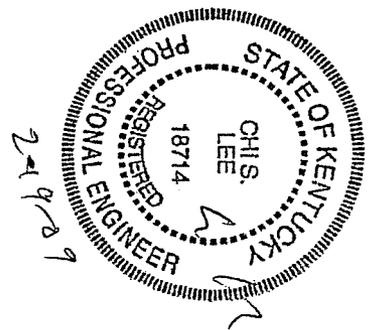
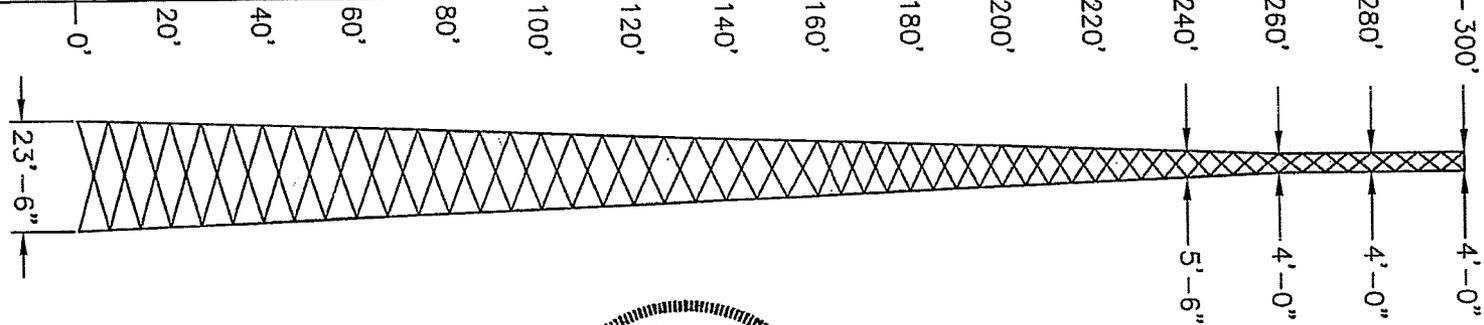
EXHIBIT

7



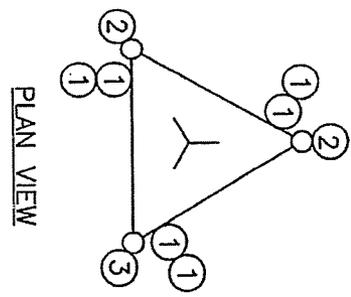
ALLSTATE TOWER
 P.O. BOX 25
 HENDERSON, KY 42419
 PHONE: (270) 830-8512
 FAX: (270) 830-8475

LEG DIA.	ø4.25"	ø4.25"	ø4"	ø4"	ø3.75"	ø3.75"	ø3.75"	ø3.5"	ø3.25"	ø3"	ø3"	ø2.75"	ø2.5"	ø2.25"	ø2"
DIAGONALS	L3.5" x .25"			L3" x .1875"			L2.5" x .1875"		L2" x .1875"		A				
GIRTS	N/A														
BRACE BOLTS	ø.875"			ø.75"				ø.625"			ø.5"				
FLANGE BOLTS	ø1.25"				ø1"							ø.75"			
# OF BAYS	3 BAY : X-BRACED						4 BAY : X-BRACED								



PLAN VIEW REF:

- 1) (6) 1.625" LINES
- 2) (1) 1.625" LINE
- 3) STEP BOLTS



SYMBOL LIST:
 A = L1.75" x .1875"

BASE REACTIONS:
 TOTAL SHEAR = 39 KIPS
 AXIAL LOAD = 71 KIPS
 UPLIFT / LEG = 294 KIPS
 COMP. / LEG = 342 KIPS
 O.T. MOMENT = 6466 FT-K

DESIGN NOTES:

- 1) ALL LEGS ARE SOLID ROUND ASTM A-572 GRADE : $F_y \geq 50$ KSI.
- 2) ALL BRACE MATERIAL IS ASTM A-36 : $F_y \geq 36$ KSI.
- 3) ALL BRACE AND FLANGE BOLTS ARE A325-X
- 4) (8) ø1.5" x 6'-0" LONG (A-36) ANCHOR BOLTS PER LEG.
- 5) THIS TOWER IS DESIGNED FOR A 70 M.P.H. BASIC WIND SPEED IN ACCORDANCE WITH THE TIA/EIA-222-F STANDARD INCLUDING A 1/2" OF RADIAL ICE (WITH REDUCTION).

ELEV.	ANTENNAS	FEEDLINES
300'	(12) 4' x 1' CELLULAR PANEL	(12) 1.625"
290'	(12) 4' x 1' CELLULAR PANEL	(12) 1.625"
280'	(12) 4' x 1' CELLULAR PANEL	(12) 1.625"
270'	(2) 8' HP DISH	(2) 1.625"

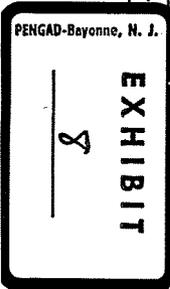
--SEE PLAN VIEW FOR FEEDLINE DISTRIBUTION
 --STEP BOLTS UTILIZED FOR CLIMBING WITH SAFETY CLIMB DEVICE

SCALE: N.T.S.

PROPRIETARY STATEMENT: THIS DRAWING IS THE PROPERTY OF ALLSTATE TOWER CO. IT IS NOT TO BE REPRODUCED OR COPIED IN ANYWAY WITHOUT PRIOR WRITTEN CONSENT OF ALLSTATE TOWER CO.

TOLERANCE	ALL DIMENSIONS UNLESS OTHERWISE NOTED
BRANDS	AS SPECIFIED
DESCRIPTION	300' SELF SUPPORT TOWER
CUSTOMER	APPALACHIAN WIRELESS
LOCATION	CLARK COUNTY, KY.
SITE	DRY FORK
PROPOSAL #	AB1828 - SELF
APPROX. WEIGHT	50.94 KIPS

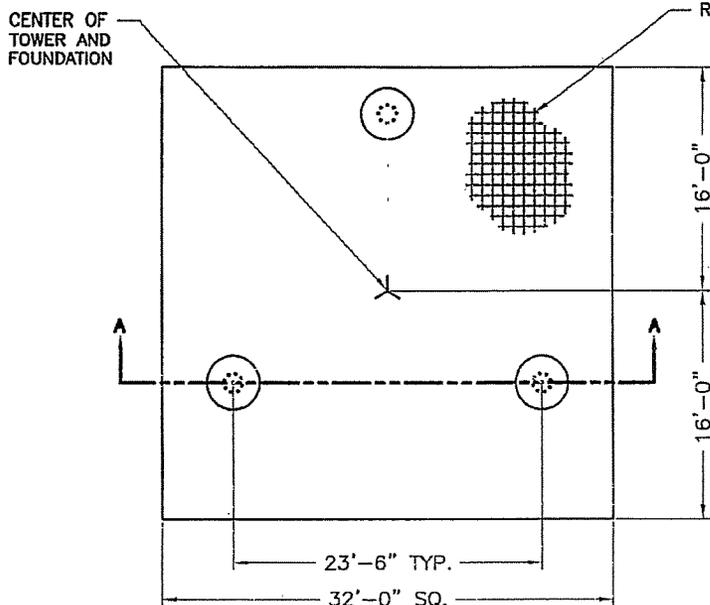
DATE: 02/03/2009
 DRAWN BY: J.B.
 REV. DATE: REV. DATE
 JOB NO.: 892
 SHEET: A





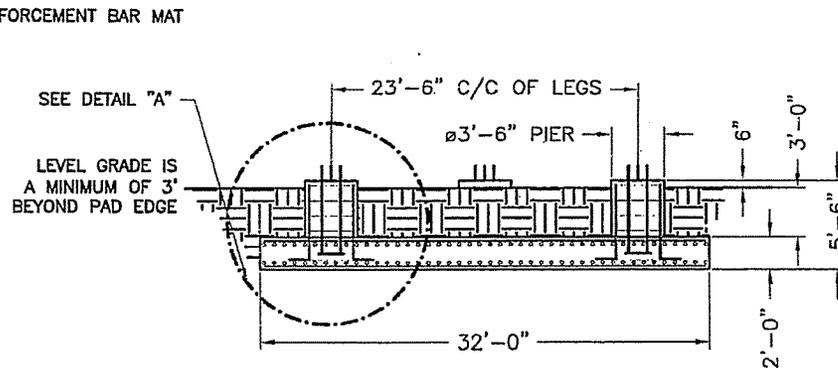
P.O. BOX 25
 HENDERSON, KY 42419
 PHONE: (270) 830-8512
 FAX: (270) 830-8475

SCALE:	N.T.S.	PROPRIETARY STATEMENT: THIS DRAWING IS THE PROPERTY OF ALLSTATE TOWER CO. IT IS NOT TO BE REPRODUCED OR COPIED IN ANYWAY WITHOUT PRIOR WRITTEN CONSENT OF ALLSTATE TOWER CO.
TOLERANCE BANDS:	AS SHOWN	
ALL DIMENSIONS ARE AS SHOWN UNLESS OTHERWISE NOTED		
CUSTOMER:	APPALACHIAN WIRELESS	
DESCRIPTION:	PAD/PIER FOUNDATION DESIGN	
LOCATION:	CLARK COUNTY, KY.	
SITE:	DRY FORK	
PROPOSAL #:	df40892	
DATE:	01/26/2009	
REV. DATE:	02/18/2009	
DRWING BY:	J.B.	
REV. NO.:	1	
SHEET:	AF40892	
	B	



PLAN VIEW

TOTAL VOLUME OF CONCRETE = 79.6 YD³



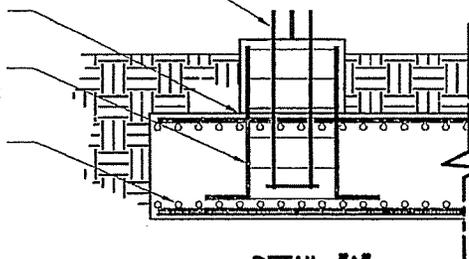
SECTION A-A

(8) $\phi 1\text{-}1/2$ " X 6'-0" OVERALL LENGTH ANCHOR BOLTS W/ 3/4" THK BEARING PLATE AT THE BOTTOM OF THE ANCHOR BOLT CLUSTER (5' MIN. ANCHOR BOLT EMBEDMENT).

USE EPOXY BONDING AGENT WHEN POURED SEPERATELY

(10) #9 VERTICAL BARS w/ #4 TIES AT 12" ON CENTER

(33) #9 HORIZONTAL BARS x 31'-6" LONG EQUALLY SPACED EACH WAY AT TOP AND BOTTOM OF MAT. (TOTAL = 132)



DETAIL "A"

FOUNDATION INSTALLATION/DESIGN NOTES:

1. THIS FOUNDATION IS DESIGNED TO MEET ALL STANDARDS SET FORTH BY ACI 318: AMERICAN CONCRETE INSTITUTE, BUILDING CODE REQUIREMENTS FOR STRUCTURAL CONCRETE, ANSI/TIA/EIA 222-F: STRUCTURAL STANDARDS FOR STEEL ANTENNA TOWERS AND ANTENNA SUPPORTING STRUCTURES.
2. THIS FOUNDATION IS DESIGNED UTILIZING THE GEOTECHNICAL REPORT PERFORMED BY WENDELL R. HOLMES, P.G.; DATED 2-16-09. THE FOUNDATION CONTRACTOR SHALL INSTALL THE FOUNDATIONS IN ACCORDANCE WITH THE RECOMMENDATIONS OF THE GEOTECHNICAL REPORT.
3. ALL WORK PERFORMED FROM THESE DRAWINGS SHOULD BE BY QUALIFIED CONTRACTORS EXPERIENCED IN TOWER FOUNDATION CONSTRUCTION.
4. ALL FOOTING EXCAVATIONS SHALL BE MANUALLY CLEANED PRIOR TO PLACING CONCRETE. COMPACT THE EXPOSED SOIL SURFACE AND ANY GRANULAR FILL UNDER THE FOUNDATION TO 95% OF THE MODIFIED PROCTOR DENSITY.
5. ALL CONCRETE SHALL HAVE A MINIMUM COMPRESSIVE STRENGTH OF 3000 PSI AFTER 28 DAYS. COPIES OF THE CONCRETE CYLINDER TEST REPORTS SHALL BE SENT TO THE RESIDENT ENGINEER / INSPECTOR.
6. MINIMUM CONCRETE COVER FOR REINFORCING BARS SHALL BE 3".
7. FIELD BENDING OR WELDING OF REINFORCEMENT BARS IS NOT PERMITTED.
8. PROVIDE CHAMFERS AT ALL EXPOSED CORNERS OF CONCRETE.
9. BACKFILL NEAR AND AROUND THE FOUNDATIONS SHALL BE A WELL GRADED FILL MATERIAL PLACED IN 8" THICK LAYERS THAT HAS BEEN COMPACTED TO 95% OF THE MODIFIED PROCTOR DENSITY PER ASTM D1557.
10. SOME DETAIL HAS BEEN PURPOSELY OMITTED TO CLARIFY ILLUSTRATION.
11. ALL REBAR TO MEET THE ASTM A615 GRADE 60 SPECIFICATION.

REINFORCEMENT BAR SPLICING:

1. ALL LAP SPLICES SHALL CONFORM TO ACI 318 REQUIREMENTS.
2. REFER TO CHART BELOW WHEN REINFORCEMENT BAR SPLICING IS NECESSARY.

REINFORCING BAR SIZE	LAP SPLICE LENGTH
3	15"
4	17"
5	21"
6	26"
7	30"
8	36"
9	46"
10	58"
11	71"



EXHIBIT 9

PENGAD-Bayonne, N. J.