

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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JUN 11 2009

PUBLIC SERVICE
COMMISSION

In the Matter of:

APPLICATION OF NEW CINGULAR WIRELESS PCS, LLC)
FOR ISSUANCE OF A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY TO CONSTRUCT)
A WIRELESS COMMUNICATIONS FACILITY AT) CASE: 2009-00114
251 BABE BOLEN DRIVE, GARRETT)
KNOTT COUNTY, KENTUCKY, 41630)

SITE NAME: BOLYN (252G0125)

STATUS REPORT

At the request of the Commission from the Order dated June 5, 2009, New Cingular Wireless PCS, LLC ("New Cingular"), through counsel, respectfully submits the following status report as it relates to the request for intervention by CONSOL of Kentucky, Inc. ("CONSOL").

In separate letters addressed to the Kentucky Public Service Commission, CONSOL made four (4) claims that are either untrue or unproven.

First, CONSOL claims that "Cingular has made no contact with CONSOL concerning the proposed construction...". This is untrue. I have enclosed a copy of the certified letter mailed to Consolidation Coal Company at the address provided by the Knott County Property Valuation Administrator. The certified letter was delivered on March 30, 2009.

Second, CONSOL claims "the proposed facility will isolate and sterilize coal reserves owned by CONSOL. They further make this claim in a letter dated May 27, 2009 whereby CONSOL claims the value of this coal at \$546,900.00. Documentation as to the location and details of the coal seam in question has not been provided.

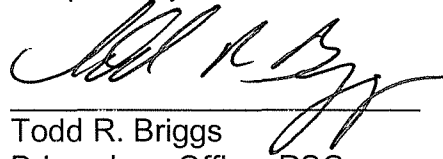
Third, CONSOL then claims that the “proposed facility may be located over existing underground mine workings... CONSOL further states in the letter dated May 27, 2009, “Finally, you should know that the Hazard four coal seam has already been mined.” I claim no expertise in the world of coal mining but I fail to see how New Cingular’s proposed tower could be located over BOTH mined and reserved coal seams.

Fourth, CONSOL claims “Cingular may be proposing facilities on surface owned by CONSOL. The information provided by New Cingular in the above mentioned application clearly disputes this claim. Deed and tax records on file with the Knott County Clerk and Property Valuation Administrator indicate the surface is owned by Edna Patrick. CONSOL has provided no evidence to the contrary.

New Cingular has always maintained the highest level of consideration to legitimate claims by adjoining property owners, concerned citizens and general inquiries in previous applications to the Commission. New Cingular is more than willing to negotiate a resolution to any legitimate claims of CONSOL; however we feel that CONSOL has failed to provide necessary documentation to substantiate any of these claims.

Therefore, New Cingular respectfully requests the Commission to withdrawal the motion approving intervention by CONSOL.

Respectfully submitted,



Todd R. Briggs
Briggs Law Office, PSC
17300 Polo Fields Lane
Louisville, KY 40245
Telephone 502-254-9756
Counsel for New Cingular Wireless PCS, LLC

Enclosure

Cc: James A. Combs

BRIGGS LAW OFFICE, PSC

TODD R. BRIGGS

17300 POLO FIELDS LANE

LOUISVILLE, KENTUCKY 40245

TELEPHONE (502) 254-9756

FACSIMILE (502) 254-5717

**Notice of Proposed Construction
Wireless Telecommunications Facility**

Consolidation Coal Company
1800 Washington Road
Pittsburgh, PA 15241

Via Certified Mail Return Receipt Requested


Dear Landowner:

New Cingular Wireless PCS, LLC is applying to the Kentucky Public Service Commission (the "Commission") for a Certificate of Public Convenience and Necessity to construct and operate a new wireless telecommunications facility located at 251 Babe Bolen Drive, Garrett, Kentucky 41630. A map showing the location is attached. The proposed facility will include a 300 foot self-support tower, plus related ground facilities.

This notice is being sent to you because the Knott County Property Valuation Administrator's records indicate that you own property that is within a 500' radius of the proposed tower site or contiguous to the property on which the tower is to be constructed.

The Commission invites your comments regarding the proposed construction and wants you to be aware of your right to intervene in the Commission's proceedings on this application. Your comments and request for intervention should be addressed to: Kentucky Public Service Commission, Executive Director, 211 Sower Boulevard, P.O. Box 615, Frankfort, Kentucky 40602. Please refer to case number 2009-00114 in any correspondence.

Sincerely,



Todd R. Briggs
Counsel for New Cingular Wireless PCS, LLC

Enclosure

SENDER: COMPLETE THIS SECTION


- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Consolidation Coal Co.
1800 Washington Rd
Pittsburgh, PA
15241

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X  Agent
 Addressee

B. Received by (Printed Name) C. Date of Delivery
G. H. H.

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number 7008 1140 0000 3128 5655
(Transfer from service label)



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Label/Receipt Number: **7008 1140 0000 3128 5655**
Status: **Delivered**

Your item was delivered at 8:40 am on March 30, 2009 in CANONSBURG, PA 15317. A proof of delivery record may be available through your local Post Office for a fee.

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LAW OFFICES
COMBS & ISAAC
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PRESTONSBURG, KENTUCKY 41653

ATTORNEYS
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GREGORY A. ISAAC

TELEPHONES
(606) 886-2391

FACSIMILE
(606) 886-2776

May 27, 2009

Via Fax (502) 254-5717 and
First class mail

Todd Briggs
Attorney at Law
17300 Polo Fields Lane
Louisville, Ky. 40245

RE: New Cingular Wirelsss PCS, LLC
Tower Site-Bolen Drive, Garrett, Ky.- Knott County, Ky.
Public Service Commission
Case No. 2009-00114

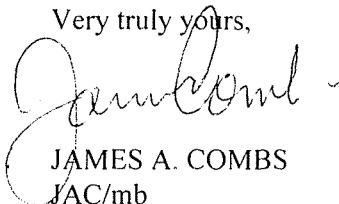
Dear Mr. Briggs

CONSOL of Kentucky Inc. has provided me with the information concerning the coal which will be affected by the tower site shown on the plat you provided to them.

The plat shows the tower will be constructed on a square concrete pad 42 feet on each side. Mining regulations for coal companies require them to stay 300 feet away from any structure in the absence of a wavier. To make the calculations which follow a 330 foot circle was drawn around the center of the concrete pad to establish the area which cannot be mined in the future. The tower will effect the Winifrede (Hazard 8) coal seam which has a total thickness of 2 ½ feet. Using contour and auger mining the company has calculated that it will loose 10,938 tons of clean recoverable coal. This is tonnage for the coal that could actually be mined and does not include that part which would not be mined using contour and auger mining methods. Using a sale price of \$50.00 per clean ton of recoverable coal the total sale price would be \$546,900.00. Ten percent of that sale price is \$54,690. CONSOL of Kentucky Inc. will withdraw its objection to your application for the tower site for \$54,690.00.

Finally, you should know that the Hazard four coal seam has already been mined. This coal seam has a top elevation of 1,103 feet. Your tower site, according to your plat, is 1,610 feet. You should take into consideration the possibility of subsidence where the Hazard four coal seam has already been mined.

Very truly yours,



JAMES A. COMBS
JAC/mb

cc: James Childers

Briggs (let #8 mb)