

Appendix F to
Acting Executive Directors' Report
on Proposed PCS Plan
Transcript of November 16, 1999 public hearing

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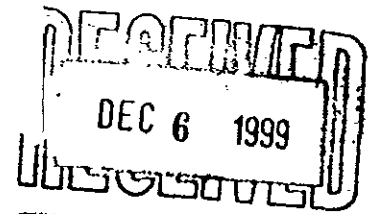
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Via Lawyer Service

Mr. Larry Liggett,
Pinelands Commission
PO Box 7; 15 Springfield Street
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**RE: Pinelands Public Hearing
SPRI083**

Dear Larry:

Enclosed please find a copy of the condensed version of the deposition transcript dated November 16, 1999. If you have any questions, please do not hesitate to contact the undersigned.

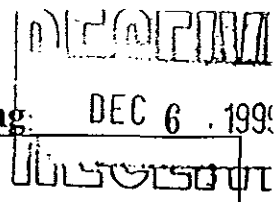
Thank you for your attention to this matter.

Very truly yours,

LAW OFFICES OF ALAN B. ZUBLATT

JAM:sls
Enclosure

BY: 
JAMES A. MITCHELL



1 STATE OF NEW JERSEY
 2 COUNTY OF BURLINGTON

3 In the Matter of:
 4 Pinelands Public Hearing

5 _____

6 Tuesday, November 16, 1999
 7 Burlington County College
 8 Teleconference Center
 9 Learning Resource Center
 10 County Route 530
 11 Pemberton Twp., New Jersey
 12 Commencing at 7:30

13 P R E S E N T:

14 WILLIAM F. HARRISON, Acting Executive
 15 Director

16 JOHN STOKES, Assistant Director
 17 LARRY LIGGETT, Manager Planner

18 A P P E A R A N C E S:

19 ALAN B. ZUBLATT, ESQ.
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24 KELLY A. MC ARDLE, C.S.R.

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1 area.

2 Six new cells -- and I'll just spend a
 3 minute. The six new towers that I'll spend a
 4 minute to go over are, there's one proposed down at
 5 Estell Manor, cell number 40 down here. There are
 6 two proposed along Route 322 in Hamilton Township.
 7 They are right on the road in Hamilton Township in
 8 the commercial zone. There's one in the western
 9 boundary, another one closer, about halfway to the
 10 maze area over here. There are two proposed in
 11 Woodland Township, one at Four Mile Circle. One is
 12 down Route 72, where 530 comes with 72, and the
 13 sixth tower is the orange one located somewhere in
 14 this vicinity over here, right next to the Whiting
 15 area, a little bit to the west of that, right
 16 nearby the Fort Dix military facility.

17 That's a quick summary of the facilities being
 18 proposed. And I'll ask Mr. Kam to sort of describe
 19 his preliminary findings. They're preliminary
 20 because we have to wait for the public comments to
 21 be completed and our own analysis to finish the
 22 report.

23 MR. KAM: Our consulting team has looked
 24 at this proposal, and in particular we have
 25 concentrated on each one of the new facilities, the

1 MR. LIGGETT: Basically, it's a 63
 2 facility plan, 27 of them are existing facilities,
 3 which are shown in red on the map, 30 new
 4 facilities are proposed on what I might term as
 5 existing structures, and they're noted in three
 6 different colors because there's three different
 7 situations for those. The blue ones are sites that
 8 are for certain, the green ones are probable sites
 9 where they will go on existing structures, and the
 10 magenta are sites where they intend to build on
 11 proposed cellular structures that have not yet been
 12 built. There's 30 of those. Six are new
 13 facilities that will require new structures.
 14 They're denoted by the yellow and the orange on
 15 this map. Three of them are in the forest area,
 16 two are in the preservation area, and one is in the
 17 military or federal district. There's one that may
 18 not be built.

19 There's a technical issue that is described in
 20 the plan, has to do with the licensing situation,
 21 that could be described. It was also noted in the
 22 plan the need for an additional facility, but that
 23 one is unable to be sited right now, so it is not
 24 located on the map but basically along 70 along
 25 this map area where 530 exits in the Browns Mill

1 ones that can be located on existing structures or
 2 on structures that have been approved before. We
 3 have conducted our own calculations. We have done
 4 some testing in the Pinelands area in order to
 5 check the validity of computations that we have
 6 received from other organizations. We have
 7 received information, particularly radiation levels
 8 from the providers for those towers about which
 9 there were questions. We have checked with the
 10 providers and on our own several alternative
 11 locations in those cases when things could not be
 12 put on existing towers, and we have developed the
 13 preliminary opinion that the six new facilities
 14 are, indeed, necessary in order to provide the
 15 level of service that is comparable in terms of the
 16 technical criteria to the level of service that was
 17 the basis of the previous plan approved by the
 18 Commission for cellular towers.

19 MR. HARRISON: There's only one member
 20 of the public who has signed up at this point to
 21 speak, and I'll ask him to come forward.

22 Lee Rosensen?

23 MR. ROSENSEN: Up there or from here?

24 MR. HARRISON: Wherever the tape
 25 recorder will be able to hear you.

Pinelands Commission November 16, 1999 Public Hearing

SHEET 2 PAGE 5 5

1 My name is Lee Rosensen and tonight I
 2 represent both the Pinelands Preservation Alliance
 3 and New Jersey Audubon Society. I'm going to read
 4 this. It will take a little bit of time, but we
 5 have numerous, very serious objections to what's
 6 happening here, so I hope you will bear with me.
 7 This testimony was prepared principally by
 8 Carlton Montgomery of the PPA, but it is the
 9 testimony and the opinion of both PPA and New
 10 Jersey Audobon.
 11 "The Pinelands Preservation Alliance and New
 12 Jersey Audobon Society submit that the proposed PCS
 13 plan violates the Pinelands Comprehensive
 14 Management Plan, will damage the Pinelands and
 15 should be rejected by the Pinelands Commission.
 16 PPA and NJAS will supply additional written
 17 comments in the future, even though there's not
 18 much time. But we want to start by saying that we
 19 are really outraged, really outraged -- and we
 20 don't get that way very often -- that the PCS
 21 industry and the Commission would present this plan
 22 for serious consideration. It is so patently and
 23 wholly deficient under the CMP.
 24 "First, as far as procedure, we want to
 25 express the strongest possible objection to the

PAGE 6 6

1 procedure that the Commission is using to get this
 2 plan through the Commission process. As PPA
 3 pointed out at the last policy and implementation
 4 committee meeting, the Commission has allowed far,
 5 far too little time for the public to analyze and
 6 comment on this plan. To us it seems very clear
 7 that the Commission is allowing itself to be pushed
 8 into steamrolling this plan through under pressure
 9 from the PCS providers.
 10 "Even more importantly, still under the
 11 heading of procedure, the Commission is not
 12 permitting the public even to see crucial
 13 information during the public comment period. I'm
 14 referring to the staff analysis of the plan and any
 15 technical analysis the Commission has Commissioned.
 16 This information is critical to a full and open
 17 public review, yet the Commission has not released
 18 this information before the public hearing. That
 19 kind of information we're talking about is
 20 especially important in this case because the PCS
 21 plan patently fails to provide a factual and
 22 scientific basis for its conclusions, and we
 23 learned tonight that the technical report will not
 24 be available until after closure of the public
 25 comment period and only when the executive

PAGE 7 7

1 director's report is submitted to the Commission,
 2 when no more public comments will be allowed.
 3 Thus, the procedure being followed will preclude
 4 any public comment on the technical aspects of the
 5 plan prior to the Pinelands Commission's vote.
 6 That is an outrage.
 7 "The Commission's approach of withholding its
 8 own technical analysis seems designed to hinder
 9 public comment. For this reason, we ask that the
 10 Commission hold open the public comment period
 11 until at least four weeks after releasing any
 12 technical or scientific analysis that is done on
 13 the proposed plan. We don't see how else we can
 14 comment.
 15 "As far as the CMP standards are concerned,
 16 the CMP -- well, as we've already said, CMP
 17 requires that the providers submit a comprehensive
 18 plan for the entire Pinelands area "which
 19 'demonstrates' compliance with several specific
 20 requirements, including, A, that in the
 21 preservation, forest and other specified areas, the
 22 least number necessary to provide adequate service,
 23 least number of towers will be utilized. B, to
 24 demonstrate the need for the facility as well as a
 25 demonstrated, underlined, demonstrated need to

PAGE 8 8

1 locate the facility in the Pinelands. And, C, that
 2 each antenna utilizes an existing communications or
 3 other suitable structure to the extent practical.
 4 "The PCS plan fails to satisfy these
 5 requirements because, while the plan makes numerous
 6 representations with respect to the requirements,
 7 it does not demonstrate compliance with these
 8 provisions. It simply says we comply. Because the
 9 plan does not include any demonstration of
 10 compliance, any demonstration of compliance, we
 11 believe it would be improper and unlawful for the
 12 Commission to approve the plan. The PCS plan does
 13 not include or incorporate any demonstration, proof
 14 or even evidence to support the plan.
 15 Specifically, there is no evidence to support the
 16 claim that each of the new facilities is needed.
 17 There is no evidence to support the claim that the
 18 plan achieves the least number of new facilities
 19 needed to achieve adequate service, and there is no
 20 evidence to support the claim that the plan makes
 21 maximum use of existing facilities.
 22 We invite the Commissioners and the staff to
 23 point out any evidence in this plan on any of these
 24 points. Can you show us where the demonstration
 25 exists? We don't think so.

Pinelands Commission November 16, 1999 Public Hearing

1 Now, it may be that in private meetings the
2 PCS industry has persuaded Commission staff on one
3 or more of these points. If that's true, it's
4 totally irrelevant because there is nothing in the
5 plan provided to the public or in the file at the
6 Commission that we have looked at that constitutes
7 a demonstration of compliance. Under the heading
8 of adequate service, the PCS plan does not
9 demonstrate or even explain that it provides the
10 least new facilities to provide or to achieve
11 adequate service. Adequate in the sense that the
12 CMP uses it.

13 "We point to pages 34 and 35 of the plan,
14 which is the section that discusses level of
15 service. The plan identifies three parameters for
16 valuing levels of service, things such as
17 signal-to-interference ratio, drop call ratio,
18 block call ratio, but the plan does not provide any
19 figure or explanation of the values that the plan
20 assumes for each of these parameters as the measure
21 of adequate service and does not even attempt to
22 show that the proposed plan will achieve any stated
23 level of service for each of these three
24 parameters. Beyond the complete failure to give
25 the measure of service on which the plan is based,

1 the plan completely fails to state, much less
2 satisfy -- I'm sorry -- much less justify the level
3 of service that currently exists in each area or
4 the level that will be achieved if the plan is
5 carried out. Without this kind of information, it
6 is both theoretically and logically impossible to
7 claim that the providers have demonstrated
8 compliance with the CMP requirements.

9 "About the new tower in the west planes. The
10 PCS plan proposes to build a tower in the middle of
11 the west planes. Unlike the prior plan, this plan
12 explicitly states that if the plan is approved, the
13 providers will build a tower on the west planes.
14 This is a line in the sand issue for conservation
15 of the Pinelands. The pine planes are so
16 extraordinary and their scenic value so easily
17 damaged that the Commission simply should not
18 permit this tower and should not approve the
19 current plan so long as it includes this location
20 for a new tower. It is especially outrageous to us
21 that the PCS providers would propose this tower in
22 one of the world's most extraordinary natural
23 places, while giving not even a scintilla of
24 evidence that the tower is needed to provide any
25 kind or level of service. In addition, without

1 more detailed information on the siting of the
2 other additional towers, it is impossible to know
3 whether they, too, will be unacceptable locations.

4 "Under the heading of industry participation
5 the PCS plan is not even being presented by all PCS
6 companies that may want to provide service in the
7 Pinelands. The Commission has already undermined
8 the idea of requiring a comprehensive plan by
9 approving the existing plan, a cell tower plan,
10 without the PCS providers. The Commission would
11 simply make a mockery of the comprehensive plan
12 concept to approve this new plan without even
13 having all PCS providers involved."

14 I would like to read how the plan describes
15 the participants of this plan.

16 "The plan signatories are those current PCS
17 providers licensed by the Federal Communications
18 Commission to provide such service throughout
19 southern New Jersey, including the New Jersey
20 Pinelands, as are ready, willing and able to
21 participate in preparation of such a plan."

22 "Only a lawyer could write that sentence. And
23 correct us if we're wrong, but that is not what the
24 CMP says is necessary. If the Commission goes
25 forward on this plan, one has to ask what meaning

1 is there to the requirement that all providers of
2 the same type of service jointly present a plan.
3 To go forward on this proposal would be to rewrite
4 the CMP to require that all providers of the same
5 type of service who feel like joining in must do
6 so. In other words, going forward would simply
7 abandon and negate an expressed requirement of the
8 CMP."

9 Our last point is, perhaps, a little
10 technical, but it shows what a mockery this plan
11 makes of the CMP's requirements and the concept of
12 a comprehensive plan.

13 "The PCS providers state there is at least one
14 new tower they need but cannot build consistent
15 with CMP siting requirements, but they want to go
16 ahead with the other facilities and see if they
17 can't get around this problem down the road. The
18 problem with this approach is that it undermines
19 the reasonable plan in which allegedly each
20 facilities depends on all the others in an
21 integrated pattern. This plan concedes that it is
22 not comprehensive, but is incomplete. The
23 Commission obviously should not approve an
24 expressly incomplete plan.

25 "For all the reasons I've just described, we

Pinelands Commission November 16, 1999 Public Hearing

1 strongly urge the Commission, strongly urge the
 2 Commission, to reject this plan as completely
 3 inconsistent with the CMP."
 4 Thank you.
 5 MR. HARRISON: All right. Are there any
 6 other members of the public who have any testimony
 7 to give?
 8 Ms. Letman?
 9 MS. LETMAN: Theresa Letman, Manchester
 10 Township. I have a question. Before I say
 11 anything, in reference to the materials that I was
 12 given, on one page that was handed out it says that
 13 site 64 is a new tower, but on the printout that
 14 came inside the plan that I received from the
 15 Commission office last week, on the chart it says
 16 that it will be located on an existing facility or
 17 an existing structure, but yet you, again, tonight
 18 indicated that it was new. And so I'm unsure what
 19 that facility is, but my question is if we're
 20 supposing to be making sure or putting in the plan
 21 to allow for use of existing structures, we have
 22 two cell telephone towers in Manchester Township
 23 now, we have Sprint that just got approval for one,
 24 Nextel just came to colocate on one of the cellular
 25 telephone towers, and under the cell plan we have

1 two new facilities. I don't understand why there
 2 has to be an additional one in Manchester Township?
 3 And obviously whoever is asking for it is not one
 4 of the four that we now have. But Nextel has an
 5 approval on an existing cell and Sprint has an
 6 existing approval on the water tower, so I'm
 7 finding it hard to believe that under the cell plan
 8 and this plan, that Manchester Township is in need
 9 of three new sites. And the sites are in the
 10 forest area.
 11 MR. LIGGETT: The tower in the
 12 Sprint/Omnipoint plan is to the west of all the
 13 towers located in the cellular plan and it fills a
 14 gap on Route 70 between the towers located close to
 15 the border of Ocean and Burlington Counties and
 16 Whiting. There's a gap in there. It also is a
 17 special case, and it might be better if Omnipoint
 18 addressed that because it has to do with a special
 19 licensing problem that they have and their need to
 20 meet an FCC requirement. And there's some
 21 possibility that that one will not be required, as
 22 is mentioned in the text, but I don't know if --
 23 MS. LETMAN: But is it an existing
 24 structure or a new?
 25 MR. LIGGETT: There's a possibility of

1 an existing structure there, although it's a radar
 2 and may not be able to take it, so it could go
 3 either way.
 4 MR. HARRISON: Are there any other
 5 members of the audience who has questions of the
 6 testimony? Do you want to give your name and
 7 address?
 8 MR. WEBER: Albert Weber, 7 Brider Mill
 9 Court, Tabernacle, New Jersey.
 10 I agree with the gentleman from the Pinelands
 11 Preservation Group that a lot of this information
 12 was given out with relatively short notice. And I
 13 just looked at it very haphazardly, and I have
 14 questions regarding the consistency between the
 15 maps here and the locations and the approved maps
 16 that were done for the other cell towers.
 17 Particularly, site number 19 looks like that's off
 18 of Route 70 in South Hamilton. This is something
 19 that -- you know, how are they able to find an
 20 existing site there while the cellular group
 21 couldn't find an existing site there? So I just
 22 have a lot of questions. That's the one that I'm
 23 probably most familiar with in the area, but it
 24 just leaves me wanting to know how one group can do
 25 it and why another group can't do that? Because if

1 this is possible, that 19 can be used by the PCS
 2 group, why couldn't they remove one more tower out
 3 of the Pinelands program, the other one that was
 4 approved, that there was a tower in Woodland
 5 Township on the border of Tabernacle? That's my
 6 question.
 7 MR. STOKES: Moshe, would you care to
 8 respond to that question? It's a little more
 9 generic standpoint maybe.
 10 MR. KAM: Let me explain.
 11 What we have checked was the need, and in all
 12 cases where we had a question about need, what
 13 we've asked the providers to do is to provide us
 14 with coverage maps. The case actually which was
 15 just mentioned was a good one because we have tried
 16 to see whether one of the existing towers -- we're
 17 talking about 64 -- sorry -- the one we just
 18 mentioned.
 19 MR. STOKES: 19, I believe.
 20 MR. KAM: With request to 19, because of
 21 the fact that it was described as one as being on
 22 an existing structure, we did not do specific
 23 technical checking of alternatives. But the
 24 question that was asked a moment ago regarding the
 25 sites in Manchester Township, we have tried our

Pinelands Commission November 16, 1999 Public Hearing

SHEET 5 PAGE 17 17

1 best and, in fact, I have the evidence with me, and
 2 I'll be glad to summarize it to try to push this
 3 thing as possible as we could to the east and see
 4 if there is the possibility of coverage of Route
 5 70. And in spite of all attempts to do that, there
 6 simply isn't coverage.
 7 One of the things that needs to be remembered
 8 in this context is that because of the frequencies
 9 that we are dealing with in the PCS system, the
 10 circle of coverage, of RF radiation coverage, in
 11 this case is smaller than the one that we had in
 12 the lower frequencies that were used in the survey
 13 plan. So in spite of the fact that we realized
 14 that it would be very good if we could push this
 15 thing further to the east, there was technically no
 16 way to do that without having a gap along Route 70.
 17 This is typical to all of the cases we have
 18 checked. In each one of these cases we tried to
 19 see if we could push the proposed tower to the
 20 closest facility we knew about, in particular, if
 21 there was one in the cellular plan, and we asked
 22 for explicit plans in order to see if all of the
 23 coverage gaps are covered, and all this information
 24 is with us.
 25 Did I answer the question?

PAGE 18 18

1 MR. STOKES: Yes. However, I think it
 2 might help, on a more generic basis, forgetting
 3 about number 19, I think the question was if the
 4 cellular plan calls for a new tower at point X, why
 5 can't a PCS company just automatically locate there
 6 or vice-versa? If a PCS company could locate this
 7 facility some distance away on an existing
 8 facility, why can't the cellular companies do
 9 exactly the same thing?
 10 MR. WEBER: For the record, it's the
 11 vice-versa point I'm trying to try make.
 12 MR. KAM: Let me first say in every case
 13 where there was an issue of a new tower, we checked
 14 this possibility. And the reason why it may not
 15 work has to do with a couple of additional issues.
 16 First, as it was mentioned here a little earlier,
 17 we are dealing here with a grid, and there is
 18 interdependence. And as a result, it did happen
 19 from time to time that what looks very attractive,
 20 when you just look at where the other towers are,
 21 it ends up being technically hopeless because of
 22 the fact that it would mean that the whole grid has
 23 to be moved in order to fit the particular tower.
 24 There were several cases, and 19 is not one of them
 25 where -- there was an additional question of

PAGE 19 19

1 height, and we have to be sensitive to that as well
 2 because in some cases the PCS plan needed certain
 3 heights that were not available in other
 4 facilities.
 5 Did that answer the question?
 6 MR. STOKES: Roughly.
 7 MR. SALEMI: Jack Salemi, Tabernacle.
 8 The PCS plan, is it the same basic objective,
 9 to have a five-mile radius between communication
 10 facilities?
 11 MR. KAM: Okay.
 12 MR. SALEMI: Bear in mind this is the
 13 first time I have had an opportunity to view this
 14 program tonight.
 15 MR. KAM: The basic aim was the same.
 16 The basic aim was the same.
 17 MR. SALEMI: Which was?
 18 MR. KAM: In terms of the coverage
 19 levels and in terms of the signal-to-noise ratios
 20 and the drop rate and the block rate that were
 21 mentioned before. In other words, these were the
 22 same criteria that we have used that we're using in
 23 the cellular telephone.
 24 MR. STOKES: But I think the question
 25 was, does the spacing, is the spacing essentially

PAGE 20 20

1 the same?
 2 MR. KAM: No. The spacing is somewhat
 3 smaller, and this has to do -- I'm hesitant to
 4 throw a number.
 5 MR. STOKES: Would you describe why?
 6 MR. KAM: Two reasons. One of them has
 7 to do with propagation because of the fact that
 8 we're dealing with different frequencies. And in
 9 addition to that, there is the problem of
 10 absorption. It so happens that the wavelength that
 11 we are using in the case of PCS systems gets much
 12 closer in terms of physical size to some of the
 13 needles of the pines and, as a result, there is
 14 some -- in some cases more absorption. We were in
 15 some cases -- and let me explain how the process
 16 worked. It looked to us from just doing
 17 computations in the lab that something could work,
 18 and then in field test actually seeing how much
 19 absorption there is, we found -- that is, we
 20 received results from experiments, to be precise,
 21 that showed that there is more absorption than what
 22 one would assume just looking at the topography
 23 and, as a result, in some cases you found yourself
 24 with a radii which are much smaller than the one
 25 that we could tolerate in the case of the cellular

Pinelands Commission November 16, 1999 Public Hearing

1 plan, sometimes as much as half, sometimes we ended
2 up with as little as half is what we could tolerate
3 in the other case.

4 MR. HARRISON: Yes?

5 MR. WEBER: Two other comments.

6 First, I would like to say, this plan, at
7 least when it comes to the Tabernacle-South
8 Hamilton area, is closer to the actual need than
9 what was the true need for the cellular because
10 Route 70 between the 206 circle and out 70 past
11 Leisuretowne has minimal coverage. My comment is,
12 I just want to say this is where location or
13 colocation of any antenna should be and this is
14 done correctly versus what's been approved. And I
15 don't know the number on the plan for the other
16 tower. I guess it's tower 67, which really there
17 has been no need, has never been proven to be
18 physically a need, other than the lab.

19 The other thing is I still want to understand
20 why there is such immense desire by the industry to
21 have this coverage in this area whereas I'm an
22 extremely heavy cellular user and there's all parts
23 of 95 from, you know, the Turnpike down to
24 Washington, DC where there's absolutely no coverage
25 on the most heavily-traveled roads, one of the most

1 heavily traffic roads in the country. So why is
2 there this intense desire for all this stuff here
3 versus getting it right where most of the traffic
4 is? I don't understand. So, you know, why kind of
5 mess up our environment here when the industrial,
6 commercial, business areas still don't have
7 coverage? My question is, where are the
8 priorities?

9 MR. STOKES: Unfortunately, that extends
10 a little beyond our jurisdiction. You know, we
11 provide the opportunity for cellular providers to
12 provide service in the Pinelands and how they
13 decide what they do elsewhere is something that's
14 beyond our ability to deal with, although I'm sure
15 you're more than welcome to ask them following the
16 hearing and maybe they'll respond.

17 MR. WEBER: Just to put this in
18 perspective why I think it is an issue, it's a
19 matter of prioritization. Why would you have an
20 environmentally-sensitive area have a higher
21 prioritization than, you know, the New Jersey
22 Turnpike corridor? I mean, that's what I'm saying.
23 So why mess up stuff when they haven't finished
24 what should be their primary objective, which is
25 the business route.

1 MR. HARRISON: Ms. Stetson?

2 MS. STETSON: Faith Stetson, Evesham
3 Township.

4 When Larry was giving a summary of the plane,
5 he indicated that Sprint and Omnipoint were
6 included in this plan and that there were other
7 providers that were not going to be part of this
8 plan which may be providing service in the area.
9 What happens when they come before you with an
10 additional tower request, how is that going to be
11 handled? Are we going to have to amend this
12 again?

13 MR. HARRISON: In order to build a tower
14 outside of a regional growth area or a Pinelands
15 town, they would have to come in and amend -- and
16 seek an amendment to the PCS plan.

17 MR. LIGGETT: They would also have to
18 operate from the cellular plan and the PCS plan as
19 a basis, so any change would have to be based upon
20 a change to those things, so this is like a
21 building block, if you like.

22 MS. STETSON: I have one other
23 question.

24 I noticed -- and I just got this report today
25 -- facility 28 from Sprint is going to be located

1 in Evesham Township and it matches up with facility
2 9 proposed by BAM. Has that issue with Bell
3 Atlantic Mobile been resolved yet in our town, or
4 is it still a proposed tower and there has been no
5 definite conclusion to the question there?

6 MR. STOKES: I guess the best way I can
7 answer that is that it remains that the specific
8 location siting of the tower in Evesham still
9 remains an open matter. However, Bell Atlantic has
10 informed us that they do not intend to pursue a
11 tower in the near future. Thus, it is not of
12 immediate concern to them, and their discussions
13 with the township within the past couple of months
14 have focused on other aspects of the ordinance
15 within which Bell Atlantic had concerns, and
16 Evesham Township has indicated its willingness to
17 adjust some of those provisions of the ordinance.
18 So I guess the best way for me to describe it,
19 without giving you a specific answer, is that Bell
20 Atlantic still intends to pursue a facility in that
21 area, but it is not pursuing it at this time and,
22 thus, the siting questions are not of paramount
23 concern to them at this moment.

24 MS. STETSON: What about Sprint then,
25 where would they locate if BAM is backing off, not

Pinelands Commission November 16, 1999 Public Hearing

1 in the nearby future on this facility 9 or facility
2 28 for Sprint, how are they -- what are they going
3 to do?

4 MR. STOKES: What this plan does is it
5 would afford the PCS companies an opportunity to
6 pursue those sites independent of the cell
7 companies. So if, indeed, the Sprint or Omnipoint
8 or both of them feel they have an immediate need
9 for that facility, then they would be free to seek
10 approvals from Evesham Township.

11 MS. STETSON: I would just like to close
12 by saying I really don't think the public had
13 enough time to review this plan, and I would ask,
14 echoing the sentiments of the PPA and the Audobon
15 Society, that the public comment portion be
16 extended, extended especially until we get some
17 input from the staff and the experts as to the need
18 question when it's finally resolved. I'd like to
19 see an extension.

20 MR. HARRISON: Mr. Heinold?

21 MR. HEINOLD: Doug Heinold from the firm
22 of Parker, McCay & Criscuolo. We represent the
23 Township of Evesham.

24 What was indicated is exactly right in terms
25 of what has happened along Evesham's journey in

1 this. Originally we became interested because Bell
2 Atlantic Mobile had a site selected which was very
3 close to a residential area, and given the overall
4 area, the township was very concerned that that
5 site was selected. We were the first township to
6 pass an ordinance that was approved by Pinelands to
7 deal with this issue. There was actually
8 litigation filed where we sort of hatched things
9 out with Bell Atlantic Mobile, and that has been
10 resolved. What we did was sit down with them and
11 Pinelands and work out some solutions to their
12 concerns with regard to setbacks and so forth.

13 I guess my first question is, there's been
14 some suggested revisions in terms of how the plan
15 is going to work, the already existing plan, and
16 these radiuses that are set up, radii -- I'm not
17 sure how the word is, but the five miles, it was my
18 understanding that that was going to become smaller
19 in the future, that what the providers were saying
20 was we don't have enough -- we can't be as flexible
21 as we thought we could in terms of moving anywhere
22 within a five mile radius, we need to be more
23 specific about where we site.

24 Is that accurate? And what's the status on
25 that?

1 MR. LIGGETT: Well, first of all, this
2 plan is structured slightly differently than the
3 cell plan. The cell plan was structured roughly at
4 five miles and less technical feasibility said it
5 was less. And that's generally the case, it is
6 less. This plan has a similar provision, but much
7 more technically drawn, drawn with a half mile
8 radius. And if it's beyond that, it might work.
9 And the issue of shrinking for the cell plan,
10 that's a certified adopted plan. There was some
11 talk about us changing our regulations and perhaps
12 taking a different approach, and those talks are
13 ongoing with the Commission and they may occur or
14 may not, but those are problematic because they are
15 not -- right now we have a certified cellular plan
16 and it has a five-mile maximum radius, if you like.

17 MR. STOKES: Just to make sure that
18 Larry's point was clear, this plan indicates that
19 in the vast majority of cases, the PCS companies
20 would be able to locate or would be required to
21 locate their facility within a half mile of the
22 location that's shown on the map, but there is some
23 opportunity, as the plan indicates, that it might
24 vary, it might be more than that in some cases. So
25 it is much more tightly defined, but it's not an

1 absolute.

2 MR. HEINOLD: Okay. That's good to
3 know.

4 The ongoing discussions before the Pinelands
5 Commission, does that involve the potential
6 requirement that all towns must pass an ordinance?

7 MR. HARRISON: Well, there are a couple
8 of things here. When the Commission adopted the
9 cell tower provisions initially, there was a
10 requirement that the towns at that point adopt
11 provisions that did that, and all towns have done
12 that. We were considering regulations that would
13 have had towns adopt ordinances in response to
14 approved local communication facility plans. The
15 Commission's policy and implementation committee had
16 a number of problems with those draft regulations
17 and they are on a very far back burner at this
18 point in time.

19 MR. HEINOLD: I guess the only thing I
20 would say from the township's perspective is we've
21 been heavily involved -- I guess as heavily
22 involved as we feel we can be in terms of being at
23 the table and at least staying for a part of the
24 discussion, and I feel -- I guess the township has
25 gone to great lengths and done what it can to

Pinelands Commission November 16, 1999 Public Hearing

1 accommodate. And it took us a long time, I don't
 2 think it's any secret, to get Bell Atlantic Mobile
 3 to talk to us, and we finally were able to talk to
 4 them and work things out with them.
 5 If the situation is now that these groups of
 6 people are coming along with the understanding that
 7 there was going to be a tower there and maybe the
 8 need is not there for Bell Atlantic Mobile and the
 9 other providers under the prior plan, I'm wondering
 10 if there's any potential for movement on their part
 11 in light of the fact that there may not be a tower
 12 going up by Bell Atlantic Mobile, that there may
 13 not be that colocation opportunity and then, as a
 14 result, if we're so constrained by that half mile
 15 radius --
 16 MR. STOKES: Well, let me suggest this.
 17 One, I think that the PCS companies would probably
 18 be more than willing to sit down with the township
 19 to discuss the matter in more detail. Secondly, we
 20 ought not to presume that the PCS companies have
 21 the same need, limitations and constraints that the
 22 cellular companies do. So, for example, I know
 23 that there are some existing structures within that
 24 general area and it is conceivable -- I mean, I
 25 can't guarantee it, but it is conceivable that

1 technical limitations that may have affected the
 2 cellular company's use may not have the same affect
 3 on the PCS companies, so there might be some
 4 opportunities that weren't all that feasible with
 5 the cellular companies, but I think -- and we can
 6 confirm that with the PCS companies -- that they
 7 would be willing to sit down with the township at
 8 the appropriate time to discuss the particulars of,
 9 you know, the need and the opportunities, the
 10 alternatives, that are available within each --
 11 MR. HEINOLD: Okay. And I understand
 12 under the plan they're looking within maybe the
 13 next five years. It's not one of their top
 14 priority sites at this point. But we're here,
 15 we're going to be part of the contribution.
 16 MR. ZUBLATT: I'll be glad to address
 17 the when you're ready.
 18 My name is Alan Zublatt. I'm the attorney for
 19 Sprint. I didn't want to interfere with the
 20 public's comments. But if you wish now, I would be
 21 glad to make a statement, and hopefully we'll
 22 address a lot of the issues that were raised
 23 tonight.
 24 MR. STOKES: Why don't we ask Mr.
 25 Heinold if he has anything else?

1 MR. HEINOLD: I don't. Thank you.
 2 MR. HARRISON: Mr. Stetson?
 3 MR. STETSON: Robert Stetson, Evesham
 4 Township.
 5 Just a general question on the Comprehensive
 6 Management Plan and with regard to, not only the
 7 new towers, but the old towers and existing sites
 8 with cell sites on them. With the advent of this
 9 industry -- and I am in this industry. There are
 10 new technologies coming forward every day. Once
 11 these new technologies do come forward and at that
 12 such time it is proven that the towers and the cell
 13 sites are not needed, is there a provision in the
 14 Comprehensive Management Plan that the Pinelands
 15 have to remove these towers?
 16 MR. HARRISON: Yes.
 17 MR. STETSON: There is. Thank you.
 18 MR. HARRISON: Mr. Salemi?
 19 MR. SALEMI: In the same vein, with the
 20 professionals here this evening, can they elaborate
 21 on why they cannot use the Aradium satellite
 22 program for Motorola that they have 60 or so
 23 satellites in space right now and why the whole
 24 industry cannot address exactly what this gentleman
 25 was talking about?

1 MR. KAM: May I answer?
 2 There are quite a few issues, but let me --
 3 and I will not go over the whole list, but the
 4 first issue that we should take into account is
 5 capacity. If you think about the system that
 6 Aradium and others have tried or are trying to make
 7 commercial, one of the major issues is that you
 8 will have this system clog up very quickly when it
 9 gets -- if it gets into the kind of massive use
 10 that cellular phone and PCS are enjoying now. The
 11 technical solution in order to provide the same
 12 kind of capacity is at least a few years off, and
 13 at least at the present time one cannot look at
 14 that and say this is a viable technical
 15 alternative.
 16 In addition to that, it was also in the
 17 popular press, as you may have read, that there
 18 have been quite a few obstacles in the way of
 19 making these things operational and commercially
 20 successful, so at the present time one cannot argue
 21 that this is a viable alternative to cellular and
 22 PCS systems.
 23 There are several other technical issues, but
 24 let me start by saying that capacity itself at the
 25 present time doesn't make that a viable

Pinelands Commission November 16, 1999 Public Hearing

1 alternative.
 2 MR. HARRISON: Mr. Weber?
 3 MR. WEBER: Just getting back to this
 4 whole question with the explosive use of cellular
 5 technology, be it PCS or whatever, everyone's
 6 having them. Once we go down this path, aren't we
 7 going to then say, okay, well, if we trim the
 8 usage, then there's not enough towers. They're
 9 going to say, well, we have more need, so there's
 10 going to need to have more towers to handle the
 11 capacity of higher utilization. So where does the
 12 Pinelands Commission draw a line? Because, you
 13 know, if the need that's set up, you know, whatever
 14 this "need" keeps coming up to be is going to
 15 continue to just skyrocket, so where do you draw
 16 the line? I mean, are we going to review this
 17 every couple of years when there's a new need for
 18 more towers because, you know, capacity issues are
 19 raised again.
 20 MR. HARRISON: Mr. Salemi?
 21 MR. SALEMI: I think there should also
 22 be a concern about the safety of driving in an
 23 automobile or any kind of vehicle while talking
 24 using a cellular phone. I think many states are
 25 taking a very strong look at this whole concept of

1 driving, talking and having accidents. In
 2 Philadelphia or Pennsylvania they just killed a
 3 little girl. They're looking to make it illegal to
 4 drive a vehicle and talk on a telephone at the same
 5 time. I think we should be very careful with
 6 overdevelopment of an industry that might be under
 7 very strict control, especially here in our
 8 Pinelands region and everywhere.
 9 MR. HARRISON: Are there any other
 10 members of the audience who have any testimony
 11 concerning the PCS plan?
 12 Mr. Zublatt?
 13 MR. ZUBLATT: Thanks.
 14 My name is Alan Zublatt. I'm the attorney for
 15 Sprint Spectrum, LP. We've been involved with the
 16 Pineland's staff now in the arduous process for an
 17 excess of a year, and there are underlying
 18 documentation and testing with Mr. -- it's Kam,
 19 right? -- as well as Pineland's staff, Mr. Liggett,
 20 Director, Mr. Harrison, as well as Assistant
 21 Director Stoks.
 22 I want to give you the Sprint Spectrum
 23 position on your comments, incorporate into the
 24 plan and try to bridge the gaps between what you're
 25 worried about and what Sprint's point of view is

1 and how we can work together in terms of the
 2 concerns that you have. And I want to do that in
 3 two or three different areas, if I may. The first
 4 being a general statement, which most of you from
 5 seeing a lot of your faces at the cellular
 6 proceedings, you'll have heard before. The second
 7 I want to deal with colocation, and particularly
 8 colocation because out of all the sites that are
 9 being proposed, only five or six are new towers,
 10 new construction, in this PCS plan. And Sprint, as
 11 you'll hear in a minute, intends to proceed
 12 actively and aggressively and go after those
 13 colocation sites, whether they are built now or are
 14 just sitting there having been approved so that
 15 they -- in terms of the cellular plan, so the
 16 reality is that five or six will be new, and
 17 probably only five of those five and six.
 18 As far as any municipality that has a concern,
 19 our position is clearly we will work with that
 20 municipality within the confines of the existing
 21 plan to do things that can work. Now, with that in
 22 mind, that's what I propose to do in hopefully
 23 five, no more than seven or eight minutes with you.
 24 So I'm going to just check with some notes to make
 25 sure we don't leave out anything in terms of what

1 you've said.
 2 Firstly, we all know and we hear it every day
 3 with the change of the -- of what's happening in
 4 terms of television commercials themselves that
 5 there's an explosive growth, not only in the
 6 Internet, but in terms of wireless communication
 7 and this revolution in communications along with
 8 the rapid development of wireless technology
 9 offers. Sprint believes, obviously, there are many
 10 benefits to the public who reside in and travel
 11 through the Pinelands, and these relates to three
 12 major areas, necessity, convenience and safety, and
 13 if there's coverage issues or there's capacity
 14 issues, that convenience, that necessity and
 15 safety, are the things that most people buy phones
 16 for.
 17 It's estimated now there are over 69 million
 18 subscribers to wireless in general in the U.S. who
 19 rely on wireless communications for personal
 20 safety, to enjoy more contacts with friends and
 21 families -- I don't want to sound like a commercial
 22 -- and to make more productive use of their
 23 personal and professional time. Most importantly,
 24 600,000 911 calls are made each year, which not
 25 only benefits the sender, but the recipient itself,

Pinelands Commission November 16, 1999 Public Hearing

1 such as a lost or injured motorist or an errant
2 driver or some crazy lunatic that's drunk on the
3 road or potholes or just getting plain lost. This
4 rapid growth has become -- which is probably adding
5 people at the rate of a 30,000 or so more customers
6 per day to wireless in general -- poses challenges
7 both to the carriers as well as the Commission as
8 well as the citizens in terms of how you bridge the
9 gap or reconcile the definite need for this, as
10 just by the sheer numbers of what's happening --
11 and you could take that in terms of your own
12 experience with the need to preserve Pinelands and
13 the environment -- and to reconcile the FCC's
14 mandate that carriers must build-out their networks
15 to provide reliable, adequate service and at the
16 same time fulfill the need of the Pinelands in
17 terms of its Comprehensive Management Plan and to
18 fulfill another layer, which is called the
19 Telecommunications Act of 1996, and particularly a
20 section that I'm sure you'll all have heard, which
21 is Section 704, which I'm going to get to in just a
22 second. So this reconciliation was, perhaps, not
23 in some of your minds, partially accomplished in
24 September of 1998, when the cellular plan was
25 certified and approved.

1 Now, that certification and approval doesn't
2 mean they can go out and build. This is a stage,
3 this is a framework, this is only a master plan,
4 important step for sure in terms of the overall
5 process, but it doesn't in any way relegate us or
6 put us in a position of being able to build at all.
7 It's a major stage in the start of the process
8 which now goes before a variety of different
9 entities, and that's the second really point that I
10 wanted to make to you.
11 This layer of federal law called Section 704
12 related sections of the Telecommunications Act
13 established a national policy that has to be
14 reconciled with a Pinelands' rules and regulations
15 obviously to promote the rapid introduction of
16 wireless technology. There's no question about it,
17 that's what the purpose of it was. The government
18 wanted to enhance 911, the government wanted the
19 carriers to enhance throughout the country its
20 network to provide adequate coverage. It
21 established through Section 704 and related
22 sections certain guidelines for the state and local
23 zoning authorities, municipalities, the Pineland's
24 Commission, which it did not have -- did not have
25 before when you had your Comprehensive Management

1 Plan, so this was a new layer that was thrown into
2 the mix that no doubt in your mind intruded into
3 the process of preservation, and the goal was to
4 try to preserve and reconcile the two, and that's
5 what this process, this part one of the process is.
6 There are probably three to seven different parts.
7 It preserved local zoning authority in terms
8 of the municipalities, but the authority in terms
9 of the local zoning was limited and, in some cases,
10 as you know, preempted, some of those are familiar
11 with it, that's the health impact of
12 electromagnetic frequency emissions. The FCC
13 regulation spelled out their wireless service
14 providers must build-out their systems to provide
15 adequate services to the public. They prohibited
16 -- a point that was brought out by someone before
17 -- they prohibited the discriminatory treatment of
18 one carrier group over another carrier group and
19 the required local governments to provide and apply
20 their rules equally and consistently. They
21 strongly encourage, they couldn't mandate, but they
22 strongly encouraged colocation, and we're going to
23 talk about that right now.
24 In 704 in fact sheet number two, question
25 number 11 deals with the colocation policy of the

1 FCC, and it gives you a whole variety of reasons
2 why it should work, why it should be encouraged,
3 and I'm going to talk to you now about Sprint's
4 position in that in terms of the cellular plan.
5 The goal of colocation obviously was to
6 encourage it to avoid the proliferation of towers
7 because, as this explosive growth continues,
8 whether it's in the Pinelands or elsewhere, if
9 there's a network that has to connect, you know,
10 the wireless connection to a land line eventually
11 -- and the bulk of a wireless system is its land
12 line, but it has to connect to it through the air,
13 and as capacity and coverage needs increase,
14 clearly there will be a need for more towers and,
15 hence, effective real colocation is imperative for
16 this process to work.
17 Carriers are required under the act and under
18 the other federal rules to deal with and comply
19 with NEPA, which is the National Environmental
20 Policy Act of 1969, as well as other federal
21 environmental statutes. These require the carriers
22 to assess and evaluate locations, certain types of
23 locations, submit environmental impact assessments
24 and FCC approval of same.
25 There's the issue of SHPO. Others call it

1 SHIPO. That's for State Historic Preservation
 2 Districts in which there has to be compliance by
 3 the FCC carriers, whether it's Pinelands or
 4 elsewhere, and those are other steps in this
 5 incremental process. They require compliance, as
 6 most of you know, with air navigation rules as
 7 well.
 8 And, in addition to that, please don't make a
 9 mistake about what's happening tonight or in the
 10 future going forward, there is municipal land use
 11 law as well as a zoning process for site plan
 12 and/or use variance approval that still must be
 13 adhered to when this process takes place in terms
 14 of the approval and certification of this plan.
 15 This plan also is governed by a whole series of
 16 rapidly developing and changing -- usually when it
 17 changes, it's a lawyer's dream -- changing areas of
 18 law in terms of the court cases that govern this,
 19 both federal district court cases as well as state
 20 court cases, and state court cases in certain
 21 counties many be different than in other counties.
 22 But it's all coming to the point where there is an
 23 incremental series of steps that have to take
 24 place.
 25 So I hope that you can see that this

1 reconciliation and this process tonight is just the
 2 first stage in a relatively long process or short
 3 process, depending upon how proactive carriers
 4 become, both with the cellular plan as well as the
 5 municipalities, as well as the residents of the
 6 Pinelands, as well as the Pineland's Commission.
 7 Because before we can build a site, we still have
 8 to deal with and demonstrate we're in compliance
 9 when we locate that site within the area that we're
 10 talking. We're only talking about broad areas now.
 11 When we actually locates this site, we still must
 12 go to the Pinelands Commission and make sure we
 13 comply with the specific siting criteria. This is
 14 not an approval tonight or a going forward of those
 15 specific sites. It still has to go through all the
 16 steps that I've just described.
 17 Now, this plan is also substantially similar
 18 in many ways to what was approved after a three or
 19 four-year process for better or for worse last time
 20 around with the cellular plan. Sprint strongly
 21 adopts and strongly confirms the colocation process
 22 in its plan and looks forward to proactively
 23 working to ensure the rapid develop as many
 24 colocalational opportunities as possible in
 25 conformity with the policies enumerated in the

1 cellular plan, and we expect the cellular industry
 2 to comply and we expect and certainly will comply
 3 as well.
 4 And in terms of applicable law and in terms of
 5 the Pinelands process itself, which worked, I know,
 6 arduously in terms of providing for colocation --
 7 and there were questions a long time ago, I
 8 remember, does it work. We know it can work and we
 9 intend to make sure it works, because the bulk of
 10 our build-out is related to colocation. That's why
 11 there are only five, possibly six, doubtful six,
 12 new sites. They're either existing structures or
 13 colocalational structures. So we intend an ambitious
 14 program of colocation and we've talked about our
 15 position with the Pinelands Commission and
 16 hopefully we'll implement that very shortly.
 17 So basically what I tried to pose for you is
 18 we have incorporated very carefully small, defined
 19 ring sites utilizing the outside-in approach that
 20 the Pinelands wanted in terms of valuation of sites
 21 outside before we got to the Pinelands and we
 22 carved it down to five, perhaps six, doubtful,
 23 sites that require new installations and the bulk
 24 of the others will hopefully be the other way.
 25 There was a question raised about one site

1 that might never be built involving Omnipoint and
 2 one of the statements of the plan. I know Mr.
 3 Stilwell is here. I don't know if you want to make
 4 a comment on that site or not in terms of that
 5 inquiry, but in terms of Sprint, clearly that's the
 6 goal that we truly want to accomplish here. We saw
 7 what went on. We read the transcripts of the last
 8 time. We recognize your need, and we intend to act
 9 on them in the way I've described. And I will be
 10 in touch with Evesham as well as any other
 11 municipality. If it gets within the plan, the
 12 Pinelands Commission has no problem, if there's
 13 something offered that's a viable alternative
 14 within the confines of the plan. I don't believe
 15 Evesham is going to be a problem, much less any
 16 other facility that's available that still works
 17 from the radio frequency point of view.
 18 I thank you for your time.
 19 MR. HARRISON: Mr. Stilwell, do you have
 20 any comments on behalf of Omnipoint?
 21 MR. STILWELL: I don't have any voice
 22 either, so it's going to be difficult for me to do
 23 that, but Mr. Zublatt's comments on behalf of
 24 Omnipoint, at least with respect to colocation and
 25 of course with respect to the willingness of

Pinelands Commission November 16, 1999 Public Hearing

1 Omnipoint to do what it's always done, which is to
 2 work with other carriers of municipalities with
 3 attempts to locate.
 4 With respect to a couple of sites for which
 5 there were specific questions, I think the plan
 6 itself talks about the border issue that involves
 7 site number 64 and simply an FCC concern that
 8 requires us to obtain approval from a licensed
 9 entity that has a license in that area in order for
 10 us to be able to cross a boundary in a way that's
 11 acceptable from a regulatory standpoint. The
 12 entity that we need to deal with currently is in
 13 bankruptcy and, therefore, is not available to be
 14 negotiated with, but we would expect at some future
 15 point in time some entity will control that license
 16 who will be available. And if normal conventions
 17 are followed, I think we should be able to work
 18 something out. If we can't work something out,
 19 then we would obviously fall back on the proposal
 20 to build that particular site.
 21 MR. HARRISON: Are there any other
 22 comments from members of the audience? Last
 23 chance.
 24 Mr. Weber?
 25 MR. WEBER: Last, but not least, I

1 really applaud the Pinelands Commission here for
 2 doing the job that they've done over the last
 3 several years. The description was arduous, and
 4 the underlying tone of this arduous process has
 5 really created some fairness in all this because
 6 I've observed over five years in this that the
 7 municipalities, other than Evesham, that have done
 8 a really great job has really been bullied by the
 9 large telecommunication companies coming into the
 10 townships like Woodland with ten lawyers with a
 11 relatively low ability to handle this and do their
 12 own research, so I really applaud the Commission
 13 for standing their ground pushing colocation. The
 14 Pinelands didn't push colocation. The
 15 Telecommunication Act might say it in there, but
 16 there was no major desire to have that happen, so
 17 my hats off to you all.
 18 MR. HARRISON: Any further comments?
 19 With that, we'll close the hearing at 12 after
 20 eight. I'll reiterate, written comments have to be
 21 submitted by Monday, November 22. They can be sent
 22 by mail, hand delivered, E-mail. If you want the
 23 E-mail address, we can give it to you afterwards.
 24 Thank you all for coming.
 25 (Meeting adjourned.)

1 CERTIFICATE
 2
 3
 4
 5 I, KELLY A. MC ARDLE, a Notary Public
 6 and Certified Shorthand Reporter of the State of
 7 New Jersey, do hereby certify that the foregoing is
 8 a true and accurate transcript of the testimony was
 9 taken stenographically by and before me at the
 10 time, place and on the date hereinbefore set forth.
 11
 12 I DO FURTHER CERTIFY that I am neither a
 13 relative nor employee nor attorney nor counsel of
 14 any of the parties to this action, and that I am
 15 neither a relative nor employee of such attorney or
 16 counsel, and that I am not financially interested
 17 in the action.
 18
 19
 20
 21 KELLY A. MC ARDLE, C.S.R.
 22 Certified Shorthand Reporter
 23
 24
 25