

To: Board of Supervisors

Date: October 5, 2015

From: Susan C. Grijalva Phone Ext. X 380  
(Department Head - please type)

<input checked="" type="checkbox"/>	Regular Agenda
<input type="checkbox"/>	Consent Agenda
<input type="checkbox"/>	Blue Slip
<input type="checkbox"/>	Closed Session
Meeting Date Requested: <u>October 13, 2015</u>	

Department Head Signature Susan C. Grijalva

Agenda Title: Planning Dept. - Appeal by Elton & Laura Allred of Planning Commission's action approving a Use Permit for wireless communication tower.

Summary: (Provide detailed summary of the purpose of this item; attach additional page if necessary)  
Appeal of Planning Commission's denial of an appeal filed by Elton and Laura Allred appealing a staff issued Use Permit (UP-15;5-5) for a 50' monopole wireless communication tower and ancillary equipment./facilities as requested by Epic Wireless Group/Verizon Wireless. Subject property is located on the east side of American Flat Side Rd. about 1/4 mile south of the American Flat Rd./ American Flat Side Rd. junction; being 19580 American Flat Side Rd. in the Fiddletown area (Farinelli Family Trust, landowner).

NOTE: The Planning Commission denied the appeal but amended the conditions of approval of the Use Permit to require the proposed monopole tower to be a "monopine" structure with a maximum height of 57' in order to accommodate the "crown" of the "tree."

See attached Staff Report for further information.

Recommendation/Requested Action:

After taking public comment determine whether to grant or deny the appeal.

Fiscal Impacts (attach budget transfer form if appropriate)	Staffing Impacts
_____	_____

Is a 4/5ths vote required? Yes  No

Contract Attached:	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Resolution Attached:	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Ordinance Attached:	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>

Committee Review? N/A

Name \_\_\_\_\_

Committee Recommendation: \_\_\_\_\_

Comments: \_\_\_\_\_

Request Reviewed by:

Chairman _____	Counsel _____
Auditor _____	GSA Director _____
CAO _____	Risk Management _____

Distribution Instructions: (Inter-Departmental Only, the requesting Department is responsible for distribution outside County Departments)

Planning Dept.

**FOR CLERK USE ONLY**

Meeting Date _____	Time _____	Item # _____
Board Action: Approved Yes ___ No ___ Unanimous Vote: Yes ___ No ___		
Ayes: _____	Resolution _____	Ordinance _____
Noes _____	Resolution _____	Ordinance _____
Absent: _____	Comments: _____	

Distributed on _____	A new ATF is required from _____ Department
Completed by _____	For meeting of _____

I hereby certify this is a true and correct copy of action(s) taken and entered into the official records of the Amador County Board of Supervisors.

ATTEST: \_\_\_\_\_  
Clerk or Deputy Board Clerk

## LIST OF CONTENTS SECTIONS

- p. 3 1) Staff Report to Board of Supervisors**
- p. 9 2) Title 47 of U.S. Code Section 332**
- p. 15 3) County Code Section 19.48.150 Commercial wireless service facilities.**
- p. 20 4) Appeal Letter and additional information and correspondence submitted by Appellant**
- p. 32 5) Additional information submitted by Epic Wireless Group**
- p. 66 6) Correspondence received since Planning Commission meeting**
- p. 74 7) Planning Commission Minutes of August 25, 2015 meeting**
- p. 167 8) Use Permit and Conditions as approved by Planning Commission**
- p. 170 9) Staff Report to Planning Commission**

(See List of Contents Sections on Page 173)

**1)**  
**STAFF REPORT TO**  
**BOARD OF**  
**SUPERVISORS**

**STAFF REPORT TO AMADOR COUNTY BOARD OF SUPERVISORS  
FOR MEETING OF TUESDAY, OCTOBER 13, 2015**

**PUBLIC HEARING – APPEAL OF PLANNING COMMISSION’S DENIAL OF AN APPEAL FILED BY ELTON AND LAURA ALLRED APPEALING A STAFF ISSUED USE PERMIT (UP-15;5-5) FOR A 50’ MONOPOLE WIRELESS COMMUNICATION TOWER AND ANCILLARY EQUIPMENT/FACILITIES AS REQUESTED BY EPIC WIRELESS GROUP/VERIZON WIRELESS. NOTE: THE PLANNING COMMISSION DENIED THE APPEAL BUT AMENDED THE CONDITIONS OF APPROVAL OF THE USE PERMIT TO REQUIRE THE PROPOSED MONOPOLE TOWER TO BE A “MONOPINE” STRUCTURE WITH A MAXIMUM HEIGHT OF 57’ IN ORDER TO ACCOMMODATE THE “CROWN” OF THE “TREE.”**

**APPELLANT:** Elton and Laura Allred

**SUPERVISORIAL DISTRICT V**

**LOCATION:** On the east side of American Flat Side Rd. about ¼ mile south of the American Flat Rd./American Flat Side Rd. junction; being 19580 American Flat Side Rd. in the Fiddletown area (Farinelli Family Trust, landowner).

**ZONING:** “R1A,” Single Family Residential & Agricultural District

**GENERAL PLAN DESIGNATION:** A-G, Agricultural-General (40 acre density)

- A. BACKGROUND.** In 2001-02 a Use Permit and Building Permit were granted for a 116.5’ wind turbine at this location. In 2011 Golden State Cellular was granted a Use Permit to install various types of cellular communication equipment on the wind turbine. This equipment was installed at about the 52’ level on the wind turbine structure. As part of the application for this Use Permit before/after coverage area maps were provided, as was an electric field map, RF exposure calculations were done (attached, see pgs. [249-262](#)) and a public hearing was held.

On May 22, 2015 an application was submitted to the Planning Department by Epic Wireless Group on behalf of Verizon Wireless for the construction of a 50’ wireless communications tower and ancillary equipment consisting of twelve panel wireless antennae, a 30 Kilowatt generator, and related ground-mounted cabinets all located within a 30’ x 16’ area surrounded by a 6-foot-tall chain-link fence. The purpose of this tower is to relocate and upgrade the wireless communication facilities presently housed on the wind turbine. Application materials submitted with this application included a site plan (attached, see pg. [251-255](#)), various photosimulations of the site, with and without the tower (attached, see pgs. [256-258](#)), a Radio Frequency Emissions Compliance Report (attached, see pgs. [259-262](#)), and an explanation (see letter of application, attached, see pg. [250](#)) that there are no other alternative sites available in the area for co-location of these facilities and the fact this is an existing facility.

County Code provides for staff issued use permits for towers not exceeding 50 feet in height subject to surrounding landowner notification. That notification was done and staff received a letter dated July 6, 2015 and an email dated July 7, 2015, both from Elton and Laura Allred, objecting to the project (attached, see pgs. [207-238](#)). After reviewing the application staff issued the use permit subject to the following conditions:

1. The project will be substantially the same as described and shown in the application materials.
2. The Permittee will comply with all applicable criteria set forth in Amador County Code Section 19.48.150, Commercial wireless service facilities.
3. The Permittee shall obtain and final/keep current all building, fire, health and public works permits necessary for this use.

The Allreds were notified of the decision as well as their appeal rights on July 13, 2015 (attached, see pgs. [202-205](#)). This letter also contained the reasons the permit was granted which are as follows:

- the application, as conditioned (attached) will conform to the regulations contained in County Code Section 19.48.150 (attached);
- the top elevation of the tower is approximately 2,073' (base/ground elevation is 2,023') which, based on USGS topographical maps, is higher than other properties within almost 1 mile of the project site;
- there are antennae currently located on the existing windmill support tower at almost the same height as on the proposed tower (existing antennae are to be removed from windmill); and
- the proposed tower is located within 30' of the existing windmill and is less than half the height of the windmill thereby minimizing the tower's visual impact.

On July 24, 2015 the Allreds filed an appeal of staff's decision. They appeared at the August 11, 2015 Planning Commission meeting and spoke on a different wireless communication tower application, submitting various information concerning these facilities. That information is attached to this staff report (see pgs. [279-401](#)).

In response to the Allreds' appeal Epic Wireless provided additional information consisting of a letter to the Allreds further explaining the purpose of their request and the information submitted with the original application, and an amendment to the previously submitted RF Emissions Compliance Report specifically addressing the Allred's home (see attached, see pgs. [192-193](#)).

Several emails of support were received (attached, see pgs. [267-277](#)).

Also attached (pgs. [264-265](#)) to this staff report are an aerial photo and a USGS map showing the location and elevation of the tower location in relation to the Allred home.

- B. PLANNING COMMISSION ACTION:** After taking public comment the Commission denied the appeal but amended the Conditions of Approval of the Use Permit to require the proposed monopole

tower to be a “monopine” structure with a maximum height of 57’ in order to accommodate the “crown” of the “tree”. All other conditions of approval remained unaltered. (See attached Planning Commission meeting minutes with attachments, pgs. 75-166.)

- C. **DESCRIPTION:** On September 4, 2015 the Allreds filed an appeal of the Planning Commission’s action with the Clerk of the Board of Supervisors (letter attached, see pg. 21). Below are staff’s responses to the issues identified in the Allreds’ letter of appeal.

**Significant impacts under CEQA:** The permit is an administrative permit issued by staff if the application meets the criteria/standards set forth in the code. The presumption is that if the project meets these criteria there is no impact to the environment. Furthermore, 47 U.S.C. § 332(c)(7)(B)(iv) (2010) states, **“(iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission’s regulations concerning such emissions.”**

The definition of “personal wireless services” is set out in (C) of this same code which reads:

*“(C) Definitions*

*For purposes of this paragraph –*

- (i) The term “personal wireless services” means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services;*
- (ii) The term “personal wireless service facilities” means facilities for the provision of personal wireless services; and*
- (iii) The term “unlicensed wireless service” means...”. (excerpt attached, see pgs. 10-14)*

**Noncompliance with local law:** County Code Section 19.48.150 F. sets out the information required to be submitted with an application for wireless communication facilities. It reads:

*“F. Application Requirements. The following shall apply to all applications for wireless service facilities:*

- 1. Alternate Site and Network Analysis. As part of a complete application, the applicant shall submit proof that all alternate sites have been explored and analyzed. The method of analysis shall be reviewed by the planning department staff. The applicant shall provide a map and analysis of existing facilities and a report explaining why co-location is not feasible.*
- 2. Photo Simulations. As part of a complete application, the applicant shall submit relevant colored photo simulations acceptable to the planning department staff of the proposed wireless services facility from all relevant view sheds, roadways and neighboring properties.*

*3. RF Requirements. The application for a use permit shall contain a report or summary of the estimates of the non-ionizing radiation generated by the facility. The report shall include estimates of the maximum electric and magnetic field strength at the edge of the facility site, the extent that measurable fields extend in all directions from the facility.”*

The initial application was submitted with the requisite information:

- a site plan;
- various photosimulations of the site, with and without the tower;
- a Radio Frequency Emissions Compliance Report; and
- an explanation that there are no other alternative sites available in the area for co-location of these facilities and the fact this is an existing facility.

In addition to the above information submitted with the initial application, the following clarifying information was submitted by the applicant for the Planning Commission’s consideration during the appeal process:

- Amendment to Radio Frequency Emissions Compliance Report by Waterford Consultants, LLC dated August 18, 2015 providing further explanation about the analysis and a specific assessment of the Allred property, and clarifying that the survey results are cumulative and do in fact reflect RF emissions from other sources such as from other facilities located on the wind turbine structure (e.g., Volcano Communications Group WiFi). (p. 50-51)
- Letter from Previsualists, Inc. dated August 19, 2015 explaining the methodology and technical aspects used in developing the photosimulations and stating the photos represent a “standard” viewpoint, not telephoto or wide angle. (p. 64-65)

**All other issues previously presented:** Nonspecific. The information in this Staff Report contains the various submittals outlining issues raised.

**Any other relevant issues:** No specifics have been provided.

In response to the appeal Epic Wireless has provided information and responses to the issues raised by the Allreds (see attached, pgs. 33-65)

Additional correspondence regarding this matter received since the Planning Commission meeting is also included – see pages 67-73)

**D. POTENTIAL BOARD ACTIONS:** After taking public comment the Board may choose to do one of the following:

- 1) Grant the appeal and vacate the Planning Commission's approval of the use permit.
- 2) Deny the appeal and uphold the Planning Commission's approval of the use permit as conditioned.
- 3) Deny the appeal but amend or add conditions of approval as the Board determines appropriate.



**2)**

**TITLE 47 U.S. CODE  
SECTION 332**

(1) The term "interstate commerce" means (A) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States and any place outside thereof which is within the United States, (B) commerce between points in the same State, the District of Columbia, the Commonwealth of Puerto Rico, or possession of the United States but through any place outside thereof, or (C) commerce wholly within the District of Columbia or any possession of the United States.

(2) The term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States, but does not include the Canal Zone.

(June 19, 1934, ch. 652, title III, § 330, as added Pub. L. 87-529, § 2, July 10, 1962, 76 Stat. 151; amended Pub. L. 101-431, § 4, Oct. 15, 1990, 104 Stat. 961; Pub. L. 104-104, title V, § 551(d), Feb. 8, 1996, 110 Stat. 141; Pub. L. 111-260, title II, § 203(c), Oct. 8, 2010, 124 Stat. 2773.)

#### REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (d)(2), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

#### AMENDMENTS

2010—Subsec. (b). Pub. L. 111-260, in first sentence substituted "303(u) and (z)" for "303(u)", in second sentence substituted "Such rules shall provide performance and display standards for such built-in decoder circuitry or capability designed to display closed captioned video programming, the transmission and delivery of video description services, and the conveyance of emergency information as required by section 303 of this title." for "Such rules shall provide performance and display standards for such built-in decoder circuitry.", and in fourth sentence substituted "closed-captioning service and video description service continue" for "closed-captioning service continues".

1996—Subsec. (c). Pub. L. 104-104, § 551(d)(1)(B), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 104-104, § 551(d)(2), in introductory provisions substituted "and sections 303(s), 303(u), and 303(x) of this title" for "section 303(s) of this title, and section 303(u) of this title".

Pub. L. 104-104, § 551(d)(1)(B), redesignated subsec. (c) as (d).

1990—Subsecs. (b), (c). Pub. L. 101-431 added subsec. (b), redesignated former subsec. (b) as (c), and substituted "section 303(s) of this title, and section 303(u) of this title" for "and section 303(s) of this title".

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-431 effective July 1, 1993, see section 5 of Pub. L. 101-431, set out as a note under section 303 of this title.

### § 331. Very high frequency stations and AM radio stations

#### (a) Very high frequency stations

It shall be the policy of the Federal Communications Commission to allocate channels for very high frequency commercial television broadcasting in a manner which ensures that not less than one such channel shall be allocated to each State, if technically feasible. In any case in which licensee of a very high frequency commercial television broadcast station notifies the Commission to the effect that such licensee will

agree to the reallocation of its channel to a community within a State in which there is allocated no very high frequency commercial television broadcast channel at the time<sup>1</sup> such notification, the Commission shall, notwithstanding any other provision of law, order such reallocation and issue a license to such licensee for that purpose pursuant to such notification for a term of not to exceed 5 years as provided in section 307(d)<sup>2</sup> of this title.

#### (b) AM radio stations

It shall be the policy of the Commission, in any case in which the licensee of an existing AM daytime-only station located in a community with a population of more than 100,000 persons that lacks a local full-time aural station licensed to that community and that is located within a Class I station primary service area notifies the Commission that such licensee seeks to provide full-time service, to ensure that such a licensee is able to place a principal community contour signal over its entire community of license 24 hours a day, if technically feasible. The Commission shall report to the appropriate committees of Congress within 30 days after December 20, 1991, on how it intends to meet this policy goal.

(June 19, 1934, ch. 652, title III, § 331, as added Pub. L. 97-248, title III, § 355, Sept. 3, 1982, 96 Stat. 641; amended Pub. L. 102-243, § 4, Dec. 20, 1991, 105 Stat. 2402; Pub. L. 103-414, title III, § 303(a)(18), Oct. 25, 1994, 108 Stat. 4295.)

#### REFERENCES IN TEXT

Subsec. (d) of section 307 of this title, referred to in subsec. (a), was redesignated subsec. (c) of section 307 by Pub. L. 97-259, title I, § 112(a), Sept. 13, 1982, 96 Stat. 1093.

#### CODIFICATION

December 20, 1991, referred to in subsec. (b), was in the original "the date of enactment of this Act", which was translated as meaning the date of enactment of Pub. L. 102-243, which enacted subsec. (b), to reflect the probable intent of Congress.

Another section 331 of act June 19, 1934 was renumbered section 332 and is classified to section 332 of this title.

#### PRIOR PROVISIONS

A prior section 331, act June 19, 1934, ch. 652, title III, § 331, as added Sept. 14, 1973, Pub. L. 93-107, § 1, 87 Stat. 350, related to broadcasting of games of professional sports clubs, prior to repeal by Pub. L. 93-107, § 2, Sept. 14, 1973, 87 Stat. 351, effective Dec. 31, 1975.

#### AMENDMENTS

1994—Pub. L. 103-414 amended section catchline generally.

1991—Pub. L. 102-243 inserted "and AM radio stations" in section catchline, designated existing provisions as subsec. (a) and inserted heading, and added subsec. (b).

### § 332. Mobile services

#### (a) Factors which Commission must consider

In taking actions to manage the spectrum to be made available for use by the private mobile services, the Commission shall consider, consist-

<sup>1</sup> So in original. Probably should be followed by "of".

<sup>2</sup> See References in Text note below.

ent with section 151 of this title, whether such actions will—

- (1) promote the safety of life and property;
- (2) improve the efficiency of spectrum use and reduce the regulatory burden upon spectrum users, based upon sound engineering principles, user operational requirements, and marketplace demands;
- (3) encourage competition and provide services to the largest feasible number of users; or
- (4) increase interservice sharing opportunities between private mobile services and other services.

**(b) Advisory coordinating committees**

(1) The Commission, in coordinating the assignment of frequencies to stations in the private mobile services and in the fixed services (as defined by the Commission by rule), shall have authority to utilize assistance furnished by advisory coordinating committees consisting of individuals who are not officers or employees of the Federal Government.

(2) The authority of the Commission established in this subsection shall not be subject to or affected by the provisions of part III of title 5 or section 1342 of title 31.

(3) Any person who provides assistance to the Commission under this subsection shall not be considered, by reason of having provided such assistance, a Federal employee.

(4) Any advisory coordinating committee which furnishes assistance to the Commission under this subsection shall not be subject to the provisions of the Federal Advisory Committee Act.

**(c) Regulatory treatment of mobile services**

**(1) Common carrier treatment of commercial mobile services**

(A) A person engaged in the provision of a service that is a commercial mobile service shall, insofar as such person is so engaged, be treated as a common carrier for purposes of this chapter, except for such provisions of subchapter II of this chapter as the Commission may specify by regulation as inapplicable to that service or person. In prescribing or amending any such regulation, the Commission may not specify any provision of section 201, 202, or 208 of this title, and may specify any other provision only if the Commission determines that—

- (i) enforcement of such provision is not necessary in order to ensure that the charges, practices, classifications, or regulations for or in connection with that service are just and reasonable and are not unjustly or unreasonably discriminatory;
- (ii) enforcement of such provision is not necessary for the protection of consumers; and
- (iii) specifying such provision is consistent with the public interest.

(B) Upon reasonable request of any person providing commercial mobile service, the Commission shall order a common carrier to establish physical connections with such service pursuant to the provisions of section 201 of this title. Except to the extent that the Commission is required to respond to such a re-

quest, this subparagraph shall not be construed as a limitation or expansion of the Commission's authority to order interconnection pursuant to this chapter.

(C) The Commission shall review competitive market conditions with respect to commercial mobile services and shall include in its annual report an analysis of those conditions. Such analysis shall include an identification of the number of competitors in various commercial mobile services, an analysis of whether or not there is effective competition, an analysis of whether any of such competitors have a dominant share of the market for such services, and a statement of whether additional providers or classes of providers in those services would be likely to enhance competition. As a part of making a determination with respect to the public interest under subparagraph (A)(iii), the Commission shall consider whether the proposed regulation (or amendment thereof) will promote competitive market conditions, including the extent to which such regulation (or amendment) will enhance competition among providers of commercial mobile services. If the Commission determines that such regulation (or amendment) will promote competition among providers of commercial mobile services, such determination may be the basis for a Commission finding that such regulation (or amendment) is in the public interest.

(D) The Commission shall, not later than 180 days after August 10, 1993, complete a rule-making required to implement this paragraph with respect to the licensing of personal communications services, including making any determinations required by subparagraph (C).

**(2) Non-common carrier treatment of private mobile services**

A person engaged in the provision of a service that is a private mobile service shall not, insofar as such person is so engaged, be treated as a common carrier for any purpose under this chapter. A common carrier (other than a person that was treated as a provider of a private land mobile service prior to August 10, 1993) shall not provide any dispatch service on any frequency allocated for common carrier service, except to the extent such dispatch service is provided on stations licensed in the domestic public land mobile radio service before January 1, 1982. The Commission may by regulation terminate, in whole or in part, the prohibition contained in the preceding sentence if the Commission determines that such termination will serve the public interest.

**(3) State preemption**

(A) Notwithstanding sections 152(b) and 221(b) of this title, no State or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service or any private mobile service, except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile services. Nothing in this subparagraph shall exempt providers of commercial mobile services (where such services are a substitute for land line telephone exchange service for a substan-

tial portion of the communications within such State) from requirements imposed by a State commission on all providers of telecommunications services necessary to ensure the universal availability of telecommunications service at affordable rates. Notwithstanding the first sentence of this subparagraph, a State may petition the Commission for authority to regulate the rates for any commercial mobile service and the Commission shall grant such petition if such State demonstrates that—

(i) market conditions with respect to such services fail to protect subscribers adequately from unjust and unreasonable rates or rates that are unjustly or unreasonably discriminatory; or

(ii) such market conditions exist and such service is a replacement for land line telephone exchange service for a substantial portion of the telephone land line exchange service within such State.

The Commission shall provide reasonable opportunity for public comment in response to such petition, and shall, within 9 months after the date of its submission, grant or deny such petition. If the Commission grants such petition, the Commission shall authorize the State to exercise under State law such authority over rates, for such periods of time, as the Commission deems necessary to ensure that such rates are just and reasonable and not unjustly or unreasonably discriminatory.

(B) If a State has in effect on June 1, 1993, any regulation concerning the rates for any commercial mobile service offered in such State on such date, such State may, no later than 1 year after August 10, 1993, petition the Commission requesting that the State be authorized to continue exercising authority over such rates. If a State files such a petition, the State's existing regulation shall, notwithstanding subparagraph (A), remain in effect until the Commission completes all action (including any reconsideration) on such petition. The Commission shall review such petition in accordance with the procedures established in such subparagraph, shall complete all action (including any reconsideration) within 12 months after such petition is filed, and shall grant such petition if the State satisfies the showing required under subparagraph (A)(i) or (A)(ii). If the Commission grants such petition, the Commission shall authorize the State to exercise under State law such authority over rates, for such period of time, as the Commission deems necessary to ensure that such rates are just and reasonable and not unjustly or unreasonably discriminatory. After a reasonable period of time, as determined by the Commission, has elapsed from the issuance of an order under subparagraph (A) or this subparagraph, any interested party may petition the Commission for an order that the exercise of authority by a State pursuant to such subparagraph is no longer necessary to ensure that the rates for commercial mobile services are just and reasonable and not unjustly or unreasonably discriminatory. The Commission shall provide reasonable opportunity for public comment in response to such petition, and

shall, within 9 months after the date of its submission, grant or deny such petition in whole or in part.

**(4) Regulatory treatment of communications satellite corporation**

Nothing in this subsection shall be construed to alter or affect the regulatory treatment required by title IV of the Communications Satellite Act of 1962 [47 U.S.C. 741 et seq.] of the corporation authorized by title III of such Act [47 U.S.C. 731 et seq.].

**(5) Space segment capacity**

Nothing in this section shall prohibit the Commission from continuing to determine whether the provision of space segment capacity by satellite systems to providers of commercial mobile services shall be treated as common carriage.

**(6) Foreign ownership**

The Commission, upon a petition for waiver filed within 6 months after August 10, 1993, may waive the application of section 310(b) of this title to any foreign ownership that lawfully existed before May 24, 1993, of any provider of a private land mobile service that will be treated as a common carrier as a result of the enactment of the Omnibus Budget Reconciliation Act of 1993, but only upon the following conditions:

(A) The extent of foreign ownership interest shall not be increased above the extent which existed on May 24, 1993.

(B) Such waiver shall not permit the subsequent transfer of ownership to any other person in violation of section 310(b) of this title.

**(7) Preservation of local zoning authority**

**(A) General authority**

Except as provided in this paragraph, nothing in this chapter shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.

**(B) Limitations**

(i) The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof—

(I) shall not unreasonably discriminate among providers of functionally equivalent services; and

(II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.

(ii) A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request.

(iii) Any decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify per-

sonal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record.

(iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.

(v) Any person adversely affected by any final action or failure to act by a State or local government or any instrumentality thereof that is inconsistent with this subparagraph may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction. The court shall hear and decide such action on an expedited basis. Any person adversely affected by an act or failure to act by a State or local government or any instrumentality thereof that is inconsistent with clause (iv) may petition the Commission for relief.

#### (C) Definitions

For purposes of this paragraph—

(i) the term "personal wireless services" means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services;

(ii) the term "personal wireless service facilities" means facilities for the provision of personal wireless services; and

(iii) the term "unlicensed wireless service" means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services (as defined in section 303(v) of this title).

#### (8) Mobile services access

A person engaged in the provision of commercial mobile services, insofar as such person is so engaged, shall not be required to provide equal access to common carriers for the provision of telephone toll services. If the Commission determines that subscribers to such services are denied access to the provider of telephone toll services of the subscribers' choice, and that such denial is contrary to the public interest, convenience, and necessity, then the Commission shall prescribe regulations to afford subscribers unblocked access to the provider of telephone toll services of the subscribers' choice through the use of a carrier identification code assigned to such provider or other mechanism. The requirements for unblocking shall not apply to mobile satellite services unless the Commission finds it to be in the public interest to apply such requirements to such services.

#### (d) Definitions

For purposes of this section—

(1) the term "commercial mobile service" means any mobile service (as defined in section 153 of this title) that is provided for profit and makes interconnected service available (A) to the public or (B) to such classes of eligible users as to be effectively available to a

substantial portion of the public, as specified by regulation by the Commission;

(2) the term "interconnected service" means service that is interconnected with the public switched network (as such terms are defined by regulation by the Commission) or service for which a request for interconnection is pending pursuant to subsection (c)(1)(B) of this section; and

(3) the term "private mobile service" means any mobile service (as defined in section 153 of this title) that is not a commercial mobile service or the functional equivalent of a commercial mobile service, as specified by regulation by the Commission.

(June 19, 1934, ch. 652, title III, §332, formerly §331, as added Pub. L. 97-259, title I, §120(a), Sept. 13, 1982, 96 Stat. 1096; renumbered §332, Pub. L. 102-385, §25(b), Oct. 5, 1992, 106 Stat. 1502; amended Pub. L. 103-66, title VI, §6002(b)(2)(A), Aug. 10, 1993, 107 Stat. 392; Pub. L. 104-104, §3(d)(2), title VII, §§704(a), 705, Feb. 8, 1996, 110 Stat. 61, 151, 153.)

#### REFERENCES IN TEXT

Provisions of part III of title 5, referred to in subsec. (b)(2), are classified to section 2101 et seq. of Title 5, Government Organization and Employees.

The Federal Advisory Committee Act, referred to in subsec. (b)(4), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5.

This chapter, referred to in subsec. (c), was in the original "this Act", meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

The Communications Satellite Act of 1962, referred to in subsec. (c)(4), is Pub. L. 87-624, Aug. 31, 1962, 76 Stat. 419, as amended. Titles III and IV of the Act are classified generally to subchapters III (§731 et seq.) and IV (§741 et seq.), respectively, of chapter 6 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 701 of this title and Tables.

The Omnibus Budget Reconciliation Act of 1993, referred to in subsec. (c)(6), is Pub. L. 103-66, Aug. 10, 1993, 107 Stat. 312, as amended. For complete classification of this Act to the Code, see Tables.

#### CODIFICATION

In subsec. (b)(2), "section 1342 of title 31" substituted for "section 3679(b) of the Revised Statutes (31 U.S.C. 665(b))" on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

#### AMENDMENTS

1996—Subsec. (c)(7), Pub. L. 104-104, §704(a), added par. (7).

Subsec. (c)(8), Pub. L. 104-104, §705, added par. (8).

Subsec. (d)(1), (3), Pub. L. 104-104, §3(d)(2), substituted "section 153" for "section 153(n)".

1993—Pub. L. 103-66 struck out "Private land" before "mobile services" in section catchline, struck out "land" before "mobile services" wherever appearing in subsecs. (a) and (b), added subsecs. (c) and (d), and struck out former subsec. (c) which related to service provided by specialized mobile radio, multiple licensed radio dispatch systems, and other radio dispatch systems; common carriers; and rate or entry regulations.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Section 6002(c) of Pub. L. 103-66 provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 152, 153, and 309 of this title] are effective on the date of enactment of this Act [Aug. 10, 1993].

“(2) EFFECTIVE DATES OF MOBILE SERVICE AMENDMENTS.—The amendments made by subsection (b)(2) [amending this section and sections 152 and 153 of this title] shall be effective on the date of enactment of this Act [Aug. 10, 1993], except that—

“(A) section 332(c)(3)(A) of the Communications Act of 1934 [subsec. (c)(3)(A) of this section], as amended by such subsection, shall take effect 1 year after such date of enactment; and

“(B) any private land mobile service provided by any person before such date of enactment, and any paging service utilizing frequencies allocated as of January 1, 1993, for private land mobile services, shall, except for purposes of section 332(c)(6) of such Act [subsec. (c)(6) of this section], be treated as a private mobile service until 3 years after such date of enactment.”

#### AVAILABILITY OF PROPERTY

Section 704(c) of Pub. L. 104-104 provided that: “Within 180 days of the enactment of this Act [Feb. 8, 1996], the President or his designee shall prescribe procedures by which Federal departments and agencies may make available on a fair, reasonable, and nondiscriminatory basis, property, rights-of-way, and easements under their control for the placement of new telecommunications services that are dependent, in whole or in part, upon the utilization of Federal spectrum rights for the transmission or reception of such services. These procedures may establish a presumption that requests for the use of property, rights-of-way, and easements by duly authorized providers should be granted absent unavoidable direct conflict with the department or agency’s mission, or the current or planned use of the property, rights-of-way, and easements in question. Reasonable fees may be charged to providers of such telecommunications services for use of property, rights-of-way, and easements. The Commission shall provide technical support to States to encourage them to make property, rights-of-way, and easements under their jurisdiction available for such purposes.”

#### TRANSITIONAL RULEMAKING FOR MOBILE SERVICE PROVIDERS

Section 6002(d)(3) of Pub. L. 103-66 provided that: “Within 1 year after the date of enactment of this Act [Aug. 10, 1993], the Federal Communications Commission—

“(A) shall issue such modifications or terminations of the regulations applicable (before the date of enactment of this Act) to private land mobile services as are necessary to implement the amendments made by subsection (b)(2) [amending this section and sections 152 and 153 of this title];

“(B) in the regulations that will, after such date of enactment, apply to a service that was a private land mobile service and that becomes a commercial mobile service (as a consequence of such amendments), shall make such other modifications or terminations as may be necessary and practical to assure that licensees in such service are subjected to technical requirements that are comparable to the technical requirements that apply to licensees that are providers of substantially similar common carrier services;

“(C) shall issue such other regulations as are necessary to implement the amendments made by subsection (b)(2); and

“(D) shall include, in such regulations, modifications, and terminations, such provisions as are necessary to provide for an orderly transition.”

#### § 333. Willful or malicious interference

No person shall willfully or maliciously interfere with or cause interference to any radio

communications of any station licensed or authorized by or under this chapter or operated by the United States Government.

(June 19, 1934, ch. 652, title III, § 333, as added Pub. L. 101-396, § 9, Sept. 28, 1990, 104 Stat. 850.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

#### § 334. Limitation on revision of equal employment opportunity regulations

##### (a) Limitation

Except as specifically provided in this section, the Commission shall not revise—

(1) the regulations concerning equal employment opportunity as in effect on September 1, 1992 (47 C.F.R. 73.2080) as such regulations apply to television broadcast station licensees and permittees; or

(2) the forms used by such licensees and permittees to report pertinent employment data to the Commission.

##### (b) Midterm review

The Commission shall revise the regulations described in subsection (a) of this section to require a midterm review of television broadcast station licensees’ employment practices and to require the Commission to inform such licensees of necessary improvements in recruitment practices identified as a consequence of such review.

##### (c) Authority to make technical revisions

The Commission may revise the regulations described in subsection (a) of this section to make nonsubstantive technical or clerical revisions in such regulations as necessary to reflect changes in technology, terminology, or Commission organization.

(June 19, 1934, ch. 652, title III, § 334, as added Pub. L. 102-385, § 22(f), Oct. 5, 1992, 106 Stat. 1499.)

#### EFFECTIVE DATE

Section effective 60 days after Oct. 5, 1992, see section 28 of Pub. L. 102-385, set out as an Effective Date of 1992 Amendment note under section 325 of this title.

#### § 335. Direct broadcast satellite service obligations

##### (a) Proceeding required to review DBS responsibilities

The Commission shall, within 180 days after October 5, 1992, initiate a rulemaking proceeding to impose, on providers of direct broadcast satellite service, public interest or other requirements for providing video programming. Any regulations prescribed pursuant to such rulemaking shall, at a minimum, apply the access to broadcast time requirement of section 312(a)(7) of this title and the use of facilities requirements of section 315 of this title to providers of direct broadcast satellite service providing video programming. Such proceeding also shall examine the opportunities that the establishment of direct broadcast satellite service pro-

**3)**  
**COUNTY CODE**  
**SECTION 19.48.150**  
**COMMERCIAL**  
**WIRELESS SERVICE**  
**FACILITIES**

**19.48.150 Commercial wireless service facilities.**

A. Purpose. This section provides for the orderly development of wireless service facilities to encourage appropriate locations, protect the character of neighborhoods and communities, reduce the potential for health and safety hazards, and maintain the visual quality of Amador County, especially along highways and roadways.

B. Allowed Zone Districts. Wireless service facilities and ancillary equipment buildings shall only be allowed in the following zone districts (except those described in subsection C of this section): "A," "AG," "C-1," "C-2," "H," "LM," "MM," "M," and "TPZ"; on parcels twenty acres or larger in size in the "R1-A" and "X" zone districts when located in the following General Plan classifications: A-G, A-M, A-U, MRZ, and G-F; and on parcels, regardless of zoning or size, owned by a public entity or public utility located in the PS General Plan classification.

C. Permitted without a Use Permit. Facilities that are building mounted or totally enclosed within a building shall be permitted in any zone district. Building mounted facilities in a residential or other zone district shall be located or screened so as to prevent any public view or shall be architecturally designed to appear as an integral part of the building on which it is attached. The height is limited to that allowed in the district in which located.

D. Staff Issued Use Permits. Use permits may be issued by the planning department staff for wireless service facilities which are up to fifty feet in height, provided the application and approval are consistent with subsections F and G of this section. Prior to issuing a permit, the planning department staff shall notify affected property owners (as determined by the planning department staff). If the planning department receives opposition to the permit application within ten calendar days after notifying affected property owners, the permit may be denied. The applicant or any interested person may appeal the planning department decision pursuant to Chapter 19.64 of this title within ten calendar days after said decision. Approved use permits shall become valid following the ten-day appeal period if no appeals are filed.

E. Permitted with an Approved Use Permit. Wireless service facilities more than fifty feet in height and ancillary equipment buildings shall be allowed upon approval of a conditional use permit in the allowed zone districts (listed in subsection B of this section) in accordance with Chapter 19.56 (Use Permits) of the Amador County Code.

F. Application Requirements. The following shall apply to all applications for wireless service facilities:



1. Alternate Site and Network Analysis. As part of a complete application, the applicant shall submit proof that all alternate sites have been explored and analyzed. The method of analysis shall be reviewed by the planning department staff. The applicant shall provide a map and analysis of existing facilities and a report explaining why co-location is not feasible.
2. Photo Simulations. As part of a complete application, the applicant shall submit relevant colored photo simulations acceptable to the planning department staff of the proposed wireless services facility from all relevant view sheds, roadways and neighboring properties.
3. RF Requirements. The application for a use permit shall contain a report or summary of the estimates of the non-ionizing radiation generated by the facility. The report shall include estimates of the maximum electric and magnetic field strength at the edge of the facility site, the extent that measurable fields extend in all directions from the facility.

#### G. Development Standards.

1. Aesthetic Considerations. Decisions on all use permits shall take into consideration the aesthetic impact of the proposed wireless service facility and shall include conditions of approval to minimize the visual impact of the wireless service facility as seen from roadways and other properties should any adverse effects be noted. Facilities that are judged to adversely affect the visual quality of the county shall be denied. Colors and materials shall blend with existing structures and vegetation.
2. Screening. Any new support facilities, including ancillary equipment buildings, visible from residential properties or from major arterial streets shall be screened or camouflaged to mitigate adverse visual impacts.
3. Skyline. Facilities shall not adversely affect public views of skylines or skyline views from other properties. The scale of all facilities shall be consistent with existing structures and vegetation. The height of facilities shall not exceed existing tree lines or buildings along a skyline by more than fifteen feet.
4. Lighting. No lighting on wireless service facilities shall be allowed. Security lighting may be allowed on ancillary equipment buildings if approved with a conditional use permit. All security lighting shall be shielded from roadways, traffic and other properties.

5. Setbacks. All wireless service facilities shall have a minimum building setback from all property lines and public road rights-of-way equal to the height of the facility. Setback waivers shall be approved through the conditional use permit process.

6. FAA Recommendations. The recommendations outlined in the FAA Advisory Circular pertaining to the marking of hazards shall be applied by staff in a prudent manner on a case by case basis.

H. Co-location. A use permit shall be required for all co-located facilities that will extend an existing site or structure by more than ten feet above the originally permitted structure and are subject to the application requirements and development standards of this section.

I. Other Considerations. Wireless service facilities are subject to all other applicable regulations and permits, including those of the Public Utility Commission (PUC) of the state of California and the Federal Communications Commission (FCC). A building permit is required for all wireless service facilities and ancillary equipment buildings.

J. Abandoned Wireless Facilities. All wireless service facilities (referred to as "facilities") and equipment that are not used for a period of six months shall be removed from the site and the site cleared of any debris by the permittee within ninety days after notice from the county. If the permittee has not done so within such ninety-day period, the county may effect the removal using the bond described in subsection K of this section.

K. Security. At the time any permittee obtains a permit for a wireless service facility or other equipment, the permittee shall provide a performance bond in the amount of one hundred percent of the county's estimated cost for removal of the facility and other equipment, including administrative costs. Said amounts may be revised by the county. The bond shall be utilized by the county in the event that the permittee fails to remove the facility and/or other equipment. If the cost of removal thereof exceeds the bond amount, the landowner, if a different person or entity from the permittee, shall remove the remaining portions of the facility and/or other equipment at the landowner's expense or pay to the county the costs necessary to complete the removal.

L. Definitions. As used in this section, the following terms shall have the meaning indicated:

1. Wireless Service Facility. This term shall refer to all facilities providing wireless service, such as towers, lattice towers, guy-wired towers, poles, monopoles, rods, antennas, panel antennas, whip antennas, cellular communication systems, microwave dishes, equipment shelters,

reflecting discs or similar devices used for the transmission and/or reception of electromagnetic waves.

2. Height. "Height" shall mean, when referring to a tower (as part of a wireless service facility) or other structure, the distance measured from the ground level to the highest point on the facility or other structure which is greater than two inches in diameter.

3. Radio Frequency (RF). The portion of the electromagnetic spectrum between the audio-frequency portion and the infrared portion. (Ord. 1698 §3, 2010; Ord. 1548 §4, 2002).

**4)**  
**APPEAL LETTER AND  
ADDITIONAL  
INFORMATION AND  
CORRESPONDENCE  
SUBMITTED BY  
APPELLANT**

September 4, 2015

Elton and Laura Allred  
19525 American Flat Side Road  
Fiddletown, California 95629



re: Appeal of permit for Epic Wireless Group, LLC/Verizon  
Wireless, UP-15; 5-5 APN 015-020-016-000 - 19580  
American Flat Side Road

Dear Amador County:

We are appealing the decision of the Planning  
Commission dated August 25, 2015.

The basis of this appeal is the potential for significant  
impacts under CEQA, non-compliance with local law, all  
other issues previously presented, and any other relevant  
issues.

Respectfully,

Elton and Laura Allred



Planning Department <planning@amadorgov.org>

**Fwd: photography**

1 message

Laura Allred <llallred2010@gmail.com>  
To: Planning Department <planning@amadorgov.org>

Mon, Aug 31, 2015 at 12:02 PM

Hello Planning Department,

I am forwarding for your records one of the professional photographer letters.

I will forward to your department the other letter as soon as possible.

Thank you,

Laura

RECEIVED  
Amador County  
AUG 31 2015  
PLANNING DEPARTMENT

----- Forwarded message -----

From: Daniel D'Agostini <daniel@dagostini.com>  
Date: Wed, Aug 19, 2015 at 2:06 PM  
Subject: photography  
To: Laura Allred <llallred2010@gmail.com>

Hello Laura Allred,

Today, August 19th, 2015, I accompanied you to several locations within the area where you live to photograph views of the proposed Verizon tower site. I photographed from the yards of three private residences and the Fiddletown Cemetery. I also photographed from locations along American Flat Side Road using reference photographs taken by www.photosim.com.

I used a Nikon D-700 camera equipped with a AF-S Nikkor 24-70mm 1:2.8G ED lens to capture 12 images. I used no filters and set the lens to 70mm to capture an image that equals a normal eye view. There is no enlargement or magnification or cropping. The image is how it looks to a normal eye. The reference images were taken with a panoramic view settings that push everything in the view further away as would any wide angle lens.

I am providing the 12 images in three ways. One copy of each image at full size: approximately 9-13 MB 300 dpi. One copy of each image full size but reduced to 72 dpi for ease in presenting digitally. One copy of the 72 dpi with my name and copyright visible on image.

The total size of the file is 138.1 MB. As this is far too large to send via e-mail it would be best for you to come by with a usb memory card and collect directly from my computer. They are ready now.

Sincerely,

Daniel D'Agostini



Planning Department <planning@amadorgov.org>

---

**Fwd: Letter of perspective.**

1 message

---

Laura Allred <lallred2010@gmail.com>  
To: Planning Department <planning@amadorgov.org>


Mon, Aug 31, 2015 at 12:03 PM

*Professional Imaging*

**Robert A. Eplett**

---

---

 Tower Letter.docx  
178K

RECEIVED  
Amador County

AUG 31 2015

PLANNING DEPARTMENT



Photography by Robert A. Eplett

2535 Mossy Oaks Court  
Rancho Cordova, CA 95670  
Phone: (916) 601-3033

E-Mail:

AUG 31 2015

PLANNING DEPARTMENT

August 24, 2015

Laura,

I have been a professional photographer for over 40 years. I retired in 2011 as a photographer for the State of California for more than 30 years and have also done work for the United States Air Force, NASA, photography studios, many private companies, and freelance work for individuals. As a State photographer, my work was used for legal, educational and historical purposes. My photographs appear in many publications including international magazines and National Geographic.

I have reviewed the information you provided me regarding the installation of a Verizon tower in Fiddletown, California, including photographs and correspondence from Previsualists who took pictures for Verizon Wireless. I have also reviewed the photographs and accompanying information from Daniel D'Agostini who took pictures for you.

In my professional opinion, **none** of the Previsualists' photographic simulations accurately depict what it would look like to the human eye if Verizon Wireless installed a tower in the location indicated (near the existing windmill).

The photographs taken by Previsualists do not accurately portray the scene as it would appear to the naked eye because a wide-angle lens was used. In particular, as was stated, an 18mm lens. Due to the wide angle, focal length of this lens, the distance perspective is widened immensely. Hence, the ratio of distance between foreground and background subjects is distorted.

The photographs taken by Daniel D'Agostini are more accurate due to the focal-length lens he used which created photographs that depict the scene closer to how it would appear to the naked eye.

Using the existing photographs, I have created mock-up images by dropping the tower from Verizon's schematic plans into the photographs taken by Mr. D'Agostini. These photographs more accurately depict what homeowners and others would see because the lens used more closely represents the view as seen by the naked eye.

I sent you a set of images depicting a stop sign shot with different focal-length lenses to show the difference in perspective of views of foreground and background objects. As you view these, I feel you will better understand the importance of using the appropriate focal-length lens for an accurate depiction of any object. A wide-angle or telephoto lens will distort the view immensely from the human-eye perspective.

Sincerely,

Robert A. Eplett



Elton and Laura Allred  
PO Box 38  
Fiddletown, California 95629

RECEIVED  
Amador County  
SEP 24 2015  
PLANNING DEPARTMENT

September 23, 2015

Re: Fiddletown proposed commercial telecommunications facility.  
APN: 015-020-016-000, 19580 American Flat Side Road,  
Fiddletown, California 95629

Epic Wireless Group, LLC / Verizon Wireless

Karen Lienert

Dear Verizon Wireless,

We have been consulting with environmental consultants and we have provided all RF reports to them. As a result they have requested an RF Power Density Computer Modeling Assessment of not only the proposed Verizon wireless project, but for the existing wireless facility, and also for the cumulative project (both the existing and proposed wireless facilities).

We specifically request that Data Request Forms be filled out by the RF consultant and returned to us for the base data to verify these calculations. We need a completed Data Request Form for the existing project, one for the proposed project, and one for the cumulative project RF. To clarify we are requesting for three separate forms to be returned. A form is attached to this letter.

Further we are requesting an RF Power Density Modeling Report (RFR Computer Modeling per FCC OET 65, Equation 6 with 100% reflection factor) for the existing project and for the cumulative project (existing and proposed wireless antenna facilities). The information we are specifically

requesting in these two analyses includes:

- Antenna make and model (with horizontal and vertical antenna patterns)
- antenna transmitter location and AGL information for each antenna height
- the number of transmitters operating simultaneously
- the frequency of each transmitting antenna
- the number of channels (radios) per antenna
- the effective maximum radiated power (ERP) for each channel and the expected radiated power for each channel
- the direction of each antenna (show vertical plane pattern)
- downtilt of antennas should be used in calculations
- RFR calculations depicting the maximum RF power density out to 0.01  $\mu\text{W}/\text{cm}^2$  shall be calculated and provided in table format at 10' intervals for the proposed project separately, the existing wireless antenna facilities separately, and for the cumulative (combined) antennas. The cumulative power density from all co-located transmitting antennas should be provided in tabular format at 10' intervals. Calculations per FCC OET 65, 100% reflection factor.
- the RF power density in microwatts/cm<sup>2</sup> ( $\mu\text{W}/\text{cm}^2$ ) at 3' above ground level should be calculated.
- If there are multiple elevations that antennas will be mounted on the 50' pole, the RF consultant should use those vertical elevations in the calculations (AGL above ground level on the cell tower pole).
- a topographic map showing location of the site, the Allred residence at 1546' horizontal distance, at 1954' elevation and of any surrounding buildings.
- a topographic map showing location of the site, the Allred back yard at 1560' horizontal distance, at 1933' elevation and of any surrounding buildings.

- RF power density should be overlain on a land use map showing nearest uncontrolled public access, distance to occupied buildings and designated land use for each location specified in this letter (home, patio, yards, stable, etc)

The purpose for generating this information is to allow adjacent property owners and the public to make reasoned judgments about whether and where to spend time at home, work, school and play with respect to chronic, low-level RF exposure. Until better regulatory standards guide land-use compatibility decisions about whether and where to site new wireless transmitters, the public is obligated to request more detailed information than most applicants routinely provide, to become informed, and to make personal choices about RF exposure. At present, the circumstances generally make chronic, low-level RF exposure involuntary by keeping information out of the public arena. Whether this situation will continue may be related in part to the ability of the public to become aware of what is known and what is not known about RF exposures from cell sites, about potential health risks and the need for continuing independent RF research, and to become more active in the decision-making process about how this technology is allowed to expand and influence our daily living.

Finally, we request that the appeal process be continued until these important documents are received, we have a two-week period for review of the information, and the County staff and the public can have access to them.

We appreciate your prompt response and action.

Elton and Laura Allred

**RADIOFREQUENCY RADIATION MODELING  
DATA REQUEST SHEET**

Please provide the following information on the wireless antenna site at \_\_\_\_\_.

Effective Radiated Power from the antenna: \_\_\_\_\_ watts

Antenna type

Manufacturer

Model No.

Antenna Gain \_\_\_\_\_ dB

Vertical and Horizontal Radiation Patterns (Diagrams Please)

Beam Tilt

Sectorized? Yes or No

Coverage per sector?

Degrees between sector?

Number of transmit antennas? \_\_\_\_\_

Antenna height (radiation center) Sectors A,B,C = (feet') AGL,  
Sector D = (feet') AGL.



Planning Department <planning@amadorgov.org>

---

## Re: Request

2 messages

---

Laura Allred <llallred2010@gmail.com>

Tue, Sep 29, 2015 at 12:40 PM

To: Karen Lienert <landmarkconsulting@sbcglobal.net>

Cc: Jennifer Burns <jburns@amadorgov.org>, Planning Department <planning@amadorgov.org>

Verizon Wireless,

The terms that you offer effectively rule out our requested information.

Requiring a registered PE and a non-disclosure agreement is blocking and stopping what should be public information.

Please re-read the request and provide the necessary information in the interest of the public.

Elton and Laura Allred

On Sat, Sep 26, 2015 at 1:34 PM, Karen Lienert <landmarkconsulting@sbcglobal.net> wrote:

Good afternoon Laura,

I have spoken with Verizon's attorneys regarding this request. Verizon Wireless will provide additional emissions information to a licensed electrical professional engineer (P.E.) registered in the state of California. Prior to the delivery of information, the engineer will have to enter into a non-disclosure agreement with Verizon Wireless.

Please let me know if you wish to proceed with this and I will have the non-disclosure agreement prepared.

Thank you.

Karen

---

**From:** Laura Allred [mailto:llallred2010@gmail.com]

**Sent:** Wednesday, September 23, 2015 8:56 PM

**To:** Karen Lienert <landmarkconsulting@sbcglobal.net>; Jennifer Burns <jburns@amadorgov.org>

**Subject:** Request

Please see attached letter.

---

**Karen Lienert** <landmarkconsulting@sbcglobal.net>

Mon, Oct 5, 2015 at 11:34 AM

To: Laura Allred <llallred2010@gmail.com>

Cc: Jennifer Burns <jburns@amadorgov.org>, Planning Department <planning@amadorgov.org>

Good morning Laura,

The intent is not to block information. Verizon Wireless feels it necessary to confirm that the information they provide will be competently reviewed and that while they will require a nondisclosure agreement, much of the information requested would not be confidential and could be disclosed as part of the engineer's review.

Please let me know how you would like to proceed.

Thank you.

Karen

**From:** Laura Allred [mailto:llallred2010@gmail.com]

**Sent:** Tuesday, September 29, 2015 12:41 PM

**To:** Karen Lienert <landmarkconsulting@sbcglobal.net>

**Cc:** Jennifer Burns <jburns@amadorgov.org>; Planning Department <planning@amadorgov.org>

**Subject:** Re: Request

[Quoted text hidden]



Planning Department &lt;planning@amadorgov.org&gt;

---

**Supervisor Hearing scheduled 10-13-2015**

1 message

Laura Allred &lt;lallred2010@gmail.com&gt;

Wed, Sep 30, 2015 at 10:24 AM

To: Jennifer Burns &lt;jburns@amadorgov.org&gt;, Planning Department &lt;planning@amadorgov.org&gt;

Dear Amador County Supervisors,

We have presented our position since receiving notice on July 1, 2015, regarding the proposed tower. We hope that each of you will give this information your attention and consideration. In this act of prudence we are showing care and thought for the future. We believe our actions are reasonable and that society requires its members to protect their own and the interests of others. It would be negligent to fail to exercise this care toward others which a reasonable or prudent person would do in the same or similar circumstance.

We appreciate the idea of good intellectual capacity to deal with Amador County actions and decisions, but the fact is if the supervisors and staff do not have good information that is reliable and is honest they are not going to have good intelligence and can not make good decisions. The most detrimental decisions are from people who do not know what they do not know.

It is understood that the facts that we have presented during this process have hit a nerve within the county, however, our purpose is to effect positive change. So as an Amador County Supervisor, the county's executive and legislative representative, your primarily elected purpose is not just to know things, but to know what to do with the things that you know.

We hope that you will make yourselves fully informed to make the best decision.

We are looking forward to meeting you and discussing the issues.

Respectfully,

Elton and Laura Allred

**5)**  
**ADDITIONAL**  
**INFORMATION**  
**SUMMITTED BY EPIC**  
**WIRELESS GROUP**



**MACKENZIE & ALBRITTON LLP**

220 SANSOME STREET, 14<sup>TH</sup> FLOOR  
 SAN FRANCISCO, CALIFORNIA 94104

TELEPHONE 415/288-4000  
 FACSIMILE 415/288-4010

October 6, 2015

**VIA EMAIL AND FEDEX**

RECEIVED  
 Amador County

OCT - 6 2015

PLANNING DEPARTMENT

Chair Brian Oneto  
 Supervisors John Plasse, Richard Forster,  
 Lynn Morgan and Louis Boitano  
 Board of Supervisors  
 Amador County  
 810 Court Street  
 Jackson, California 95642

Re: Appeal of Verizon Wireless Staff-Level Use Permit Application UP-15;5-5  
 Telecommunications Facility, 19580 American Flat Side Road  
Board of Supervisors Agenda, October 13, 2015

Dear Chair Oneto and Supervisors:

We write on behalf of our client Verizon Wireless to ask that you uphold the approval by Planning Department staff, unanimously affirmed by the Planning Commission, of Verizon Wireless's camouflaged wireless facility located east of American Flat Side Road in the Fiddletown area (the "Approved Facility"). The appeal filed by Elton and Laura Allred ("Appellants") has no merit and should be denied. While lengthy and voluminous, Appellants' grounds for appeal are fundamentally based upon the unfounded fear of the health effects of radio frequency emissions. Verizon Wireless has fully documented that the Approved Facility will comply with Federal Communications Commission ("FCC") emissions guidelines such that granting the appeal on these grounds is unwarranted and barred by federal law.

Appellants' argument that the Approved Facility creates undue aesthetic impacts is similarly unwarranted. The Approved Facility is designed to minimize visual impacts and complies with all development standards of Amador County (the "County"). Following the guidance of Planning Department staff, Verizon Wireless redesigned the Approved Facility as a treepole resembling a pine tree placed among other trees of similar and greater height and in a manner that qualifies for a staff-issued use permit. The Approved Facility will provide new Verizon Wireless Long-Term Evolution ("LTE") fourth-generation ("4G") service that is currently unavailable in the Fiddletown area.

As described below, Appellants provide no substantial evidence to warrant denial of the Approved Facility under the Amador County Code (the "Code"). Verizon

Amador County Board of Supervisors  
October 6, 2015

Page 2 of 9

Wireless has provided uncontroverted substantial evidence that the Approved Facility complies with all development standards as required for a staff-issued use permit. In addition, the Approved Facility will fill a significant gap Verizon Wireless service, and there is no less intrusive feasible alternative. For these reasons, denial of the application would violate the federal Telecommunications Act. We strongly encourage you to uphold the carefully-considered decisions of Planning Department staff and the Planning Commission and affirm the approval.

### **I. The Project**

The Approved Facility has been thoughtfully designed to minimize any visual impact on the adjacent community. Verizon Wireless proposes to mount panel antennas on a 50-foot treepole designed to resemble a pine tree. The treepole will be collocated adjacent to an existing 116-foot windmill that currently supports Verizon Wireless antennas, which will be removed, as well as another provider's antennas. (The windmill tower is of insufficient structural capacity to support the new antennas needed to provide new Verizon Wireless services.) The treepole branches will extend beyond the antennas to provide camouflage. The treepole will be placed within an approximately 600 square foot equipment area with a cellblock foundation surrounded by a six-foot chain link fence topped with barbed wire. The equipment area will house radio equipment as well as a 30 kilowatt diesel generator to provide backup power in emergencies. The treepole will be surrounded by numerous existing trees, include pine trees with similar top elevations to the north and oak and pine trees of greater height immediately to the south. Photosimulations of the Approved Facility are attached as Exhibit A.

Reports prepared by Waterford Consultants LLC, dated April 24, 2015 and August 18, 2015 (the "Waterford Reports"), attached as Exhibit B, confirm that radio-frequency ("RF") emissions from the Approved Facility will comply with FCC guidelines. The Approved Facility will not generate significant traffic. In short, the Approved Facility will not have significant adverse impacts of any kind.

### **II. The Approved Facility Complies with All Code Requirements.**

As confirmed in the Planning Department's July 13, 2015 approval of Verizon Wireless's staff-issued use permit and affirmation by the Planning Commission at the August 25, 2015 hearing, the Approved Facility meets all requirements for approval under the Code, notably the development standards for wireless facilities. The Approved Facility complies with the aesthetic requirements of Code §19.48.150(G)(1) in that the treepole colors and materials blend with surrounding vegetation and the design minimizes visual impacts. Code §19.48.150(G)(2) requires that facilities be "screened or camouflaged," and the treepole design meets this requirement, presenting minimal visual impacts when viewed from the nearest roadway or any residential property. As nearby mature trees are of similar or greater height to the treepole, and the treepole is less than half the height of the adjacent windmill, the Approved Facility meets the requirement of Code §19.48.150(G)(3) that it not exceed heights of existing tree lines or buildings along the skyline by more than 15 feet. Set back 50 feet from the property line, the Approved

Amador County Board of Supervisors  
October 6, 2015

Page 3 of 9

Facility meets the setback requirements of Code §19.48.150(G)(5). In short, Verizon Wireless's Approved Facility complies with all requirements of the Code.

### **III. Federal Law Compels Approval of the Application.**

Verizon Wireless is licensed by the FCC to provide wireless telecommunications services throughout the United States, including Amador County. The siting of wireless communications facilities ("WCFs"), including the one at issue here, is governed by federal law. While reserving to local jurisdictions control over the siting, placement and modification of WCFs, the federal Telecommunications Act (the "TCA") places "certain limitations on localities' control over the construction and modification of WCFs." *Sprint PCS Assets, LLC v. City of Palos Verdes Estates*, 583 F.3d 716, 721 (9th Cir. 2009). Specifically, the TCA preserves local control over land use decisions, subject to the following explicit statutory restrictions:

- The local government must act on a permit application within a reasonable period of time (47 U.S.C. §332(c)(7)(B)(ii));
- Any denial of an application must be in writing and supported by substantial evidence contained in a written record (47 U.S.C. §332(c)(7)(B)(iii));
- The local government may *not* regulate the placement, construction, or modification of WCFs on the basis of the environmental effects of radio frequency emissions to the extent such facilities comply with the FCC's regulations concerning such emissions (47 U.S.C. §332(c)(7)(B)(iv));
- The local government may not unreasonably discriminate among providers of functionally equivalent services (47 U.S.C. §332(c)(7)(B)(i)(I)); and
- The local government's decision must not "prohibit or have the effect of prohibiting the provision of personal wireless services" (47 U.S.C. §332(c)(7)(B)(i)(II)).

With this legal framework in mind, we address below the specific federal law issues before the City Council with respect to this application.

### **IV. Substantial Evidence for Approval, Lack of Substantial Evidence for Denial**

As interpreted under controlling federal court decisions, the "substantial evidence" requirement means that a local government's decision to deny a WCF application must be "authorized by applicable local regulations and supported by a reasonable amount of evidence (i.e., more than a 'scintilla' but not necessarily a preponderance)." *Metro PCS, Inc. v. City and County of San Francisco*, 400 F.3d 715, 725 (9th Cir. 2005). In other words, a local government must have specific reasons that are both consistent with the local regulations and supported by substantial evidence in the record to deny a wireless facility permit.

Amador County Board of Supervisors  
October 6, 2015

Page 4 of 9

While a local government may regulate the placement of WCFs based on aesthetics, it must have specific reasons that are both consistent with the local regulations and supported by substantial evidence in the record. Generalized concerns or opinions about aesthetics or compatibility with a neighborhood do not constitute substantial evidence upon which a local government could deny a permit. *See City of Rancho Palos Verdes v. Abrams*, 101 Cal. App. 4th 367, 381 (2002).

As set forth above, Verizon Wireless has provided substantial evidence to show that the Approved Facility complies with all requirements for approval under the Code. Among other evidence, photosimulations demonstrate the minimal visual impacts of the camouflaged treepole placed next to the much taller windmill and among trees of similar and greater height. The Waterford Reports confirm that the Approved Facility will operate well below the FCC's exposure limits. In contrast, Appellants have provided no evidence – let alone the substantial evidence required by federal law – to support denial of the Approved Facility.

**V. Radio Frequency Emissions Comply with FCC Standards.**

The TCA prohibits local governments from considering any alleged health or environmental effects of RF emissions of proposed WCFs “to the extent such facilities comply with the FCC’s regulations concerning such emissions.” 47 U.S.C. §332(c)(7)(B)(iv). As set forth in the Waterford Reports referenced above, the Approved Facility complies with applicable FCC guidelines and will operate far below all applicable FCC public exposure limits. Indeed, the Waterford Reports calculate that the maximum exposure anywhere accessible at ground level from the Approved Facility will be only 1% percent of the applicable FCC public limit, and at Appellants’ residence will be only 0.036% of the public limit, or 2,700 times below.

Moreover, federal preemption goes beyond decisions that are explicitly based on RF emissions. It also bars efforts to skirt such preemption through some proxy such as property values. *See, e.g., AT&T Wireless Servs. of Cal. LLC v. City of Carlsbad*, 308 F. Supp. 2d 1148, 1159 (S.D. Cal. 2003) (in light of federal preemption, “concern over the decrease in property values may not be considered as substantial evidence if the fear of property value depreciation is based on concern over the health effects caused by RF emissions”); *Calif. RSA No. 4, d/b/a Verizon Wireless v. Madera County*, 332 F. Supp. 2d 1291, 1311 (E.D. Cal. 2003) (“complaints about property values were really a proxy for concerns about possible environmental effects of RF [emissions], which cannot provide the basis to support a decision”). Where, as here, a WCF has been shown to comply with FCC guidelines, neither health concerns nor any proxy for health concerns can justify denial of the Approved Facility.

**VI. Approval is Required in Order to Avoid Unlawful Prohibition of Service.**

A local government violates the “effective prohibition” clause of the TCA if it prevents a wireless provider from closing a “significant gap” in service by the least

Amador County Board of Supervisors  
October 6, 2015

Page 5 of 9

intrusive means. This issue involves a two-pronged analysis: (1) whether the provider has demonstrated the existence of a “significant gap” in service; and (2) whether the proposed facility is the “least intrusive means,” in relation to the land use values embodied in local regulations, to address the gap. *See T-Mobile USA, Inc. v. City of Anacortes*, 572 F.3d 987 (9<sup>th</sup> Cir. 2009); *see also T-Mobile West Corp. v. City of Agoura Hills*, 2010 U.S. Dist. LEXIS 134329 (C.D. Cal. 2010).

Recent case law has confirmed that inadequate network *capacity* to provide reliable wireless service constitutes a “significant gap” in service to the same extent as inadequate coverage. *See Nextel v. City of Mt. Vernon*, 361 F.Supp.2d 336 (S.D.N.Y. 2005) (summary judgment for wireless carrier on a claim of “prohibition of service” based on a demonstration of inadequate capacity).

If a provider demonstrates both the existence of a significant gap, and that the proposed facility meets the “least intrusive means” standard, the local government is *required* to approve the facility, even if there would otherwise be substantial evidence to deny the permit under local land use provisions. This is because the requirements for federal preemption have been satisfied; i.e., denial of the permit would “have the effect of prohibiting the provision of personal wireless services.” 47 U.S.C. §332(c)(7)(B)(1)(ii); *T-Mobile v. Anacortes*, 572 F.3d at 999. For the local jurisdiction to avoid such preemption, it must show that another alternative is available, that it is technologically feasible, and that it is “less intrusive” than the proposed facility. *T-Mobile v. Anacortes*, 572 F.3d at 998-999.

**A. Verizon Wireless Has Demonstrated a Significant Gap in Service.**

Verizon Wireless has documented the need for new LTE 4G service in the Fiddletown area (the “Significant Gap”). The Significant Gap is described in the Statement of Radio Frequency Design Engineer Linda Lascano attached as Exhibit C (the “RF Engineer’s Statement”). The RF Engineer’s Statement explains that there is an absence of Verizon Wireless LTE 4G coverage in the Fiddletown area constituting a Significant Gap, and that the Approved Facility will provide new LTE 4G coverage including new 4G data and voice services. Reliable 4G services are important for residents and visitors as well as for communications with emergency services personnel.

Having established a Significant Gap in service, Verizon Wireless has met the first prong of the two-part test required to presumptively establish a prohibition of service under federal law.

**B. The Alternatives Analysis Confirms that the Approved Facility is the Least Intrusive Feasible Means to Fill the Significant Gap in Verizon Wireless Service.**

In an effort to fill the Significant Gap, and in keeping with Code requirements, Verizon Wireless reviewed collocation opportunities, as shown in the Alternatives Analysis attached as Exhibit D. This analysis identifies only one existing wireless

Amador County Board of Supervisors  
October 6, 2015

Page 6 of 9

facility in the Fiddletown area: the existing windmill facility at 19580 American Flat Site Road. Verizon Wireless has chosen to collocate the Proposed Facility at this site. No other collocation opportunities were identified in the vicinity of the Significant Gap. The Alternatives Analysis concludes that the location and design of the Approved Facility – a camouflaged treepole facility collocated on the same site as the only wireless facility currently serving the Fiddletown area – is the least intrusive feasible means of providing wireless service to the Significant Gap.

When comparing the locations of the Approved Facility to other potential alternatives, it is important to note that federal law does not require that a site be the “only” alternative, but rather that no feasible alternative is less intrusive than the Approved Facility. *MetroPCS v. San Francisco*, 400 F.3d at 734-35. In this case, as explained in the Alternatives Analysis, there is no feasible location that would be less intrusive than the Approved Facility.

In short, Verizon Wireless has identified a significant gap in coverage and network capacity and has shown that the Approved Facility is the least intrusive means to address it, based on the values expressed in the Code. Under these circumstances, Verizon Wireless has established the requirements for federal preemption such that denial of the permit would constitute an unlawful prohibition of service.

## **VII. Response to Appeal**

In their appeal to the Board of Supervisors filed with the County, Appellants refer to materials they have previously provided to the County, none of which raise substantial evidence to warrant denial of Verizon Wireless’s application. Appellants claim that the Approved Facility may present significant impacts under the California Environmental Quality Act (“CEQA”), but the staff-issued use permit is a ministerial project to which CEQA does not apply. *See* Public Resources Code §21080(b)(1). While the Approved Facility is not located on a historically-designated site or within a historic district, Appellants allege that the Approved Facility has not been submitted for review under Section 106 of the National Historic Preservation Act. Verizon Wireless’s regulatory department ensures compliance with all National Environmental Policy Act and Section 106 requirements, and Section 106 compliance is not within the Board of Supervisor’s scope of review of this staff-level use permit.

### **1. The Approved Facility Complies with All Aesthetic Development Standards and Code Requirements.**

Appellants charge that the Approved Facility will not protect the visual quality or character of the area and will not comply with local code requirements. However, as described above and affirmed by the Planning Department staff and Planning Commission approvals, the Approved Facility meets all Code requirements including the development standards under Code §19.48.150(G). These development standards include all the relevant criteria for assessing the aesthetic impacts of a wireless facility with respect to aesthetic considerations, screening or camouflage, and skyline views. Verizon

Amador County Board of Supervisors  
October 6, 2015

Page 7 of 9

Wireless followed Planning Department staff's guidance in redesigning the Approved Facility as a treepole, selecting branch materials and colors to ensure its resemblance to nearby pine trees, thus minimizing visual impacts and meeting the aesthetic considerations of Code §19.48.150(G)(1). The treepole design also camouflages the tower portion of the Approved Facility that is visible from nearby properties and roadways, and as ground-mounted equipment is not visible offsite, the Approved Facility complies with the requirement for screening or camouflage of Code §19.48.150(G)(2). A site survey attached as Exhibit E shows that the top elevation of nearby trees to the north is 2,070 feet and trees to the south are 2,082 and 2,088 feet, whereas the top of the Approved Facility treepole is 2,076 feet in elevation. Further, the adjacent windmill is over twice the height of the Approved Facility treepole. As the treepole does not exceed the height of existing trees or buildings along the skyline (and certainly not by the additional 15 feet allowed by Code), the Approved Facility meets the requirement of Code §19.48.150(G)(3).

The Approved Facility is placed at the eastern edge of a 23-acre parcel, with the nearest public roadway (American Flat Site Road) and nearest offsite residence to the west over 1,000 feet distant. Photosimulations taken from vantage points along American Flat Side Road reflect the views from residential properties near the Approved Facility property and demonstrate that the Approved Facility treepole will present minimal visual impacts in its location on a forested hillside. A letter from Previsualists, Inc., describing preparation of the photosimulations is attached as Exhibit F and addresses Appellants' critique of the photosimulation process.

The Approved Facility meets the development standards for aesthetic considerations, screening or camouflage, and skyline views, and complies with all other Code requirements including setbacks. Appellants' claims of visual and neighborhood character impacts do not uncover any non-compliance with these development standards, and this ground for appeal must be rejected.

## **2. The Approved Facility Is the Least Intrusive Alternative.**

Appellants attempt to discredit Verizon Wireless's site selection process and propose an infeasible alternative location. However, the development standards for a staff-issued use permit do not require Verizon Wireless to prove that the Approved Facility is the least intrusive alternative. With the Approved Facility appealed to the Board of Supervisors, Verizon Wireless has demonstrated Approved Facility is the least intrusive alternative to close a significant gap in service only to show that denial of the Approved Facility would constitute a prohibition of service in violation of 47 U.S.C. §332(c)(7)(B)(i)(II). As described in the Alternatives Analysis, the Approved Facility is located on a site with the only wireless facility currently serving the Fiddletown area. There are no other collocation opportunities in the vicinity, and the alternative location favored by Appellants – located nearly one mile east of the Approved Facility – is infeasible as a facility there cannot provide adequate service to Fiddletown due to intervening terrain and is otherwise not favored under the Code. This ground for appeal

Amador County Board of Supervisors  
October 6, 2015

Page 8 of 9

raises no issues related to development standards required for staff-level use permits and must be rejected.

**3. The Approved Facility Complies with FCC Emissions Standards.**

Appellants' recent correspondence to the County belies the true thrust of their appeal: an unfounded fear of radio frequency emissions. As noted above, concerns over health effects of radio frequency emissions are pre-empted from consideration by the County under 47 U.S.C. §332(c)(7)(B)(iv). The Waterford Reports confirm that the Approved Facility will operate will within federal emission guidelines, and in fact, that emissions at the Appellants' residence 1,715 feet southwest of the Approved Facility will be just 0.036% of the public exposure limit, or 2,700 times below. As noted above, any concern over property values is similarly preempted as it is generally a proxy for fear of RF emissions. As appellants fail to uncover any non-compliance with FCC emissions standards, this ground for appeal must be rejected.

Appellants have not provided any evidence – let alone the substantial evidence required under federal law – to warrant granting of the appeal. In contrast, Verizon Wireless has presented ample evidence in support of the Approved Facility.

**Conclusion**

Verizon Wireless has worked diligently with the County to identify the ideal design for a camouflaged wireless facility to serve the Fiddletown area. As approved by Planning Department staff and affirmed by the Planning Commission, the Approved Facility is consistent with all Code requirements. The Approved Facility also represents the least intrusive means to address the Significant Gap in Verizon Wireless fourth-generation LTE service. Bringing improved Verizon Wireless service to this area is essential to the health, safety, and welfare of residents, travelers, and emergency services providers in the surrounding community. We strongly encourage you to affirm the approvals of Planning Department staff and the Planning Commission, and deny the appeal.

Very truly yours,



Paul B. Albritton

cc: Gregory Gillott, Esq.  
Susan Grijalva



Amador County Board of Supervisors  
October 6, 2015

Page 9 of 9

**Schedule of Exhibits**

- Exhibit A: Photosimulations
- Exhibit B: Waterford Reports
- Exhibit C: Statement of Verizon Wireless RF Engineer Linda Lascano
- Exhibit D: Alternatives Analysis
- Exhibit E: Site Survey Showing Nearby Trees and Windmill
- Exhibit F: Letter from Previsualists, Inc. Describing Photosimulation Process

Photosimulation of a zoom view from the property entrance on American Flat Side Road.



Existing 100 ft windmill to remain



Proposed monopine

**Existing**

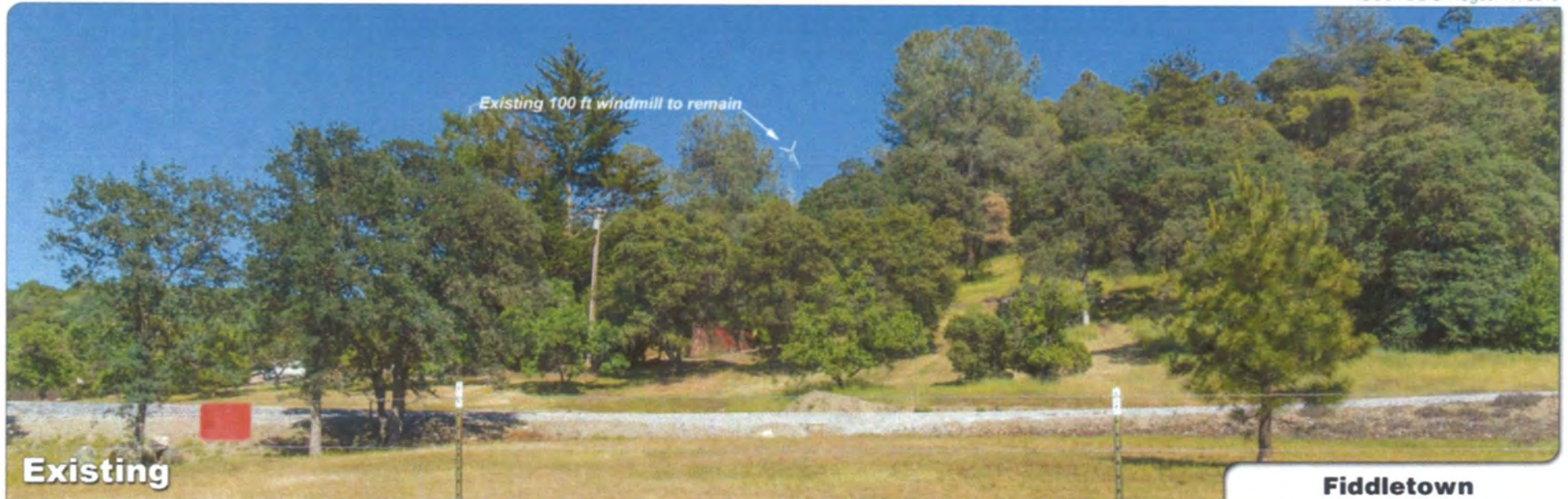
**Fiddletown**

19580 American Flat Side Rd.  
Fiddletown, CA 95629



**Exhibit A**

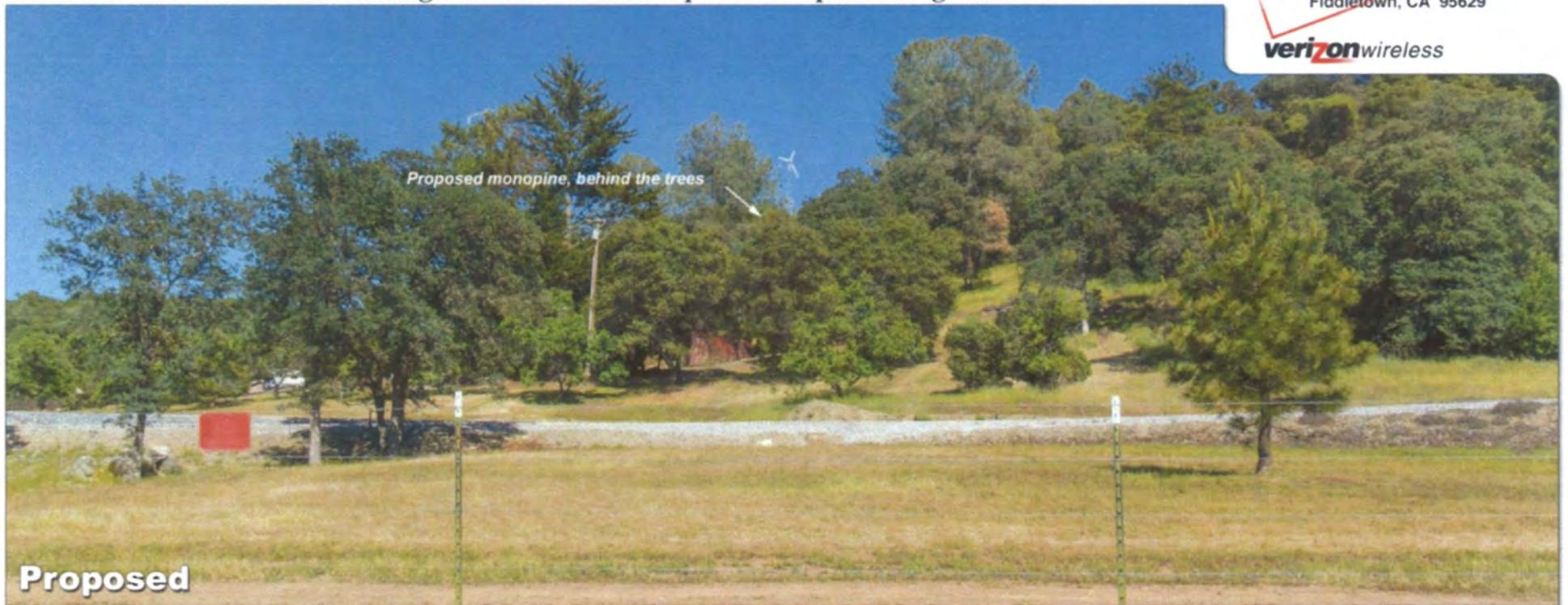
**Proposed**



**Existing**

Photomontage of the view looking east from the nearest public viewpoint along American Flat Side Rd.

**Fiddletown**  
 19580 American Flat Side Rd.  
 Fiddletown, CA 95629



**Proposed**



**Existing**

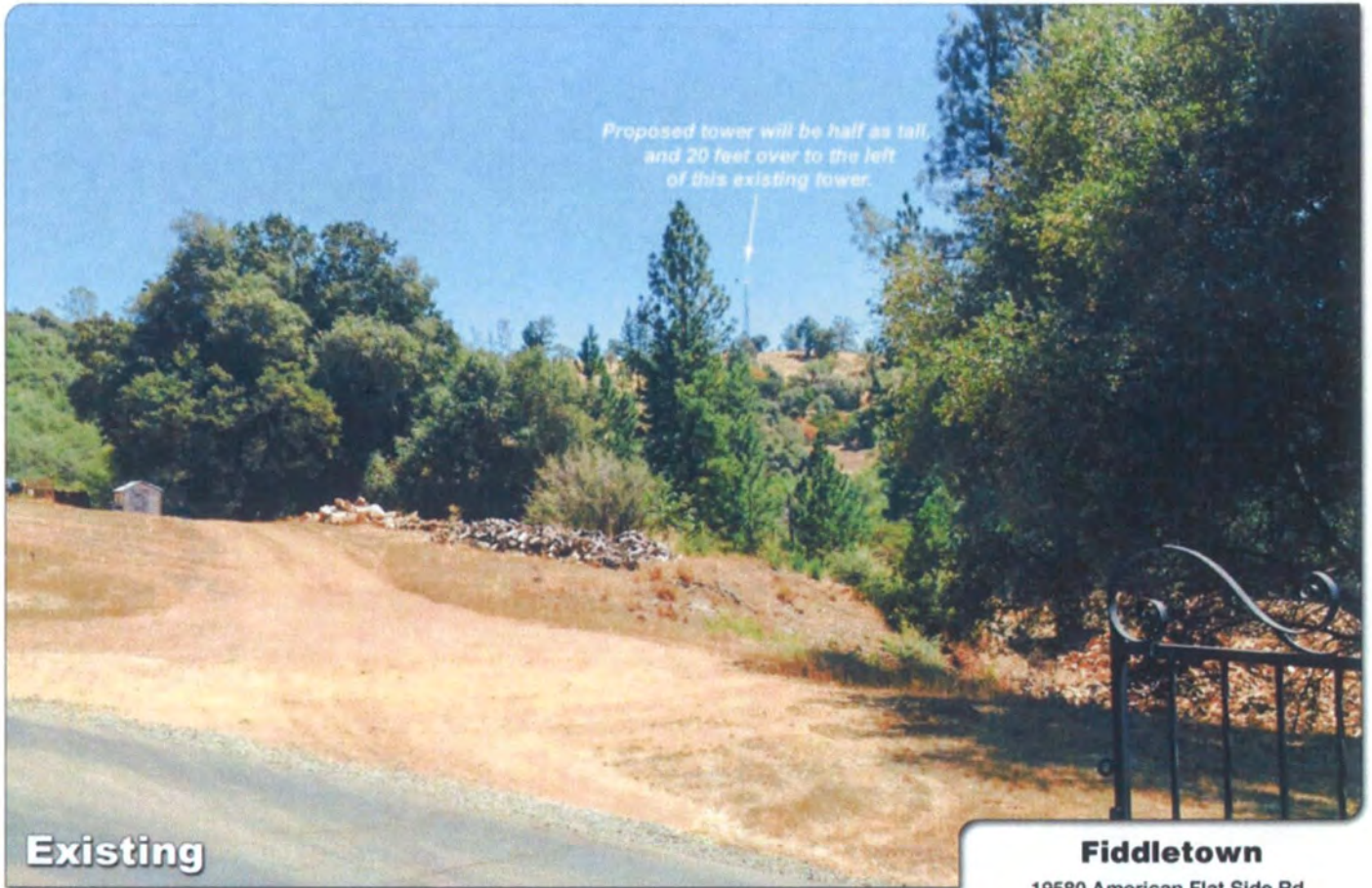
Photosimulation of the view looking southeast from the fork at the beginning of American Flat Side Rd.

**Fiddletown**

19580 American Flat Side Rd.  
Fiddletown, CA 95629



**Proposed**



**Existing**

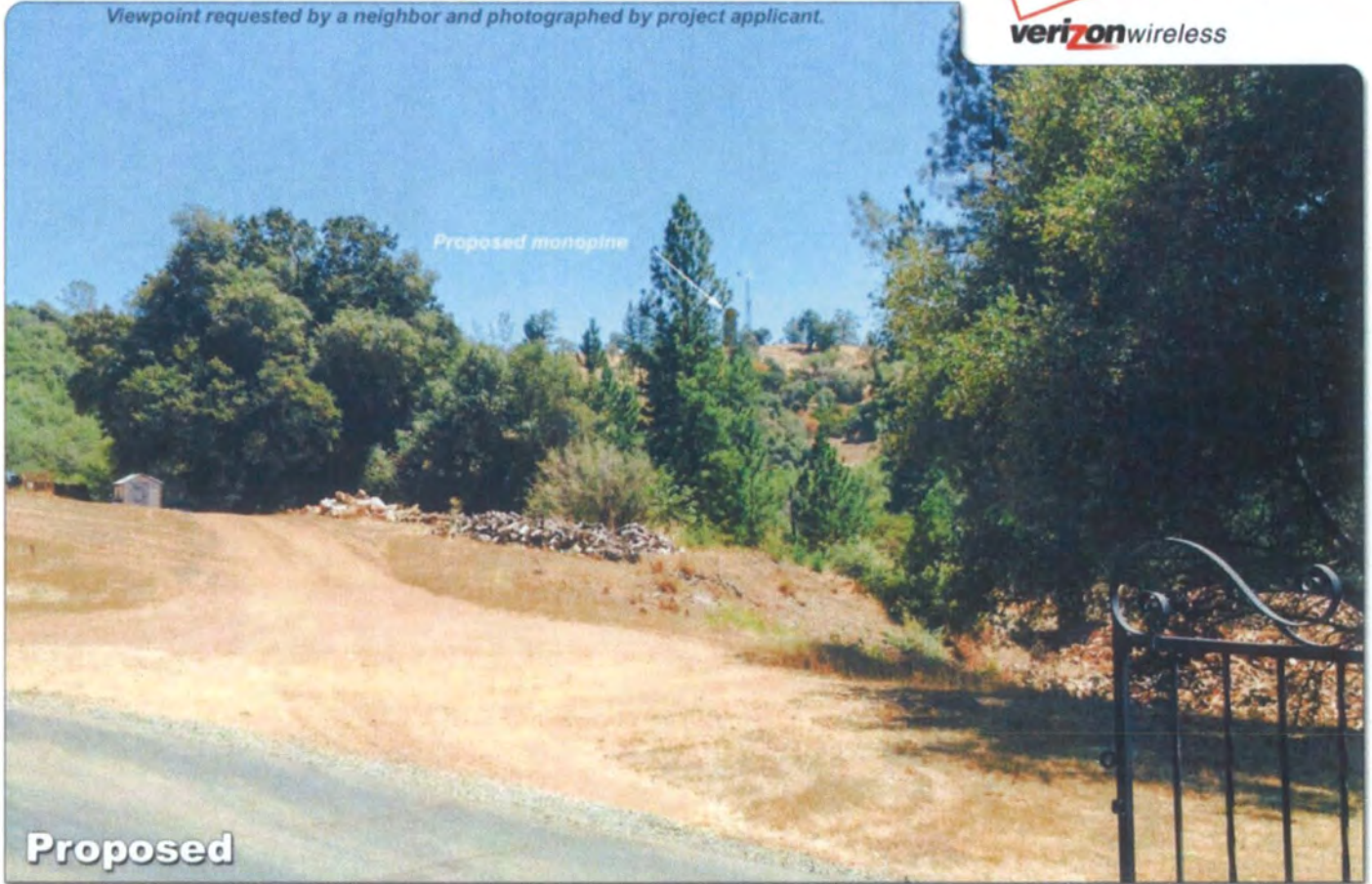
**Fiddletown**

19580 American Flat Side Rd.  
Fiddletown, CA 95629



Photosimulation of the view looking southeast from 19850 Amer. Flat Rd.

*Viewpoint requested by a neighbor and photographed by project applicant.*



**Proposed**

© Copyright 2015 Previsualists Inc. • www.photosim.com • Any modification is strictly prohibited. Printing letter size or larger is permissible.  
This photosimulation is based upon information provided by the project applicant.



**WATERFORD**  
COMPLIANCE...FROM START TO SIGNAL

## Radio Frequency Emissions Compliance Report For Verizon Wireless

<b>Site Name:</b>	<b>Fiddletown</b>	<b>Site Structure Type:</b>	<b>Monopole</b>
<b>Address:</b>	<b>19580 American Flat Side Road</b>	<b>Latitude:</b>	<b>38.492644</b>
	<b>Fiddletown, CA 95629</b>	<b>Longitude:</b>	<b>-120.754719</b>
<b>Report Date:</b>	<b>April 24, 2015</b>	<b>Project:</b>	<b>New Build</b>

### General Summary

Verizon Wireless has contracted Waterford Consultants, LLC to conduct a Radio Frequency Electromagnetic Compliance assessment of the proposed Fiddletown site located at 19580 American Flat Side Road, Fiddletown, California. This report contains information about the radio telecommunications equipment to be installed at this site and the surrounding environment with regard to RF Hazard compliance. This assessment is based on installation designs, observational data collected on site and operational parameters provided by Verizon Wireless.

The compliance framework is derived from the Federal Communications Commission (FCC) Rules and Regulations for preventing human exposure in excess of the applicable Maximum Permissible Exposure ("MPE") limits. At any location at this site, the power density resulting from each transmitter may be expressed as a percentage of the frequency-specific limits and added to determine if 100% of the exposure limit has been exceeded. The FCC Rules define two tiers of permissible exposure differentiated by the situation in which the exposure takes place and/or the status of the individuals who are subject to exposure. General Population / Uncontrolled exposure limits apply to those situations in which persons may not be aware of the presence of electromagnetic energy, where exposure is not employment-related, or where persons cannot exercise control over their exposure. Occupational / Controlled exposure limits apply to situations in which persons are exposed as a consequence of their employment, have been made fully aware of the potential for exposure, and can exercise control over their exposure.

Frequency (MHz)	<i>Limits for General Population/ Uncontrolled Exposure</i>		<i>Limits for Occupational/ Controlled Exposure</i>	
	Power Density (mW/cm <sup>2</sup> )	Averaging Time (minutes)	Power Density (mW/cm <sup>2</sup> )	Averaging Time (minutes)
30-300	0.2	30	1	6
300-1500	f/1500	30	f/300	6
1500-100,000	1	30	5	6

Fiddletown-New Build 042415

In situations where the predicted MPE exceeds the General Population threshold in an accessible area as a result of emissions from multiple transmitters, FCC licensees that contribute greater than 5% of the aggregate MPE share responsibility for mitigation.

Based on the computational guidelines set forth in FCC OET Bulletin 65, Waterford Consultants, LLC has developed software to predict the overall Maximum Permissible Exposure possible at any particular location given the spatial orientation and operating parameters of multiple RF sources. These theoretical results represent worst-case predictions as emitters are assumed to be operating at 100% duty cycle.

For any area in excess of 100% General Population MPE, access controls with appropriate RF alerting signage must be put in place and maintained to restrict access to authorized personnel. Signage must be posted to be visible upon approach from any direction to provide notification of potential conditions within these areas. Subject to other site security requirements, occupational personnel should be trained in RF safety and equipped with personal protective equipment (e.g. RF personal monitor) designed for safe work in the vicinity of RF emitters. Controls such as physical barriers to entry imposed by locked doors, hatches and ladders or other access control mechanisms may be supplemented by alarms that alert the individual and notify site management of a breach in access control. Waterford Consultants, LLC recommends that any work activity in these designated areas or in front of any transmitting antennas be coordinated with all wireless tenants.

### **Analysis**

Waterford Consultants, LLC field personnel visited the site on April 21, 2015 during business hours and collected data with regard to the RF environment. All accessible areas of the site were inspected. Measurement collection was performed using Narda Radiation meter NBM 550 and broadband probe EA-5091 (300 kHz to 50 GHz) and was consistent with FCC and Narda procedures, regarding the location of the probe to the RF source and making slow sweeping motions over the area that a person would occupy. Power density values were recorded as a percentage of the FCC Occupational limits. The maximum power density reading at ground level was 0.0320% Occupational% of the FCC Occupational limits (0.1600% of the General Population limits).

Verizon Wireless proposes to install twelve (12) panel-type antennas oriented toward 105, 225, and 345 degrees with centerlines at 46 feet above ground level. These antennas will be mounted on a monopole antenna support structure. From this site, Verizon Wireless will enhance voice and data services in licensed 750, 850, 1900 and 2100 MHz bands. The Effective Radiated Power (ERP) in any direction will not exceed 11,914 Watts. No other antennas are known to be co-located in the vicinity of this site.

Power density decreases significantly with distance from any antenna. The panel-type antennas to be employed at this site are highly directional by design and the orientation in azimuth and mounting elevation, as documented, serve to reduce the potential to exceed MPE limits at any location other than directly in front of the antennas. For accessible areas at the ground level, the maximum predicted power density level resulting from all Verizon Wireless operations is 1.008% of the FCC General Population limits. An existing lattice tower that supports a top-mounted

Fiddletown-New Build 042415

windmill is located 20 feet south of the proposed monopole. On climbing ways on this tower at the antenna level, the maximum predicted power density level resulting from all Verizon Wireless operations is 59.228% of the FCC Occupational limit (296.1% of the General Population limits).

Waterford Consultants, LLC recommends that Verizon Wireless install RF alerting signs (Notice and RF Guidelines) on the climbing ladder of the windmill tower to be visible upon approach to provide notification of potential conditions on the tower. Antenna locations and mitigation recommendations are depicted in Figure 1. Any work activity in front of transmitting antennas should be coordinated with Verizon Wireless.

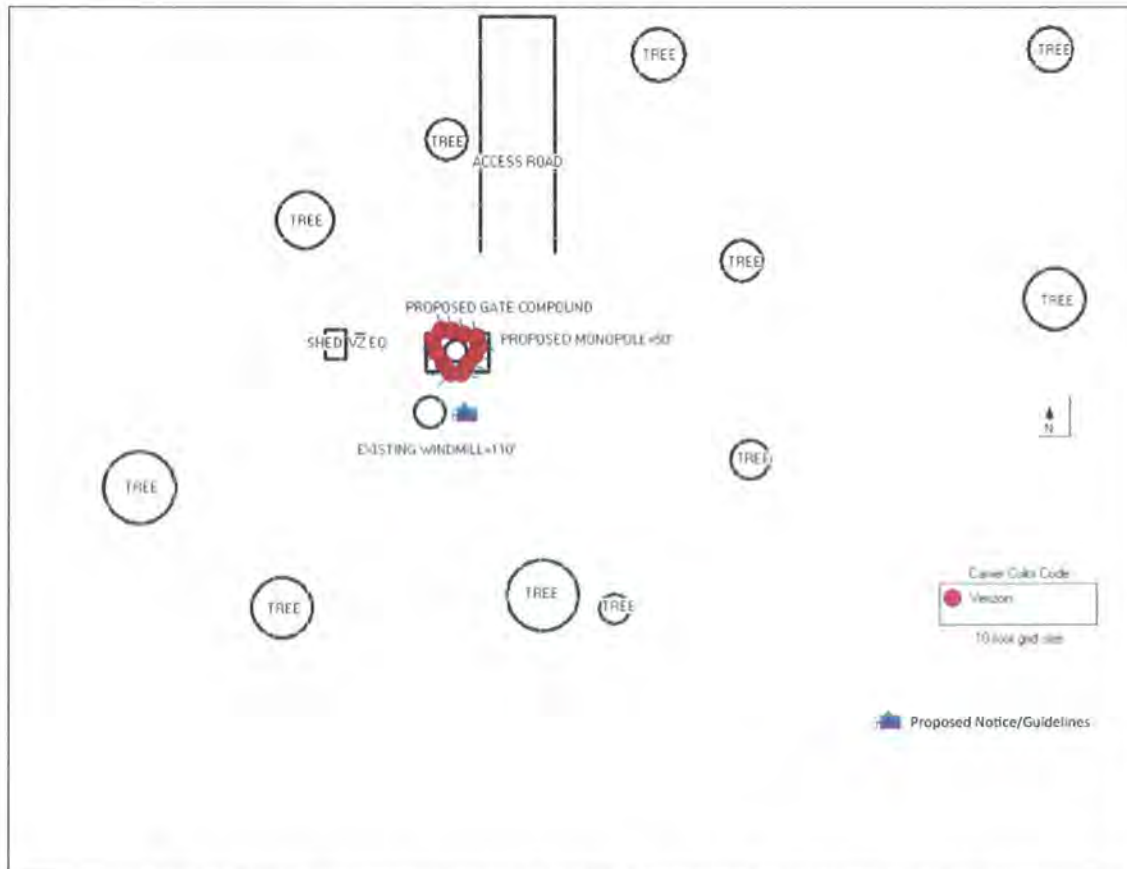


Figure 1: Antenna Locations and Mitigation Recommendations



Fiddletown-New Build 042415

**Compliance Statement**

Based on information provided by Verizon Wireless data collected during the site visit, predictive modeling and the mitigation action documented herein, the installation proposed by Verizon Wireless at 19580 American Flat Side Road, Fiddletown, California will be compliant with Radiofrequency Radiation Exposure Limits of 47 C.F.R. § 1.1307(b)(3) and 1.1310.

**Certification**

I, Frederick T. Herb, am the reviewer and approver of this report and am fully aware of and familiar with the Rules and Regulations of both the Federal Communications Commissions (FCC) and the Occupational Safety and Health Administration (OSHA) with regard to Human Exposure to Radio Frequency Radiation, specifically in accordance with FCC's OET Bulletin 65. I have reviewed this Radio Frequency Exposure Assessment report and believe it to be both true and accurate.




**WATERFORD**  
CONSULTANTS, LLC

PO Box 2090  
Ashburn, VA 20146-2090

201 Loudoun Street SE, Suite 300  
Leesburg, VA 20175

Office: 703.596.8022 Fax: 540.242.8135  
waterfordconsultants.com

## Amendment to Radio Frequency Emissions Compliance Report For Verizon Wireless

<b>Site Name:</b>	<b>Fiddletown</b>	<b>Site Structure Type:</b>	<b>Monopole</b>
<b>Address:</b>	<b>19580 American Flat Side Road Fiddletown, CA 95629</b>	<b>Latitude:</b>	<b>38.492644</b>
<b>Report Date:</b>	<b>August 18, 2015</b>	<b>Longitude:</b>	<b>-120.754719</b>
		<b>Project:</b>	<b>New Build</b>

Verizon Wireless has contracted Waterford Consultants, LLC to conduct a Radio Frequency Electromagnetic Compliance assessment of the proposed Fiddletown site located at 19580 American Flat Side Road in Fiddletown, California. Verizon Wireless proposes to install radio telecommunications equipment at this site to enhance voice and data wireless services to the surrounding community. A Radio Frequency Emissions Compliance Report has been submitted in support of the application and this statement serves to supplement the report with additional information about the analysis and a specific assessment of a neighboring property.

In our analysis, consideration was made to understand the existing RF environment. The site was surveyed on April 1, 2015 and broadband power density measurements were collected at the site. Ground level readings did not exceed 0.160% of the FCC General Population limits. A search of FCC databases revealed that no licensed facilities are located within 1 mile of the proposed site. Any contributions from other RF sources, such as the Volcano Communications Group WiFi operation installed on the windmill tower, are reflected in the survey results. Consideration of all RF emitters is important as the cumulative contributions may exceed the FCC's Maximum Permissible Exposure limits. In such scenarios, any source that contributes in excess of 5% of the limit is obligated to mitigate the hazard area. The survey results indicate that ground level power densities are below the FCC General Population limits.

The maximum predicted RF levels at ground surrounding the proposed monopole are 1.00% of the FCC General Population limits. This result is based on the computational guidelines set forth in FCC Office of Engineering and Technology, Bulletin 65 ("OET65"). The power density in the Far Field of an RF source is specified by OET-65 Equation 5 as follows

$$S = \frac{EIRP}{4 \cdot \pi \cdot R^2} \text{ (mW/cm}^2\text{)}$$

where EIRP is the Effective Radiated Power relative to an isotropic antenna and R is the distance between the antenna and point of study. Additionally, consideration is given to the manufacturers' horizontal and vertical antenna patterns as well as ground reflection. At any location, the predicted power density in the Far Field is the spatial average of points within a 0 to 6 foot vertical profile that a person would occupy. These theoretical results represent worst-case predictions as emitters are assumed to be operating at 100% duty cycle.

The Fiddletown site is located approximately 1715 feet northeast of 19525 American Flat Side Road depicted in Figure 1. This property is approximately 73 feet lower in elevation than the base of the proposed monopole. Based on worst-case operating parameters provided by Verizon Wireless, predictive modeling indicates that the maximum power density level at the 2<sup>nd</sup> floor of 19525 American Flat Side Road resulting from all Verizon Wireless operations is 0.0355% of the FCC General Population limits. At this location, the new operations proposed by Verizon Wireless at the Fiddletown site will not increase existing power density levels by 5% of the FCC limits.



Figure 1: Antenna Location

**Certification**

I, Frederick T. Herb, am the reviewer and approver of this report and am fully aware of and familiar with the Rules and Regulations of both the Federal Communications Commissions (FCC) and the Occupational Safety and Health Administration (OSHA) with regard to Human Exposure to Radio Frequency Radiation, specifically in accordance with FCC's OET Bulletin 65. I have reviewed this Radio Frequency Exposure Assessment report and believe it to be both true and accurate to the best of my knowledge.

Frederick T.  
Regulatory  
August

**Exhibit C**

3257 North Marks Avenue  
Fresno, California 93722

October 6, 2015

**To: Amador County Board of Supervisors**

**From: Linda Lascano, Radio Frequency Design Engineer  
Verizon Wireless Network Engineering Department**

**Subject: Statement in Support of Verizon Wireless's Proposed  
Telecommunications Facility, 19580 American Flat Side Road**

### **Executive Summary**

Verizon Wireless seeks to fill a significant gap in its wireless services in the Fiddletown area of Amador County. This area is currently served by the Verizon Wireless facility located at 19580 American Flat Side Road which provides only second-generation ("2G") service to the area (previously provided by Golden State Cellular). The existing facility is not equipped to provide Verizon Wireless's newer Long-Term Evolution technology ("LTE") fourth-generation ("4G") services. The only Verizon Wireless facility providing any LTE 4G service to the Fiddletown area, located seven miles to the southwest near Sutter Creek, provides only spotty LTE 4G coverage to the area due to distance and intervening terrain. Other Verizon Wireless facilities do not provide any service to the Fiddletown Area due to low facility height and intervening terrain.

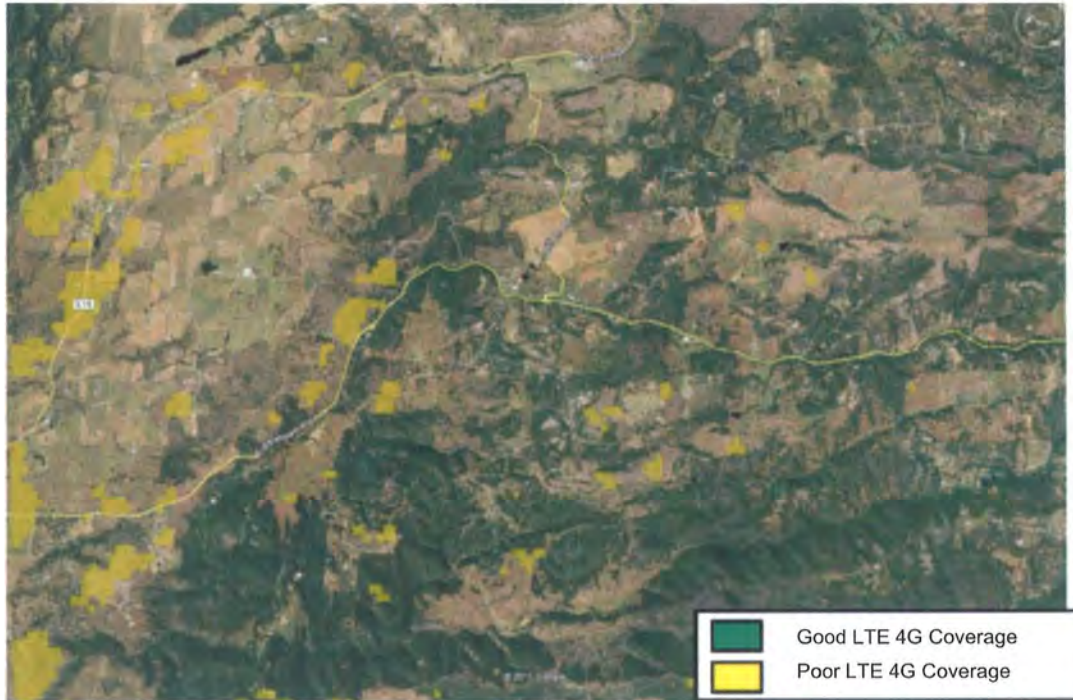
LTE 4G coverage is required to provide Verizon Wireless's current 4G voice and data services to smartphones in the Fiddletown area. The near absence of LTE 4G coverage in the Fiddletown area constitutes the "significant gap" Verizon Wireless seeks to serve through deployment of a new facility (the "Significant Gap"). The Significant Gap must be remedied through construction of new infrastructure, in this case, a camouflaged treepole facility placed next to the existing windmill-mounted facility at 19580 American Flat Side Road (the "Proposed Facility"). Upon deployment of the Proposed Facility, Verizon Wireless will remove its antennas from the adjacent windmill.

### **LTE 4G Coverage Gap**

As shown in the following coverage map, Verizon Wireless LTE 4G coverage is very poor in the Fiddletown area, with only spotty LTE 4G coverage in a few scattered high elevations. There is no LTE 4G coverage in Fiddletown or along important nearby roadways such as Fiddletown Road (with over 1,400 vehicle

trips per day),<sup>1</sup> Ostrom Road or American Flat Road. The Proposed Facility will provide new LTE 4G service to an area of 164 square miles and a population of over 11,800 people.

*Current LTE Coverage Map*



Confidential and proprietary materials. All rights reserved. All other rights reserved. Use, disclosure or distribution of the materials is prohibited to any unauthorized persons or this public except by written agreement.

**Conclusion**

The lack of Verizon Wireless LTE 4G service in the Fiddletown area constitutes a Significant Gap in Verizon Wireless service. LTE 4G service is necessary to provide 4G data and voice services which are currently unavailable to Verizon Wireless customers in the area. Verizon Wireless must deploy the Proposed Facility to provide needed LTE 4G services required by its smartphone customers in the Fiddletown area.

Please feel free to contact me with any questions or comments regarding Verizon Wireless's proposed facility.

Respectfully submitted,  
Digitally signed by Linda Lascano  
Date: 2015.10.06 13:08:33 -07'00'  
Linda Lascano  
RF Design Engineer

<sup>1</sup> Amador County Traffic Count Report, 2009

Exhibit D



# Alternatives Analysis

## Fiddletown

### 19580 American Flat Side Road



October 6, 2015

Summary of Site Evaluations  
Compiled by Mackenzie & Albritton LLP

**TABLE OF CONTENTS**

**I. Executive Summary ..... 3**  
**II. Significant Gap..... 3**  
**III. Methodology ..... 3**  
**IV. Analysis..... 3**  
    1. Proposed Facility ..... 5  
    2. Alternative Proposed by Appellants ..... 7  
**Conclusion ..... 8**

**Map of Alternatives**

## **I. Executive Summary**

Verizon Wireless seeks to fill a significant gap in its Long-Term Evolution technology (“LTE”) fourth-generation (“4G”) service in the Fiddletown area. Based on a review of alternatives as set forth in the following analysis, Verizon Wireless believes that collocating a 50-foot camouflaged treepole facility (the “Proposed Facility”) on the same site as the only existing wireless facility serving the Fiddletown area constitutes the least intrusive alternative to provide service to the identified gap based on the values expressed in the Amador County Code (the “Code”).

## **II. Significant Gap**

There is a significant gap in Verizon Wireless LTE 4G service coverage in the Fiddletown area of Amador County. LTE 4G coverage is required to provide 4G voice and data services to smartphone customers in the Fiddletown area. The “significant gap” in network coverage is more fully described in the Statement of Verizon Wireless Radio Frequency Engineer Linda Lascano (the “Significant Gap”).

## **III. Methodology**

Once a significant gap has been determined, Verizon Wireless seeks to identify a location and design that will provide required coverage through the “least intrusive means” based upon the values expressed by local regulations. In addition to seeking the “least intrusive” alternative, sites proposed by Verizon Wireless must be feasible. In this regard, Verizon Wireless reviews the radio frequency propagation, elevation, height of any existing structures, available electrical and telephone utilities, access, available ground space and other critical factors such as a willing landlord in completing its site analysis. Wherever feasible, Verizon Wireless seeks to deploy camouflaged or stealth wireless facilities to minimize visual impacts to surrounding properties.

Under the Code, applicants must provide a statement as to why collocation on existing wireless facilities is not feasible. Code §19.48.150(F)(1). Wireless facilities mounted to buildings or completely enclosed within a building are permitted in any zoning district without a use permit. Code §19.48.150(C). Other new wireless facilities are allowed only in certain zoning districts, including the A, A-G and R1-A districts. Code §19.48.150(B). New wireless facilities up to 50 feet in height can be permitted with a staff-issued use permit provided they meet certain development standards. Code §19.48.150(D). New wireless facilities over 50 feet in height require a use permit reviewed by the Planning Commission. Code §19.48.150(E).

## **IV. Analysis**

Per the Code’s direction, Verizon Wireless first investigated collocation opportunities, reviewing the Fiddletown area for existing wireless facilities. Verizon Wireless found that the only existing commercial wireless facility in the Fiddletown area is the windmill at 19580 American Flat Side Road which currently supports Verizon Wireless antennas and the antennas of another wireless provider. Verizon Wireless determined that collocating another facility at the same site could be accomplished with a



staff-issued use permit. There are no other commercial wireless facilities in the Fiddletown area. In fact, the next closest commercial wireless facilities are over five miles to the west in the Plymouth area, and due to distance and intervening terrain, these facilities are unable to provide required service coverage to Fiddletown and surrounding areas.

Verizon Wireless also investigated a location to the east of the Proposed Facility with favored by appellants of the Proposed Facility, but determined that a facility at this location would be unable to serve the Significant Gap and lacked necessary access and utilities.

The results of this analysis are as follows:

### *Collocation Site*

In reviewing the vicinity of the Significant Gap, Verizon Wireless determined that the only existing wireless facility in the Fiddletown area is the windmill facility currently supporting Verizon Wireless antennas. Verizon Wireless chose to collocate the Proposed Facility at the same site. No other collocation opportunities were identified in the vicinity of the Significant Gap.

#### **1. Proposed Facility**

Address: 19580 American Flat Side Road

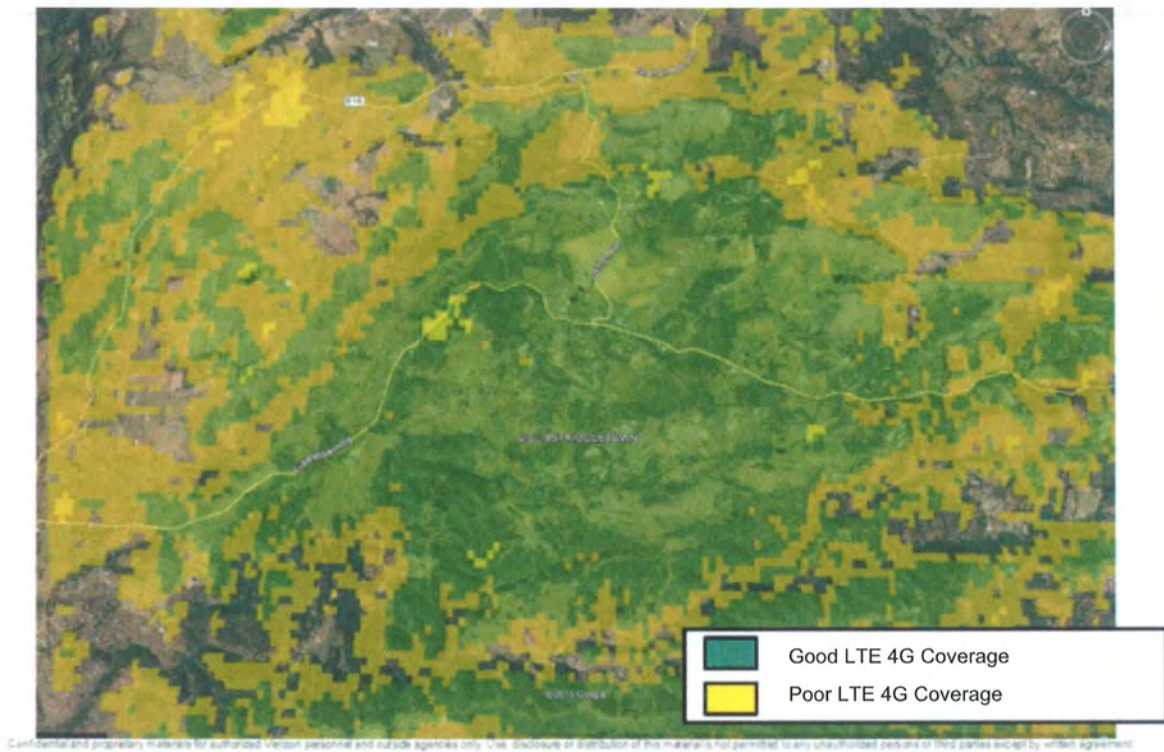
Elevation: 2,021 feet

Zoning: R1-A



Verizon Wireless proposes to mount its panel antennas on a new 50-foot treepole structure camouflaged to resemble a pine tree, with numerous branches supporting faux foliage to disguise the antennas. The treepole will be collocated next a much taller windmill that currently supports Verizon Wireless antennas; those antennas will be removed upon deployment of the Proposed Facility. The treepole will be placed within an approximately 600 square foot fenced equipment area along with radio equipment and a generator for emergency use. Numerous existing trees of equal and greater top elevations surround the Proposed Facility. A treepole facility can be permitted at this location with a staff-issued use permit. As shown in the following coverage map, antennas at this location provide excellent radio frequency propagation to serve the Significant Gap in LTE 4G coverage in the Fiddletown area. This is Verizon Wireless's preferred location for the Proposed Facility.

*Proposed Facility LTE 4G Coverage*



*Non-Collocation Site*

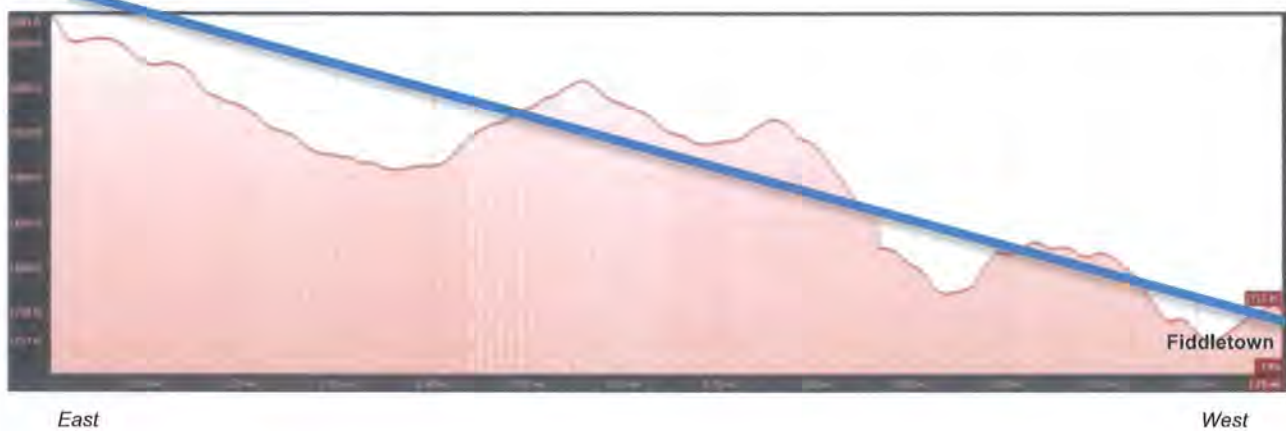
Though Verizon Wireless has identified a site with an existing wireless facility for collocation of the Proposed Facility, the following location favored by the appellants of the Proposed Facility was reviewed and determined to be infeasible and unfavorable.

**2. Alternative Proposed by Appellants**

Elevation: 2,060 feet

Verizon Wireless investigated this location proposed by the appellants of the Proposed Facility, located nearly 0.9 miles east of the Proposed Facility. Verizon Wireless engineers determined that a facility at this location of similar height to the Proposed Facility would be unable to serve Fiddletown due to intervening terrain, specifically, a ridge southeast of Fiddletown that would block signal. The following elevation profile demonstrates the terrain obstruction. An extremely tall facility upward of 200 feet would be necessary to provide service from this location, requiring a use permit from the Planning Commission whereas the Proposed Facility can be permitted with a staff-issued use permit. Additionally, this location lacks a sufficient access route and necessary utilities, and as there are no improvements nearby on the property, a facility at this location would present greater environmental impacts in comparison to the Proposed Facility, which is collocated next to an existing wireless facility on a property with necessary access and other improvements. Considering the poor radio frequency propagation from this location and greater environmental impacts, this is an infeasible and unfavorable alternative for Verizon Wireless’s facility.

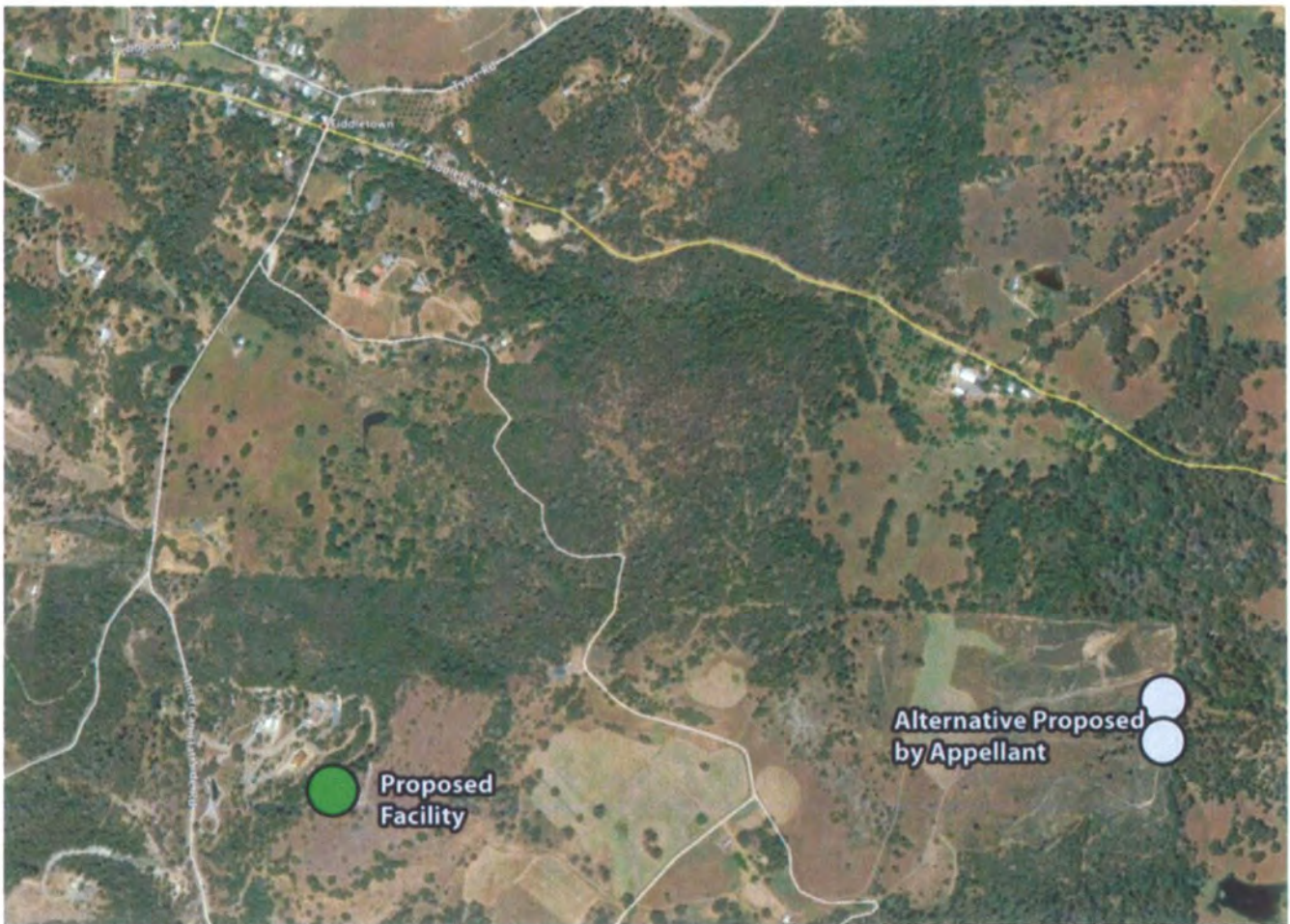
Alternative Site  
50 foot tower



**Conclusion**

Verizon Wireless has reviewed alternatives for the placement of its wireless facility to serve a Significant Gap in LTE 4G coverage in the Fiddletown area. Based upon the preferences identified in the Amador County Code, the Proposed Facility, collocating a wireless facility camouflaged as a pine tree on a site with an existing wireless facility, clearly constitutes the least intrusive location for Verizon Wireless's facility under the values expressed by Amador County ordinances.

**Verizon Wireless  
Fiddletown  
Amador County  
Locations of Sites  
Proposed and Alternative**





<b>Exhibit F</b>
------------------



*Custom Computer Graphics*

Wednesday, August 19, 2015

Karen Lienert  
Landmark Consulting, as agents for  
Epic Wireless and Verizon Wireless  
916-834-0834

RECEIVED  
Amador County

AUG 20 2015

PLANNING DEPARTMENT

Re: Fiddletown Photosimulations  
Fiddletown, CA

Dear Karen,

Thank you for the opportunity to discuss the photosimulations and our process a little bit for this project. As you know, we have been doing photosimulations for over 22 years for all facets of the planning community and planning departments throughout the West. We have completed tens of thousands of photosimulations for all types of projects, from bridges and hospitals to cell towers and product development. We have earned the trust and enjoy a strong reputation amongst strict planning jurisdictions such as TRPA, the Coastal Commission, Hollywood Historical Society, the City and County of San Francisco and dozens of other reputable planning agencies. One of the most important aspects of our reputation and our work is our impartial treatment of every project. As a licensed Landscape Architect I take the responsibility of being a steward to the environmental landscape very seriously. On occasion a project opponent will make a bold claim that I am somehow beholden to the project applicant because the applicant pays my bill. However, the fact is that I am hired to provide impartial visual representation of what is being proposed. If the project is denied because it looks bad, then I make more money doing the next candidate. If the project looks horrible then the applicant would rather know before the application is submitted rather than after it gets built. Many projects have been changed at the sim stage before it even goes to application. There is NO advantage for anybody to misrepresent the project in any way. My job is to show exactly how the project will appear once it is built.

Specifically regarding the Fiddletown project, I personally traveled to the area to survey and photograph the site. I drove up and down the roads in the area and confirmed all my preliminary research done using Google Earth. The area is densely covered in Oak trees, and is comprised of rolling hills. Therefore the site is very difficult to spot from surrounding public roads. As I drove the area I determined the locations at which the tower would be MOST visible. These would be the worst case scenarios that we typically show in our photosimulations.

I took the first picture near the fork in the road along American Flat and American Flat Side Road. This was selected because it is slightly elevated, the road points directly at the tower, and is clear of foreground trees. This provides a worst case view for users of both roads at that fork.

The second picture was taken near the gate to the property. This viewpoint is the nearest public road to the project, so therefore shows the most detail. However, from the gate there are trees that block the view of the proposed site, so I moved to the south and found another spot from which I could photograph the existing tower and the location of the proposed tower.

There are two other homes along this section of road, one of which is close to the roadway and behind some dense trees. The view for this home is adequately represented by the photosimulation from the gate. The other home has a driveway that climbs up to the west. Since we are not allowed to trespass, and CEQA rules define that key vantage points for simulations must be done from public viewpoints, we



did not attempt to drive up that second driveway. Additionally, we would never consider infringing on private property to photograph anything related to a proposed project without being specifically invited by the landowner.

The camera we used is a Canon 1D EOS 1D with an 18 to 135 zoom lens, set to 18mm with digital conversion factor and cropped to fill a letter sized page. This represents a "standard" viewpoint, not telephoto and not wide angle. To match reality, the viewer of the photosimulation image would need to be 23.6 inches away from a 72 dpi computer screen at 100% resolution. This would match the scale of the real world. When printed on a letter sized page at 200 dpi the viewer would need to be 9 inches from the page, while a print at tabloid size at 200 dpi would need to be viewed at 14 inches. A wider angle view would provide more context, while a telephoto view would provide more detail. Both are helpful to determine the impact of a project, but for neutral and unbiased photosimulations a standard view is preferred.

All photographs for the simulations were taken from public viewpoints, showing the worst case scenarios, using representative camera angles and selected to honor the intent of CEQA and to provide the most accurate representation of the proposed site possible.

Feel free to contact me if you have any questions or comments.  
Thank you,



Don Carmickle, President / CEO  
Previsualists Inc  
PO Box 5421 • El Dorado Hills, CA 95762  
916-709-7000