


THIS IS A TWO-SIDED DOCUMENT

 <p>NEW YORK STATE OF OPPORTUNITY.</p> <p>Adirondack Park Agency</p> <p>P.O. Box 99 • Ray Brook, New York 12977 (518) 891-4050 Fax: (518)891-3938 www.apa.ny.gov</p>	<p>APA Project Permit 2014-102</p>
<p>In the Matter of the Application of</p> <p>NEW YORK RSA No. 2 CELLULAR PARTNERSHIP d/b/a VERIZON WIRELESS, and RIVERAT GLASS and ELECTRIC</p> <p>for a permit pursuant to §809(9) of the Adirondack Park Agency Act and 9NYCRR Part 577 of the Agency's Rules and Regulations</p>	<p>Date Issued: May 18, 2015</p>
	<p>To the County Clerk: This permit must be recorded on or before July 17, 2015. Please index this permit in the grantor index under the following names:</p> <ol style="list-style-type: none">1. New York RSA No. 2 Cellular Partnership d/b/a Verizon Wireless2. Riverat Glass and Electric

SUMMARY AND AUTHORIZATION

New York RSA No. 2 Cellular Partnership d/b/a Verizon Wireless, and Riverat Glass and Electric are granted a permit, on conditions, authorizing a new telecommunications tower (a major public use) in excess of 40 feet in height within 1/4 mile of the Boquet River, a designated Recreation River in an area classified Rural Use by the Official Adirondack Park Land Use and Development Plan Map in the Town of Westport (Wadhams), Essex County. The Town of Westport administers an Agency approved Local Land Use Plan.

This project may not be undertaken, and no transfer deed shall be recorded, until this permit is recorded in the Essex County Clerk's Office. This permit shall expire unless so recorded on or before July 17, 2015 in the names of all persons listed on the first page hereof and in the names of all owners of record of any portion of the project site on the recordation date.

This project shall not be undertaken or continued unless the project authorized herein is in existence within four years from the date the permit is recorded. The Agency will consider the project in existence when the lease agreement has been finalized, the tower constructed, and the utility lines have been extended to the site.

Nothing contained in this permit shall be construed to satisfy any legal obligations of the permittee to obtain any governmental approval or permit from any entity other than the Agency, whether federal, State, regional or local.

AGENCY JURISDICTION

The project consists of a new structure in excess of 40 feet in height, a major public utility use, and a subdivision by lease in a Rural Use land use area and is located within a Recreational River area. Therefore, it is both a Class A and Class B regional project requiring an Agency permit pursuant to Sections 810(1)(d)(5) & (18) and §810 (2)(c)(2)(b) of the Adirondack Park Agency Act; and is a rivers project requiring an Agency permit pursuant to the Wild, Scenic and Recreational Rivers System Act (Article 15, Title 27 of the Environmental Conservation Law) and 9 NYCRR Sections 577.4(a) and 577.5(c)(1).

PROJECT SITE

The project site is a 94±-acre parcel of land located on County Route 10 (Lewis-Wadhams Road), in the Town of Westport (Wadhams), Essex County, in an area classified Rural Use on the Adirondack Park Land Use and Development Plan Map and is located within 1/4 mile of the Boquet River, a designated Recreational River. The project site also contains lands within the Hamlet land use area. No new land use or development is proposed within the Hamlet land use area. It is identified on Town of Westport Tax Map Section 57.1, Block 1 as Parcel 12.1. The project site is described in a deed from Anna S. Sherman to Riverat Glass and Electric, a general partnership, dated April 7, 1989 which was recorded May 3, 1989 in the Essex County Clerk's Office in Liber 941 of Deeds at Page 335

PROJECT DESCRIPTION AS PROPOSED

The project as proposed is summarized as follows:

A subdivision into sites involving the lease of a 100 foot by 100 foot parcel for the construction of a new 102 foot tall (above existing ground level - AGL) telecommunications tower. The total height of the tower will be 111 feet (107 foot tower, plus 4-foot lightning rod). The centerline mounting height of the antennas is 98 feet. A 5-foot crown branch is proposed at the top of the 102-foot tall tower. The tower will be located within a 33± foot by 63± foot fenced-in equipment compound located 160± feet west of County Route 10 (Lewis-Wadhams Road). A vegetative "no cutting" easement will protect trees in the vicinity of the proposed tower.

Within the equipment compound, Verizon Wireless is proposing to install a total of 12 eight-foot-tall panel antennas on the tower (at a centerline height of 98 feet AGL) and construct an 12± foot by 30 foot equipment shelter along with a backup generator. Access to the facility will involve traversing 275± feet of an existing woods road, and construction of 175± feet of a new gravel access drive to accommodate construction and service vehicles to the tower site. Underground utilities will be located along the 12-foot wide driveway and within the 40-foot wide access and utility easement.

The project is shown on a set of plans (13 sheets) titled "Verizon Wireless, Project Number: 20130935112, Wadhams Zoning," prepared by Costich Engineering of Rochester, NY, and having a final revision date of March 6, 2015. All plans are stamped "Final Plans, Adirondack Park Agency, P2014-102, May 2015." Reduced-scale copies of the sheets titled "Site Plan (Drawing Number CA100)" and "Tower Elevation Details & Notes (Drawing Number CA500)" are attached as part of this permit for easy reference. The original, full-scale maps and plans referenced above are the official plans for the project.

CONDITIONS

BASED UPON THE FINDINGS BELOW, THE PROJECT IS APPROVED WITH THE FOLLOWING CONDITIONS:

1. The project shall be undertaken as described in the completed application, the Project Description as Proposed and Conditions herein. In the case of conflict, the Conditions control. Failure to comply with the permit is a violation and may subject the permittee, successors and assigns to civil penalties and other legal proceedings, including modification, suspension or revocation of the permit.
2. This permit is binding on the permittee(s), all present and future owners and lessees of the project site and all contractors undertaking all or a portion of the project. Copies of this permit and the site plan map(s) and plan(s) referred to herein shall be furnished by the permittee(s) to all subsequent owners or lessees of the project site prior to sale or lease, and by the permittee(s) or any subsequent owner or lessee undertaking construction to any contractors undertaking any portion of this project. All deeds conveying all or a portion of the lands subject to this permit shall contain references to this permit as follows: "The lands conveyed are subject to Adirondack Park Agency Permit 2014-102 issued May 18, 2015, the terms and conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."
3. The Agency may conduct such on-site investigations, examinations, tests and evaluations as it deems necessary to ensure compliance with the terms and conditions hereof. Such activities shall take place at reasonable times and upon advance notice where possible.

Proposed Development

4. The proposed project shall be undertaken as shown on the project plans. The tower shall not exceed 102 feet in height, shall contain a 5-foot crown branch, and shall have a 4-foot tall lightning rod. The antennas shall be located on the tower as shown on the plans referenced herein, with the top of the antennas at an elevation not to exceed 102 feet above ground level (centerline elevation of 98 feet above ground level). All clearing and grading for the proposed access road, tower, and equipment compound shall also be undertaken as shown on the project plans, including all stormwater management and erosion control measures.

Simulated Tree Tower

5. The simulated tree tower approved herein shall be constructed such that it appears no taller or broader than depicted in the photo simulations from the intersection of Young's Road and Elizabethtown-Wadhams Road, submitted to the Agency as part of the revised project proposal prepared by Costich Engineering, and received by the Agency on March 17, 2015. From off-site public viewpoints, the antennas and supporting infrastructure (i.e., antenna mounting cross members, cables, etc.) shall not be readily apparent as to size, composition, or color. The tower shall be constructed as proposed and shall mimic the branching structure, needle pattern, and coloration of a mature, fully-formed eastern white pine tree. The Agency shall be notified (in writing, accompanied by high resolution color photographs in print and digital form) within 30 days of completion of the simulated tree tower and associated tower-mounted infrastructure, as per Condition 20, Documentation of Construction.
6. All tree removal must be completed between October 31 and March 31 while bats are in hibernation to eliminate the potential for direct impacts during their active season.
7. Bright orange construction fencing or flagging must be installed to clearly demarcate trees to be protected compared with those to be cut prior to initiation of any ground disturbance or construction activities on the project site.
8. No artificial dyes, coloring, insecticide, algacide, and/or herbicide will be used on the ground for long term maintenance of the property within the designated lease area.

Review of Future Development

9. Any future new land use and development on the 94±-acre project site involving the construction of any new communications towers or the addition of any new antennas, parabolic dishes, or other equipment to the authorized tower, shall require prior Agency review and approval in the form of a new or amended permit. Maintenance and/or "in-kind" replacement of the tower, antennas, simulated branching, equipment building and other appurtenant facilities authorized herein is allowed without a new or amended permit. Amendments to this permit that involve only the 100-foot by 100-foot leased parcel may be processed by the Agency pursuant to an amendment request authorized by the lessee.
10. No principal building shall be constructed on the leased parcel measuring 10,000 square feet (0.23± acres) in area and leased by Verizon Wireless, absent an Agency permit that ensures conformance with Executive Law Section 809(10), including but not limited to conformance with the overall intensity guidelines. Any deed conveying the leased parcel shall contain the preceding sentence pertaining to the prohibition of principal buildings on the 10,000±-square-foot parcel.

Wild, Scenic and Recreational Rivers Special Provisions

11. Inside and within 100 feet of the mean high water mark of the Boquet River, no trees or other vegetation shall be harvested, cut, culled, removed, thinned or otherwise disturbed without prior Agency review and approval. Forest management activities between 100 feet from the mean high water mark of the river and one-quarter mile shall meet the standards and conditions of the Agency's Wild, Scenic and Recreational Rivers System Act regulations (9 NYCRR Section 577.6).

Visual/Open Space Impacts

12. In order to minimize the visual appearance of the authorized tower, antennas, and support poles, they shall be painted dark charcoal grey or black with a non-reflective flat or matte finish; or the tower may be clad in artificial bark designed to mimic a mature eastern white pine tree.
13. On the project site and within the no-cut area designated on the project plans for the tower authorized herein, no existing trees shall be cut, culled, trimmed, pruned, or otherwise removed from the project site without prior Agency review and approval in the form of a new or amended permit or letter of permit compliance, except for the removal of those trees necessary to undertake the project as shown on the tree inventory, Sheet CA-131 of the project plans titled "Tree Preservation Plan". This condition shall not be deemed to prevent the removal of dead or downed trees within the parcel leased by Verizon Wireless, provided the permittees provide two weeks prior written notice to the Agency of the proposed cutting that includes verification by a forester or landscape architect of the condition of the tree(s) to be removed.
14. If a natural cause such as blow-down, ice storm, fire, disease or another event beyond the control of the operator of the tower and/or the antennas authorized herein results in the complete or partial loss of the vegetation that provides the screening and/or backdrop for the tower and/or its antennas, then Verizon Wireless, or their successors and assigns, shall within six months, present a plan for Agency approval intended to achieve "substantial invisibility" as set out in the Agency's "Policy on Agency Review of Proposals for New Telecommunications Towers and Other Tall Structures in the Adirondack Park". Landowners of the site shall negotiate in good faith to allow for the implementation of any plan approved by the Agency. The plan shall describe a program of re-vegetation and/or re-design intended to achieve substantial invisibility within 10 years, or relocation to an alternate substantially invisible site within two years. The plan shall also provide for substantially the same wireless service existing prior to the loss of vegetation. Approval of the plan may be in the form of a letter of permit compliance, or a new or amended permit.

15. The tower shall not be lighted without prior Agency review and approval in the form of a new or amended Agency permit. All exterior lighting on the equipment shelter shall be full cut-off fixtures shielded to direct light downward towards the ground or the equipment shelter and not into the sky.

Co-Location

16. Verizon Wireless, its successors and assigns shall make space available within their leasehold to other FCC-licensed carriers for their use in creating cellular telephone "cells" and to other entities to the extent that space is available at the then-current market rate customarily charged for such space leases. However, such further use shall require prior review and approval from the Adirondack Park Agency, and will be subject to the environmental impact analysis required by law and the Agency's "Policy on Agency Review of Proposals for New Telecommunications Towers and Other Tall Structures in the Adirondack Park". Should the carriers and/or owners be unable to agree on the terms of the lease for such co-location, they shall submit the dispute to mediation or arbitration pursuant to the guidelines of a nationally recognized dispute resolution organization.

Invasive Species Prevention

17. To reduce the spread of invasive species, any mulching (as described on the project plans incorporated herein by reference) shall use only straw, and not hay.
18. When brought from off-site, all equipment, including but not limited to trucks, excavators, tractors, etc., and hand excavation tools such as shovels, rakes, and picks, to be used on the project site shall be clean and free of soil, mud, or other similar material that may contain invasive plant materials, seed, or other propagules. All construction equipment and vehicles operating in infested areas shall be thoroughly cleaned prior to moving to non-infested areas. If washed on the project site, equipment shall be washed in one location to prevent the distribution of propagules among different wash sites.

Blasting Plan

19. If deemed necessary to conduct blasting to construct the access road or install the tower, a blasting plan shall be provided to the Agency for review prior to undertaking any blasting. Approval of the blasting plan may be in the form of a letter of permit compliance.

Documentation of Construction

20. The Agency shall be provided with color photographs (both in print and digital form) showing the completed tower, antennas, and equipment compound within 30 days of project completion. Photographs shall be taken at the tower site and from Photo Station 18 at the intersection of Elizabethtown-Wadhams Road and Young's Road. At the project site, photographs showing the entire completed project shall be provided.

From all photostations, digital equivalent 55 mm and 85 mm lenses shall be employed. All photographs must clearly identify the date the picture was taken, the location of the photograph, and the lens length employed. Compliance photographs shall be taken on a clear day with little cloud cover.

Within 30 days of receipt of the photos, the Agency shall provide written confirmation of permit compliance or shall specifically state the reason(s) for non-compliance with this condition. In the event of non-compliance with this condition, the permittee shall within 45 days submit a plan for Agency review and approval to modify the structure and achieve compliance. Such plan shall also include a good faith estimate regarding the time necessary to undertake such changes upon final approval by the Agency.

Discontinuance of Use

21. If the use of the tower for the authorized cellular telephone, voice, data or other forms of wireless communication is discontinued for more than one year, Verizon Wireless, its successors and assigns, shall remove the tower from the site within the following year. If the use of the herein authorized antennas for cellular telephone, voice, data or other forms of wireless communication is discontinued for more than six months, then Verizon Wireless, their successors and assigns, shall remove their respective antennas from the tower within the following six months. Once the time frames for removal have expired according to this condition, placement of a new tower on the project site or replacement of the antennas on the tower for cellular telephone, voice, data or other forms of wireless communication shall be subject to review and approval by the Agency in the form of a new or amended permit. The landowners, their successors and assigns shall allow timely removal of the tower or antenna array pursuant to this condition.

Legal Interests of Others

22. This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to undertake the authorized project or subdivision, nor does it authorize the impairment of any easement, right, title or interest in real or personal property held or vested in any person.

FINDINGS OF FACT

Background/Prior History

1. On the May 22, 1973 enactment date of the Adirondack Park Land Use and Development Plan the project site was part of a larger parcel land which included lands located within the Hamlet, Rural Use and Resource Management land use areas.
2. The following Agency actions involve those lands which were part of the original 1973 parcel. Agency Jurisdictional Determination J2002-666 advised that a permit was required for a three lot subdivision within the Rural Use Highway Critical Environmental Area (CEA); Jurisdictional Determination J2012-65 advised that no permit was required for a two-lot subdivision in a Hamlet land use area; Agency Permit 86-142 authorized a single-family dwelling within a Resource Management land use area; Agency Permit 87-369 authorized a two-lot subdivision within a Resource Management land use area; Agency Permit 91-471 authorized a four-lot subdivision within a Resource Management land use area; Permit 91-471A authorized a change in driveway location for previously issued permit 91-471; and Permit 2012-18 authorized a two-lot subdivision in a Rural Use land use area within a designated Recreational River Area.
3. Verizon Wireless is a public utility and wireless telecommunications company licensed by the Federal Communications Commission (FCC) and authorized to do business in Essex County, New York.
4. The southeastern portion of the project site is located in a designated Highway Critical Environmental Area pursuant to the Adirondack Park Agency Act because it is within 150 feet of the edge of the right-of-way of a state Highway. The proposed tower is approximately 1800 feet northwest of New York State Route 22, and the tower and access drive are not within this critical environmental area.
5. The tower site is located within 1/4 mile of the Boquet River, a designated Recreational River pursuant to the New York State Wild, Scenic and Recreational Rivers System Act.

Local Land Use Program

6. The Town of Westport administers a local land use plan program approved by the Agency pursuant to Section 807 of the APA Act, effective February 9, 1996. As a result, the Agency must determine that the project meets all of the pertinent requirements and conditions of the approved program. These include the pertinent factors contained in the statutory development considerations and provided for in the approved local program and addressed herein.

Existing Environmental Setting

7. The project site is vacant and is predominantly comprised of forested vegetation, except for an area of open farm field in the southeastern portion of the project site within the Hamlet land use area. Other than the proposed project, no new land use or development is proposed on the project site.
8. Existing slopes at and around the tower location range between 8 to 15 percent. Existing slopes are generally 20± percent or less along the route of the existing portion of the access drive, and the remainder of the access drive contains slopes ranging from 7 to 10 percent. Slopes for the proposed compound are approximately 2 percent. The project plans show the grading, stormwater management, and erosion control plans for the access drive.
9. Soils in the vicinity of the tower are mapped by the USDA Natural Resource Conservation Service's SSURGO program, and are classified in the Charlton-Chatfield Complex. These soils are a well-drained, rocky, very stony soil comprised of loamy ablation till typically found on slopes ranging from 8 to 15 percent.
10. Existing drainage patterns and proposed culvert locations are shown on the project plans.
11. There are no wetlands on the project site in the location of the access road or tower site. Wetlands described herein are intended to alert landowners and others that wetlands may be present on the project site. However, this may not identify all wetlands on or adjacent to the project site.

Character of the Area

12. The project site is a large forested tract owned by Riverat Glass & Electric adjacent to other large tracts of land used for active agricultural uses. The project site is bounded on the west and north by County Road 10, New York State Route 22 on the south, and abuts privately owned forested and agricultural lands to the east. The hamlet of Wadhams is within and adjacent to the project site. The Boquet River is approximately 1/10 of a mile (at its closest point) from the tower site. Land uses in the vicinity of the project site include agricultural, commercial, and residential uses.

Alternatives

13. A Site Selection Analysis Report provided with the application describes how Verizon Wireless selected the location for the telecommunications tower in order to address a coverage gap along New York State Route 22, County Route 8 (CR-8 / Elizabethtown-Wadhams Road, County Route 10, County Road 59, and the hamlet of Wadhams. Alternative site locations within the search area were eliminated due to the potential for the greater visibility and lesser coverage within the lower elevations of the river valley and the hamlet of Wadhams.

Public Notice and Comment

14. The Agency notified all adjoining landowners and those parties as statutorily required by §809 of the Adirondack Park Agency Act and published a Notice of Complete Permit Application in the Environmental Notice Bulletin. No comments have been received.

Other Regulatory Permits and Approvals

15. In a letter dated November 18, 2014, the Fish and Wildlife Service advised the proposed project may affect a federally listed species or designated critical habitat. Pursuant to the Migratory Bird Treaty Act, the Fish and Wildlife Service acknowledged the proposed project follows current guidance. Further, pursuant to the Endangered Species Act (ESA), a determination of “may affect, but not likely to affect” the federally endangered Indiana bat was made due to the proposed removal of trees related to the project (0.54 acres). The Fish and Wildlife Service made the finding provided conservation measures are implemented to avoid and minimize direct impacts to the Indiana bat. The measures are as follows:
 1. Tree removal must be completed between October 31 and March 31 while bats are in hibernation;
 2. Bright orange construction fencing or flagging must be used to clearly demarcate trees to be protected compared with those to be cut prior to initiation of any construction activities at the site;
 3. No artificial dyes, coloring, insecticide, algacide, and/or herbicide will be used on the ground for long term maintenance of the designated lease area; and
 4. Limiting the number of lights, including motion sensors or timers, directing the lights towards the ground or the buildings, and including shields to direct the light downward.

The Northern Long-Eared Bat was recently listed as threatened pursuant to the ESA. The Fish and Wildlife service determined the proposed project “may affect, but not likely to affect” the northern long-eared bat provided the measures outlined above are implemented.

16. A completed Local Government Notice Form signed June 10, 2014 by the Town of Westport Code Enforcement Officer indicates that the proposed “use” is allowed in the local zoning district(s) designated RR 8.5 North, and the project has not received municipal approval. At project completion, the Agency sent a letter to the Town of Westport requesting consultation with the Town. The Town Planning Board discussed the project at two Planning Board meetings and provided a draft comment letter. The potential impacts identified by the Town regarding soil erosion and quality of the access road are addressed in the stormwater management plans approved in this Permit.
17. No formal notice to the Federal Aviation Administration is required for a tower of the proposed height in this location.
18. By letter dated August 10, 2013, the New York Air National Guard determined that the project as proposed would not cause any significant negative impact on the military training airspace it underlies and, therefore, the USAF would not contest the application.
19. The tower authorized herein will require licensing from the Federal Communications Commission (FCC).

PROJECT IMPACTS

Land Resources

20. Provided the access drive is constructed as shown on the project plans, including all stormwater and erosion control features, there will be no undue adverse impacts resulting from construction, maintenance, or use of the access drive.
21. Requiring that heavy equipment used for the project be cleaned prior to on-site use will help to prevent the potential spread of invasive species.
22. Requiring Agency review and approval of a blasting plan prior to commencing blasting on the site for the access road or tower site will protect the land resources.

Open Space/Aesthetics

23. Prohibiting lights on or directed toward the tower and requiring the exterior light on the equipment shelter to be fully-shielded and directed downward will reduce nighttime light pollution (glare, light trespass and sky glow).

Critical Environmental Area(s)

24. Adverse impacts to the Highway CEA will be avoided since the proposed tower and related development is greater than 1800± feet from New York State Route 22, and is therefore outside the CEA.

Visual Analysis

25. A visual analysis of the proposed tower was performed on September 11, 2014, and the photos from that analysis were submitted to the Agency on September 18, 2014. Also included was computerized mapping showing areas of visibility based on an actual drive test, a balloon test to identify the tower location, height and actual areas of visibility, and photographs of the balloon test. An Agency staff member was present during the September 11, 2014 balloon test.
26. A site-specific simulated tree design was prepared for the 102-foot-tall tower by Costich Engineering, was submitted by the permittee and received by the Agency on March 17, 2015. The revised project plans included a branch layout titled "Tower Elevation & Notes" and photographic simulations of the tree tower as seen from multiple locations.
27. The proposed tower was visible in areas as seen from the south and west of the tower site within a two mile radius, and is depicted on a map provided by the applicant entitled "Viewshed Map/Photo Log". Photo documentation was provided for eighteen locations and a total of four locations were further assessed with photosimulations to evaluate the potential significance of the project's visibility. Of these, Photo Station 18, located near the intersection of Elizabethtown-Wadhams Road and Young's Road, was considered to be the most significant in terms of potential visibility and duration of view. The Photo Station is located an estimated .3 miles from the tower. The simulation from this location also represents the potential visibility of the proposed tower as seen from a tenth-mile section of Youngs Road. From this road segment, the concealed tower would be visible directly ahead of the line of travel while driving north on Young's Road and observed for a duration of approximately 11 seconds. The photosimulation for Photo Station 18 is considered by staff to be the most significant potential visual impact within the viewshed. The potential visual impact of the other viewpoints are considered less significant because they are either seen from greater distances, seen for shorter durations or are intermittently seen as filtered views through roadside vegetation or buildings.

The section of the Boquet River that winds through the viewshed study area for the proposed tower is a designated Recreational River pursuant to the Wild, Scenic and Recreational Rivers Systems Act. Staff paddled a section of the river where potential visibility was indicated on the viewshed map and have verified the tower will not be visible from the river due to the screening provided by existing shoreline vegetation and topography.

The proposed simulated tree tower does project above the top of canopy in relation to the canopy line in the immediate vicinity of the tower. However, the contrast of the proposed structure is not considered an adverse visual impact because the height above the canopy line is within the realm of naturally occurring conditions in the area and the concealment branching will effectively create the impression of a white pine tree.

28. As a result of Agency review of the project based upon the pertinent development considerations set forth in §805(4) of the Adirondack Park Agency Act and applicable regulations it has been determined that the project will not result in any undue adverse impacts on the Park's visual and open space resources because the proposed tower and antennas will not be readily apparent as viewed from off-site locations, provided the tower is concealed as a simulated tree; and the tower, antennas, and support poles are painted dark charcoal grey or black with a non-reflective flat or matte finish or the tower is clad in artificial bark.

Towers Policy

29. On February 15, 2002, the Agency adopted a policy titled "Policy on Agency Review of Proposals for New Telecommunications Towers and Other Tall Structures in the Adirondack Park" (Towers Policy). This policy is intended to protect aesthetic, open space and other resources, while providing for telecommunications systems consistent with the Agency's "Towers Policy". The proposed tower and antennas are consistent with the Agency's "Towers Policy" because the tower and antennas will be substantially invisible from off-site locations. The proposed simulated tree tower and antennas, including their appurtenant support facilities and access drive, will not be readily apparent as to size, composition, or color and the structure will, to the maximum extent practicable, blend with the background vegetation as seen from all significant potential public viewing points and as documented by simulation and other visual analysis methods.

Historic Sites or Structures

31. The NYS Office of Parks, Recreation and Historic Preservation's 30-day review period for issuance of an impact determination expired on July 30, 2014. According to FCC 04-222, adopting the Nationwide Programmatic Agreement, it is presumed that the project will not cause any change in the quality of "registered," "eligible," or "inventoried" property. Further, the application on record reveals no registered, eligible or inventoried property as those terms are defined in 9 NYCRR Section 426.2 for the purposes of implementing §14.09 of the New York State Historic Preservation Act of 1980, would be materially affected by the proposed project.

CONCLUSIONS OF LAW

If undertaken in compliance with the conditions herein, the project will:

1. meet all of the pertinent requirements and conditions of the approved local land use program of the Town of Westport:
2. not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the Park or upon the ability of the public to provide supporting facilities and services made necessary by the project, taking into account the commercial, industrial, residential, recreational or other benefits that might be derived therefrom;
3. conform to the applicable criteria set forth in 9 NYCRR Part 574;
4. conform to §24-0801(2) of the NYS Freshwater Wetlands Act (ECL, Article 24, Title 8) and 9 NYCRR Section 578.10; and
5. conform to §15-2709 of the NYS Wild, Scenic and Recreational Rivers System Act (ECL, Article 15, Title 27) and 9 NYCRR Section 577.8.

