

Preliminary Statement

Verizon Wireless has submitted yet another statement in support of their proposed facility at 20896 Dog Bar Road. Appellants strongly object to this additional submission on several grounds:

- (1) That this document was submitted without any notice to the appellants appealing the County's decision to grant Sequoia/Verizon's application to build a 13 story tower. Though Verizon's "Executive Summary" is dated July 31, 2024, these surprise documents were received on *Saturday* August 10th (10 days later) without any notice that Verizon was planning to submit yet more documents.
- (2) That this document should be disregarded and rejected as something that could – and should – have been submitted with Verizon's opposition to the appeal or very shortly thereafter upon its completion. The Drive Test referenced in this Summary is alleged to have been performed over several days between May 30th and July 11th. There is no conceivable reason why this document could not have been provided long before the Summary's July 31, 2024 date. Verizon's failure to submit this document in a more timely fashion severely prejudices the appellants, not only because it's a late submission but because there is insufficient time to prepare and submit a counterargument.
- (3) That the timing of this submission is a deliberate strategy by Verizon to hamper appellants' ability to mount a proper, and well-reasoned response.
- (4) That Verizon must not be allowed to prolong this proceeding with continual, additional submissions.
- (5) That in the event this Board accepts Verizon's Executive Summary, it should

nevertheless be disregarded as flawed, faulty, misleading and without any probative value.

DISCUSSION

Verizon's Coverage Gap Analysis Is Defective

Verizon now offers an "Executive Summary" which purports to prove the necessity of the proposed wireless facility by including various coverage maps and a "Drive Test."

Verizon's analysis of its purported coverage gap fails to include analysis of any high-band frequencies. The Executive Summary focuses only on the low-band and mid-band frequencies.

Furthermore, the coverage maps which allegedly show a coverage gap, are based, at least in part, on "proprietary" information. Verizon must be required to lay bare the method by which it arrived at the conclusion that any gap at all exists. We are left completely in the dark regarding the process used and the actual mathematic results or data. Rather, we are supposed to take Verizon's word for their "findings" on blind faith.

Both The Drive Test and The Report Thereof Are Inherently Defective,
Do Not Constitute Probative Evidence of Anything and Are Legally
Insufficient to Establish The Existence of a Significant Gap in
Verizon's Wireless Coverage, as a Matter of Law

Basic Testing Procedure and Data Production

Any "report" which purports to be scientifically or mathematically based must describe the methods used, and be based upon accepted standards employed by the industry. This ensures that whatever data is collected is both accurate and reliable.

As an example of the type of "drive test" that's accepted by the FCC, attached as Exhibit "A" is an excerpt from the FCC record of T-Mobile's 1 million mile drive test. Through this "million mile drive test," T-Mobile provided an accurate record of the extent of its wireless

coverage to the FCC in 2020. The applied methodology was clearly set forth in order to confirm that T-Mobile met the FCC's standards, and the results were indeed accurate. Among the basic critical requirements for an accurate drive test is that where the drive test is intended to collect coverage measurements for low-band and mid-band simultaneously, *the simultaneous collection of data for each band must be done on separate devices which are collecting the data at the same time* (Exhibit "A" at Section III).

In addition, the data collection must be performed at vehicular speeds of between 25 and 60 mph, at street level, and under pre-determined conditions. *Id.*

Verizon's Purported "Drive Test" Report is Inherently Defective

A simple review of the "report" proffered by Verizon reveals that the "test" failed to meet the most basic requirements for conducting actual drive testing, and the report fails to disclose the conditions under which the alleged drive test was conducted.¹

Even worse, the report does not contain any actual recorded data, but instead contains computer-generated "coverage maps" of the kind that the staff of the FCC has repeatedly rejected as being inherently "unreliable." It would appear that the data was collected by a single smartphone, rather than separate devices for low-band and mid-band frequencies, *simultaneously*, which is contrary to the minimum basic testing requirement that any testing of low-band and mid-band frequencies be tested on separate devices.

¹ As anyone in the wireless industry would be aware, the speed of the vehicle performing the drive testing is critical to accurate testing because the recording devices only record signal strengths at periodic intervals, and the speed of the vehicle then dictates how many recordings are made. Those recordings are then "averaged" to determine average signal strengths for each geographic location, and those signal strength numbers can be inaccurate (or worse, manipulated) by the varying speed of the vehicle, and the frequency at which the recording device takes a recording of the present signal strength as the car travels.

Of greater importance, the report of the drive test does not contain any actual data purportedly collected during the test. Nor does this Executive Summary contain any actual signal strength records for the twelve (12) frequencies upon which Verizon provides personal wireless services to its customers. Annexed hereto as **Exhibit “B”** is a publicly disclosed list of the twelve frequencies upon which Verizon provides service to its customers.

Furthermore, the drive test does not reflect the weather conditions on the dates the test was conducted. Water – rain, fog, clouds, and high humidity – can cause signal interference. Water conducts electricity, allowing water vapor in the atmosphere to reflect or refract radio waves. Also, when the signal passes through raindrops, it weakens, leading to poor signal strength. In addition, lightning can cause electrical interference. Clearly, weather conditions are a factor during a drive test, and yet there is no mention at all of the prevailing conditions at the critical times.²

It is beyond argument that the Executive Summary does not support this conclusion for a host of reasons.

First, while the report allegedly addresses Verizon’s coverage on its low-band and mid-band frequencies, it is utterly silent with respect to Verizon’s high-band frequencies.

As previously addressed in the Appellants’ original Memorandum in Support of the Appeal, neither Verizon nor a site developer such as Sequoia can claim that Verizon suffers from a significant gap in its personal wireless service coverage simply because it may have a gap in one or two of the dozen frequencies upon which it provides wireless services to its end-use

² <https://www.outsideonline.com/outdoor-gear/tools/how-weather-affects-your-phone-signal/>
https://www.huffingtonpost.co.uk/entry/how-hot-weather-heatwave-effects-phone-signal_uk
<https://www.weboost.com/blog/does-weather-affect-cell-phone-signal>

customers.

To establish a significant gap in its personal wireless services, it must show that its end-use customer cannot use their cell phones to connect to a landline using Verizon's wireless service.

Second, the colorful images of the "coverage" maps in the report are not supported by the submission of any *actual data*, whatsoever – no charts, no lists, no tables, no mathematical data at all.

The fact is that the purported drive test report that Verizon has submitted does not constitute probative evidence of anything.

It would never be accepted as evidence of anything in any state or federal Court in the entire United States and cannot properly be accepted as evidence of a significant gap in Verizon's personal wireless service before tis Board.

Public Safety

Verizon's Executive Summary refers to emergency service and first responder agencies and implies that their proposed cell tower is necessary to provide access to 911. This is patently untrue. 911 calls will always go through, no matter the caller's cellular service carrier. All wireless phones, even those that are not subscribed to or supported by a specific carrier, can call 911. Unless a mobile phone's battery is dead or the user is *completely* outside *every* wireless carrier's service area, that phone can dial 911. No service plan is needed and there are no fees.³

³ <https://www.911.gov/calling-911/frequently-asked-questions/>
<https://www.waldenu.edu/online-masters-programs/ms-in-criminal-justice/resource/ten-things-you-might-not-know-about-the-united-states-911-emergency-telephone-number>

Verizon's Existing Towers and Competitor's Cell Towers

The Executive Summary refers repeatedly to Verizon's existing cell towers. These towers are already providing cellular service in the area where Verizon seeks to construct its proposed tower. But Verizon never addresses whether these towers could be improved, or "boosted" to provide increased signal strength or capacity. Furthermore, Verizon doesn't address whether there are towers owned by other entities on which Verizon could co-locate to provide better coverage and capacity. It should be noted that Verizon's coverage maps do not include any reference at all to other carriers' existing cell towers.

Conclusion

In light of the foregoing, (and incorporating by reference all the arguments previously made and issues raised in support of this appeal) the appellants respectfully request that:

- (a) **This appeal** of the decision granting Sequoia's/Verizon's application **be granted**,
- and
- (b) **Sequoia's/Verizon's application** for a Conditional Use Permit to construct its proposed thirteen-story cell tower **be denied** in its entirety.

Respectfully Submitted,

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