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DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
BUREAU OF PARKS AND LANDS
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**FINAL FINDINGS REGARDING AMERICAN TOWER COMPANY'S PROPOSED
EXTENSION OF ITS TELECOMMUNICATIONS TOWER
ON BALD MOUNTAIN**

APPLICANT: American Tower Company

PROJECT LOCATION: Bald Mountain, Bald Mountain Public Reserved Lands, Oquossuc, Maine.

BACKGROUND: Pursuant to 12 M.R.S § 1852(4)(A) and a telecommunications lease dated August 31, 2011 (“Telecommunications Lease”), the Bureau of Parks and Lands (the Bureau) leases to RCC Atlantic, Inc. real property on Bald Mountain in Oquossoc, Maine, for a telecommunications tower to provide cellular phone service for public safety and public use. American Tower Company (ATC), which is the sublessee and Tower Operator, requested the Bureau’s permission to extend the existing communications tower by 18 feet, from 50 feet above ground level to 68 feet above ground level, with four slender ‘whip’ antennas up to 15 feet long each, extending up to 83 feet above the ground (see Exhibit A). The tower extension will improve cellular coverage for mobile devices in the Rangeley Lakes region and improve public safety by adding the First Net communication system to the tower, which is used by emergency responders.

The leased premises on Bald Mountain are part of the Bald Mountain Unit of public reserved lands (the Bald Mountain PRL). For management purposes, the Bald Mountain PRL is part of the Bureau’s Western Mountains Region. The Bureau acquired the Bald Mountain PRL from Rangeley Lakes Heritage Trust in 1993 via quitclaim deed recorded in the Franklin County Registry of Deeds, Book 1400, Page 058 (the Deed). The Deed states the conveyed premises are subject to restrictive covenants, including:

4. Platforms, towers, and similar structures on the premises shall not extend above the treeline so as to significantly detract from the scenic and natural features of the premises as viewed from Cuspsuptic, Mooselookmeguntic, or Rangeley Lakes.

These covenants shall run with and burden the premises herein conveyed and shall be both personal covenants and covenants running with the benefitting other real estate in which Rangeley Lakes Heritage Trust, Inc., its successors and assigns, now or hereafter have an interest adjoining the premises herein conveyed or having shore frontage on Cuspsuptic, Mooselookmeguntic, or Rangeley Lakes.

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When the Bureau acquired the Bald Mountain PRL, a telecommunications tower was located near the summit of Bald Mountain. At closing, the Bureau was obligated to continue an existing 1991 rental agreement and has leased part of the Bald Mountain PRL for telecommunications purposes since 1995. (Prior telecommunications leases or amendments are dated 1995, 2003, and 2005.) The Telecommunications Lease allows the lessee to construct, operate, and maintain a telecommunications facility as depicted in Exhibits D and D-1 of the lease. The Telecommunications Lease requires that any additions to or modifications of the lessee improvements require the Bureau's "specific prior written permission." As described and depicted in Exhibits D and D-1, the telecommunications tower is 50 feet above ground level.

PROJECT HISTORY: ATC initially proposed changes to the telecommunications tower in January 2020. Specifically, ATC proposed to double the height of the existing tower from 50 feet to 100 feet. The Bureau denied this proposal because of the expected visual impact.

ATC then revised its proposal. Instead of a 100-foot tower, ATC proposed to construct on the leased premises a second telecommunications tower similar in height to the existing tower. The existing communications tower is already visible from the Bald Mountain summit observation platform at the summit about 700 feet South of the tower. Adding a second telecommunications tower would have resulted in two towers visible at close range from the platform. A second telecommunications tower would have also required more extensive clearing of trees at the tower site. To limit the visual and ground-clearing impacts, the Bureau requested that ATC submit a design for a single tower with the minimum feasible height to accommodate the expanded cellular service.

In June 2021, ATC next proposed a 68-foot tower with four slender whip antennas up to 15 feet long each, such that the total height of the tower, inclusive of the whip antennas, is 83 feet above the ground. The 68-foot tower is below the height at which the FAA requires safety lighting and thus avoids the associated visual impacts of day and nighttime tower lighting. At the Bureau's request, ATC included with its proposal visual simulations of the existing and proposed tower from various vantage points, including the hiker observation platform, surrounding roads (Carry Road and ME Rte 16), and Cupsuptic, Mooselookmeguntic, and Rangeley Lakes.

At the Bureau's request, ATC also submitted an analysis of alternative sites. Specifically, ATC considered the following two alternatives: (1) installing one or more traditional cell towers at alternative locations in the region, and (2) installing 4G or 5G micro-cells (i.e., "small cell technology"). ATC's analysis concludes that each option is inadequate:

- Alternative 1: Because of the location and elevation of Bald Mountain, multiple traditional towers would be required at other locations to generate a level of coverage for the region that is inferior to that generated by the proposed 68-foot tower. In addition to reduced coverage, installing multiple towers at new locations may have more significant environmental and/or scenic impacts on the region.

- Alternative 2: Small cell technology is limited to creating one-mile coverage cells based on existing power and fiber locations. Alternative 2 would cover only a small fraction of the area compared to coverage generated by the proposed 68-foot tower.

BUREAU REVIEW: Because ATC’s proposed tower extension requires the Bureau to lease a telecommunications tower public reserved lands subject to deed restrictions, the BPL considered the following during its review: Resolves 2021, ch. 137, 12 M.R.S. § 1847(3), the Western Mountains Region Management Plan, the Department of Conservation’s (now Department of Agriculture, Conservation and Forestry) Policy on Use and Management of State-Owned Mountaintops for Communication Facilities in Maine dated August 2005, the deed restrictions and related public comment.

Legislative Authorization: Resolves 2021, ch. 137 authorizes the Bureau to allow RCC Atlantic, Inc. and American Tower to:

1. Construct an extension at the top of the existing tower, with the extension not to exceed the height of the existing tower by more than 18 feet;
2. Construct an additional custom shelter at the base of the tower with an associated Generator, and
3. Allow the installation of communications equipment on the tower by an additional wireless communications company to improve local wireless communications service and emergency telecommunications services in the region.

See 12 M.R.S. § 1852(4). The Joint Standing Committee on Agriculture, Conservation and Forestry conducted a public hearing on the bill for this Resolve on March 1, 2022, at which the discussion focused on the need for additional cellular service in the area. Seven testimonies were provided in support, including the Maine State Chamber of Commerce and the Franklin County Sheriff’s Department, and no testimony was provided in opposition. The Bureau of Parks and Lands testified ‘Neither for nor Against’ the legislation.

Consistency with the Western Mountains Region Management Plan: Pursuant to 12 M.R.S. 12 M.R.S § 1847(2), each unit of public reserved land is managed according to a management plan. “The director may take actions on the public reserved lands consistent with the management plans for those lands and upon any terms and conditions the director considers reasonable.” 12 M.R.S. § 1847(3). The management of the Bald Mountain Unit is addressed in the Bureau’s Western Mountains Region Management Plan, adopted in January 2011.

The location of the communications tower is within the Bureau’s Visual Class II designation, which states, “Visual Class II areas typically are those that include views of forest canopies from ridge lines, the forest interior as it fades from the foreground of the observer, background hillsides viewed from water or public use roads, or interior views beyond the Visual Class I area likely to be seen from a trail or road. Class II areas are less sensitive to change from the visual standpoint of the observer but will nonetheless be managed to avoid any obvious alterations to the landscape. Openings will be of a size and orientation so as to not draw undue attention”.

The Bald Mountain Unit Management Issues and Recommendations section of the Management Plan states on page 70 that:

<i>Transportation and Administration</i>	
Keeping the telecommunications tower as visually unobtrusive as possible is challenging due to the proximity of the tower to the summit and observation deck, and the wireless company’s periodic requests to expand capacity.	Continue to require provisions in any lease amendments to protect the views of Bald Mountain and from the Bald Mountain summit, and make the tower as visually unobtrusive as possible. This includes a height limit, among other considerations.

(issues/concerns are cited on the left, Bureau comments are provided on the right)

The 2017 five-year review of the management plan and the 2021 second five-year review of the management plan both support and maintain provisions in the original management plan.

The Bureau’s modifications to the current tower proposal requiring a tower limit of 68 feet are consistent with the management plan language requiring that visual impacts of the tower be limited. As described above, Bureau staff assessed and rejected a taller 100-foot tower as well as a second proposal for a two-tower alternative before seeking public comment on a limited extension of the existing tower to 68 feet. The results of the public survey of visual impacts described below support the conclusion that the 68-foot tower adheres to the management plan language that any lease amendment must be “as visually unobtrusive as possible. This includes a height limit, among other considerations,” as stated in the management plan.

Bureau of Parks and Lands Tower Policy: The former Department of Conservation (now Department of Agriculture, Conservation and Forestry) adopted a “Policy on Use and Management of State-Owned Mountaintops for Communication Facilities in Maine” in August 2005. The policy identifies Bald Mountain as a Designated Communications Property due to the existing infrastructure on-site. There are ten considerations for new or improved communication towers in the policy.

1. Preserving the integrity of the Department’s existing and planned communication system;
Assessment: Not applicable.
2. Providing designated and well-distributed sites for future public communications needs;
Assessment: The ATC tower extension proposal meets the expanding demand for public communication needs and public safety communications.
3. Minimizing the visual impact of communication installations;
Assessment: Visual impacts are evaluated in these findings.
4. Protecting the aesthetic values, natural condition, resource values, and research potential of high peaks and ridges and all other areas considered for use as communications sites;
Assessment: The Bald Mountain tower site is an existing communications site where colocation is considered compatible. Aesthetic impacts are evaluated in these findings.
5. Minimizing electronic interference and signal deterioration due to increasing transmission and reception installations;
Assessment: Not applicable

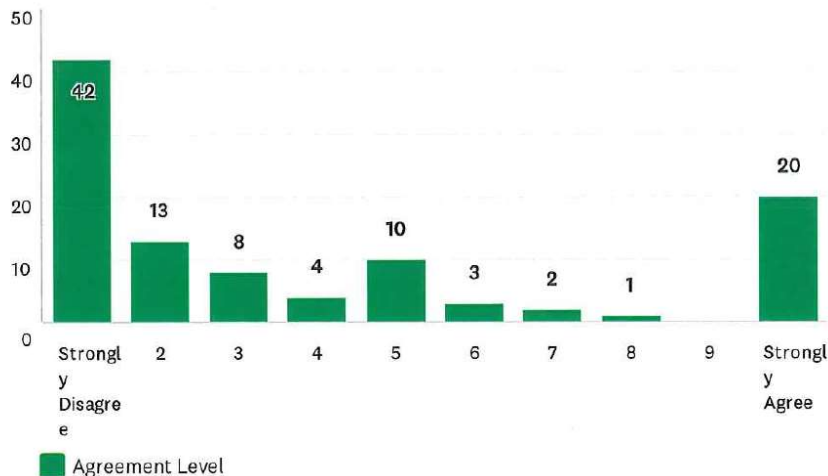
6. Minimizing the potential threat to public health from intense signals at sites visited by the public;
Assessment: The public does not visit this site.
7. Providing a fair and equitable process for private companies that desire to operate facilities on Department administered lands;
Assessment: This is an existing lease site where putting the lease out to bid is not a consideration.
8. Generating fair market revenues to the Department for the use of selected Department of Conservation properties;
Assessment: The lease amendment provides the opportunity to ensure the lease rate is up to fair market value.
9. Use of property consistent with terms and conditions of the original acquisition;
Assessment: Deed restrictions have been given detailed attention and evaluated in these findings.
10. Ensure that the co-location of communications towers is encouraged.
Assessment: The ATC proposal is for colocation in this case.

The Bureau finds that the proposed tower extension is consistent with all ten criteria and is compatible with the Bureau's tower policy.

Deed Restrictions: As stated above, the Deed states: "Platforms, towers, and similar structures on the premises shall not extend above the treeline so as to significantly detract from the scenic and natural features of the premises as viewed from Cupsuptic, Mooselookmeguntic, or Rangeley Lakes." Several steps were taken to determine whether the proposed tower extension would "significantly detract from the scenic and natural features ...". Bureau of Parks and Lands Deputy Director Bill Patterson and Forester Ben Webb conducted a site visit in May 2020, walking the tower access road to review conditions on the ground. The Bureau also used tower simulations and conducted a public survey in July and August 2021 to solicit perceptions of visual impact. For purposes of the public survey, the Bureau selected a subset of images with the highest tower visibility among all images provided for Cupsuptic, Mooselookmeguntic, and Rangeley Lakes. The 103 respondents to the survey viewed simulated images of the proposed tower extension. Survey responses were highly bimodal on a 1-10 scale; most responses were at either end of the scale (i.e., responses of 1, 2, 9, and 10). More than twice as many respondents (42 vs. 20) thought the tower expansion would not 'significantly detract' from the scenic and natural features of Bald Mountain as viewed from Rangeley Lake. The full responses to Question 1 are shown below, and the complete survey results are available for review by request.

Q1 Based on the photos, and using the scale below, please indicate your level of agreement with the following statement: “The proposed modification of the tower significantly detracts from the scenic and natural features of Bald Mountain as viewed from Rangeley Lake.”

Answered: 103 Skipped: 0



In addition to conducting the public survey, the Bureau, in August 2023, contacted the owners of the 26 properties identified as benefitting from the deed restrictions to ensure they were aware of the proposal and had the opportunity to comment. The Bureau received three responses, and none of the responses expressed concerns about the visual impacts of the proposed tower extension. One resident of the region has provided multiple written comments to the Bureau, completed the survey, and also made phone calls to the Bureau expressing opposition to the project and citing the deed restrictions.

FINDINGS AND DECISION: The Bureau has reviewed the tower proposal, the deed restrictions, public input, the Bureau’s Western Mountains Management Plan, and the Department’s Tower Policy.

The proposed project is authorized by and consistent with Resolves 2021, ch. 137. *See* 12 M.R.S. § 1852(4). Based on the Bureau’s site visits, review of the visual simulations, and the 103 survey responses to tower simulations, the Bureau finds that extending the existing tower by 18 feet with additional whip antennas does not “significantly detract from the scenic and natural features as viewed from Cupsuptic, Mooselookmeguntic, or Rangeley Lakes,” and thus would not violate the deed restrictions.

The Bureau also finds that the proposed tower extension is consistent with the Bureau’s management plan and the Department’s Tower Policy. Based on this review, the Bureau approves ATC’s proposed tower extension up to 68 feet with a maximum of 15-foot high whip antennas. Bureau approval is subject to executing a lease amendment with agreed conditions pertaining to lease payment, vegetation clearing, tower design, and configuration of ground-mounted equipment. Requirements will be documented in the lease amendment.

For further information on any aspects of the Bureau's review and decision, please contact Bill Patterson at 207-441-6140 or William.a.patterson@maine.gov.

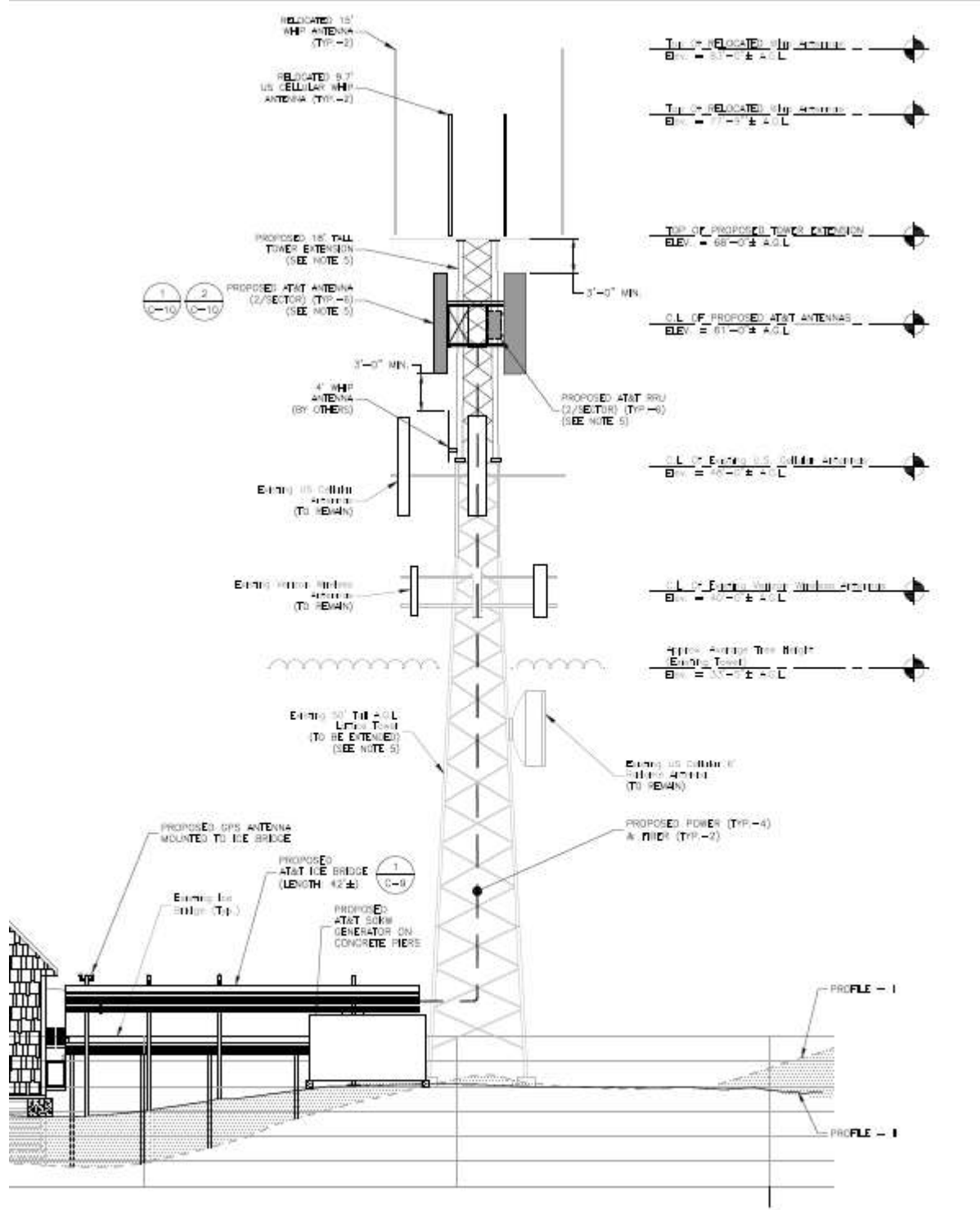
APPEAL RIGHTS: In accordance with 5 M.R.S. § 11002 and Maine Rule of Civil Procedure 80C, this decision may be appealed to the Superior Court within 30 days of receipt of notice of the decision by a party to this proceeding or within 40 days from the date of the decision by any other aggrieved person.



Andy Cutko
Director, Bureau of Parks and Lands

November 2, 2023
Date

Exhibit A – Proposed Tower extension.



NORTH ELEVATION 2
 SCALE: 3/32" = 1' FOR 11"x17"
 3/16" = 1' FOR 22"x34"
 0' 4' 8' 12'