EPA FILE No: 26NOD-15-RIC

To: Jeryl W. Covington

RE: 1) SAFETY HAZARD / 125' ft. cell tower to be situated at:
(b) (6) - Privacy [redacted] Mukilteo, WA 98275.

2) *"Refusal"* to provide reasonable accommodation

Dear Jeryl W. Covington,

The City of Mukilteo ("City") has approved a 125' monopole tower, replete with generator and 24 / 7 air conditioning units, in a residential area zoned R7.5; thus causing a public nuisance for reasons that include noise pollution and a life threatening landslide hazard affecting waters in which interstate and foreign commerce is conducted.

The cell tower striking distance may kill handicapped persons residing in or about my dwelling. The striking distance may also be referenced as a kill zone or "attempt to kill" (within the meaning of 18 U.S.C. § 242) because of *handicap and national origin.*

According to the effective pubic testimony of the cell tower applicant, handicapped persons residing in my *dwelling* (within the meaning of 42 U.S.C. § 3602(b)) are living under the *threat* (42 U.S.C. § 3631) of death on a daily basis because the cell tower was willfully and knowingly approved wherein it may strike my dwelling and kill the handicapped family occupants residing therein.

Placing a cell tower within striking distance / kill zone of a "dwelling" knowing the dwelling will inundate the fragile handicapped with radiation poisoning, may be an act under color of law.

The cell tower adversely affects the safety, health, comfort or repose of handicapped persons; and renders disabled persons insecure in life or use of property.

Intentional endangerment includes without limitation: instead of the typical 60' height restriction imposed by the City on cell tower installations, placed in residential areas, the City applied a "special exception typically applied to commercial or industrial zones to transmit signals" and approved a 125' cell tower adversely affecting a dwelling that houses handicapped persons and other members of a protected class. The City DID NOT [emphasis added] require a minimum safety setback to contiguous properties that should be imposed in order to prevent the deadly adverse affects of a 60,000 lb *"dangerous weapon"* (within the meaning of 18 U.S.C.§ 249).

Placing a cell tower within 10' of an environmentally / geologically sensitive cliff with numerous recorded failures (per the City's own geotechnical report) inspired the Geotech to caution the City of potential slide hazards sufficient to advise the City to obtain waivers from those property owners to the west of the cell tower site.

Such steep slope evidences 100% gradients and a 350' downward elevation differential. Based upon the Geotech's Report City personnel have personal *"knowledge of a relic landslide feature in the upper portion of the slope"* contiguous to the tower site.

Coercing handicapped persons with a privately owned *dangerous weapon* a.k.a. cell tower, replete with 24/7 noise pollution, is not in the public interest.

RECEIVED 10/15/15

The City created an encroachment easement under color of law, which effectively *denies or otherwise makes unavailable a dwelling* (42 U.S.C. § 3604(f)(1)) to members of a protected class. Equally as egregious City personnel *failed or refused* to require the applicant to mitigate artificially created storm drainage water, which when mixed with soils will flow at accelerated speeds to Puget Sound.

When the saturated and mobilized land mass reaches the contiguous creek, situated at the bottom of the steep slope, the velocity may increase exponentially and contribute to the interference or delay of commerce by derailment of a train directly in the westerly path of the landslide. If a train is not on the tracks at the time of the landslide, at the minimum the landslide may pollute Puget South with thousands of tons of mud and debris.

The afore-referenced and foregoing are within the jurisdiction of the EPA i.e. when interstate and foreign commerce are adversely affected and associated with water pollution of colossal proportions jurisdiction may be within 28 U.S.C. §§ 1331 and 1332. At the very least the artificially created storm water constitutes City approved inverse condemnation and a trespass against members of a protected class, for private use, constituting disparate impact. As such I question the pecuniary motive of City personnel.

City personnel ignored the geotechnical report's ("Report") recommendation *"to include a system for capturing water from lease area and conveying it to the bottom of the adjacent slope via tightline."* The Report required an *"agreement protecting the adjacent downhill property owners from* [slide] ***damages*** *resulting from the project."*

The dangerous weapon cell tower site is only 200' ft. from Olympic Middle School; and 130' from a walkway where school children frequent. The radiation danger; kill zone and the dangerousness of the cell tower weapon were concealed from school children's parents.

City officials were notified and failed or refused to consider the history of collapsing towers (12 per year) and cell towers that erupt into flames (4 per year). The willful and knowing failure to require a setback to effectively situate the tower outside of known striking distance at a ratio of 2:1 or at least 1:1 (as required by FCC and other tower requirements) may be an act under color of law i.e. a setback of at least 125' ft from adjacent properties is axiomatic.

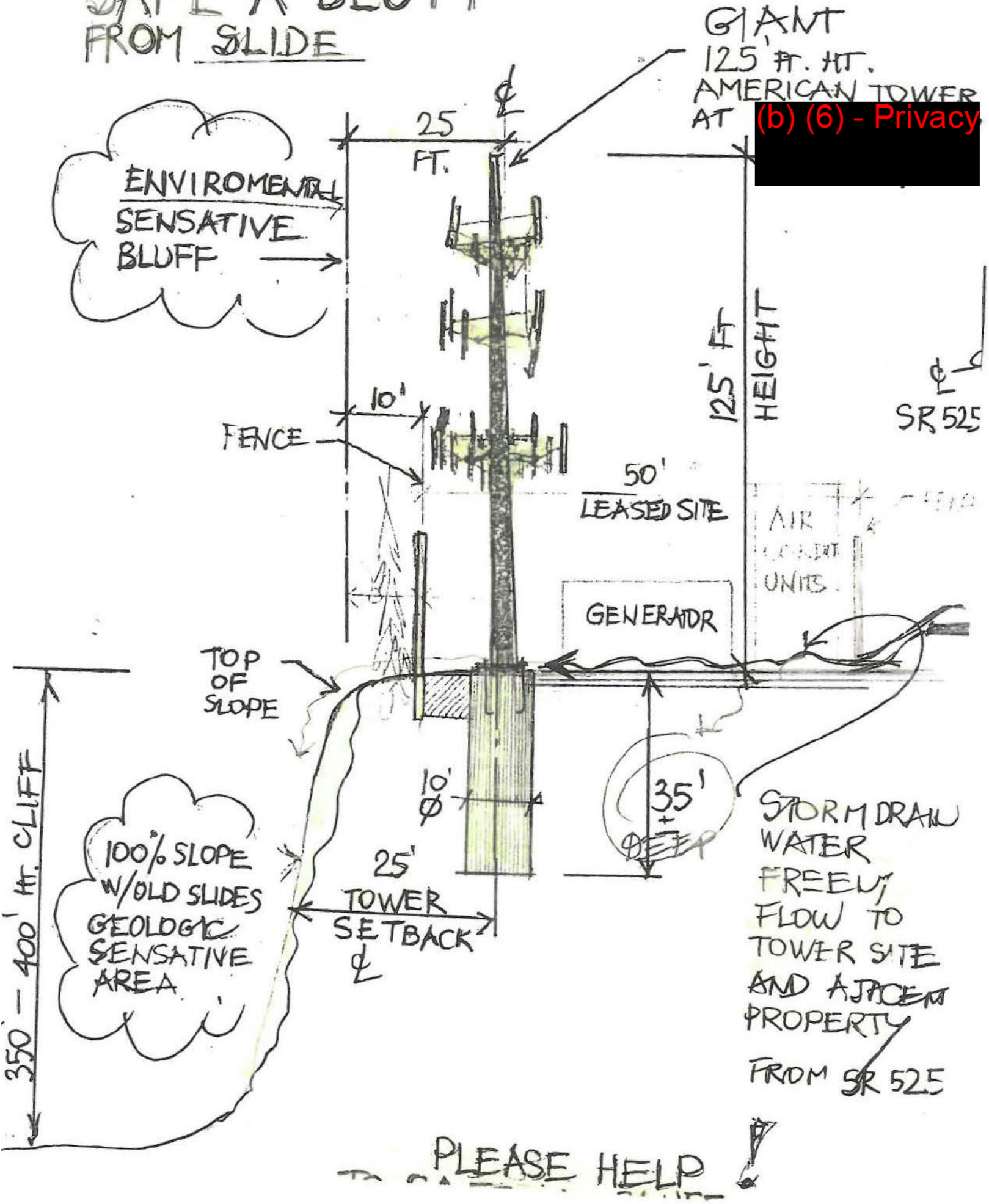
The dynamic exponential motion of a 60,000 lb cell tower in effective escalated gusty winds may tend to further loosen saturated soil and may cause liquefaction and landslides.

City personnel and the alleged Public Hearing Examiner ignored the testimony of the representative for the cell tower applicant at the public hearing, to wit:

> *"**The tower proposal .. would pose very few hazards to adjacent properties…**" noting "…**the monopole could fall onto the adjacent road…**"* (Please note the testimony in the attachment citing the public children's walkway is further from the cell tower than my dwelling where handicapped persons may frequent).

City personnel *defrauded an agency of the United States* (HUD) when *failing or refusing* to consider HUD's Fall Hazard, Nuisances and Hazards Sect. 232: *the dwelling shall not be located within the towers (engineered) fall distance.* City personnel also *failed or refused* to abide by its own adopted rules and policies including: IBC 2012 3108.2 which prohibits encroaching (striking zone) upon any stream and / or privately owned property.

PLEASE,
SAFE A BLUFF
FROM SLIDE



PLEASE HELP !

City personnel failed or refused to comply with its own Code, MMC 17.64.020B when stating: *"the proposal would NOT be INJURIOUS or DETRIMENTAL to the character of the zone (residential in this case) to its ABUTTING or ADJOINING NEIGHBORS"*.

This is a report within the meaning of 18 U.S.C. § 4.

This is also to report a potential landslide condition that could be prevented if only City of Mukilteo personnel would comply with the Fair Housing Act and RCW 49.60 i.e. Washington's law against discrimination.

I have repeatedly requested City personnel comply with my requests for *"reasonable accommodation."* My requests were tacitly "refused" for reasons that include *handicap and national origin. Reasonable accommodation* is a part of 42 U.S.C § 3604(f)(3)(B), 24 C.F.R. § 100.204(a) and RCW 40.60.222(2)(b).

I am an *"aggrieved person"* who has suffered or may suffer "actual damages" and may suffer the loss of life due to intentional discrimination.

Conclusion: the 125' ft. American tower is not in the public interest, adversely affects commerce, endangers the handicapped and only serves the dubious desires of special interest groups.

Direct and indirect evidence provides the EPA subject matter jurisdiction over environmental hazards that also adversely effect commerce; attempt to kill handicapped persons and kill members of a protected class.

Thank you in advance for your contemplated cooperation.

For purposes of clarification, please call ((b) (6) Privacy

(b) (6) Privacy

Mukilteo, WA 98275

1 Reference Documents

The following data was used to figure the noise level for the site.

Data	Document	Author
Sound Power Calculation	ANSI/AHRI Standard 275	AHRI
Sound Power	Equipment Specification Sheet	Manufacturer
Equipment Installed	Revised 100% Zoning Drawings	Glotel
SPL Limits	Washington Administrative Code	State of Washington

2 Site Equipment Contributing to Environmental Noise

Current Status	Equipment	Noise Level (dB)	Owner
Proposed	TE45 cabinet	65	AT&T
Proposed	TE45 cabinet	65	AT&T
Proposed	TE45 cabinet	65	AT&T
Proposed	ALU 9712 cabinet	63	AT&T
Proposed	ALU 9712 cabinet	63	AT&T
Proposed	FLX16WS cabinet	65	AT&T
Proposed	Generac SD 10	87	AT&T
Proposed	Marvair AC unit	73	AT&T
Proposed	Marvair AC unit	73	AT&T

3 Adjacent Properties

(b) (6) - Privacy

Parcel Number	Land Use Designation / Zoning	Distance from Source (ft)	Direction
591100000801	Residential	owner	
591100000804	Residential	150	North
611600003703	Residential	77	South
SR 525	Highway SCHOOL		East
611600003704	Residential	170	West

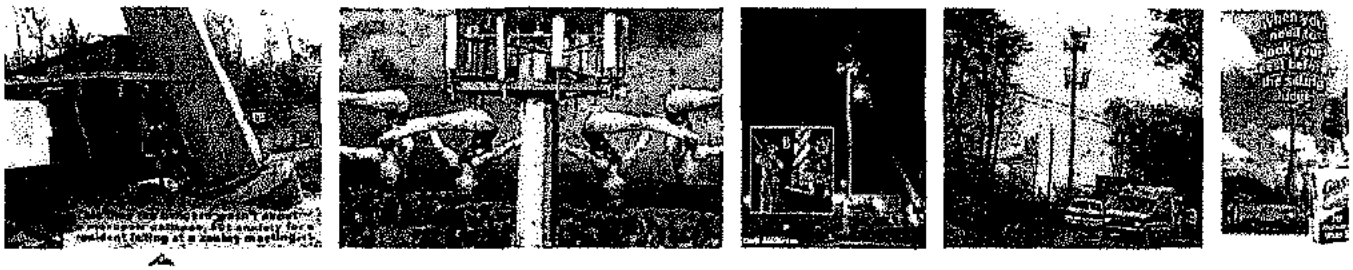
SCHOOL

Snohomish County Permit, Planning, and Zoning Map
Distances are from equipment most near adjacent property line

125 feet monopole cell tower footing

+Nick Share

Web Images Shopping Videos News More Search tools SafeSearch

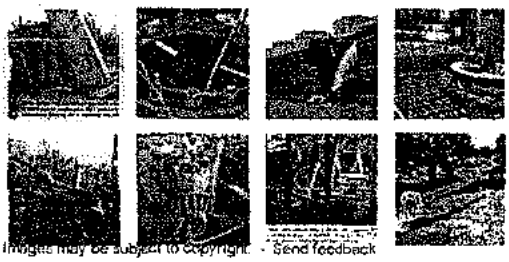


Wireless Estimator - Tower Siting Zc
www.wirelessestimator.com - 350 × 263 - Search by image

Collapse halts New Jersey cell tower zoning meeting Tower Collapse

Visit page View image

Related images:



Images may be subject to copyright. - Send feedback

1 Reference Documents

The following data was used to figure the noise level for the site.

Data	Document	Author
Sound Power Calculation	ANSI/AHRI Standard 275	AHRI
Sound Power	Equipment Specification Sheet	Manufacturer
Equipment Installed	Revised 100% Zoning Drawings	Glotel
SPL Limits	Washington Administrative Code	State of Washington

2 Site Equipment Contributing to Environmental Noise

Current Status	Equipment	Noise Level (dB)	Owner
Proposed	TE45 cabinet	65	AT&T
Proposed	TE45 cabinet	65	AT&T
Proposed	TE45 cabinet	65	AT&T
Proposed	ALU 9712 cabinet	63	AT&T
Proposed	ALU 9712 cabinet	63	AT&T
Proposed	FLX16WS cabinet	65	AT&T
Proposed	Generac SD 10	87	AT&T
Proposed	Marvair AC unit	73	AT&T
Proposed	Marvair AC unit	73	AT&T

3 Adjacent Properties

(b) (6) - Privacy

Parcel Number	Land Use Designation / Zoning	Distance from Source (ft)	Direction
591100000801	Residential	owner	
591100000804	Residential	150	North
611600003703	Residential	77	South
SR 525	Highway SCHOOL		East SCHOOL
611600003704	Residential	170	West

Snohomish County Permit, Planning, and Zoning Map
Distances are from equipment most near adjacent property line

We observed that many of the trees were maples rather than evergreens, a condition that may reflect past landsliding on the slope. We observed a relic landslide main scarp on the slope a short distance below the top of slope near the lease area. The portion of the main scarp that we were able to observe was near vertical. The upper portion of the scarp lacked vegetation while ivy was present below. We did not observe groundwater seepage from the portion of the scarp that we were able to observe. The portion of the slope above the landslide scarp and the top of slope was well vegetated and lacked evidence of slope instability or surface water erosion.

Geotechnical Report Review Comments

Terracon Consultants, Inc. (TCI) advanced a single exploratory boring to a depth of about 33 feet within the proposed compound lease area. The boring disclosed very dense/hard glacially consolidated soils throughout the drilled interval, consistent with published geologic mapping for the site and vicinity. Groundwater was not observed while the boring was advanced. We take no exception with the geotechnical engineering conclusions and recommendations relative to site grading and foundation design and construction presented in the original TCI report dated 18 August 2014. The information presented in the original report is generally consistent with City of Mukilteo requirements and local geotechnical engineering practice for the type of development proposed.

TCI opines in their 27 August 2014 Addendum and 18 September 2014 Addendum II that a 25-foot wide buffer from the top of the adjacent steep slope would be sufficient to avoid an adverse impact on the stability of the existing steep slope. This opinion was presented prior to knowledge of the relic landslide feature in the upper portion of the slope near the lease area. TCI has recommended that the gravel used to cover the lease area consist of Ballast or Clean Ballast per WSDOT Specifications 9-03.9(1) and 9-03.9(2), respectively, as these aggregates would allow stormwater to infiltrate to the native subgrade and follow its current natural drainage path. However, TCI does not comment on the effect that compacting the lease area subgrade prior to placing the ballast material will have on stormwater infiltration.

TCI recommended use of a drilled pier foundation only in the 24 December 2014 Addendum III and that a shallow mat foundation not be used. A drilled pier would provide greater foundation protection than a mat foundation in the event continued erosion and surficial sliding of the steep slope occurs. We take no exception with TCI conclusions in regard to the use of drilled pier foundation. However, TCI does not comment on the potential effects of continued erosion and surficial sliding of the steep slope on the portion of the lease area between the monopole foundation and the steep slope.

MMC 17.52A.040.2.h indicates that a geotechnical report shall include *An estimate of bluff retreat rate that recognizes potential catastrophic events such as seismic activity or one-hundred year storm event.* The TCI report and addenda do not provide an estimate of the retreat rate of the top of the steep slope

HNLehtinen
Engineering
4120 Hoyt Ave.
Everett, WA 98203
(425) 252-2373

COPY FOR YOUR FILE

September 14, 2015

To: Lynn Peterson, Secretary of Washington State Department of Transportation

Ref: A cell tower proposed to be erected on ultra sensitive land slide area (SR 525) (b) (6) - Privacy, by American Tower Corporation.

Dear Ms. Peterson:
Please be advised there is a great concern regarding the construction of the above ref. structure on the top of the cliff about 400' height assigned as most sensitive land slide area in the state.
A professor at the University of Washington stated- this area- Everett to Tacoma is a "land slide in progress"!! A satellite photo apparently shows numerous small slides in the vicinity of proposed tower.
If this tower is constructed, it will be eventually trigger a landslide similar to OSO infamous event with dire consequences- the state 525 could be cut off and also BNRR line along shore line directly below the ref. site -- not to mention Whidbey Island and the ferry system interruption. The liability would be astronomical and regions economy would suffer greatly.
Many single family structures north of tower would be in peril.

The enclosed profiles of OSO and Mukilteo shows the similarity between OSO and Mukilteo site both geography and land formation, however, the similarity ends here- the Mukilteo site is currently subject to continuous vibration by SR525 vehicle traffic above and BNRR train traffic below the site with already detrimental affect in the soils stability on the ref. site.

Now- we add a huge tower with its large foundation system (35' deep or a shallow) – it is like a giant wedge prying open the hill side, allowing water to enter -- weaken shear capacity of soils- thus triggering a land slide.

It is my understanding that the City issued a green light based on incomplete and limited study in the soils report (commented by author) such as quantitative analysis of the past, current and/ or proposed site condition.
The soils reports do not mention the relic landslides and one that partially cut/ undermined SR525 20-30 years ago.

Storm surface water drainage runoff currently flows freely from SR525 to the subject site as well as to adjacent property site, a small portion the runoff from SR525 is collected in catch basin and conveyed to drisco pipe on property. Storm generated rain (horizontal rain in high wind) hitting this type of tower generates 5-10 times as much runoff as vertical rain fall as water falls directly to the tower base surrounding soils. (One has to do the math).

Existing condition (due to topography) some of the runoff flows to adjacent site. The wind affect of escarpment in this high wind zone appears to generate up to 150- 170 MPH winds transmitting load to the tower foundation- the footing will experience dynamic vibration loading transmitting to soils and in presence of water will alter the current subgrade natural drainage path this and the prying affect will eventually trigger a landslide, with catastrophic results.

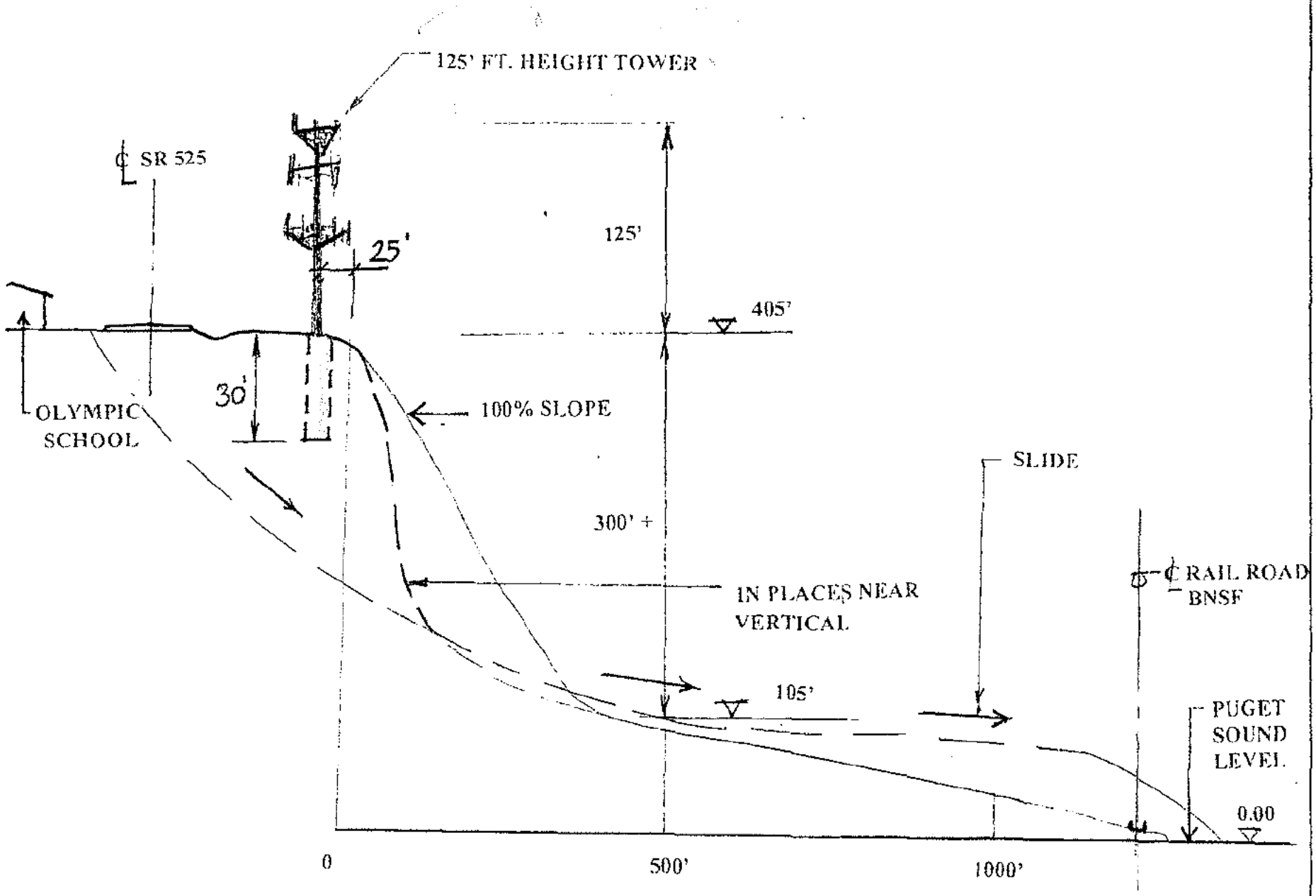
If you have any questions, please call (425) 252-2373.

Sincerely,

Nick Lehtinen, P.E.

C.c. *Carl R. Ice, President/ GEO Burlington Northern Rail Road*
Lynn Peterson, Secretary Transportation
Jennifer Gregerson, Mayor of City of Mukilteo
Bob Champion, Counsil President
Snohomish County Landslide Monitoring office
Beacon, Mukilteo Newspaper
EPA

Enclosures: 2 land slide profiles



SLIDE PROFILE @ (b) (6) - Privacy [redacted]
TO PUGET SOUND

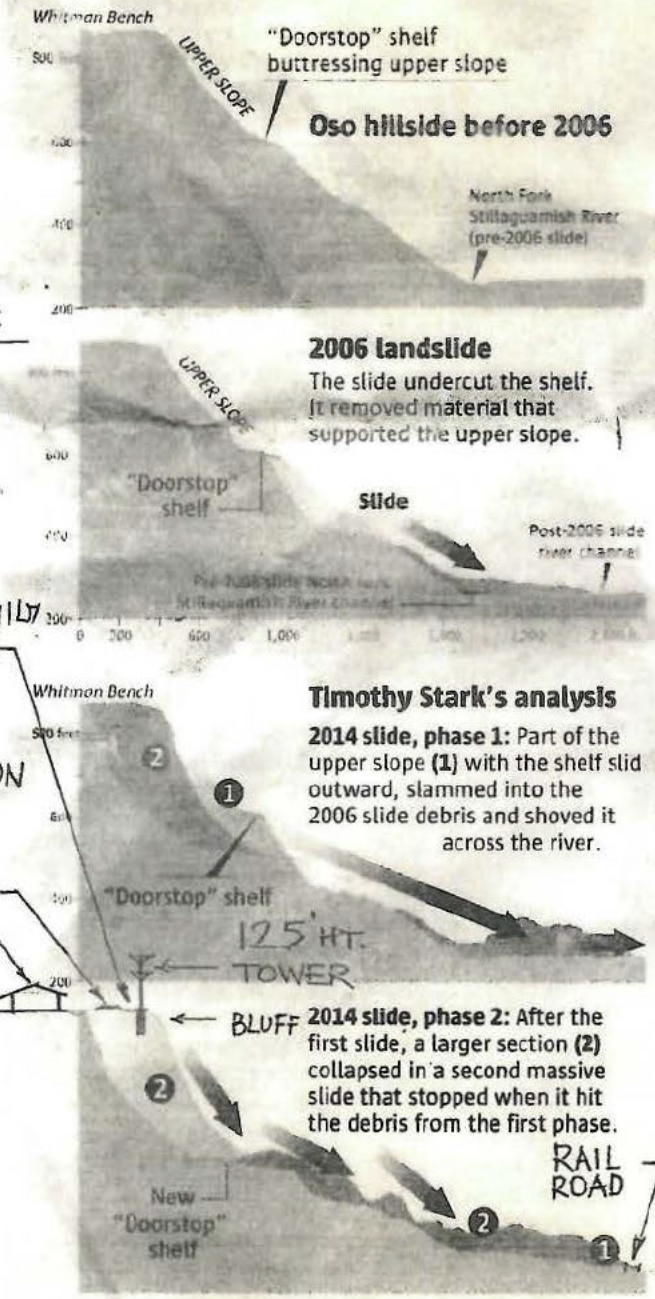
HNLehtinen Engineering
4120 Hoyt Ave.
Everett, WA 98203
(425) 252-2373

By ____ Date ____

Page No. ____ of ____

WHAT TRIGGERED SLIDE?

NEW THEORY CHALLENGES EARLIER CONCLUSIONS ABOUT OSO DISASTER



Source: On Going Study of SR-530 Landslide by T.D. Stark and A. Baghdady, University of Illinois at Urbana-Champaign

MARK NOWLIN / THE SEATTLE TIMES

By SANDI DOUGHTON
Seattle Times science reporter

An aerial map compiled a year before the deadly Oso landslide shows that the upper portion of the hillside was being dangerously undercut, which could point the way to identifying other high-risk slopes, according to a new analysis.

University of Illinois engineering professor Timothy Stark says he and his colleagues are convinced that the slide originated high on the slope, not lower down as previous investigations suggested. And height alone could account for the destructive power, he argues.

"This is really the key to understanding why the 2014 slide was completely different" from previous slides that didn't travel nearly as far, Stark said.

That insight could be used to guide future hazard analysis based on the aerial-mapping method called lidar, which reveals ground topography with unprecedented clarity, he said.

Lidar maps from 2013 show that previous slides and erosion were eating away at a shelf that had long served as a kind of doorstop to buttress the upper slope and the plateau, called the Whitman Bench. Stark and his team, who were among the first scientists to visit the site last year, say that's where the collapse of the rain-soaked hillside started.

"By 2014, that doorstop had been cut back so much due to the prior sliding that it was marginally stable, so one more slide was what brought it down," he said.

With lidar maps, geologists and land managers should be able to zero in on other slopes where the "upper deck" might be similarly vulnerable.

"We think this is a common-sense approach to mapping these valleys to try to figure out where we could have these large runouts," said Stark, who worked with graduate student Ahmed Baghdady. "The key is looking at the lidar to determine whether the landslide will occur lower

See > OSO, A10

ON THE WEB

Read about Oso

Comprehensive coverage and investigation is at *seattletimes.com/oso-landslide*

[redacted] (b) (6) Privacy

MUKILTEO, WA 98275

SEATTLE WA 981
PM
SEP

R01A-513

US ENVIROMENTAL PROTECTION AGENCY
JERYL W. COVINGTON, ASSISTANT DIRECTOR
1200 PENNSYLVANIA AVE. NW
WASHINGTON, DC 20460

OCT 05 2015