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Senate Energy, Utilities and
Communications Committee
1021 O Street, Room 3350
Sacramento, CA 95814

RE: VERIFIABLE LAND TITLE FACTORS
DEMONSTRATE THAT THE BATCHING
IN AB 965 IS OPERATIONALLY IMPRACTICAL

Dear Senators -

This letter focuses on one single and verifiable operational legal problem with which your staffs are less likely to know about a'batch' approach in to telecom antenna siting. Because conscience requires that we, residents and legislators, consider the public health science, this leads with that as foundation, but the core here is property title law.

Foundational Points

This letter asks that each of you, with your Chiefs of Staff in especially mind, that while contemplating the below verifiable legal analysis, please constantly keep in mind the proven scientific reality that the radiation from these antennas is carcinogenic. Among many sources, this was shown through the $25 million, 30 month study of the National Toxicology Program (NTP) as first announced on May 27, 2016. Cellular radiation forces development of glioma cells, the root cell of glioblastoma. After two years of post-findings peer review, on March 28, 2018, the NTP, which is the toxicology arm of the National Institutes of Health, and according to the American Cancer Society, the 'international gold standard in toxicology," added the phrase 'clear evidence,' to their carcinogenic findings, as also in the final report. Fiber optic presents no such risks. Also, if the our goal here is to close a digital divide, a stroll through most urban neighborhoods shows teaches that our problem is not caused by the absence of antennas, but by the wireless invoices are often three times the cost of far faster fiber optic.

The Title And Site Differential Problem With Batching

The core legal reason why 'batching' these antenna Permits in large numbers cannot work is the many variations in different types of legal title between the sites proposed for antenna installations. Some of these site-to-site differences are easy to see by anyone by career reads title reports. However, one of the most severe differences doesn't show up in a title report, as you can rapidly see from the following factors.

Title searches will show us title differences from one site to another even within

the same development. For example: Is a particular site, including the support slab, in a public right of way, or not? Anyone who has litigated title cases through trial, as I have, knows that, surprisingly, and due in part to the vast changes in GPS survey equipment, title lines site to site are literally matters of expert opinion, not absolutely certain facts.

Less obvious, but common, is the question of whether any one particular 'public right of way,' has been Abandoned by the public agency which once held it. This is a big issue because many jurisdictions, including The County of Los Angeles engaged in large scale 'Abandonments' of previously held public rights of way, ***in order to insulate the involved governmental entity from liability***.

In addition to title differences from site-to-site, there are many antenna-relevant physical differences from site to site, including; 1) different underlying amplification wattage capacity; 2) differing antenna wattage capacity; 3) site slope differences with resulting differentials of signal strength in relation to nearby buildings; 4) differing effects of trees and other physical objects from site to site; 5) differing variations in pole height; 6) differing relationships to human sleeping areas, particularly in publicly assisted housing, where there is inevitable high density and; 7) the question as to whether differing utility easement language, from site to site include provisions for ubiquitously penetrating constant radiation. Each of these reasons, individually, and as a whole, mitigate against 'batch' approval of telecommunications antennas.

However there is an additional unavoidable difference from site to site, which doesn't show up on a title report, requires individual expert site analysis, and is materially variable from individual site to individual site.

Land use lawyers whose work causes them to actually examine utility easements from site to site will verify a core problem repeatedly encountered with easements, which is that the easement language almost invariably specifies a particular strip of land, typically along the side of a parcel, ***and yet the actual utility utilization of that easement is commonly encountered outside of the metes and bounds title history easement*** .

As you have immediately grasped, the question of whether any such easement is title history incongruent does cut to the ultimate legal question of whether an antenna reliant on such an easement, or right-of-way, is legally legitimate. However, the operational impracticality large scale batching is illustrated by the inescapable reality that no such antenna can in good faith and legal compliance be installed on the basis of any claimed easement or right of way, ***unless there has been a comparison, by a licensed surveyor, between the strip of land authorized in title and the actual utility usage as determined by site examination***. The batching as proposed in 965 is therefore legally unrealistic. Thank you.

Very truly yours,

Harry V. Lehmann